



# The 5000 Year Leap Bundle

## Table of Contents

[The 5000 Year Leap](#)

[United States Constitution](#)

[The Declaration of Independence](#)

[Common Sense](#)

[The Federalist Papers](#)

[Democracy in America](#)

This Collection was created by [American Documents Publishing](#)

.

# The 5,000 Year Leap

A Miracle That Changed the World

W. Cleon Skousen

Table of Contents

[Dedication](#)

[Preface](#)

[Foreword: by Glenn Beck](#)

[Part I](#)

[The Founders' Monumental Task: Structuring a Government with All Power in the People](#)

[Part II](#)

[The Founder's Basic Principles](#)

[Footnotes](#)

[Bibliography](#)

[About the Author](#)

[Appendix A: The Mystery of the Anglo-Saxons](#)

[Appendix B: The Secret to America's Strength](#)

[Appendix C](#)

# **The Five Year Leap**

**28 Great Ideas That Changed the World**

**W. Cleon Skousen**

© 1981, 2009 W. Cleon Skousen; C&J Investments

All rights reserved. No part of this book may be reproduced in any form whatsoever, whether by graphic, visual, electronic, filming, microfilming, tape recording or any other means, without the written permission of the author's representatives and publisher, except in the case of brief passages embodied in critical reviews and articles where the title, author and ISBN accompany such review or article. All rights reserved under International and Pan-American Copyright Conventions.

Library of Congress Cataloging-in-Publication Data is available from the Library of Congress

Catalogue # TX0006840354

ISBN 0-9815596-6-2

American Documents Publishing, L.L.C.

2020 Fieldstone Pkwy Ste. 900

Franklin, TN. 37069

Visit us at [www.usconstitutioncoach.com](http://www.usconstitutioncoach.com)

Cover Design: Evan Frederickson

Printed in the United States of America

10 9 8 7 6 5 4 3 2 1

## **Dedication**

THIS WORK IS DEDICATED TO that generation of resolute Americans whom we call the Founding Fathers. They created the first free people to survive as a nation in modern times. They wrote a new kind of Constitution which is now the oldest in existence. They built a new kind of commonwealth designed as a model for the whole human race. They believed it was thoroughly possible to create a new kind of civilization, giving freedom, equality, and justice to all.

Their first design for a free-people nation was to encompass all of North America, accommodating, as John Adams said, two to three hundred million freemen. They created a new cultural climate that gave wings to the human spirit. They encouraged exploration to reveal the scientific secrets of the universe. They built a free-enterprise culture to encourage industry and prosperity. They gave humanity the needed ingredients for a gigantic 5,000-year leap!

– W. Cleon Skousen

## Preface

The publication of this book is the fulfillment of a dream gestated over forty years ago at the George Washington University Law School in the nation's capital.

As I studied Constitutional law, there was always a nagging curiosity as to why someone had not taken the time and trouble to catalogue the ingredients of the Founding Fathers' phenomenal success formula so it would be less complex and easier to digest. It seemed incredible that these gems of political sagacity had to be dug out of obscurity by each individual doing it piecemeal and never really knowing for certain that the whole puzzle had been completely assembled.

All of this introspective cogitation was taking place during the Great Depression, while this writer was working full time at the FBI and going to law school at night.

A short time before, a brand new majority in Congress had been swept into power, and our professor of Constitutional law was constantly emphasizing the mistakes these newly elected "representatives of the people" were making. He would demonstrate how they were continually seeking answers to the nation's ills through remedies which were not authorized by the Constitution, and in most cases by methods which had been strictly forbidden by historical experience and the teachings of the Founders.

As I talked to some of these enthusiastic new Congressmen, it soon became apparent that their zeal was sincere and that any mistakes they might be making were the results of ignorance, not malicious intent. In fact, all of us belonged to a generation that had never been taught the clear-cut, decisive principles of sound politics and economics enunciated by the Founders. Somebody had apparently decided these were not very important anymore.

To this extent it could be said that, ideologically speaking, we were a generation of un-Americans. Even those of us who had come up through political science had never been required to read the Federalist Papers, John Locke, Algernon Sidney, Montesquieu, Adam Smith, Cicero, or the original writings of the men who put it all together in the first place. One of my undergraduate professors had even said that the Constitution was obsolete. He said it wasn't designed for a modern industrial society.

Nevertheless, one of my friends in Congress said he would like to study the Founders' ideas. What he wanted was a simple, easy-to-understand book. So did the rest of us. My text on Constitutional law was three inches thick and was so cluttered up with complex, legalistic rhetoric that it would only confuse a farmer, businessman, or real estate broker who had just been elected to Congress. It was even confusing to those of us who were trying to get a handle on "the system" so we could pass the bar examination. The fact that some of us did pass the bar "the very first time around" was always counted within our secret circle as a providential miracle!

As the years went by, I continued to look for a book which laid out the great ideas of the Founders so that even a new Congressman could "read as he ran" and get a fairly good comprehension of the Founders' ingenious success formula. I did find a number of writers who seemed to come within striking distance of the target, only to back away and never complete the task. Often their tomes were long, tedious conglomerates of abstract complexity. Of course, there were lots of books on Constitutional "nuts and bolts," or the mechanics of government, which were similar to my texts in political science. However, none of these ever portrayed a philosophical comprehension of why it was all supposed to be so great.

Eventually, circumstances were such that this writer overcame a prevailing sense of apprehension and undertook the task of trying to do something along these lines just as a matter of personal insight. Now, a hundred digested volumes later, and after a most gratifying visit with many of the Founders through their letters, biographies, and speeches, this book has been assembled.

It may appear to some to be a very modest contribution, but it has been a monumental satisfaction to the author. Never before have I fully appreciated the intellectual muscle and the quantum of solid character required to produce the first modern republic. I have gained a warm affection for the Founders. I have learned to see them as men imbued with all of our common weaknesses called "human nature," and yet capable of becoming victorious at a task which would have decimated weaker men. I have learned to glory in their successes and have felt an overtone of personal sorrow when they seemed to attain less than they had hoped. It has been a marvelous adventure in research to perceive the ramifications of the Founders' formula for a model commonwealth of freedom and prosperity which became the United States of America.

When it comes to acknowledgments, I find myself, like other writers, overwhelmed with obligations.

How can one thank a thousand researchers and writers on at least three continents who have spent much of their lives digging up and recording the detailed treasures concerning the lives and thoughts of those distinguished nation-builders whom we are pleased to call our Founding Fathers?

At closer range, the task of expressing appreciation is not so difficult, provided that this author can be forgiven for not including all who deserve meritorious thanks.

First and foremost, I must do what so many writers seem to be admitting lately, and that is expressing a frank confession that their books would never have been written without the patient and enduring support of a loving wife. This is particularly true in my case.

Her task of assisting an author-husband has been intermingled with raising eight children, trying to run a household with more than 5,000 books scattered about, answering dozens of telephone calls each day, and trying to locate her husband in time to eat dinner or meet a group of visiting dignitaries. All this and much more has been the continuous routine of my beautiful and patient helpmeet who was appropriately named by her parents, "Jewel."

Also involved in a most significant way with the completion of this book has been the working staff of the National Center for Constitutional Studies (NCCS). Going the eleventh mile, I appreciate Glenn J. Kimber, vice president in charge of our nationwide operations, Andrew M. Allison, editor of monthly publications, and my son, Harold Skousen, in charge of layout and graphics. To these and the many others not specifically mentioned, I am eternally grateful.

And to the student who has a longing to appreciate the pioneers who built the American commonwealth, this book is offered. It is hoped that it will be helpful and understandable, and will to some degree provide the stimulating inspiration which the research and writing of it brought to the author.

W. Cleon Skousen

## **Why it is Important to Study the Founders' Success Formula Today**

“The American people are now two centuries away from the nation’s original launching. Our ship of state is far out to sea and is being tossed about in stormy waters, which the Founders felt could have been avoided if we had stayed within sight of our initial moorings.

“They also felt that each ingredient set forth in their great success formula was of the highest value. They would no doubt be alarmed to see how many of those ingredients have been abandoned, or have been allowed to become seriously eroded.”

--The Making of America: The Meaning and Substance of the Constitution  
by W. Cleon Skousen

## Foreword: by Glenn Beck

### [A Hard Beginning](#)

[Why Jamestown Was Different](#)

[Two Hundred Years Later](#)

[Can we lose it?](#)

[The 28 Great Ideas That Helped Change the World](#)

[I Want Your Solemn Promise](#)

This is a story you won't believe.

It starts with a hundred famished, starving people so desperate for food they had to eat their milk cows, slaughter their plough horses, and kill their dogs. When that ran out they hunted birds and squirrels, and then trapped rats and mice, and finally boiled the leather of their shoes to chew. When that was gone, they turned to each other, waiting on the dying for their next meal.

It's an ugly tale of starvation and desperation that didn't happen at some far away place, it happened right here in our own backyard—Jamestown, Virginia.

### **A Hard Beginning**

By Christmas day of 1607, more than two thirds of those first colonists in Jamestown were dead. The next year, more settlers arrived but most of them died that winter. The year after that came additional arrivals and more deaths—from starvation. It was an experiment in failure that repeated its deadly tally for seven terrible years.

The plan was simple, really: plant the first English settlement in America—more of a business venture than a colonization—and gather up all that gold. You know, all that gold that lies around everywhere?

When word of the colony spread around England, hundreds more crossed the ocean to Virginia, each anxious to out-perform the dead who preceded them and prove that a fresh load of strong backs and keen minds could stand the rigors of the wilds—after all, English settlers had been colonizing faraway places for ages, all over the world, why should the Americas be any different?

But the “starving times” kept killing them off. Of the estimated 9,000 who sailed to Virginia, only 1,000 survived.

There were two main reasons why Jamestown wasn’t working, and this is my point.

The first was the problem of habit—everybody had been doing things the same old way for more than 5,000 years.

Okay, we made some improvements since the pyramids, but not many. The Jamestown settlers traveled in boats not much better than those that sailed the Nile. Their farm tools consisted of a shovel, a stick plow and a scythe—about the same as you could pick up at your local Baghdad Hardware and Feed back in 3000 B.C. And even though there was an early form of China, there was still no Walmart, so their clothing had to be handspun and handwoven. Transportation was by cart and oxen, and their medicine was more superstition than substance—and worst of all, most of them died young.

The second reason the colony wasn’t working was that the leadership didn’t bother updating the way they ran the place. They started off with communalism—every man could take from the general storehouse what he needed and was supposed to give back what he could. In theory, everybody would give back enough so they all could survive. After all, shouldn’t the welfare of the colony be more important than individual welfare? While people would like to believe otherwise, the real answer is a resounding no.

The Jamestown experiment backfired. Worse than that, it was a pure disaster—uglier than Plato had promised.

It was in fact pure socialism in action.

The men were divided into threes—a third to start the farm, a third to build the fort, and a third to head off into the woods and find gold. Naturally everybody slipped away to go hunt for gold and they neglected the fort and the farm. Oh yes, some of them bothered the local Indians and were shot with arrows—back in those days the welcome wagon was nowhere in sight. The big fix didn’t come until 1614. That’s when the colony leadership realized it wasn’t a lack of food that kept killing off the settlers—it was a famine of knowledge of correct principles.

Sir Thomas Dale spotted it immediately that year when he first stepped off the boat and into a stagnated mass of unmotivated colonists. It seemed obvious what the problem was—the men were lazy because they had no investment in the land—they had no private property.

Without asking permission from the colony's shareholders, Dale went ahead and gave three acres of land to the old timers, less to the newly arrived, and asked only that in return they provide two barrels of corn for the store house at harvest time.

It's amazing what a little freedom can do for the downtrodden!

The colonists were thrilled. They dropped what they were doing and hurried about clearing their land, plowing their ground, planting, dunging, watering—whatever they could to have their own food for the winter. By that fall, the storehouse was full thanks to the two-barrel tax, and the people were alive. Tobacco came later, and suddenly the colony took root and started on the road to prosperity.

## **Why Jamestown Was Different**

Jamestown was different from other colonies because it finally shed its failing ways and started practicing free enterprise principles—the freedom to own and control property, and enjoy its fruits. Years later these ideas worked their way into Adam Smith and his famous book, *The Wealth of Nations*.

The blood of these pioneers started the groundswell that brought us the first popular assembly of legislative representatives in the western hemisphere. Their descendants included many of the foremost intellects who built the framework for our future United States of America: Thomas Jefferson, author of the Declaration of Independence; James Madison, “Father of the Constitution;” George Washington, hero-general of the War for Independence; George Mason, author of the first American Bill of Rights in Virginia. Four of the first five presidents of the United States sprung from this fire-tested colony.

## **Two Hundred Years Later**

What's two hundred years in the history of the world? Nothing really—maybe an average Chinese dynasty—it's a blink. Two hundred years after the Constitution was signed, the great “noble experiment” of America's Declaration of Independence and free-enterprise economics had produced phenomenal results.

The United States started accumulating a fantastic list of achievements in technology, politics and economics never before witnessed in the history of humankind. The spirit of freedom infected people all around the globe, and free-market economics unleashed creativity and brilliance in nations everywhere. A literal explosion of progress crackled wherever freedom could reach. Electricity, the internal combustion engine, nuclear energy, aircraft, electronics, communications, travel to the moon or the bottom of the sea—suddenly, nearly anything seemed possible.

People started living longer—double the average lifespan of a few centuries before. Our homes, quality of food and clothing, the luxuries of central air and heat, running water and flushing toilets, common-day travel around the globe, tens of millions of books, increased capacity to invent and understand, educational advances for the average student, cures, entertainment, and non-stop movies on TV or your iPod—all came about not just in America but to benefit the entire world.

In just 200 years, the human race made a 5,000-year leap!

### **Can we lose it?**

Every generation feels it must re-invent the sociological wheel. If we were still taught these basics in school, maybe we could skip a few years of stupidity, but it's too late for our generation. We have to pay our stupid tax. For a hundred years, social and political experiments outside of the Constitution and prosperity principles have played havoc with our culture, and now we're making the same dumb mistakes prior failed cultures have made.

So, we've got to ask: Are we really better off under the decay of freedom that we have today, than we were back when that nasty old Constitution dictated everything?

Dr. Skousen points out when it comes to the physical sciences, knowledge and discovery is added to the main body of knowledge as time passes—it builds on the lessons of the past.

But the same doesn't happen with the social sciences.

Dr. Skousen warns us that when we don't teach the rising generation those cultural and moral lessons that keep society healthy and safe, the people end up making all the same mistakes—and not just once, but half a dozen times or more. We're doing it right now, he says, and muddle our lives with

“drugs, riots, revolutions, and terrorism; predatory wars; unnatural sexual practices; merry-go-round marriages; organized crime; neglected and sometimes brutalized children; plateau intoxication; debt-ridden prosperity; and all the other ingredients of insanity which have shattered twenty mighty civilizations in the past.” And he made that list 30 years ago!

To that list I would add these other mistakes that are leading us down a dead-end road: the bailout “un-stimulus program,” nationalization of our banks and auto industry, the loss of secret balloting for union activities, taxation without representation, morally bankrupt standard bearers, tax cheats running government programs, pork-barrel spending, locking up natural resources, punishing the productive, rewarding the lazy, squelching opposing viewpoints, redistributing the wealth, creating an entitlement mentality, granting more rights to illegals than our own citizens, a fear of our fellow citizens and loss of pride in the greatness of this nation—and generally the ignoring of our Constitutional rights, privileges and opportunities.

## **The 28 Great Ideas That Helped Change the World**

There is no reason why our American way of life should be drowning in the same mistakes of those failed empires of the past, except for perhaps this one—as a culture we’ve stopped teaching and practicing the true principles of prosperity.

There are 28 great ideas that helped change our world, and the funny thing is, the American Founding Fathers hardly invented a single one of them. But they did find them, and brought them all together in a single document that has blessed this great nation and the entire world.

These ideas didn’t all come together at once. After Jamestown, it took 180 years to pull these great concepts together so that true and lasting freedom was born.

It worked so well so fast that after just two years as a nation, George Washington was able to write, “The United States enjoy a scene of prosperity and tranquility under the new government that could hardly have been hoped for.” And the very next day in another letter he said, “Tranquility reigns among the people with that disposition towards the general government which is likely to preserve it....Our public credit stands on that [high] ground which three years ago it would have been considered

as a species of madness to have foretold.” (The Writings of George Washington, Vol. 31: 316-317, 318-319)

## **It’s Time to Get Back to Basics**

In some ways, during parts of 2007 and 2008 I experienced one of the most difficult periods of my life. There had been other times where I experienced financial and family troubles, but this was bigger. I had begun to lose hope. I began to see the massive problems that we – as a nation and as a people – were facing. It seemed like no matter how hard I tried, I couldn’t come up with a way it could resolve itself. The more I looked, the more I wished I hadn’t looked. How can I hand this country to my children and grand children in better shape than it was given to me?

Without any answers, I spiraled into a sort of despair. How do you fix these problems? How do you fix the economic nightmare that is on its way caused by overspending, massive debt, and giant social programs? How do you protect your kids and country from a force that doesn’t have a uniform? What’s the right balance between security and liberty? How do you cure American’s lack of faith in their government when the political parties are intentionally dividing us?

Then one day in the spring, I was walking down the Avenue of the Americas in Manhattan and the answer came to me. It was so dramatic that it made me stop in the middle of the sidewalk and laugh out loud. The answer was obvious and best of all, the thinking and worrying had already been done for me. The questions that we face were foreseen by the greatest group of Americans to ever live; our Founding Fathers. They knew we would be grappling with issues like the ones we face today at some point, so they designed a ship that could withstand even the mightiest storm. They also knew that we would eventually lose our way and that we would need a beacon to lead our way back.

I often times have wondered why the constitution appears as it does. Why those three words “We the people,” are so large. After all, it’s not like James Madison wrote those three words then realized, “Oh shoot, I can’t use this sized font or we’ll run out of space!” They did it for a reason. The answer is not the government, it’s not a politician, it’s not a policy; it’s always, “We the people.”

Unfortunately, many of us have been so misinformed or suffer from such a high degree of apathy, that we have no idea who our founders really were. We don't understand how they lived, what rights they were actually trying to protect, and what our responsibilities are to ensure that protection.

Within a couple of weeks after that revelation on the sidewalk a friend—without solicitation—sent me a copy of this book. He said, “Glenn, I don't know if you've ever read this, but it's the simplest, easiest way for Americans of all ages to understand the simple yet brilliant principles our founders based this country on.”

After reading it, I realized a couple of things. One, its author—was years ahead of his time. And secondly, our founders were thousands of years ahead of their time. My hope is that all Americans young and old will spend the time with this book to understand why we are who we are. The words of our Founding Fathers have a way of reaching across any political divide. They are words of wisdom that I can only describe as divinely inspired. They are here for us to help solve the unsolvable—and they are the reason why we have for so long been the greatest nation on earth. But most importantly, in these pages, you will find hope.

I know that I have.

## **I Want Your Solemn Promise**

Right now, right this very moment, I want you to make me a promise.

Promise me you will read this book cover to cover in the next 30 days—sooner if you can. Promise me you will pass this book along to somebody else when you're done. Commit them to read it in 30 days.

Promise me you will write down the 28 ideas and teach them to your children, your neighbors, your friends—Now is the time to get out of our comfort zone.

You, me, all of us were born for this day, to stand responsible before God and future generations to keep this torch of freedom lit, and bear it away from ruin. Twenty failed empires of the past give ample proof that no generation having tasted freedom and then lost it has ever tasted it again.

Do you remember our resolve on September 12, our promise to each other to link arms and face the coming storms together? Those storms are now boiling overhead—our Republic is at stake. You don't have to be like Washington's troops and track bloody footprints through the snow at Valley

Forge, let's pray to God we never have to go there again. To fight this battle you need to read, to understand. Learn these 28 ideas, make them your own, put them on the fridge, the bathroom mirror, on your forehead, I don't care—just know them by heart, that's all I ask. And yes—there will be a quiz, there's always a quiz.

Remember those minutemen in the days of our Revolutionary War? Do you remember their job, to be ready to defend the encroachment of the Redcoats with a minute's notice? If you were called upon to preserve our freedom, to save our Constitution, could you be ready—could you answer in a minute?

I want you to think of this—

One of my favorite Bible stories is Joshua and the battle of Jericho. Remember how they marched around the city and all at once blew their horns and the walls went tumbling down? That's us all over the place. We are the troops. The truth is our trumpet. And the walls are those same old tired ideas forced on us today—ideas that didn't work at Jamestown, and certainly won't work now.

The power is ours to blast our horns and shake those rotted scales off our freedoms, shake them to rubble and get our country back.

Read this book and discover we're a lot like Joshua—They don't surround us, we surround Them!

But you've got to have your horn ready—now is the time.

Promise me.

—Glenn Beck, March 2009

**Part I**  
**The Founders' Monumental Task:  
Structuring a Government with All Power in the  
People**

[The Founders' Political Spectrum](#)

[What Is Left? What Is Right?](#)

[The American Founding Fathers Used a More Accurate Yardstick](#)

[Ruler's Law](#)

[The Founders' Attraction to People's Law](#)

[Characteristics of Anglo-Saxon Common Law or People's Law](#)

[The Founders Note the Similarities Between Anglo-Saxon Common Law  
and the People's Law of Ancient Israel](#)

[Memorializing These Two Examples of People's Law on the U.S. Seal](#)

[The Founders' Struggle to Establish People's Law in the Balanced Center](#)

[The Founders' First Constitution Ends Up Too Close to Anarchy](#)

[The Genius of the Constitutional Convention in 1787](#)

[A Special Device Employed to Encourage Open Discussion](#)

[The Balanced Center](#)

[America's Three-Headed Eagle](#)

[The Two Wings of the Eagle](#)

[Thomas Jefferson Describes the Need for Balance](#)

[The Problem of Political Extremists](#)

[Jefferson's Conversation with Washington](#)

[Jefferson's Concern About the Radical Fringe Element in His Own Party](#)

[The Founders Warn Against the Drift Toward the Collectivist Left](#)

[The Need for an "Enlightened Electorate"](#)

[The Founders' Common Denominator of Basic Beliefs](#)

[Fundamental Principles](#)

## **The Founders' Political Spectrum**



The Constitutional Convention of 1787

Part of the genius of the Founding Fathers was their political spectrum or political frame of reference. It was a yardstick for the measuring of the political power in any particular system of government. They had a much better political yardstick than the one which is generally used today. If the Founders had used the modern yardstick of "Communism on the left" and "Fascism on the right," they never would have found the *balanced center* which they were seeking.

## What Is Left? What Is Right?

It is extremely unfortunate that the writers on political philosophy today have undertaken to measure various issues in terms of political *parties* instead of political *power*. No doubt the American Founding Fathers would have considered this modern measuring stick most objectionable, even meaningless.

Today, as we mentioned, it is popular in the classroom as well as the press to refer to "Communism on the left," and "Fascism on the right." People and parties are often called "Leftist," or "Rightist." The public do not really understand what they are talking about.

These terms actually refer to the manner in which the various parties are seated in the parliaments of Europe. The radical revolutionaries (usually the Communists) occupy the far left and the military dictatorships (such as the Fascists) are on the far right. Other parties are located in between.

Measuring people and issues in terms of political parties has turned out to be philosophically fallacious if not totally misleading. This is because the platforms or positions of political parties are often superficial and structured on shifting sand. The platform of a political party of one generation can hardly be recognized by the next. Furthermore, Communism and Fascism turned out to be different names for approximately the same thing -- the police state. They are not opposite extremes but, for all practical purposes, are virtually identical.

### **The American Founding Fathers Used a More Accurate Yardstick**

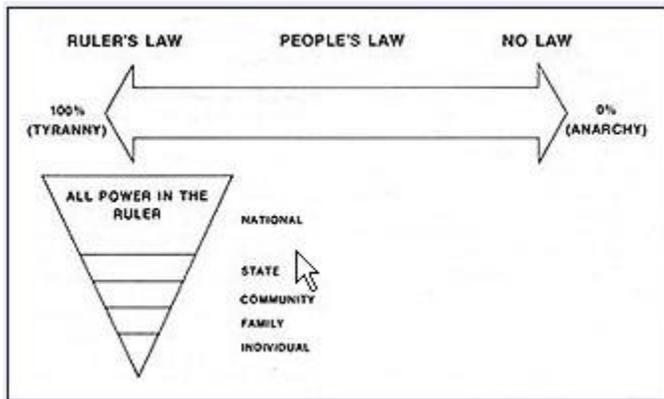
Government is defined in the dictionary as "a system of ruling or controlling," and therefore the American Founders measured political systems in terms of the amount of coercive power or systematic control which a particular system of government exercises over its people. In other words, the yardstick is not political *parties*, but political *power*.

Using this type of yardstick, the American Founders considered the two extremes to be *anarchy* on the one hand, and *tyranny* on the other. At the one extreme of anarchy there is no government, no law, no systematic control and no governmental power, while at the other extreme there is too

much control, too much political oppression, too much government. Or, as the Founders called it, "tyranny."

The object of the Founders was to discover the "balanced center" between these two extremes. They recognized that under the chaotic confusion of anarchy there is "no law," whereas at the other extreme the law is totally dominated by the ruling power and is therefore "Ruler's Law." What they wanted to establish was a system of "People's Law," where the government is kept under the control of the people and political power is maintained at the balanced center with enough government to maintain security, justice, and good order, but not enough government to abuse the people.

The Founders' political spectrum might be graphically illustrated as follows:



## Ruler's Law

The Founders seemed anxious that modern man recognize the subversive characteristics of oppressive Ruler's Law which they identified primarily with a tyrannical monarchy. Here are its basic characteristics:

1. Authority under Ruler's Law is nearly always established by force, violence, and conquest.

2. Therefore, all sovereign power is considered to be in the conqueror or his descendants.

3. The people are not equal, but are divided into classes and are all looked upon as "subjects" of the king.

4. The entire country is considered to be the property of the ruler. He speaks of it as his "realm."

5. The thrust of governmental power is from the top down, not from the people upward.

6. The people have no unalienable rights. The "king giveth and the king taketh away."

7. Government is by the whims of men, not by the fixed rule of law which the people need in order to govern their affairs with confidence.

8. The ruler issues edicts which are called "the law." He then interprets the law and enforces it, thus maintaining tyrannical control over the people.

9. Under Ruler's Law, problems are always solved by issuing more edicts or laws, setting up more bureaus, harassing the people with more regulators, and charging the people for these "services" by continually adding to their burden of taxes.

10. Freedom is never looked upon as a viable solution to anything.

11. The long history of Ruler's Law is one of blood and terror, both anciently and in modern times. Under it the people are stratified into an aristocracy of the ruler's retinue while the lot of the common people is one of perpetual poverty, excessive taxation, stringent regulations, and a continuous existence of misery.

## **The Founders' Attraction to People's Law**

In direct contrast to the harsh oppression of Ruler's Law, the Founders, particularly Jefferson, admired the institutes of freedom under People's Law as originally practiced among the Anglo-Saxons. As one authority on Jefferson points out:

"Jefferson's great ambition at that time [1776] was to promote a renaissance of Anglo-Saxon primitive institutions on the new continent. Thus presented, the American Revolution was nothing but the reclamation of the Anglo-Saxon birthright of which the colonists had been deprived by a "long trend of abuses." Nor does it appear that there was anything in this theory which surprised or shocked his contemporaries; Adams apparently did not disapprove of it, and it would be easy to bring in many similar expressions of the same idea in documents of the time." [3](#)

## **Characteristics of Anglo-Saxon Common Law or People's Law**

Here are the principal points of People's Law as practiced by the Anglo-Saxons: [4](#)

1. They considered themselves a commonwealth of freemen.

2. All decisions and the selection of leaders had to be with the consent of the people, preferably by full consensus, not just a majority.

3. The laws by which they were governed were considered natural laws given by divine dispensation, and were so well known by the people they did not have to be written down.

4. Power was dispersed among the people and never allowed to concentrate in any one person or group. Even in time of war, the authority granted to the leaders was temporary and the power of the people to remove them was direct and simple.

5. Primary responsibility for resolving problems rested first of all with the individual, then the family, then the tribe or community, then the region, and finally, the nation.

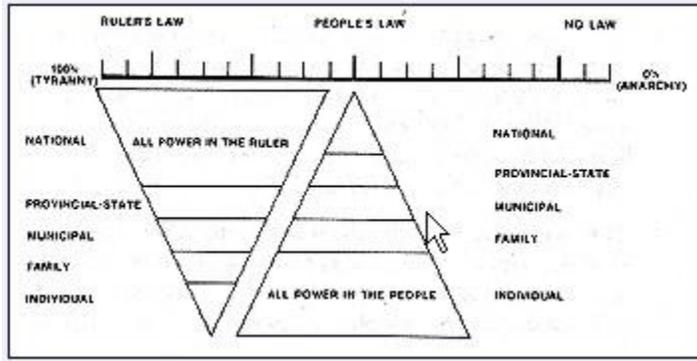
6. They were organized into small, manageable groups where every adult had a voice and a vote. They divided the people into units of ten families who elected a leader; then fifty families who elected a leader; then a hundred families who elected a leader; and then a thousand families who elected a leader.

7. They believed the rights of the individual were considered unalienable and could not be violated without risking the wrath of divine justice as well as civil retribution by the people's judges.

8. The system of justice was structured on the basis of severe punishment unless there was complete reparation to the person who had been wronged. There were only four "crimes" or offenses against the whole people. These were treason, by betraying their own people; cowardice, by refusing to fight or failing to fight courageously; desertion; and homosexuality. These were considered capital offenses. All other offenses required reparation to the person who had been wronged.

9. They always attempted to solve problems on the level where the problem originated. If this was impossible they went no higher than was absolutely necessary to get a remedy. Usually only the most complex problems involving the welfare of the whole people, or a large segment of the people, ever went to the leaders for solution.

The contrast between Ruler's Law (all power in the ruler) and People's Law (all power in the people) is graphically illustrated below. Note where the power base is located under each of these systems. Also compare the relationship between the individual and the rest of society under these two systems.



## **The Founders Note the Similarities Between Anglo-Saxon Common Law and the People's Law of Ancient Israel**

As the Founders studied the record of the ancient Israelites they were intrigued by the fact that they also operated under a system of laws remarkably similar to those of the Anglo-Saxons. The two systems were similar both in precept and operational structure. In fact, the Reverend Thomas Hooker wrote the "Fundamental Orders of Connecticut" based on the principles recorded by Moses in the first chapter of Deuteronomy. These "Fundamental Orders" were adopted in 1639 and constituted the first written constitution in modern times. This constitutional charter operated so successfully that it was adopted by Rhode Island. When the English colonies were converted over to independent states, these were the only two states which had constitutional documents which readily adapted themselves to the new order of self-government. All of the other states had to write new constitutions.

Here are the principal characteristics of the People's Law in ancient Israel which were almost identical with those of the Anglo-Saxons:

1. They were set up as a commonwealth of freemen. A basic tenet was: "Proclaim liberty throughout all the land unto all the inhabitants thereof." (Leviticus 25:10)

This inscription appears on the American Liberty Bell.

Whenever the Israelites fell into the temptation to have slaves or bond-servants, they were reprimanded. Around 600 B.C., a divine reprimand was given through Jeremiah: "Ye have not hearkened unto me, in proclaiming

liberty every one to his brother, and every man to his neighbor: behold, I proclaim a liberty for you, saith the Lord." (Jeremiah 34:17)

2. All the people were organized into small manageable units where the representative of each family had a voice and a vote. This organizing process was launched after Jethro, the father-in-law of Moses, saw him trying to govern the people under Ruler's Law. (See Exodus 18:13-26.)

When the structure was completed the Israelites were organized as follows:

Moses

V.P. (Aaron) And V.P. (Joshua)

A Senate or Council of 70

A Congress of Elected Representatives

1000 Families

100 Families

50 Families

10 Families

Single family

3. There was specific emphasis on strong, local self-government.

Problems were solved to the greatest possible extent on the level where they originated.

The record says: "The hard causes they brought unto Moses, but every small matter they judged themselves." (Exodus 18:26)

4. The entire code of justice was based primarily on reparation to the victim rather than fines and punishment by the commonwealth. (Reference to this procedure will be found in Exodus, chapters 21 and 22.) The one crime for which no "satisfaction" could be given was first-degree murder. The penalty was death. (See Numbers 35:31.)

5. Leaders were elected and new laws were approved by the common consent of the people. (See 2 Samuel 2:4; 1 Chronicles 29:22; for the rejection of a leader, see 2 Chronicles 10:16; for the approval of new laws, see Exodus 19:8.)

6. Accused persons were presumed to be innocent until proven guilty. Evidence had to be strong enough to remove any question of doubt as to guilt. Borderline cases were decided in favor of the accused and he was released. It was felt that if he were actually guilty, his punishment could be left to the judgment of God in the future life.

## Memorializing These Two Examples of People's Law on the U.S. Seal

It was the original intent of the Founders to have both the ancient Israelites and the Anglo-Saxons represented on the official seal of the United States. The members of the committee were Thomas Jefferson, John Adams, and Benjamin Franklin.

They recommended that one side of the seal show the profiles of two Anglo-Saxons representing Hengist and Horsa. These brothers were the first Anglo-Saxons to bring their people to England around 450 A.D. and introduce the institutes of People's Law into the British Isles. On the other side of the seal this committee recommended that there be a portrayal of ancient Israel going through the wilderness led by God's pillar of fire. In this way the Founders hoped to memorialize the two ancient peoples who had practiced People's Law and from whom the Founders had acquired many of their basic ideas for their new commonwealth of freedom. [5](#)

As it turned out, all of this was a little complicated for a small seal, and therefore a more simple design was utilized.

However, here is a modern artist's rendition of the original seal as proposed by Jefferson, Adams, and Franklin.



Artist's version of the original proposal for the American seal

Obviously, this is a segment of America's rich heritage of the past which has disappeared from most history books.

## The Founders' Struggle to Establish People's Law in the Balanced Center

In the Federalist Papers, No. 9, Hamilton refers to the "sensations of horror and disgust" which arise when a person studies the histories of those

nations that are always "in a state of perpetual vibration between the extremes of tyranny and anarchy." [6](#)

Washington also refers to the human struggle wherein "there is a natural and necessary progression, from the extreme of anarchy to the extreme of tyranny." [7](#)

Franklin noted that "there is a natural inclination in mankind to kingly government." He said it gives people the illusion that somehow a king will establish "equality among citizens; and that they like." Franklin's great fear was that the states would succumb to this gravitational pull toward a strong central government symbolized by a royal establishment. He said: "I am apprehensive, therefore -- perhaps too apprehensive -- that the Government of these States may in future times end in a monarchy. But this catastrophe, I think, may be long delayed, if in our proposed system we do not sow the seeds of contention, faction, and tumult, by making our posts of honor places of profit." [8](#)

The Founders' task was to somehow solve the enigma of the human tendency to rush headlong from anarchy to tyranny -- the very thing which later happened in the French Revolution. How could the American people be constitutionally structured so that they would take a fixed position at the balanced center of the political spectrum and forever maintain a government "of the people, by the people, and for the people," which would not perish from the earth?

It took the Founding Fathers 180 years (1607 to 1787) to come up with their American formula. In fact, just eleven years before the famous Constitutional Convention at Philadelphia, the Founders wrote a constitution which almost caused them to lose the Revolutionary War. Their first attempt at constitutional writing was called "The Articles of Confederation."

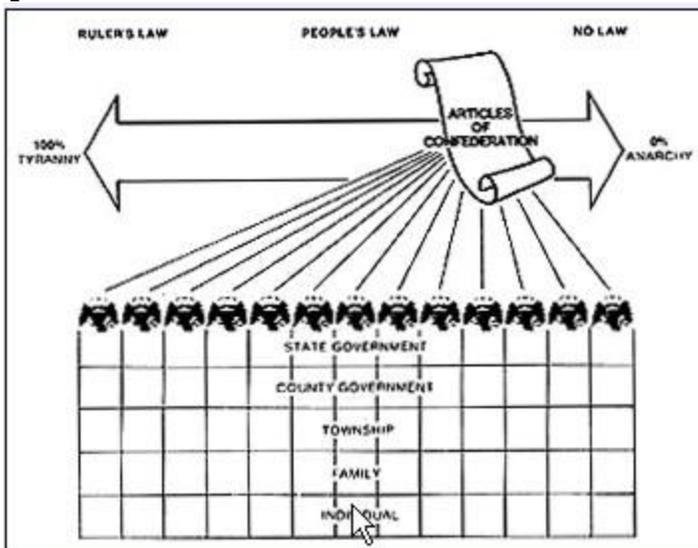
## **The Founders' First Constitution Ends Up Too Close to Anarchy**

The American Revolutionary War did not commence as a war for independence but was originally designed merely to protect the rights of the people from the arrogant oppression of a tyrannical king. Nevertheless, by the spring of 1776 it was becoming apparent that a complete separation was the only solution.

It is interesting that even before the Declaration of Independence, the Continental Congress appointed a committee on June 11, 1776, to write a constitution. John Dickinson served as chairman of the committee and wrote a draft based on a proposal made by Benjamin Franklin in 1775. However, the states felt that Dickinson's so-called "Articles of Confederation" gave too much power to the central government. They therefore hacked away at the draft until November 15, 1777, when they proclaimed that the new central government would have no powers whatever except those "expressly" authorized by the states. And the states did not expressly authorize much of anything.

Under the Articles of Confederation as finally adopted, there was no executive, no judiciary, no taxing power, and no enforcement power. The national government ended up being little more than a general "Committee of the States." It made recommendations to the states and then prayed they would respond favorably. Very often they did not.

On the Founders' political spectrum the Articles of Confederation would appear as follows:



The suffering and death at Valley Forge and Morristown were an unforgettable demonstration of the abject weakness of the central government and its inability to provide food, clothes, equipment, and manpower for the war. At Valley Forge the common fare for six weeks was flour, water, and salt, mixed together and baked in a skillet -- fire cakes, they were called. Out of approximately 8,000 soldiers, around 3,000 abandoned General Washington and went home. Approximately 200 officers resigned their commissions. Over 2,000 soldiers died of starvation

and disease. Washington attributed this near-disaster at Valley Forge to the constitutional weakness of the central government under the Articles of Confederation.

## **The Genius of the Constitutional Convention in 1787**

Not one of the Founding Fathers could have come up with the much-needed Constitutional formula by himself, and the delegates who attended the Convention knew it. At that very moment the states were bitterly divided. The Continental dollar was inflated almost out of existence. The economy was deeply depressed, and rioting had broken out. New England had threatened to secede, and both England and Spain were standing close by, ready to snatch up the disUnited States at the first propitious opportunity.

Writing a Constitution under these circumstances was a frightening experience. None of the delegates had expected the Convention to require four tedious months. In fact, within a few weeks many of the delegates, including James Madison, were living on borrowed funds.

From the opening day of the Convention it was known that the brainstorming discussions would require frequent shifting of positions and changing of minds. For this reason the Convention debates were held in secret to avoid public embarrassment as the delegates made concessions, reversed earlier positions, and moved gradually toward some kind of agreement.

### **A Special Device Employed to Encourage Open Discussion**

To encourage the delegates to freely express themselves without the usual formalities of a convention, the majority of the discussions were conducted in what they called "the Committee of the Whole." This committee consisted of all the members of the Convention, but, as a committee, decisions were always tentative and never binding in the same way they would have been if voted upon by the Convention. Only after a thorough ventilating of the issues would the Committee of the Whole turn themselves back into a sitting of the Convention and formally approve what they had just discussed in the Committee.

The object of the Founders was to seek a consensus or general agreement on what the Constitution should provide. After four months of debate they were able to reach general agreement on just about everything except the issues of slavery, proportionate representation, and the regulation of commerce. All three of these issues had to be settled by compromise.

It is a mistake however, to describe the rest of the Constitution as a "conglomerate of compromises," because extreme patience was used to bring the minds of the delegates into agreement rather than simply force the issue to finality with a compromise. This is demonstrated in the fact that over 60 ballots were taken before they resolved the issue of how to elect the President. They could have let the matter lie after the first ballot, but they did not. They were anxious to talk it out until the vast majority felt good about the arrangement. That is why it took 60 ballots to resolve the matter.

When the Founders had finished their work on September 17, 1787, President Washington attached a letter to the signed draft and sent it to the Congress. The Congress ratified the Constitution without any changes and sent it to the states. When several of the larger states threatened to reject the Constitution, they were invited to ratify the main body of the Constitution but attach suggested amendments. They submitted 189! At the first session of Congress, these suggested amendments were reduced to 12 by James Madison, and 10 of them were finally approved and ratified by the states. Thus was born America's famous Bill of Rights.

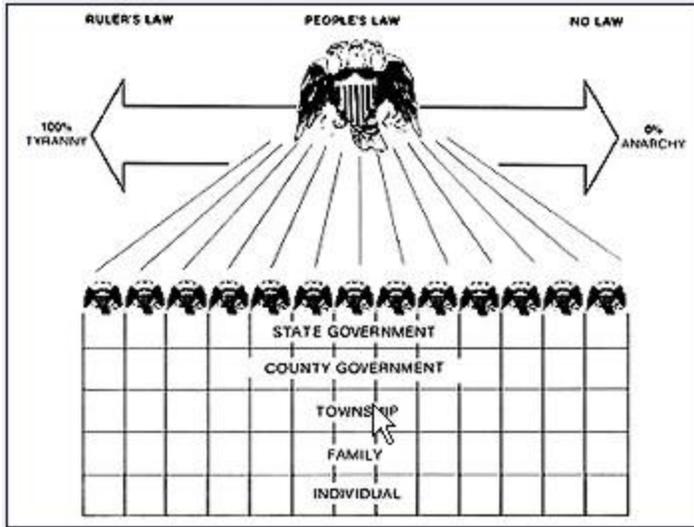
## **The Balanced Center**

This was the polemic process by which the Founders struggled to get the American eagle firmly planted in the balanced center of the political spectrum. James Madison later described the division of labor between the states and the federal government as follows:

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.... The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State." [9](#)

The fixing of the American eagle in the center of the spectrum was designed to maintain this political equilibrium between the people in the

states and the federal government. The idea was to keep the power base close to the people. The emphasis was on strong local self-government. The states would be responsible for internal affairs and the federal government would confine itself to those areas which could not be fairly or effectively handled by the individual states. This made the Founders' political spectrum look approximately like this:



## America's Three-Headed Eagle

Although Polybius, John Locke, and Baron Charles de Montesquieu had all advocated the separation of the governmental functions into three departments -- legislative, executive, and judicial -- the American Founders were the first to carefully structure what might be described as a three-headed eagle.



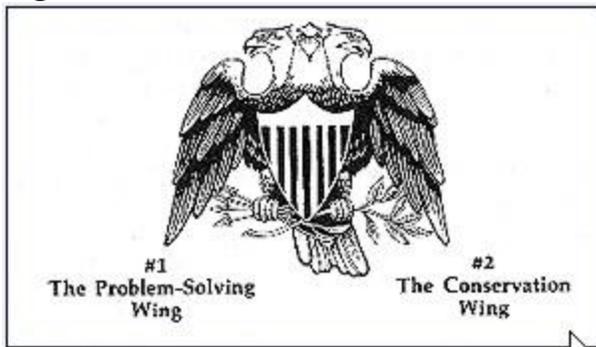
The central head was the law-making or legislative function with two eyes -- the House and the Senate -- and these must both see eye-to-eye on any

piece of legislation before it can become law. A second head is the administrative or Executive Department with all authority centered in a single, strong President, operating within a clearly defined framework of limited power. The third head is the judiciary, which was assigned the task of acting as guardian of the Constitution and the interpretation of its principles as originally designed by the Founders.

The genius of this three-headed eagle was not only the separation of powers but the fact that all three heads operated through a single neck. By this means the Founders carefully integrated these three departments so that each one was coordinated with the others and could not function independently of them. It was an ingeniously structured pattern of political power which might be described as "coordination without consolidation."

## **The Two Wings of the Eagle**

The Founder's view of their new form of government can be further demonstrated by using the symbol of the eagle and referring to its two wings:



Wing #1 of the eagle might be referred to as the problem solving wing or the wing of compassion. Those who function through this dimension of the system are sensitive to the unfulfilled needs of the people. They dream of elaborate plans to solve these problems.

Wing #2 has the responsibility of conserving the nation's resources and the people's freedom. Its function is to analyze the programs of wing #1 with two questions. First, can we afford it? Secondly, what will it do to the rights and individual freedom of the people?

Now, if both of these wings fulfill their assigned function, the American eagle will fly straighter and higher than any civilization in the history of the world. But if either of these wings goes to sleep on the job, the American

eagle will drift toward anarchy or tyranny. For example, if wing #1 becomes infatuated with the idea of solving all the problems of the nation regardless of the cost, and wing #2 fails to bring its power into play to sober the problem-solvers with a more realistic approach, the eagle will spin off toward the left, which is tyranny.

On the other hand, if wing #1 fails to see the problems which need solving and wing #2 becomes inflexible in its course of not solving problems simply to save money, or not disturb the status quo, then the machinery of government loses its credibility and the eagle drifts over toward the right where the people decide to take matters into their own hands. This can eventually disintegrate into anarchy.

### **Thomas Jefferson Describes the Need for Balance**

When Thomas Jefferson became President, he used his first inaugural address to describe the need to make room for the problem-solving wing, to which his own Democratic-Republican party belonged, and also make room for the conservation wing, to which the Federalist party of John Adams belonged. He tried to stress the fact that all Americans should have some elements of both of these party dimensions in their thinking. In his inaugural address he said:

"We have called by different names brethren of the same principle. We are all Republicans -- we are all Federalists." [10](#)

### **The Problem of Political Extremists**

Nevertheless, Jefferson saw fringe elements in both of these parties which were political extremists. In the Federalist party were those who would pull the eagle away from its balanced center toward the tyrannical left and form a central government so strong that it would border on a monarchy. Concerning the monarchist fringe of the Federalist party, he wrote:

"I have spoken of the Federalists as if they were a homogeneous body, but this is not the truth. Under that name lurks the heretical sect of monarchists. Afraid to wear their own name, they creep under the mantle of Federalism, and the Federalists, like sheep permit the fox to take shelter among them, when pursued by dogs. These men have no right to office. If a monarchist be in office, anywhere, and it be known to the President, the oath he has

taken to support the Constitution imperiously requires the instantaneous dismissal of such officer; and I hold the President criminal if he permitted such to remain. To appoint a monarchist to conduct the affairs of a republic, is like appointing an atheist to the priesthood. As to the real federalists, I take them to my bosom as brothers. I view them as honest men, friends to the present Constitution." [11](#)

### **Jefferson's Conversation with Washington**

Jefferson reports a conversation with President Washington in August 1793 in which Jefferson expressed deep concern that some elements of the President's administration were pushing toward oppressive monarchical-type powers. The President immediately responded that republican principles must be maintained and that "the Constitution we have is an excellent one, if we can keep it where it is." With reference to the possibility of a monarchical party arising, President Washington stated that "there was not a man in the United States who would set his face more decidedly against it than himself." Jefferson nevertheless pointed out to the President that:

"There does not pass a week, in which we cannot prove declarations dropping from the monarchical party [the branch of the administration pushing for a central government with massive powers and saying] that our government is good for nothing, is a milk and water thing which cannot support itself, we must knock it down, and set up something of more energy. President Washington replied that if anyone were guilty of such nonsense, it would be "a proof of their insanity." [12](#)

### **Jefferson's Concern About the Radical Fringe Element in His Own Party**

In May 1805, while serving as President, Jefferson wrote to Dr. George Logan. He was concerned with elements of extremism pushing toward the extreme right which, to the Founders, meant "anarchy." He wrote:

"I see with infinite pain the bloody schism which has taken place among our friends in Pennsylvania and New York, and will probably take place in other States. The main body of both sections mean well, but their good intentions will produce great public evil." [13](#) Like President Washington, Jefferson saw the need for maintaining the government in the balanced

center where the Constitution had placed it. He wrote to Governor George Clinton in 1803, "Our business is to march straight forward ... without either turning to the right or left." [14](#)

With both of the eagle's wings flying -- one solving problems, the other preserving resources and freedom -- the American future could not help but ascend to unprecedented heights of wealth and influence.

## **The Founders Warn Against the Drift Toward the Collectivist Left**

Since the genius of the American system is maintaining the eagle in the balanced center of the spectrum, the Founders warned against a number of temptations which might lure subsequent generations to abandon their freedoms and their rights by subjecting themselves to a strong federal administration operating on the collectivist Left.

They warned against the "welfare state" where the government endeavors to take care of everyone from the cradle to the grave. Jefferson wrote:

"If we can prevent the government from wasting the labors of the people, under the pretense of taking care of them, they must become happy." [15](#)

They warned against confiscatory taxation and deficit spending. Jefferson said it was immoral for one generation to pass on the results of its extravagance in the form of debts to the next generation. He wrote: "... we shall all consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves; and consequently within what may be deemed the period of a generation, or the life [expectancy] of the majority." [16](#)

Every generation of Americans struggled to pay off the national debt up until the present one.

The Founders also warned that the only way for the nation to prosper was to have equal protection of "rights," and not allow the government to get involved in trying to provide equal distribution of "things." They also warned against the pooling of property as advocated by the proponents of communism. Samuel Adams said they had done everything possible to make the ideas of socialism and communism *unconstitutional*. Said he:

"The Utopian schemes of leveling [re-distribution of the wealth and a community of goods [central ownership of the means of production and distribution], are as visionary and impractical as those which vest all

property in the Crown. [These ideas] are arbitrary, despotic, and, in our government, unconstitutional." [17](#)

## **The Need for an "Enlightened Electorate"**

To prevent the American eagle from tipping toward anarchy on the right, or tyranny on the left, and to see that the American system remained in a firm, fixed position in the balanced center of the political spectrum, the Founders campaigned for a strong program of widespread education. Channels were needed through which the Founders and other leaders could develop and maintain an intelligent, informed electorate.

Jefferson hammered home the necessity for an educated electorate on numerous occasions. Here are some samples:

"If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be." [18](#)

"No other sure foundation can be devised for the preservation of freedom and happiness.... Preach ... a crusade against ignorance; establish and improve the law for educating the common people. Let our countrymen know that the people alone can protect us against these evils [of misgovernment]." [19](#)

What the Founders really wanted was a system of educational communication through which they could transfer their great body of fundamental beliefs based on self evident truths. They knew they had made a great discovery, and they wanted their posterity to maintain it. As Madison said, it is something which "it is incumbent on their successors to improve and perpetuate." [20](#)

## **The Founders' Common Denominator of Basic Beliefs**

One of the most amazing aspects of the American story is that while the nation's founders came from widely divergent backgrounds, their fundamental beliefs were virtually identical. They quarreled bitterly over the most practical plan of implementing those beliefs, but rarely, if ever, disputed about their final objectives or basic convictions.

These men came from several different churches, and some from no churches at all. They ranged in occupation from farmers to presidents of universities. Their social background included everything from wilderness

pioneering to the aristocracy of landed estates. Their dialects included everything from the loquacious drawl of South Carolina to the clipped staccato of Yankee New England. Their economic origins included everything from frontier poverty to opulent wealth.

Then how do we explain their remarkable unanimity in fundamental beliefs?

Perhaps the explanation will be found in the fact that they were all remarkably well read, and mostly from the same books. Although the level of their formal training varied from spasmodic doses of home tutoring to the rigorous regimen of Harvard's classical studies, the debates in the Constitutional Convention and the writings of the Founders reflect a far broader knowledge of religious, political, historical, economic, and philosophical studies than would be found in any cross-section of American leaders today.

The thinking of Polybius, Cicero, Thomas Hooker, Coke, Montesquieu, Blackstone, John Locke, and Adam Smith salt-and-peppered their writings and their conversations. They were also careful students of the Bible, especially the Old Testament, and even though some did not belong to any Christian denomination, the teachings of Jesus were held in universal respect and admiration.

Their historical readings included a broad perspective of Greek, Roman, Anglo-Saxon, European, and English history. To this writer, nothing is more remarkable about the early American leaders than their breadth of reading and depth of knowledge concerning the essential elements of sound nation building.

## **Fundamental Principles**

The relative uniformity of fundamental thought shared by these men included strong and unusually well-defined convictions concerning religious principles, political precepts, economic fundamentals, and long-range social goals. On particulars, of course, they quarreled, but when discussing fundamental precepts and ultimate objectives they seemed practically unanimous.

They even had strong criticism of one another as individual personalities, yet admired each other as laborers in the common cause. John Adams, for example, felt a strong personality conflict between himself and Benjamin

Franklin and even Thomas Jefferson. Yet Adams' writings are steeped in accolades for both of them, and their writings carried the same for him. One of George Washington's most vehement critics was Dr. Benjamin Rush, and yet that Pennsylvania physician boldly supported everything for which Washington worked and fought.

We will now proceed to carefully examine the 28 major principles on which the American Founders established the first free people in modern times. These are great ideas which provided the intellectual, political, and economic climate for the 5,000-year leap.

## **Part II**

# **The Founder's Basic Principles**

First Principle: The only reliable basis for sound government and just human relations is Natural Law.

Second Principle: A free people cannot survive under a republican constitution unless they remain virtuous and morally strong.

Third Principle: The most promising method of securing a virtuous and morally stable people is to elect virtuous leaders.

Fourth Principle: Without religion the government of a free people cannot be maintained.

Fifth Principle: All things were created by God, therefore upon Him all mankind are equally dependent, and to Him they are equally responsible.

Sixth Principle: All men are created equal.

Seventh Principle: The proper role of government is to protect equal rights, not provide equal things.

Eighth Principle: Men are endowed by their Creator with certain unalienable rights.

Ninth Principle: To protect man's rights, God has revealed certain principles of divine law.

Tenth Principle: The God-given right to govern is vested in the sovereign authority of the whole people.

Eleventh Principle: The majority of the people may alter or abolish a government which has become tyrannical.

Twelfth Principle: The United States of America shall be a republic.

Thirteenth Principle: A constitution should be structured to permanently protect the people from the human frailties of their rulers.

Fourteenth Principle: Life and liberty are secure only so long as the right to property is secure.

Fifteenth Principle: The highest level of prosperity occurs when there is a free-market economy and a minimum of government regulations.

Sixteenth Principle: The government should be separated into three branches -- legislative, executive, and judicial.

Seventeenth Principle: A system of checks and balances should be adopted to prevent the abuse of power.

Eighteenth Principle: The unalienable rights of the people are most likely to be preserved if the principles of government are set forth in a written constitution.

Nineteenth Principle: Only limited and carefully defined powers should be delegated to government, all others being retained in the people.

Twentieth Principle: Efficiency and dispatch require government to operate according to the will of the majority, but constitutional provisions must be made to protect the rights of the minority.

Twenty-First Principle: Strong local self-government is the keystone to preserving human freedom.

Twenty-Second Principle: A free people should be governed by law and not by the whims of men.

Twenty-Third Principle: A free society cannot survive as a republic without a broad program of general education.

Twenty-Fourth Principle: A free people will not survive unless they stay

strong.

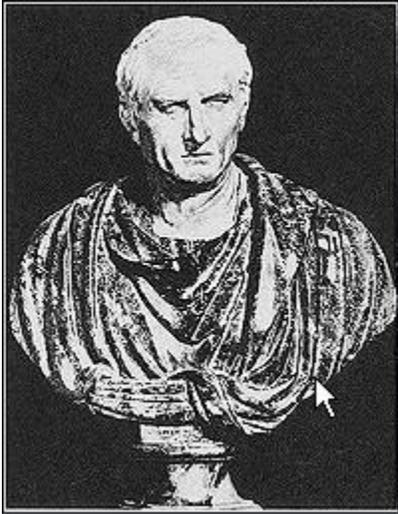
Twenty-Fifth Principle: "Peace, commerce, and honest friendship with all nations -- entangling alliances with none."

Twenty-Sixth Principle: The core unit which determines the strength of any society is the family; therefore, the government should foster and protect its integrity.

Twenty-Seventh Principle: The burden of debt is as destructive to freedom as subjugation by conquest.

Twenty-Eighth Principle: The United States has a manifest destiny to be an example and a blessing to the entire human race.

## **First Principle: The only reliable basis for sound government and just human relations is Natural Law.**



Most modern Americans have never studied Natural Law. They are therefore mystified by the constant reference to Natural Law by the Founding Fathers. Blackstone confirmed the wisdom of the Founders by stating that it is the only reliable basis for a stable society and a system of justice. Then what is Natural Law? A good place to seek out the answer is in the writings of one of the American Founders' favorite authors, Marcus Tullius Cicero.

[The Life and Writings of Cicero](#)

[Cicero's Fundamental Principles](#)

[Natural Law Is Eternal and Universal](#)

[The Divine Gift of Reason](#)

[The First Great Commandment](#)

[The Second Great Commandment](#)

[All Mankind Can Be Taught God's Law or Virtue](#)

[Legislation in Violation of God's Natural Law Is a Scourge To Humanity](#)

## All Law Should Be Measured Against God's Law

### Cicero's Conclusion

### Examples of Natural Law

## **The Life and Writings of Cicero**

It was Cicero who cut sharply through the political astigmatism and philosophical errors of both Plato and Aristotle to discover the touchstone for good laws, sound government, and the long-range formula for happy human relations. In the Founders' roster of great political thinkers, Cicero was high on the list.

Dr. William Ebenstein of Princeton says:

"The only Roman political writer who has exercised enduring influence throughout the ages is Cicero (106-43 B.C.).... Cicero studied law in Rome, and philosophy in Athens.... He became the leading lawyer of his time and also rose to the highest office of state [Roman Consul].

"... Yet his life was not free of sadness; only five years after he had held the highest office in Rome, the consulate, he found himself in exile for a year.... Cicero nevertheless showed considerable personal courage in opposing the drift toward dictatorship based on popular support. Caesar was assassinated in 44 B.C., and a year later, in 43 B.C., Cicero was murdered by the henchmen of Antony, a member of the triumvirate set up after Caesar's death." [21](#)

So out of Cicero's maelstrom of turbulent experience with power politics, plus his intense study of all forms of political systems, he wrote his landmark books on the *Republic* and the *Laws*. In these writings Cicero projected the grandeur and promise of some future society based on Natural Law.

The American Founding Fathers obviously shared a profound appreciation of Cicero's dream because they envisioned just such a commonwealth of prosperity and justice for themselves and their posterity. They saw in Cicero's writings the necessary ingredients for their model society which they eventually hoped to build.

## **Cicero's Fundamental Principles**

To Cicero, the building of a society on principles of Natural Law was nothing more nor less than recognizing and identifying the rules of "right conduct" with the laws of the Supreme Creator of the universe. History demonstrates that even in those nations sometimes described as "pagan" there were sharp, penetrating minds like Cicero's who reasoned their way through the labyrinths of natural phenomena to see behind the cosmic universe, as well as the unfolding of their own lives, the brilliant intelligence of a supreme Designer with an ongoing interest in both human and cosmic affairs.

Cicero's compelling honesty led him to conclude that once the reality of the Creator is clearly identified in the mind, the only intelligent approach to government, justice, and human relations is in terms of the laws which the Supreme Creator has already established. The Creator's order of things is called Natural Law.

A fundamental presupposition of Natural Law is that man's reasoning power is a special dispensation of the Creator and is closely akin to the rational or reasoning power of the Creator himself. In other words, man shares with his Creator this quality of utilizing a rational approach to solving problems, and the reasoning of the mind will generally lead to common-sense conclusions based on what Jefferson called "the laws of Nature and of Nature's God" (The Declaration of Independence).

Let us now examine the major precepts of Natural Law which so profoundly impressed the Founding Fathers.

### **Natural Law Is Eternal and Universal**

First of all, Cicero defines Natural Law as "true law." Then he says:

"True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions.... It is a sin to try to alter this law, nor is it allowable to repeal any part of it, and it is impossible to abolish entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and Athens, or different laws now and in the future, but one eternal and unchangeable

law will be valid for all nations and all times, and there will be one master and ruler, that is God, over us all, for he is the author of this law, its promulgator, and its enforcing judge. Whoever is disobedient is fleeing from himself and denying his human nature, and by reason of this very fact he will suffer the worst punishment." [22](#)

In these few lines the student encounters concepts which were repeated by the American Founders a thousand times. The Law of Nature or Nature's God is eternal in its basic goodness; it is universal in its application. It is a code of "right reason" from the Creator himself. It cannot be altered. It cannot be repealed. It cannot be abandoned by legislators or the people themselves, even though they may pretend to do so. In Natural Law we are dealing with factors of absolute reality. It is basic in its principles, comprehensible to the human mind, and totally correct and morally right in its general operation.

To the Founding Fathers as well as to Blackstone, John Locke, Montesquieu, and Cicero, this was a monumental discovery.

### **The Divine Gift of Reason**

To Cicero it was an obvious and remarkable thing that man had been endowed with a rich quality of mind that does not exist among other forms of life except in the most minuscule proportions. Between man and other creatures there is a gigantic gap insofar as mental processes are concerned. Cicero as well as the Founders viewed this as a special, divine endowment from the Creator. Cicero wrote:

"The animal which we call man, endowed with foresight and quick intelligence, complex, keen, possessing memory, full of reason and prudence, has been given a certain distinguished status by the Supreme God who created him; for he is the only one among so many different kinds and varieties of living beings who has a share in reason and thought, while all the rest are deprived of it. But what is more divine, I will not say in man only, but in all heaven and earth, than reason? And reason, when it is full grown and perfected, is rightly called wisdom. Therefore, since there is nothing better than reason, and since it exists both in man and God, the first common possession of man and God is reason.

"But those who have reason in common must also have right reason in common. And since right reason is Law, we must believe that men have

Law also in common with the gods. Further, those who share Law must also share Justice; and those who share these are to be regarded as members of the same commonwealth. If indeed they obey the same authorities and powers, this is true in a far greater degree; but as a matter of fact they do obey this celestial system, the divine mind, and the God of transcendent power. Hence we must now conceive of this whole universe as one commonwealth of which both gods and men are members." [23](#)

No prophet of the Old Testament or the Gospel teachers of the New Testament ever said it any better.

### **The First Great Commandment**

Cicero had comprehended the magnificence of the first great commandment to love, respect, and obey the all-wise Creator. He put this precept in proper perspective by saying that God's law is "right reason." When perfectly understood it is called "wisdom." When applied by government in regulating human relations it is called "justice." When people unite together in a covenant or compact under this law, they become a true "commonwealth," and since they intend to administer their affairs under God's law, they belong to his commonwealth.

Thus Cicero came to what Jews and Christians call the first great commandment.

It will be recalled that a lawyer tried to discredit Jesus by asking him, "Master, which is the great commandment in the Law?" Of course, there were hundreds of commandments, and the question was designed as a clever stratagem to embarrass Jesus. But Jesus was not embarrassed. He simply replied: "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment."

The lawyer was amazed by this astute and ready response from the Galilean carpenter. But Jesus was not through. He added: "And the second is like unto it. Thou shalt love thy neighbor as thyself. On these two commandments hang all the law and the prophets." [24](#)

The astonished lawyer simply replied: "Well, Master, thou hast said the truth!"

Jesus had picked out what he considered to be the foremost commandment from Deuteronomy 6:4-5, and then selected what he

considered to be the second most important commandment clear over in Leviticus 19:18.

## **The Second Great Commandment**

It is interesting that Cicero, without being either a Christian or a Jew, was able to discover the power and fundamental significance of obedience, not only to the first great commandment, but to the second one as well. His great mind instinctively led him to comprehend the beauty and felicity of what Jesus had identified as the second great commandment: "Thou shalt love thy neighbor as thyself."

Dr. William Ebenstein comments on this rather fascinating insight among Cicero's writings by saying:

"There is another note, too, in Cicero that points forward, toward Christianity, rather than backward, to Plato and Aristotle: Cicero's consciousness of love as a mighty social bond." [25](#)

Cicero raises this point in connection with his discussion of Justice. He points out that Justice is impossible except under the principles of God's just law:

"... For these virtues originate in our natural inclination to love our fellow-men, and this is the foundation of justice." [26](#)

So to Cicero, the glue which holds a body of human beings together in the commonwealth of a just society is love -- love of God; love of God's great law of Justice; and love of one's fellow-men which provides the desire to promote true justice among mankind.

## **All Mankind Can Be Taught God's Law or Virtue**

Cicero projected throughout his writings a particularly optimistic view of the potential improvement of human beings by teaching them the elements of virtue through education. He wrote:

"Out of all the material of the philosophers' discussion, surely there comes nothing more valuable than the full realization that we are born for Justice, and the right is based, not upon men's opinions, but upon Nature. This fact will immediately be plain if you once get a clear conception of man's fellowship and union with his fellow-men.... However we may define man,

a single definition will apply to all. This is a sufficient proof that there is no difference in kind between man and man.... *in fact, there is no human being of any race who, if he finds a guide, cannot attain to virtue.*" [27](#)

### **Legislation in Violation of God's Natural Law Is a Scourge To Humanity**

We cannot complete our review of Cicero's discourse on Natural Law without including his warning against legislators who undertake to pass laws which violate the "laws of Nature and of Nature's God." Cicero wrote:

"But the most foolish notion of all is the belief that everything is just which is found in the customs or laws of nations.... What of the many deadly, the many pestilential statutes which nations put in force? These no more deserve to be called laws than the rules a band of robbers might pass in their assembly. For if ignorant and unskillful men have prescribed deadly poisons instead of healing drugs, these cannot possibly be called physicians' prescriptions; neither in a nation can a statute of any sort be called a law, even though the nation, in spite of being a ruinous regulation has accepted it." [28](#)

### **All Law Should Be Measured Against God's Law**

Cicero then set forth the means by which people may judge between good and evil laws. All laws must be measured by God's Law, which is described by Cicero as follows:

"Therefore Law [of the Creator] is the distinction between things just and unjust, made in agreement with that primal and most ancient of all things, Nature; and in conformity to Nature's standard are framed those human laws which inflict punishment upon the wicked and protect the good." [29](#)

Cicero also emphasizes that the essence of an evil law cannot be mended through ratification by the legislature or by popular acclaim. Justice can never be expected from laws arbitrarily passed in violation of standards set up under the laws of Nature or the laws of the Creator. Here is his argument:

"But if the principles of Justice were founded on the decrees of peoples, the edicts of princes, or the decisions of judges, then Justice would sanction

robbery and adultery and forgery of wills, in case these acts were approved by the votes or decrees of the populace. But if so great a power belongs to the decisions and decrees of fools that the laws of Nature can be changed by their votes, then why do they not ordain that what is bad and baneful shall be considered good and salutary? Or, if a law can make Justice Injustice, can it not also make good out of bad?" [30](#)

### **Cicero's Conclusion**

It was clear to Cicero as he came toward the close of his life that men must eliminate the depravity that had lodged itself in society. He felt they must return to the high road of Natural Law. They must pledge obedience to the mandates of a loving and concerned Creator. What promise of unprecedented grandeur awaited that future society which would undertake it! He wrote:

"As one and the same Nature holds together and supports the universe, all of whose parts are in harmony with one another, so men are united in Nature; but by reason of their depravity they quarrel, not realizing that they are of one blood and subject to one and the same protecting power. If this fact were understood, surely man would live the life of the gods!" [31](#)

The American Founders believed this. They embraced the obvious necessity of building a highly moral and virtuous society. The Founders wanted to lift mankind from the common depravity and chicanery of past civilizations, and to lay the foundation for a new kind of civilization built on freedom for the individual and prosperity for the whole commonwealth. This is why they built their system on Natural Law.

Let us consider a few examples.

### **Examples of Natural Law**

It may be surprising, even to Americans, to discover how much of their Constitution and their life-style is based on principles of Natural Law. For example:

The concept of *unalienable rights* is based on Natural Law. Twenty-two of these unalienable rights are listed on pages 125-26.

The concept of *unalienable duties* is based on Natural Law. Twenty of these unalienable duties are listed on pages 134-35.

The concept of *habeas corpus* is based on Natural Law.

The concept of *limited government* is based on Natural Law.

The concept of *separation of powers* is based on Natural Law.

The concept of *checks and balances* to correct abuses by peaceful means is based on Natural Law.

The right of *self-preservation* is based on Natural Law.

The right to *contract* is based on Natural Law.

Laws protecting the *family* and the institution of *marriage* are all based on Natural Law.

The concept of *justice by reparation* or paying for damages is based on Natural Law.

The right to *bear arms* is based on Natural Law.

The principle of *no taxation without representation* is based on Natural Law.

These few examples will illustrate how extensively the entire American constitutional system is grounded in Natural Law. In fact, Natural Law is the foundation and encompassing framework for everything we have come to call "People's Law."

This is precisely what Thomas Jefferson was talking about when he wrote in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty and the Pursuit of Happiness."

These well-remembered phrases from America's initial charter of liberty are all primary pre-suppositions under the principles of Natural law.

Now, having covered the highlights of the Founders' first fundamental precept, let us proceed to the second.

**Second Principle: A free people cannot survive under a republican constitution unless they remain virtuous and morally strong.**



Modern Americans have long since forgotten the heated and sometimes violent debates which took place in the thirteen colonies between 1775 and 1776 over the issue of morality. For many thousands of Americans the big question of independence hung precariously on the single, slender thread of whether or not the people were sufficiently "virtuous and moral" to govern themselves. Self-government was generally referred to as "republicanism," and it was universally acknowledged that a corrupt and selfish people could never make the principles of republicanism operate successfully. As Franklin wrote:

"Only a virtuous people are capable of freedom. As nations become corrupt and vicious, they have more need of masters." [32](#)

George Washington later praised the American Constitution as the "palladium of human rights," but pointed that it could survive only "so long as there shall remain virtue in the body of the people." [33](#)

[What Is "Public Virtue"?](#)

[Self-Doubts](#)

[Thomas Paine](#)

[The Tide of Reform](#)

[How the Moral Reform Accelerated the Revolution](#)

## [The Lessons of History](#)

### [A Warning from the Founders](#)

#### [What is the Key to Preserving a Virtuous Nation?](#)

#### **What Is "Public Virtue"?**

Morality is identified with the Ten Commandments and obedience to the Creator's mandate for "right conduct," but the early Americans identified "public virtue" as a very special quality of human maturity in character and service closely akin to the Golden Rule. As a modern historian epitomized it:

"In a Republic, however, each man must somehow be persuaded to submerge his personal wants into the greater good of the whole. This willingness of the individual to sacrifice his private interest for the good of the community -- such patriotism or love of country -- the eighteenth century termed public virtue.... The eighteenth century mind was thoroughly convinced that a popularly based government 'cannot be supported without virtue.'" [34](#)

#### **Self-Doubts**

The people had an instinctive thirst for independence, but there remained a haunting fear that they might not be "good enough" to make it work.

These self-doubts were actually the eye of the hurricane during those final pre-revolutionary years when Americans were trying to decide whether they had the moral capacity for self-government. Great names of later years were among the doubters in those pre-revolutionary days. John Jay, Robert Morris, Robert Livingston, and even John Dickinson were among them. Their doubts gradually diminished as their patriotic indignation was aroused by the harsh and sometimes brutal policies of the British crown. They were also moved by the powerful expressions of faith and confidence pouring

forth from men of "admired virtue" such as John Adams, George Washington, Richard Henry Lee, and Josiah Quincy.

Spirits continued to rise so that by the spring of 1776, thousands of confident voices were heard throughout the colonies affirming that there was sufficient "public virtue" in the people to make republican principles work successfully.

### **Thomas Paine**

One of the most strident voices in the debate was Tom Paine, whose *Common Sense* had been a best-seller. He followed up this initial success with other writings assuring Americans they were ripe for independence. He pointed out that most of the people were "industrious, frugal, and honest."

He added that few Americans had been corrupted with riches the way people had been debilitated in Europe, where all they wanted was "luxury, indolence, amusement, and pleasure." Furthermore, there was a spirit of equality and public virtue unheard of in other nations because "the people of America are a people of property; almost every man is a freeholder." [35](#)

Nevertheless, there were many newspapers in New York, Boston, Philadelphia, and Charleston which printed numerous letters pointing out dramatically and gruesomely the deficiencies of American society in many serious respects.

This self-examination over a period of several years resulted in a remarkable reform movement which spread up and down the entire Atlantic seaboard.

### **The Tide of Reform**

Many Americans became extremely self-conscious about their lack of "public virtue" because of non-involvement in the affairs of government. They began to acknowledge their obsession with self-interest, the neglect of public affairs, and their disdain for the needs of the community as a whole. Gradually, a spirit of "sacrifice and reform" became manifest in all thirteen colonies.

Looking back on that period, one historian wrote:

In the eyes of the Whigs, the two or three years before the Declaration of Independence always appears to be the great period of the Revolution, the time of greatest denial and cohesion, when men ceased to extort and abuse one another, when families and communities seemed peculiarly united, when the courts were wonderfully free of that constant bickering over land and credit that had dominated their colonial life. [36](#)

### **How the Moral Reform Accelerated the Revolution**

Many Americans became so impressed with the improvement in the quality of life as a result of the reform movement that they were afraid they might lose it if they did not hurriedly separate from the corrupting influence of British manners. They attributed this corruption to the monarchical aristocracy of England. Even Americans such as John Jay, Robert Morris, and Robert Livingston were beginning to see that the people were exhibiting a potential capacity for virtue and morality which would guarantee the success of a free, self-governing society. Therefore, it became popular to express the sentiment that the sooner they became independent the better.

The non-importation resolution of the Continental Congress, which required great sacrifice and devastating losses to many business houses, was carried out extensively even though it operated on a voluntary basis. It was so successful that John Page wrote to Jefferson that it appeared to him "a spirit of public virtue may transcend every private consideration." [37](#)

Young James Madison gloried in the atmosphere of national purpose, saying that "a spirit of liberty and patriotism animates all degrees and denominations of men." [38](#)

It was in this climate of reform and commitment that Americans saw themselves sublimating and improving their social consciousness to the point where the continuing presence of British manners did indeed seem to be a threat to the new reform. As Gordon Wood relates it:

By 1776 it had become increasingly evident that if they were to remain the kind of people they wanted to be they must become free of Britain. The calls for independence thus took on a tone of imperativeness.... Only separating from the British monarch and instituting republicanism, it seemed, could realize the social image the Enlightenment had drawn of them. [39](#)

British influence was already taking its toll. One alarmed American wrote, "Elegance, luxury and effeminacy begin to be established." David Ramsay declared that if Americans had not revolted "our frugality, industry, and simplicity of manners, would have been lost in an imitation of British extravagance, idleness and false refinements." [40](#)

## **The Lessons of History**

It is only in this historical context that the modern American can appreciate the profound degree of anxiety which the Founders expressed concerning the quality of virtue and morality in their descendants. They knew that without these qualities, the Constitution they had written and the republican system of government which it provided could not be maintained. As James Madison said:

Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea. If there be sufficient virtue and intelligence in the community, it will be exercised in the selection of these men; so that we do not depend upon their virtue, or put confidence in our rulers, but in the people who are to choose them. [41](#)

Of course, as Jefferson said, "Virtue is not hereditary." [42](#)

Virtue has to be earned and it has to be learned. Neither is virtue a permanent quality in human nature. It has to be cultivated continually and exercised from hour to hour and from day to day. The Founders looked to the home, the school, and the churches to fuel the fires of virtue from generation to generation.

In his Farewell Address, George Washington declared:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens.... Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined

education ... reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle." [43](#)

Benjamin Franklin stressed the same point and added how precious good teachers are:

"I think with you, that nothing is of more importance for the public weal, than to form and train up youth in wisdom and virtue. Wise and good men are in my opinion, the strength of the state; more so than riches or arms....

"I think also, that general virtue is more probably to be expected and obtained from the education of youth, than from the exhortations of adult persons; bad habits and vices of the mind being, like diseases of the body, more easily prevented [in youth] than cured [in adults]. I think, moreover, that talents for the education of youth are the gift of God; and that he on whom they are bestowed, whenever a way is opened for the use of them, is as strongly called as if he heard a voice from heaven...." [44](#)

### **A Warning from the Founders**

At the conclusion of the Revolutionary War, Samuel Adams, who is sometimes called the "father of the revolution," wrote to Richard Henry Lee:

"I thank God that I have lived to see my country independent and free. She may long enjoy her independence and freedom if she will. It depends on her virtue." [45](#)

John Adams pointed out why the future of the United States depended upon the level of virtue and morality maintained among the people. He said:

"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." [46](#)

Samuel Adams knew the price of American survival under a Constitutional form of government when he wrote:

"The sum of all is, if we would most truly enjoy the gift of Heaven, let us become a virtuous people; then shall we both deserve and enjoy it. while, on the other hand, if we are universally vicious and debauched in our manners, though the form of our Constitution carries the face of the most exalted freedom, we shall in reality be the most abject slaves." [47](#)

### **What is the Key to Preserving a Virtuous Nation?**

Since the quality of virtue and morality in the character of a nation is the secret to its survival, one cannot help but wonder if there is some special ingredient which is fundamentally necessary to provide the greatest assurance that these qualities of our national life will be preserved.

The Founders had an answer to this question, which brings us to our next basic precept.

**Third Principle: The most promising method of securing a  
virtuous  
and morally stable people is to elect virtuous leaders.**

“...thou shalt provide out of all the people able men, such as fear God, men of truth, hating covetousness [unjust gain]; and place such over them, to be rulers...”

Samuel Adams pointed out a sobering fact concerning our political survival as a free people when he said:

"But neither the wisest constitution nor the wisest laws will secure the liberty and happiness of a people whose manners are universally corrupt. He therefore is the truest friend to the liberty of his country who tries most to promote its virtue, and who, so far as his power and influence extend, will not suffer a man to be chosen into any office of power and trust who is not a wise and virtuous man." [48](#)

He then went on to say that public officials should *not* be chosen if they are lacking in experience, training, proven virtue, and demonstrated wisdom. He said the task of the electorate is to choose those whose "fidelity has been tried in the nicest and tenderest manner, and has been ever firm and unshaken." [49](#)

A favorite scripture of the day was Proverbs 29:2, which says: "When the righteous are in authority, the people rejoice; but when the wicked beareth rule, the people mourn."

[In the Absence of Angels](#)

[Jefferson's "Natural Aristocracy"](#)

[Capturing the Founders' Perspective on "Politics"](#)

[John Adams on the "Divine Science of Politics"](#)

[Preparation for Service in Politics](#)

[Making Public Office an Honor Rather Than a Position of Profit](#)

[Franklin's Address to the Constitutional Convention](#)

[Haggling for High-Salaried Public Offices Was Repugnant to the Founders](#)

[Benjamin Franklin's Prophecy](#)

[Prelude to Monarchy](#)

[Franklin Cites an Exceptional but Admirable Example in England](#)

[Franklin Points to the Example of George Washington](#)

[Putting Principles into Practice](#)

[The Formula for Producing Leaders of Character and Virtue](#)

[Beliefs Which the Founders Rejected](#)

### **In the Absence of Angels**

The Founders recognized human nature for what it is -- a mixture of good and evil. They reasoned that if people are to govern themselves and have the best possible government, then a political process should be developed through which the wisest, the most experienced, and the most virtuous can be precipitated to the surface and elected to public office. Actually, mankind has no sensible option. As Madison said:

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary." [50](#)

Unfortunately, that utopian dream will never be possible in view of the obvious limitations of human nature. The next best thing is to take the most promising element in society and draft them into public service. What the Founders hoped to do was develop a spirit of public virtue by having leaders of strong private virtue. It would be a new kind of "freemen aristocracy" or "natural aristocracy" which would be open to all, but inheritable by none. Every leader would have to rise to his high office on personal merit, not the wealth and reputation of his ancestors.

## Jefferson's "Natural Aristocracy"

Thomas Jefferson typified the Founders' philosophy of social responsibility. They strongly believed that the best citizens should accept major roles in public life. They believed people with talent and demonstrated qualities of leadership should have the same sense of duty as that which Washington exhibited when he allowed himself to be called out of retirement three separate times to serve the country. Jefferson referred to such people as the nation's "natural aristocracy." He said it was an aristocracy of virtue, talent, and patriotism without which the nation could not survive.

In contrast to the natural aristocracy, he said there was an "artificial" aristocracy which dominated the elite ruling class of Europe. These were those who obtained their high offices because of wealth, their station in life, or some special influence which had been brought to bear in their behalf. He wanted no artificial aristocracy in America. Jefferson wrote in 1813:

"There is a natural aristocracy among men. The grounds of this are virtue and talents.... There is, also, an artificial aristocracy, founded on wealth and birth, without either virtue or talents; for with these it would belong to the first class. The natural aristocracy I consider as the most precious gift of nature for the instruction, the trusts, and government of society. And indeed, it would have been inconsistent in creation to have formed man for the social state, and not to have provided virtue and wisdom enough to manage the concerns of the society. May we not even say, that that form of government is the best, which provides the most effectually for a pure selection of these natural *aristoi* into the offices of government?" [51](#)

Jefferson felt it should be the goal of the whole nation to use education and every other means to stimulate and encourage those citizens who clearly exhibited a special talent for public service. He felt one of the greatest threats to the new government would be the day when the best qualified people refused to undertake the tedious, arduous, and sometimes unpleasant task of filling important public offices. In 1779 he said:

"For promoting the public happiness, those persons whom nature has endowed with genius and virtue, should be rendered by liberal education worthy to receive, and able to guard the sacred deposit of the rights and liberties of their fellow citizens; and they should be called to that charge without regard to ... birth, or other accidental condition or circumstance." [52](#)

## Capturing the Founders' Perspective on "Politics"

The natural tendency of nearly all people is to encourage others to run for office, but not get involved themselves. The Founders knew we could never enjoy strong self-government unless this general perspective were changed. They wanted it to be counted an honor to be drafted into "politics." A popular quotation from Cicero emphasized this theme. He had said:

"For there is really no other occupation in which human virtue approaches more closely the august function of the gods than that of founding new States or preserving those already in existence." [53](#)

### John Adams on the "Divine Science of Politics"

American history will show that both Samuel Adams and his younger cousin, John Adams, sacrificed their fortunes to serve in politics. They both considered politics to be a "divine science."

John Adams had this to say about the high calling of a servant of the people in politics:

"Politics are the divine science, after all. How is it possible that any man should ever think of making it subservient to his own little passions and mean private interests? Ye baseborn sons of fallen Adam, is the end of politics a fortune, a family, a gilded coach, a train of horses, and a troop of livery servants, balls at Court, splendid dinners and suppers? Yet the divine science of politics is at length in Europe reduced to a mechanical system composed of these materials." [54](#)

Some might feel inclined to smile at such a puritanical ideology in a practical politician such as John Adams, but he had a ready answer for the skeptic. Said he:

"What is to become of an *independent* statesman, one who will bow the knee to *no* idol, who will worship nothing as a divinity but truth, virtue, and his country? I will tell you; he will be regarded *more* by posterity than those who worship hounds and horses; and although he will not make his own fortune, he will make the fortune of his country." [55](#)

### Preparation for Service in Politics

John Adams, like so many of the Founders, laid great stress on the importance of broad, in-depth preparation for a career in public service. Early in his professional life, John Adams wrote to his wife explaining what he felt he must do to prepare himself for leadership in the "divine science" of politics. He wrote:

"The science of government is my duty to study, more than all other sciences; the arts of legislation and administration and negotiation ought to take place of, indeed to exclude, in a manner, all other arts. I must study politics and war, that my sons may have liberty to study mathematics and philosophy. My sons ought to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce, and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain." [56](#)

John Adams was never very popular as an individual, but the people knew he could be trusted. He was elected over and over again, finally becoming President of the United States. Years later, he wrote:

"I do not curse the day when I engaged in public affairs.... I cannot repent of any thing I ever did conscientiously and from a sense of duty. I never engaged in public affairs for my own interest, pleasure, envy, jealousy, avarice, or ambition, or even the desire of fame. If any of these had been my motive, my conduct would have been very different. In every considerable transaction of my public life, I have invariably acted according to my best judgment, and I can look up to God for the sincerity of my intentions." [57](#)

If one is astonished by the level of idealism which Founders such as Adams and Jefferson attached to the role of political public service, it cannot be more surprising than the supreme desire they expressed to prevent those offices from becoming monetary attractions. Benjamin Franklin remonstrated both in Europe and America against extravagant compensation for positions of public service.

### **Making Public Office an Honor Rather Than a Position of Profit**

As Benjamin Franklin traveled in Europe, he noted that there was a violent struggle for appointments to public offices because they paid so well. He felt this was a serious mistake.

In the early history of the United States, community offices were looked upon as stations of honor granted to the recipients by an admiring community, state, or nation. These offices were therefore often filled by those who performed their services with little or no compensation. Even when an annual salary of \$25,000 was provided in the Constitution for President Washington, he determined to somehow manage without it. Some might think that this was no sacrifice because he had a large plantation. However, the Mount Vernon plantation had been virtually ruined during the Revolutionary War, and he had not yet built it back into efficient production when he was called to be President. Washington declined his salary on principle. He did the same thing while serving as Commander-in-Chief of the armed forces during the Revolutionary War. Not all could afford to do this, but it was considered the proper procedure when circumstances permitted it.

While in Europe in 1777, Franklin explained to a friend the widespread support for the American attitude concerning public service:

"In America, salaries, where indispensable, are extremely low; but much of public business is done gratis. The honor of serving the public ably and faithfully is deemed sufficient. Public spirit really exists there, and has great effects. In England it is universally deemed a nonentity, and whoever pretends to it is laughed at as a fool, or suspected as a knave." [58](#)

### **Franklin's Address to the Constitutional Convention**

Franklin fervently hoped this policy could be perpetuated in America from generation to generation. At the Constitutional Convention in 1787, he gave a discourse on the need to fix the course of American public service so that it would always attract men of public virtue and repel scoundrels scrambling for a soft job. He said:

"Sir, there are two passions which have a powerful influence in the affairs of men. These are ambitions and avarice; the love of power and the love of money. Separately, each of these has great force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. Place before the eyes of such men a post of honor, that shall at the same time be a place of profit, and they will move heaven and earth to obtain it. The vast number of such places it is that renders the British government so tempestuous. The struggles for them are

the true source of all those factions which are perpetually dividing the nation, distracting its councils, hurrying it sometimes into fruitless and mischievous wars, and often compelling a submission to dishonorable terms of peace." [59](#)

### **Haggling for High-Salaried Public Offices Was Repugnant to the Founders**

Franklin had seen enough of the world to make a general observation to the Constitutional Convention which the members could not help but hear with deep respect. The men at the Convention were there at great personal sacrifice; some, like Madison, on borrowed money. Franklin warned that high salaries for government offices are the best way to attract scoundrels and drive from the halls of public office those men who possess true merit and virtue. He asked:

"And of what kind are the men that will strive for this profitable preeminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of characters? It will *not* be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government, and be your rulers. And these, too, will be mistaken in the expected happiness of their situation; for their vanquished competitors, of the same spirit, and from the same motives, will perpetually be endeavoring to distress their administration, thwart their measures, and render them odious to the people." [60](#)

### **Benjamin Franklin's Prophecy**

Peering down through the corridor of time, Franklin proclaimed his prophetic judgment as to what could be expected if future generations of Americans permitted the Jure of high salaries to be associated with public offices. Here are the remarkably profound insights from the "Sage of Philadelphia" to the members of the Constitutional Convention:

"Sir, though we may set out in the beginning with moderate salaries, we shall find that such will not be of long continuance. Reasons will never be

wanting for proposed augmentations; and there will always be a party for giving more to the rulers, that the rulers may be able in return to give more to them. Hence, as all history informs us, there has been in every state and kingdom a constant kind of warfare between the governing and the governed, the one striving to obtain more for its support, and the other to pay less. And this has alone occasioned great convulsions, actual civil wars, ending either in dethroning of the princes or enslaving of the people. Generally, indeed, the ruling power carries its point, and we see the revenues of princes constantly increasing, and we see that they are never satisfied, but always in want of more. The more the people are discontented with the oppression of taxes, the greater need the prince has of money to distribute among his partisans, and pay the troops that are to suppress all resistance, and enable him to plunder at pleasure." [61](#)

### **Prelude to Monarchy**

Franklin foresaw the possibility of profit in public office becoming the means by which an American monarchy could eventually arise; not called a monarchy, of course, but an executive with monarchical powers. He continued his speech as follows:

"There is scarce a king in a hundred who would not, if he could, follow the example of Pharaoh -- get first all the people's money, then all their lands, and then make them and their children servants forever. It will be said that we do not propose to establish kings. I know it. But there is a natural inclination in mankind to kingly government. It sometimes relieves them from aristocratic domination. They had rather have one tyrant than 500. It gives more of the appearance of equality among citizens; and that they like. I am apprehensive -- therefore -- perhaps too apprehensive -- that the government of these states may in future times end in a monarchy. But this catastrophe, I think, may be long delayed, if in our proposed system we do not sow the seeds of contention, faction, and tumult, by making our posts of honor places of profit. If we do, I fear that, though we employ at first a number and not a single person, the number will in time be set aside; it will only nourish the fetus of a king (as the honorable gentleman from Virginia very aptly expressed it), and a king will the sooner be set over us."

[62](#)

## **Franklin Cites an Exceptional but Admirable Example in England**

"It may be imagined by some that this is a utopian idea, and that we can never find men to serve us in the executive department without paying them well for their services. I conceive this to be a mistake. Some existing facts present themselves to me, which incline me to a contrary opinion. The high sheriff of a county in England is an honorable office, but it is not a profitable one. It is rather expensive, and therefore not sought for. But yet it is executed, and well executed, and usually by some of the principal gentlemen of the county.... I only bring the instance to show that the pleasure of doing good and serving their country, and the respect such conduct entitles them to, are sufficient motives with some minds to give up a great portion of their time to the public, without the mean inducement of pecuniary satisfaction." [63](#)

## **Franklin Points to the Example of George Washington**

The most notable example of such altruistic service in the United States was George Washington. At that moment he was presiding over the Convention which Franklin was addressing. Had Washington been elsewhere, Franklin undoubtedly would have gone into a comprehensive history of the notable example which Washington represented in practicing the principles that Franklin was trying to have institutionalized as a part of the American philosophy of government. To avoid embarrassing Washington, however, he simply said:

"To bring the matter nearer home, have we not seen the greatest and most important of our offices, that of general of our armies, executed for eight years together, without the smallest salary, by a patriot whom I will not now offend by any other praise; and this, through fatigues and distresses, in common with the other brave men, his military friends and companions, and the constant anxieties peculiar to his station? And shall we doubt finding three or four men in all the United States, with public spirit enough to bear sitting in peaceful council, for perhaps an equal term, merely to preside over our civil concerns, and see that our laws are duly executed? Sir, I have a better opinion of our country.

"I think we shall never be without a sufficient number of wise and good men to undertake, and execute well and faithfully, the office in question."

[64](#)

Franklin then concluded his remarks by emphasizing that his plea for giving modest salaries to those filling public office was not motivated by a parsimonious passion for saving taxes, but simply to avoid the evils that go with high salaries. He said:

"Sir, the saving of the salaries, that may at first be proposed, is not an object with me. The subsequent mischiefs of proposing them are what I apprehend. And therefore it is that I move the amendment. If it is not seconded or accepted, I must be contented with the satisfaction of having delivered my opinion frankly, and done my duty." [65](#)

### **Putting Principles into Practice**

For nearly a half century, Franklin and most of the Founders had practiced these principles in their own lives. No better example can be found than Franklin himself. Take the summer of 1775, for instance, when Franklin was serving as a businessman, a member of Congress, and chairman of the Pennsylvania Committee of Safety. This committee had to provide weapons, munitions, gunboats, and stockades in preparation for the coming conflict. He describes a typical day to a friend in England as follows:

"My time was never more fully employed. In the morning at six, I am at the Committee of Safety, appointed by the [Pennsylvania] Assembly to put the province in a state of defense; which committee holds till near nine, when I am in Congress, and that sits till after four in the afternoon. Both of these bodies proceed with the greatest unanimity, and their meetings are well attended. It will scarce be credited in Britain, that men can be as diligent with us from zeal for the public good, as with you for thousands per annum. Such is the difference between uncorrupted new states, and corrupted old ones." [66](#)

Long before the Constitutional Convention, where Franklin had made his plea for modest salaries, Pennsylvanians had put the following provision in their State Constitution:

"As every freeman, to preserve his independence, (if he has not a sufficient estate) ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in, establishing offices of profit; the usual effects of which are dependence and servility, unbecoming freemen, in the possessors and expectants; faction,

contention, corruption, and disorder among the people. Wherefore, whenever an office, through increase of fees or otherwise, becomes so profitable, as to occasion many to apply for it, the profits ought to be lessened by the legislature." [67](#)

## **The Formula for Producing Leaders of Character and Virtue**

A modern American cannot read the writings of men such as Jefferson, Adams, Franklin, or Washington without feeling a certain sense of pride that the United States produced and had available leaders of this supreme quality to launch the first "noble experiment" for freedom in modern times.

However, one important question remains: "How are such qualities of superior character and virtue developed in human beings?"

The answer will be found in the writings of the Founders themselves. As we shall see in the numerous quotations appearing in the following pages, the beliefs of the Founders were based on careful study. They had also been carefully taught. In their respective churches, families, schools, or elsewhere, they had been allowed to acquire a comprehensive system of strong, basic beliefs. Throughout their writings and speeches, the Founders project themselves as positive believers in a broad spectrum of fundamental precepts which they called "self-evident truths."

These beliefs are remarkable in and of themselves, but the fact that they all seem to have shared them in common is even more remarkable.

## **Beliefs Which the Founders Rejected**

It is interesting that their acceptance of these beliefs necessarily required that they categorically reject some of the more popular intellectual fads which were widespread in Europe during their day. It further required that they reject some of the less tenable positions of certain popular denominations; even denominations to which some of them belonged.

What we are seeing in the Founders, therefore, is a group of very independent, tough-minded men whose beliefs were based on empirical evidence and the light of careful reasoning. Even their acceptance of things which are not seen -- the existence of the Creator, for example -- were based on observable phenomena and precise reasoning.

The well-known psychologist Abraham Maslow, in his book entitled *The Third Force*, concludes after extensive testing that a mind-set based on a spectrum of well-established beliefs, such as the Founders possessed, definitely produces a higher quality of human behavior and a more positive adjustment to the stresses of life.

No doubt Cicero would respond to such a conclusion with the observation that these results should have been expected. Beliefs based on reason and self-evident truth bring a human being into harmony with natural law and the eternal realities of the cosmic universe.

Now we will examine what the Founders had to say about some of their better-known basic beliefs.

## **Fourth Principle: Without religion the government of a free people cannot be maintained.**



Americans of the twentieth century often fail to realize the supreme importance which the Founding Fathers originally attached to the role of religion in the structure of the unique civilization which they hoped would emerge as the first free people in modern times. Many Americans also fail to realize that the Founders felt the role of religion would be as important in our own day as it was in theirs.

In 1787, the very year the Constitution was written and approved by Congress, that same Congress passed the famous Northwest Ordinance. In it they emphasized the essential need to teach religion and morality in the schools. Here is the way they said it:

"Article 3: Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." [68](#)

Notice that formal education was to include among its responsibilities the teaching of three important subjects:

1. Religion, which might be defined as a "fundamental system of beliefs concerning man's origin and relationship to the cosmic universe as well as his relationship with his fellowmen."

2. Morality, which may be described as "a standard of behavior distinguishing right from wrong."

3. Knowledge, which is "an intellectual awareness and understanding of established facts relating to any field of human experience or inquiry (i.e., history, geography, science, etc.)."

[Washington Describes the Founders' Position](#)

[The Teaching of Religion in Schools Restricted to Universal Fundamentals](#)

[Franklin Describes the Five Fundamentals of "All Sound Religion"](#)

[The "Fundamental Points" to Be Taught in the Schools](#)

[Statements of the Founders Concerning These Principles](#)

[Alexis de Tocqueville Discovers the Importance of Religion in America](#)

[European Philosophers Turned Out to Be Wrong](#)

[A New Kind of Religious Vitality Emerges in America](#)

[De Tocqueville Describes the Role of Religion in the Schools](#)

[De Tocqueville Describes the Role of the American Clergy](#)

[The Clergy Fueled the Flame of Freedom, Stressed Morality, and Alerted the Citizenry To Dangerous Trends](#)

[The Founders' Campaign for Equality of All Religions](#)

[Why the Founders Wanted the Federal Government Excluded from All Problems Relating to Religion and Churches](#)

[Justice Story Describes the Founders' Solution](#)

[Jefferson and Madison Emphasize the Intent of the Founders](#)

[The Supreme Court as Well as Congress Excluded from Jurisdiction over Religion](#)

## The Federal "Wall" Between Church and State

### Religious Problems Must Be Solved Within the Various States

### Affirmative Programs to Encourage All Religions on the State Level

### Religious Principles Undergird Good Government

#### **Washington Describes the Founders' Position**

The position set forth in the Northwest Ordinance was re-emphasized by President George Washington in his Farewell Address:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.... And let us with caution indulge the supposition that morality can be maintained without religion ... Reason and experience both forbid us to expect that national morality can prevail to the exclusion of religious principle.

"It is substantially true that virtue or morality is a necessary spring of popular government. [69](#)

#### **The Teaching of Religion in Schools Restricted to Universal Fundamentals**

Having established that "religion" is the foundation of morality and that both are essential to "good government and the happiness of mankind," the Founders then set about to exclude the creeds and biases or dissensions of individual denominations so as to make the teaching of religion a unifying cultural adhesive rather than a divisive apparatus. Jefferson wrote a Bill for Establishing Elementary Schools in Virginia and made this point clear by stating:

"No religious reading, instruction, or exercise shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination." [70](#)

Obviously, under such restrictions the only religious tenets to be taught in public schools would have to be those which were universally accepted by all faiths and completely fundamental in their premises.

### **Franklin Describes the Five Fundamentals of "All Sound Religion"**

Several of the Founders have left us with descriptions of their basic religious beliefs, and Benjamin Franklin summarized those which he felt were the "fundamental points in all sound religion." This is the way he said it in a letter to Ezra Stiles, president of Yale University:

"Here is my creed: I believe in one God, the Creator of the universe. That he governs it by his providence. That he ought to be worshipped. That the most acceptable service we render to him is in doing good to his other children. That the soul of man is immortal, and will be treated with justice in another life respecting its conduct in this. These I take to be the fundamental points in all sound religion." [71](#)

### **The "Fundamental Points" to Be Taught in the Schools**

The five points of fundamental religious belief expressed or implied in Franklin's statement are these:

1. There exists a Creator who made all things, and mankind should recognize and worship Him.
2. The Creator has revealed a moral code of behavior for happy living which distinguishes right from wrong.
3. The Creator holds mankind responsible for the way they treat each other.
4. All mankind live beyond this life.
5. In the next life mankind are judged for their conduct in this one.

All five of these tenets run through practically all of the Founders' writings. These are the beliefs which the Founders sometimes referred to as the "religion of America," and they felt these Fundamentals were so important in providing "good government and the happiness of mankind" that they wanted them taught in the public schools along with morality and knowledge.

## Statements of the Founders Concerning These Principles

Samuel Adams said that this group of basic beliefs which constitute "the religion of America is the religion of all mankind." [72](#) In other words, these fundamental beliefs belong to all world faiths and could therefore be taught without being offensive to any "sect or denomination" as indicated in the Virginia bill for establishing elementary schools.

John Adams called these tenets the "general principles" on which the American civilization had been founded. [73](#)

Thomas Jefferson called these basic beliefs the principles "in which God has united us all." [74](#)

From these statements it is obvious how significantly the Founders looked upon the fundamental precepts of religion and morality as the cornerstones of a free government. This gives additional importance to the previously quoted warning of Washington when he said: "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.... Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?" [75](#)

Washington issued this solemn warning because in France, shortly before he wrote his Farewell Address (1796), the promoters of atheism and amorality had seized control and turned the French Revolution into a shocking blood bath of wild excesses and violence. Washington obviously never wanted anything like that to happen in the United States. Therefore he had said: "In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness [religion and morality]." [76](#)

### Alexis de Tocqueville Discovers the Importance of Religion in America

When the French jurist, Alexis de Tocqueville, visited the United States in 1831, he became so impressed with what he saw that he went home and wrote one of the best definitive studies on the American culture and Constitutional system that had been published up to that time. His book was called *Democracy in America. Concerning religion in America, de Tocqueville said:*

"On my arrival in the United States the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there, the more I perceived the great political consequences resulting from this new state of things." [77](#)

He described the situation as follows:

"Religion in America takes no direct part in the government of society, but it must be regarded as the first of their political institutions.... I do not know whether all Americans have a sincere faith in their religion -- for who can search the human heart? -- but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation and to every rank of society." [78](#)

### **European Philosophers Turned Out to Be Wrong**

In Europe, it had been popular to teach that religion and liberty were enemies of each other. De Tocqueville saw the very opposite happening in America. He wrote:

"The philosophers of the eighteenth century explained in a very simple manner the gradual decay of religious faith. Religious zeal, said they, must necessarily fail the more generally liberty is established and knowledge diffused. Unfortunately, the facts by no means accord with their theory. There are certain populations in Europe whose unbelief is only equaled by their ignorance and debasement; while in America, one of the freest and most enlightened nations in the world, the people fulfill with fervor all the outward duties of religion." [79](#)

### **A New Kind of Religious Vitality Emerges in America**

De Tocqueville pointed out that "in France I had almost always seen the spirit of religion and the spirit of freedom marching in opposite directions. But in America I found they were intimately united." [80](#) He then pointed out that the early American colonists "brought with them into the New World a form of Christianity which I cannot better describe than by styling it a democratic and republican religion. This contributed powerfully to the establishment of a republic and a democracy in public affairs; and from the

beginning, politics and religion contracted an alliance which has never been dissolved." [81](#)

However, he emphasized the fact that this religious undergirding of the political structure was a common denominator of moral teachings in different denominations and not the political pressure of some national church hierarchy. Said he:

"The sects [different denominations] that exist in the United States are innumerable. They all differ in respect to the worship which is due to the Creator; but they all agree in respect to the duties which are due from man to man. Each sect adores the Deity in its own peculiar manner, but all sects preach the same moral law in the name of God... All the sects of the United States are comprised within the great unity of Christianity, and Christian morality is everywhere the same... There is no country in the world where the Christian religion retains a greater influence over the souls of men than in America." [82](#)

It was astonishing to de Tocqueville that liberty and religion could be combined in such a balanced structure of harmony and good order. He wrote:

"The revolutionists of America are obliged to profess an ostensible respect for Christian morality and equity, which does not permit them to violate wantonly the laws that oppose their designs... Thus, while the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust." [83](#)

### **De Tocqueville Describes the Role of Religion in the Schools**

De Tocqueville found that the schools, especially in New England, incorporated the basic tenets of religion right along with history and political science in order to prepare the student for adult life. He wrote:

"In New England every citizen receives the elementary notions of human knowledge; he is taught, moreover, the doctrines and the evidences of his religion, the history of his country, and the leading features of its Constitution. In the states of Connecticut and Massachusetts, it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon." [84](#)

### **De Tocqueville Describes the Role of the American Clergy**

Alexis de Tocqueville saw a unique quality of cohesive strength emanating from the clergy of the various churches in America. After noting that all the clergy seemed anxious to maintain "separation of church and state," he nevertheless observed that collectively they had a great influence on the morals and customs of public life. This indirectly reflected itself in the formulating of laws and ultimately in fixing the moral and political climate of the American commonwealth. As a result, he wrote:

"This led me to examine more attentively than I had hitherto done the station which the American clergy occupy in political society. I learned with surprise that they filled no public appointments; I did not see one of them in the administration, and they are not even represented in the legislative assemblies." [85](#)

How different this was from Europe, where the clergy nearly always belonged to a national church and occupied seats of power. He wrote:

"The unbelievers in Europe attack the Christians as their political opponents rather than as their religious adversaries; they hate the Christian religion as the opinion of a [political] party much more than as an error of belief; and they reject the clergy less because they are the representatives of the Deity than because they are the allies of government." [86](#)

In America, he noted, the clergy remained politically separated from the government but nevertheless provided a moral stability among the people which permitted the government to prosper. In other words, there was separation of church and state but not separation of state and religion.

### **The Clergy Fueled the Flame of Freedom, Stressed Morality, and Alerted the Citizenry To Dangerous Trends**

The role of the churches to perpetuate the social and political culture of the United States provoked the following comment from de Tocqueville:

"The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other.... I have known of societies formed by Americans to send out ministers of the Gospel into the new Western states, to found schools and churches there, lest religion should be allowed to die away in those remote settlements, and the rising states be less fitted to enjoy free institutions than the people from whom they came." [87](#)

De Tocqueville discovered that while the clergy felt it would be demeaning to their profession to become involved in partisan politics, they nevertheless believed implicitly in their duty to keep a message of religious principles and moral values flowing out to the people as the best safeguard for America's freedom and political security. In one of de Tocqueville's most frequently quoted passages, he stated:

"I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there; in her rich mines and her vast world commerce, and it was not there. Not until I went to the churches of America and heard her pulpits aflame with righteousness did I understand the secret of her genius and power. America is great because she is good, and if America ever ceases to be good, America will cease to be great." [88](#)

### **The Founders' Campaign for Equality of All Religions**

One of the most remarkable undertakings of the American Founders was to do something no other nation had ever successfully achieved -- the task of providing legal equality for all religions, both Christian and non-Christian.

Jefferson and Madison were undoubtedly the foremost among the Founders in pushing through the first of these statutes in Virginia. Jefferson sought to disestablish the official church of Virginia in 1776, but this effort was not completely successful until ten years later.

Meanwhile, in 1784, Patrick Henry was so enthusiastic about strengthening the whole spectrum of Christian churches that he introduced a bill "Establishing a Provision for Teachers of the Christian Religion." [89](#)

It was the intention of this bill to provide that each taxpayer would designate "to what society of Christians" his money should go. The funds collected by this means were to make "provision for a minister or teacher of the Gospel ... or the providing places of divine worship [for that denomination], and to none other use whatever...." [90](#)

Madison immediately reacted with his famous "Memorial and Remonstrance" against religious assessments, in which he proclaimed with the greatest possible energy the principle that the state government should not prefer one religion over another. Equality of religions was the desired goal. He wrote:

"Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same case any particular sect of Christians, in exclusion of all other sects? ... The bill violates that equality which ought to be the basis of every law." [91](#)

### **Why the Founders Wanted the Federal Government Excluded from All Problems Relating to Religion and Churches**

The Supreme Court has stated on numerous occasions that to most people freedom of religion is the most precious of all the unalienable rights next to life itself. When the United States was founded, there were many Americans who were not enjoying freedom of religion to the fullest possible extent. At least seven of the States had officially established religions or denominations at the time the Constitution was adopted. These included: [92](#)

Connecticut (Congregational church)

New Hampshire (Protestant faith)

Delaware (Christian faith)

New Jersey (Protestant faith)

Maryland (Christian faith)

South Carolina (Protestant faith)

Massachusetts (Congregational church)

Under these circumstances the Founders felt it would have been catastrophic and might have precipitated civil strife if the federal government had tried to establish a national policy on religion or disestablish the denominations which the states had adopted. Nevertheless, the Founders who were examining this problem were anxious to eventually see complete freedom of all faiths and an equality of all religions, both Christian and non-Christian. How could this be accomplished without stirring up civil strife?

### **Justice Story Describes the Founders' Solution**

In his famous *Commentaries on the Constitution*, Justice Joseph Story of the Supreme Court pointed out why the Founders as well as the states

themselves felt the federal government should be absolutely excluded from any authority in the field of settling questions on religion. He stated:

"In some of the states, Episcopalians constituted the predominant sect; in others, Presbyterians; in others, Congregationalists; in others, Quakers; and in others again, there was a close numerical rivalry among contending sects. It was impossible that there should not arise perpetual strife and perpetual jealousy on the subject of ecclesiastical ascendancy, if the national government were left free to create a religious establishment. The only security was in extirpating the power. But this alone would have been an imperfect security, if it had not been followed up by a declaration of the right of the free exercise of religion, and a prohibition (as we have seen) of all religious tests. *Thus, the whole power over the subject of religion is left exclusively to the state governments, to be acted upon according to their own sense of justice, and the state constitutions.*" [93](#)

This is why the First Amendment of the Constitution provides that "Congress shall make NO law respecting an establishment of religion, or prohibiting the free exercise thereof."

### **Jefferson and Madison Emphasize the Intent of the Founders**

It is clear from the writings of the Founders as well as the *Commentaries* of Justice Story that the First Amendment was designed to eliminate forever the interference of the federal government in any religious matters within the various states. As Madison stated during the Virginia ratifying convention: "There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation." [94](#)

Jefferson took an identical position when he wrote the Kentucky Resolutions of 1798: "It is true, as a general principle, ... that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution ... all lawful powers respecting the same did of right remain, and were reserved to the states, or to the people." [95](#)

### **The Supreme Court as Well as Congress Excluded from Jurisdiction over Religion**

In the Kentucky Resolutions, Thomas Jefferson also made it clear that the federal judicial system was likewise prohibited from intermeddling with religious matters within the states. He wrote:

"Special provision has been made by one of the amendments to the Constitution, which expressly declares that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...', thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch that whatever violates either throws down the sanctuary which covers the others; and that libels, falsehood, and defamation, equally with heresy and false religions, *are withheld from the cognizance of federal tribunals.*" [96](#)

### **The Federal "Wall" Between Church and State**

When Thomas Jefferson was serving in the Virginia legislature he helped initiate a bill to have a day of fasting and prayer, but when he became President, Jefferson said there was no authority in the federal government to proclaim religious holidays. In a letter to the Danbury Baptist Association dated January 1, 1802, he explained his position and said the Constitution had created "a wall of separation between church and state." [97](#)

In recent years the Supreme Court has undertaken to use this metaphor as an excuse for meddling in the religious issues arising within the various states. It has not only presumed to take jurisdiction in these disputes, but has actually forced the states to take the same hands-off position toward religious matters even though this restriction originally applied only to the federal government. This obvious distortion of the original intent of Jefferson (when he used the metaphor of a "wall" separating church and state) becomes entirely apparent when the statements and actions of Jefferson are examined in their historical context.

It will be recalled that Jefferson and Madison were anxious that the states intervene in religious matters so as to provide for equality among all religions, and that all churches or religions assigned preferential treatment should be disestablished from such preferment. They further joined with the other Founders in expressing an anxiety that ALL religions be encouraged in order to promote the moral fiber and religious tone of the people. This, of course, would be impossible if there were an impenetrable "wall" between church and state on the state level. Jefferson's "wall" was obviously

intended only for the federal government, and the Supreme Court application of this metaphor to the states has come under severe criticism. [98](#)

### **Religious Problems Must Be Solved Within the Various States**

In Thomas Jefferson's second inaugural address, he virtually signalled the states to press forward in settling their religious issues since it was within their jurisdiction and not that of the federal government:

"In matters of religion, I have considered that its free exercise is placed by the Constitution independent of the powers of the general government. I have therefore undertaken on no occasion to prescribe religious exercises suited to it; but have left them, as the Constitution found them, under the direction and discipline of state or church authorities acknowledged by the several religious societies." [99](#)

Jefferson, along with the other Founders, believed that it was within the power of the various states to eliminate those inequities which existed between the various faiths, and then pursue a policy of encouraging religious institutions of all kinds because it was in the public interest to use their influence to provide the moral stability needed for "good government and the happiness of mankind." [100](#)

Jefferson's resolution for disestablishing the Church of England in Virginia was not to set up a wall between the state and the church but simply, as he explained it, for the purpose of "taking away the privilege and preeminence of one religious sect over another, and thereby [establishing] ... *equal rights among all.*" [101](#)

### **Affirmative Programs to Encourage All Religions on the State Level**

In view of the extremely inflexible and rigid position which the U.S. Supreme Court has taken in recent years concerning the raising up of a "wall" between state government and religion, it is remarkable how radically different the Founders' views were upon such matters.

Take, for example, their approval of religious meetings in tax-supported public buildings. With the Founders there was no objection as to the

propriety of using public buildings for religious purposes, for that was to be encouraged. The only question was whether or not the facilities could be made available *equally* to all denominations desiring them. Notice how Jefferson reflects his deep satisfaction in the way the churches were using the local courthouse in Charlottesville, near Jefferson's home:

"In our village of Charlottesville, there is a good degree of religion, with a small spice only of fanaticism. We have four sects, but without either church or meeting-house. The court-house is the common temple, one Sunday in the month to each. Here, Episcopalian and Presbyterian, Methodist and Baptist, meet together, join in hymning their Maker, listen with attention and devotion to each others' preachers, and all mix in society with perfect harmony." [102](#)

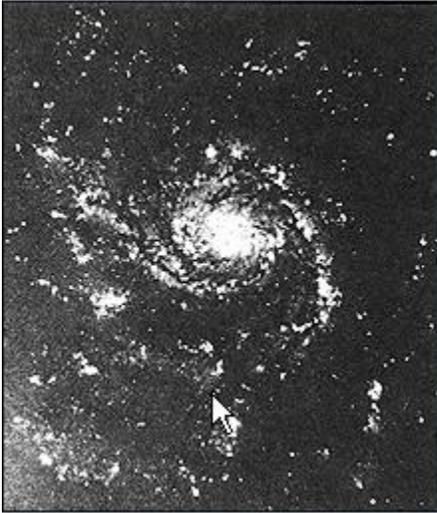
One cannot help asking the modern Supreme Court: "Where is the wall of separation between church and state when the courthouse is approved for the common temple of all the religious sects of a village?"

Of course, Jefferson would be the first to require some other arrangement if all of the churches could not be accommodated equally, but so long as they were operating equally and harmoniously together, it was looked upon as a commendable situation. The fact that they were utilizing a tax-supported public building was not even made an issue.

## **Religious Principles Undergird Good Government**

What doctrines were Americans so anxious to teach one another in order that they might remain united and well governed? These religious precepts turned out to be the heart and soul of the entire American political philosophy. They were taken from the books of John Locke, Sir William Blackstone, and other great thinkers of the day, who took them directly from the Bible. Thus, religion and the American institutions of freedom were combined. In fact, the Founders had taken the five truths we have already identified as "religion" and had built the whole Constitutional framework on top of them. The sanctity of civil rights and property rights, as well as the obligation of citizens to support the Constitution in protecting their unalienable rights, were all based on these religious precepts. Therefore, having established the general principle that "without religion the government of a free people cannot be maintained," we now turn to the specific principles on which this general concept was based.

**Fifth Principle: All things were created by God, therefore upon Him all mankind are equally dependent, and to Him they are equally responsible.**



[The Reality of a Divine Creator](#)

[How Can One Know There Is a God?](#)

[Getting to Know God](#)

[Concerning God's Revealed Law Distinguishing Right from Wrong](#)

[The Nearness of God](#)

[George Washington](#)

[James Madison](#)

["In God We Trust"](#)

**The Reality of a Divine Creator**

The Founders vigorously affirm throughout their writings that the foundation of all reality is the existence of the Creator, who is the designer of all things in nature and the promulgator of all the laws which govern nature.

The Founders were in harmony with the thinking of John Locke as expressed in his famous *Essay Concerning Human Understanding*. In it Locke pointed out that it defies the most elementary aspects of reason and experience to presuppose that everything in existence developed as a result of fortuitous circumstance. The mind, for example, will not accept the proposition that the forces of nature, churning about among themselves, would ever produce a watch, or even a lead pencil, let alone the marvelous intricacies of the human eye, the ear, or even the simplest of the organisms found in nature. All these are the product of intelligent design and high-precision engineering.

Locke felt that a person who calls himself an "atheist" is merely confessing that he has never dealt with the issue of the Creator's existence. Therefore, to Locke an atheist would be to that extent "irrational," and out of touch with reality; in fact, out of touch with the most important and fundamental reality.

### **How Can One Know There Is a God?**

In his *Essay Concerning Human Understanding*, John Locke insisted that everyone can know there is a divine Creator. It is simply a case of thinking about it. [103](#)

To begin with, each person knows that he exists. With Descartes each person can say, "*Cogito ergo sum.*" With God, each person can say, "*I am!*"

Furthermore, each person knows that he is *something*. He also knows that a *something* could not be produced by a *nothing*. Therefore, whatever brought man and everything else into existence also had to be *something*.

It follows that this *something* which did all of this organizing and arranging would have to be all-knowing to the full extent required for such an organization and arrangement.

This *something* would therefore have to be superior to everything which had resulted from this effort. This element of superiority makes this *something* the ultimate "good" for all that has been organized and arranged.

In the Anglo-Saxon language, the word for supreme or ultimate good is "God."

## **Getting to Know God**

Man is capable of knowing many things about God, Locke said. The Creator must of necessity be a cogitative (reasoning or thinking) being, for man is a cogitative (reasoning) being. Certainly a non-cogitative being like a rock could never have produced a cogitative being like a man. We may also know that the divine Creator has a sense of compassion and love, for he gave mankind these sublime qualities.

The Creator would also reflect a fine sense of right and wrong, and also a sense of indignation or even anger with those who violate the laws of "right" action. In other words, God has a strong sense of "justice." Remorse for wrong also arouses a sense of compassion in the Creator, just as it does in human beings whom he designed.

There are other attributes of man which human beings must necessarily share with their Creator if man is "made in the image of God." One would be a sense of humor. The Creator must also be a great artist on the visual plane. Everything the Creator organizes is in terms of beauty through color, form, and contrasts. Obviously, man can enjoy only to a finite degree the capacity of his Creator to appreciate the vast panorama of sensory satisfaction which we call "beauty."

So, as John Locke says, there are many things man can know about God. And because any thoughtful person can gain an appreciation and conviction of these many attributes of the Creator, Locke felt that an atheist has failed to apply his divine capacity for reason and observation.

The American Founding Fathers agreed with Locke. They considered the existence of the Creator as the most fundamental premise underlying ALL self-evident truth. It will be noted as we proceed through this study that every single self-evident truth enunciated by the Founders is rooted in the presupposition of a divine Creator.

## **Concerning God's Revealed Law Distinguishing Right from Wrong**

The Founders considered the whole foundation of a just society to be structured on the basis of God's revealed law. These laws constituted a moral code clearly distinguishing right from wrong. This concept was not new with the Founders. This was the entire foundation of all religious cultures world-wide. It was particularly emphasized in the Judeo-Christian structure of the English law. No authority on the subject was more widely read than William Blackstone (1723-1780). He established the classes for the first law school at Oxford in 1753. His lectures on the English law were published in 1765 and were as widely read in America as they were in England.

In his *Commentaries on the Laws of England*, Blackstone propounded the generally accepted idea that "when the Supreme Being formed the universe" he organized it and then "impressed certain principles upon that matter, from which it can never depart, and without which it would cease to be."

[104](#)

He then went on to say that the will of God which is expressed in the orderly arrangement of the universe is called "the law of nature," and that there are laws for "human" nature just as surely as they exist for the rest of the universe. [105](#) He said the laws for human nature had been revealed by God, whereas the laws of the universe (natural law) must be learned through scientific investigation. [106](#) Blackstone stated that "upon these two foundations, the law of nature and the law of revelation, depend all human lives...." [107](#)

As we shall see later, the attitude of the Founders toward God's law (both natural and revealed) gave early Americans a very high regard for the "law" as a social institution. They respected the sanctity of the law in the same way that it was honored among the Anglo-Saxons and by ancient Israel.

### **The Nearness of God**

It is also important to note that the Founders did not look upon God as some mysterious teleological force operating automatically and indifferently in nature (as modern Deists claim), but they believed in a Creator who is both intelligent and benevolent and therefore anxious and able to respond to people's petitions when they are deserving of needed blessings and engaged in a good cause. Days of fasting and prayer were commonplace in early America. Most of the Founders continually

petitioned God in fervent prayers, both public and private, and looked upon his divine intervention in their daily lives as a singular blessing. They were continually expressing gratitude to God as the nation survived one major crisis after another.

### **George Washington**

George Washington was typical of the Founders in this respect: Charles Bracelen Flood discovered in his research that during the Revolutionary War there were at least sixty-seven desperate moments when Washington acknowledged that he would have suffered disaster had not the hand of God intervened in behalf of the struggle for independence. [108](#)

After being elected President, Washington stressed these sentiments in his first inaugural address when he said:

"No people can be bound to acknowledge and adore the invisible hand which conducts the affairs of men more than the people of the United States. Every step, by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency." [109](#)

### **James Madison**

Madison was equally emphatic on this point when he contemplated the work of the Constitutional Convention and saw the guiding influence of God just as Washington had seen it on the battlefield. Said he:

"The real wonder is that so many difficulties should have been surmounted ... with an unanimity almost as unprecedented as it must have been unexpected. It is impossible for any man of candor to reflect on this circumstance without partaking of the astonishment. It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution." [110](#)

### **"In God We Trust"**

From all of this it will be seen that the Founders were not indulging in any idle gesture when they adopted the motto, "In God we trust." Neither was it a matter of superfluous formality when they required that all witnesses who testify in the courts or before Congressional hearings must take an oath and swear or affirm before God that they will tel] the truth. As Washington pointed out in his Farewell Address: "Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice?" [111](#) In fact, it was not at all uncommon, as Alexis de Tocqueville discovered, to look with the greatest precaution upon an individual who had no religious convictions. He wrote:

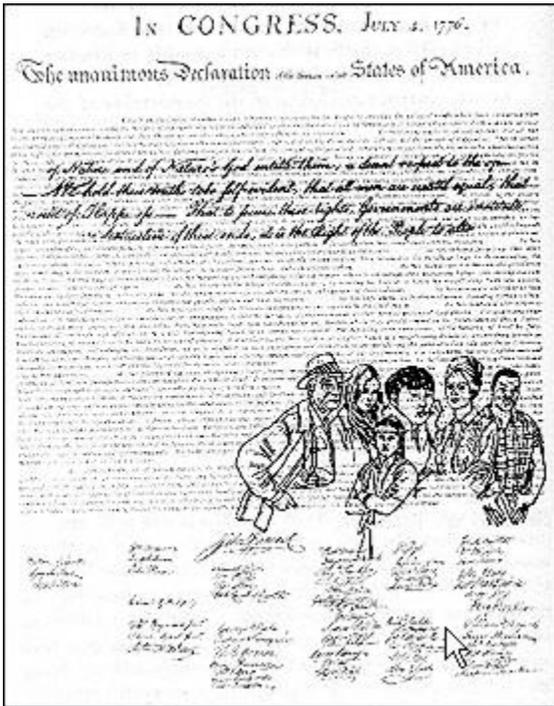
"While I was in America, a witness who happened to be called at the Sessions of the county of Chester (state of New York) declared that he did not believe in the existence of God or in the immortality of the soul. The judge refused to admit the evidence, on the ground that the witness had destroyed beforehand all the confidence of the court in what he was about to say." [112](#)

In a note de Tocqueville added:

The New York *Spectator* of August 23, 1831, related the fact in the following terms: "... The presiding judge remarked that he had not before been aware that there was a man living who did not believe in the existence of God; that this belief constituted the sanction [in law, that which gives binding force] of all testimony in a court of justice; and that he knew of no case in a Christian country where a witness had been permitted to testify without such belief." [113](#)

This now brings us to the next important principle enunciated by the Founders.

## Sixth Principle: All men are created equal.



The Founders wrote in the Declaration of Independence that some truths are self-evident, and one of these is the fact that all men are created equal.

Yet everyone knows that no two human beings are exactly alike in any respect. They are different when they are born. They plainly exhibit different natural skills. They acquire different tastes. They develop along different lines. They vary in physical strength, mental capacity, emotional stability, inherited social status, in their opportunities for self-fulfillment, and in scores of other ways. Then how can they be equal?

The answer is, they can't, except in three ways. They can only be *treated* as equals in the sight of God, in the sight of the law, and in the protection of their rights. In these three ways all men are created equal. It is the task of society, as it is with God, to accept people in all their vast array of individual differences, but treat them as equals when it comes to their role as human beings. As members of society, all persons should have their equality guaranteed in two areas. Constitutional writer Clarence Carson describes them:

"First, there is *equality before the law*. This means that every man's case is tried by the same law governing any particular case. Practically, it means that there are no different laws for different classes and orders of men [as

there were in ancient times]. The definition of premeditated murder is the same for the millionaire as for the tramp. A corollary of this is that no classes are created or recognized by law.

"Second, the Declaration refers to an *equality of rights*.... Each man is equally entitled to his life with every other man; each man has an equal title to God-given liberties along with every other." [114](#)

[Rousseau's Error](#)

[What It Means to Have Equal "Rights"](#)

[The Problem of Minorities](#)

[Crossing the Culture Gap](#)

[A Nation of Minorities](#)

[The Japanese and Chinese](#)

[The Black Minority](#)

[Violence Proves Counter-Productive](#)

[A Dissident Returns](#)

[Constitutional Amendments to Insure Equal Rights](#)

### **Rousseau's Error**

John Adams was in France when Jean Jacques Rousseau was teaching that all men were designed to be equal in *every* way. Adams wrote:

"That all men are born to equal rights is true. Every being has a right to his own, as clear, as moral, as sacred, as any other being has.... But to teach that all men are born with equal powers and faculties, to equal influence in society, to equal property and advantages through life, is as gross a fraud, as glaring an imposition on the credulity of the people, as ever was practiced

by monks, by Druids, by Brahmins, by priests of the immortal Lama, or by the self-styled philosophers of the French Revolution." [115](#)

### **What It Means to Have Equal "Rights"**

The goal of society is to provide "equal justice," which means protecting the rights of the people equally:

At the bar of justice, to secure their rights.

At the ballot box, to vote for the candidate of their choice. At the public school, to obtain their education.

At the employment office, to compete for a job,

At the real estate agency, to purchase or rent a home.

At the pulpit, to enjoy freedom of religion.

At the podium, to enjoy freedom of speech.

At the microphone or before the TV camera, to present views on the issues of the day.

At the meeting hall, to peaceably assemble.

At the print shop, to enjoy freedom of the press.

At the store, to buy the essentials or desirable things of life.

At the bank, to save and prosper.

At the tax collector's office, to pay no more than their fair share.

At the probate court, to pass on to their heirs the fruits of life's labors.

### **The Problem of Minorities**

Admittedly, equal rights have not been completely established in all of these areas, but the Founders struck a course which has thus far provided a better balance in administering the equality of rights than has occurred at any time in history. The breakdown occurs in connection with the treatment of minorities.

Minorities in any country consider themselves "outsiders" who want to become "insiders," As long as they are treated as outsiders they do not feel equal. The interesting part of it is that *every* ethnic group in the American society was once a minority. We are a nation of minorities!

There is no spot on the planet earth where so many different ethnic groups have been poured into the same milieu as in the United States. It was

appropriate that America should be called the melting pot of the world.

Two things are especially notable about this. First of all, it is remarkable that the Founders were able to establish a society of freedom and opportunity which would attract so many millions of immigrants. Secondly, it is even more remarkable that within two or three generations nearly all of these millions of immigrants became first-class citizens.

As we noted above, newcomers to any nation are not considered first-class citizens immediately. Human nature does not allow it. In some countries "outsiders" are still treated with hostility after they have resided in those countries for three or four hundred years. In the United States, immigrants or outsiders can become insiders much more rapidly. Nevertheless, the transition is painful.

### **Crossing the Culture Gap**

Being a minority, even in the United States, is painful because acceptance depends on "crossing the culture gap." This means learning the English language -- with an American dialect more or less; attaining the general norm of education -- which in America is fairly high; becoming economically independent -- which often means getting out of the ghetto; and becoming recognized as a social asset to the community -- which always takes time. Usually it requires far more time than the minority group can patiently endure.

But the impatience of a minority can be an advantage. It expedites their assimilation by motivating greater effort to gain acceptance. In the United States, as a result, many members of a minority group are assimilated in a single generation. Others must wait until the second generation, and a few are still struggling in the third. But these are the exceptions. They can't quite get across the culture gap. It is a fact of life in America, as everywhere else, that no ethnic group are going to be entirely comfortable or treated completely as equals in an adopted society until they have crossed the culture gap.

### **A Nation of Minorities**

As mentioned above, there is not a single ethnic group in the United States but what has been treated at one time or another as a minority, or less than first-class citizens.

The story of minorities in the United States is a fascinating tale. Beginning with the French in the 1500's and the English in the 1600's (and the Dutch, Germans, Swedes, Scots, and Irish in between), it was one grand conglomerate of tension, discrimination, malice, and sometimes outright persecution. But the miracle of it all is the fact that they fought side by side for freedom in the Revolutionary War, and all of them could boast of descendants in the White House or the Congress as the years passed by. So all of this became America -- a nation of minorities.

### **The Japanese and Chinese**

One of the best examples of minority adjustment under adverse circumstances is the American saga of the Japanese and Chinese.

The treatment they received is an embarrassment to modern Americans. They were not only shabbily treated, but sometimes they were treated brutally. (In certain situations this happened to other minorities as well.) But practically none of the Japanese and Chinese went home. They became domestics, field workers, and truck farmers; they ran laundries, worked for a pittance on railroads, ate their simple fare, and slept on bare boards. Meanwhile, they sent their children to school and endured their mistreatment with patience. By 1940 the Chinese were virtually assimilated and the Japanese had almost made it. Then came the attack on Pearl Harbor.

Within weeks the vast Japanese population in California had been hauled off to concentration camps in the Rocky Mountains. J. Edgar Hoover knew there were practically no espionage agents among them. The few security risks had already been identified and incarcerated. He vigorously protested the Japanese evacuation and so did many others, but all to no avail.

The Japanese could have been very bitter, but to the ultimate embarrassment and chagrin of those who had engineered this fiasco, they loyally mobilized their sons and sent them into the American armed services as volunteers! Japanese-American regiments were among the most decorated in World War II. They went into the military ranks under suspicion and resentment, but they came out in hero roles. A few years later

the entire State of California was represented in the Senate by a Japanese-American.

### **The Black Minority**

But of all the minorities in America, the blacks have undertaken assimilation as first-class citizens under the greatest number of handicaps. Many early political leaders of the United States, including Abraham Lincoln, were fearful the blacks might never achieve complete adjustment because of the slavery culture in which the first few generations were raised.

Nevertheless, freedom and education brought a whole new horizon of hope to the blacks within three generations. Tens of thousands of them hurdled the culture gap, and soon the blacks in other countries saw their ethnic cousins in the United States enjoying a higher standard of living than blacks in any part of the world. In fact, by 1970 a black high school student in Alabama or Mississippi had a better opportunity to get a college education than a white student in England.

Providing equality for the blacks has never been approached with any degree of consensus. Some felt that with education and job opportunities the blacks could leap the culture gap just as other minorities had done. Others felt they should be made the beneficiaries of substantial government gratuities. Experience soon demonstrated, however, that government gratuities are as corrupting and debilitating to blacks as they are to the Indians or any other minorities. The blacks themselves asked for equal opportunity at the hiring hall. Thus, the trend began to shift in the direction which no doubt the Founders such as Washington, Jefferson, and Franklin would have strongly approved.

### **Violence Proves Counter-Productive**

In the mid-sixties there were groups of Marxist agitators who moved in among the blacks to promote direct action by violence. One of these was Eldridge Cleaver, who had been trained in Marxist philosophy and tactics while serving a fifteen-year sentence in a California state penitentiary. In 1967 he became the Minister of Information for the Black Panthers. In his

books, Eldridge Cleaver describes the rationale behind their philosophy of violence. It was to destroy the whole economic and social structure of the United States so that blacks could enjoy equal rights under an American Communist regime. The crescendo of violence increased year after year. During the summer of 1968 over a hundred American cities were burning. But the burning was always in black ghettos. The idea was to put the blacks in direct confrontation with the police and state militia in order to solidify their apparent need to become a racial bloc for the coming revolution.

But the burning and fire-bombing backfired. The black population began to realize it was only the homes of blacks that were being burned. Other than police, it was primarily blacks that were being hurt in the melee of the riots. In the shoot-outs with the police, nineteen of the Black Panther leaders were killed. Eldridge Cleaver was wounded. He and his wife later fled to Cuba and then to other Communist countries.

The whole scenario of violence had proved tragically counter-productive. It temporarily jolted out of joint a broad spectrum of reforms which the blacks were really seeking and the rest of the nation was trying to provide.

### **A Dissident Returns**

After nearly eight years as an exile in Communist and Socialist countries, Eldridge Cleaver asked to be allowed to return to the United States and pay whatever penalty was due on charges pending against him. He and his wife were no longer atheists. They were no longer Communists. Those bitter years behind the iron and bamboo curtains had dispelled all the propaganda concerning "equality" and "justice" under Communism. Cleaver told the press: "I would rather be in jail in America than free anywhere else." He then went on to say:

"I was wrong and the Black Panthers were wrong.... We [black Americans] are inside the system and I feel that the number one objective for Black America is to recognize that they have the same equal rights under the Constitution as Ford or Rockefeller, even if we have no blue-chip stocks. But our membership in the United States is the supreme blue-chip stock and the one we have to exercise." [116](#)

By 1981 Eldridge Cleaver had paid his final debt to society. No further charges were pending against him. Although he had been involved in a police shoot-out in Oakland, California, he had not been accused of causing

any deaths. In fact, it was in the Oakland shoot-out that he was wounded. As he was released on parole, the judge required that he finish his obligation to society by putting in several hundred hours of public service at a California college.

Soon after that he began accepting speaking engagements before schools, churches, community gatherings, and even prison groups to describe his new and yet profound appreciation for America. He described the despondency which came over him when he found what a betrayal of human rights and human dignity Communism turned out to be. He described the long and strenuous intellectual struggle with his Marxist atheism before he recognized its fraudulent fallacies. He frankly and patiently dialogued with university students still struggling with similar philosophical problems. He assured them, as Locke had done, that a persistent pursuit of the truth would bring them to the threshold of reality, where the Creator could be recognized and thereafter have a place in their lives.

The Eldridge Cleaver story is simply the account of a prodigal American who found himself and returned home.

### **Constitutional Amendments to Insure Equal Rights**

After the Constitution was adopted in 1789, Americans added four amendments to make certain that everyone, including racial minorities, could enjoy equal rights. These amendments are as follows:

The Thirteenth Amendment to provide universal freedom.

The Fourteenth Amendment to provide universal rights of citizenship.

The Fifteenth and the Nineteenth Amendments to provide universal voting rights regardless of race, color, or sex.

The Founders distinguished between equal rights and other areas where equality is impossible. They recognized that society should seek to provide equal opportunity but not expect equal results; provide equal freedom but not expect equal capacity; provide equal rights but not equal possessions; provide equal protection but not equal status; provide equal educational opportunities but not equal grades.

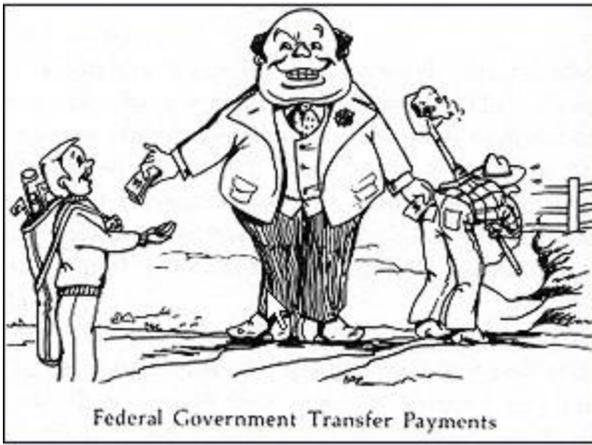
They knew that even if governmental compulsion were used to force its citizens to appear equal in material circumstances, they would immediately

become unequal the instant their freedom was restored to them. As Alexander Hamilton said:

"Inequality would exist as long as liberty existed.... It would unavoidably result from that very liberty itself." [117](#)

Nevertheless, there are some who insist that people do not have equal rights unless they have "equal things." The Founding Fathers were well acquainted with this proposition and set forth their belief concerning it in the next principle.

**Seventh Principle: The proper role of government is to protect equal rights, not provide equal things.**



In Europe, during the days of the Founders, it was very popular to proclaim that the role of government was to take from the "haves" and give to the "have nots" so that all might be truly "equal." However, the American Founders perceived that this proposition contained a huge fallacy.

[What Powers Can Be Assigned to Government](#)

[How Governments Sometimes Commit "Legal" Crimes](#)

[A Popular Fallacy](#)

[A Lesson from Communism](#)

[Equal Rights Doctrine Protects the Freedom to Prosper](#)

[Making the Whole Nation Prosperous](#)

[Why the Founders Made European Theories Unconstitutional](#)

[Nevertheless, the Founders Had a Deep Concern for the Poor and Needy.](#)

[The Founders' Formula for "Calculated" Compassion](#)

[Motives of the Founders](#)

## **What Powers Can Be Assigned to Government**

The Founders recognized that the people cannot delegate to their government the power to do anything except that which they have the lawful right to do themselves.

For example, every person is entitled to protection of his life and property. Therefore it is perfectly legitimate to delegate to the government the task of setting up a police force to protect the lives and property of all the people.

But suppose a kind-hearted man saw that one of his neighbors had two cars while another neighbor had none. What would happen if, in a spirit of benevolence, the kind man went over and took one of the cars from his prosperous neighbor and generously gave it to the neighbor in need? Obviously, he would be arrested for car theft. No matter how kind his intentions, he is guilty of flagrantly violating the natural rights of his prosperous neighbor, who is entitled to be protected in his property.

Of course, the two-car neighbor could donate a car to his poor neighbor, if he liked, but that is his decision and not the prerogative of the kind-hearted neighbor who wants to play Robin Hood.

## **How Governments Sometimes Commit "Legal" Crimes**

But suppose the kind-hearted man decided to ask the mayor and city council to force the man with two cars to give one to his pedestrian neighbor. Does that make it any more legitimate? Obviously, this makes it even worse because if the mayor and city council do it in the name of the law, the man who has lost his car has not only lost the rights to his property, but (since it is the "law") he has lost all right to appeal for help in protecting his property.

The American Founders recognized that the moment the government is authorized to start leveling the material possessions of the rich in order to have an "equal distribution of goods," the government thereafter has the power to deprive *any* of the people of their "equal" rights to enjoy their lives, liberties, and property.

## **A Popular Fallacy**

Those on the receiving end of the program may think this is very "just" to take from the "haves" and give to the "have nots." They may say, "This is the way the government provides equal justice for all." But what happens when the government comes around and starts taking from those who count themselves "poor"? They immediately declare with indignation that they have "rights" in the property the government gave them. The government replies, "WE decide who has rights in things."

The power given to the government to take from the rich automatically cancelled out the principle of "guaranteed *equal* rights." It opened the floodgate for the government to meddle with everybody's rights, particularly property rights.

### **A Lesson from Communism**

When the Communists seized power in Hungary, the peasants were delighted with the "justice" of having the large farms confiscated from their owners and given to the peasants. Later the Communist leaders seized three-fourths of the peasant land and took it back to set up government communal farms. Immediately the peasants howled in protest about their property "rights."

Those who protested too loudly or too long soon found that they not only lost their land, but also their liberty. If they continued to protest, they lost their lives.

### **Equal Rights Doctrine Protects the Freedom to Prosper**

The American Founders took a different approach. Their policy was to guarantee the equal protection of all the people's rights and thus insure that all would have the freedom to prosper. There was to be no special penalty for getting rich. The French philosophers cried out in protest, "But then some of the people will become very rich!" "Indeed they will," the Founders might have responded -- "the more the better."

In fact, it was soon discovered that the new industrial age required large quantities of private funds in order to build factories, purchase complicated machinery and tools, and provide millions of jobs which had never existed before.

The Founders felt that America would become a nation dominated by a prosperous middle class with a few people becoming rich. As for the poor, the important thing was to insure the freedom to prosper so that no one would be locked into the poverty level the way people have been in all other parts of the world.

### **Making the Whole Nation Prosperous**

It was realized, of course, that some would prosper more than others. That is inevitable as long as there is liberty. Some would prosper because of talent, some because of good fortune, some because of an inheritance, but most would prosper because of hard work.

The entire American concept of "freedom to prosper" was based on the belief that man's instinctive will to succeed in a climate of liberty would result in the whole people prospering together. It was thought that even the poor could lift themselves through education and individual effort to become independent and self-sufficient.

The idea was to maximize prosperity, minimize poverty, and make the whole nation rich. Where people suffered the loss of their crops or became unemployed, the more fortunate were to help. And those who were enjoying "good times" were encouraged to save up in store for the misfortunes which seem to come to everybody someday. Hard work, frugality, thrift, and compassion became the key words in the American ethic.

### **Why the Founders Made European Theories Unconstitutional**

What happened in America under these principles was remarkable in every way. Within a short time the Americans, as a people, were on the way to becoming the most prosperous and best-educated nation in the world (which was amazing to de Tocqueville when he arrived in 1831). They were also the freest people in the world. Eventually, the world found that they were also the most generous people on earth. And all this was not because they were Americans. The Founders believed these same principles would work for any nation. The key was using the government to protect equal rights, not to provide equal things. As previously mentioned, Samuel Adams said the ideas of a welfare state were made unconstitutional:

"The utopian schemes of leveling [redistribution of the wealth], and a community of goods [central ownership of all the means of production and distribution], are as visionary and impracticable as those which vest all property in the Crown. [These ideas] are arbitrary, despotic, and, in our government, unconstitutional." [118](#)

### **Nevertheless, the Founders Had a Deep Concern for the Poor and Needy**

As mentioned earlier, disciples of the collectivist Left in the Founders' day as well as our own have insisted that compassion for the poor requires that the Federal government become involved in taking from the "haves" and giving to the "have nots." Benjamin Franklin had been one of the "have nots," and after living several years in England where he saw government welfare programs in operation, he had considerable to say about these public charities of counterproductive compassion.

Franklin wrote a whole essay on the subject and told one of his friends, "I have long been of your opinion, that your legal provision for the poor [in England] is a very great evil, operating as it does to the encouragement of idleness. We have followed your example, and begin now to see our error, and, I hope, shall reform it." [119](#)

A survey of Franklin's views on counter-productive compassion might be summarized as follows:

1. Compassion which gives a drunk the means to increase his drunkenness is counter-productive. [120](#)

2. Compassion which breeds debilitating dependency and weakness is counter-productive. [121](#)

3. Compassion which blunts the desire or necessity to work for a living is counter-productive. [122](#)

4. Compassion which smothers the instinct to strive and excel is counter-productive. [123](#)

Nevertheless, the Founders recognized that it is a mandate of God to help the poor and underprivileged. It is interesting how they said this should be done.

### **The Founders' Formula for "Calculated" Compassion**

Franklin wrote:

"To relieve the misfortunes of our fellow creatures is concurring with the Deity; it is godlike; but, if we provide encouragement for laziness, and supports for folly, may we not be found fighting against the order of God and Nature, which perhaps has appointed want and misery as the proper punishments for, and cautions against, as well as necessary consequences of, idleness and extravagance? Whenever we attempt to amend the scheme of Providence, and to interfere with the government of the world, we had need be very circumspect, lest we do more harm than good." [124](#)

Nearly all of the Founders seem to have acquired deep convictions that assisting those in need had to be done through means which might be called "calculated" compassion. Highlights from their writings suggest the following:

1. Do not help the needy completely. Merely help them to help themselves.

2. Give the poor the satisfaction of "earned achievement" instead of rewarding them without achievement.

3. Allow the poor to climb the "appreciation ladder" -- from tents to cabins, cabins to cottages, cottages to comfortable houses.

4. Where emergency help is provided, do not prolong it to the point where it becomes habitual.

5. Strictly enforce the scale of "fixed responsibility." The first and foremost level of responsibility is with the individual himself; the second level is the family; then the church; next the community; finally the county, and, in a disaster or emergency, the state. Under no circumstances is the federal government to become involved in public welfare. The Founders felt it would corrupt the government and also the poor. No Constitutional authority exists for the federal government to participate in charity or welfare.

## **Motives of the Founders**

By excluding the national government from intervening in the local affairs of the people, the Founders felt they were protecting the *unalienable rights* of the people from abuse by an over-aggressive government. But just what are "unalienable" rights? This brings us to our next principle.

## **Eighth Principle: Men are endowed by their Creator with certain unalienable rights.**



Endowed by the Creator ...

The Founders did not believe that the basic rights of mankind originated from any social compact, king, emperor, or governmental authority. Those rights, they believed, came directly and exclusively from God. Therefore, they were to be maintained sacred and inviolate, John Locke said it this way:

"The state of Nature has a law of Nature to govern it, which ... teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions; for men being all the workmanship of one omnipotent and infinitely wise maker; all the servants of one sovereign master, sent into the world by His order and about His business; they are His property....

"And, being furnished with like faculties, sharing all in one community of Nature, there cannot be supposed any such subordination among us that may authorize us to destroy one another." [125](#)

[When Is a Right Unalienable?](#)

[The Founders Did Not List All of the Unalienable Rights](#)

[Many Founders Used Similar Language Emphasizing "Unalienable Rights"](#)

[Property Rights Essential to the Pursuit of Happiness](#)

## Three Great Natural Rights

### State Constitutions

#### All Rights Founded on the Protection of Life

### **When Is a Right Unalienable?**

The substantive nature of those rights which are inherent in all mankind was described by William Blackstone in his *Commentaries on the Laws of England*:

"Those rights, then, which God and nature have established, and are therefore called natural rights, such as are life and liberty, need not the aid of human laws to be more effectually invested in every man than they are; neither do they receive any additional strength when declared by the municipal laws to be inviolable. On the contrary, no human legislature has power to abridge or destroy them, unless the owner shall himself commit some act that amounts to a forfeiture." [126](#)

In other words, we may do something ourselves to forfeit the unalienable rights endowed by the Creator, but no one else can *take* those rights from us without being subject to God's justice. This is what makes certain rights *unalienable*. They are inherent rights given to us by the Creator. That is why they are called *natural* rights.

We also have certain other rights called *vested* rights which are created by the community, state, or nation for our protection or well-being. However, these can be changed any time the lawmakers feel like it.

An example of a vested right would be the right to go hunting during certain seasons. Or the right to travel on the public highway. Notice that the government can change both of these "rights" or prohibit them altogether. The region could be declared off-limits for hunting. The highway could be closed.

But the government could not pass a law to destroy all babies under the age of two, or lock up everybody with blonde hair. In the one case it would be destroying the unalienable right to life, and in the other case it would be destroying the unalienable right to liberty. A person can lose his liberty through his own misbehavior, but not because he has blonde hair!

## **The Founders Did Not List All of the Unalienable Rights**

When the Founders adopted the Declaration of Independence, they emphasized in phrases very similar to those of Blackstone that God has endowed all mankind "with certain unalienable rights, that *among* these are life, liberty, and the pursuit of happiness."

Let us identify some of the unalienable or natural rights which the Founders knew existed but did not enumerate in the Declaration of Independence:

The right of self-government.

The right to bear arms for self-defense.

The right to own, develop, and dispose of property.

The right to make personal choices.

The right of free conscience.

The right to choose a profession.

The right to choose a mate.

The right to beget one's kind.

The right to assemble.

The right to petition.

The right to free speech.

The right to a free press.

The right to enjoy the fruits of one's labors.

The right to improve one's position through barter and sale.

The right to contrive and invent.

The right to explore the natural resources of the earth.

The right to privacy.

The right to provide personal security.

The right to provide nature's necessities -- air, food, water, clothing, and shelter.

The right to a fair trial.

The right of free association.

The right to contract.

**Many Founders Used Similar Language Emphasizing "Unalienable Rights"**

It was very common among the Founders to express their sentiments concerning man's unalienable rights in almost the same language as Jefferson. Here are the words of the Virginia Declaration of Rights adopted by the Virginia assembly June 12, 1776 (*before* the Declaration of Independence!):

"All men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety." [127](#)

Notice that the words of the Declaration of Independence are very similar when it says, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

### **Property Rights Essential to the Pursuit of Happiness**

Some scholars have wondered just what Jefferson mean by "the pursuit of happiness," but the meaning of this phrase was well understood when it was written. Perhaps John Adams said it even more clearly:

"All men are born free and independent, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness." [128](#)

### **Three Great Natural Rights**

Of course, the concept of unalienable rights was by no means exclusive to the American Founders. It was well understood by English defenders of the common law. Eleven years before the Declaration of Independence, Sir William Blackstone had written this concerning the natural rights of man:

"And these [great natural rights] may be reduced to three principal or primary articles: the right of *personal security*; the right of *personal liberty*; and the right of *private property*; because as there is no other known

method of compulsion, or of abridging man's natural free will, but by an infringement or diminution of one or other of these important rights, the preservation of these, inviolate, may justly be said to include the preservation of our civil immunities in their largest and most extensive sense." [129](#)

## **State Constitutions**

The protection of these rights was later carried over into the constitutions of the various states. Here is how the Constitution of Pennsylvania stated it:

"Article I, Section 1. All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness." [130](#)

## **All Rights Founded on the Protection of Life**

Over a century ago, Frederic Bastiat, who was trying to preserve freedom in France, wrote that man's unalienable rights are actually those which relate to life itself and that the preservation of those rights is primarily a matter of self-preservation. He wrote:

"We hold from God the gift which includes all others. This gift is life--physical, intellectual, and moral life. But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. The process is necessary in order that life may run its appointed course.

"Life, faculties, production -- in other words, individuality, liberty, property -- this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

"Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws [for the protection of them] in the first place." [131](#)

But on what basis are the unalienable rights of mankind to be protected? This brings us to the principle which is a corollary to the one we have just discussed.

## **Ninth Principle: To protect man's rights, God has revealed certain principles of divine law.**



Rights, though endowed by God as unalienable prerogatives, could not remain unalienable unless they were protected as enforceable rights under a code of divinely proclaimed law.

William Blackstone pointed out that the Creator is not only omnipotent (all-powerful),

"... but as He is also a Being of infinite *wisdom*. He has laid down only such laws as were founded in those relations of justice, that existed in the nature of things ... These are the eternal, immutable laws of good and evil, to which the Creator Himself in all His dispensations conforms; and which He has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such, among others, are these principles: that we should live honestly, should hurt nobody, and should render to everyone his due." [132](#)

[Sound Principles of Law All Based on God's Law](#)

[Divine Law Endows Mankind with Unalienable Duties as Well as Unalienable Rights](#)

[Examples of Public and Private Duties](#)

[The Creator's Superior Law of Criminal Justice](#)

[Should Taxpayers Compensate Victims of Crimes?](#)

## God's Law the Supreme Law of the Land

## Natural Law Constitutes Eternal Principles

### **Sound Principles of Law All Based on God's Law**

Blackstone also said it was necessary for God to disclose these laws to man by direct revelation:

"The doctrines thus delivered we call the revealed or divine law, and they are to be found only in the Holy Scriptures. These precepts, when revealed, are found upon comparison to be really a part of the original law of nature, as they tend in all their consequences to man's felicity." [133](#)

An analysis of the essential elements of God's code of divine law reveals that it is designed to promote, preserve, and protect man's unalienable rights.

This divine pattern of law for human happiness requires a recognition of God's supremacy over all things; that man is specifically forbidden to attribute God's power to false gods; that the name of God is to be held in reverence, and every oath taken in the name of God is to be carried out with the utmost fidelity, otherwise the name of God would be taken in vain; that there is also a requirement that one day each week be set aside for the study of God's law; that it is also to be a day of worship and the personal renewing of one's commitment to obey God's law for happy living; that there are also requirements to strengthen family ties by children honoring parents and parents maintaining the sanctity of their marriage and not committing adultery after marriage; that human life is also to be kept sacred; that he who willfully and wantonly takes the life of another must forfeit his own; that a person shall not lie; that a person shall not steal; that every person must be willing to work for the things he desires from life and not covet and scheme to get the things which belong to his neighbor.

These principles will be immediately recognized as the famous Ten Commandments. There are many additional laws set forth in the Bible which clarify and define these principles. [134](#)

## **Divine Law Endows Mankind with Unalienable Duties as Well as Unalienable Rights**

In recent years the universal emphasis on "rights" has seriously obscured the unalienable duties which are imposed upon mankind by divine law. As Thomas Jefferson said, man "has no natural right in opposition to his social duties." [135](#)

There are two kinds of duties -- public and private. Public duties relate to public morality and are usually supported by local or state ordinances which can be enforced by the police power of the state. Private duties are those which exist between the individual and his Creator. These are called principles of private morality. The only enforcement agency is the self-discipline of the individual himself. William Blackstone was referring to public and private morality when he said:

Let a man therefore be ever so abandoned in his principles, or vicious in his practice, provided he keeps his wickedness to himself, and does not offend against the rules of public decency, he is out of the reach of human laws. But if he makes his vices public, though they be such as seem principally to affect himself (as drunkenness, or the like), they then become by the bad example they set, of pernicious effects to society; and therefore it is then the business of human laws to correct them.... *Public* sobriety is a relative duty [relative to other people], and therefore enjoined by our laws; *private* sobriety is an absolute duty, which, whether it be performed or not, human tribunals can never know; and therefore they can never enforce it by any civil sanction. [136](#)

In a sense we could say that our unalienable duties, both public and private, are an inherent part of Natural Law. They constitute a responsibility imposed on each individual to respect the absolute rights or unalienable rights of others.

### **Examples of Public and Private Duties**

Here are some of the more important responsibilities which the Creator has imposed on every human being of normal mental capacity:

1. The duty to honor the supremacy of the Creator and his laws. (As Blackstone states, the Creator's law is the supreme law of the world: "This law of nature, being coeval with mankind and dictated by God himself, is of

course superior in obligation to any other. It is binding over all the globe in all countries, and at all times; no human laws are of any validity, if contrary to this...." [137](#))

2. The duty not to take the life of another except in self-defense.
3. The duty not to steal or destroy the property of another.
4. The duty to be honest in all transactions with others.
5. The duty of children to honor and obey their parents and elders.
6. The duty of parents and elders to protect, teach, feed, clothe, and provide shelter for children.
7. The duty to support law and order and keep the peace.
8. The duty not to contrive through a covetous heart to despoil another.
9. The duty to provide insofar as possible for the needs of the helpless -- the sick, the crippled, the injured, the poverty-stricken.
10. The duty to honorably perform contracts and covenants both with God and man.
11. The duty to be temperate.
12. The duty to become economically self-sufficient.
13. The duty not to trespass on the property or privacy of another.
14. The duty to maintain the integrity of the family structure.
15. The duty to perpetuate the race.
16. The duty not to promote or participate in the vices which destroy personal and community life.
17. The duty to perform civic responsibilities -- vote, assist public officials, serve in official capacities when called upon, stay informed on public issues, volunteer where needed.
18. The duty *not* to aid or abet those involved in criminal or anti-social activities.
19. The duty to support personal and public standards of common decency.
20. The duty to follow rules of moral rectitude.

### **The Creator's Superior Law of Criminal Justice**

The Creator revealed a divine law of criminal justice which is far superior to any kind being generally followed in the world today. This is a most important element of God's revealed law, and let us therefore emphasize it again even though we discussed it earlier.

It will be recalled that God's revealed law provided true "justice" by requiring the criminal to completely restore the property he had stolen or to otherwise pay the damages for losses he had caused. It was the law of "reparation" -- repairing the damage. In addition, the criminal had to pay his victim punitive damages for all the trouble he had caused. This was also to remind him not to do it again.

This system of justice through reparation was practiced by the ancient Israelites and also the Anglo-Saxons. In recent years a number of states have begun to adopt the "reparation" system. This requires the judge to call in the victim and consult with him or her before passing sentence. This discussion includes the possibility of the criminal's working to pay back the damages he caused his victim.

If the criminal is too irresponsible to be trusted to get a job and repay his victim, then he is given a heavy prison term with the provision that he cannot be considered for parole until he will guarantee full cooperation in repayment to his victim.

The State of Utah recently adopted such a law. Judges are required to have offenders indemnify their victims for damages wherever possible. A copy of this law may be obtained from the Secretary of State, Utah Capitol Building, Salt Lake City, Utah 84104.

### **Should Taxpayers Compensate Victims of Crimes?**

In some states, the victims of criminal activities may apply to the state for damages. This most unfortunate policy is a counter-productive procedure which encourages crime rather than deters it. It encourages a bandit to say to his victim, "Don't worry, mister. You'll get it all back from the state."

Now we must respond to one final question concerning God's revealed laws of "true justice": What if a law is passed by Congress or some legislature which is contrary to God's law? What then?

### **God's Law the Supreme Law of the Land**

Among the Anglo-Saxons and the ancient Israelites, the law enunciated by God was looked upon as sacred and not subject to change by human legislative bodies. In an authoritative text entitled *England Constitutional*

*and Legal History*, Dr. Colin Rhys Lovell of the University of Southern California writes this concerning the Anglo-Saxons:

"To most Anglo-Saxons the law was either divinely inspired or the won of their ancestors, [being] of such antiquity that it was unthinkable that it should be changed. Alfred the Great ... was one of the few rulers of the period who issued new laws, but he too regarded the body of traditional Anglo-Saxon law as sacred and God-given." [138](#)

Dr. Lovell explains the attitude of the Anglo-Saxon race toward their divine code of law. He says they considered it:

"... *immutable* [emphasis in the original]. Even the all-powerful tribal assembly had no legislative power, and this theory of legislative impotence endured for a long time in the development of the English constitution and disappeared only very gradually; even many centuries later the fiction that specific legislation was not making new law but reinforcing ancient customs was preserved. Most of the great steps forward in the development of the English constitution have been taken with loud assertions that nothing new was being contemplated, only the old was being restored." [139](#)

### **Natural Law Constitutes Eternal Principles**

Even when it was finally acknowledged that Parliament was writing new statutes and dealing with problems not mentioned in the law of ancient times, it was still required that none of the new laws contradict the provisions of divine law. John Locke set forth the principle which carried over into the thinking of the American Founders when he wrote:

"The law of Nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for man's actions must ... be conformable to the law of Nature -- i.e., to the will of God." [140](#)

Sir William Blackstone, contemporary of the Founders, wrote:

"Man, considered as a creature, must necessarily be subject to the laws of his Creator.... This will of his Maker is called the law of nature.... This law of nature, being coeval with mankind, and dictated by God, Himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this." [141](#)

But who will decide? When it comes to lawmaking, the nations of most of the world throughout history have been subject to the whims and arbitral

despotism of kings, emperors, rulers, and magistrates. How can the people be protected from the autocratic authority of their rulers? Where does the source of sovereign authority lie?

The Founders had strong convictions on this point.

**Tenth Principle: The God-given right to govern is vested in the sovereign authority of the whole people.**



During the 1600's, the royal families of England did everything in their power to establish the doctrine that they governed the people by "divine right of kings." In other words, it was declared a "God-given right."

[Algernon Sidney Is Beheaded](#)

[John Locke on the Source of Political Power](#)

[View of the American Founders](#)

[Alexander Hamilton](#)

[James Madison](#)

**Algernon Sidney Is Beheaded**

King Charles II beheaded Algernon Sidney in 1683 for saying that there is no divine right of kings to rule over the people. Sidney insisted that the right to rule is actually in the people and therefore no person can rightfully rule the people without their consent.

In responding to the question, "Whether the supreme power be ... in the people," he replied:

"I say, that they [including himself] who place the power [to govern] in a multitude, understand a multitude composed of freemen, who think it for their convenience to join together, and to establish such laws and rules as they oblige themselves to observe." [142](#)

### **John Locke on the Source of Political Power**

The very year Algernon Sidney was beheaded, John Locke fled from England to Holland where he could say the same thing Sidney did, but from a safer distance. After the "Glorious Revolution" which he helped in plotting, Locke returned from Holland on the same boat as the new Queen (Mary). In 1690 he published his two famous essays on *The Original Extent and End of Civil Government*. In the second essay he wrote:

"In all lawful governments, the designation of the persons who are to bear rule being as natural and necessary a part as the form of the government itself, and that which had its establishment *originally from the people* ... all commonwealths, therefore, with the form of government established, have rules also of appointing and conveying the right to those who are to have any share in the public authority; and whoever gets into the exercise of any part of the power by other ways than what the laws of the community have prescribed hath no right to be obeyed, though the form of the commonwealth be still preserved, since he is not the person the laws have appointed, and, consequently, not the person *the people have consented to*. Nor can such an usurper, or any deriving from him, ever have a title till the *people are both [page 143] at liberty to consent, and have actually consented*, to allow and confirm in him the power he hath till then usurped."

[143](#)

### **View of the American Founders**

There was no place for the idea of a divine right of kings in the thinking of the American Founders. They subscribed to the concept that rulers are servants of the people and all sovereign authority to appoint or remove a ruler rests with the people. They pointed out how this had been so with the Anglo-Saxons from the beginning.

Dr. Lovell describes how the tribal council, consisting of the entire body of freemen, would meet each month to discuss their problems and seek a solution through consensus. The chief or king (taken from the Anglo-Saxon word *cyning*--chief of the kinsmen) was only one among equals:

"The *chief* owed his office to the tribal assembly, which selected and could also depose him. His authority was limited at every turn, and though he no doubt commanded respect, his opinion carried no more weight in the debates of the assembly than that of any freeman." [144](#)

### **Alexander Hamilton**

In this same spirit, Alexander Hamilton declared:

"The fabric of American empire ought to rest on the solid basis of *the consent of the people*. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority." [145](#)

The divine right of the people to govern themselves and exercise exclusive power of sovereignty in their official affairs was expressed by the Commonwealth of Massachusetts in its Proclamation of January 23, 1776:

"It is a maxim that in every government, there must exist, somewhere, a supreme, sovereign, absolute, and uncontrollable power; but this power resides always in the *body of the people*; and it never was, or can be, delegated to one man, or a few; the great Creator has never given to men a right to vest others with authority over them, unlimited either in duration or degree." [146](#)

### **James Madison**

James Madison discovered many people frightened by the Constitution when it was presented for ratification because they felt a federal government was being given autocratic authority. Madison declared:

"The adversaries of the Constitution seem to have lost sight of the *people* altogether in their reasonings on this subject; and to have viewed these different establishments not only as mutual rivals and enemies, but as uncontrolled by any common superior in their efforts to usurp the authorities of each other. These gentlemen must here be reminded of their

error. They must be told that the *ultimate authority*, wherever the derivative may be found, *resides in the people alone.*" [147](#)

But even if it is acknowledged that the *people* are divinely endowed with the sovereign power to govern, what happens if elected or appointed officials usurp the authority of the people to impose a dictatorship or some form of abusive government on them?

This brings us to the fundamental principle on which the Founders based their famous Declaration of Independence.

**Eleventh Principle: The majority of the people may alter or abolish a government which has become tyrannical.**



Philadelphia, 1776

The Founders were well acquainted with the vexations resulting from an abusive, autocratic government which had imposed injuries on the American colonists for thirteen years in violation of the English constitution. Thomas Jefferson's words in the Declaration of Independence therefore emphasized the feelings of the American people when he wrote:

"Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience has shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

"But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security." [148](#)

Once again, we find John Locke setting forth this same doctrine in his classical *Second Essay Concerning Civil Government*:

"The reason why men enter into society is the preservation of their property.... [Therefore,] whenever the legislators endeavor to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power, they [the officials of government] put themselves into a state of war with the people, who are thereupon absolved from any further obedience, and are left to the common refuge which God hath provided for all men against force and violence. Whensoever, therefore, the legislative

shall transgress this fundamental rule of society, and either by ambition, fear, folly, or corruption, endeavor to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people, by this breach of trust *they [the government officials] forfeit the power the people had put into their hands ...* and it devolves to the people, who have a right to resume their original liberty, and ... provide for their own safety and security." [149](#)

### [Power Rests in the Majority](#)

### [No Right of Revolt in a Minority](#)

### [Virginia Declaration of Rights](#)

## **Power Rests in the Majority**

However, it is important to recognize that the "government" was established by the *majority* of the people, and only a majority of the people can authorize an appeal to alter or abolish a particular establishment of government. As Locke pointed out:

"When any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority....

"And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority, and to be concluded by it." [150](#)

## **No Right of Revolt in a Minority**

"This being true, Locke pointed out that there is no right of revolt in an individual, a group, or a minority. Only in the majority. As he stated elsewhere:

"For if it [the unlawful act of government] reach no farther than some private men's cases, though they have a right to defend themselves ... yet the

right to do so will not easily engage them in a contest ... it being as impossible for one or a few oppressed men to disturb the government where the body of the people do not think themselves concerned in it....

"But if either these illegal acts have extended to the *majority* of the people, or if the mischief and oppression has light [struck] only on some few, but in such cases as the precedent and consequences seem to *threaten all*, and they are persuaded in their consciences that their laws, and with them, their estates, liberties, and lives are in danger, and perhaps their religion too, *how they will be [page 150] hindered from resisting illegal force used against them I cannot tell.*" [151](#)

### **Virginia Declaration of Rights**

In other words, the majority are then likely to revolt just as the American Founders did when their plight had finally become intolerable. Certainly there was no significant confusion in the minds of the Founders as to their rights and proper recourse when they approached their moment of critical decision in 1776. The Virginia assembly passed the Virginia Declaration of Rights on June 12, 1776, which provided in Section 3 as follows:

"That government is, or ought to be, instituted for the common benefit, protection, and security of the people.... And that, when any government shall be found inadequate or contrary to these purposes. A *majority* of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal." [152](#)

So, granted that the people are sovereign and the majority of them can take over whenever necessary to restructure the political machinery and restore liberty, what is likely to be the best form of government which will preserve liberty? The answer to this question was a favorite theme of the American nation-builders.

## **Twelfth Principle: The United States of America shall be a republic.**



This principle is highlighted in the pledge of allegiance when it says:  
I pledge allegiance to the flag  
Of the United States of America  
And to the Republic  
For which it [the flag] stands....

There are many reasons why the Founders wanted a republican form of government rather than a democracy. Theoretically, a democracy requires the full participation of the masses of the people in the legislative or decision making processes of government. This has never worked because the people become so occupied with their daily tasks that they will not properly study the issues, nor will they take the time to participate in extensive hearings before the vote is taken. The Greeks tried to use democratic mass participation in the government of their city-states, and each time it ended in tyranny.

[A Democracy and a Republic Compared](#)

[A Republic Defined](#)

[Modern Emphasis on "Democracy"](#)

[The League for Industrial Democracy](#)

[Government Manual Defines a "Democracy"](#)

[Government Manual Defines a Republic](#)

[Identifying the United States as a "Democracy"](#)

["Democracy" Loses Its Identification with Socialism](#)

[The Attack on the Constitution](#)

### **A Democracy and a Republic Compared**

A democracy becomes increasingly unwieldy and inefficient as the population grows. A republic, on the other hand, governs through elected representatives and can be expanded indefinitely. James Madison contrasted these two systems when he wrote:

"Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths....

"A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking." [153](#)

Madison later went on to point out how an expanding country like the United States could not possibly confine itself to the limitations of a democracy, but must rely upon a representative or republican form of government to protect the ever-expanding interests of its people. He said:

"In a democracy the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy, consequently, must be confined to a small spot. A republic may be extended over a large region." [154](#)

### **A Republic Defined**

To make his position completely clear, Madison offered a concise definition of a republic as follows:

"We may define a republic to be ... a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic." [155](#)

### **Modern Emphasis on "Democracy"**

During the early 1900s an ideological war erupted, and the word "democracy" became one of the casualties. Today, the average American uses the term "democracy" to describe America's traditional Constitutional republic. But technically speaking, it is not. The Founders had hoped that their descendants would maintain a clear distinction between a democracy and a republic.

The creation of the current confusion developed as a result of a new movement in the United States. Approximately 100 people met in New York in 1905 and organized what they called the Intercollegiate Socialist Society (ISS). Chapters were established on more than sixty college and university campuses coast-to-coast. In time the co-directors of the movement became Harry W. Laidler and Norman Thomas. Laidler explained that the ISS was set up to "throw light on the world-wide movement of industrial *democracy* known as socialism." [156](#)

What was this new movement attempting to accomplish? Socialism is defined as "government ownership or control of all the means of production (farms, factories, mines, and natural resources) and all the means of distribution (transportation, communications, and the instruments of commerce)." Obviously, this is not a "democracy" in the classical sense. And it is the very antithesis of a free-market economy in a republic.

The ISS adopted a snappy slogan for the times: "Production for use, not for profit." This seemed to catch on. Hundreds of men and women who

later became big names in government, press, radio, television, and motion pictures were among the early recruits.

### **The League for Industrial Democracy**

However, by 1921 the violence associated with the Union of Soviet Socialist Republics (USSR) had given the term "socialism" a strongly repugnant meaning to many people. The ISS therefore decided to change its name to "The League for Industrial *Democracy*." The word "democracy" was supposed to carry the message that through the nationalization (government expropriation) of all the means of production and distribution, the nation's fabulous resources would become the property of "all the people" -- hence a democracy. Then America could enjoy "production !or use, not for profit." This meant that the word "democracy" was deceptive. Various devices were used to alert the public to the true meaning of the word. For example, the U.S. Army's Training Manual No. 2000-25, published in 1928, contained a whole section explaining the difference between a democracy and a republic in their original, historical sense.

### **Government Manual Defines a "Democracy"**

The manual had the following to say concerning the characteristics of a democracy:

A government of the masses.

Authority derived through mass meetings or any other form of "direct" expression. Results in mobocracy.

Attitude toward property is communistic -- negating property rights.

Attitude toward law is that the will of the majority shall regulate, whether it be based upon deliberation or government by passion, prejudice, and impulse, without restraint or regard to consequences.

Results in demagogism, license, agitation, discontent, anarchy.

It will be recalled that James Madison was almost as strong in his own historical evaluation of past democracies. His words, as indicated above, were:

"Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of

property; and have in general been as short in their lives as they have been violent in their deaths." [157](#)

### **Government Manual Defines a Republic**

The government manual then proceeded to outline the characteristics of a republic, which all of the Founders had vigorously recommended over a pure democracy or any other form of government.

Authority is derived through the election by the people of public officials best fitted to represent them.

Attitude toward property is respect for laws and individual rights, and a sensible economic procedure.

Attitude toward law is the administration of justice in accord with fixed principles and established evidence, with a strict regard for consequences.

A greater number of citizens and extent of territory may be brought within its compass.

Avoids the dangerous extreme of either tyranny or mobocracy.

Results in statesmanship, liberty, reason, justice, contentment, and progress.

James Madison, as we mentioned earlier, had defined a republic along the same lines:

"We may define a republic to be ... a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during [the people's] pleasure for a limited period, or during good behavior." [158](#)

### **Identifying the United States as a "Democracy"**

In spite of these efforts to clarify the difference between a democracy and a republic, the United States began to be consistently identified in both the press and the school books as a "democracy." President Wilson helped contribute to the confusion when he identified World War I as the effort of the allied forces to "make the world safe for democracy." President Wilson had surrounded himself with many of the early recruits to the ISS movement, and these may have encouraged the adoption of this slogan just

as they later changed the name of their ISS organization to the League for Industrial Democracy.

A review of the roster of early ISS members will also reveal that by the 1930s the more brilliant young leaders of the movement from World War I days had risen to some of the most prestigious positions in politics, press, publishing houses, radio, academic circles, teacher-training colleges, the National Council of Churches, and just about every other major center of opinion-molding influence.

However, the intellectual development of the ISS members had not followed the same line of maturation. Some wanted the new "United States democracy" to become a socialist state with the people's consent (democratic socialism). Others wanted a "mixed system" of part socialism, part free-enterprise. Some were becoming disillusioned and had started swinging back to the Founders' traditional formula. A few had become enamored with the seizure of power by force and violence and had become leaders in the Communist party movement. Nevertheless, all of them continued to refer to the United States as a democracy.

### **"Democracy" Loses Its Identification with Socialism**

Following World War II, an interesting semantic transition began to take place in the American mind with reference to the use of the word "democracy."

To begin with, the Communists, the National Socialists of Germany, and the Democratic Socialists throughout the rest of Europe had all misused the word "democracy" to the point where it had become virtually meaningless as a descriptive term. As a euphemism for socialism, the word had become totally innocuous.

Furthermore, socialism, whether spelled with a capital or small "s," had lost its luster. All over the world, socialist nations -- both democratic and communistic -- were drifting into deep trouble. All of them were verging on economic collapse in spite of tens of billions of dollars provided by the United States to prop them up. Some had acquired a notorious and abhorrent reputation because of the violence, torture, starvation, and concentration-camp tactics they had used against their own civilian population. All over the world, socialism had begun to emerge as an abject failure formula. To the extent it was tried in America (without ever being

called "socialism"), it had created colossal problems which the Founding Fathers' formula would have avoided.

All of this created a subtle change in the American mind set. People continued referring to the United States as a "democracy," but mentally they had begun to equate "democracy" with the traditional Constitutional republic. It became popular to refer to American democracy as though it were quite different from everybody else's kind of democracy. That is the status of the word "democracy" in the United States today. The majority of the people are instinctively leaning more and more toward the fundamental thinking of the Founders. They will probably end up calling the United States a "democratic republic," which is the term used by the followers of Thomas Jefferson!

### **The Attack on the Constitution**

With the preceding historical picture in mind, it will be readily appreciated that the introduction of the word "democracy" (to describe the United States) was actually designed as an attack on the Constitutional structure of government and the basic rights it was designed to protect. As Samuel Adams pointed out, the Founders had tried to make socialism "unconstitutional." Therefore, to adopt socialism, respect and support for traditional constitutionalism had to be eroded and then emasculated. In view of this fact, it should not surprise the student of history to discover that those who wanted to have "democracy" identified with the American system were also anxious to have Americans believe their traditional Constitution was outdated, perhaps totally obsolete.

In this author's college days, it was popular in political science and economics classes to point out that the Constitution was written some two centuries ago by a people who were about 95 percent farmers. Now, they would say, we live in an industrial society, and the needs of the people can no longer be accommodated under the archaic system provided under the U.S. Constitution. Not only certain teachers expressed this opinion, but U.S. Senators proclaimed it. Occasionally, even a President would say it! In this writer's file there is an interesting collection of such statements.

But this does raise an important question. No doubt our economic and social circumstances have changed tremendously since the days of the

Founders. Has this made the Constitution obsolete? In the next chapter we will address this question.

"Let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution." (Thomas Jefferson)

**Thirteenth Principle: A constitution should be structured to permanently protect the people from the human frailties of their rulers.**



"Let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution." -- Thomas Jefferson

At the Constitutional Convention, the Founding Fathers were concerned with the one tantalizing question which no political scientist in any age had yet been able to answer with complete satisfaction. The question was, "How can you have an efficient government but still protect the freedom and unalienable rights of the people?"

[Distrust of Power Not Necessarily Disrespect for Leaders](#)

[Government Is Coercive Force](#)

[Leaders Are Not Angels But Fragile Human Beings](#)

[Why the Original Constitution Will Never Be Obsolete](#)

[Danger of Losing Constitutional Rights](#)

[When Erosion Occurs, Act Quickly](#)

**Distrust of Power Not Necessarily Disrespect for Leaders**

The Founders had more confidence in the people than they did in the leaders of the people, especially trusted leaders, even themselves. They felt the greatest danger arises when a leader is so completely trusted that the people feel no anxiety to watch him. Alexander Hamilton wrote:

"For it is a truth, which the experience of all ages has attested, that the people are commonly most in danger when the means of injuring their rights are in the possession of those [toward] whom they entertain the least suspicion." [159](#)

Two hundred years of American history have demonstrated the wisdom of the Founders in proclaiming a warning against the frailties of human nature in the people's elected or appointed leaders. Every unconstitutional action has usually been justified because it was for a "good cause." Every illegal transfer of power from one department to another has been excused as "necessary." The whole explosion of bureaucratic power in Washington has been the result of "trusting" benign political leaders, most of whom really did have good intentions. Thomas Jefferson struck out with all the force that tongue and pen could muster against trusting in human nature. Said he:

"It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is everywhere the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy, and not confidence, which prescribes limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no farther, our confidence may go....

"In questions of power, then, let no more be said of confidence in man, *but bind him down from mischief by the chains of the Constitution.*" [160](#)

### **Government Is Coercive Force**

George Washington made it very clear why all of this was necessary. The Founders looked upon "government" as a volatile instrument of explosive power which must necessarily be harnessed within the confines of a strictly interpreted Constitution, or it would destroy the very freedom it was designed to preserve. Said he:

"Government is not reason, it is not eloquence -- it is force! Like fire, it is a dangerous servant and a fearful master." [161](#)

## **Leaders Are Not Angels But Fragile Human Beings**

James Madison saw the problem of placing power in the hands of fallible human beings who, by nature, contain a complexity of elements reflecting both good and evil. The purpose of a constitution is to define the area in which a public official can serve to his utmost ability, but at the same time provide strict limitations to chain him down from mischief. In every human being there is a natural tendency to practice Parkinson's law of perpetual expansion and to exercise personal proclivities toward ego-mania and self-aggrandizement. As we indicated earlier, Madison was very concerned about human frailties in the leaders of the people. He said:

"It may be a reflection on human nature that such devices [as Constitutional chains] should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? ... If angels were to govern men, neither external nor internal controls on government would be necessary. [But lacking these,] in framing a government which is to be administered by men over men, the great difficulty lies in this: *you must first enable the government to control the governed; and in the next place oblige it to control itself.*" [162](#)

## **Why the Original Constitution Will Never Be Obsolete**

And that is what the Constitution is all about -- providing freedom from abuse by those in authority. Anyone who says the American Constitution is obsolete just because social and economic conditions have changed does not understand the real genius of the Constitution. It was designed to control something which *has not changed and will not change -- namely, human nature.*

## **Danger of Losing Constitutional Rights**

Furthermore, the Founders knew from experience that the loss of freedom through the gradual erosion of Constitutional principles is not always so obvious that the people can readily detect it. Madison stated:

"I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power, than by

violent and sudden usurpations.... This danger ought to be wisely guarded against." [163](#)

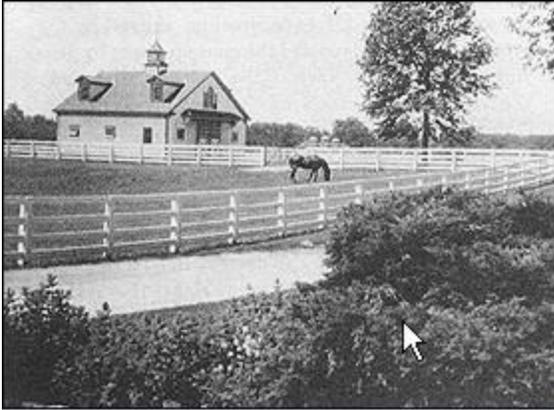
### **When Erosion Occurs, Act Quickly**

In 1785, Madison had occasion to issue a vigorous warning to his own state of Virginia:

"It is proper to take alarm at *the first experiment on our liberties*. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late Revolution. *The freemen of America* did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences [of governmental abuses] in the principle, and they avoided the consequences by denying the principle [on which the abuses were based]. We revere this lesson too much ... to forget it." [164](#)

But where are the encroachments of abusive rulers most likely to attack? Is there some basic right which self-aggrandizing politicians seek to destroy first? The Founders said there was. Mankind has so many rights that it is sometimes difficult to keep a watchful eye on all of them. Therefore, the Founders said we should especially concentrate on the preservation of one particular right because all other rights are related to it. This special object of concern is identified in the next principle.

**Fourteenth Principle: Life and liberty are secure only so long  
as the right to property is secure.**



Under English common law, a most unique significance was attached to the unalienable right of possessing, developing, and disposing of property. Land and the products of the earth were considered a gift of God which were to be cultivated, beautified, and brought under dominion. As the Psalmist had written:

"... even the heavens are the Lord's: but the earth hath he given to the children of men." [165](#)

[Mankind Given the Earth "In Common"](#)

[Development of the Earth Mostly by Private Endeavor](#)

[Without Property Rights, Four Things Would Occur](#)

[A Person's Property is a Projection of Life Itself](#)

[How Is Ownership Acquired?](#)

[Property Rights Sacred?](#)

[Primary Purpose of Government Is to Protect Property](#)

[Property Rights Essential to Liberty](#)

[Should Government Take from the "Haves" and Give to the "Have Nots"?](#)

[Redistribution of the Wealth Unconstitutional](#)

[Property Rights the Foundation of All Civilizations](#)

[Caring for the Poor Without Violating Property Rights](#)

### **Mankind Given the Earth "In Common"**

John Locke pointed out that the human family originally received the planet earth as a common gift and that mankind was given the capacity and responsibility to improve it. Said he:

"God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience." [166](#)

### **Development of the Earth Mostly by Private Endeavor**

Then Locke pointed out that man received the commandment from his Creator to "subdue" the earth and "have dominion" over it. [167](#)

But because dominion means control, and control requires exclusiveness, private rights in property became an inescapable necessity or an inherent aspect of subduing the earth and bringing it under dominion.

It is obvious that if there were no such thing as "ownership" in property, which means legally protected exclusiveness, there would be no subduing or extensive development of the resources of the earth. Without private "rights" in developed or improved property, it would be perfectly lawful for a lazy, covetous neighbor to move in as soon as the improvements were completed and take possession of the fruits of his industrious neighbor. And even the covetous neighbor would not be secure, because someone stronger than he could take it away from him.

### **Without Property Rights, Four Things Would Occur**

Note that if property rights did not exist, four things would occur which would completely frustrate the Creator's command to multiply and replenish

the earth and subdue it and bring it under dominion:

1. One experience like the above would tend to completely destroy the incentive of an industrious person to develop and improve any more property.

2. The industrious individual would also be deprived of the fruits of his labor.

3. Marauding bands would even be tempted to go about the country confiscating by force and violence the good things which others had frugally and painstakingly provided.

4. Mankind would be impelled to remain on a bare subsistence level of hand-to-mouth survival because the accumulation of anything would invite attack.

### **A Person's Property is a Projection of Life Itself**

Another interesting point made by Locke is the fact that all property is an extension of a person's life, energy, and ingenuity. Therefore, to destroy or confiscate such property is, in reality, an attack on the essence of life itself.

The person who has worked to cultivate a farm, obtained food by hunting, carved a beautiful statue, or secured a wage by his labor, has projected his very being -- the very essence of his life -- into that labor. This is why Locke maintained that a threat to that property is a threat to the essence of life itself. Here is his reasoning:

"Though the earth and all inferior creatures be common [as the gift from God] to all men, yet every man has a "property" in his own "person." This, nobody has any right to but himself. The "labor" of his body and the "work" of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that Nature hath provided and left it in, he hath mixed his labor with it, and joined to it something that is his own, and thereby makes it his property....

"He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. Nobody can deny but the nourishment is his. I ask, then, when did they begin to be his? When he digested? or when he ate? or when he boiled? or when he brought them home? or when he picked them up? And it is plain, if the first gathering made them not his, nothing else could."

## How Is Ownership Acquired?

Locke then deals with a very important question: If all things were originally enjoyed in common with the rest of humanity, would a person not have to get the consent of every other person on earth before he could call certain things his own? Locke answers by saying:

"That labor ... added something to them [the acorns or apples] more than Nature, the common mother of all, had done, and so they became his private right. And will any one say he had no right to those acorns or apples he thus appropriated because he had not the consent of all mankind to make them his?... If such a consent as that was necessary, [the] man [would have] starved, notwithstanding the plenty God had given him....

"It is the taking any part of what is common, and removing it out of the state Nature leaves it in, which begins the property, without which the common [*gift* from God] is of no use.... Thus this *law of reason* makes the deer that [property of the Indian] who hath killed it; it is allowed to be his goods who hath bestowed his labor upon it, though, before, it was the common right of every one." [169](#)

## Property Rights Sacred?

It is important to recognize that the common law does not make property sacred, but only the right which someone has acquired in that property. Justice George Sutherland of the U.S. Supreme Court once told the New York State Bar Association:

"It is not the right of property which is protected, but the right to property. Property, per se, has no rights; but the individual -- the man -- has three great rights, equally sacred from arbitrary interference: the right to his *life*, the right to his *liberty*, the right to his *property*.... The three rights are so bound together as to be essentially one right. To give a man his life but deny him his liberty, is to take from him all that makes his life worth living. To give him his liberty but take from him the property which is the fruit and badge of his liberty, is to still leave him a slave." [170](#)

In this same spirit Abraham Lincoln once said:

"Property is the fruit of labor. Property is desirable, is a positive good in the world. That some should be rich shows that others may become rich and hence is just encouragement to industry and enterprise. Let not him who is

houseless pull down the house of another, but let him work diligently to build one for himself, thus by example assuring that his own shall be safe from violence.... I take it that it is best for all to leave each man free to acquire property as fast as he can. Some will get wealthy. I don't believe in a law to prevent a man from getting rich; it would do more harm than good." [171](#)

### **Primary Purpose of Government Is to Protect Property**

The early American colonists had much to say about property and property rights because it was a critical issue leading to the Revolutionary War. The effort of the Crown to take their property through various kinds of taxation without their consent (either individually or through their representatives) was denounced as a violation of the English constitution and English common law. They often quoted John Locke, who had said:

"The supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that [property] by entering into society, which was the end for which they entered into it." [172](#)

### **Property Rights Essential to Liberty**

John Adams saw private property as the most important single foundation stone undergirding human liberty and human happiness. He said:

"The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. *Property must be secured or liberty cannot exist.*" [173](#)

### **Should Government Take from the "Haves" and Give to the "Have Nots"?**

As we have pointed out earlier, one of the worst sins of government, according to the Founders, was the exercise of its coercive taxing powers to

take property from one group and give it to another. In our own day, when the government has imposed a multi-hundred-billion-dollar budget on the American people with about one half being "transfer payments" from the tax-paying public to the wards of the government, the following words of James Madison may sound strange:

"Government is instituted to protect property of every sort.... This being the end of government, that alone is not a just government, ... nor is property secure under it, where the property which a man has in his personal safety and personal liberty is violated by arbitrary seizures of one class of citizens for the service of the rest." [174](#)

### **Redistribution of the Wealth Unconstitutional**

In earlier years the American courts held that the expropriating of property to transfer to other citizens was unlawful, being completely outside the constitutional power delegated to the government. It was not until after 1936 (the Butler case) that the Supreme Court began arbitrarily distorting the meaning of the "general welfare" clause to permit the distribution of federal bounties as a demonstration of "concern" for the poor and the needy. Before that time, this practice was prohibited. The Supreme Court had declared:

"No man would become a member of a community in which he could not enjoy the fruits of his honest labor and industry. The preservation of property, then, is a primary object of the social compact.... The legislature, therefore, had no authority to make an act divesting one citizen of his freehold, and vesting it in another, without a just compensation. It is inconsistent with the principles of reason, justice and moral rectitude; it is incompatible with the comfort, peace and happiness of mankind; it is contrary to the principles of social alliance in every free government; and lastly, *it is contrary to the letter and spirit of the Constitution.*" [175](#)

### **Property Rights the Foundation of All Civilizations**

One of the world's foremost economists, Dr. Ludwig von Mises, pointed out that the preservation of private property has tremendous social implications as well as legal ramifications. He wrote:

"If history could prove and teach us anything, it would be the private ownership of the means of production as a necessary requisite of civilization and material well-being. All civilizations have up to now been based on private property. Only nations committed to the principle of private property have risen above penury and produced science, art, and literature. There is no experience to show that any other social system could provide mankind with any of the achievements of civilization." [176](#)

### **Caring for the Poor Without Violating Property Rights**

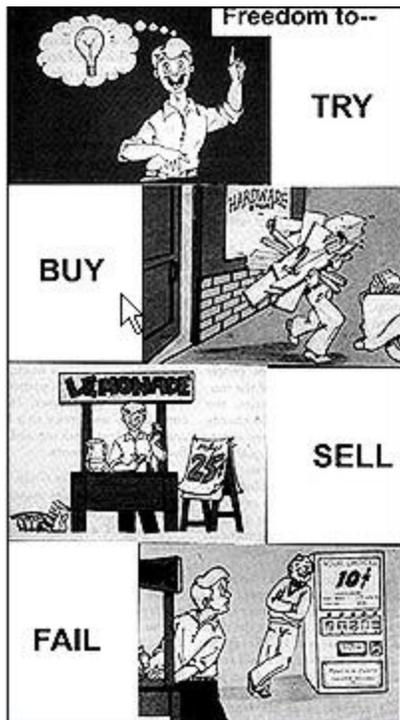
But, of course, the nagging question still remains. If it corrupts a society for the government to take care of the poor by violating the principle of property rights, who will take care of the poor? The answer of those who built America seems to be: "Anybody *but* the federal government."

Americans have never tolerated the suffering and starvation which have plagued the rest of the world, but until the present generation help was given almost exclusively by the private sector or on the community or state level. President Grover Cleveland vetoed legislation in his day designed to spend federal taxes for private welfare problems. He wrote:

"I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which is in no manner properly related to the public service or benefit. A prevalent tendency to disregard the limited mission of this power and duty should, I think, be steadfastly resisted, to the end that the lesson should be constantly enforced that *though the people support the Government the Government should not support the people.*

*"The friendliness and charity of our countrymen can always be relied upon to relieve their fellow-citizens in misfortune.* This has been repeatedly and quite lately demonstrated. Federal aid in such cases encourages the expectation of paternal care on the part of the Government and weakens the sturdiness of our national character, while it prevents the indulgence among our people of that kindly sentiment and conduct which strengthens the bonds of a common brotherhood." [177](#)

**Fifteenth Principle: The highest level of prosperity occurs when there is a free-market economy and a minimum of government regulations.**



The Founders were fascinated with the possibility of setting up a political and social structure based on natural law, but what about economics? Were there natural laws for the marketplace?

A tome of five books on the subject was published just in the nick of time which gave them the answer. It came out in 1776 and was called *The Wealth of Nations*. It was written by a college professor in Scotland named Adam Smith.

This brilliant work is not easy reading, but it became the watershed between mercantilism and the doctrines of freemarket economics. It fit into the thinking and experiences of the Founders like a hand in a glove. Thomas Jefferson wrote: "In political economy, I think Smith's *Wealth of Nations* [page 180] the best book extant." [178](#)

[Adam Smith's Free-enterprise Economics Tried First in America](#)

[The Four Laws of Economic Freedom](#)

[The Role of Government in Economics](#)

[After 1900 Adam Smith Got Lost in the Shuffle](#)

[John Chamberlain Describes What Happened to Adam Smith](#)

[Adam Smith Out, Karl Marx In](#)

[The Rediscovery of Adam Smith](#)

[One Responsibility of Government Never Completely Fulfilled](#)

[What Went Wrong?](#)

[Fractional Banking](#)

[An Economy of Debt Instead of Wealth](#)

[A Pressing Opportunity](#)

### **Adam Smith's Free-enterprise Economics Tried First in America**

Other writers in Europe, such as the Physiocrats in France, were advocating a free-market economy, but nowhere on earth were these principles being practiced by any nation of size or consequence. Therefore, the United States was the first people to undertake the structuring of a whole national economy on the basis of natural law and the free-market concept described by Adam Smith. Among other things, this formula called for the following:

1. Specialized production -- let each person or corporation persons do what they do best.
2. Exchange of goods takes place in a free-market environment without governmental interference in production, prices, or wages.
3. The free market provides the needs of the people on the basis of supply and demand, with no government imposed monopolies.

4. Prices are regulated by competition on the basis of supply and demand.
5. Profits are looked upon as the means by which production of goods and services is made worthwhile.
6. Competition is looked upon as the means by which quality is improved, quantity is increased, and prices are reduced.

### **The Four Laws of Economic Freedom**

Prosperity also depends on a climate of wholesome stimulation protected by law. Reduced to its simplest formula, there are four laws of economic freedom which a nation must maintain if its people are to prosper at the maximum level. These are:

1. The Freedom to try.
2. The Freedom to buy.
3. The Freedom to sell.
4. The Freedom to fail.

By 1905 the United States had become the richest industrial nation in the world. With only 5 percent of the earth's continental land area and merely 6 percent of the world's population, the American people were producing over half of almost everything -- clothes, food, houses, transportation, communications, even luxuries. It was a great tribute to Adam Smith.

### **The Role of Government in Economics**

The Founding Fathers agreed with Adam Smith that the greatest threat to economic prosperity is the arbitrary intervention of the government into the economic affairs of private business and the buying public. Historically, this has usually involved fixing prices, fixing wages, controlling production, controlling distribution, granting monopolies, or subsidizing certain products.

Nevertheless, there are four areas of legitimate responsibility which properly belong to government. These involve the policing responsibilities of government to prevent:

1. *Illegal Force* in the market place to compel purchase or sale of products.

2. *Fraud* in misrepresenting the quality, location, or ownership of the item being sold or bought.

3. *Monopoly* which eliminates competition and results in restraint of trade.

4. *Debauchery* of the cultural standards and moral fiber of society by commercial exploitation of vice -- pornography, obscenity, drugs, liquor, prostitution, or commercial gambling.

The perspective of the Founders in the economic role of government may be gathered from sentiments such as these by Washington:

Let vigorous measures be adopted; not to limit the prices of articles, for this I believe is inconsistent with the very nature of things, and impracticable in itself, but to punish speculators, forestallers, and extortioners, and above all to sink the money by heavy taxes. To promote public and private economy; encourage manufacturers, etc. [179](#)

### **After 1900 Adam Smith Got Lost in the Shuffle**

In spite of the fact that the fruits of the free-market economy were making the United States the biggest and richest industrial nation in the world, the beginning of the twentieth century saw many prominent and influential leaders losing confidence in the system. These included wealthy industrialists, heads of multi-national banking institutions, leaders in the academic world, and some of the more innovative minds in the media. The same feverish restlessness was taking hold in similar circles in Europe.

It was true, as it is with all systems, that the freemarket economy was in need of some adjustments and fine tuning, but these leaders were getting ready to throw the entire system overboard. The problems of the day included a number of large-scale strikes, the rise of powerful trusts, the mysterious recurrence of boom-and-bust cycles, and the rise of a new Populist movement in which certain agriculture and labor groups were demanding that the government get involved in the redistribution of the wealth.

Many of these problems were either caused or aggravated by the very people who were demanding "a new system." The new system would involve extensive government regulation if not outright expropriation of major industries and natural resources. In Europe, certain confederations of wealthy families had gained control of their respective governments and

were making a financial killing. Some of the wealthy families in America coveted the rich government monopolies of their trans-Atlantic cousins.

It was in this climate that Adam Smith and the freemarket economy fell out of favor. We have already discussed the rise of the Intercollegiate Socialist Society, which was billed on major university campuses as the vanguard of the new era. Collectivism, socialism, government ownership of industry, subsidy of the farmers, and a whole spectrum of similar ideas were permeating the country when World War I broke out. This greatly accelerated the idea of strong centralized government with regulatory power over every aspect of the marketplace.

### **John Chamberlain Describes What Happened to Adam Smith**

By the 1920s, the debunking of the Founding Fathers was in full swing. The obsolescence of the Constitution was discussed openly. The ideas of Adam Smith were considered archaic. John Chamberlain, one of the foremost writers of our own day, was just coming up through college. He describes the academic climate of that era:

"When I was taking a minor in economics as a congruent part of a history major back in the 1920s, Robert Hutchins had not yet started his campaign to restore a reading of the "great books" to college courses. So we never read Adam Smith's *The Wealth of Nations*. We heard plenty about it, however. The professors treated it condescendingly; we were told it was the fundamentalist Bible of the old dog-eat-dog type of businessman.

"The businessmen, in that Menckonian time, were considered the natural enemies of disinterested learning. We, as students, regarded them as hypocrites. They talked competition, and invoked the name of Adam Smith to bless it. Then they voted for the high-tariff Republican Party. Somehow Adam Smith, as the man who had justified a business civilization, got the blame for everything. We weren't very logical in those days, and we were quite oblivious to our own hypocrisy in making use of our businessmen fathers to pay our college tuition fees and to stake us to trips to Europe."

[180](#)

### **Adam Smith Out, Karl Marx In**

John Chamberlain eventually came to realize what the intellectual leaders of the day were doing. They were deprecating the Founders and the free-market economy to create a vacuum which would then be filled with a completely new formula. Their new economic nostrum was the very toxin the Founders had warned against. Chamberlain describes what happened:

"The depression that began in 1929 is generally considered the watershed that separates the new (collectivist) age from the old, or rugged individualist, age. Before Franklin Roosevelt, we had had the republic (checks and balances, limited government, inalienable rights to liberty and property, and all that). After 1933 we began to get the centralized state and interventionist controls of industry. Actually, however, the inner spirit of the old America had been hollowed out in the Twenties. The colleges had ceased to teach anything important about our heritage. You had to be a graduate student to catch up with *The Federalist Papers*, or with John Calhoun's *Disquisition on Government*, or with anything by Herbert Spencer, or with *The Wealth of Nations*. We were the ignorant generation.

"The depression began our education. But the first "great book" in economics that we read was Marx's *Capital*. We had nothing to put against it. Talk of "planning" filled the air. We read George Soule and Stuart Chase on the need for national blueprints and national investment boards and "government investment." Keynes was still in the future, but his system was already being laid brick by brick. And Adam Smith was still a word of derision." [181](#)

### **The Rediscovery of Adam Smith**

My own education was similar to that of John Chamberlain. I was less than a decade behind him. We were all part of a generation of lost Americans who had to rediscover our heritage the hard way. For nearly a quarter of a century the Founders had been relegated to the pre-industrial past. Certain professors spoke disparagingly of what they called the "myths the Founders believed." The Founding Fathers were all very old-fashioned.

Gradually, however, the intellectual light of day dawned on many thousands of that lost generation. Ivor Thomas wrote his book, *The Socialist Tragedy* (New York: The Macmillan Company, 1951), explaining what socialism had done to Europe. Max Eastman wrote his *Reflections on the*

*Failure of Socialism* (New York: The Devin-Adair Company, 1962), explaining what socialism had done to America and the world.

For some, there was a genuine awakening. The traditional values of the Founders began to emerge with a new message of promise so long neglected. John Chamberlain describes his rediscovery of Adam Smith:

"We had to discover the real Adam Smith the hard way, by living our mistakes, and by being led to the whole body of the literature of freedom that had created the American federal system. Only then were we able to appreciate Smith. Ironically, our education paralleled that of Adam Smith himself, which took place over a period of a dozen years between the close of the Seven Years War and the outbreak of the American Revolution. We would have been saved so much trouble if we had only been compelled to read -- and digest -- *The Wealth of Nations* in a *first* college course in economics, with James Madison's political theory as a side dressing.

"Smith's book is, indeed, the beginnings of everything that is important to economic theory, the lack of clarity on value theory notwithstanding. It should be the natural starting point for students of economics for the simple and compelling reason that it anticipated Ludwig von Mises by a full century and a half in considering economics as part of a wider science of human choices. Smith backed into his study by way of a general preoccupation with human destiny in a way that should be utterly convincing to our own pragmatic day." [182](#)

As this book goes to press, America is strenuously struggling to restore a few of the lost jewels from the Founders' treasury. An appreciation for Adam Smith is looming larger. If it continues, there is hope for a brighter future for the next generation than for the one just passing.

A genuine return to the Founders, however, will also involve the completion of something which has never been done, neither in the Founders' day nor in ours. It is the need for a genuine monetary reform along the lines the Founders envisioned but were never able to launch.

### **One Responsibility of Government Never Completely Fulfilled**

At the Constitutional Convention, the Founders determined that they would make the American dollar completely independent of any power or combination of powers outside of the American people. They therefore gave the exclusive power to issue and control money to the people's

representatives -- the Congress -- and forbade anybody, even the states, to meddle with it.

Not only was Congress to be held responsible for the issuing of money, but it was to see that its purchasing power remained fixed. In other words, the "value" of the money was to remain steady and reliable not only in the United States, but also in relation to foreign money. They therefore stated in the Constitution that Congress would have the power "To coin money, regulate the value thereof, and of foreign coin...." [183](#)

All money was to be "coined" in precious metal. Paper "notes" were to be "promises to pay" in gold or silver, not legal tender as such. States were strictly forbidden to allow debts to be paid except in terms of gold or silver (Article I, Section 10).

Washington stated:

"We should avoid ... the depreciation of our currency; but I conceive this end would be answered, as far as might be necessary, by stipulating that all money payments should be made in gold and silver, being the common medium of commerce among nations." [184](#)

### **What Went Wrong?**

Here is one area where a great idea of the Founders was never adequately implemented. The Founders were just coming out of a devastating depression when the Constitution was adopted, and under pressure from both European and American financial interests, a whole series of policy errors were committed which have continued to this day. For example:

The issuing of money was turned over to a private consortium of bankers who set up a privately owned bank called the Bank of the United States. (A similar arrangement exists today under the Federal Reserve System.)

The indignant protest of Thomas Jefferson can be heard across the vista of two whole centuries:

"If the American people ever allow the banks to control the issuance of their currency, first by inflation and then by deflation, the banks and corporations that will grow up around them will deprive the people of all property until their children will wake up homeless on the continent their fathers occupied. The issuing power of money should be taken from the banks and restored to Congress and the people to whom it belongs." [185](#)

## **Fractional Banking**

The bank was allowed to issue three or four times more paper notes or loans than it had in assets. This is called "fractional banking" because the bank has only a fraction of the assets needed to back up the paper money or credit which it has issued.

Once again Jefferson protested: "The banks themselves were doing business on capitals [assets], three-fourths of which were fictitious...." [186](#)

Jefferson foresaw that the banks would inflate the economy by loaning out fictitious paper money (with no assets behind it). This would "boom" the economy. Then, when the financiers had lured borrowers into a precarious position, they would call for a "bust" and foreclose on the property for which the bank had virtually furnished nothing.

At the first signs of a pending "bust," Jefferson lamented:

"This fictitious capital ... is now to be lost, and to fall on somebody; it [the bank] must take on those who have property to meet it, and probably on the less cautious part, who, not aware of the impending catastrophe, have suffered themselves to contract, or to be in debt, and must now sacrifice their property of a value many times the amount of the debt. We have been truly sowing the wind, and are now reaping the whirlwind." [187](#)

Amazingly, this disastrous pattern of "boom and bust" has been repeated off and on for over 200 years without the cause of it being corrected. A sound monetary reform program is still begging for a hearing.

## **An Economy of Debt Instead of Wealth**

The financiers who gained control of American finance built the economy on debt instead of wealth. Jefferson's protest came out as follows:

"At the time we were funding our national debt, we heard much about "a public debt being a public blessing"; that the stock representing it was a creation of active capital for the aliment of commerce, manufactures and agriculture. This paradox was well adapted to the minds of believers in dreams...." [188](#)

Jefferson, Jackson, and Lincoln all tried to get the monetary program turned around so that Congress would issue its own money and banks would be required to loan on existing assets rather than use fictitious money based on merely a fraction of their assets. In other words, they wanted to

get rid of the "boom and bust" cycle. At one point when the idea seemed to be catching on, the London Times came out with a frantic editorial stating:

"If that mischievous financial policy, which had its origin in the North American Republic during the late war in that country (the Civil War), should become indurated down to a fixture, then that Government will furnish its own money without cost. It will pay off its debts and be without debt. It will have all the money necessary to carry on its commerce. It will become prosperous beyond precedent in the history of the civilized governments of the world. The brains and the wealth of all countries will go to North America. That government must be destroyed or it will destroy every monarchy on the globe." [189](#)

### **A Pressing Opportunity**

All of this should demonstrate that somewhere up the trail, the leadership of the United States has an opportunity to add one more burst of momentum to the upward thrust of the 5,000-year leap. It will be a monumental monetary reform based on the principles which the Founders understood but were never able to implement. As Jefferson said toward the latter days of his life:

"We are overdone with banking institutions, which have banished the precious metals, and substituted a more fluctuating and unsafe medium.... These have withdrawn capital from useful improvements and employments to nourish idleness.... [These] are evils more easily to be deplored than remedied." [190](#)

On another occasion, Jefferson lamented:

"We are completely saddled and bridled, and ... the bank is so firmly mounted on us that we must go where [it] will guide." [191](#)

**Sixteenth Principle: The government should be separated into  
three  
branches -- legislative, executive, and judicial.**



America's three-headed eagle

A popular pastime among political writers in ancient times was attempting to decide what form of government was best. Some argued for a monarchy with a single, powerful ruler. Others preferred an aristocracy where the "best families" of the nation were allowed to rule. Yet a third favored a pure democracy where decisions were to be made by the whole people. Unfortunately *none* of these systems furnished the security and justice which were expected of them.

Then came Polybius.

Polybius was a Greek who lived 204 to 122 B.C. Next to Herodotus and Thucydides, Polybius is recognized as the greatest of all Greek historians. When Greece was conquered by Rome, Polybius was deported to the Roman capital. Previously, Polybius had rendered illustrious public service to the Achaean League, a confederation of city states. However, he quickly recognized the advantages of the Roman republic which had been set up to govern millions. Polybius became a friend and ally of Rome, traveling widely on military and diplomatic missions to Europe, Asia, and Africa. His rich practical and scholarly experience finally culminated in his writing forty books of history!

[The Political Insights of Polybius](#)

[Polybius Proposes a "Mixed" Constitution](#)

[Baron Charles de Montesquieu](#)

[The Foundation for What Became America's Three-headed Eagle](#)

[A Single Executive](#)

[Development of "Separation of Powers" in America](#)

[John Adams Pushes Separation-of-Powers Doctrine](#)

[John Adams Studies the "Divine Science" of Good Government](#)

[Basic Principles of Sound Constitutionalism Unpopular at First](#)

[John Adams Writes Separation of Powers into a State Constitution](#)

[The Modern Apostle of the Divine Science of Good Government  
Unappreciated for a Century](#)

[A Constitution for 300 Million Freeman](#)

### **The Political Insights of Polybius**

Polybius felt there was an element of genius in each of the three types of government being discussed by philosophers. A monarchy had the executive strength needed to direct the administration of the government, particularly in time of war. An aristocracy, on the other hand, represented the vested interests of wealth and the developed resources of the nation. A democracy, meanwhile, represented the interests of the masses of the population without which neither a monarchy nor an aristocracy could exist.

Unfortunately, none of these systems, when allowed to govern, provided equality, prosperity, justice, or domestic tranquility for the whole society. Polybius felt he understood why this was so:

"Even more keenly than Aristotle, he [Polybius] was aware that each form carried within itself the seed of its own degeneration, if it were allowed to operate without checks and balances provided by opposing principles.

Monarchy could easily become tyranny, aristocracy sink into oligarchy [oppressive government by a few rich families], and democracy turn into mob rule of force and violence." [192](#)

### **Polybius Proposes a "Mixed" Constitution**

But since all three systems represented unique and essential elements for the governing of a people, why not combine them into a single system? Polybius saw the synthesizing process of all three ingredients beginning to develop in the Roman system, but shortly after Polybius died, the Romans abandoned their principles of a republic and eventually set up an emperor. Thus came to an end what Polybius had hoped would be the first three department constitution in history. He visualized the strength of a monarchy being assigned the executive duties of government; the interests of wealth and the "established order" would be represented in the Senate; the interests of the general populace would be represented in the popular Assembly. Polybius felt that if these three departments were set up as coordinated equals they could perform their necessary functions, but at the same time counter-balance one another as a restraining mechanism so that no one of them would acquire sufficient power to abuse the people.

This new approach to government was called a "mixed" constitution. It was a great idea, but it virtually died with Polybius. Not until the middle 1700s did the genius of Baron Charles de Montesquieu undertake to resurrect the inspired potentialities of a "mixed" constitution and submit it for the consideration of modern man.

### **Baron Charles de Montesquieu**

Montesquieu became one of the best-educated scholars in France. Although his mother died when he was seven, and his father died when he was twenty-four, a wealthy uncle left him a title, a judicial office, and his whole fortune. Montesquieu traveled extensively throughout England and continental Europe. Then he spent approximately twenty years of research before he wrote his philosophical history called *The Spirit of Laws*. This has been described as "one of the most important books ever written," and certainly ranks as "the greatest book of the French 18th century." [193](#)

The final writing required two solid years of uninterrupted labor and was completed in his huge study hall, sixty by forty feet, at his palatial residence in France. However, the book was so full of praise for the English system that it was never popular in France and was scarcely read. Nevertheless, it became famous elsewhere and was greatly admired by the Founders. It documented the practical possibility of a government based on "separation of powers" or a "mixed" constitution.

In Book XI, Montesquieu actually set forth the ingredients for a model constitution. The Founders admired it sufficiently to use many portions of it as a guide in their own work. However, the Founders' joint effort in constitution writing greatly excelled even that of Montesquieu. Nevertheless, to him must go the well-deserved credit for illuminating the minds of the Founders with the exciting possibilities of a government based on "separated" but "coordinated" powers.

### **The Foundation for What Became America's Three-headed Eagle**

Montesquieu saw the separation of powers developing under the English system somewhat differently than Polybius had seen it in Rome.

Instead of the three departments of government being the executive, the senate, and the people's assembly, Montesquieu saw the powers of government developing along the lines of an executive, a legislature (of both an upper and a lower house), and an independent judiciary. In England the developing process was still in progress, but Montesquieu felt it was moving in the right direction.

The Parliament was gradually exercising increasing independence, which Montesquieu pronounced essential to liberty. However, he recognized that a legislature could be tyrannical if the executive did not retain some of its power to check it. Said he:

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch *or* senate [legislature] should enact tyrannical laws, to execute them in a tyrannical manner." [194](#)

Montesquieu saw the legislature enacting the laws and the executive administering them. But he felt it was just as important to have an independent judiciary to interpret and enforce the laws:

"Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with violence and oppression." [195](#)

### **A Single Executive**

Montesquieu recognized the weakness of the Roman system in setting up two or more consuls to preside over the people. On one occasion there were thirty executives in Greece. Montesquieu said this responsibility should be concentrated in a single person who can make decisions quickly and decisively and cannot escape either credit or blame for the consequences.

It is interesting that in the American Constitutional Convention, there was a heated debate over the number of Presidents. The New Jersey Plan called for several. Governor Randolph of Virginia wanted at least three. James Wilson argued along the lines of Montesquieu that there should be only one.

### **Development of "Separation of Powers" in America**

It may come as a surprise to modern Americans to learn how slowly the doctrine of "separation of powers" was accepted in America. The states were perfectly willing to set up a single executive, a separate legislature (usually with an upper and a lower house), and also an independent judiciary, but they were certainly not agreeable to setting up a three department government on the federal level.

It will be recalled that when the Articles of Confederation were written, neither an executive nor a judiciary was provided for. Provision was made for a Congress of representatives from the various states, but even the Congress had no taxing power or enforcement power. It was simply a "committee of the states."

### **John Adams Pushes Separation-of-Powers Doctrine**

In 1776, when it first became apparent that the American people would have to set up their own government, John Adams practically stood alone in

advocating a government built on a separation of powers. Even before the Declaration of Independence he was advocating a new national government with three separate departments but found himself severely criticized for such a revolutionary idea. Many years later John Adams wrote a letter to one of the other Founders, Dr. Benjamin Rush, dated April 12, 1809, in which he described his initial effort to get this principle adopted:

"I call you to witness that I was the first member of Congress who ventured to come out in public, as I did in January 1776, in my 'Thoughts on Government,' ... in favor of a government with three branches, and an independent judiciary. This pamphlet, you know, was very unpopular. No man appeared in public to support it but yourself. You attempted in the public papers to give it some countenance, but without much success. Franklin leaned against it. Dr. Young, Mr. Timothy Matlack and Mr. James Cannon, and I suppose Mr. George Bryan were alarmed and displeased at it. Mr. Thomas Paine was so highly offended with it that he came to visit me at my chamber at Mrs. Yard's to remonstrate and even scold at me for it, which he did in very ungentle terms. In return, I only laughed heartily at him.... Paine's wrath was excited because my plan of government was essentially different from the silly projects that he had published in his 'Common Sense.' By this means I became suspected and unpopular with the leading demagogues and the whole constitutional party in Pennsylvania."

[196](#)

### **John Adams Studies the "Divine Science" of Good Government**

It is interesting that John Adams should have been the first among the Founding Fathers to capture the vision of Montesquieu in setting up a self-repairing national government under the separation-of-powers doctrine. As we pointed out earlier, he looked upon politics as a "divine science," and determined to devote his life to its study. It will be recalled that during the Revolutionary War he wrote to his wife:

"The science of government is my duty to study, more than all other sciences; the arts of legislation and administration and negotiation ought to take [the] place of, indeed to exclude, in a manner, all other arts. I must study politics and war, that my sons may have liberty to study mathematics and philosophy. My sons ought to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce,

and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain." [197](#)

### **Basic Principles of Sound Constitutionalism Unpopular at First**

As indicated earlier, he had discovered that the selling of the principles of his "divine science" was not designed for the career of a man who wanted to become a popular politician. Here's the way he described his experiences:

"Upon my return from France in 1779, I found myself elected by my native town of Braintree a member of the Convention for forming a Constitution for the State of Massachusetts. I attended that Convention of near four hundred members. Here I found such a chaos of absurd sentiments concerning government that I was obliged daily, before that assembly, and afterwards in a Grand Committee, to propose plans and advocate doctrines, which were extremely unpopular with the greater number. Lieutenant-Governor Cushing was avowedly for a single assembly, like Pennsylvania. Samuel Adams was of the same mind. Mr. Hancock kept aloof, in order to be governor. In short, I had at first no support but from the Essex junto, who had adopted my ideas in the letter to Mr. Wythe.... They made me, however, draw up the Constitution, and it was finally adopted, with some amendments very much for the worse." [198](#)

### **John Adams Writes Separation of Powers into a State Constitution**

It is interesting that in spite of all the opposition John Adams encountered, he did succeed, almost singlehandedly, in getting his state to adopt a constitution based on separation of powers. For the first time in the world a constitution read:

"In the government of the Commonwealth of Massachusetts the legislative, executive and judicial powers shall be placed in separate departments, to the end that it might be a government of laws and not of men...." [199](#)

### **The Modern Apostle of the Divine Science of Good Government Unappreciated for a Century**

In later years, Adams was successful in getting his ideas incorporated in the U.S. Constitution, but he was never able to gain a genuine acceptance of himself. Even though he was elected the first Vice President of the United States and the second President, he very shortly disappeared into history with scarcely a ripple. A hundred years after the founding of the country, neither Washington nor Massachusetts had erected any kind of monument to John Adams. [200](#) It was only as scholars began digging into the origins of American constitutionalism that John Adams suddenly loomed up into proper perspective. Even he suspected there would be very few who would remember what he had attempted to accomplish. He wrote to a friend:

"Mausoleums, statues, monuments will never be erected to me. Panegyric romances will never be written, nor flattering orations spoken to transmit me to posterity in brilliant colors." [201](#)

### **A Constitution for 300 Million Freemen**

Nevertheless his political precepts of the "divine science" of government caught on. Even Pennsylvania revised its constitution to include the separation of powers principle, and Benjamin Franklin, one of the last to be converted, finally acknowledged that the Constitution of the United States with its separation of powers was as perfect as man could be expected to produce. He urged all of the members of the Convention to sign it so that it would have unanimous support.

John Adams said it was his aspiration "to see rising in America an empire of liberty, and the prospect of two or three hundred millions of freemen, without one noble or one king among them." [202](#)

"The necessity of reciprocal checks in the exercise of political power...."  
(George Washington)

**Seventeenth Principle: A system of checks and balances should be adopted to prevent the abuse of power.**



"The necessity of reciprocal checks in the exercise of political power ..." -- George Washington

It must have been astonishing to John Adams to discover that after he had sold the people on the separation of powers doctrine, some of them wanted the separation to be so complete that it would have made the system unworkable,

These people who took this puritanical view opposed the adoption of the Constitution on the grounds that it did not make the separation of power between the three departments complete and absolute.

They missed a most important factor in Montesquieu's presentation. He said each of the departments was to be separate in its functions, but subject to the checks of the other two departments in case it became abusive in performing those functions.

[James Madison Explains "Checks and Balances"](#)

[Blending Does Not Mean Usurping](#)

[Checks Were Designed to Protect the "Will of the People"](#)

[The Original Intent of the Founders](#)

[The Importance of Preserving the Founders' System](#)

[The Founders' Device for "Peaceful" Self-Repair](#)

[Watergate](#)

[The Blessing of Domestic Tranquility](#)

### **James Madison Explains "Checks and Balances"**

It is interesting that James Madison had to spend five *Federalist Papers* (numbers 47 to 51) explaining that the separation of powers between the executive, legislative, and judicial departments should *not* be absolute, but should make allowances for a built-in system of checks and balances. He said the trick was to separate the powers and then delicately lace them back together again as a balanced unit.

Madison conceded, however, that keeping the three departments of government separated was fundamental to the preservation of liberty. He wrote:

"The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny." [203](#)

Madison then proceeded to explain how Montesquieu recommended that the powers be separated as to function but coordinated for the prevention of usurpation or abuse. Note his opening tribute to Montesquieu:

"The oracle who is always consulted and cited on this subject is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying and recommending it most effectually to the attention of mankind." [204](#)

In the *Federalist Papers*, No. 47, Madison indicated that even those states which demanded an absolute separation of powers in the federal constitution employed a blending of power in their own state constitutions. He pointed out that just as those safeguards were necessary for the states,

they were equally important to include in the federal constitution. In fact, he said:

"I shall undertake ... to show that unless these departments be so far connected and blended as to give each a constitutional control over the others, the degree of separation which the maxim [of Montesquieu] requires, as essential to a free government, can never in practice be duly maintained." [205](#)

### **Blending Does Not Mean Usurping**

Notice that the purpose of "checks and balances" is a constitutional control in the hands of each department of government to prevent any usurpation of power by another department or abusive administration of the power granted to it. This "blending" does not, therefore, intrude into the legitimate functions of each of the departments. As Madison explained it:

"It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.... The next and most difficult task is to provide some practical security for each, against the invasion of the others." [206](#)

Just how difficult this task turned out to be is demonstrated in a number of problems which have arisen in our own day. The failure to use the checks and balances effectively has allowed the judiciary to create new laws (called judicial legislation) by pretending to be merely interpreting old ones. Failure to use the checks and balances has also allowed the President to make thousands of new laws, instead of Congress, by issuing executive orders. It has allowed the federal government to invade the reserved rights of the states on a massive scale. It has allowed the legislature to impose taxes on the people never contemplated by the Founders or the Constitution.

The whole spectrum of checks and balances needs to be more thoroughly studied and more vigorously enforced. Madison appropriately anticipated that "parchment barriers" in the Constitution would not prevent usurpation. Each department of government has the responsibility to rise up and protect

its prerogatives by exercising the checks and balances which have been provided. At the same time, the people have the responsibility to keep a closer watch on their representatives and elect only those who will function within Constitutional boundaries.

### **Checks Were Designed to Protect the "Will of the People"**

All of these aberrations in the administration of government have done violence to the intent and desires of the people. The Founders felt that if the checks and balances as originally provided were to prove inadequate, the remedy should be a device by which the people might more directly influence the power centers of government so that decisions would be more in harmony with their wishes. James Madison said it this way:

"As the people are the only legitimate fountain of power, and it is from them that the constitutional charter under which the [power of the] several branches of government ... is derived, it seems strictly consonant to the republican theory to recur to the same original authority ... whenever any one of the departments may commit encroachments on the chartered authorities of the others." [207](#)

But how do the people protect themselves? There must be adequate legal machinery provided so that the representatives of the people have more direct input to project the will of the people when the officials of government are ignoring it. Madison discussed the various overseer devices which had been considered in the past to keep the departments of government within their Constitutional channels. None had proven particularly successful.

Pennsylvania tried out a Council of Censors to enforce its constitution. The council was effective in determining what violations had occurred, but was powerless to remedy the evil.

Others suggested that the people be allowed to vote on critical constitutional issues at specified times. However, the tremendous emotional anguish displayed during the ratification of the U.S. Constitution demonstrated that this was not something to be undertaken very often. Said Madison:

"The danger of disturbing the public tranquility by interesting too strongly the public passions is a still more serious objection against a frequent reference of constitutional questions to the decision of the whole society.

Notwithstanding the success which has attended the revisions of our established forms of government [the ratification conventions] and which does so much honor to the virtue and intelligence of the people of America, it must be confessed that the experiments are of too ticklish a nature to be unnecessarily multiplied." [208](#)

In the end, Madison contended, there is no better device to curb the departments of government than the internal machinery of checks and balances provided in the Constitution as written. Said he:

"The only answer that can be given is that as all these exterior provisions are found to be inadequate, the defect must be supplied by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." [209](#)

What the Founders finally devised is recognized as an ingenious device when properly implemented. The fact that it has sometimes fallen into neglect in recent times does not detract from the fact that it is still the most effective way to maintain the American eagle in the balanced center of the political spectrum. The Constitution made the departments separate as to their assigned function, but made them dependent upon one another to be fully operative. As we depicted in an earlier section of this book, the symbolic American eagle has three heads, but they operate from one neck. As a former Under-Secretary of State, J. Reuben Clark, Jr., explained it:

"The Framers ... separated the three functions of government, and set each of them up as a separate branch -- the legislative, the executive, and the judicial. Each was wholly independent of the other. No one of them might encroach upon the other. No one of them might delegate its power to another.

"Yet by the Constitution, the different branches were bound together, unified into an efficient, operating whole. These branches stood together, supported one another. While severally independent, they were at the same time, mutually dependent. It is this union of independence and dependence of these branches -- legislative, executive, and judicial -- and of the governmental functions possessed by each of them, that constitutes the marvelous genius of this unrivalled document. The Framers had no direct guide in this work, no historical governmental precedent upon which to rely. As I see it, it was here that the divine inspiration came. It was truly a miracle." [210](#)

## **The Original Intent of the Founders**

As it turned out, the American Founding Fathers achieved a system of checks and balances far more complex than those envisioned by Montesquieu. These included the following provisions:

1. The House of Representatives serves as a check on the Senate since no statute can become law without the approval of the House.

2. At the same time the Senate (representing the legislatures of the states before the 17th Amendment) serves as a check on the House of Representatives since no statute can become law without its approval.

3. A President can restrain both the House and the Senate by using his veto to send back any bill not meeting with his approval.

4. The Congress has, on the other hand, a check on the President by being able to pass a bill over the President's veto with a two-thirds majority of each house.

5. The legislature also has a further check on the President through its power of discrimination in appropriating funds for the operation of the executive branch.

6. The President must have the approval of the Senate in filling important offices of the executive branch.

7. The President must also have the approval of the Senate before any treaties with foreign nations can go into effect.

8. The Congress has the authority to conduct investigations of the executive branch to determine whether or not funds are being properly expended and the laws enforced.

9. The President has a certain amount of political influence on the legislature by letting it be known that he will not support the reelection of those who oppose his program.

10. The executive branch also has a further check on the Congress by using its discretionary powers in establishing military bases, building dams, improving navigable rivers, and building interstate highways so as to favor those areas from which the President feels he is getting support by their representatives.

11. The judiciary has a check on the legislature through its authority to review all laws and determine their constitutionality.

12. The Congress, on the other hand, has a restraining power over the judiciary by having the constitutional authority to restrict the extent of its

jurisdiction.

13. The Congress also has the power to impeach any of the judges who are guilty of treason, high crimes, or misdemeanors.

14. The President also has a check on the judiciary by having the power to nominate new judges subject to the approval of the Senate.

15. The Congress has further restraining power over the judiciary by having the control of appropriations for the operation of the federal court system.

16. The Congress is able to initiate amendments to the Constitution which, if approved by three-fourths of the states, could seriously affect the operation of both the executive and judicial branches.

17. The Congress, by joint resolution, can terminate certain powers granted to the President (such as war powers) without his consent.

18. The people have a check on their Congressmen every two years; on their President every four years; and on their Senators every six years.

### **The Importance of Preserving the Founders' System**

President Washington felt that the separation of powers with its accompanying checks and balances was the genius of the American system of government. The task was to maintain it. In his Farewell Address he stated:

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another.

"The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position.

"The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or

modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed." [211](#)

### **The Founders' Device for "Peaceful" Self-Repair**

During nearly two centuries that the Constitution has been in operation, it has carried the nation through a series of traumatic crises. Not the least of these have been those occasions when some branch of government became arrogantly officious in the administration of its assigned task or flagrantly violated the restrictions which the Constitution placed upon it. As President Washington indicated, there is a tendency for some of this to occur continually, as is the case in our own day, but when it reaches a point of genuine crisis there is built-in Constitutional machinery to take care of it.

By way of contrast, we have scores of nations which claim to have copied the United States Constitution, but which failed to incorporate adequate checks and balances. In those countries, the only remedy, when elected presidents have suspended the constitution and used the army to stay in power, has been to resort to machine guns and bombs to oust the usurper. This occurs time after time. What the Founders wished to achieve in the Constitution of 1787 was machinery for the peaceful means of self-repair when the system went out of balance.

### **Watergate**

One of the most dramatic illustrations of the peaceful transfer of power in a time of crisis was in connection with the Watergate scandal. A President was found to have used his high office for purposes which were beyond the scope of his authority and outside the ramifications of legal conduct. Under threat of impeachment, he resigned. At the time, he was Commander-in-Chief of the Armed Services of the United States. He made no attempt to use these military forces to keep himself in power. In fact, under the American Constitution, it would have been useless for him to have

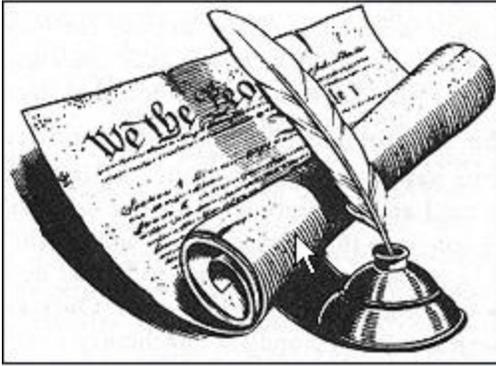
attempted it. The transfer of power was made quietly and peacefully once the issue came to a point of decision.

### **The Blessing of Domestic Tranquility**

Some of us have had to travel or live in nations during a time of turmoil and revolution. Even one such experience will usually convince the most skeptical activist that there is nothing to be gained and a great deal to be lost by resorting to violence to bring about political change. Once a constitution has been established and the machinery developed for remedy or repair by peaceful means, this is the most intelligent and satisfactory route to pursue. It requires more patience, but given time, the results are more certain.

To solve problems by peaceful means was the primary purpose of the United States Constitution.

**Eighteenth Principle: The unalienable rights of the people are most likely to be preserved if the principles of government are set forth in a written constitution.**



The one weakness of the Anglo-Saxon common law was that it was unwritten. Since its principles were known among the whole people, they seemed indifferent to the necessity of writing them down. As Dr. Colin Rhys Lovell of the University of Southern California states:

"The law applied by any of these Anglo-Saxon assemblies was customary. Until the Anglo-Saxon conversion to Christianity it was unwritten and like all customary law was considered immutable." [212](#)

[England's Need for a Written Bill of Rights](#)

[Beginnings of a Written Constitution in America](#)

[American Constitution Represents Wisdom of Many](#)

### **England's Need for a Written Bill of Rights**

However, the Norman Conquest taught the Anglo Saxons in England a bitter lesson. Many of their most treasured rights disappeared in a flood of blood and vindictive oppression. In fact, these rights were regained very slowly over a period of centuries and gradually they were written down. In 1215 A.D., during a national crisis, the sword was virtually put to the throat of King John in order to compel him to sign the Magna Charta, setting forth

the traditional rights of freemen as well as the feudal barons who had been serving under King John.

During that same century the "Model Parliament" came into being, which compelled the King to acknowledge the principle of no taxation without representation. Charles I was later pressured into signing the people's Petition of Rights in 1628, and the English Bill of Rights was signed by William and Mary in 1689.

Through the centuries, the British have tried to manage their political affairs with no written constitution and have merely relied upon these fragmentary statutes as a constitutional reference source. These proved helpful to the American Founders, but they felt that the structure of government should be codified in a more permanent, comprehensive form. It will be appreciated, therefore, that the tradition of written constitutions in modern times is not of English origin but is entirely American, both in principle and practice.

### **Beginnings of a Written Constitution in America**

The first written charter in America was in 1620, when the Mayflower Compact came into being. Later the charter concept evolved into a more comprehensive type of constitution when Thomas Hooker and his associates adopted the Fundamental Orders of Connecticut in 1639. It is interesting that the Connecticut charter makes no reference to the Crown or the British Government as the source of its authority. It is a compact of "We, the people." As historian John Fiske writes:

"On the 14th of January, 1639, all the freemen of the three towns assembled at Hartford and adopted a written constitution in which the hand of the great preacher [the Reverend Thomas Hooker] is clearly discernible. It is worthy of note that this document contains none of the conventional references to a "dread sovereign" or a "gracious King," nor the slightest allusion to the British or any other government outside of Connecticut itself, nor does it prescribe any condition of church-membership for the right of suffrage. It was the first written constitution known to [modern] history, that created a government, and it marked the beginnings of American democracy, of which Thomas Hooker deserves more than any other man to be called the father.

"The government of the United States today is in lineal descent more nearly related to that of Connecticut than to that of any of the other thirteen colonies.... This little federal republic ... silently grew till it became the strongest political structure on the continent, as was illustrated in the remarkable military energy and the unshaken financial credit of Connecticut during the Revolutionary War." [213](#)

### **American Constitution Represents Wisdom of Many**

Montesquieu pointed out that when it comes to legislating (which includes the setting up of constitutions), the writing of the statute or charter is "oftentimes better regulated by many than by a single person." [214](#) In harmony with this same sentiment, the American Founding Fathers considered it wise to "legislate" their constitution by filtering it through the wisdom and experiences of many delegates assembled in a convention rather than leaving it to the genius of some individual. James Madison commented on this:

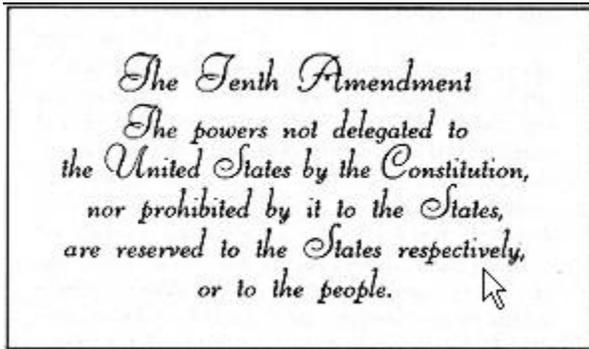
"It is not a little remarkable that in every case reported by ancient history in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men, but has been performed by some individual citizen of preeminent wisdom and approved integrity.

"Minos, we learn, was the primitive founder of the government of Crete, as Zaleucus was of that of the Locrians. Theseus first, and after him Draco and Solon, instituted the government of Athens. Lycurgus was the lawgiver of Sparta. The foundation of the original government of Rome was laid by Romulus, and the work completed by two of his elective successors, Numa and Tullius Hostilius. On the abolition of royalty the consular administration was substituted by Brutus, who stepped forward with a project for such reform, which, he alleged, had been prepared by Servius Tullius, and to which his address obtained the assent and ratification of the senate and people. This remark is applicable to confederate governments also. Amphictyon, we are told, was the author of that which bore his name. The Achaean league received its first birth from Achaeus, and its second from Aratus." [215](#)

It is always difficult to operate through a committee, a group, or a convention as the Founding Fathers did. Nevertheless, the history of the

convention demonstrates that the final product was far stronger than any individual could have written it. Time has also proven the tremendous advantage of having a completely written document for reference purposes rather than relying upon tradition and a few scattered statutes as the fundamental law of the land.

**Nineteenth Principle: Only limited and carefully defined powers should be delegated to government, all others being retained in the people.**



No principle was emphasized more vigorously during the Constitutional Convention than the necessity of limiting the authority of the federal government. Not only was this to be done by carefully defining the powers delegated to the government, but the Founders were determined to bind down its administrators with legal chains codified in the Constitution.

It will be recalled that one of the reasons many of the states would not adopt the original draft of the Constitution was that they feared the encroachments of the federal government on the rights of the states and the people. The first ten amendments were therefore added to include the ancient, unalienable rights of Anglo-Saxon freemen so there could be no question as to the strictly limited authority the people were conferring on their central government. Notice how carefully the Ninth and Tenth Amendments are worded:

[The Ninth Amendment](#)

[The Tenth Amendment](#)

[Original Balance Between Federal Government and States](#)

[Where Power Rivals Power](#)

[Why the Founders Would Have Frowned on the 17th Amendment](#)

## **The Ninth Amendment**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## **The Tenth Amendment**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The people felt that the hedging up of federal authority was absolutely essential because of their experience with corrupt and abusive governments in the past. Alexander Hamilton commented on this by saying:

"There is, in the nature of sovereign power, an impatience of control that disposes those who are invested with the exercise of it to look with an evil eye upon all external attempts to restrain or direct its operations.... This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controlled or abridged is almost always the rival and enemy of that power by which it is controlled or abridged. This simple proposition will teach us how little reason there is to expect that the persons entrusted with the administration of the affairs of the particular members of a confederacy [the federal government] will at all times be ready with perfect good humor and an unbiased regard to the public weal to execute the resolutions or decrees of the general authority. The reverse of this [expectation] results from the constitution of man." [216](#)

## **Original Balance Between Federal Government and States**

The separation of powers between the states and the federal government was designed to reinforce the principle of limited government. The federal government was supreme in all matters relating to its responsibility, but it was specifically restricted from invading the independence and sovereign authority reserved to the States. The Founders felt that unless this principle of dual sovereignty was carefully perpetuated, the healthy independence of each would deteriorate and eventually one or the other would become totally dominant. If the federal government became dominant, it would

mean the end of local self-government and the security of the individual. On the other hand, if the states became dominant, the federal government would become so weak that the structure of the nation would begin to fractionalize and disintegrate into smaller units. Alexander Hamilton emphasized these views of the Founders when he wrote:

"This balance between the national and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It forms a double security to the people. If one encroaches on their rights, they will find a powerful protection in the other. Indeed, they will both be prevented from overpassing their constitutional limits, by certain rivalship which will ever subsist between them." [217](#)

### **Where Power Rivals Power**

The Founders felt that by having a wholesome balance between the federal and state governments, the people would have recourse to one or the other in case of usurpation or abuse by either. Commenting further on this, Hamilton said:

"Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress." [218](#)

### **Why the Founders Would Have Frowned on the 17th Amendment**

But would the states be able to protect themselves from the might of the federal government if the Congress began legislating against states' rights? Originally, the states could protect themselves because U.S. Senators were appointed by the state legislatures, and the Senate could veto any legislation by the House of Representatives which they considered a threat to the rights of the individual states. Unfortunately, the protection of states' rights by this means was completely wiped out by the passage of the Seventeenth Amendment in 1913.

That amendment provided that Senators would thenceforth be elected by popular ballot rather than appointed by the state legislatures. This meant the states as sovereign commonwealths had lost their representation on the federal level, and their Senators would be subject to the same popular pressures during an election campaign as those which confront the members of the House of Representatives.

Since that time, there has been no veto power which the states could exercise against the Congress in those cases where a federal statute was deemed in violation of states' rights. The Senators who used to be beholden to their state legislatures for their conduct in Washington are now beholden to the popular electorate. Federal funds appropriated for a state are generally a source of popular acclaim, and Senators, like Congressmen, usually hasten to get them approved. Too often it has been of little consequence that those funds might be expended in violation of basic powers reserved to the state.

Sometime in the not-too-distant future, the people may want to take another look at the present trend and consider the advantages of returning to the Founders' policy of having state legislatures in the United States Senate. It might give us another generation of Senators like Daniel Webster, John Calhoun, and Henry Clay.

"Give me your tired, your poor, your huddled masses yearning to breathe free...." (Inscription on the Statue of Liberty)

**Twentieth Principle: Efficiency and dispatch require government to operate according to the will of the majority, but constitutional provisions must be made to protect the rights of the minority.**



"Give me your tired, your poor,  
your huddled masses yearning to breathe free ..."

-- Inscription on the Statue of Liberty

One of the most serious mistakes in the structure of the Articles of Confederation was the requirement that no changes could be made without the approval of every one of the states. During the Revolutionary War several vital changes were suggested, but in each instance a single state was able to prevent the needed change from being adopted.

[Basis for the "Majority" Rule](#)

[Problem of Securing "Unanimous Consent"](#)

[Majority Rule a Necessity.](#)

## Minorities Have Equal Rights

### **Basis for the "Majority" Rule**

Delaying action until it had the unanimous approval of all concerned can be disastrous in a time of emergency. It even inhibits healthy progress in normal times. Unanimity is the ideal, but majority rule becomes a necessity. The theory of majority rule was explained by John Locke as follows:

"When any number of men have ... consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude [bind] the rest....

"It being one body ... it is necessary the body should move that way whither the greater force carries it, which is the consent of majority, or else it is impossible it should act or continue one body....

"And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority, and to be concluded [bound] by it." [219](#)

### **Problem of Securing "Unanimous Consent"**

John Locke then dealt with the problem of having to wait on unanimous decision before any action can be taken. He stated:

"For if the consent of the majority shall not in reason be received as the act of the whole ... nothing but the consent of every individual can make anything to be the act of the whole, which, considering the infirmities of health and avocations of business which ... will necessarily keep many away from the public assembly; and the variety of opinions and contrariety of interests which unavoidably happen in all collections of men, it is next [to] impossible ever to be had." [220](#)

### **Majority Rule a Necessity**

It has sometimes been argued that a bare majority of one person scarcely justifies the making of a final decision for the whole body. It has been argued that it would be better to have a substantial majority of perhaps two-thirds or three-fourths. In the Constitution a provision of this type was incorporated in the text for the purpose of initiating amendments. A two-thirds majority is also required for the purpose of overriding a Presidential veto. Nevertheless, this requirement was considered dangerous when applied to the routine business of the Congress. Alexander Hamilton explained it as follows:

"To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser number... The necessity of unanimity in public bodies, or something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority....

"The public business must in some way or other go forward. If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority in order that something may be done must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings. Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good." [221](#)

### **Minorities Have Equal Rights**

Nevertheless, the American Founders had suffered enough from the tyrannical conduct of Parliament to feel highly sensitive to the rights of minorities. Thomas Jefferson referred to this in his first inaugural address on March 4, 1801, when he said:

"All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate would be oppression." [222](#)

We have already treated the problems faced by minorities. It is important for us to remember that every ethnic group in the United States was once a minority. We are literally a nation of minorities. However, it is the newcomers who feel they are not yet first-class citizens.

It is the responsibility of the minorities themselves to learn the language, seek needed education, become self sustaining, and make themselves recognized as a genuine asset to the community. Meanwhile, those who are already well established can help. The United States has built a reputation of being more generous and helpful to newcomers than any other nation. It is a reputation worth preserving. Once upon a time, we were all minorities.

## **Twenty-First Principle: Strong local self-government is the keystone to preserving human freedom.**



Political power automatically gravitates toward the center, and the purpose of the Constitution is to prevent that from happening. The centralization of political power always destroys liberty by removing the decision-making function from the people on the local level and transferring it to the officers of the central government. This process gradually benumbs the spirit of "voluntarism" among the people, and they lose the will to solve their own problems. They also cease to be involved in community affairs. They seek the anonymity of oblivion in the seething crowds of the city and often degenerate into faceless automatons who have neither a voice nor a vote.

[The Golden Key to Preserving Freedom](#)

[Jefferson Compares New England with Virginia](#)

[The Instinct for Self-Government Survives](#)

[Jefferson Emphasizes the Role of Strong Local Self-Government](#)

[Deployment of Power Between the Federal Government and the States](#)

[Federal Government to Remain Relatively Small](#)

## [A Prophecy.](#)

### **The Golden Key to Preserving Freedom**

How different from the New England town spirit, where every person had a voice and a vote. How different from the Anglo-Saxon tribal meetings, where the people were considered sovereign and every man took pride in participating. And how different from ancient Israel, where the families of the people were governed in multiples of tens, fifties, hundreds, and thousands, and where problems were solved on the level where those problems originated. All of those societies had strong local self-government. This is what the Founding Fathers considered the golden key to preserving freedom.

### **Jefferson Compares New England with Virginia**

Thomas Jefferson saw the advantages of the close-knit New England town over the aristocratic rural life of Virginia. Said he:

"These wards, called townships in New England, are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self government, and for its preservation." [223](#)

Jefferson was anxious to have all the English colonists in America revive the customs of their Anglo-Saxon ancestors, including strong local self-government. As historian Richard Frothingham points out:

"In ancient England, local self-government is found in connection with the political and territorial divisions of tythings, hundreds, burghs, counties, and shires, in which the body of inhabitants had a voice in managing their own affairs. Hence it was the germinal idea of the Anglo-Saxon polity.

"In the course of events, the Crown deprived the body of the people of this power of local rule, and vested it in a small number of persons in each locality, who were called municipal councils, were clothed with the power of filling vacancies in their number, and were thus self-perpetuating bodies. In this way, the ancient freedom of the municipalities was undermined, and the power of the ruling classes was installed in its place. Such was the

nature of the local self-government in England, not merely during the period of the planting of her American colonies (1607 to 1732), but for a century later.... It was a noble form robbed of its life-giving spirit." [224](#)

### **The Instinct for Self-Government Survives**

Nevertheless, Frothingham points out that these ancient institutions were not entirely forgotten by the people. He quotes the French historian and statesman Francois Guizot as saying:

"When there scarcely remained traces of popular assemblies, the remembrance of them, of the right of freemen to deliberate and transact their business together, resided in the minds of men as a primitive tradition, and a thing which might come about again." [225](#)

Frothingham says this is exactly what happened as Englishmen pulled away from the mother country and migrated to America. He says that in the colonies, "These assemblies reappeared, and old rights were again enjoyed, when the emigrants to the soil now the United States began to frame the laws under which they were to live." [226](#)

### **Jefferson Emphasizes the Role of Strong Local Self-Government**

As the Founders wrote their laws, they were determined to protect the freedom of the individual and provide a vigorous climate of healthy, local self-government. Only those things which related to the interest of the entire commonwealth were to be delegated to the central government. Thomas Jefferson probably said it better than anyone when he wrote:

"The way to have good and safe government is not to trust it all to one, but to divide it among the many, distributing to every one exactly the functions he is competent to [perform best]. Let the national government be entrusted with the defense of the nation, and its foreign and federal relations; the State governments with the civil rights, laws, police, and administration of what concerns the State generally; the counties with the local concerns of the counties, and each ward [township] direct the interests within itself. It is by dividing and subdividing these republics, from the great national one down through all its subordinations, until it ends in the administration of every man's farm by himself; by placing under every one

what his own eye may superintend, that all will be done for the best. What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating all cares and powers into one body, no matter whether of the autocrats of Russia or France, or of the aristocrats of a Venetian senate." [227](#)

## **Deployment of Power Between the Federal Government and the States**

James Madison, who is sometimes described as "the father of the Constitution," emphasized the necessity to reserve all possible authority in the states and the people. The Constitution delegates to the federal government only that which involves the whole people as a nation. He wrote:

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former [federal powers] will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce.... The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State." [228](#)

## **Federal Government to Remain Relatively Small**

Thomas Jefferson emphasized that if the oncoming generations perpetuated the Constitutional pattern, the federal government would be small and cohesive and would serve as an inexpensive operation because of the limited problems which would be assigned to it. He wrote:

"The true theory of our Constitution is surely the wisest and best, that the states are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better, the more they are left free to manage for themselves, and our general government may be reduced to a very simple organization, and

a very inexpensive one; a few plain duties to be performed by a few servants." [229](#)

### **A Prophecy**

One of the greatest American historians of the last generation was John Fiske. He caught the spirit of the Founders and studied their writings. He knew the secret to the 5,000 year leap which was then well on its way. He also saw some dangerous trends away from the Founders' basic formula of sound government. He therefore wrote a prophecy which Americans of our own day might ponder with profit:

"If the day should ever arrive (which God forbid!) when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self government of the states shall have been so far lost as that of the departments of France, or even so closely limited as that of the counties of England -- on that day the political career of the American people will have been robbed of its most interesting and valuable features, and the usefulness of this nation will be lamentably impaired." [230](#)

## **Twenty-Second Principle: A free people should be governed by law and not by the whims of men.**



To be governed by the whims of men is to be subject to the ever-changing capriciousness of those in power. This is ruler's law at its worst. In such a society nothing is dependable. No rights are secure. Things established in the present are in a constant state of flux. Nothing becomes fixed and predictable for the future.

[Law as a "Rule of Action"](#)

[Responsibility of Society to Establish Fixed Laws](#)

[John Adams](#)

[Aristotle](#)

[Plato Was Wrong](#)

[Law Is a Positive Good in Preserving Liberty.](#)

[Law Should Be Understandable and Stable](#)

### **Law as a "Rule of Action"**

The American Founders and their Anglo-Saxon forebears had an entirely different point of view. They defined law as a "rule of action" which was intended to be as binding on the ruler as it was upon the people. It was

designed to give society a stable frame of reference so the people could feel secure in making plans for the future. As John Locke said:

"Freedom of men under government is to have a standing rule to live by, common to everyone of that society, and made by the legislative power erected in it." [231](#)

Under established law every person's rights and duties are defined. Anglo-Saxon common law provided a framework of relative security and a sense of well-being for people and things, both present and future. This is the security which is designed to provide a high degree of freedom from fear and therefore freedom to act. Such a society gives its people a sense of liberty -- liberty under law. The American Founders believed that without the protection of law there can be no liberty.

### **Responsibility of Society to Establish Fixed Laws**

John Locke pointed out that unless a society can provide a person with a code of fixed and enforceable laws, he might as well have stayed in the jungle:

"To this end it is that men give up all their natural power to the society they enter into, and the community put the legislative power into such hands as they think fit, with this trust, that they shall be governed by declared laws, or else their peace, quiet, and property will still be at the same uncertainty as it was in the state of Nature." [232](#)

### **John Adams**

John Adams expressed the same tenor of thought when he said:

"No man will contend that a nation can be free that is not governed by fixed laws. All other government than that of permanent known laws is the government of mere will and pleasure." [233](#)

### **Aristotle**

Human experience has taught mankind this same principle down through the ages. Here are the words of Aristotle in his *Politics*:

"Even the best of men in authority are liable to be corrupted by passion. We may conclude then that the law is reason without passion, and it is therefore preferable to any individual." [234](#)

### **Plato Was Wrong**

We deduct from this that Aristotle had concluded that the teachings of his mentor, Plato, were wrong. Plato believed that in the ideal society the people should be governed "by the few" who would rule according to "scientific principles" and make on-the-spot decisions to force the people to do what is good for them. [235](#) Plato argued that these men must not be restricted by written laws but should govern the people in whatever manner they felt was for the best. He said:

"The best thing of all is not that the law should rule, but that a man should rule, supposing him to have wisdom and royal power." [236](#)

Plato acknowledged that in the absence of rulers with the "scientific" wisdom to govern, a code of laws would be needed, but he insisted that this would be the "second best thing."

### **Law Is a Positive Good in Preserving Liberty**

As we have seen, the American Founding Fathers would have agreed with Aristotle rather than Plato. Part of this was due to the fact that the Founders looked upon law differently than Plato. Instead of treating law as merely a code of negative restraints and prohibitions, they considered law to be a system of positive rules by which they could be assured of enjoying their rights and the protection of themselves, their families, and their property. In other words, law was a positive good rather than a necessary evil. This was precisely the view of John Locke when he wrote:

"The end of law is not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings, capable of laws, where there is no law there is no freedom. For liberty is to be free from restraint and violence from others, which cannot be where there is no law." [237](#)

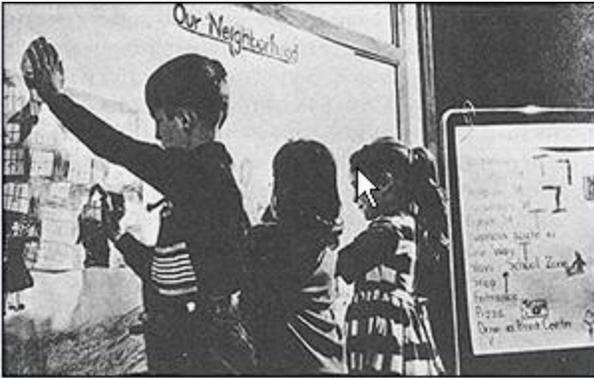
### **Law Should Be Understandable and Stable**

The Founders were sensitive to the fact that the people have confidence in the law only to the extent that they can understand it and feel that it is a rule of relative permanence which will not be continually changed. James Madison emphasized both of these points when he wrote:

"It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known and less fixed?" [238](#)

It will be recalled that Thomas Jefferson resigned from Congress in 1776 to hasten back to Virginia and volunteer for the task of rewriting the state laws so that, when independence had been won, the people would have a model system of legal principles which they could understand and warmly support. The complex codes of laws and regulations in our own day could be greatly improved through a similar housecleaning.

**Twenty-Third Principle: A free society cannot survive as a  
republic  
without a broad program of general education.**



The English colonists in America undertook something which no nation had ever attempted before -- the educating of the whole people. The colonists had a sense of "manifest destiny" which led them to believe that they must prepare themselves for a most unique and important role in the unfolding of modern world history. Universal education was therefore considered an indispensable ingredient in this preparation.

[John Adams Describes Beginning of Public Education](#)

[Importance of Good Local School Boards](#)

[European and American Literacy Compared](#)

[De Tocqueville Comments on American Education in 1831](#)

[Excursions in the Wilderness](#)

[Education Includes Morality and Politics](#)

[Even Young Children Trained in the Constitution](#)

[Early Americans Educated to Speak with Eloquence](#)

[Cultural Influence of Extensive Bible Reading](#)

## **John Adams Describes Beginning of Public Education**

The movement for universal education began in New England. Clear back in 1647 the legislature of Massachusetts passed a law requiring every community of 50 families or householders to set up a free public grammar school to teach the fundamentals of reading, writing, ciphering, history, geography, and Bible study. In addition, every township containing 100 families or more was required to set up a secondary school in advanced studies to prepare boys for attendance at Harvard. John Adams stated that this whole program was designed to have "knowledge diffused generally through the whole body of the people." He said:

"They made an early provision by law that every town consisting of so many families should be always furnished with a grammar school. They made it a crime for such a town to be destitute of a grammar schoolmaster for a few months, and subjected it to heavy penalty. So that the education of all ranks of people was made the care and expense of the public, in a manner that I believe has been unknown to any other people, ancient or modern.

"The consequences of these establishments we see and feel every day [written in 1765]. A native of America who cannot read and write is as rare ... as a comet or an earthquake. It has been observed that we are all of us lawyers, divines, politicians, and philosophers. And I have good authorities to say that all candid foreigners who have passed through this country and conversed freely with all sorts of people here will allow that they have never seen so much knowledge and civility among the common people in any part of the world.... Liberty cannot be preserved without a general knowledge among the people.... They have a right, an indisputable, unalienable, indefeasible, divine right to that most dreaded and envied kind of knowledge -- I mean, of the characters and conduct of their rulers." [239](#)

## **Importance of Good Local School Boards**

The success of this educational effort was due largely to the careful selection of highly conscientious people to serve on the school committees in each community and supervise the public schools. Historian John Fiske says these school committees were bodies of "great importance." Then he adds:

"The term of service of the members is three years, one third being chosen annually. The number of members must therefore be some multiple of three. The slow change in the membership of the board insures that a large proportion of the members shall always be familiar with the duties of the place. The school committee must visit all the public schools at least once a month, and make a report to the town every year. It is for them to decide what textbooks are to be used. They examine candidates for the position of teacher and issue certificates to those whom they select." [240](#)

### **European and American Literacy Compared**

The unique and remarkable qualities of this program are better appreciated when it is realized that this was an age when illiteracy was the common lot of most people in Europe. John Adams, who spent many years in France, commented on the fact that of the 24 million inhabitants of France, only 500,000 could read and write. [241](#)

In the American colonies the intention was to have all children taught the fundamentals of reading, writing, and arithmetic, so that they could go on to become well informed citizens through their own diligent self-study. No doubt this explains why all of the American Founders were so well read, and usually from the same books, even though a number of them had received a very limited formal education. The fundamentals were sufficient to get them started, and thereafter they became remarkably well informed in a variety of areas through self-learning. This was the pattern followed by both Franklin and Washington.

### **De Tocqueville Comments on American Education in 1831**

Gradually, the zeal for universal education spread from New England to all of the other colonies. By 1831, when Alexis de Tocqueville of France visited the United States, he was amazed by the fruits of this effort. He wrote:

"The observer who is desirous of forming an opinion on the state of instruction among the Anglo Americans must consider the same object from two different points of view. If he singles out only the learned, he will

be astonished to find how few they are; but if he counts the ignorant, the American people will appear to be the most enlightened in the world....

"In New England every citizen receives the elementary notions of human knowledge; he is taught, moreover, the doctrines and the evidences of his religion, the history of his country, and the leading features of its Constitution. In the states of Connecticut and Massachusetts, it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon." [242](#)

### **Excursions in the Wilderness**

De Tocqueville pointed out that as the visitor advanced toward the West or the South, "the instruction of the people diminishes." Nevertheless, he said, "there is not a single district in the United States sunk in complete ignorance...." [243](#) De Tocqueville made extensive excursions along the frontier and commented on his observations as follows:

"At the extreme borders of the confederated states, upon the confines of society and wilderness, a population of bold adventurers have taken up their abode, who pierce the solitudes of the American woods.... As soon as the pioneer reaches the place which is to serve him for a retreat, he fells a few trees and builds a log house. Nothing can offer a more miserable aspect than these isolated dwellings.... Yet no sort of comparison can be drawn between the pioneer and the dwelling that shelters him. Everything about him is primitive and wild, but he is himself the result of the labor and experience of eighteen centuries. He wears the dress and speaks the language of cities; he is acquainted with the past, curious about the future, and ready for argument about the present; he is, in short, a highly civilized being, who consents for a time to inhabit the backwoods, and who penetrates into the wilds of the New World with the Bible, an axe, and some newspapers. It is difficult to imagine the incredible rapidity with which thought circulates in the midst of these deserts [wilderness]. I do not think that so much intellectual activity exists in the most enlightened and populous districts of France." [244](#)

### **Education Includes Morality and Politics**

He then went on to comment concerning the close relationship between the program of universal education and the preservation of freedom:

"It cannot be doubted that in the United States the instruction of the people powerfully contributes to the support of the democratic republic; and such must always be the case, I believe, where the instruction which enlightens the understanding is not separated from the moral education.... An American should never be led to speak of Europe, for he will then probably display much presumption and very foolish pride.... But if you question him respecting his own country, the cloud that dimmed his intelligence will immediately disperse; his language will become as clear and precise as his thoughts. He will inform you what his rights are and by what means he exercises them; he will be able to point out the customs which obtain in the political world. You will find that he is well acquainted with the rules of the administration, and that he is familiar with the mechanism of the laws.... The American learns to know the laws by participating in the act of legislation; and he takes a lesson in the forms of government from governing. The great work of society is ever going on before his eyes and, as it were, under his hands.

"In the United States, politics are the end and aim of education.... [245](#)

## **Even Young Children Trained in the Constitution**

To appreciate the literal reality of the emphasis on politics in early American education, one need only examine the popular textbook on political instruction for children. It was called a "Catechism on the Constitution," and it contained both questions and answers concerning the principles of the American political system. It was written by Arthur J. Stansbury and published in 1828.

Early Americans knew they were in possession of a unique and valuable invention of political science, and they were determined to promote it on all levels of education.

## **Early Americans Educated to Speak with Eloquence**

In 1843, Daniel Webster made a statement which might surprise Americans of our own day:

"And whatever may be said to the contrary, a correct use of the English language is, at this day [1843], more general throughout the United States than it is throughout England herself." [246](#)

It was commonplace for the many people on the frontier, as well as on the Atlantic seaboard, to speak with a genuine flavor of eloquence. Sermons and orations by men of limited formal education reflected a flourish and style of expression which few Americans could duplicate today. Many of these attributed their abilities to extensive reading of the Bible. Such was the case with Abraham Lincoln. Certainly the classical beauty of the Gettysburg Address and his many other famous expressions cannot be attributed to college training, for he had none.

## **Cultural Influence of Extensive Bible Reading**

Not only did the Bible contribute to the linguistic habits of the people, but it provided root strength to their moral standards and behavioral patterns. As Daniel Webster stated, wherever Americans went, "the Bible came with them." Then he added:

"It is not to be doubted, that to the free and universal reading of the Bible, in that age, men were much indebted for right views of civil liberty. The Bible is a book of faith, and a book of doctrine, and a book of morals, and a book of religion, of especial revelation from God; but it is also a book which teaches man his own individual responsibility, his own dignity, and his equality with his fellow-man." [247](#)

In our own day the public schools have been secularized to the point where no Bible reading is permitted. The Founding Fathers would have counted this a serious mistake.

**Twenty-Fourth Principle: A free people will not survive unless they stay strong.**



A free people in a civilized society always tend toward prosperity. In the case of the United States, the trend has been toward a super-abundant prosperity. Only as the federal government has usurped authority and intermeddled with the free-market economy has this surge of prosperity and high production of goods and services been inhibited.

But prosperity in the midst of thriving industry, fruitful farms, beautiful cities, and flourishing commerce always attracts the greedy aspirations of predatory nations. Singly, these covetous predators may not pose a threat, but federated together they may present a spectre of total desolation to a free, prosperous people. Before the nation's inhabitants are aware, their apocalypse of destruction is upon them.

It was the philosophy of the Founders that the kind hand of Providence had been everywhere present in allowing the United States to come forth as the first free people in modern times. They further felt that they would forever be blessed with freedom and prosperity if they remained a virtuous and adequately armed nation.

[Franklin's Philosophy of Defense](#)

[Franklin Disgusted with Popular Apathy](#)

[The Thoughts of George Washington](#)

[Washington's Fifth Annual Address to Congress](#)

[A Duty to the Creator to Preserve Freedom and Unalienable Rights](#)

[The American Inheritance](#)

### **Franklin's Philosophy of Defense**

Clear back in 1747, Benjamin Franklin vividly comprehended the task ahead. Said he:

"Were this Union formed, were we once united, thoroughly armed and disciplined, were everything in our power done for our security, as far as human means and foresight could provide, we might then, with more propriety, humbly ask the assistance of Heaven and a blessing on our lawful endeavors." [248](#)

Peace was the goal, but strength was the means. Franklin envisioned the day when a prudent policy of national defense would provide the American people with the protection which their rise to greatness would require. He wrote:

"The very fame of our strength and readiness would be a means of discouraging our enemies; for 'tis a wise and true saying, that "One sword often keeps another in the scabbard." The way to secure peace is to be prepared for war. They that are on their guard, and appear ready to receive their adversaries, are in much less danger of being attacked than the supine, secure and negligent." [249](#)

Franklin further saw that those in authority have the inherent responsibility to initiate the means by which adequate defenses can be provided. He declared:

"Protection is as truly due from the government to the people, as obedience from the people [is due] to the government." [250](#)

In later life he held to the same solid philosophy of peace through strength as an assurance of survival in the future:

"Our security lies, I think, in our growing strength, both in numbers and wealth; that creates an increasing ability of assisting this nation in its wars, which will make us more respectable, our friendship more valued, and our enmity feared; thence it will soon be thought proper to treat us not with justice only, but with kindness, and thence we may expect in a few years a total change of measures with regard to us; unless, by a neglect of military discipline, we should lose all martial spirit, and our western people become as tame as those in the eastern dominions of Britain [India], when we may expect the same oppressions; for there is much truth in the Italian saying, "Make yourselves sheep, and the wolves will eat you." [251](#)

### **Franklin Disgusted with Popular Apathy**

Franklin had a low opinion of people who waved the flag of liberty but would do little or nothing to provide the means for defending it. His mind-set called for action to back up the words. Writing from England, he declared:

"Our people certainly ought to do more for themselves. It is absurd, the pretending to be lovers of liberty while they grudge paying for the defense of it. It is said here, that an impost of five percent on all goods imported, though a most reasonable proposition, had not been agreed to by all the States, and was therefore frustrated; and that your newspapers acquaint the world with this, with the non-payment of taxes by the people, and with the non-payment of interest to the creditors of the public. The knowledge of these things will hurt our credit." [252](#)

### **The Thoughts of George Washington**

George Washington is often described as "First in peace, first in war, first in the hearts of his countrymen."

No American occupied a more substantive position, either then or now, to proclaim what he considered to be a necessary posture for the preservation of the nation. He had literally risked "his life, his fortune, and his sacred honor" for the cause of freedom and performed that task under circumstances which would have smothered the endurance of men with lesser stamina and courage. He fought the Revolutionary War with no navy

of any consequence, no trained professional army of either size or stability, and no outpouring of genuine support from the very states he was striving to save. He could have retired in bitterness after Valley Forge and Morristown, but that was not his character. He did not relish the anguish of it all, but he endured it. To George Washington, it was all part of "structuring a new nation."

Washington's position on national defense was in terms of grim realities experienced on the field of battle. No man wanted peace more than he. And no man was willing to risk more in life and property to achieve it. In nearly the same words as Franklin he declared:

"To be prepared for war is one of the most effectual means of preserving peace." [253](#)

Washington also saw the fallacy of waiting until an attack had occurred before marshalling available resources. He wrote:

"A free people ought not only to be armed, but disciplined; to which end a uniform and well-digested plan is requisite." [254](#)

Washington also saw the fallacy of a policy of interdependence with other nations which made the United States vulnerable in time of war. In his first annual address to Congress, he spoke of the people's general welfare, then stated:

"And their safety and interest require that they should promote such manufactories as tend to render them independent of others for essentials, particularly military supplies." [255](#)

Washington felt that neither politics nor world circumstances should lure the American people into a posture of complacency. He felt that vigilance was indeed the price of freedom, and unless it was promoted with firmness and consistency the future of the United States would be in jeopardy. In another speech he said:

"The safety of the United States, under Divine protection, ought to rest on the basis of systematic and solid arrangements, exposed as little as possible to the hazards of fortuitous circumstances." [256](#)

### **Washington's Fifth Annual Address to Congress**

As President, Washington perceived the tendency of Congress to avoid its responsibility to provide adequate defenses. Because the President was personally responsible for the nation's foreign relations, he was well aware

that the new born United States had a long way to go to insure decent respect and deference from the arrogant European powers. In his fifth annual address to Congress, he said:

"I cannot recommend to your notice measures for the fulfillment of our duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of complete defense, and of exacting from them the fulfillment of their duties toward us." [257](#)

Washington could already see the predatory monarchs of Europe planning to slice up the United States and divide it among them unless the people alerted themselves to the exigencies of the day. The British still had their troops stationed along the northern border of U.S. territory. The Spanish had definite aspirations to make a thrust into the Mississippi heartland. From Washington's point of view, all was not well in America's happy valley. Therefore he told the Congress:

"There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war." [258](#)

### **A Duty to the Creator to Preserve Freedom and Unalienable Rights**

Samuel Adams emphasized the moral responsibility of Americans to preserve the heritage of freedom and unalienable rights with which the Creator had endowed them. Once these blessings have been vouchsafed to a human being, Sam Adams felt it was a wicked and unnatural thing to allow those great fruits of liberty to languish by neglect or apathy. When individuals combine into a society, they bring all of their natural rights with them. Under no circumstances must these be allowed to dwindle away. Said he:

"It is the greatest absurdity to suppose it [would be] in the power of one, or any number of men, at the entering into society, to renounce their essential natural rights, or the means of preserving those rights; when the grand end of civil government, from the very nature of its institution, is for the support, protection, and defense of those very rights; the principal of which ... are life, liberty, and property. If men, through fear, fraud, or mistake, should in terms renounce or give up any essential natural right, the

eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of God Almighty, it is not in the power of man to alienate this gift and voluntarily become a slave." [259](#)

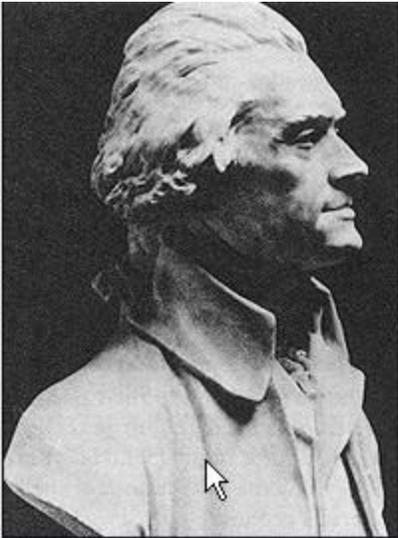
### **The American Inheritance**

Thus the Founders passed on to their posterity a policy of peace through strength. They were peace-loving, but not pacifists. They called for a rugged kind of strength bolted to a broad base. They saw the foundation for their security in a bustling, prosperous economy with a high standard of public morality; and they saw the necessity for a level of preparedness which discouraged attack from potential enemies by creating a rate of risk so high that the waging of war against this nation would be an obviously unprofitable undertaking.

As Samuel Adams wrote to a sympathetic friend in England:

"It is the business of America to take care of herself; her situation, as you justly observe, depends upon her own virtue." [260](#)

**Twenty-Fifth Principle: "Peace, commerce, and honest  
friendship with  
all nations -- entangling alliances with none."**



"Friendship with all ... alliances with none." -- Thomas Jefferson

These are the words of Thomas Jefferson, given in his first inaugural address. [261](#)

As the United States emerged on the world scene in the eighteenth century, American leaders took a united and fixed position against entangling alliances with any foreign powers unless an attack against the United States made such alliances temporarily necessary.

This was the Founders' doctrine of "separatism." This was far different from the modern term of "isolationism." The latter term implies a complete seclusion from other nations, as though the United States were to be detached and somehow incubated in isolation from other nations.

In point of fact, the policy of the Founders was just the opposite. They desired to cultivate a wholesome relationship with ALL nations, but they wished to remain aloof from sectional quarrels and international disputes. They wanted to avoid alliances of friendship with one nation which would make them enemies of another nation in a time of crisis. They wanted to keep American markets open to all countries unless certain countries engaged in hostilities toward the United States.

[Switzerland Followed the Founders' Policy.](#)

[Washington Describes the Founders' Plans](#)

[The Problem with "Playing Favorites"](#)

[Concerning Most-favored Nations](#)

[What American Foreign Policy Should Be](#)

[A World Policy](#)

[Commercial Relations with Other Nations](#)

[The Founders' Effort to Reconcile "Separatism" with Manifest Destiny](#)

["Separatism" Replaced by "Internationalism"](#)

[Congressman Charles A. Lindbergh Counts American "Internationalism" a Serious Mistake](#)

[Visualizing America as a World Peacemaker](#)

[A New Role for America?](#)

### **Switzerland Followed the Founders' Policy**

The Founders' original policy was similar in many ways to that of modern Switzerland, which has successfully remained neutral and aloof from entangling alliances during two world wars and numerous European quarrels. During these periods of intense military action, Switzerland did not follow a policy of "isolationism," but one of universal diplomatic relations with all who might wish to come to Switzerland to buy, sell, borrow, or bank. She took a hostile posture toward none unless threatened. In general terms, this is analogous to the doctrine of "separatism" practiced by the early American leaders.

### **Washington Describes the Founders' Plans**

The universality of foreign relations which Washington hoped to engender is reflected in the following statement from his famous Farewell Address:

"Observe good faith and justice toward all nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence." [262](#)

From experience Washington was well aware of the natural tendency to classify nations as "friends" or "enemies." He felt that in the absence of political, military, or commercial hostility toward the United States, every effort should be made to cultivate friendship with all. He wrote:

"In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded, and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest." [263](#)

Washington pointed out that "antagonism by one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur." [264](#)

### **The Problem with "Playing Favorites"**

By the same token, the United States could become overly attached to some nations because the people feel a special kinship or affection toward them. Washington warned:

"So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to

have been retained, and by exciting jealousy, ill will, and disposition to retaliate in the parties from whom equal privileges are withheld." [265](#)

### **Concerning Most-favored Nations**

Washington also warned that giving a more favored status to particular nations could open up the United States to strong foreign influences which could subvert the security or best interests of the United States. In fact, American officials seeking to accommodate friendly allies could inadvertently compromise American interests to a very dangerous extent. Washington said:

"Against the insidious wiles of foreign influence, I conjure you to believe me, fellow citizens, the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side and serve to veil and even second the arts of influence on the others. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests." [266](#)

### **What American Foreign Policy Should Be**

Washington then made his famous declaration of the Founders' policy of foreign relations:

"The great rule of conduct for us, in regard to foreign nations, is in extending our commercial relations to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop." [267](#)

Even within the previous few years, Washington had seen the tendency to get the United States embroiled in European disputes, and he saw them operating to the distinct disadvantage of the United States. Therefore, he warned:

"Europe has a set of primary interests which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary combinations and collisions of her friendships or enmities.... Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interests, humor, or caprice?" [268](#)

### **A World Policy**

And what he had said concerning Europe he would say to the rest of the world:

"It is our true policy to steer clear of permanent alliances with any portion of the foreign world. So far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs that honesty is always the best policy). I repeat it, therefore: let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary and would be unwise to extend them." [269](#)

He said that "temporary alliances" may be justified for "extraordinary emergencies," but other than that, "harmony, liberal intercourse with all nations are recommended by policy, humanity, and interest." [270](#)

### **Commercial Relations with Other Nations**

Washington felt the same policy should apply to America's commercial relations with foreign countries:

"But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed, in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary and liable to be from time to

time abandoned or varied, as experience and circumstances shall dictate." [271](#)

Washington was not in favor of the United States government begging for special privileges, monopolies, or advantages from other nations in commercial treaties. He said:

"It is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate, upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard." [272](#)

Long after Washington was dead, Jefferson reiterated these same basic principles in a letter to James Monroe dated October 24, 1823:

"Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cis-Atlantic [western hemisphere] affairs. America, north and south, has a set of interests distinct from those of Europe, and peculiarly her own. She should therefore have a system of her own, separate and apart from that of Europe. While the last [Europe] is laboring to become the domicile of despotism, our endeavors should surely be to make our hemisphere that of freedom." [273](#)

## **The Founders' Effort to Reconcile "Separatism" with Manifest Destiny**

American separatism did have one aspect which was clearly distinct from Swiss neutrality: the Founders accepted the doctrine of "Manifest Destiny." This placed upon the American people the responsibility of serving as the vanguard nation for the moral and political emancipation of all mankind. Freedom, education, and progress for all men were a common denominator in the thinking of early American leaders. As John Adams wrote:

"I always consider the settlement of America with reverence and wonder, as the opening of a grand scene and design in Providence for the illumination of the ignorant, and the emancipation of the slavish part of mankind all over the earth." [274](#)

In the same spirit, James Madison wrote: "Happily for America, happily we trust for the whole human race, they [the Founders] pursued a new and more noble course." [275](#)

The Monroe Doctrine was specifically designed to insulate the western hemisphere from further contamination by quarreling European monarchs. The Founders hoped Mexico and each of the Latin American countries would gradually follow the example of the United States in becoming free, self-governing people. Once the spirit of freedom had encompassed North, Central, and South America, they hoped it would do just as James Madison said -- spread abroad until it had become the heritage of "the whole human race."

### **"Separatism" Replaced by "Internationalism"**

"Separatism," and pursuing a "manifest destiny" to encourage the emancipation of "the whole human race," was the official policy of the United States for the first 125 years of its history.

Nevertheless, there were powerful influences congregating in the United States, particularly in financial circles, which wanted America in the thick of things, world-wide. Their opportunity came with the eruption of World War I. Congressional investigations by the Reece Committee revealed that long before the Lusitania sinking, these influences were agitating for U.S. involvement. [276](#)

Although the United States narrowly avoided becoming a member of the League of Nations after World War I, the stage was set for an accelerated involvement of the United States, both economically and politically, in foreign quarrels.

### **Congressman Charles A. Lindbergh Counts American "Internationalism" a Serious Mistake**

After World War I, Congressman Charles A. Lindbergh, Sr., father of the famous "Lone Eagle" who was the first to fly the Atlantic, asked the people of the United States to reconsider the policy Washington was pursuing in its foreign affairs. He was particularly concerned about how Americans were pushed into World War I. In 1923 he wrote:

"Take for example our entry into the World War [in 1917]. We did not think. We elected a president for a second term because he said he 'kept us out of war' in his first term. We proved by a large vote that we did not want to go to war, but no sooner was the president re-elected than the propaganda started to put us to war. Then we became hysterical, as people always have done in war, and we believed everything bad against our enemy and believed only good of our allies and ourselves. As a matter of fact all the leaders were bad, vicious. They lost their reason and the people followed....

"We cannot properly blame the people of any of the European nations, unless we blame ourselves. None of them were free from danger of the others.... We, however, were not in danger, statements by profiteers and militarists to the contrary notwithstanding.... The greatest good we could do the world at that time was to stay out, and that would have been infinitely better for ourselves, for we could have helped the world had we conserved our resources.

"There never was a nation that did a more un-statesmanlike thing than we did to enter the war. We came out without establishing a single principle for which we entered....

"The one compelling duty of America is to put its own house in shape, and to stand upon an economic system that will make its natural resources available to the intelligence, industry and use of the people. When we do that the way to world redemption from the folly of present chaos will stand out in our country so clearly, honestly and usefully that we shall be copied wherever peoples do their own thinking. [277](#)

### **Visualizing America as a World Peacemaker**

As World War II broke out in Europe during September 1939, there was widespread hope among Americans that the United States could somehow resist the temptation to become involved. Highly perceptive leaders who had served in Washington and knew the tragic consequences of "internationalism" as a basic foreign policy raised warning voices against participation in another world war. One of these was a former Under-Secretary of State and former ambassador to Mexico. As a prominent writer on Constitutional issues, he consistently reflected the views of the Founders. In 1939 he gave a speech urging American leaders to recognize the role of America as a great world peacemaker. Said he:

"America, multi-raced and multi-nationed, is by tradition, by geography, by citizenry, by natural sympathy, and by material interest, the great neutral nation of the earth. God so designed it. Drawn from all races, creeds, and nations, our sympathies run to every oppressed people. Our feelings engaged on opposite sides of great differences, will in their natural course, if held in due and proper restraint, neutralize the one [with] the other. Directed in right channels, this great body of feeling for the one side or the other will ripen into sympathy and love for all misguided and misled fellowmen who suffer in any cause, and this sympathy and love will run out to all humanity in its woe....

"One of the great tragedies of the war [World War II] now starting is that every people now engaged in it have been led into it without their fully knowing just where they are bound. The people themselves are largely innocent of this slaughter... As the great neutral of the earth, America may play a far greater part in this war... It is our solemn duty to play a better part than we can do by participating in the butchery....

"... having in mind our position as the great world neutral, and remembering that the people of these warring nations have been led into this conflict largely unwittingly, and therefore are largely blameless, we should announce our unalterable opposition to any plan to starve these innocent peoples involved in this conflict -- the women, the children, the sick, the aged, and the infirm -- and declare that when actual and bonafide mass starvation shall come to any of them, no matter who they are, we shall do all that we properly may do to see that they are furnished with food....

"If we shall rebuild our lost moral power and influence by measures such as these which will demonstrate our love for humanity, our justice, our fairmindedness ... we shall then be where ... we can offer mediation between the two belligerents.

"America, the great neutral, will thus become the Peacemaker of the world, which is her manifest destiny if she lives the law of peace." [278](#)

### **A New Role for America?**

Since the former Under-Secretary of State, J. Reuben Clark, Jr., gave this speech, the United States has been involved in three major wars, including the holocaust of World War II. Looking back, one cannot help wondering how much happier, more peaceful, and more prosperous the world would be

if the United States had been following a policy of "separatism" as the world's great peacemaker instead of "internationalism" as the world's great policeman.

**Twenty-Sixth Principle: The core unit which determines the strength of any society is the family; therefore, the government should foster and protect its integrity.**



The family-centered culture which developed in America was not the austere pattern developed in England or the profligate pattern which characterized France. Alexis de Tocqueville compared the American family with that of Europe in the following words:

"There is certainly no country in the world where the tie of marriage is more respected than in America, or where conjugal happiness is more highly or worthily appreciated. In Europe almost all the disturbances of society arise from the irregularities of domestic life. To despise the natural bonds and legitimate pleasure of home is to contract a taste for excesses, a restlessness of heart, and fluctuating desires. Agitated by the tumultuous passions that frequently disturb his dwelling, the European is galled by the obedience which the legislative powers of the state exact. But when the American retires from the turmoil of public life to the bosom of his family, he finds in it the image of order and of peace. There his pleasures are simple and natural, his joys are innocent and calm; and as he finds that an orderly life is the surest path to happiness, he accustoms himself easily to moderate his opinions as well as his tastes. While the European endeavors to forget his domestic troubles by agitating society, the American derives from his own home that love of order which he afterwards carries with him into public affairs." [279](#)

[Equality of Men and Women Under God's Law](#)

["Father" and "Mother" Treated Equally in Scripture](#)

[The Early New England Family](#)

[A Note on Benjamin Franklin](#)

[Benjamin Franklin's Comment on Marriage](#)

[Responsibility of Parents to Children](#)

[What a Mature Adult Should Know](#)

[Responsibility of Children to Parents](#)

[The State Must Not Interfere with Legitimate Family Relations](#)

### **Equality of Men and Women Under God's Law**

The American Founders felt that the legal, moral, and social relationships between husband and wife were clearly established by Bible law under what Dr. H. Carlton Marlow has described as "differential" equality. [280](#)

The husband and wife each have their specific rights appropriate to their role in life, and otherwise share all rights in common. The role of the man is "to protect and provide." The woman's role is to strengthen the family solidarity in the home and provide a wholesome environment for her husband and children. For the purpose of order, the man was given the decision-making responsibilities for the family; and therefore when he voted in political elections, he not only cast a ballot for himself, but also for his wife and children.

In theory, God's law made man first in governing his family, but as between himself and his wife he was merely first among equals. The Apostle Paul pointed out in his epistle to the Corinthians:

Neither is the man without the woman, neither the woman without the man, in the Lord. (1 Corinthians 11:11.)

**"Father" and "Mother" Treated Equally in Scripture**

John Locke wrote his *Second Essay Concerning Civil Government* just as the colonies were becoming established, and his thinking was reflected in the family life-style of the American colonies more than in England itself. He stressed the equal responsibility of mother and father in rearing the children. He stated that the term "paternal authority"

"... seems so to place the power of parents over their children wholly in the father, as if the mother had no share in it; whereas if we consult reason or revelation, we shall find she has an equal title, which may give one reason to ask whether this might not be more properly called parental power? For whatever obligation Nature and the right of generation lays on children, it must certainly bind them equally to both the concurrent causes of it. And accordingly we see the positive law of God everywhere joins them together without distinction, when it commands the obedience of children: 'Honor thy father and thy mother' (Exodus 20:12); 'Whosoever curseth his father or his mother' (Leviticus 20:9); 'Ye shall fear every man his mother and his father' (Leviticus 19:3); 'Children, obey your parents' (Ephesians 6:1), etc., is the style of the Old and New Testament." [281](#)

### **The Early New England Family**

There is no doubt that the family life-style of early Americans contributed significantly to their success. Speaking of the early New England families, historian Wallace Notestein writes:

"It was the duty of husbands to love their wives and to have due regard for them. It was even suggested they should make financial allowances for them, as some Puritan gentlemen did, and give them a certain control over the household. What is more significant, Puritan writers had a great deal to say about the family and its unity. From diaries and biographies one gains an impression that husbands and wives in their common effort to bring about the kingdom of God on earth lived happily with one another. A common purpose was the best of all ties." [282](#)

### **A Note on Benjamin Franklin**

Not only was the unity of men and women emphasized, but also the complete interdependence of a man and a woman for their mutual

happiness. It may seem strange to quote Benjamin Franklin on this subject, since certain historians have entertained the public for years with the alleged romantic profligacy of the famous Franklin. In point of fact, he admits in his autobiography that after running away from his home as a youth he fell in with certain rough companions and later had a son whom he named William. Nevertheless, he raised his son honorably, and William eventually became governor of New Jersey. With reference to Franklin's later life, a specialist on his papers and background at Yale University, Dr. Claude-Anne Lopez, says the stories about his "thirteen illegitimate children" and similar wild stories have proven to be myths. She says careful research is disclosing that Franklin was not the philanderer many writers have represented him to be. [283](#)

### **Benjamin Franklin's Comment on Marriage**

From his own pen, we have Franklin at the age of 46 emphasizing the importance of marriage as he attempted to dissuade a young friend from taking a mistress. He wrote:

"Marriage is the proper remedy. It is the most natural state of man, and therefore the state in which you are most likely to find solid happiness. Your reasons against entering into it at present appear to me not well founded. The circumstantial advantages you have in view by postponing it are not only uncertain, but they are small in comparison with that of the thing itself, the being *married* and *settled* [emphasis by Franklin]. It is the man and woman united that make the complete human being. Separate, she wants his force of body and strength of reason; he, her softness, sensibility, and acute discernment. Together they are more likely to succeed in the world. A single man has not nearly the value he would have in that state of union. He is an incomplete animal. He resembles the odd half of a pair of scissors. If you get a prudent, healthy wife, your industry in your profession, with her good economy, will be a fortune sufficient." [284](#)

### **Responsibility of Parents to Children**

The trilateral construction of the family, consisting of father, mother, and children, raises the basic question of the duty of the parents to the children

and the respect which the children owe their parents. Locke stated that the authority of parents over children is based on an important principle of natural law:

"The power, then, that parents have over their children arises from that duty which is incumbent on them, to take care of their offspring during the imperfect state of childhood. To inform the mind, and govern the actions of their yet ignorant nonage, till reason shall take its place and ease them of that trouble, is what the children want, and the parents are bound to [provide]." [285](#)

### **What a Mature Adult Should Know**

Locke then went on to point out that once a person has grown to adulthood and learned from experience and maturity the proper use of his reason, he should be capable of applying the revealed laws of God to his daily life:

"When he has acquired that state [of maturity], he is presumed to know how far that law is to be his guide, and how far he may make use of his freedom, and so comes to have it; till then, somebody else must guide him, who is presumed to know how far the law allows a liberty. If such a state of reason, such an age of discretion made him free, the same shall make his son free too. Is a man under the law of England? What made him free of that law -- that is, to have the liberty to dispose of his actions and possessions, according to his own will, within the permission of that law? A capacity of knowing that law, which is supposed, by that law, at the age of twenty one, and in some cases sooner. If this made the father free, it shall make the son free too. Till then, we see the law allows the son to have no will, but he is to be guided by the will of his father or guardian, who is to understand for him.... But after that [age of maturity is obtained] the father and son are equally free, as much as tutor and pupil after nonage, equally subjects of the same law together, without any dominion left in the father over the life, liberty, or estate of his son." [286](#)

### **Responsibility of Children to Parents**

Locke said that the reciprocal responsibility of children to honor and obey their parents is equally specific:

"As He [God] hath laid on them [the parents] an obligation to nourish, preserve, and bring up their offspring, so He has laid on the children a perpetual obligation of honoring their parents, which, containing in it an inward esteem and reverence to be shown by all outward expressions, ties up the child from anything that may ever injure or affront, disturb or endanger the happiness or life of those from whom he received his [life], and engages him in all actions of defense, relief, assistance, and comfort of those by whose means he entered into being and has been made capable of any enjoyments of life. From this obligation no state, no freedom, can absolve children." [287](#)

### **The State Must Not Interfere with Legitimate Family Relations**

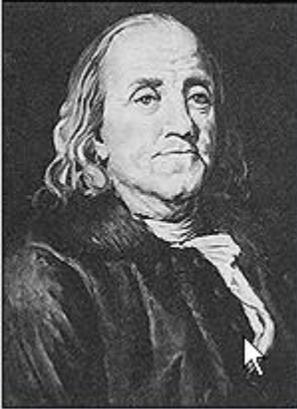
The same permanence attaches to the responsibility which parents have for minor children. As Locke said:

"The subjection of a minor places in the father a temporary government which terminates with the minority of the child... The nourishment and education of their children [during their minority] is a charge so incumbent on parents for their children's good, *that nothing can absolve them from taking care of it.*" [288](#)

It will be appreciated that the strength and stability of the family is of such vital importance to the culture that any action by the government to debilitate or cause dislocation in the normal trilateral structure of the family becomes, not merely a threat to the family involved, but a menace to the very foundations of society itself.

"Think what you do when you run in debt; you give to another power over your liberty." (Benjamin Franklin)

**Twenty-Seventh Principle: The burden of debt is as destructive to freedom as subjugation by conquest.**



"Think what you do when you run in debt; you give to another the power over your liberty." -- Benjamin Franklin

Slavery or involuntary servitude is the result of either subjugation by conquest or succumbing to the bondage of debt.

Debt, of course, is simply borrowing against the future. It exchanges a present advantage for a future obligation. It will require not only the return of the original advance of funds, but a substantial compensation to the creditor for the use of his money.

[How Debt Can Benumb the Human Spirit](#)

[The Founders' Attitude Toward Debt](#)

[Debts from Splurge Spending](#)

[Benjamin Franklin on Splurge Spending](#)

[The Founders' Policy Concerning a National Debt](#)

[Should One Generation Impose Its Debts on the Next?](#)

[Jefferson Considered an Inherited Debt Immoral](#)

[The Founders Establish the Policy of Paying Debts Promptly.](#)

[The History of the American National Debt](#)

[The Risk in Violating Fundamental Principles](#)

[Splurge Spending Is Habit-Forming](#)

[Today We Are Spending the Next Generation's Inheritance](#)

[The Problem of the "Fix"](#)

[How Can the United States Return to the Founders' Formula?](#)

### **How Debt Can Benumb the Human Spirit**

The Founders knew that borrowing can be an honorable procedure in a time of crisis, but they deplored it just the same. They looked upon it as a temporary handicap which should be alleviated at the earliest possible moment. They had undergone sufficient experience with debt to see its corrosive and debilitating effect, which tends to corrupt both individuals and nations.

In the case of the individual, excessive debt greatly curtails the freedom of the debtor. It benumbs his spirit, He often feels hesitant to seek a new location or change a profession. He passes up financial opportunities which a free man might risk. Heavy debt introduces an element of taint into a man's search for happiness. There seems to be a perpetual burden every waking hour. There is a sense of being perpetually threatened as he rides the razor's edge of potential disaster.

There is also the sense of waste -- much like the man who has to make payments on a dead horse. It is money spent for pleasures or even needs that are long since past, It often means sleepless nights, recoiling under the burden of a grinding weight which is constantly increasing with every tick of the clock, and often at usurious rates.

### **The Founders' Attitude Toward Debt**

The Founding Fathers belonged to an age when debt was recognized for the ugly spectre that it really is. They considered frugality a virtue, and even when an emergency compelled them to borrow, they believed in borrowing frugally and paying back promptly. Nearly everyone finds it to his advantage or absolute necessity to borrow on occasion. Debt becomes the only available means -- a necessary evil. Nevertheless, the Founders wanted the nature of debt to be recognized for what it is: evil, because it is a form of bondage.

As Thomas Jefferson wrote:

"The maxim of buying nothing without the money in our pockets to pay for it would make our country one of the happiest on earth. Experience during the war proved this; and I think every man will remember that, under all the privations it obliged him to submit to during that period, he slept sounder and awoke happier than he can do now." [289](#)

### **Debts from Splurge Spending**

The Founders felt that the worst kind of debt is that which results from "splurge" borrowing -- going into debt to enjoy the temporary luxury of extravagantly living "beyond one's means." They knew the seductive snare which this possibility presents to the person who is watching other people do it. The English author William Makepeace Thackeray reflected those feelings when he wrote these words in *Vanity Fair*: "How well those live who are comfortably and thoroughly in debt: how they deny themselves nothing; how jolly and easy they are in their minds." [290](#)

But, of course, all the reveling and apparitions of debt financed prosperity disappear like a morning mist when it comes time to pay. Extravagant living, waste, and hazardous borrowing against the future can reduce the best of us to bankruptcy, abject poverty, and even gnawing hunger from lack of the most basic necessities of life. Universal human experience verifies the bitter reality of the parable of the prodigal son, who "would fain have filled his belly with the husks that the swine did eat" (Luke 15:16).

The kind of frugality for which the Founders were famous was rooted in the conviction that debt should be abhorred like a plague. They perceived excessive indebtedness as a form of cultural disease.

### **Benjamin Franklin on Splurge Spending**

One of the Founders who made his fortune through frugality and financial discipline was Benjamin Franklin. He had this to say concerning splurge spending:

"But what madness must it be to *run in debt* for these superfluities! We are offered, by the terms of this vendue, *six months' credit*; and that perhaps has induced some of us to attend it, because we cannot spare the ready money, and hope now to be fine without it. But, ah, think what you do when you run in debt; *you give to another power over your liberty*. If you cannot pay at the time, you will be ashamed to see your creditor; you will be in fear when you speak to him; you will make poor pitiful sneaking excuses, and by degrees come to lose your veracity, and sink into base downright lying; for, as *Poor Richard* says, *the second vice is lying, the first is running in debt*. And again, to the same purpose, lying rides upon debt's back. Whereas a freeborn *Englishman* ought not to be ashamed or afraid to see or speak to any man living. But poverty often deprives a man of all spirit and virtue: *'Tis hard for an empty bag to stand upright*, as *Poor Richard* truly says."

[291](#)

### **The Founders' Policy Concerning a National Debt**

The pioneers of the American commonwealth had the wisdom born of experience to know that the debts of a nation are no different from the debts of an individual. The fact that the indebtedness is shared by the whole people makes it no less ominous. The Founders knew that dire circumstances, such as war or other emergency, could force a nation to borrow, so they authorized the federal government to do so in Article I of the Constitution. Nevertheless, they considered it a matter of supreme importance for the survival of a free people to get out of debt and enjoy complete solvency in order to prosper.

This is reflected in the declaration of Thomas Jefferson when he said:

"I, however, place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared." [292](#)

### **Should One Generation Impose Its Debts on the Next?**

It has always been popular in some countries to justify the practice of passing on the debts incurred by one generation to the next for payment. This was justified, particularly in the case of war debts, by the rationalization that since war is fought to maintain the independence and integrity of the nation, future generations should bear the burden of the cost.

But this was not the view of the American Founding Fathers. They felt that the wars, economic problems, and debts of one generation should be paid for by the generation which incurred them. They wanted the rising generation to be genuinely free -- both politically and economically. It was their feeling that passing on their debts to the next generation would be forcing the children of the future to be born into a certain amount of bondage or involuntary servitude--something for which they had neither voted nor subscribed. It would be, in a very literal sense, "taxation without representation." Clearly, they said, it was a blatant violation of a fundamental republican principle.

### **Jefferson Considered an Inherited Debt Immoral**

Thomas Jefferson was particularly emphatic on this point. Said he:

"That we are bound to defray [the war's] expenses within our own time, and unauthorized to burden posterity with them, I suppose to have been proved in my former letter.... We shall all consider ourselves morally bound to pay them ourselves; and consequently within the life [expectancy] of the majority.... We must raise, then, ourselves the money for this war, either by taxes within the year or by loans; and if by loans, we must repay them ourselves, proscribing forever the English practice of perpetual funding."

[293](#)

### **The Founders Establish the Policy of Paying Debts Promptly**

From the founding of the nation under the new Constitution, it became a policy of supreme importance to pay off the national debt. In his first term, President Washington wrote:

"I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter upon a systematic and effectual arrangement for the regular redemption and discharge of the public debt,

according to the right which has been reserved to the government. No measure can be more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiment and wish of the nation." [294](#)

The following year the President made it clear that this was no casual suggestion to Congress, but a matter of the highest priority:

"No pecuniary consideration is more urgent than the regular redemption and discharge of the public debt; on none can delay be more injurious, or an economy of time more valuable." [295](#)

Just before leaving office, Washington made a final plea to the Congress to exert a greater effort to pay off the national debt, if only for the sake of the next generation. He said:

"Posterity may have cause to regret if, from any motive, intervals of tranquillity are left unimproved for accelerating this valuable end." [296](#)

## **The History of the American National Debt**

When we trace the history of the national debt, we find that the policy laid down by the Founders has been followed by every generation until the present one. One of the charts accompanying this chapter reflects the annual national debt from the days of George Washington to the present. By carefully tracing the pattern of these debts, we notice that after every war or financial emergency involving heavy indebtedness there was an immediate effort to pay it off as rapidly as possible. This policy was followed for the sake of the rising generation. The adult citizens of America wanted their children born in freedom, not bondage.

In our own day, however, a different attitude toward national fiscal policies has evolved. This is not only reflected in the skyrocketing thrust of an astonishing level of national indebtedness, but it has been accompanied by an equally profligate explosion in the cost of government operations, as reflected in the chart showing "Outlays of the Federal Government: 1789 to 2006."

## The Risk in Violating Fundamental Principles

America's contribution to mankind's 5,000-year leap was achieved by rather strict adherence to certain fundamental principles which were part of the Founders' phenomenal success formula. As we have already seen, some of these most important fundamentals are being neglected if not repudiated in our own day. A most important area of neglect is the advice of the Founders concerning national fiscal policies. As we examine the outlays of the federal government and the U.S. national debt throughout the history of the nation, we find a number of notable things.

### **Outlays of the Federal Government: 1789 to 2006**

2006 ..... 2,473,298,000,000

2005 ..... 2,399,843,000,000

2004 ..... 2,318,834,000,000

2003 ..... 2,157,637,000,000

2002 ..... 2,010,970,000,000

2001 ..... 1,863,770,000,000

2000 ..... 1,788,773,000,000

1999 ..... 1,701,891,000,000

1998 ..... 1,652,585,000,000

1997 ..... 1,601,250,000,000

1996 ..... 1,560,535,000,000

1995 ..... 1,515,802,000,000

1994 ..... 1,461,877,000,000

1993 ..... 1,409,489,000,000

1992 ..... 1,381,655,000,000

1991 ..... 1,324,369,000,000

1990 ..... 1,253,165,000,000

1989 ..... 1,143,646,000,000

1988 ..... 1,064,455,000,000

1987 ..... 1,004,082,000,000

1986 ..... 990,430,000,000

1985 ..... 946,396,000,000  
1984 ..... 851,853,000,000  
1983 ..... 808,364,000,000  
1982 ..... 745,743,000,000  
1981 ..... 678,241,000,000

1980 ..... 590,941,000,000  
1979 ..... 504,028,000,000  
1978 ..... 458,746,000,000  
1977 ..... 409,218,000,000  
1976 ..... 371,792,000,000

1975 ..... 332,332,000,000  
1974 ..... 269,359,000,000  
1973 ..... 245,707,000,000  
1972 ..... 230,681,000,000  
1971 ..... 210,172,000,000

1970 ..... 195,649,000,000  
1969 ..... 183,640,000,000  
1968 ..... 178,134,000,000  
1967 ..... 157,464,000,000  
1966 ..... 134,532,000,000

1965 ..... 118,228,000,000  
1964 ..... 118,528,000,000  
1963 ..... 111,316,000,000  
1962 ..... 106,821,000,000  
1961 ..... 97,723,000,000

1960 ..... 92,191,000,000  
1959 ..... 92,098,000,000  
1958 ..... 82,405,000,000  
1957 ..... 76,578,000,000  
1956 ..... 70,640,000,000

1955 ..... 68,444,000,000  
1954 ..... 70,855,000,000  
1953 ..... 76,101,000,000  
1952 ..... 67,686,000,000  
1951 ..... 45,514,000,000  
  
1950 ..... 42,562,000,000  
1949 ..... 38,835,000,000  
1948 ..... 29,764,000,000  
1947 ..... 34,496,000,000  
1946 ..... 55,232,000,000  
  
1945 ..... 92,712,000,000  
1944 ..... 91,304,000,000  
1943 ..... 78,555,000,000  
1942 ..... 35,137,000,000  
1941 ..... 13,653,000,000  
  
1940 ..... 9,468,000,000  
1939 ..... 9,141,000,000  
1938 ..... 6,840,000,000  
1937 ..... 7,580,000,000  
1936 ..... 8,228,000,000  
  
1935 ..... 6,412,000,000  
1934 ..... 6,541,000,000  
1933 ..... 4,598,000,000  
1932 ..... 4,659,000,000  
1931 ..... 3,577,000,000  
  
1930 ..... 3,320,000,000  
1929 ..... 3,127,000,000  
1928 ..... 2,961,000,000  
1927 ..... 2,857,000,000  
1926 ..... 2,930,000,000  
  
1925 ..... 2,924,000,000

1924 ..... 2,908,000,000  
1923 ..... 3,140,000,000  
1922 ..... 3,289,000,000  
1921 ..... 5,062,000,000

1920 ..... 6,358,000,000  
1919 ..... 18,493,000,000  
1918 ..... 12,677,000,000  
1917 ..... 1,954,000,000  
1916 ..... 713,000,000

1915 ..... 746,000,000  
1914 ..... 726,000,000  
1913 ..... 715,000,000  
1912 ..... 690,000,000  
1911 ..... 691,000,000

1910 ..... 694,000,000  
1909 ..... 694,000,000  
1908 ..... 659,000,000  
1907 ..... 579,000,000  
1906 ..... 570,000,000

1905 ..... 567,000,000  
1904 ..... 584,000,000  
1903 ..... 517,000,000  
1902 ..... 485,000,000  
1901 ..... 525,000,000

1900 ..... 520,861,000  
1895 ..... 356,195,000  
1890 ..... 318,041,000  
1885 ..... 260,227,000  
1880 ..... 267,643,000

1875 ..... 274,623,000  
1870 ..... 309,654,000

1865 ..... 1,297,555,000  
1860 ..... 63,131,000  
1855 ..... 59,743,000

1789-1849 .... 1,090,000,000

(Source: [www.gpoaccess.gov](http://www.gpoaccess.gov); The Statistical History of the United States [New York; Basic Books, Inc., 1976], p.1118; Statistical Abstract of the United States [Washington, D.C.: U.S. Bureau of the Census, 1978], p.257.)

**U.S. National Debt: 1791 to 2006**

2006 ..... 8,366,862,634,494  
2005 ..... 7,932,709,661,723  
2004 ..... 7,379,052,696,330  
2003 ..... 6,783,231,062,743  
2002 ..... 6,228,235,965,597  
2001 ..... 5,807,463,412,200

2000 ..... 5,674,178,209,886  
1999 ..... 5,656,270,901,615  
1998 ..... 5,526,193,008,897  
1997 ..... 5,413,146,011,397  
1996 ..... 5,224,810,939,135

1995 ..... 4,973,982,900,709  
1994 ..... 4,692,749,910,013  
1993 ..... 4,411,488,883,139  
1992 ..... 4,064,620,655,521  
1991 ..... 3,665,303,351,697

1990 ..... 3,233,313,451,777  
1989 ..... 2,857,430,960,187  
1988 ..... 2,602,337,712,041  
1987 ..... 2,350,276,890,953  
1986 ..... 2,125,302,616,658

1985 ..... 1,945,941,616,459  
1980 ..... 930,210,000,000  
1975 ..... 576,649,000,000

1970 ..... 389,158,403,690  
1965 ..... 320,904,110,042

1960 ..... 290,216,815,241  
1955 ..... 280,768,553,188  
1950 ..... 257,357,352,351  
1945 ..... 258,682,187,409  
1940 ..... 42,967,531,037

1935 ..... 28,700,892,624  
1930 ..... 16,185,309,831  
1925 ..... 20,516,193,887  
1920 ..... 25,952,456,406  
1915 ..... 3,058,136,873

1910 ..... 2,652,665,838  
1905 ..... 2,274,615,063  
1900 ..... 2,136,961,091  
1895 ..... 1,676,120,983  
1890 ..... 1,552,140,204

1885 ..... 1,863,964,873  
1880 ..... 2,120,415,370  
1875 ..... 2,232,284,531  
1870 ..... 2,480,672,427  
1865 ..... 2,680,647,869

1860 ..... 64,842,287  
1855 ..... 35,586,956  
1850 ..... 63,452,773  
1845 ..... 15,925,303  
1840 ..... 3,573,343

1835 ..... 33,733  
1830 ..... 48,565,406  
1825 ..... 83,788,432  
1820 ..... 91,015,566

1815 .....	99,833,660
1810 .....	53,173,217
1805 .....	82,312,150
1800 .....	82,976,294
1795 .....	80,747,587
1791 .....	75,463,476

\* Rounded to Millions

(Source: Bureau of the Public Debt - United States Department of the Treasury; [www.publicdebt.treas.gov/opd/opd.htm](http://www.publicdebt.treas.gov/opd/opd.htm))

Debt Update. New all time high records have been set for deficit spending during the spring of 2006. Congress has increased the debt ceiling to NINE Trillion dollars. All things considered the burden of debt for every man, woman and child in the country has risen to over \$100,000 each. Our nation is overspending at a rate of about \$2 billion per day. During the first half of 2005, Americans got poorer at the rate of \$80 million per HOUR. Headlines of 2005 offered the remarkable information that China - a Third World nation - lends the United States \$300 billion per year. Vice President, Dick Cheney has reminded us that: "Deficits don't matter." United States citizens seem to regard thrift as a mental disorder and not a virtue. In the private sector during 2005, for every \$19 Americans earned, they spent \$20. If a thinking person will look at it, the absurdity becomes glaring. America has become an "empire of debt" and is sowing the seeds of her own destruction. (Empire of Debt, The Rise of an Epic Financial Crisis, Bill Bonner and Addison Wiggin, John Wiley & Sons, 2006).

First of all, as we have already observed, each generation of the past tried to pay off the national debt. In our own day, the importance of this policy has been de-emphasized. This development has occurred simultaneously with a policy of de-emphasizing the restraints and literal construction of the Constitution.

Beginning with the era of the Great Depression, all three branches of the federal government used the climate of emergency to overstep their Constitutional authority and aggressively undertake to perform tasks not authorized by the Founders. Extensive studies by Nobel Prize-winning economist Milton Friedman have demonstrated that every one of these

adventures in non-Constitutional activities proved counter-productive, some of them tragically so.

Secondly, the people were induced to believe that these serious aberrations of Constitutional principles would provide a shortcut to economic prosperity, thereby lifting the people out of the depression. Unfortunately, it was successful only politically. It gave the people the illusion that by spending vast quantities of borrowed money they would prosper, when, as a matter of fact, the outcome was exactly the opposite, just as the Founders had predicted.

Dr. Milton Friedman points out that after the federal government had spent many billions of dollars and had seriously meddled with the Constitutional structure of the nation, the unemployment rate was higher in 1938 than it had been in 1932. Had not the crisis of World War II suddenly emerged, which required the spending of many additional billions of borrowed dollars and also resulted in absorbing the unemployed work force, the fiscal failure of the New Deal experiments would be better remembered by the American people.

### **Splurge Spending Is Habit-Forming**

It is highly significant that the political formula which Harry Hopkins recommended to keep a particular administration in power was "tax, tax -- spend, spend -- elect, elect." Once the people have been encouraged by their political leaders to indulge in splurge spending, the result is like a snowball rolling downhill -- it increases in size and gains in speed. This is dramatically demonstrated in the charts. It will be noted that the national budget was less than a hundred billion dollars in 1960. Today we spend almost that much just for interest on the national debt. And that is more than the entire cost of World War I in real dollars! Since 1970 the national debt has tripled.

### **Today We Are Spending the Next Generation's Inheritance**

The figures in these charts are astonishing, but not nearly as significant as the trend of thinking among the American people which the figures represent. For the first time in the entire history of the United States, a

generation of Americans is squandering the next generation's inheritance. With the national debt at one trillion dollars, there is no way in the foreseeable future whereby this generation could possibly liquidate such a mountain of accumulated debt.

The problem is aggravated by the fact that this generation has also committed itself to pay off additional liabilities in the future amounting to approximately eleven trillion dollars. Since 1972 an effort has been made to compute precisely how extensive these commitments really are, but it is feared that they may turn out to be even more than the eleven trillion which present tabulations indicate.

### **The Problem of the "Fix"**

Of course, the Founders would understand exactly what this generation is doing to itself. It is the very essence of human nature to pursue this disastrous course once the appetite has been created to demand it. As a result, American taxpayers now discover themselves playing a role almost identical to that of an addict on hard drugs. The addict denounces his "habit" and despises the "pusher" who got him into it, but when he is confronted with the crisis of needing a "fix" he will plead with tears of anguish for the narcotic remedy.

The "fix," of course, is not a remedy at all. The real remedy is "withdrawal." The addict must escape from the tortuous cycle of vicious repetition which is not solving his problem but compounding it. If withdrawal is painful, at least it is not prolonged. The problem is primarily a matter of will power -- the determination to change.

Every aspect of this reprehensible example applies to the mood of the American masses during recent years. Polemics against the government's profligate spending are vehement. The denunciation of high taxes is virtually universal. From banker to ditch-digger it is eloquently explained how this entire syndrome of big spending, high taxes, oppressive government regulations, and mountainous debt is stifling the economy, inhibiting the rate of production, and stagnating the wholesome development of the traditional American life-style. Yet, with all of that, any Congressman will verify that it has been, at least until recently, almost political suicide to try to change the trend. When it comes to cutting programs and reducing costs, balancing the budget, and eliminating deficit

spending, it is amazing how few will make the necessary adjustment without the most violent outcries of protest when it affects them personally. But then, this would come as no surprise to the Founders. It is called "human nature." They would know that the only solution is to develop the will power to make the change. This is not easy, but it can be done.

### **How Can the United States Return to the Founders' Formula?**

In recent years, the number of Americans who have become reconciled to the inescapable necessity of returning to the Founders' formula has risen to millions. The very circumstances in which the American taxpayer finds himself are sufficient to awaken many to recognize the fiscal bottomless pit into which the nation is sinking. The vivid shock of that realization is precisely what is needed to arouse the majority of the people to the point where they are willing to go through fiscal withdrawal and kick the habit of splurge spending.

However, Congressmen, the President, and the taxpayers are all asking the same question: "Is there any way this can be accomplished without our going through the wringer of a deep depression?"

This writer believes that there is. By returning to the fundamental principles espoused by the Founding Fathers, we can reverse the trend and get America back to a formula of prosperity economics without a major crunch or depression. The outline for such a plan has already been submitted to the appropriate channels in Congress, and these proposals will be included in a forthcoming book entitled *The Healing of the Nation*.

**Twenty-Eighth Principle: The United States has a manifest destiny to be an example and a blessing to the entire human race.**



"I always consider the settlement of America with reverence and wonder, as the opening of a grand scene and design in Providence for the illumination of the ignorant, and the emancipation of the slavish part of mankind all over the earth." (John Adams)

All historians agree that a most singular and important feature of the settlers of America was their overpowering sense of mission -- a conviction that they were taking part in the unfolding of a manifest destiny of divine design which would shower its blessings on all mankind. As historian John Fiske writes:

"They believed that they were doing a wonderful thing. They felt themselves to be instruments in accomplishing a kind of "manifest destiny." Their exodus [from Europe] was that of a chosen people who were at length to lay the everlasting foundations of God's kingdom upon earth.... This steadfast faith in an unseen ruler and guide was to them a pillar of cloud by day and of fire by night. It was of great moral value. It gave them clearness of purpose and concentration of strength, and contributed towards making them, like the children of Israel, a people of indestructible vitality and aggressive energy." [297](#)

This sense of manifest destiny has continued from that day to this and will be found expressed in nearly all of the inaugural addresses given by the

presidents of the United States.

However, it is extremely important to distinguish between a sense of mission and the spirit of perverted chauvinism associated with the idea of "racial superiority." The former is a call to exemplary leadership and service. The latter is the arrogant presumption of a self-appointed role to conquer and rule. The distinction between the two is readily perceived in the writings of the Founders. For example, John Adams wrote:

"I always consider the settlement of America with reverence and wonder, as the opening of a grand scene and design in Providence for the illumination of the ignorant, and the emancipation of the slavish part of mankind all over the earth." [298](#)

Thomas Jefferson looked upon the development of freedom under the Constitution as "the world's best hope," and wrote to John Dickinson in 1801 that what had been accomplished in the United States "will be a standing monument and example for the aim and imitation of the people of other countries." [299](#)

It was not uncommon for the Founders to stress the responsibility which had been placed upon them to perform a mighty task. As John Adams wrote from England while the Constitution was in preparation:

"The people of America have now the best opportunity and the greatest trust in their hands that Providence ever committed to so small a number." [300](#)

Alexander Hamilton emphasized the same point as the Constitution was presented to the people for their approval. He wrote:

"It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force." [301](#)

[Failure Considered Treason Against the World](#)

[John Jay Considers America to Be a Providential Blessing](#)

[Conclusion](#)

## **Failure Considered Treason Against the World**

He went on to say that if the people of the United States failed in this mission, it would operate to "the general misfortune of mankind." [302](#) John Adams later stated that if the people abandoned the freedom gained by the adoption of the Constitution, it would be "treason against the hopes of the world." [303](#)

## **John Jay Considers America to Be a Providential Blessing**

After the task of structuring a constitutional government had been completed for the first free people in modern times, one of the Founders, John Jay, thought he saw in it a manifestation of divine approbation which was too obvious to be denied. He wrote:

"It has often given me pleasure to observe that independent America was not composed of detached and distant territories, but that one connected, fertile, wide-spreading country was the portion of our western sons of liberty. Providence has in a particular manner blessed it with a variety of soils and productions and watered it with innumerable streams for the delight and accommodation of its inhabitants. A succession of navigable waters forms a kind of chain round its borders, as if to bind it together; while the most noble rivers in the world, running at convenient distances, present them with highways for the easy communication of friendly aids and the mutual transportation and exchange of their various commodities."

John Jay continued:

"With equal pleasure I have often taken notice that Providence has been pleased to give this one connected country to one united people -- a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence."

He then concluded as follows:

"This country and this people seem to have been made for each other, and it appears as if it was the design of Providence that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest

ties, should never be split into a number of unsocial, jealous, and alien sovereignties." [304](#)

Jay's estimate of the unique blessing of the land they had inherited proved correct. The Founders felt that ultimately their boundaries would extend to the western sea, as several of the original colonial charters had provided. When this had been accomplished, the vast Mississippi drainage basin, extending as it does from the Rockies in the west to the Appalachians in the east, turned out to be the most fertile and productive piece of real estate on this planet.

## Conclusion

The Founders knew they were sailing into uncharted waters, and they knew their ship of state was entirely different from anything else on the face of the earth. True, they had examined every kind of political operation known to man, and they had abstracted from history every lesson and precaution they could learn, but their own product was unique, bold, and filled with the promise of a better day. Probably no one summed it up better than James Madison when he wrote:

"Is it not the glory of the people of America that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience?"

"To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness.

"Had no important step been taken by the leaders of the Revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might at this moment have been numbered among the melancholy victims of misguided councils, must at best have been laboring under the weight of some of those forms which have crushed the liberties of the rest of mankind."

Then he concluded:

"Happily for America, happily we trust *for the whole human race*, they pursued a new and more noble course. They accomplished a revolution

which has no parallel in the annals of human society. They reared the fabrics of governments which have no model on the face of the globe. They formed the design of a great Confederacy, which it is incumbent on their successors to improve and perpetuate." [305](#)

## Footnotes

1. To Thomas Jefferson, 24 October 1787, in *The Papers of James Madison*, ed. William T. Hutchinson, William M. E. Rachal, and Robert A. Rutland, 15 vols. by 1985 (Chicago and Charlottesville: University of Chicago Press and University Press of Virginia, 1962-), 10:207-8.
2. Remarks in Pennsylvania ratifying convention, 26 November 1787, in Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 2d ed. rev., 5 vols. (Philadelphia: J.B. Lippincott, 1907), 2:422.
3. *Ibid.*, p. 426.
4. ☺ [Alexander Hamilton, James Madison, and John Jay, \*The Federalist Papers\* \(1788; New York: Mentor Books, 1961\), No. 14 \(30 Nov. 1787\), pp. 104-5.](#)
5. Notes of remarks in Pennsylvania ratifying convention, 12 December 1787, in John Bach McMaster and Frederick D. Stone, eds., *Pennsylvania and the Federal Constitution, 1787-1788* (1888; reprint ed., New York: Da Capo Press, 1970), p. 420.
6. "The Landholder," *Connecticut Courant*, 17 December 1787, in Max Farrand, ed., *The Records of the Federal Convention of 1787*, rev. ed., 4 vols. (New Haven, Conn.: Yale University Press, 1937), 3:168.
7. To Rufus King, 26 December 1787, quoted in a letter From King to Theophilus Parsons, 20 February 1788, in *The Life and Correspondence of Rufus King*, ed. C.R. King, 6 vols. (New York, 1894-1900), 1:320-21.
8. To the editor of the *Federal Gazette*, 1788, in *The Writings of Benjamin Franklin*, ed. Albert Henry Smyth, 10 vols. (New York: Macmillan Company, 1905-7), 9:702 3.
9. ☺ [\*The Federalist Papers\*, No. 37 \(11 Jan. 1788\), pp. 230-31.](#)
10. ☺ [To the Marquis de Lafayette, 7 February 1788, in \*The Writings of George Washington\*, ed. John C. Fitzpatrick, 39 vols. \(Washington: U.S. Government Printing Office, 1931-44\), 29:409.](#)
11. Letter in the *State Gazette of South Carolina*, 2 May 1788, Farrand 3:301.
12. ☺ [To the Marquis de Lafayette, 28 May 1788, Fitzpatrick 29:507.](#)
13. ☺ [\*The Federalist Papers\*, No. 85 \(16 Aug. 1788\), p. 527.](#)
14. ☺ [To Sir Edward Newenham, 29 August 1788, Fitzpatrick 30:73.](#)

15. To David Humphreys, 18 March 1789, in *The Writings of Thomas Jefferson*, ed. Albert Ellery Bergh, 20 vols. (Washington: Thomas Jefferson Memorial Association, 1907), 7:322.

16. ☺ [Proposed address to Congress \(never delivered\), April? 1789, Fitzpatrick 30:299.](#)

17. Inaugural address, 4 March 1797, in James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents*, 13 vols. (Washington: Bureau of National Literature, 1911-25), 1:219.

18. To Philip N. Nicholas, 11 December 1821, Bergh 15:352.

19. "Outline" of the relationship between state governments and the general government, September 1829, in *The Writings of James Madison*, ed. Gaillard Hunt, 9 vols. (New York: G.P. Putnam's Sons, 1900-1910), 9:357.

20. "Preface to Debates in the Convention of 1787," unfinished draft written in 1835 or 1836, Farrand 3:551.

1. ☺ [Letter to Catherine Macaulay Graham, 19 July 1791; John C. Fitzpatrick, \*The Writings of George Washington\*, 39 volumes, United States Government Printing Office, 1931-1944, Washington, D.C., 31:316-317.](#)

2. ☺ [John C. Fitzpatrick, \*The Writings of George Washington\*, 39 volumes, United States Government Printing Office, 1931-1944, Washington, D.C., 31:318-319.](#)

3. Gilbert Chinard, *Thomas Jefferson: The Apostle of Americanism*, 2nd edition, revised, The University of Michigan Press, Ann Arbor, Michigan, 1975, pp. 86-87.

4. See Colin Rhys Lovell, *English Constitutional and Legal History*, Oxford University Press, New York, 1962, pp. 3-50.

5. See Gilbert Chinard, *Thomas Jefferson: The Apostle of Americanism*, p. 86.

6. ☺ [\*The Federalist Papers\*, Mentor Books, New York, 1961, No. 9, p. 71.](#)

7. ☺ [Fitzpatrick, \*Writings of George Washington\*, 26:489.](#)

8. Albert Henry Smyth, ed., *The Writings of Benjamin Franklin*, 10 vols., The Macmillan Company, New York, 1905-1907, 9:593; modern spelling.

9. ☺ [\*The Federalist Papers\*, No. 45, pp. 292-293.](#)

10. Albert Ellery Bergh, editor, *The Writings of Thomas Jefferson*, 20 volumes, The Thomas Jefferson Memorial Association, Washington, D.C., 1907, 3:319.

11. From a newspaper letter, June 1803; Paul Leicester Ford, editor, *The Writings of Thomas Jefferson*, 10 volumes, G.P. Putnam's Sons, New York,

1892-1899, 8:237.

12. Bergh, *Writings of Thomas Jefferson*, 1:257.
13. Bergh, *Writings of Thomas Jefferson*, 10:440.
14. Bergh, *Writings of Thomas Jefferson*, 10:440.
15. Bergh, *Writings of Thomas Jefferson*, 10:342.
16. Bergh, *Writings of Thomas Jefferson*, 13:358.
17. William V. Wells, *The Life and Public Services of Samuel Adams*, 3 volumes, Little, Brown and Company, Boston, 1865, 1:154.
18. Ford, *Writings of Thomas Jefferson*, 10:4.
19. Bergh, *Writings of Thomas Jefferson*, 5:396-397.
20. ☺ [The Federalist Papers, No. 14, p. 105.](#)
21. William Ebenstein, *Great Political Thinkers*, Holt, Rinehart and Winston, New York, 1963, pp. 122-123.
22. Quoted in Ebenstein, *Great Political Thinkers*, p. 133.
23. Quoted in Ebenstein, *Great Political Thinkers*, p. 133.
24. Matthew 22:36-40.
25. Ebenstein, *Great Political Thinkers*, p. 124.
26. Ebenstein, *Great Political Thinkers*, p. 134.
27. Ebenstein, *Great Political Thinkers*, p. 134.
28. Ebenstein, *Great Political Thinkers*, pp. 134-135.
29. Ebenstein, *Great Political Thinkers*, p. 135.
30. Ebenstein, *Great Political Thinkers*, pp. 134-35.
31. Ebenstein, *Great Political Thinkers*, p. 135.
32. Smyth, *Writings of Benjamin Franklin*, 9:569.
33. Saul K. Padover, editor, *The Washington Papers*, Harper & Brothers, New York, 1955, p. 244.
34. Gordon S. Wood, *The Creation of the American Republic, 1776-1787*, The University of North Carolina Press, Chapel Hill, 1969, p. 68.
35. Quoted in Wood, *The Creation of the American Republic*, p. 100.
36. Quoted in Wood, *The Creation of the American Republic*, p. 102.
37. Quoted in Wood, *The Creation of the American Republic*, p. 102.
38. Quoted in Wood, *The Creation of the American Republic*, p. 102.
39. Quoted in Wood, *The Creation of the American Republic*, p. 108.
40. Quoted in Wood, *The Creation of the American Republic*, p. 110.
41. Quoted in Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 5 vols., J. B. Lippincott Company, Philadelphia, 1901, 3:536-537; emphasis added.

42. Ford, *Writings of Thomas Jefferson*, p. 227.
43. Padover, *The Washington Papers*, pp. 318-319.
44. Quoted in Adrienne Koch, ed., *The American Enlightenment*, George Braziller, New York, 1965, p. 77.
45. Wells, *Life of Samuel Adams*, 3:175.
46. Quoted in John R. Howe, Jr., *The Changing Political Thought of John Adams*, Princeton University Press, Princeton, N.J., 1966, p. 189.
47. Wells, *Life of Samuel Adams*, 1:22-23.
48. Wells, *Life of Samuel Adams*, 1:22.
49. Wells, *Life of Samuel Adams*, 1:22.
50. ☺ [The Federalist Papers, No. 51, p. 322.](#)
51. Ford, *Writings of Thomas Jefferson*, 9:425.
52. Ford, *Writings of Thomas Jefferson*, 2:221.
53. Quoted in Ebenstein, *Great Political Thinkers*, p. 128.
54. Quoted in Koch, *The American Enlightenment*, p. 189.
55. Quoted in Koch, *The American Enlightenment*, p. 189; emphasis added.
56. Quoted in Koch, *The American Enlightenment*, p. 188.
57. Quoted in Koch, *The American Enlightenment*, pp. 208-209.
58. Smyth, *Writings of Benjamin Franklin*, 7:4.
59. Smyth, *Writings of Benjamin Franklin*, 9:591.
60. Smyth, *Writings of Benjamin Franklin*, 9:591-592.
61. Smyth, *Writings of Benjamin Franklin*, 9:592.
62. Smyth, *Writings of Benjamin Franklin*, 9:592-593.
63. Smyth, *Writings of Benjamin Franklin*, 9:593-594.
64. Smyth, *Writings of Benjamin Franklin*, 9:594-595.
65. Smyth, *Writings of Benjamin Franklin*, 9:595.
66. Smyth, *Writings of Benjamin Franklin*, 6:409.
67. Smyth, *Writings of Benjamin Franklin*, 6:409.
68. George B. de Huszar, Henry W. Littlefield, and Arthur W. Littlefield, editors, *Basic American Documents* Littlefield, Adams & Co., Ames, Iowa, 1953, p. 66.
69. *Basic American Documents*, pp. 108-109.
70. J. Randolph, ed., *Early History of the University of Virginia*, 1856, pp. 96-97.
71. Smyth, *Writings of Benjamin Franklin*, 10:84.
72. Wells, *Life of Samuel Adams*, 3:23.
73. Letter to Jefferson cited in Bergh, *Writings of Thomas Jefferson*, 13:293.

74. Letter to Jefferson cited in Bergh, *Writings of Thomas Jefferson*, 14:198.
75. *Basic American Documents*, pp. 108-109.
76. *Basic American Documents*, pp. 108-109.
77. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:319.](#)
78. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:316.](#)
79. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:319.](#)
80. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:319.](#)
81. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:311.](#)
82. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:314.](#)
83. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:316.](#)
84. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:327.](#)
85. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:320.](#)
86. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:325; emphasis added.](#)
87. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 2 vols., 1840, Vintage Books, New York, 1945, 1:317.](#)
88. Quoted in Ezra Taft Benson, *God, Family, Country: Our Three Great Loyalties*, Deseret Book Company, Salt Lake City, 1975, p. 360.
89. This document is reproduced in the supplementary appendix of *Everson v. Board of Education*, 330 U.S. 1, p. 72.
90. Supplementary appendix of *Everson v. Board of Education*, 330 U.S. 1, p. 94.
91. William C. Rives and Philip R. Fendall, eds., *Letters and Other Writings of James Madison*, 4 vols., J. B. Lippincott, Philadelphia, 1865, 1:163-164.
92. Kruse, *The Historical Meaning and Judicial Construction of the Establishment of Religion Clause of the First Amendment*, 1962, 2:65 and 2:94-107.

93. Joseph Story, *Commentaries on the Constitution of the United States*, 3rd ed., 2 vols. Little, Brown and Company, Boston, 1858, 2:666-667, art. 1879; emphasis added.
94. Elliot, *Debates in the State Conventions*, 3:330.
95. Mortimer J. Adler et al., eds., *The Annals of America*, 18 vols., Encyclopedia Britannica, Inc., Chicago, 1968, 4:63.
96. Mortimer J. Adler et al., eds., *The Annals of America*, 18 vols., Encyclopedia Britannica, Inc., Chicago, 1968, 4:63; emphasis added.
97. Bergh, *Writings of Thomas Jefferson*, 16:282.
98. Dallin Oaks, ed., *The Wall Between Church and State*, University of Chicago Press, Chicago, 1963, pp. 2-3.
99. Bergh, *Writings of Thomas Jefferson*, 3:378.
100. *Northwest Ordinance of 1787*, Article 3.
101. Julian P. Boyd, ed., *The Papers of Thomas Jefferson*, 19 vols. by 1974, Princeton University, Princeton, N.J., 1950, 1:531, note 1; emphasis added.
102. Bergh, *Writings of Thomas Jefferson*, 15:404.
103. *Concerning Human Understanding*, Great Books of the Western World, vol. 35, Encyclopedia Britannica, Inc., Chicago, 1952, pp. 349-352.
104. Blackstone, *Commentaries on the Laws of England*, ed. William Carey Jones, 2 vols., Bancroft-Whitney Co., San Francisco, 1916, 1:52.
105. Blackstone, *Commentaries on the Laws of England*, ed. William Carey Jones, 2 vols., Bancroft-Whitney Co., San Francisco, 1916, 1:56-58.
106. Blackstone, *Commentaries on the Laws of England*, ed. William Carey Jones, 2 vols., Bancroft-Whitney Co., San Francisco, 1916, 1:64.
107. Blackstone, *Commentaries on the Laws of England*, ed. William Carey Jones, 2 vols., Bancroft-Whitney Co., San Francisco, 1916, 1:65.
108. Charles Bracelen Flood, *Rise and Fight Again*, Dodo, Mead & Co., New York, 1976, p. 377.
109. ☺ [Fitzpatrick, \*Writings of George Washington\*, 30:292.](#)
110. ☺ [The Federalist Papers, No. 37, pp. 230-231.](#)
111. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:229.](#)
112. ☺ [Alexis de Touqueville, \*Democracy in America\*, 1:317.](#)
113. ☺ [Alexis de Touqueville, \*Democracy in America\*, 1:317.](#)
114. Clarence Carson, *The American Tradition*, Foundation for Economic Education, Irvington-on-Hudson, New York, 1970, pp. 112-113.
115. Quoted in Koch, *The American Enlightenment*, p. 222.

116. Laile Bartlett, "The Education of Eldridge Cleaver," *Reader's Digest*, September 1976, pp. 65-72.
117. Harold C. Syrett et al., eds., *The Papers of Alexander Hamilton*, 19 vols. by 1973, Columbia University Press, New York, 1961, 4:218.
118. Wells, *Life of Samuel Adams*, 1:154.
119. Smyth, *Writings of Benjamin Franklin*, 10:64.
120. Smyth, *Writings of Benjamin Franklin*, 5:538.
121. Smyth, *Writings of Benjamin Franklin*, 5:123.
122. Smyth, *Writings of Benjamin Franklin*, 3:135-136.
123. Smyth, *Writings of Benjamin Franklin*, 3:136-137.
124. Smyth, *Writings of Benjamin Franklin*, 3:135.
125. John Locke, *Second Essay Concerning Civil Government*, Great Books of the Western World, vol. 35, Encyclopedia Britannica, Inc., Chicago, 1952, p. 26, par. 6.
126. William Blackstone, *Commentaries on the Laws of England*, 1:93.
127. *Annals of America*, 2:432.
128. George A. Peek, Jr., ed., *The Political Writings of John Adams*, Liberal Arts Press, New York, 1954, p. 96.
129. Blackstone, *Commentaries on the Laws of England*, 1:219-220; emphasis added.
130. Quoted in Judson A. Crane, *Natural Law in the United States*, University of Pittsburgh, Pittsburgh, 6:144.
131. Frederic Bastiat, *The Law*, The Foundation for Economic Education, Inc., Irvington-on-Hudson, New York, 1974], pp. 5-6.
132. Blackstone, *Commentaries on the Laws of England*, 1:59-60.
133. Blackstone, *Commentaries on the Laws of England*, 1:64.
134. For a complete codification of these laws, see W. Cleon Skousen, *The Third Thousand Years*, Bookcraft, Inc., Salt Lake City, 1964, pp. 651-682.
135. Bergh, *Writings of Thomas Jefferson*, 16:282.
136. Blackstone, *Commentaries on the Laws of England*, 1:208.
137. Blackstone, *Commentaries on the Laws of England*, Introduction, sec. 2, par. 39.
138. Colin Rhys Lovell, *English Constitutional and Legal History*, Oxford University Press, New York, 1962, p. 36.
139. Colin Rhys Lovell, *English Constitutional and Legal History*, Oxford University Press, New York, 1962, p. 7.

140. John Locke, *Second Essay Concerning Civil Government*, p. 56, par. 135.
141. William Blackstone, *Commentaries on the Laws of England*, 1:54, 56, 63.
142. Algernon Sidney, *Discourses on Government*, 3 vols., Printed for Richard Lee by Deare and Andres, New York, 1805, 2:18.
143. John Locke, *Second Essay Concerning Civil Government*, pp. 70-71, par. 198; emphasis added.
144. Lovell, *English Constitutional and Legal History*, p. 5.
145. ☺ [\*The Federalist Papers, No. 22, p. 152.\*](#)
146. Quoted by Hamilton Albert Long, *Your American Yardstick*, Your Heritage Books, Inc., Philadelphia, 1963, p. 167; emphasis added.
147. ☺ [\*The Federalist Papers, No. 46, p. 294; emphasis added.\*](#)
148. *Annals of America*, 2:447-48.
149. John Locke, *Second Essay Concerning Civil Government*, pp. 75-76, par. 222; emphasis added.
150. John Locke, *Second Essay Concerning Civil Government*, p. 47, par. 96- 97.
151. John Locke, *Second Essay Concerning Civil Government*, p. 73, par. 208-9; emphasis added.
152. *Annals of America*, 2:432; emphasis added.
153. ☺ [\*The Federalist Papers, No. 10, p. 81.\*](#)
154. ☺ [\*The Federalist Papers, No. 14, p. 100.\*](#)
155. ☺ [\*The Federalist Papers, No. 39, p. 241.\*](#)
156. *The New York Times*, January 28, 1919.
157. ☺ [\*The Federalist Papers, No. 10, p. 81.\*](#)
158. ☺ [\*The Federalist Papers, No. 39, p. 241.\*](#)
159. ☺ [\*The Federalist Papers, No. 25, p. 164.\*](#)
160. The Kentucky Resolutions of 1798, *Annals of America*, 4:65-66; emphasis added.
161. Quoted in Jacob M. Braude, *Lifetime Speaker's Encyclopedia*, 2 vols., Prentice-Hall, Inc., Englewood Cliffs, N.J., 1962, 1:326.
162. ☺ [\*The Federalist Papers, No. 51, p. 322; emphasis added.\*](#)
163. Elliot, *Debates in the State Conventions*, 3:87.
164. "Memorial and Remonstrance," in Rives and Fendall, *Letters and Other Writings of James Madison*, 1:163; emphasis added.
165. Psalm 115:16.

166. John Locke, *Second Essay Concerning Civil Government*, p. 30, par. 25.
167. Genesis 1:28.
168. John Locke, *Second Essay Concerning Civil Government*, pp. 30-31, par. 26-27.
169. John Locke, *Second Essay Concerning Civil Government*, p. 31, par. 27-29.
170. George Sutherland, "Principle or Expedient?", *Annual Address to the New York State Bar Association*, 21 January 1921, p. 18.
171. Quoted in *The Freeman: Ideas on Liberty*, May 1955, p. 7.
172. John Locke, *Second Essay Concerning Civil Government*, p. 57, par. 138.
173. Charles Francis Adams, ed., *The Works of John Adams*, 10 vols., Little, Brown and Company, Boston, 1850-1856, 6:9, 280; emphasis added.
174. Saul K. Padover, ed., *The Complete Madison*, Harper & Bros., New York, 1953, p. 267.
175. 2 Dall 304, 310 [Pa. 1795]; emphasis added.
176. Ludwig von Mises, *Socialism*, Yale University Press, New Haven, Connecticut, 1951, p. 583.
177. "Why the President Said No," in *Essays on Liberty*, 12 vols., The Foundation for Economic Education, Inc., Irvington-on-Hudson, New York, 1952-65, 3:255; emphasis added.
178. Bergh, *Writings of Thomas Jefferson*, 8:31.
179. ©[Fitzpatrick, Writings of George Washington, 14:313.](#)
180. *Introduction to The Wealth of Nations*, "Heirloom Edition," 2 vols., Arlington House, New Rochelle, New York, no date, page v.
181. *Introduction to The Wealth of Nations*, "Heirloom Edition," 2 vols., Arlington House, New Rochelle, New York, no date, pp. v-vi.
182. *Introduction to The Wealth of Nations*, "Heirloom Edition," 2 vols., Arlington House, New Rochelle, New York, no date, page vi.
183. Article I, Section 8, clause 5.
184. ©[Fitzpatrick, Writings of George Washington, 11:217.](#)
185. Quoted in Olive Cushing Dwinell, *The Story of Our Money*, 2nd ed., Forum Publishing Company, Boston, 1946], p. 84.
186. Ford, *Writings of Thomas Jefferson*, 10:133.
187. Ford, *Writings of Thomas Jefferson*, 10:133.
188. Bergh, *Writings of Thomas Jefferson*, 13:420.

189. Quoted in Gertrude Margaret Coogan, *Money Creators*, Omni Publications, Hawthorne, California, 1974, p. 217.
190. Bergh, *Writings of Thomas Jefferson*, 12:379-80.
191. Bergh, *Writings of Thomas Jefferson*, 9:337-338.
192. William Ebenstein, *Great Political Thinkers*, p. 110.
193. George Saintsbury, "Montesquieu," *Encyclopedia Britannica*, 11th ed., 29 vols., University Press, Cambridge, England, 1910-1911, 18:776.
194. *The Spirit of Laws*, Great Books of the Western World, vol. 38, Encyclopedia Britannica, Inc., Chicago, 1952, p. 70; emphasis added.
195. *The Spirit of Laws*, Great Books of the Western World, vol. 38, Encyclopedia Britannica, Inc., Chicago, 1952, p. 70.
196. Koch, *The American Enlightenment*, p. 163.
197. Koch, *The American Enlightenment*, p. 188.
198. Koch, *The American Enlightenment*, pp. 163-64.
199. Koch, *The American Enlightenment*, p. 252.
200. Koch, *The American Enlightenment*, p. 154).
201. Koch, *The American Enlightenment*, p. 154).
202. Koch, *The American Enlightenment*, p. 191.
203. ☺ [\*The Federalist Papers\*, No. 47, p. 301.](#)
204. ☺ [\*The Federalist Papers\*, No. 47, p. 301.](#)
205. ☺ [\*The Federalist Papers\*, No. 48, p. 308.](#)
206. ☺ [\*The Federalist Papers\*, No. 48, p. 308.](#)
207. ☺ [\*The Federalist Papers\*, No. 49, pp. 313-314.](#)
208. ☺ [\*The Federalist Papers\*, No. 49, p. 315.](#)
209. ☺ [\*The Federalist Papers\*, No. 51, p. 320.](#)
210. J. Reuben Clark, *Stand Fast by Our Constitution*, Deseret Book Company, Salt Lake City, 1973, pp. 147-148.
211. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:228.](#)
212. *English Constitutional and Legal History*, p. 7.
213. John Fiske, *The Beginnings of New England, The Historical Writings of John Fiske*, vol. 6, Houghton Mifflin Company, Boston, 1902, pp. 155-156.
214. *The Spirit of Laws*, p. 72.
215. ☺ [\*The Federalist Papers\*, No. 38, pp. 231-232.](#)
216. ☺ [\*The Federalist Papers\*, No. 15, p. 111.](#)
217. Quoted in Lord Acton, *Essays on Freedom and Power*, The Free Press, Glencoe, Illinois, 1949, p. 218.

218. ☺ [The Federalist Papers, No. 28, p. 181.](#)
219. John Locke, *Second Essay Concerning Civil Government*, pp. 46-47, par. 95-97.
220. John Locke, *Second Essay Concerning Civil Government*, p. 47, par. 98.
221. ☺ [The Federalist Papers, No. 22, pp. 147-48.](#)
222. Bergh, *Writings of Thomas Jefferson*, 3:318.
223. Bergh, *Writings of Thomas Jefferson*, 15:38.
224. Richard Frothingham, *The Rise of the Republic of the United States*, Little, Brown and Company, Boston, 1873, pp. 14-15.
225. Richard Frothingham, *The Rise of the Republic of the United States*, Little, Brown and Company, Boston, 1873, p. 15.
226. Richard Frothingham, *The Rise of the Republic of the United States*, Little, Brown and Company, Boston, 1873, p. 15.
227. Bergh, *Writings of Thomas Jefferson*, 14:421.
228. ☺ [The Federalist Papers, No. 45, pp. 292-293.](#)
229. Bergh, *Writings of Thomas Jefferson*, 10:168.
230. John Fiske, *The Critical Period of American History, 1783-1789, The Historical Writings of John Fiske*, vol. 12, Houghton Mifflin Company, Boston, 1916, pp. 282-283.
231. *Second Essay Concerning Civil Government*, p. 29, par. 21.
232. John Locke, *Second Essay Concerning Civil Government*, p. 56, par. 136.
233. *A Defense of the Constitutions of Government of the United States*, 3 vols., Bud and Bartram, Philadelphia, 1797, 1:124.
234. Quoted by Edwin S. Corwin in "The Higher Law -- Background of American Constitutional Law," *Harvard Law Review*, 1928, 42:155.
235. Benjamin Jowett, trans., *The Dialogues of Plato*, Great Books of the Western World, vol. 7, Encyclopedia Britannica, Inc., Chicago, 1952, p. 599.
236. Benjamin Jowett, trans., *The Dialogues of Plato*, Great Books of the Western World, vol. 7, Encyclopedia Britannica, Inc., Chicago, 1952, p. 599.
237. *Second Essay Concerning Civil Government*, p. 37, par. 57.
238. ☺ [The Federalist Papers, No. 62, p. 381.](#)
239. Koch, *The American Enlightenment*, p. 239.

240. Fiske, *Civil Government in the United States*, Houghton, Mifflin and Company, Boston, 1890], pp. 22-23.
241. Koch, *The American Enlightenment*, pp. 213, 217.
242. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 1:326-327.](#)
243. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 1:327.](#)
244. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 1:328-29.](#)
245. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 1:329-330.](#)
246. *The Works of Daniel Webster*, 6 vols., Little, Brown and Company, Boston, 1851, 1:102.
247. *The Works of Daniel Webster*, 6 vols., Little, Brown and Company, Boston, 1851, 1:102.
248. Smyth, *Writings of Benjamin Franklin*, 2:352.
249. Smyth, *Writings of Benjamin Franklin*, 2:352.
250. Smyth, *Writings of Benjamin Franklin*, 2:347.
251. Smyth, *Writings of Benjamin Franklin*, 6:3-4.
252. Smyth, *Writings of Benjamin Franklin*, 8:645.
253. ☺ [Fitzpatrick, \*Writings of George Washington\*, 30:491.](#)
254. ☺ [Fitzpatrick, \*Writings of George Washington\*, 30:491.](#)
255. ☺ [Fitzpatrick, \*Writings of George Washington\*, 30:491.](#)
256. ☺ [Fitzpatrick, \*Writings of George Washington\*, 31:403.](#)
257. ☺ [Fitzpatrick, \*Writings of George Washington\*, 33:165.](#)
258. ☺ [Fitzpatrick, \*Writings of George Washington\*, 33:165.](#)
259. Quoted in Wells, *Life of Samuel Adams*, 1:504.
260. Quoted in Wells, *Life of Samuel Adams*, 1:376.
261. Bergh, *Writings of Thomas Jefferson*, 3:321.
262. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:231.](#)
263. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:231.](#)
264. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:231.](#)
265. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:232.](#)
266. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:233.](#)
267. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:233.](#)
268. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:234.](#)
269. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:234.](#)
270. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:235.](#)
271. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:235.](#)
272. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:235.](#)
273. Bergh, *Writings of Thomas Jefferson*, 15:477.

274. Quoted in Ernest Lee Tuveson, *Redeemer Nation*, University of Chicago Press, Chicago, 1974, p. 25.
275. ☺ [\*The Federalist Papers\*, No. 14, p. 104.](#)
276. See report of Norman Dodd, *Freemen Digest*, June 1978, p. 5.
277. Charles A. Lindbergh, Sr., *The Economic Pinch*, 1923, reprint ed., Omni Publications, Hawthorne, California, 1976, pp. 233-235.
278. Quoted in the *Freemen Digest*, October 1978, pp. 2-3.
279. ☺ [Alexis de Tocqueville, \*Democracy in America\*, 1:315.](#)
280. H. Carlton Marlow and Harrison M. Davis, *The American Search for Woman*, Clio Books, Santa Barbara, California, 1976, chapter 5.
281. John Locke, *Second Essay Concerning Civil Government*, p. 36, par. 52.
282. Wallace Notestein, *The English People on the Eve of Colonization, 1603-1630*, Harper Brothers, New York, 1954, p. 168.
283. See Alice J. Hail, "Benjamin Franklin: Philosopher of Dissent," *National Geographic*, July 1975, p. 118.
284. Koch, *The American Enlightenment*, p. 70.
285. John Locke, *Second Essay Concerning Civil Government*, p. 37, par. 58.
286. *Second Essay Concerning Civil Government*, p. 37, par. 59.
287. John Locke, *Second Essay Concerning Civil Government*, p. 39, par. 66; emphasis added.
288. John Locke, *Second Essay Concerning Civil Government*, p. 39, par. 67; emphasis added.
289. Ford, *Writings of Thomas Jefferson*, 4:414.
290. *Vanity Fair*, 2 vols. in 1, Thomas Y. Crowell Company, New York, 1893, 1:208.
291. Smyth, *Writings of Benjamin Franklin*, 3:416.
292. Bergh, *Writings of Thomas Jefferson*, 15:47.
293. Bergh, *Writings of Thomas Jefferson*, 13:357-58.
294. ☺ [Fitzpatrick, \*Writings of George Washington\*, 32:211.](#)
295. ☺ [Fitzpatrick, \*Writings of George Washington\*, 33:168.](#)
296. ☺ [Fitzpatrick, \*Writings of George Washington\*, 35:319.](#)
297. Fiske, *The Beginnings of New England*, pp. 30, 45.
298. Quoted in Conrad Cherry, *God's New Israel*, Prentice-Hall, Englewood Cliffs, N.J., 1971], p. 65.
299. Bergh, *Writings of Thomas Jefferson*, 10:217.

300. Koch, *The American Enlightenment*, p. 257.
301. ☺ [\*The Federalist Papers\*, No. 1, p. 33.](#)
302. ☺ [\*The Federalist Papers\*, No. 1, p. 33.](#)
303. Koch, *The American Enlightenment*, p. 367.
304. ☺ [\*The Federalist Papers\*, No. 2, p. 38.](#)
305. ☺ [\*The Federalist Papers\*, No. 14, pp. 104-105; emphasis added.](#)

## Bibliography

Adams, John. *A Defense of the Constitutions of Government of the United States*. 3 vols., Philadelphia: Bud and Bartram, 1797.

*The Political Writings of John Adams*. Edited by George A. Peek, Jr. New York: Liberal Arts Press, 1954.

*The Works of John Adams*. Edited by Charles Francis Adams. 10 vols. Boston: Little, Brown and Company, 1850-56.

Adler, Mortimer J., et al., eds. *The Annals of America*. 18 vols. Chicago: Encyclopedia Britannica, Inc., 1968.

Bastiat, Frederic. *The Law*. Irvington-on-Hudson, New York: The Foundation for Economic Education, Inc., 1974.

Blackstone, William. *Commentaries on the Laws of England*. Edited by William Carey Jones. 2 vols. San Francisco: Bancroft-Whitney Company, 1916.

Carson, Clarence. *The American Tradition*. Irvington-on-Hudson, New York: The Foundation for Economic Education, Inc., 1970.

Chinard, Gilbert. *Thomas Jefferson: The Apostle of Americanism*. 2nd ed. rev. Ann Arbor: The University of Michigan Press, 1975.

Clark, J. Reuben, Jr. *Stand Fast by Our Constitution*. Salt Lake City: Deseret Book Company, 1973.

Ebenstein, William. *Great Political Thinkers*. New York: Holt, Rinehart and Winston, 1963.

Elliot, Jonathan, ed. *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*. 5 vols. Philadelphia: J.B. Lippincott Company, 1901.

Fiske, John. *The Beginnings of New England*. The Historical Writings of John Fiske, vol. 6. Boston: Houghton, Mifflin and Company, 1902.

*Civil Government in the United States Considered with Some Reference to Its Origins*. Boston: Houghton, Mifflin and Company, 1890.

*The Critical Period of American History, 1783-1789*. The Historical Writings of John Fiske, vol. 12. Boston: Houghton, Mifflin and Company, 1916.

Franklin, Benjamin. *The Writings of Benjamin Franklin*. Edited by Albert Henry Smyth. 10 vols. New York: The Macmillan Company, 1905-7.

Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist Papers*. New York: Mentor Books, 1961.

Hamilton, Alexander. *The Papers of Alexander Hamilton*. Edited by Harold C. Syrett et al. 19 vols. by 1973. New York: Columbia University Press, 1961.

Huszar, George B. de; Littlefield, Henry W.; and Littlefield, Arthur W.; eds. *Basic American Documents*. Ames, Iowa: Littlefield, Adams & Co., 1953.

Jefferson, Thomas. *The Papers of Thomas Jefferson*. Edited by Julian P. Boyd. 19 vols. by 1974. Princeton, New Jersey: Princeton University Press, 1950-.

*The Writings of Thomas Jefferson*. Edited by Albert Ellery Bergh. 20 vols. Washington: The Thomas Jefferson Memorial Association, 1907.

*The Writings of Thomas Jefferson*. Edited by Paul Leicester Ford. 10 vols. New York: G.P. Putnam's Sons, 1892-99.

Koch, Adrienne, ed. *The American Enlightenment*. New York: George Braziller, 1965.

Locke, John. *Concerning Human Understanding*. Great Books of the Western World, vol. 35. Chicago: Encyclopedia Britannica, Inc., 1952.

*Second Essay Concerning Civil Government*. Great Books of the Western World, vol. 35. Chicago: Encyclopedia Britannica, Inc., 1952.

Lovell, Colin Rhys. *English Constitutional and Legal History*. New York: Oxford University Press, 1962.

Madison, James. *The Complete Madison*. Edited by Saul K. Padover. New York: Harper & Brothers, 1953.

*Letters and Other Writings of James Madison*. Edited by William C. Rives and Philip R. Fendall. 4 vols. Philadelphia: J.B. Lippincott, 1865.

Montesquieu, Charles de Secondat, Baron de. *The Spirit of Laws*. Translated by Thomas Nugent. Revised by J. V. Prichard. Great Books of the Western World, vol. 38. Chicago: Encyclopedia Britannica, Inc., 1952.

Plato. *The Dialogues of Plato*. Translated by Benjamin Jowett. Great Books of the Western World, vol. 7. Chicago: Encyclopedia Britannica, Inc., 1952.

Sidney, Algernon. *Discourses on Government*. 3 vols. New York: Printed for Richard Lee by Deare and Andres, 1805.

Smith, Adam. *The Wealth of Nations*. "Heirloom Edition." 2 vols. New Rochelle, New York: Arlington House, n.d.

Story, Joseph. *Commentaries on the Constitution of the United States*. 3rd ed. 2 vols. Boston: Little, Brown and Company, 1858.

Tocqueville, Alexis de. *Democracy in America*. 2 vols. 1840. New York: Vintage Books, 1945.

Washington, George. *The Washington Papers*. Edited by Saul K. Padover. New York: Harper & Brothers, 1955.

*The Writings of George Washington*. Edited by John C. Fitzpatrick. 39 vols. Washington: United States Government Printing Office, 1931-44.

Wells, William V. *The Life and Public Services of Samuel Adams*. 3 vols. Boston: Little, Brown and Company, 1865.

Wood, Gordon S. *The Creation of the American Republic, 1776-1787*. Chapel Hill: The University of North Carolina Press, 1969.

\*\*\*\*\*

## About the Author

W. Cleon Skousen  
(1913-2006)

W. Cleon Skousen was a world renowned teacher, lecturer and scholar for more than 60 years. Born in Raymond, Alberta, Canada on January 20, 1913, Dr. Skousen's growing up years were spent in Canada, Mexico, and California.

He attended college at the San Bernardino Junior College where he was elected Student Body President.

In 1934 he went to law school at George Washington University in Washington DC, where he earned his Juris Doctorate and was admitted to practice law in the District of Columbia. At this same time he was employed with the Federal Bureau of Investigation (FBI).

Dr. Skousen married Jewel Pitcher of San Bernardino, California, in August 1936. During their 69 years of marriage, they raised eight children and became the grandparents of 50 grandchildren and more than 90 great-grandchildren.

Dr. Skousen served the FBI for 16 years (1935-1951), and worked closely with J. Edgar Hoover including a hot-spot stint as the director of communications. As a prolific writer and speaker, he wrote his national best seller, "The Naked Communist" and later became the editor of the nation's leading police magazine, "Law And Order." In 1960 he began a speaking tour around the country addressing the important political issues facing America at that time. During this period, he averaged 300 speeches a year.

In 1972 Dr. Skousen organized a non-profit educational foundation named "The Freeman Institute." Later changed to "The National Center for Constitutional Studies" (NCCS), Dr. Skousen and his staff became the nation's leading organization in teaching students and legislators seminars on the Founding Fathers and the U.S. Constitution. His books "The Making of America" and "The 5,000 Year Leap" have been used nation-wide to educate students on the original intent of the Founding Fathers.

His many books and recordings addressed diverse subjects ranging from the raising of boys, to the principles of good government, to prophetic history. Dr. Skousen accumulated a wealth of knowledge and optimism—information that he called the "diamond dust" of exciting history, natural

law and eternal principles of hope. These principles he painstakingly distilled into the pages of over 40 books and pamphlets, to be shared in an exciting and inspirational manner. This is what made him so popular with audiences of millions around the world.

## Appenix A

The Mystery of the Anglo-Saxons

Excerpted from The Making of America by W. Cleon Skousen

(Washington, D.C., National Center for Constitutional Studies, 1986) pp 54-62

### **The Mystery of the Anglo-Saxons**

During the 1700s, one of the most fascinating and popular studies in England and America was unraveling the mystery of the Anglo-Saxons. Even today, English historian Sharon Turner, who wrote his three-volume classic in the days of the Founders, is still considered a leading authority on these amazing people who came from around the Black Sea in the first century B.C. and spread all across Northern Europe. In fact, they were the best organized, best governed people in their day. They not only conquered or intermarried with the royal families of every northern European country, but they set out in their open boats to chase the Irish out of Iceland, discover Greenland, and even establish temporary settlements in what is now Canada.

But the most important thing to Jefferson, Franklin, John Adams, and others who studied their culture was their institutes of constitutional government which were almost identical with those of ancient Israel.

The Anglo-Saxons first brought their culture to Britain around 450 A.D. when two brothers, Hengist and Horsa, were invited by the king of Kent to bring their relatives to southern Britain and fight off the king's enemies. The Anglo-Saxons were not only successful in this military venture, but they liked Britain so well they decided to stay. Before long they had virtually taken over the island of Britain and changed its name to England (Anglo-land or Engel-land).

### **Jefferson Studied the Anglo-Saxons in Their Own Language**

As we have already pointed out, Thomas Jefferson became remarkably proficient in five languages. One of them was the language of his ancestors, the Anglo-Saxons. He learned this language so he could study their laws in their original tongue. They not only had the major elements of People's Law, but they were organized and governed by principles similar to those of Moses. He made copies of the Anglo-Saxon laws and sent some of them to friends, along with his own translation.

His admiration for these laws is expressed in a letter to Edmund Pendleton [page 55] dated August 13, 1776, when he wrote:

“Are we not better for what we have hitherto abolished of the feudal system: Has not every restitution of the ancient Saxon laws had happy effects? Is it not better now that we return at once into that happy system of our ancestors, the wisest and most perfect ever yet devised by the wit of man, as it stood before the eighth century?” [Julian P. Boyd, ed., *The Papers of Thomas Jefferson*, 20 vols. By 1982 (Princeton, J.J.: Princeton University Press, 1950-), 1:492]

### **Some Interesting Aspects of the Anglo-Saxon Culture**

Many have thought the Yinglings, or Anglo-Saxons, included a branch of the ancient Israelites because they came from the territory of the Black Sea (where the Ten Tribes disappeared), and because they preserved the same unique institutes of government as those which were given to the Israelites at Mount Sinai. But whether related or not, there is certainly irrefutable evidence of a cross-fertilization of laws and cultural values between these two peoples. [See Colin Rhys Lovell, *English Constitutional and Legal History* (New York: Oxford University Press, 1962)]

Here are some examples:

1. The Anglo-Saxons considered themselves a commonwealth of freemen.
2. They organized themselves into units identical to those of the Israelites.
  - a. The head of 10 families was called a tithing-man.
  - b. The head of 50 families became an obscure office but may have been a vil-man, or head of the village.
  - c. The head of 100 families was called the hundred man.
  - d. The head of 1,000 families was called the eolderman, later shortened to earl. The territory occupied by 1,000 families was called a shire, and the administrative assistant to the earl was called the “shire reef.” We pronounce it sheriff.
3. All laws, as well as the election of leaders, had to be by the common consent of the people.
4. Authority granted to a chieftain in time of war was extremely limited and was taken away from him as soon as the emergency had passed.
5. Their system of justice was based on payment of damages to the victim rather than calling it a crime against the whole people.

When law books of both England and colonial America were crammed with bad procedures, unjust practices, and cruel punishments, the statutes of the

Anglo-Saxons came to the Founders like a breath of fresh air. Here were “ancient principles” which could be employed to the advantage of the Founders as they developed their new success formula. To better appreciate the perspective, we will pause to examine the Anglo-Saxon precepts more closely.

### **Summary of the Institutes of the Anglo-Saxons**

Sharon Turner summarizes the substance of the Anglo-Saxon law as it existed up to the time of the Norman Conquest in 1066. As we have noted, Thomas Jefferson saw that the laws of the Anglo-Saxons were beginning to erode after the eighth century; nevertheless, a great many of the best features survived and were still in operation right up until the Norman Conquest.

Even though many years of war had compelled the Anglo-Saxons to confederate together under a king, he was still an elected monarch rather than a hereditary king and, initially, he was closely controlled by the Witen (the Anglo-Saxon parliament).

But as with kings in all ages, the centralization of power was beginning to concentrate extensive authority by 1066 A.D. He was not only the chief executive of the nation but played an essential role in the legislature. He received and expended all taxation and was even the center and source of authority for all jurisprudence. He was commander-in-chief of all the armies and when the Witen was summoned it was at his discretion. While it was in session, he presided over the proceedings.

The full name of the Anglo-Saxon parliament was the Witena-gemot which is usually referred to by the shorter name of Witen. The membership included representatives from each of the towns, regions, or clans as well as those who had been honored by the king for valiant military service. It also included the Thaness (major landowners) and Milites or knights.

The highest orders of nobility, which were granted for distinguished military service, were not designed for an aristocracy but were open to the lowest classes.

These titles included the title of Eolderman (Earl), Hold, Heretoch, Eorl, and Thegn or Thane. These titles were personal honors and were not passed on to the noblemen’s successors.

Of course, land granted by the king for distinguished service was permanently retained by the recipient and could be transferred to his heirs.

However, there was no feudal system of primogeniture which required that the nobleman's estate be assigned to an oldest son.

Any person holding land from the king was obligated to build castles and bridges and serve the king for a limited time in his military expeditions.

### **The Freeman**

The foundation of the Anglo-Saxon society was the freemen. They looked upon the king as their sovereign and defender but were subject to no other master except those whom they chose to serve.

The highest order of freemen was the Milites or knights. A freeman became a member of this order by the "investment of the military belt." He then became part of a privileged class that lived on the lands of the nobility but could not serve in the national army as a commanding officer unless appointed as such.

### **Beginning of a Class of Bondsmen by 1066**

During the latest states of Anglo-Saxon history, there had developed a substantial class of slaves, bondsmen, and others who were obligated to fulfill some degree of servility or compulsory employment. Nevertheless, the law protected them from abuse and provided certain regulations to promote their welfare and ultimate emancipation through good conduct.

Property could not be taxed without the consent of the Witen.

All freemen were required to attach themselves to a tithing, which was a unit of administration originally consisting of ten families. Each member of a tithing had to put up a bond for his general good behavior and conduct himself according to certain regulations. (It's interesting that the very concept of a tithing, meaning one-tenth, comes from the Hebrews.)

### **Reparation to the Victim**

Originally a person found guilty of an offense was required to provide compensation only to the victim; however, the confederation under a permanent king resulted in additional fines going to the sovereign to cover the expense of "keeping the peace."

A value was placed on each individual according to his place in the social structure. This was called his "Were." An additional value was placed on each individual to protect his peace and security. This was called a "Mund." Offenders were fined proportionate to the amount of injury inflicted on a person's "life or limb" (his Were) or his peace and privacy (his Mund).

A high premium was placed on the personal liberty of each free subject so long as he was not violating any law. Heavy penalties were imposed on

those who unlawfully imprisoned or restrained a freeman.

A person accused of a crime was permitted to defend himself by producing a certain number of his neighbors who were willing to swear that it was their complete conviction that he was innocent. This procedure was intended to impress on each person the necessity of maintaining a reputation of good character in his neighborhood so that in case of false accusation, his neighbors would come to his defense. Even today the use of “character witnesses” is a significant part of our judicial system.

### **The Jury System**

The Anglo-Saxons also employed trial by jury, but there is no record of the time when it was first inaugurated. It may have been instituted anciently or introduced by the Danish colonists who are known to have employed the jury system from remote antiquity.

Property rights were held to be sacred, and strict rules were employed concerning tenure and the transfer of titles.

Every man was required to honor the rights of others, just as he expected to have his own rights honored.

Judges were placed under obligation to carefully evaluate each offense and make the penalty commensurate with the seriousness of the crime.

All persons of means were emphatically enjoined to aid the poor, ameliorate the distress of widows and orphans, and treat strangers with kindness and fairness.

The Witen (or Parliament) was under obligation to make certain that the laws of the land conformed with the revealed laws of God. Any which did not were abolished and renounced as being unconstitutional and void. The Witen was also under obligation to see that every man, whether rich or poor, was fully protected in his common rights and treated with equal solicitude and care.

### **Social Justice and the General Welfare**

It was a fundamental precept that all laws must be for the “general welfare” of the people, collectively and individually. Frequently the Witen passed laws favorable to the emancipation of slaves, even though this was often done contrary to the wishes of those who held them in a state of involuntary servitude.

A fundamental requirement of the law was that all persons who had been offended should have the opportunity to petition for redress. In fact, there

were heavy penalties enacted against shiremen or judges who refused or neglected to hear the petitions of the aggrieved.

The victim of an offense was not to avenge his injury personally until after legal justice had been sought.

The natural liberty of each individual was only to be restricted by those laws which were for the social good of the whole people.

To protect the life and liberty of all freemen, there was an established catalogue of penalties for the loss of each limb or any other act of maiming or injury to an individual.

There were laws to prohibit fighting and personal violence, as well as laws to punish robbery and rapine, which the “powerful and war-like” members of society sometimes imposed on weaker or unsuspecting victims.

There were heavy penalties for trespass, whether against a person’s house or his private lands.

Every land owner was required to make hedges and fences to keep his cattle from injuring his neighbor.

The observance of Sunday as a day of rest “from all worldly labor” was strictly enforced.

The law provided that there is a “natural equality of man” which must not be violated by those in power.

To protect the various levels of nobility and civic responsibility among the people, the punishment for offenses increased with the rank of the person offended. It was presupposed that the higher the rank, the greater the offense against the welfare of the people whom he served.

### **Channels of Justice**

Each dimension and class of people had a procedure for the protection of their rights through designated channels, where redress could be sought. Each channel was kept distinct from interference by the others.

Not only was the property and life of the individual protected but his character was as well. Any slanderous words were subject to punishment.

The rights of women received special protection under the law. Upon the death of a father, the mother received the custody and care of the children.

Women were protected by law from violence and abuse or forced marriages.

Parents were held responsible for any offense committed by their children against others.

Any person convicted of perjury was thereafter disqualified as a witness.

Every man was protected in his right to hunt in his own woods or fields. [Abstracted from Sharon Turner, *The History of the Anglo-Saxons*, 5th ed. (London: Longman, Rees, Orme, Brown, Green, and Longman, 1836), pp. 221-225.]

To the Founders, these principles seemed far advanced in both spirit and context compared with those which prevailed in any country of their day, including England.

As we indicated earlier, when Jefferson reflected on these ancient principles he could not help asking the leader in the Virginia House of Delegates, “Is it not better now that we return at once into that happy system of our ancestors, the wisest and most perfect ever yet devised by the wit of man?”

### **Classical Studies of the Founders**

It will be apparent from what we have seen thus far that, collectively speaking, the minds of the Founders were like a huge vacuum cleaner, sucking up knowledge of every sort from every available source.

When it came to politics, the minds of the leading Founders were as far ranging and profound as any collection of advanced scholars in the field of political studies today. Their correspondence, speeches, and commentaries disclose a penetrating understanding of both ancient and modern writers.

Often the Founders read the classics in their original language. They were familiar with Plato’s *Republic* and his *Laws*; with Aristotle’s *Essays on Politics*; with the political philosophy of the Greek historian, Polybius; with the great Roman defender of republican principles, Cicero; with the legal commentaries of Sir Edward Coke; with the essays and philosophy of Francis Bacon; with the essays of Richard Hooker; with the dark forebodings of Thomas Hobbes’ *Leviathan*; with the more optimistic and challenging *Essays on Civil Government*, by John Locke; with the animated *Spirit of the Laws*, by Baron Charles de Montesquieu of France; with the three-volume work of Algernon Sidney, who was beheaded by Charles II in 1683; with the writings of David Hume; with the legal commentaries of Sir William Blackstone; and with the economic defense of a free market economy by Adam Smith called *The Wealth of Nations*.

The Founders knew their classics. They also knew their history — Biblical, Greek, Roman, European, and American. From all of these valuable sources they sorted out what they considered to be the best and most enduring for the prosperity and peace of a free people under a republican system of self-government.

## Appenix B

The Secret to America's Strength

By W. Cleon Skousen

An address to law school students, 1981

### **The Role of Religion in the Founding Fathers' Constitutional Formula**

Americans of the Twentieth Century often fail to realize the supreme importance which the Founding Fathers originally attached to the role of religion in the structure of the unique civilization which they hoped would emerge as the first free people in modern times. Many Americans also fail to realize that the Founders felt the role of religion would be as important in our own day as it was in theirs.

In 1787, the very year the Constitution was written and approved by Congress, that same body of Congress passed the famous Northwest Ordinance. In it they outlawed slavery in the Northwest territory, they enunciated the basic rights of citizens in language similar to that which was later incorporated in the Bill of Rights, and they emphasized the essential need to teach religion and morality in the schools. Here is the way they said it:

“Article 3: Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” (Basic American Documents, Littlefield, Adams & Co., Ames, Iowa, p. 66)

Notice that formal education was to include among its responsibilities the teaching of three important subjects:

1. Religion, which might be defined as a “fundamental system of beliefs concerning man's origin and relationship to the cosmic universe as well as his relationship with his fellow men.”
2. Morality, which may be described as “a standard of behavior distinguishing right from wrong.”
3. Knowledge, which is “an intellectual awareness and understanding of established facts relating to any field of human experience or inquiry, i.e., history, geography, science, etc.”

We also notice that “religion and morality” were not required by the Founders as merely an intellectual exercise, but they positively declared

their conviction that these were essential ingredients needed for “good government and the happiness of mankind.”

### **Washington Describes the Founders’ Position**

The position set forth in the Northwest Ordinance was reemphasized by President George Washington in his Farewell Address:

“Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.... And let us with caution indulge the supposition that morality can be maintained without religion ... reason and experience both forbid us to expect that national morality can prevail to the exclusion of religious principle.

“It is substantially true that virtue or morality is a necessary spring of popular government.” (Basic American Documents, pp. 108-109)

### **The Teaching of Religion in Schools Restricted to Universal Fundamentals**

Having established that “religion” is the foundation of morality and both are essential to “good government and the happiness of mankind,” the Founders then set about to exclude the creeds and biases or dissensions of individual denominations so as to make the teaching of religion a unifying cultural adhesive rather than a divisive apparatus. Jefferson wrote a bill for the “Establishing of Elementary Schools” in Virginia and made this point clear by stating:

“No religious reading, instruction or exercise, shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination.” (J. Randolph, editor, Early History of the University of Virginia, 1856, pp. 96-97)

Obviously, under such restrictions the only religious tenets to be taught in public schools would have to be those which were universally accepted by all faiths and completely fundamental in their premises.

### **Franklin Describes the Five Fundamentals of “All Sound Religions”**

Several of the Founders have left us with a description of their basic religious beliefs, and Benjamin Franklin summarized those which he felt were the “fundamental points in all sound religion.” Here is the way he said it:

“Here is my creed. I believe in one God, the Creator of the universe. That he governs it by his Providence. That he ought to be worshipped. That the most acceptable service we render to him is in doing good to his other children. That the soul of man is immortal, and will be treated with justice

in another life respecting its conduct in this. These I take to be the fundamental points in all sound religion....” (Letter to Ezra Stiles, President of Yale University, Sparks, editor, Works of Benjamin Franklin, 1840, Vol. 10, pp. 423-424)

### **The “Fundamental Points” to be Taught in the Schools**

The five points of fundamental religious belief which are to be found in all of the principal religions of the world are those expressed or implied in Franklin’s statement:

1. Recognition and worship of a Creator who made all things.
2. That the Creator has revealed a moral code of behavior for happy living which distinguishes right from wrong.
3. That the Creator holds mankind responsible for the way they treat each other.
4. That all mankind live beyond this life.
5. That in the next life mankind are judged for their conduct in this one.

All five of these tenets run through practically all of the Founders’ writings. These are the beliefs which the Founders sometimes referred to as the “religion of America,” and they felt these fundamentals were so important in providing “good government and the happiness of mankind” that they wanted them taught in the public schools along with morality and knowledge.

### **Statements of the Founders Concerning these Principles**

Samuel Adams said these basic beliefs which constitute “the religion of America is the religion of all mankind.” (W.V. Wells, The Life and Public Services of Samuel Adams, Vol. 3, p. 23) In other words, these fundamental beliefs belong to all world faiths and could therefore be taught without being offensive to any “sect or denomination” as indicated in the Virginia bill establishing elementary schools.

John Adams called these tenets the “general principles” on which the American civilization had been founded. (Letter to Jefferson cited in Burge, editor, The Writings of Thomas Jefferson, Vol. 13, p. 293)

Thomas Jefferson called these basic beliefs the principles “in which God has united us all.” (Ibid., Vol. 14, p. 198)

From these statements it is obvious how significantly the Founders looked upon the fundamental precepts of religion and morality as the cornerstones of a free government. This gives additional importance to the warning of Washington when he said: “Of all the dispositions and habits which lead to

political prosperity, religion and morality are indispensable supports.... Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?" (Littlefield, Basic American Documents, pp. 108-109)

Washington issued this solemn warning because in France, shortly before Washington wrote his Farewell Address (1796), the promoters of atheism and amorality had seized control and turned the French Revolution into a shocking blood-bath of wild excesses and violence. Washington never wanted anything like that to happen in the United States. Therefore he had said: "In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness [religion and morality]." (Ibid.)

### **Alexis de Tocqueville Discovers the Importance of Religion in America**

When Alexis de Tocqueville visited the United States in 1831 he became so impressed with what he saw that he went home and wrote one of the most definitive studies on the American culture and Constitutional system that had been published up to that time. His book was called Democracy in America. Concerning religion in America, de Tocqueville said:

"On my arrival in the United States the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there, the more I perceived the great political consequences resulting from this new state of things." (Alexis de Tocqueville, Democracy in America, Vol. 1, p. 319)

He described the situation as follows:

"Religion in America takes no direct part in the government of society, but it must be regarded as the first of their political institutions.... I do not know whether all Americans have a sincere faith in their religion — for who can search the human heart? — but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation and to every rank of society." (Ibid., p. 316)

### **European Philosophers Turned Out To Be Wrong**

In Europe it had been popular to teach that religion and liberty were inimical to each other. De Tocqueville saw the very opposite happening in America. He wrote:

"The philosophers of the eighteenth century explained in a very simple manner the gradual decay of religious faith. Religious zeal, said they, must

necessarily fail the more generally liberty is established and knowledge diffused. Unfortunately the facts by no means accord with their theory. There are certain populations in Europe whose unbelief is only equaled by their ignorance and debasement; while in America, one of the freest and most enlightened nations in the world, the people fulfill with fervor all the outward duties of religion.” (Ibid., p. 319)

### **A New Kind of Christianity Emerges in America**

De Tocqueville points out that “in France I had almost always seen the spirit of religion and the spirit of freedom marching in opposite directions. But in America I found they were intimately united.” (Ibid.) He then points out that the early American colonists “brought with them into the New World a form of Christianity which I cannot better describe than by styling it a democratic and republican religion. This contributed powerfully to the establishment of a republic and a democracy in public affairs; and from the beginning, politics and religion contracted an alliance which has never been dissolved.” (Ibid., p. 311)

However, he emphasized the fact that this religious under-girding of the political structure was a common denominator of moral teachings in different denominations and not the political pressure of some national church hierarchy. Said he:

“The sects [different denominations] that exist in the United States are innumerable. They all differ in respect to the worship which is due to the Creator; but they agree in respect to the duties which are due from man to man. Each sect adores the Deity in its own peculiar manner, but all sects preach the same moral law in the name of God.... All the sects of the United States are comprised within the great unity of Christianity, and Christian morality is everywhere the same.... There is no country in the world where the Christian religion retains a greater influence over the souls of men than in America.” (Ibid., p. 314)

It was astonishing to de Tocqueville that liberty and religion could be combined in such a balanced structure of harmony and good order. He wrote:

“... the revolutionists of America are obliged to profess an ostensible respect for Christian morality and equity, which does not permit them to violate wantonly the laws that oppose their designs.... Thus, while the law permits the Americans to do what they please, religion prevents them from

conceiving and forbids them to commit, what is rash or unjust.” (Ibid., p. 316)

### **De Tocqueville Describes the Role of Religion in the Schools**

De Tocqueville found that the schools, especially in New England, incorporated the basic tenets of religion right along with history and political science in order to prepare the student for adult life. He wrote:

“In New England every citizen receives the elementary notions of human knowledge; he is taught, moreover, the doctrines and the evidences of his religion, the history of his country, and the leading features of the Constitution. In the States of Connecticut and Massachusetts, it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon.” (Ibid., p. 327)

### **De Tocqueville Describes the Role of the American Clergy**

Alexis de Tocqueville saw a unique quality of cohesive strength emanating from the clergy of the various churches in America. After noting that all the clergy seemed anxious to maintain “separation of church and state,” nevertheless, he observed that collectively they had a great influence on the morals and customs of public life. This indirectly reflected itself in the formulating of laws and ultimately in fixing the moral and political climate of the American commonwealth. As a result, he wrote:

“This led me to examine more attentively than I had hitherto done the station which the American clergy occupy in political society. I learned with surprise that they filled no public appointments; I did not see one of them in the administration, and they are not even represented in the legislative assemblies.” (Ibid., p. 320)

How different this was from Europe where the clergy belonged to a national church, subsidized by the government. He wrote:

“The unbelievers in Europe attack the Christians as their political opponents rather than as their religious adversaries; they hate the Christian religion as the opinion of a (political) party much more than as an error in belief; and they reject the clergy less because they are the representatives of the Deity than because they are the allies of government.” (Ibid., p. 325)

In America, he noted, the clergy remain politically separated from the government but nevertheless provide a moral stability among the people which permits the government to prosper. In other words, there is separation of church and state but not separation of church and religion.

## **The Clergy Fuel the Flame of Freedom, Stress Morality and Alert the Citizenry to Dangerous Trends**

The role of the churches to perpetuate the social and political culture of the United States provoked the following comment from de Tocqueville:

“The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other.... I have known societies formed by Americans to send out ministers of the Gospel into the new Western states, to found schools and churches there, lest religion should be allowed to die away in those remote settlements, and the rising states be less fitted to enjoy free institutions than the people from whom they came.” (Ibid., p. 317)

De Tocqueville discovered that while the clergy felt it would be demeaning to their profession to become involved in partisan politics, they nevertheless believed implicitly in their duty to keep religious principles and moral values flowing out to the people as the best safeguard for America’s freedom and political security. In one of de Tocqueville’s most frequently quoted passages, he stated:

“I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there; in her rich mines and her vast world commerce, and it was not there. Not until I went to the churches of America and heard her pulpits aflame with righteousness did I understand the secret of her genius and power. America is great because she is good and if America ever ceases to be good, America will cease to be great.”

## **The Founders’ Campaign for Equality of All Religions**

One of the most remarkable attributes of the American Founders was undertaking to do something no other nation had ever successfully achieved—the task of providing legal equality for all religions, both Christian and non-Christian.

Jefferson and Madison were undoubtedly the foremost among the Founders in pushing through the first statutes in Virginia. Jefferson sought to dis-establish the official church of Virginia in 1776 but this effort was not completely successful until ten years later.

Meanwhile, in 1784, Patrick Henry was so enthusiastic about strengthening the whole spectrum of Christian churches that he introduced a bill “Establishing a Provision for Teachers of the Christian Religion.” (This

document is reproduced in the supplementary appendix of *Everson v. Board of Education*, 330 U.S. 1, 72.)

It was the intention of this bill to provide that each taxpayer would designate “to what society of Christians” his money should go. The funds collected by this means were to make “provision for a minister or teacher of the Gospel ... or the providing places of divine worship [for that denomination], and to none other use whatever...” (See the supplementary appendix of *Everson v. Board of Education*, 330 U.S. 1, 72, p. 94.)

Madison immediately reacted with his famous Memorial and Remonstrance in which he proclaimed with the greatest possible energy the principle that the State government should not prefer one religion over another. Equality of religions was the desired goal. He wrote:

“Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects?... The bill violates that equality which ought to be the basis of every law.” (Letters and Other Writings of James Madison, 1865, 1:163-164)

Why the Founders Wanted the Federal Government Excluded From All Problems Relating to Religion and Churches

The Supreme Court has stated on numerous occasions that to most people freedom of religion is the most precious of all the inalienable rights next to life itself. When the United States was founded there were many Americans who were not enjoying freedom of religion to the fullest possible extent. At least seven of the states had officially established religions or denominations at the time the Constitution was adopted. These included: (Kruse, *The Historical Meaning and Judicial Construction of the Establishment of Religion Clause of the First Amendment*, 1962, Washburn, L. J., Vol. 2, pp. 65, 94-107.)

Connecticut (Congregational Church)

Delaware (Christian faith)

Maryland (Christian faith)

Massachusetts (Congregational Church)

New Hampshire (Protestant faith)

New Jersey (Protestant faith)

South Carolina (Protestant faith)

Under these circumstances the Founders felt it would have been catastrophic and might have precipitated civil strife if the federal

government had tried to establish a national policy on religion or dis-establish the denominations which the States had adopted. Nevertheless, the Founders who were examining this problem were anxious to eventually see complete freedom of all faiths and an equality of all religions, both Christian and non-Christian. How could this be accomplished without stirring up civil strife?

### **Justice Story Describes the Founders' Solution**

In his famous Commentaries on the Constitution, Justice Story of the Supreme Court pointed out why the Founders as well as the States themselves felt the Federal Government should be absolutely excluded from any authority in the field of settling questions on religion. He states:

“In some of the states, Episcopalians constituted the predominant sect; in others, Presbyterians; in others, Congregationalists; in others, Quakers; and in others again, there was a close numerical rivalry among contending sects. It was impossible that there should not arise perpetual strife and perpetual jealousy on the subject of ecclesiastical ascendancy, if the national government were left free to create a religious establishment. The only security was in extirpating the power. But this alone would have been an imperfect security, if it had not been followed by a declaration of the right of the free exercise of religion, and a prohibition (as we have seen) of all religious tests. Thus the whole power over the subject of religion is left exclusive to the State Governments, to be acted upon according to their own sense of justice, and the State Constitutions....” (Article #1879 of the 1833 edition.)

This is why the First Amendment of the Constitution provides that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

### **Jefferson and Madison Emphasize the Intent of the Founders**

It is clear from the writings of the Founders as well as the Commentaries of Justice Story that the First Amendment was designed to eliminate forever the interference of the Federal government in any religious matters within the various states. As Madison stated during the Virginia ratifying convention: “There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation.” (The Elliot Debates, Vol. 3, p. 330)

Jefferson took an identical position when he wrote the Kentucky-Virginia Resolutions of 1798: “... it is true as a general principle ... that no power

over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution ... all lawful powers respecting the same did of right remain, and were reserved to the States, or to the people.” (The Kentucky-Virginia Resolutions and Mr. Madison’s Report of 1799, at 15-82)

The Supreme Court as well as Congress Excluded from Jurisdiction Over Religion

In the Kentucky-Virginia Resolutions, Thomas Jefferson also made it clear that the Federal judicial system was likewise prohibited from intermeddling with religious matters within the States. He wrote:

“... special provision has been made by one of the amendments to the Constitution which expressly declares, the ‘Congress shall make no law respecting an Establishment of religion, or prohibiting the free exercise thereof ... thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violated either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with hereby and false religions, are withheld from the cognizance of Federal tribunals.” (Ibid., p. 2-3 emphasis added)

### **The Federal “Wall” Between Church and State**

When Thomas Jefferson was serving in the Virginia legislature he introduced a bill to have a day of fasting and prayer, but when he became President, Jefferson said there was no authority in the Federal government to proclaim religious holidays. In a letter to the Danbury Baptist Association dated January 1, 1802, he explained his position and said the Constitution had created “a wall of separation between church and State.” (Padover, *The Complete Works of Jefferson*, 1969, pp. 518-519)

In recent years the Supreme Court has undertaken to use this metaphor as an excuse for meddling in the religious issues arising within the various States. As we shall see later, it has not only presumed to take jurisdiction in these disputes, but has actually forced the States to take the same hands-off position toward religious matters even though this restriction originally applied only to the Federal government. This obvious distortion of the original intent of Jefferson (when he used the metaphor of a “wall” separating church and state) becomes entirely apparent when the statements and actions of Jefferson are examined in their historical context.

It will be recalled that Jefferson and Madison were anxious that the States intervene in religious matters until there was equality among all religions and that all churches or religions assigned preferential treatment should be disestablished from such preferment. They further joined with the other Founders in expressing an anxiety that all religions be encouraged in order to promote the moral fiber and religious tone of the people. This, of course, would be impossible if there were an impenetrable “wall” between church and state on the state level. Jefferson’s “wall” was obviously intended only for the Federal government, and the Supreme Court application of this metaphor to the states has come under severe criticism. (Dallin Oaks, editor, *The Wall Between Church and State*, 1963, pp. 2-3)

### **Religious Problems Must Be Solved Within The Various States**

In Thomas Jefferson’s second inaugural address, he virtually signaled the States to press forward in settling their religious issues since it was within their jurisdiction and not that of the Federal government:

“In matters of religion, I have considered that its free exercise is placed by the Constitution independent of the powers of the general government. I have therefore undertaken, on no occasion, to prescribe the religious exercises suited to it; but have left them as the Constitution found them, under the direction and discipline of state or church authorities acknowledged by the several religious societies.”

Jefferson, along with the other Founders, believed that it was within the power of the various States to eliminate those inequities which existed between the various faiths and then pursue a policy of encouraging religious institutions of all kinds because it was in the public interest to use their influence to provide the moral stability needed for “good government and the happiness of mankind.” (Northwest Ordinance, Article 3)

Jefferson’s Resolution for disestablishing the Church of England in Virginia was not to set up a wall between the State and the Church but simply, as he explained it, for the purpose of “taking away the privilege and preeminence of one religious sect over another, and thereby [establishing] ... equal rights among all.” (J. Boyd, editor, *The Papers of Thomas Jefferson*, p. 531, note 1)

### **Affirmative Programs to Encourage All Religions on the State Level**

In view of the extremely inflexible and rigid position which the U.S. Supreme Court has taken in recent years concerning the raising up of a

“wall” between State government and religion, it is remarkable how radically different the Founders looked upon such matters.

Take, for example, their approval of religious meetings in tax-supported public buildings. With the Founders there was no objection as to the propriety of using public buildings for religious purposes for that was to be encouraged. The only question was whether or not the facilities could be made available equally to all denominations desiring them. Notice how Jefferson reflects his deep satisfaction in the way the churches were using the local courthouse in Charlottesville, near Jefferson’s home:

“In our village of Charlottesville, there is a good degree of religion, with a small spice only of fanaticism. We have four sects, but without either church or meeting-house. The court-house is the common temple, one Sunday in the month to each. Here, Episcopalian and Presbyterian, Methodist and Baptist, meet together, join in hymning their Maker, listen with attention and devotion to each others’ preachers, and all mix in society with perfect harmony.” (Ford, editor, Works of Thomas Jefferson, Vol. 12, pp. 270-271)

One cannot help asking the modern Supreme Court: “Where is the wall of separation between church and state when the courthouse is approved for the common temple of all the religious sects of a village?”

Of course, Jefferson would be the first to require some other arrangement if all of the churches could not be accommodated equally, but so long as they were operating equally and harmoniously together, it was looked upon as a commendable situation. The fact that they were utilizing a tax-supported public building was not even made an issue.

### **Jefferson Proposes Accommodations For Religious Instructions at a State School**

Not only did the Congress of the Founders’ day provide in the Northwest Ordinance that the basic tenets of religion and the fundamentals of morality should be taught in the public schools, but Jefferson proposed that the University of Virginia extend its facilities to the various denominations so that each student could worship and study in the church of his choice. As Jefferson had written:

“Can the liberties of a nation be thought secure when we have removed (by eliminating religious instruction) their only firm basis — a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath?” (Ibid., Vol. 4, p. 83)

To encourage religious studies by college students of different faiths, Jefferson proposed the following:

1. He suggested that the responsibility for teaching “the proofs of the being of a God, the creator, preserver, and supreme ruler of the universe, the author of all the relations of morality, and of the laws and obligations these infer, will be within the province of the professor of ethics.” (Randolph, editor, Early History of the University of Virginia, p. 441)

2. The University faculty will also teach “the developments of these moral obligations, of those in which all sects agree, (together with) a knowledge of the languages, Hebrew, Greek, and Latin a basis will be formed common to all sects.” (Ibid.)

3. Encourage “the different religious sections to establish, each for itself, a professorship of their own tenets, on the confines (campus) of the university, so near ... that their students may attend the lectures there, and have the free use of our library, and every other accommodation we can give them; preserving, however, their independence of us and of each other.” (Ibid., p. 475)

4. Jefferson was also in favor of “enabling students of the University to attend religious exercises with the professor of their particular sect, either in the rooms of the buildings still to be erected (by each denomination on campus) ... or in the lecturing room of such professor.” (Ibid.)

5. Jefferson felt that students should be urged to participate in regular religious exercises but do so without conflicting with the established schedule of the University. Said he: “Should the religious sects of this State, or any of them, according to the invitation held out to them, establish within or adjacent to, the precincts of the University, schools for instruction in the religion of their sect, the students of the University will be free, and expected to attend religious worship at the establishment of their respective sects ... in time to meet their school in the University at its stated hour.” (Padover, editor, The Complete Jefferson, p. 1110, emphasis added)

### **Summary of Jefferson’s Views**

From these various documented sources it is apparent that Thomas Jefferson had a number of clearly defined views which he hoped would become the traditional American life-style with reference to religion and the Constitution. Perhaps these views might be summarized as follows:

1. The First Amendment prohibits the Federal government from intermeddling in religious matters in any way. It is not to take any positive

action which would tend to create or favor some “establishment of religion” nor is it to interfere or prohibit the free exercise of any religion.

2. The individual state, however has the responsibility to see that laws and conditions are such that all religious denominations or sects receive equal treatment.

3. There should be a regularly established policy of teaching the fundamentals of religion and morality in the public schools.

4. In addition, there should be an opportunity on the university level at least, for each denomination to be invited to build facilities on or adjacent to the campus where the students of that particular denomination could be expected to attend regular worship services and receive instructions in their particular faith.

5. Professors might also hold special services or classes of religious instruction in the rooms assigned to them at the university in order to accommodate the needs of the students belonging to their particular faith.

6. Students studying for the ministry at nearby seminaries should be allowed to have full access to the resources of the university library.

7. However, in spite of all of these efforts to encourage religion indirectly, there must be no use of tax funds to subsidize any religion directly.

### **Jefferson Sees Great Advantages in Following These Guidelines**

By leaving it exclusively to the States to work out the equal encouragement of all religions, but at the same time give them no direct subsidy, Jefferson felt the goals of the Founders would be achieved. He felt there was a need to fill “the chasm” of religious ignorance which constituted a liability to society and at the same time leave “inviolable the constitutional freedom of religion, the most unalienable and sacred of all human rights.” (Randolph, editor, Early History of the University of Virginia, p. 475)

Jefferson, like other leaders among the Founders, seemed anxious to not only encourage all religious faiths on a basis of equality but also to have them develop a spirit of toleration for each other. In referring to the university campus and its immediate environs where all faiths would be invited to provide facilities, Jefferson wrote:

“... by bringing the sects together, and mixing them with the mass of other students, we shall soften their asperities, liberalize and neutralize their prejudices and make the general religion a religion of peace, reason and morality.” (Ford, editor, Works of Jefferson, Vol. 12, p. 272)

### **How the Courts Began Building a Wall Between Religion and the State**

It is a well-known principle of substantive law that the Constitution and the law should be interpreted very strictly according to the original intent of those who created it. As Chief Justice Taney stated in the Dred Scott decision, “It (the Constitution) speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of the framers....” (19 Howard 395)

In the case of *Barron v. Baltimore* (7 Peters 243; 8 L. Ed. 672-1833) Chief Justice Marshall affirmed that the Bill of Rights in the Constitution was a series of prohibitions against the Federal government to prevent it from encroaching on the States. With reference to religion, this meant that there was a Federal “wall” between the Federal government and any “establishment of religion “just as Jefferson had said.

However, in 1925, in the case of *Gitlow v. New York* (268 U.S. 652) the Supreme Court undertook to use certain provisions in the Federal Bill of Rights and apply them to the States. The court justified this action on the basis of the Fourteenth Amendment which provides that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

The opponents of traditional theistic religion and morality saw the *Gitlow* case as an opportunity to invoke the power of the Federal courts to build a wall between each of the States and any form of religious encouragement even though it was provided indirectly. In other words, they would review the Founders’ original policy.

In 1940 the case of *Cantwell v. Connecticut* (310 U.S. 296) was the first ruling of the Supreme Court in which the “*Gitlow* doctrine” was applied to religious liberty and in 1947 *Everson v. Board of Education* (330 U.S. 1) was the first time the Supreme Court applied the “due process” clause of the Fourteenth Amendment to make the Federal wall of separation apply to religious matters among the individual States.

What this amounted to was the actual breaking down of the Federal wall set up by the First Amendment so that the Supreme Court actually usurped jurisdiction over religious matters in the States and began dictating what the States could or could not do with reference to religious questions. Without a doubt, there has been a severe wrenching of the Constitution from its original First Amendment moorings ever since this new trend began.

### **In 1948 the Supreme Court Prohibited Teaching of Religion in Schools**

It is interesting that in the debates over ratification Madison had stated the position of the Founders when he said: “There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation.” (Elliot Debates, Vol. 3, p. 330) Nevertheless, in 1948 in *McCollum v. Board of Education* (333 U.S. 203), the Supreme Court intervened in a religious question, used the *Gitlow* doctrine to tell a State Board of Education that it would not allow children, even with their parents’ consent, to take religion classes in school. The students had been authorized by the Board of Education to sign up for these classes which were being taught by the representatives of their own particular faith and expected then to attend these classes as part of their regular studies just as Jefferson had recommended for the University of Virginia. The Court ignored the fact that there was equality of opportunity for any of the denominations to provide such classes and used the “wall” doctrine to outlaw use of tax-supported facilities for the teaching of religion by every denomination. There was a strong dissent by Justice Reed.

### **In 1952 the Supreme Court Approved “Released Time” for Religious Education**

It is of further interest that in 1952 the Supreme Court took its newly acquired jurisdiction over religious questions in State schools to announce in *Zorach v. Clauson* (343 U.S. 306) that it was very solicitous of religion and would approve classes in religion during the regular school day providing the classes were held separate from any tax-supported property. Justice Douglas wrote the opinion from the following frame of reference:

“We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for a wide variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma.”

Justice Douglas even went further to state; “... we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence.”

### **The Cultural Vacuum Created by the Court: So-called “Neutrality”**

However, in the 1947 case of *Everson v. Board of Education* (330 U.S. 1) the Supreme Court made it clear that neither the Federal government nor a State government could encourage religion in any way. Justice Black spoke for the Court and declared in his opinion, “Neither a State nor the Federal government ... can pass laws which aid one religion, aid all religions, or prefer one religion over another.”

The Founders would have heartily endorsed Justice Black’s “no-preference” doctrine, but they would have no doubt objected vigorously to the outlawing of indirect aid for and encouragement to “all religions.” In the final analysis, it was “all religions” the Founders had said they were relying upon to undergird society with those moral teachings which are “necessary to good government and the happiness of mankind.” (Northwest Ordinance previously cited)

No doubt they would have further objected to the Court’s presumptive usurpation in taking jurisdiction over a religious question which had been specifically reserved by the First Amendment to the States themselves.

The Founders seemed fully aware that failure to encourage “all religions” in their important role of teaching fundamental morality would leave an empty void or cultural vacuum in their formula for a great new civilization of freedom and prosperity. It seems that all empirical evidence of history and human experience sustains their position. Then why did the Court take the position it did?

All of the cases from then until now suggest that the Court considered its position of “neutrality” more fair and more correct in administering true justice. What some legal scholars are beginning to point out however, is that the position of so-called neutrality has not achieved what the Court said it intended. It has indeed given “secularism” or the emphasis of non-spiritual and non-moral principles the clear advantage of a virtual monopoly in the arena of public education and the administering of public institutions.

### **In 1962 the Supreme Court Outlawed Prescribed Prayers in School**

In the case of *Engel v. Vitale* (370 U.S. 429) the issue was over the fact that the New York regents had prepared a nondenominational prayer for use in the public schools. The New York Court of Appeals upheld the prayer, but the Supreme Court once more intermeddled in a religious question of a State by ruling that a nondenominational prayer prescribed by the officials of the State was “establishing” a religion.

However, contrary to popular belief, the Court did not say that prayers were unlawful which were voluntary and prescribed or set by the State. Nevertheless, this case gave the advocates of secularism an excuse to push through ruling in many States that prayer would not be allowed in the schools.

In 1963 the Supreme Court Outlawed the Lord's Prayer and Bible Reading in the Public Schools

In *School District of Abington v. Schempp* (374 U.S. 203) the Supreme Court ruled that opening exercises at the high school involving the recitation of the Lord's Prayer as well as reading Bible verses were unconstitutional. The Court rejected the proposition that the opening exercises had a secular purpose, namely, the "promotion of moral values, the contradiction to the materialistic trends of our times, the perpetuation of our institutions and the teachings of literature."

It was pointed out to the Court that "unless these religious exercises are permitted, a 'religion of secularism' is established in the schools," but the Court rejected this argument.

At this point it appears that for all intent and purpose the design of the Founding Fathers to have the public schools teach the fundamental principles of religion and morality was dead.

### **Need for an Amendment**

It is doubtful that the desires of the vast majority of American parents as well as the intent of the Founding Fathers to have these ideals taught in the schools will ever be restored without a Constitutional amendment further defining the right of the States to have exclusive jurisdiction over the determination of questions involving religious questions. At the same time it would undoubtedly be the further desire of the overwhelming majority of Americans that the States be required to give equality of encouragement to religion on a non-preference basis.

Since no State presently has an "establishment" or preferred religion and all the States require equal treatment of the churches, the remaining task is to adopt a Constitutional amendment somewhat along the following lines: "No branch or agency of the Federal government shall have any authority to influence or adjudicate any issue relating to questions of religion arising within the confines of any State.

Such an amendment would put the entire problem back where the Founders left it exclusively within the determination of each State.

### **Daniel Webster Describes the Founders' Traditional Goal**

In our own day of accelerating crimes of violence, narcotics addiction, billion-dollar pornography sales, hedonistic sexual aberrations, high divorce rates, and deteriorating family life, the American people might well recall the stirring words of Daniel Webster when he spoke to the New York Historical Society, February 22, 1852:

“Unborn ages and visions of glory crowd upon my soul, the realization of all which, however, is in the hands and good pleasure of Almighty God; but, under his divine blessing, it will be dependent on the character and virtues of ourselves and of our posterity ... if we and they shall live always in the fear of God, and shall respect his commandments ... we may have the highest hopes of the future fortunes of our country.... It will have no decline and fall. It will go on prospering... But if we and our posterity reject religious instruction and authority, violate the rules of eternal justice, trifle with the injunctions of morality, and recklessly destroy the political constitution which holds us together, no man can tell how sudden a catastrophe may overwhelm us, that shall bury all our glory in profound obscurity. Should that catastrophe happen, let it have no history! Let the horrible narrative never be written!”

Unfortunately, unless the present generation of American leadership returns to fundamental values, that history is being written right now.

## Appenix C

### 10. To MARQUIS DE LAFAYETTE

Mount Vernon, February 7, 1788.

My dear Marqs: You know it always gives me the sincerest pleasure to hear from you, and therefore I need only say that your two kind letters of the 9th and 15th of Octr. so replete with personal affection and confidential intelligence, afforded me inexpressible satisfaction. I shall myself be happy in forming an acquaintance and cultivating a friendship with the new Minister Plenipotentiary of France, whom you have commended as a "sensible and honest man;" these are qualities too rare and too precious not to merit one's particular esteem. You may be persuaded, that he will be well received by the Congress of the United States, because they will not only be influenced in their conduct by his individual merits, but also by their affection for the nation of whose Sovereign he is the Representative. For it is an undoubted fact, that the People of America entertain a grateful remembrance of past services as well as a favourable disposition for commercial and friendly connections with your Nation.

You appear to be, as might be expected from a real friend to this Country, anxiously concerned about its present political situation. So far as I am able I shall be happy in gratifying that friendly solicitude. As to my sentiments with respect to the merits of the new Constitution, I will disclose them without reserve, (although by passing through the Post offices they should become known to all the world) for, in truth, I have nothing to conceal on that subject. **It appears to me, then, little short of a miracle, that the Delegates from so many different States (which States you know are also different from each other in their manners, circumstances and prejudices) should unite in forming a system of national Government, so little liable to well founded objections.** Nor am I yet such an enthusiastic, partial or indiscriminating admirer of it, as not to perceive it is tinctured with some real (though not radical) defects. The limits of a letter would not suffer me to go fully into an examination of them; nor would the discussion be entertaining or profitable, I therefore forbear to touch upon it.

With regard to the two great points (the pivots upon which the whole machine must move,) my Creed is simply,

1st. That the general Government is not invested with more Powers than are indispensably necessary to perform the functions of a good Government; and, consequently, that no objection ought to be made against the quantity of Power delegated to it.

2ly. That these Powers (as the appointment of all Rulers will for ever arise from, and, at short stated intervals, recur to the free suffrage of the People) are so distributed among the Legislative, Executive, and Judicial Branches, into which the general Government is arranged, that it can never be in danger of degenerating into a monarchy, an Oligarchy, an Aristocracy, or any other despotic or oppressive form, so long as there shall remain any virtue in the body of the People.

I would not be understood my dear Marquis to speak of consequences which may be produced, in the revolution of ages, by corruption of morals, profligacy of manners, and listlessness for the preservation of the natural and unalienable rights of mankind; nor of the successful usurpations that may be established at such an unpropitious juncture, upon the ruins of liberty, however providently guarded and secured, as these are contingencies against which no human prudence can effectually provide. It will at least be a recommendation to the proposed Constitution that it is provided with more checks and barriers against the introduction of Tyranny, and those of a nature less liable to be surmounted, than any Government hitherto instituted among mortals, hath possessed. We are not to expect perfection in this world; but mankind, in modern times, have apparently made some progress in the science of government. Should that which is now offered to the People of America, be found on experiment less perfect than it can be made, a Constitutional door is left open for its amelioration.

Some respectable characters have wished, that the States, after having pointed out whatever alterations and amendments may be judged necessary, would appoint another federal Convention to modify it upon those documents. For myself I have wondered that sensible men should not see the impracticability of the scheme. The members would go fortified with such Instructions that nothing but discordant ideas could prevail. Had I but slightly suspected (at the time when the late Convention was in session) that another convention would not be likely to agree upon a better form of Government, I should now be confirmed in the fixed belief that they would

not be able to agree upon any System whatever. So many, I may add, such contradictory, and, in my opinion unfounded objections have been urged against the System in contemplation; many of which would operate equally against every efficient Government that might be proposed. I will only add, as a further opinion founded on the maturest deliberation, that there is no alternative, no hope of alteration, no intermediate resting place, between the adoption of this, and a recurrence to an unqualified state of Anarchy, with all its deplorable consequences.

Since I had the pleasure of writing to you last, no material alteration in the political state of affairs has taken place to change the prospect of the Constitution's being adopted by nine States or more, Pennsylvania, Delaware, New Jersey and Connecticut have already done it. It is also said Georgia has acceded. Massachusetts, which is perhaps thought to be rather more doubtful than when I last addressed you, is now in convention.

A spirit of emigration to the western Country is very predominant. Congress have sold, in the year past, a pretty large quantity of lands on the Ohio, for public Securities, and thereby diminished the domestic debt considerably. Many of your military acquaintances such as the Generals Parsons, Varnum, and Putnam, the Colos. Tupper, Sprout and Sherman, with many more, propose settling there. From such beginnings much may be expected.

The storm of war between England and your Nation, it seems, is dissipated. I hope and trust the political affairs in France are taking a favorable turn. If the Ottomans woud. suffer themselves to be precipitated into a war, they must abide the consequences. Some Politicians speculate on a triple Alliance between the two Imperial Courts and Versailles. I think it was rather fortunate, than otherwise, that the incaution of Ambassador and the rascality of a Rhinegrave prevented you from attempting to prop a falling fabric.

It gives me great pleasure to learn that the present ministry of France are friendly to America; and that Mr. Jefferson and yourself have a prospect of accomplishing measures which will mutually benefit and improve the commercial intercourse between the two Nations. Every good wish attend you and yrs. I am, &c.

## **12. To MARQUIS DE LAFAYETTE**

Mount Vernon, May 28, 1788.

My dear Marquis: I have lately had the pleasure to receive the two letters by which you introduced to my acquaintance M. Du Pont and M. Vanderkemp and altho' those gentlemen have not as yet been to visit me, you may be persuaded that whensoever I shall have the satisfaction of receiving them, it will be with all that attention to which their merits and your recommendations entitle them.

Notwithstanding you are acquainted with Mr. Barlow in person, and with his works by reputation, I thought I would just write you a line by him, in order to recommend him the more particularly to your civilities. Mr. Barlow is considered by those who are good Judges to be a genius of the first magnitude; and to be one of those Bards who hold the keys of the gate by which Patriots, Sages and Heroes are admitted to immortality. Such are your Antient Bards who are both the priest and door-keepers to the temple of fame. And these, my dear Marquis, are no vulgar functions. Men of real talents in Arms have commonly approved themselves patrons of the liberal arts and friends to the poets of their own as well as former times. In some instances by acting reciprocally, heroes have made poets, and poets heroes. Alexander the Great is said to have been enraptured with the Poems of Homer and to have lamented that he had not a rival muse to celebrate his actions. Julius Cæsar is well known to have been a man of a highly cultivated understanding and taste. Augustus was the professed and magnificent rewarder of poetical merit, nor did he lose the return of having his atcheivments immortalized in song. The Augustan age is proverbial for intellectual refinement and elegance in composition; in it the harvest of laurels and bays was wonderfully mingled together. The age of your Louis the fourteenth, which produced a multiude of great Poets and great Captains, will never be forgotten: nor will that of Queen Ann in England, for the same cause, ever cease to reflect a lustre upon the Kingdom. Although we are yet in our cradle, as a nation, I think the efforts of the human mind with us are sufficient to refute (by incontestable facts) the doctrines of those who have asserted that every thing degenerates in America. Perhaps we shall be found, at this moment, not inferior to the rest of the world in the performances of our poets and painters; notwithstanding many of the incitements are wanting which operate powerfully among older nations. For it is generally understood, that excellence in those sister Arts has been the result of easy circumstances, public encouragements and an

advanced stage of society. I observe that the Critics in England, who speak highly of the American poetical geniuses (and their praises may be the more relied upon as they seem to be reluctantly extorted,) are not pleased with the tribute of applause which is paid to your nation. It is a reason why they should be the more caressed by your nation. I hardly know how it is that I am drawn thus far in observations on a subject so foreign from those in which we are mostly engaged, farming and politics, unless because I had little news to tell you.

Since I had the pleasure of writing to you by the last Packet, the Convention of Maryland has ratified the federal Constitution by a majority of 63 to 11 voices. That makes the seventh State which has adopted it, next Monday the Convention in Virginia will assemble; we have still good hopes of its adoption here: though by no great plurality of votes. South Carolina has probably decided favourably before this time. The plot thickens fast. A few short weeks will determine the political fate of America for the present generation and probably produce no small influence on the happiness of society through a long succession of ages to come. Should every thing proceed with harmony and consent according to our actual wishes and expectations; I will confess to you sincerely, my dear Marquis; it will be so much beyond any thing we had a right to imagine or expect eighteen months ago, that it **will demonstrate as visibly the finger of Providence, as any possible event in the course of human affairs can ever designate it.** It is impracticable for you or any one who has not been on the spot, to realise the change in men's minds and the progress towards rectitude in thinking and acting which will then have been made.

Adieu, my dear Marquis, I hope your affairs in France will subside into a prosperous train without coming to any violent crisis. Continue to cherish your affectionate feelings for this country and the same portion of friendship for me, which you are ever sure of holding in the heart of your most sincere, &c.

On May 29 Washington sent a bill of lading to Clement Biddle, for 10 barrels of shad and 40 barrels of herrings "which you will please dispose of on Commission to the best advantage." A copy of this letter is in the "Letter Book" in the Washington Papers. ]

#### **14. To SIR EDWARD NEWENHAM**

Mount Vernon, August 29, 1788.

Dear Sir: I beg you will be persuaded that it always gives me singular pleasure to hear from you; and that your obliging letter of the 22nd and 25th of March afforded me particular satisfaction. I am also to thank you for the Irish Parliamentary Papers which have come safe to hand. The Edition of Cooke's Voyage, which you mention to have forwarded by a former occasion, has not been so successfull in its voyage to me; any more than the New Books wch. (in a letter of the 13th of Novr. 1786) you say had been sent to me by the Mary Captn. Mathews; or I should not have neglected the acknowledgement of them.

I am heartily glad to find that the prosperity of Ireland is on the encrease. It was afflicting for the Philanthropic mind, to consider the mass of People, inhabiting a Country naturally fertile in productions and full of resources, sunk to an abject degree of penury and depression. Such has been the picture we have received of the Peasantry. Nor do their calamities seem to be entirely removed yet, as we may gather from the Spirited speech of Mr. Gratton on the commutation of tythe. But I hope, ere long, matters will go right there and in the rest of the World. For instead of the disconsolatory idea that every thing is growing worse, I would fain cheer myself with a hope that every thing is beginning to mend. As you observe, if Ireland was 500 miles farther distant from Great Britain the case with respect to the former would be as speedily as materially changed for the better.

But what shall we say of Wars and the appearances of Wars in the rest of the World? Mankind are not yet ripe for the Millennial State. The affairs of some of the greatest Potentates appear to be very much embroiled in the North of Europe. The question is, whether the Turks will be driven out of Europe or not? One would suppose, if discipline and arrangement are to be calculated upon in preference to ignorance and brutal force, that the Porte must recede before the two Imperial Powers. But in the game of War, there are so many contingencies that often prevent the most probable events from taking place; and in the present instance, there are so many causes that may kindle the hostile conflagration into a general flame, that we need not be over hasty and sanguine in drawing our conclusions. Let us see how far the sparks of hostility have been scattered. The almost open rupture between the Emperor of Germany and his subjects in the Low Countries; the interference of Prussia in Holland and the disordered condition of that republic; the new alliances on the part of that republic with England and

Prussia; the humiliating dereliction (or rather sacrifice) which France has been obliged to make of the Dutch Patriots in consequence of the derangement of her finances; the troubles, internally, which prevail in France, together with the ill temper she must feel towards England on acct. of the terms lately dictated by the latter; the animosity of Britain and Morocco, in conjunction with several smaller subjects of National discussion, leave but too much ground to apprehend that the tranquility of Europe will not be of long continuance. I hope the United States of America will be able to keep disengaged from the labyrinth of European politics and Wars; and that before long they will, by the adoption of a good national government, have become respectable in the eyes of the world so that none of the maritime Powers, especially none of those who hold possessions in the New World or the West Indies shall presume to treat them with insult or contempt. It should be the policy of United America to administer to their wants, without being engaged in their quarrels. And it is not in the ability of the proudest and most potent people on earth to prevent us from becoming a great, a respectable and a commercial Nation, if we shall continue United and faithful to ourselves.

Your sollicitude that an efficient and good government may be established in this Country, in order that it may enjoy felicity at home and respectability abroad serves only to confirm me in the opinion I have always entertained of your disinterested and ardent friendship for this Land of freedom. It is true, that, for the want of a proper Confoederation, we have not yet been in a situation fully to enjoy those blessings which God and Nature seemed to have intended for us. But I begin to look forward, with a kind of political faith, to scenes of National happiness, which have not heretofore been offered for the fruition of the most favoured Nations. The natural political, and moral circumstances of our Nascent empire justify the anticipation. We have an almost unbounded territory whose natural advantages for agriculture and Commerce equal those of any on the globe In a civil point of view we have unequalled previledge of choosing our own political Institutions and of improving upon the experience of Mankind in the formation of a confoederated government, where due energy will not be incompatible with unalienable rights of freemen. To complete the picture, I may observe, that the information and morals of our Citizens appear to be peculiarly favourable for the introduction of such a plan of government as I have just now described.

Although there were some few things in the Constitution recommended by the Foederal Convention to the determination of the People, which did not full accord with my wishes; yet, having taken every circumstance seriously into consideration, I was convinced it approached **nearer to perfection than any government hitherto instituted among Men.** I was also convinced, that nothing but a genuine spirit of amity and accomodation could have induced the members to make those mutual concessions and to sacrafice (at the shrine of enlightened liberty) those local prejudices, which seemed to oppose an insurmountable barrier, to prevent them from harmonising in any system whatsoever.

But so it has happened by the good pleasure of Providence, and the same happy disposition has been diffused and fostered among the people at large. You will permit me to say, that a greater Drama is now acting on this Theatre than has heretofore been brought on the American Stage, or any other in the World. We exhibit at present the Novel and astonishing Spectacle of a whole People deliberating calmly on what form of government will be most conducive to their happiness; and deciding with an unexpected degree of unanimity in favour of a System which they conceive calculated to answer the purpose.

It is only necessary to add for your satisfaction, that, as all the States, which have yet acted and which are ten in number, have adopted the proposed Constitution; and as the concurrence of nine States was sufficient to carry it into effect in the first inste. it is expected the government will be in complete organization and execution before the commencement of the ensuing year.

I failed not, on the receipt of your letter, to make the best arrangements in my power for obtaining the Opossums and birds you mentioned. But I shall not be able to succeed in time for this conveyance. Having heard of a Male and female Opossum, with several young ones, at the house of one of my friends in Maryland, I sent for them, but unfortunately they were all dead. I may probably be more successful in Autumn.

I please myself with the hope that the impediments which have prevented your visiting America will soon be removed, and that we shall have the satisfaction of witnessing to you personally our veneration for the Patriots of other Countries. In the interim Mrs. Washington desires that I will not fail to blend her best respects with mine for Lady Newenham and yourself.

It is with pleasure I seize occasions to assure you with how much truth I have the honor etc.

[M.L.]

## 16. \*[PROPOSED ADDRESS TO CONGRESS]

[April ?, 1789.]

...myself with the idea it was all that would ever be expected at my hand. But in this I was disappointed. The Legislature of Virginia in opposition to my express desire signified in the clearest terms to the Governor of that State, appointed me a Delegate to the federal Convention. Never was my embarrassment or hesitation more extreme or dis....

[5]...At the beginning of the late War with Great Britain, when we thought ourselves justifiable in resisting to blood, it was known to those best acquainted with the different condition of the combatants and the probable cost of the prize in dispute, that the expence in comparison with our circumstances as Colonists must be enormous, the struggle protracted, dubious and severe. It was known that the resources of Britain were, in a manner, inexhaustible, that her fleets covered the Ocean, and that her troops had harvested laurels in every quarter of the globe. Not then organised as a nation, or known as a people upon the earth, we had no preparation. Money, the nerve of War, was wanting. The Sword was to be forged on the Anvil of necessity: the treasury to be created from nothing. If we had a secret resource of a nature unknown to our enemy, it was in the unconquerable resolution of our Citizens, the conscious rectitude of our cause, and a confident trust that we should not be forsaken by Heaven. The people willingly [6] offered themselves to the battle; but the means of Arming, clothing and subsisting them; as well as of procuring the implements of hostility were only to be found in anticipation of our future wealth. Paper bills of credit were emitted: Monies borrowed for the most pressing emergencies: and our brave trps. in the field unpaid for their Services. In this manner, Peace, attended with every circumstance that could gratify our reasonable desires, or even inflate us with ideas of national importance, was at length obtained. But a load of debt was left upon us. The fluctuations of and speculations in our paper currency, had, but in too many instances, occasioned vague ideas of property, generated licencious appetites and corrupted the morals of men. To these immediate consequences of a

fluctuating medium of commerce, may be joined a tide of circumstances that flowed together from sources mostly opened during and after the War. The ravage of farms, the conflagration of towns, the diminution...

...reputation and a decent respect for the sentiments of others, require that something should be said by way of apology for my...

...tressing. By letters from some of the wisest and best men in almost every quarter of the Continent, I was advised, that it was my indispensable duty to attend, and that, in the deplorable condition to which our affairs were reduced, my refusal would be considered a desertion of...

...rest, neither life or reputation has been accounted dear in my sight. And, from the bottom of my Soul, I know, that my motives on no former occasion were more innocent than in the present instance. At my time of life and in my situation I will not suppose that many moments need...

[15]...situation could be so agreeable to me as the condition of a private citizen. I solemnly assert and appeal to the searcher of hearts to witness the truth of it, that my leaving home to take upon myself the execution of this Office was the greatest personal sa...

[16]...to prove that I have prematurely grown old in the Service of my Country. For in truth, I have now arrived at that sober age, when, aside of any extraordinary circumstances to deter me from encountering new fatigues, and when, without having met with any par...

[27]...set up my judgment as the standard of perfection? And shall I arrogantly pronounce that whosoever differs from me, must discern the subject through a distorting medium, or be influenced by some nefarious design? The mind is so formed in different persons as to contemplate the same object in different points of view. Hence originates the difference on questions of the greatest import, both human and divine. In all Institutions of the former kind, great allowances are doubtless to be made for the fallibility and imperfection of their authors. Although the agency I had in forming this system, and the high opinion I entertained of my Colleagues for their ability and integrity may have tended to warp my judgment in its favour; yet I will not pretend to say that it appears absolutely perfect to me, or that there may not be many faults which have escaped my discernment. I will only say, that, during and since the Session of the Convention, I have attentively heard and read every [28] oral and printed information of both sides of the question that could readily be procured. This long and laborious investigation, in which I endeavoured as far as the frailty of nature would

permit to act with candour has resulted in a fixed belief that this Constitution, is really in its formation a government of the people; that is to say, a government in which all power is derived from, and at stated periods reverts to them, and that, in its operation, it is purely, a government of Laws made and executed by the fair substitutes of the people alone. The election of the different branches of Congress by the Freemen, either directly or indirectly is the pivot on which turns the first Wheel of the government; a Wheel which communicates motion to all the rest. At the same time the exercise of this right of election seems to be so regulated as to afford less opportunity for corruption and influence; and more for stability and system than has usually been incident to popular governments. Nor can the members of Congress exempt themselves from the consequences of [29] of any unjust and tyrannical acts which they may impose upon others. For in a short time they will mingle with the mass of the people. Their interests must therefore be the same, and their feelings in sympathy with those of their Constituents. Besides their re-election must always depend upon the good reputation which they shall have maintained in the judgment of their fellow citizens. Hence I have been induced to conclude that this government must be less obnoxious to well-founded objections than most which have existed in the World. And in that opinion I am confirmed on three accounts: first, because every government ought to be possessed of power adequate to the purposes for which it was instituted; Secondly, because no other or greater powers appear to me to be delegated to this government than are essential to accomplish the objects for which it was instituted, to wit, the safety and happiness of the governed; and thirdly because **it is clear to my conception that no government [30] before introduced among mankind ever contained so many checks and such efficacious restraints to prevent it from degenerating into any species of oppression.** It is unnecessary to be insisted upon, because it is well known, that the impotence of Congress under the former confederation, and the inexpediency of trusting more ample prerogatives to a single Body, gave birth to the different branches which constitute the present general government. **Convinced as I am that the balances arising from the distribution of the Legislative, Executive, and Judicial powers are the best that have been instituted;** I presume now to assert that better may not still be devised. On the article of proposed amendments I shall say a few words in another place. But if it was a point acknowledged on all parts that

the late federal government could not have existed much longer; if without some speedy remedy a dissolution of the Union must have ensued; if without adhering to the Union we...

[33]...on the one hand and an unalterable habit of error on the other, are points in policy equally desirable; though, I believe, a power to effect them never before existed. Whether the Constitutional door that is opened for amendments in ours, be not the wisest and apparently the happiest expedient that has ever been suggested by human prudence I leave to every unprejudiced mind to determine.

Under these circumstances I conclude it has been the part of wisdom to ad[vise] it. I pretend to no unusual foresight into futurity, and therefore cannot undertake to decide, with certainty, what may be its ultimate fate. If a promised good should terminate in an unexpected evil, it would not be a solitary example of disappointment in this mutable state of existence. If the blessings of Heaven showered thick around us should be spilled on the ground or converted to curses, through the fault of those for whom they were intended, it would not be the first instance of folly [34] or perverseness in short-sighted mortals. The blessed Religion revealed in the word of God will remain an eternal and awful monument to prove that the best Institutions may be abused by human depravity; and that they may even, in some instances be made subservient to the vilest of purposes. Should, hereafter, those who are intrusted with the management of this government, incited by the lust of power and prompted by the Supineness or venality of their Constituents, overleap the known barriers of this Constitution and violate the unalienable rights of humanity: it will only serve to shew, that no compact among men (however provident in its construction and sacred in its ratification) can be pronounced everlasting and inviolable, and if I may so express myself, that no Wall of words, that no mound of parchmt. can be so formed as to stand against the sweeping torrent of boundless ambition on the one side, aided by the sapping current of corrupted morals on the other. But...

...It might naturally be supposed that I should not silently pass by the subject of our defence. After excepting the unprovoked hostility committed against us by one of the Powers of Barbary, we are now at peace with all the Nations of the globe. Seperated as we are from them, by intervening Oceans, an exemption from the burden of maintaining numerous fleets and Armies must ever be considered as a singular felicity in our National lot. It

will be in our choice to train our youths to such industrious and hardy professions as that they may grow into an unconquerable force, with out our being obliged to draw unprofitable Drones from the hive of Industry. As our people have a natural genius for Naval affairs and as our Materials for Navigation are ample; if we give due encouragement to the fisheries and the carrying trade; we shall possess such a nursery of Seamen and such skill in maratime operations as to enable us to create a Navy almost in a moment. But it will be wise to anticipate events and to lay a foundation in time. Whenever the circumstances will permit, a grand provision of warlike stores, arsenals and dock-yards ought to be made

As to any invasion that might be meditated by foreigners against us on the land, I will only say, that, if the mighty Nation with which we lately contended could not bring us under the yoke, no nation on the face of the earth can ever effect it; while we shall remain United and faithful to ourselves. A well organized Militia would constitute a strong defence; of course, your most serious attention will be turned to such an establishment. In your recess, it will give me pleasure, by making such reviews, as opportunities may allow, to attempt to revive the antient Military spirit. During the present impoverished state of our Finances I would not wish to see any expence incurred by augmenting our regular...

[45]...ever the circumstances will conveniently admit, to the distribution of Offices among persons, belonging to the different parts of the Union. But my knowledge of the characters of persons, through an extent of fifteen hundred miles, must be so imperfect as to make me liable to fall into mistakes: which, in fact, can only be avoided by the disinterested aid of my co-adjutors. I forbear to enlarge on the delicacy there certainly will be, in discharging this part of our trust with fidelity, and without giving occasion for uneasiness. It...

[46]...Certain propositions for taking measures to obtain explanations and amendments on some articles of the Constitution, with the obvious intention of quieting the minds of the good people of these United States, will come before you and claim a dispassionate consideration. Whatever may not be deemed incompatible with the fundamental principles of a free and efficient government ought to be done for the accomplishment of so desirable an object. The reasonings which have been used, to prove.

[47] prove that amendments could never take place after this Constitution should be adopted, I must avow, have not appeared conclusive to me. I

could not understand, by any mathematical analogy, why the whole number of States in Union should be more likely to concur in any proposed amendment, than three fourths of that number: before the adoption, the concurrence of the former was necessary for effecting this measure, since the adoption, only the latter. Here I will not presume to dictate as to the time, when it may be most expedient to attempt to remove all the redundances or supply all the defects, which shall be discovered in this complicated machine. I will barely suggest, whether it would not be the part of prudent men to observe it fully in movement, before they undertook to make such alterations, as might prevent a fair experiment of its effects? and whether, in the meantime, it may not be practicable for this Congress (if their proceedings shall meet with the approbation of three fourths of the Legislatures) in such manner to secure to the people all their [48] justly-esteemed priviledges, as shall produce extensive satisfaction?

The complete organization of the Judicial Department was left by the Constitution to the ulterior arrangement of Congress. You will be pleased therefore to let a supreme regard for equal justice and the inherent rights of the citizens be visible in all your proceedings on that important Subject.

I have a confident reliance, that your wisdom and patriotism will be exerted to raise the supplies for discharging the interest on the National debt and for supporting the government during the current year, in a manner as little burdensome to the people as possible. The necessary estimates will be laid before you. A general, moderate Impost upon imports; together with a higher Tax upon certain enumerated articles, will, undoubtedly, occur to you in the course...

[57]...of the sod and the Sea, for the wares and merchandize of other Nations is open to all.

Notwithstanding the embarassments under which our trade has hitherto laboured, since the peace, the enterprising spirit of our citizens has steered our Vessels to almost every region of the known world.

In some distant and heretofore unfrequented countries, our new Constellation has been received with tokens of uncommon regard. An energetic government will give to our flag still greater respect: While a sense of reciprocal benefits will serve to connect us with the rest of mankind in stricter ties of amity. But an internal commerce is more in our power; and may be of more importance. The surplus of produce in one part of the United States, will, in many instances, be wanted in another. An

intercourse of this kind is well calculated to multiply Sailors, exterminate prejudices, diffuse blessings, and encrease the friendship of the inhabitants of one State for those of another.

[58] While the individual States shall be occupied in facilitating the means of transportation, by opening canals and improving roads: you will not forget that the purposes of business and Society may be vastly promoted by giving cheapness, dispatch and security to communications through the regular Posts. I need not say how satisfactory it would be, to gratify the useful curiosity of our citizens by the conveyance of News Papers and periodical Publications in the public vehicles without expence.

Notwithstanding the rapid growth of our population, from the facility of obtaining subsistence, as well as from the accession of strangers, yet we shall not soon become a manufacturing people. Because men are ever better pleased with labouring on their farms, than in their workshops.

Even the mechanics who come from Europe, as soon as they can procure a little land of their own, commonly turn Cultivators. Hence it will be found more beneficial, I believe, to continue to exchange.

[59] our Staple commodities for the finer manufactures we may want, than to undertake to make them ourselves. Many articles, however, in wool, flax, cotton, and hemp; and all in leather, iron, fur and wood may be fabricated at home with great advantage. If the quantity of wool, flax, cotton and hemp should be encreased to ten-fold its present amount (as it easily could be) I apprehend the whole might in a short time be manufactured. Especially by the introduction of machines for multiplying the effects of labour, in diminishing the number of hands employed upon it. But it will rest with you to investigate what proficiency we are capable of making in manufactures, and what encouragement should be given to particular branches of them. In almost every House, much Spinning might be done by hands which otherwise would be in a manner idle.

[60] It remains for you to make, out of a Country poor in the precious metals and comparatively thin of inhabitants a flourishing State. But here it is particularly incumbant on me to express my idea of a flourishing state with precision; and to distinguish between happiness and splendour. The people of this Country may doubtless enjoy all the great blessings of the social State: and yet United America may not for a long time to come make a brilliant figure as a nation, among the nations of the earth. Should this be the case, and should the people be actuated by principles of true

magnanimity, they will not suffer their ambition to be awakened. They should guard against ambition as against their greatest enemy. We should not, in imitation of some nations which have been celebrated for a false kind of patriotism, wish to aggrandize our own Republic at the expence of the freedom and happiness of the rest of mankind. The prospect that the Americans will not act upon so narrow a scale affords the most comfortable [61] reflections to a benevolent mind. As their remoteness from other nations in a manner precludes them from foreign quarrels: so their extent of territory and gradual settlement, will enable them to maintain something like a war of posts, against the invasion of luxury, dissipation, and corruption. For after the large cities and old establishments on the borders of the Atlantic, shall, in the progress of time, have fallen a prey to those Invaders; the Western States will probably long retain their primoeval simplicity of manners and incorruptible love of liberty. May we not reasonably expect, that, by those manners and this patriotism, uncommon prosperity will be entailed on the civil institutions of the American world? And may you not console yourselves for any irksome circumstances which shall occur in the performance of your task, with the pleasing consideration, that you are now employed in laying the foundation of that durable prosperity.

[62] It belongs to you especially to take measures for promoting the general welfare. It belongs to you to make men honest in their dealings with each other, by regulating the coinage and currency of money upon equitable principles; as well as by establishing just weights and measures upon an uniform plan. Whenever an opportunity shall be furnished to you as public or as private men, I trust you will not fail to use your best endeavors to improve the education and manners of a people; to accelerate the progress of arts and Sciences; to patronize works of genius; to confer rewards for inventions of utility; and to cherish institutions favourable to humanity. Such are among the best of all human employments. Such exertion of your talents will render your situations truly dignified and cannot fail of being acceptable in the sight of the Divinity.

By a series of disinterested services it will be in our power to shew, that we have nothing ...

## **1. Letter to Catherine Macaulay Graham**

Philadelphia, July 19, 1791.

Madam: At the same time that I acknowledge the receipt of your letter of the first of march with which I have been honored, let me request you to accept my thanks for your polite attention in sending me the pamphlet. which accompanied it. The importance of the subject, which has called forth your production and numerous others, is so deeply interesting to mankind, that every philanthropic mind, however far removed from the scene of action, cannot but feel anxious to see its termination, and it must be the ardent wish of every good man, that its event may encrease the happiness of the human race.

I often regret, that my public duties do not allow me so much time as my inclination requires to attend to my private correspondences, especially, with you, Madam. But I persuade myself, your goodness will lead you to place the brevity of this letter to its proper account, particularly when I add that I am but just returned from a tour of near 2000 miles thro' the southern States, to perform which took me more than 3 months. I shall only further add to it what I know must give you great pleasure, that **the United States enjoy a scene of prosperity and tranquillity under the new government that could hardly have been hoped for** under the old; and that, while you, in Europe, are troubled with war and rumors of war, every one here may sit under his own vine and none to molest or make him afraid. I have the honor etc.

## 2. Letter to David Humphreys

Philadelphia, July 20, 1791.

My dear Sir: I have received your letters of the 16 of February and 3 of May, and am much obliged by your observations on the situation, manners, customs and dispositions of the Spanish nation. In this age of free inquiry and enlightened reason it is to be hoped that the condition of the people in every Country will be bettered, and the happiness of mankind promoted. Spain appears to be so much behind the other Nations of Europe in liberal policy that a long time will undoubtedly elapse before the people of that kingdom can taste the sweets of liberty, and enjoy the natural advantages of their Country.

In my last I mentioned my intention of visiting the southern States, which I have since accomplished, and have the pleasure to inform you, that I

performed a journey of 1887 miles without meeting with any interruption by sickness, bad weather, or any untoward accident. Indeed so highly were we favored that we arrived at each place, where I proposed to make any halt, on the very day I fixed upon before we set out. The same horses performed the whole tour, and, altho' much reduced in flesh, kept up their full spirits to the last day.

I am much pleased that I have taken this journey as it has enabled me to see with my own eyes the situation of the country thro' which we travelled, and to learn more accurately the disposition of the people than I could have done by any information.

The country appears to be in a very improving state, and industry and frugality are becoming much more fashionable than they have hitherto been there. **Tranquillity reigns among the people, with that disposition towards the general government which is likely to preserve it.** They begin to feel the good effects of equal laws and equal protection. The farmer finds a ready market for his produce, and the merchant calculates with more certainty on his payments. Manufacturers have as yet made but little progress in that part of the country, and it will probably be a long time before they are brought to that state to which they have already arrived in the middle and eastern parts of the Union.

Each days experience of the Government of the United States seems to confirm its establishment, and to render it more popular. A ready acquiescence in the laws made under it shews in a strong light the confidence which the people have in their representatives, and in the upright views of those who administer the government. At the time of passing a law imposing a duty on home made spirits, it was vehemently affirmed by many, that such a law could never be executed in the southern States, particularly in Virginia and North Carolina. As this law came in force only on the first of this month little can be said of its effects from experience; but from the best information I could get on my journey respecting its operation on the minds of the people (and I took some pains to obtain information on this point) there remains no doubt but it will be carried into effect not only without opposition, but with very general approbation in those very parts where it was foretold that it would never be submitted to by any one. It is possible, however, and perhaps not improbable that some Demagogue may start up, and produce and get signed some resolutions declaratory of their disapprobation of the measure.

**Our public credit stands on that ground which three years ago it would have been considered as a species of madness to have foretold.** The astonishing rapidity, with which the newly instituted Bank was filled gives an unexampled proof (here) of the resources of our Countrymen and their confidence in public measures. On the first day of opening the subscription the whole number of shares (20,000) were taken up in one hour, and application made for upwards of 4000 shares more than were granted by the Institution, besides many others that were coming in from different quarters. For some time past the western frontiers have been alarmed by depredations committed by some hostile tribes of Indians; but such measures are now in train as will, I presume, either bring them to sue for peace before a stroke is struck at them, or make them feel the effects of an enmity too sensibly to provoke it again unnecessarily, unless, as is much suspected, they are countenanced, abetted, and supported in their hostile views by the B -- h. Tho' I must confess I cannot see much prospect of living in tranquillity with them so long as a spirit of land jobbing prevails, and our frontier Settlers entertain the opinion that there is not the same crime (or indeed no crime at all) in killing an Indian as in killing a white man.

You have been informed of the spot fixed on for the seat of Government on the Potomac, and I am now happy to add that all matters between the Proprietors of the soil and the public are settled to the mutual satisfaction of the Parties, and that the business of laying out the city, the grounds for public buildings, walks &c. is progressing under the inspection of Major L'Enfant with pleasing prospects.

Thus much for our american affairs; and I wish I could say as much in favor of circumstances in Europe. But our accounts from thence do not paint the situation of the Inhabitants in very pleasing colours. One part exhibits war and devastation; another preparations for war; a third commotions; a fourth direful apprehensions of commotions; and indeed there seems to be scarcely a nation enjoying uninterrupted, unapprehensive tranquillity.

The example of France will undoubtedly have its effects on other Kingdoms. Poland, by the public papers, appears to have made large and unexpected strides towards liberty, which, if true, reflects great honor on the present King, who seems to have been the principal promoter of the business.

By the by, I have never received any letter from Mr. Littlepage, or from the King of Poland, which you say Mr. Carmichael informed you were sent to

me last summer.

I yesterday had Mr. Jaudennes, who was in this country with Mr. Gardoqui, and is now come over in a public character, presented to me, for the first time by Mr. Jefferson. Colonel Ternant is expected here every day as minister from France.

I am glad to learn that the air of Lisbon agrees so well with you. I sincerely hope you may long, very long enjoy the blessing of health, accompanied with such other blessings as may contribute to your happiness. I have been in the enjoyment of very good health during my journey, and have rather gained flesh upon it. Mrs. Washington desires her best wishes may be presented to you. You are always assured of those of, my dear Sir, etc.

## **7. CIRCULAR TO THE STATES**

Head Quarters, Newburgh, June 8, 1783.

Sir: The great object for which I had the honor to hold an appointment in the Service of my Country, being accomplished, I am now preparing to resign it into the hands of Congress, and to return to that domestic retirement, which, it is well known, I left with the greatest reluctance, a Retirement, for which I have never ceased to sigh through a long and painful absence, and in which (remote from the noise and trouble of the World) I meditate to pass the remainder of life in a state of undisturbed repose; But before I carry this resolution into effect, I think it a duty incumbent on me, to make this my last official communication, to congratulate you on the glorious events which Heaven has been pleased to produce in our favor, to offer my sentiments respecting some important subjects, which appear to me, to be intimately connected with the tranquility of the United States, to take my leave of your Excellency as a public Character, and to give my final blessing to that Country, in whose service I have spent the prime of my life, for whose sake I have consumed so many anxious days and watchfull nights, and whose happiness being extremely dear to me, will always constitute no inconsiderable part of my own.

Impressed with the liveliest sensibility on this pleasing occasion, I will claim the indulgence of dilating the more copiously on the subjects of our mutual felicitation. When we consider the magnitude of the prize we contended for, the doubtful nature of the contest, and the favorable manner

in which it has terminated, we shall find the greatest possible reason for gratitude and rejoicing; this is a theme that will afford infinite delight to every benevolent and liberal mind, whether the event in contemplation, be considered as the source of present enjoyment or the parent of future happiness; and we shall have equal occasion to felicitate ourselves on the lot which Providence has assigned us, whether we view it in a natural, a political or moral point of light.

The Citizens of America, placed in the most enviable condition, as the sole Lords and Proprietors of a vast Tract of Continent, comprehending all the various soils and climates of the World, and abounding with all the necessaries and conveniencies of life, are now by the late satisfactory pacification, acknowledged to be possessed of absolute freedom and Independency; They are, from this period, to be considered as the Actors on a most conspicuous Theatre, which seems to be peculiarly designated by Providence for the display of human greatness and felicity; Here, they are not only surrounded with every thing which can contribute to the completion of private and domestic enjoyment, but Heaven has crowned all its other blessings, by giving a fairer opportunity for political happiness, than any other Nation has ever been favored with. Nothing can illustrate these observations more forcibly, than a recollection of the happy conjuncture of times and circumstances, under which our Republic assumed its rank among the Nations; The foundation of our Empire was not laid in the gloomy age of Ignorance and Superstition, but at an Epoque when the rights of mankind were better understood and more clearly defined, than at any former period, the researches of the human mind, after social happiness, have been carried to a great extent, the Treasures of knowledge, acquired by the labours of Philosophers, Sages and Legislatures, through a long succession of years, are laid open for our use, and their collected wisdom may be happily applied in the Establishment of our forms of Government; the free cultivation of Letters, the unbounded extension of Commerce, the progressive refinement of Manners, the growing liberality of sentiment, and above all, the pure and benign light of Revelation, have had ameliorating influence on mankind and increased the blessings of Society. At this auspicious period, the United States came into existence as a Nation, and if their Citizens should not be completely free and happy, the fault will be intirely their own.

Such is our situation, and such are our prospects: but notwithstanding the cup of blessing is thus reached out to us, notwithstanding happiness is ours, if we have a disposition to seize the occasion and make it our own; yet, it appears to me there is an option still left to the United States of America, that it is in their choice, and depends upon their conduct, whether they will be respectable and prosperous, or contemptible and miserable as a Nation; This is the time of their political probation, this is the moment when the eyes of the whole World are turned upon them, this is the moment to establish or ruin their national Character forever, this is the favorable moment to give such a tone to our Federal Government, as will enable it to answer the ends of its institution, or this may be the ill-fated moment for relaxing the powers of the Union, annihilating the cement of the Confederation, and exposing us to become the sport of European politics, which may play one State against another to prevent their growing importance, and to serve their own interested purposes. For, according to the system of Policy the States shall adopt at this moment, they will stand or fall, and by their confirmation or lapse, it is yet to be decided, whether the Revolution must ultimately be considered as a blessing or a curse: a blessing or a curse, not to the present age alone, for with our fate will the destiny of unborn Millions be involved.

With this conviction of the importance of the present Crisis, silence in me would be a crime; I will therefore speak to your Excellency, the language of freedom and of sincerity, without disguise; I am aware, however, that those who differ from me in political sentiment, may perhaps remark, I am stepping out of the proper line of my duty, and they may possibly ascribe to arrogance or ostentation, what I know is alone the result of the purest intention, but the rectitude of my own heart, which disdains such unworthy motives, the part I have hitherto acted in life, the determination I have formed, of not taking any share in public business hereafter, the ardent desire I feel, and shall continue to manifest, of quietly enjoying in private life, after all the toils of War, the benefits of a wise and liberal Government, will, I flatter myself, sooner or later convince my Countrymen, that I could have no sinister views in delivering with so little reserve, the opinions contained in this Address.

There are four things, which I humbly conceive, are essential to the well being, I may even venture to say, to the existence of the United States as an Independent Power:

1st. An indissoluble Union of the States under one Federal Head.

2dly. A Sacred regard to Public Justice.

3dly. The adoption of a proper Peace Establishment, and

4thly. The prevalence of that pacific and friendly Disposition, among the People of the United States, which will induce them to forget their local prejudices and policies, to make those mutual concessions which are requisite to the general prosperity, and in some instances, to sacrifice their individual advantages to the interest of the Community.

These are the pillars on which the glorious Fabrick of our Independency and National Character must be supported; Liberty is the Basis, and whoever would dare to sap the foundation, or overturn the Structure, under whatever specious pretexts he may attempt it, will merit the bitterest execration, and the severest punishment which can be inflicted by his injured Country.

On the three first Articles I will make a few observations, leaving the last to the good sense and serious consideration of those immediately concerned.

Under the first head, altho' it may not be necessary or proper for me in this place to enter into a particular disquisition of the principles of the Union, and to take up the great question which has been frequently agitated, whether it be expedient and requisite for the States to delegate a larger proportion of Power to Congress, or not, Yet it will be a part of my duty, and that of every true Patriot, to assert without reserve, and to insist upon the following positions, That unless the States will suffer Congress to exercise those prerogatives, they are undoubtedly invested with by the Constitution, every thing must very rapidly tend to Anarchy and confusion, That it is indispensable to the happiness of the individual States, that there should be lodged somewhere, a Supreme Power to regulate and govern the general concerns of the Confederated Republic, without which the Union cannot be of long duration. That there must be a faithfull and pointed compliance on the part of every State, with the late proposals and demands of Congress, or the most fatal consequences will ensue, That whatever measures have a tendency to dissolve the Union, or contribute to violate or lessen the Sovereign Authority, ought to be considered as hostile to the Liberty and Independency of America, and the Authors of them treated accordingly, and lastly, that unless we can be enabled by the concurrence of the States, to participate of the fruits of the Revolution, and enjoy the essential benefits of Civil Society, under a form of Government so free and

uncorrupted, so happily guarded against the danger of oppression, as has been devised and adopted by the Articles of Confederation, it will be a subject of regret, that so much blood and treasure have been lavished for no purpose, that so many sufferings have been encountered without a compensation, and that so many sacrifices have been made in vain. Many other considerations might here be adduced to prove, that without an entire conformity to the Spirit of the Union, we cannot exist as an Independent Power; it will be sufficient for my purpose to mention but one or two which seem to me of the greatest importance. It is only in our united Character as an Empire, that our Independence is acknowledged, that our power can be regarded, or our Credit supported among Foreign Nations. The Treaties of the European Powers with the United States of America, will have no validity on a dissolution of the Union. We shall be left nearly in a state of Nature, or we may find by our own unhappy experience, that **there is a natural and necessary progression, from the extreme of anarchy to the extreme of Tyranny;** and that arbitrary power is most easily established on the ruins of Liberty abused to licentiousness.

As to the second Article, which respects the performance of Public Justice, Congress have, in their late Address to the United States, almost exhausted the subject, they have explained their Ideas so fully, and have enforced the obligations the States are under, to render complete justice to all the Public Creditors, with so much dignity and energy, that in my opinion, no real friend to the honor and Independency of America, can hesitate a single moment respecting the propriety of complying with the just and honorable measures proposed; if their Arguments do not produce conviction, I know of nothing that will have greater influence; especially when we recollect that the System referred to, being the result of the collected Wisdom of the Continent, must be esteemed, if not perfect, certainly the least objectionable of any that could be devised; and that if it shall not be carried into immediate execution, a National Bankruptcy, with all its deplorable consequences will take place, before any different Plan can possibly be proposed and adopted; So pressing are the present circumstances I and such is the alternative now offered to the States!

The ability of the Country to discharge the debts which have been incurred in its defence, is not to be doubted, an inclination, I flatter myself, will not be wanting, the path of our duty is plain before us, honesty will be found on every experiment, to be the best and only true policy, let us then as a Nation

be just, let us fulfil the public Contracts, which Congress had undoubtedly a right to make for the purpose of carrying on the War, with the same good faith we suppose ourselves bound to perform our private engagements; in the mean time, let an attention to the chearfull performance of their proper business, as Individuals, and as members of Society, be earnestly inculcated on the Citizens of America, that will they strengthen the hands of Government, and be happy under its protection: every one will reap the fruit of his labours, every one will enjoy his own acquisitions without molestation and without danger.

In this state of absolute freedom and perfect security, who will grudge to yield a very little of his property to support the common interest of Society, and insure the protection of Government? Who does not remember, the frequent declarations, at the commencement of the War, that we should be compleatly satisfied, if at the expence of one half, we could defend the remainder of our possessions? Where is the Man to be found, who wishes to remain indebted, for the defence of his own person and property, to the exertions, the bravery, and the blood of others, without making one generous effort to repay the debt of honor and of gratitude? In what part of the Continent shall we find any Man, or body of Men, who would not blush to stand up and propose measures, purposely calculated to rob the Soldier of his Stipend, and the Public Creditor of his due? and were it possible that such a flagrant instance of Injustice could ever happen, would it not excite the general indignation, and tend to bring down, upon the Authors of such measures, the aggravated vengeance of Heaven? If after all, a spirit of disunion or a temper of obstinacy and perverseness, should manifest itself in any of the States, if such an ungracious disposition should attempt to frustrate all the happy effects that might be expected to flow from the Union, if there should be a refusal to comply with the requisitions for Funds to discharge the annual interest of the public debts, and if that refusal should revive again all those jealousies and produce all those evils, which are now happily removed, Congress, who have in all their Transaction shewn a great degree of magnanimity and justice, will stand justified in the sight of God and Man, and the State alone which puts itself in opposition to the aggregate Wisdom of the Continent, and follows such mistaken and pernicious Councils, will be responsible for all the consequences.

For my own part, conscious of having acted while a Servant of the Public, in the manner I conceived best suited to promote the real interests of my

Country; having in consequence of my fixed belief in some measure pledged myself to the Army, that their Country would finally do them compleat and ample Justice, and not wishing to conceal any instance of my official conduct from the eyes of the World, I have thought proper to transmit to your Excellency the inclosed collection of Papers, relative to the half pay and commutation granted by Congress to the Officers of the Army; From these communications, my decided sentiment will be clearly comprehended, together with the conclusive reasons which induced me, at an early period, to recommend the adoption of the measure, in the most earnest and serious manner. As the proceedings of Congress, the Army, and myself are open to all, and contain in my opinion, sufficient information to remove the prejudices and errors which may have been entertained by any; I think it unnecessary to say any thing more, than just to observe, that the Resolutions of Congress, now alluded to, are undoubtedly as absolutely binding upon the United States, as the most solemn Acts of Confederation or Legislation. As to the Idea, which I am informed has in some instances prevailed, that the half pay and commutation are to be regarded merely in the odious light of a Pension, it ought to be exploded forever; that Provision, should be viewed as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give, to the Officers of the Army, for services then to be performed. It was the only means to prevent a total dereliction of the Service, It was a part of their hire, I may be allowed to say, it was the price of their blood and of your Independency, it is therefore more than a common debt, it is a debt of honour, it can never be considered as a Pension or gratuity, nor be cancelled until it is fairly discharged.

With regard to a distinction between Officers and Soldiers, it is sufficient that the uniform experience of every Nation of the World, combined with our own, proves the utility and propriety of the discrimination. Rewards in proportion to the aids the public derives from them, are unquestionably due to all its Servants; In some Lines, the Soldiers have perhaps generally had as ample a compensation for their Services, by the large Bounties which have been paid to them, as their Officers will receive in the proposed Commutation, in others, if besides the donation of Lands, the payment of Arrearages of Cloathing and Wages (in which Articles all the component parts of the Army must be put upon the same footing) we take into the estimate, the Bounties many of the Soldiers have received and the gratuity

of one Year's full pay, which is promised to all, possibly their situation (every circumstance being duly considered) will not be deemed less eligible than that of the Officers. Should a farther reward, however, be judged equitable, I will venture to assert, no one will enjoy greater satisfaction than myself, on seeing an exemption from Taxes for a limited time, (which has been petitioned for in some instances) or any other adequate immunity or compensation, granted to the brave defenders of their Country's Cause; but neither the adoption or rejection of this proposition will in any manner affect, much less militate against, the Act of Congress, by which they have offered five years full pay, in lieu of the half pay for life, which had been before promised to the Officers of the Army.

Before I conclude the subject of public justice, I cannot omit to mention the obligations this Country is under, to that meritorious Class of veteran Non-commissioned Officers and Privates, who have been discharged for inability, in consequence of the Resolution of Congress of the 23d of April 1782, on an annual pension for life, their peculiar sufferings, their singular merits and claims to that provision need only be known, to interest all the feelings of humanity in their behalf: nothing but a punctual payment of their annual allowance can rescue them from the most complicated misery, and nothing could be a more melancholy and distressing sight, than to behold those who have shed their blood or lost their limbs in the service of their Country, without a shelter, without a friend, and without the means of obtaining any of the necessaries or comforts of Life; compelled to beg their daily bread from door to door! suffer me to recommend those of this description, belonging to your State, to the warmest patronage of your Excellency and your Legislature.

It is necessary to say but a few words on the third topic which was proposed, and which regards particularly the defence of the Republic, As there can be little doubt but Congress will recommend a proper Peace Establishment for the United States, in which a due attention will be paid to the importance of placing the Militia of the Union upon a regular and respectable footing; If this should be the case, I would beg leave to urge the great advantage of it in the strongest terms. The Militia of this Country must be considered as the Palladium of our security, and the first effectual resort in case of hostility; It is essential therefore, that the same system should pervade the whole; that the formation and discipline of the Militia of the Continent should be absolutely uniform, and that the same species of

Arms, Accoutrements and Military Apparatus, should be introduced in every part of the United States; No one, (who has not learned it from experience, can conceive the difficulty, expence, and confusion which result from a contrary system, or the vague Arrangements which have hitherto prevailed.

If in treating of political points, a greater latitude than usual has been taken in the course of this Address, the importance of the Crisis, and the magnitude of the objects in discussion, must be my apology: It is, however, neither my wish or expectation, that the preceding observations should claim any regard, except so far as they shall appear to be dictated by a good intention, consonant to the immutable rules of Justice; calculated to produce a liberal system of policy, and founded on whatever experience may have been acquired by a long and close attention to public business. Here I might speak with the more confidence from my actual observations, and, if it would not swell this Letter (already too prolix) beyond the bounds I had prescribed myself: I could demonstrate to every mind open to conviction, that in less time and with much less expence than has been incurred, the War might have been brought to the same happy conclusion, if the resourses of the Continent could have been properly drawn forth, that the distresses and disappointments which have very often occurred, have in too many instances, resulted more from a want of energy, in the Continental Government, than a deficiency of means in the particular States. That the inefficiency of measures, arising from the want of an adequate authority in the Supreme Power, from a partial compliance with the Requisitions of Congress in some of the States, and from a failure of punctuality in others, while it tended to damp the zeal of those which were more willing to exert themselves; served also to accumulate the expences of the War, and to frustrate the best concerted Plans, and that the discouragement occasioned by the complicated difficulties and embarrassments, in which our affairs were, by this means involved, would have long ago produced the dissolution of any Army, less patient, less virtuous and less persevering, than that which I have had the honor to command. But while I mention these things, which are notorious facts, as the defects of our Federal Constitution, particularly in the prosecution of a War, I beg it may be understood, that as I have ever taken a pleasure in gratefully acknowledging the assistance and support I have derived from every Class of Citizens, so

shall I always be happy to do justice to the unparalleled exertion of the individual States, on many interesting occasions.

I have thus freely disclosed what I wished to make known, before I surrendered up my Public trust to those who committed it to me, the task is now accomplished, I now bid adieu to your Excellency as the Chief Magistrate of your State, at the same time I bid a last farewell to the cares of Office, and all the employments of public life.

It remains then to be my final and only request, that your Excellency will communicate these sentiments to your Legislature at their next meeting, and that they may be considered as the Legacy of One, who has ardently wished, on all occasions, to be useful to his Country, and who, even in the shade of Retirement, will not fail to implore the divine benediction upon it.

I now make it my earnest prayer, that God would have you, and the State over which you preside, in his holy protection, that he would incline the hearts of the Citizens to cultivate a spirit of subordination and obedience to Government, to entertain a brotherly affection and love for one another, for their fellow Citizens of the United States at large, and particularly for their brethren who have served in the Field, and finally, that he would most graciously be pleased to dispose us all, to do Justice, to love mercy, and to demean ourselves with that Charity, humility and pacific temper of mind, which were the Characteristicks of the Divine Author of our blessed Religion, and without an humble imitation of whose example in these things, we can never hope to be a happy Nation.

## 109. THE FIRST INAUGURAL ADDRESS

[April 30, 1789.]

Fellow Citizens of the Senate and the House of Representatives.

Among the vicissitudes incident to life, no event could have filled me with greater anxieties than that of which the notification was transmitted by your order, and received on the fourteenth day of the present month. On the one hand, I was summoned by my Country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years: a retreat which was rendered every day more necessary as well as more dear to me, by the addition of habit to inclination, and of frequent interruptions in my health to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my Country called me, being sufficient to awaken in the wisest and most experienced of her citizens, a distrustful scrutiny into his qualification, could not but overwhelm with dispondence, one, who, inheriting inferior endowments from nature and unpractised in the duties of civil administration, ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions, all I dare aver, is, that it has been my faithful study to collect my duty from a just appreciation of every circumstance, by which it might be affected. All I dare hope, is, that, if in executing this task I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof, of the confidence of my fellow-citizens; and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me; my error will be palliated by the motives which misled me, and its consequences be judged by my Country, with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the public summons, repaired to the present station; it would be peculiarly improper to omit in this first official Act, my fervent supplications to that Almighty Being who rules over the Universe, who presides in the Councils of Nations, and whose providential aids can supply every human defect, that his benediction may consecrate to the liberties and happiness of the People of the United States, a Government instituted by themselves for these

essential purposes: and may enable every instrument employed in its administration to execute with success, the functions allotted to his charge. In tendering this homage to the Great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own; nor those of my fellow-citizens at large, less than either. **No People can be bound to acknowledge and adore the invisible hand, which conducts the Affairs of men more than the People of the United States. Every step, by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency.** And in the important revolution just accomplished in the system of their United Government, the tranquil deliberations and voluntary consent of so many distinct communities, from which the event has resulted, cannot be compared with the means by which most Governments have been established, without some return of pious gratitude along with an humble anticipation of the future blessings which the past seem to presage. These reflections, arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me I trust in thinking, that there are none under the influence of which, the proceedings of a new and free Government can more auspiciously commence.

By the article establishing the Executive Department, it is made the duty of the President "to recommend to your consideration, such measures as he shall judge necessary and expedient." The circumstances under which I now meet you, will acquit me from entering into that subject, farther than to refer to the Great Constitutional Charter under which you are assembled; and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude, and the patriotism which adorn the characters selected to devise and adopt them. In these honorable qualifications, I behold the surest pledges, that as on one side, no local prejudices, or attachments; no separate views, nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests: so, on another, that the foundations of our National policy will be laid in the pure and immutable principles of private morality; and the pre-eminence of a free Government,

be exemplified by all the attributes which can win the affections of its Citizens, and command the respect of the world.

I dwell on this prospect with every satisfaction which an ardent love for my Country can inspire: since there is no truth more thoroughly established, than that there exists in the oeconomy and course of nature, an indissoluble union between virtue and happiness, between duty and advantage, between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity: Since we ought to be no less persuaded that the propitious smiles of Heaven, can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained: And since the preservation of the sacred fire of liberty, and the destiny of the Republican model of Government, are justly considered as deeply, perhaps as finally staked, on the experiment entrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide, how far an exercise of the occasional power delegated by the Fifth article of the Constitution is rendered expedient at the present juncture by the nature of objections which have been urged against the System, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good: For I assure myself that whilst you carefully avoid every alteration which might endanger the benefits of an United and effective Government, or which ought to await the future lessons of experience; a reverence for the characteristic rights of freemen, and a regard for the public harmony, will sufficiently influence your deliberations on the question how far the former can be more impregnably fortified, or the latter be safely and advantageously promoted.

To the preceeding observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will therefore be as brief as possible. When I was first honoured with a call into the Service of my Country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed. And being still under the impressions which produced it, I must decline as inapplicable to myself, any share in the

personal emoluments, which may be indispensably included in a permanent provision for the Executive Department; and must accordingly pray that the pecuniary estimates for the Station in which I am placed, may, during my continuance in it, be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign parent of the human race, in humble supplication that since he has been pleased to favour the American people, with opportunities for deliberating in perfect tranquility, and dispositions for deciding with unparelled unanimity on a form of Government, for the security of their Union, and the advancement of their happiness; so his divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures on which the success of this Government must depend.

## **111. FAREWELL ADDRESS<sup>84</sup>**

David C. Claypoole's account of the publication of the Address is printed by Paltsits. An extract follows: "A few days before the appearance of this highly interesting document in print, I received a message from the President, by his private secretary, Col. Lear, signifying his desire to see me. I waited on him at the appointed time, and found him sitting alone in the drawing-room. He received me very kindly, and after I had paid my respects to him, desired me to take a seat near him; then addressing himself to me, said, that he had for some time contemplated retiring from public life, and had at length concluded to do so at the end of the (then) present term: that he had some thoughts and reflections on the occasion, which he deemed proper to communicate to the people of the United States, in the form of an address, and which he wished to appear in the Daily Advertiser, of which I was Proprietor and editor. He paused, and I took occasion to thank him for having selected that paper as the channel of communication to the Public, especially as I viewed this choice as an evidence of his approbation of the principles and manner in which the work was conducted. He silently assented, and asked me when I could make the publication. I answered that the time should be made perfectly convenient to himself, and the following Monday was fixed on: he then said that his secretary would

deliver me the Copy on the next morning (Friday), and I withdrew. After the proof sheet had been carefully compared with the copy, and corrected by myself, I carried two different Revises, to be examined by the President; who made but few alterations from the original, except in the punctuation, in which he was very minute. The publication of the Address, dated 'United States, September 17th, 1796' being completed on the 19th [bearing the same date with the Paper, Sept. 19th, 1796, being completed], I waited on the President with the original; and, in presenting it to him, expressed my regret at parting with it, and how much I should be gratified by being permitted to retain it: upon which in the most obliging manner, he handed it back to me, saying, that if I wished for it, I might keep it; -- and I then took my leave."

Sparks, who prints the Farewell Address from the publication of it in Claypoole's American Daily Advertiser , of Sept. 19, 1796, states that he copies the following indorsement (which is in the writing of Washington) on Claypoole's paper, "designed as an instruction to the copyist, who recorded the Address in the letter-book: The letter contained in this gazette, addressed 'To the People of the United States,' is to be recorded, and in the order of its date. Let it have a blank page before and after it, so as to stand distinct. Let it be written with a letter larger and fuller than the common recording hand. And where words are printed with capital letters, it is to be done so in recording. And those other words, that are printed in italics, must be scored underneath and straight by a ruler." This newspaper, with Washington's indorsement thereon, is not now found in the Washington Papers . Claypoole's paper printed the Address as dated September 17, which date is followed by Sparks. ]

United States, September 19, 1796.

Friends, and Fellow-Citizens: The period for a new election of a Citizen, to Administer the Executive government of the United States, being not far distant, and the time actually arrived, when your thoughts must be employed in designating the person, who is to be cloathed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the

considerations appertaining to the relation, which binds a dutiful citizen to his country, and that, in with drawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your Suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped, that it would have been much earlier in my power, consistently with motives, which I was not at liberty to disregard, to return to that retirement, from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last Election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our Affairs with foreign Nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice, that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty, or propriety; and am persuaded whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions, with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the Organization and Administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the encreasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotim does not forbid it.

In looking forward to the moment, which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude wch. I owe to my beloved

country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that, under circumstances in which the Passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of Success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts, and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your Union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its Administration in every department may be stamped with wisdom and Virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments; which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a People. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The Unity of Government which constitutes you one people is also now dear to you. It is justly so; for it is a main Pillar in the Edifice of your real independence, the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very Liberty which you so highly prize. But as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment, that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual and immoveable attachment to it; accustoming yourselves to think and speak of it as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our Country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you, in your national capacity, must always exalt the just pride of Patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same Religion, Manners, Habits and political Principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils, and joint efforts; of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility are greatly outweighed by those which apply more immediately to your Interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal Laws of a common government, finds in the productions of the latter, great additional resources of Maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same

Intercourse, benefitting by the Agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the National navigation, it looks forward to the protection of a Maritime strength, to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future Maritime strength of the Atlantic side of the Union, directed by an indissoluble community of Interest as one Nation . Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connection with any foreign Power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular Interest in Union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their Peace by foreign Nations; and, what is of inestimable value! they must derive from Union an exemption from those broils and Wars between themselves, which so frequently afflict neighbouring countries, not tied together by the same government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown Military establishments, which under any form of Government are inauspicious to liberty, and which are to be regarded as particularly hostile to Republican Liberty: In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other. These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of Patriotic desire. Is there a doubt, whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere

speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective Sub divisions, will afford a happy issue to the experiment. 'Tis well worth a fair and full experiment With such powerful and obvious motives to Union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason, to distrust the patriotism of those, who in any quarter may endeavor to weaken its bands.

In contemplating the causes wch. may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by Geographical discriminations: Northern and Southern; Atlantic and Western ; whence designing men may endeavour to excite a belief that there is a real difference of local interests and views. One of the expedients of Party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other Districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render Alien to each other those who ought to be bound together by fraternal affection. The Inhabitants of our Western country have lately had a useful lesson on this head. They have seen, in the Negotiation by the Executive, and in the unanimous ratification by the Senate, of the Treaty with Spain, and in the universal satisfaction at that event, throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their Interests in regard to the Mississippi . They have been witnesses to the formation of two Treaties, that with G: Britain and that with Spain, which secure to them every thing they could desire, in respect to our Foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of [ sic ] these advantages on the UNION by wch. they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their Brethren and connect them with Aliens?

To the efficacy and permanency of Your Union, a Government for the whole is indispensable. No Alliances however strict between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all Alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay,

by the adoption of a Constitution of Government, better calculated than your former for an intimate Union, and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its Laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all. The very idea of the power and the right of the People to establish Government presupposes the duty of every Individual to obey the established Government.

All obstructions to the execution of the Laws, all combinations and Associations, under whatever plausible character, with the real design to direct, controul counteract, or awe the regular deliberation and action of the Constituted authorities are destructive of this fundamental principle and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force; to put in the place of the delegated will of the Nation, the will of a party; often a small but artful and enterprizing minority of the Community; and, according to the alternate triumphs of different parties, to make the public administration the Mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modefied by mutual interests. However combinations or Associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the Power of the People, and to usurp for themselves the reins of Government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles however specious the

pretexts. one method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of Governments, as of other human institutions; that experience is the surest standard, by which to test the real tendency of the existing Constitution of a country; that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change, from the endless variety of hypotheses and opinion: and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a Government of as much vigour as is consistent with the perfect security of Liberty is indispensable. Liberty itself will find in such a Government, with powers properly distributed and adjusted, its surest Guardian. It is indeed little else than a name, where the Government is too feeble to withstand the enterprises of faction, to confine each member of the Society within the limits prescribed by the laws and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human Mind. It exists under different shapes in all Governments, more or less stifled, controuled, or repressed; but, in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissention, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an Individual: and sooner or later the chief of some prevailing faction more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and the duty of a wise People to discourage and restrain it.

It serves always to distract the Public Councils and enfeeble the Public administration. It agitates the Community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and and [ sic ] the will of one country, are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the Administration of the Government and serve to keep alive the spirit of Liberty. This within certain limits is probably true, and in Governments of a Monarchical cast Patriotism may look with indulgence, if not with layout, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free Country should inspire caution in those entrusted with its administration, to confine themselves within their respective Constitutional spheres; avoiding in the exercise of the Powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power; by dividing and distributing it into different depositories, and constituting each the Guardian of the Public Weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the People, the distribution or modification of the Constitutional powers be in any

particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labour to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens. The mere Politician, equally with the pious man ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked **where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in Courts of Justice?** And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free Government. Who that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric Promote then as an object of primary importance, Institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible: avoiding occasions of expence by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expence, but by vigorous exertions in time of Peace to discharge the Debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your

Representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be Revenue; that to have Revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the Conduct of the Government in making it, and for a spirit of acquiescence in the measures for obtaining Revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all Nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great Nation, to give to mankind the magnanimous and too novel example of a People always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a Nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human Nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular Nations and passionate attachments for others should be excluded; and that in place of them just and amicable feelings towards all should be cultivated. The Nation, which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one Nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed and bloody contests. The Nation, prompted by illwill and resentment sometimes impels to War the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the Nation subservient to projects of hostility instigated by pride, ambition

and other sinister and pernicious motives. The peace often, sometimes perhaps the Liberty, of Nations has been the victim.

So likewise, a passionate attachment of one Nation for another produces a variety of evils. Sympathy for the favourite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and Wars of the latter, without adequate inducement or justification: It leads also to concessions to the favourite Nation of priviledges denied to others, which is apt doubly to injure the Nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill will, and a disposition to retaliate, in the parties from whom equl. priviledges are withheld: And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favourite Nation) facility to betray, or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition corruption or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent Patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public Councils! Such an attachment of a small or weak, towards a great and powerful Nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real Patriots, who may resist the intrigues of the favourite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The Great rule of conduct for us, in regard to foreign Nations is in extending our commercial relations to have with them as little political connection as possible. So far as we have already formed engagements let them be fulfilled, with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships, or enmities:

Our detached and distant situation invites and enables us to pursue a different course. If we remain one People, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by our justice shall Counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European Ambition, Rivalship, Interest, Humour or Caprice?

'Tis our true policy to steer clear of permanent Alliances, with any portion of the foreign world. So far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronising infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy). I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all Nations, are recommended by policy, humanity and interest. But even our Commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favours or preferences; consulting the natural course of things; diffusing and deversifying by gentle means the streams of Commerce, but forcing

nothing, establishing with Powers so disposed; in order to give to trade a stable course, to define the rights of our Merchants, and to enable the Government to support them; conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that 'tis folly in one Nation to look for disinterested favors from another; that it must pay with a portion of its Independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favours and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favours from Nation to Nation. 'Tis an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my Countrymen these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression, I could wish; that they will controul the usual current of the passions, or prevent our Nation from running the course which has hitherto marked the Destiny of Nations: But if I may even flatter myself, that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign Intrigue, to guard against the Impostures of pretended patriotism; this hope will be a full recompence for the solicitude for your welfare, by which they have been dictated.

How far in the discharge of my Official duties, I have been guided by the principles which have been delineated, the public Records and other evidences of my conduct must Witness to You and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.'

In relation to the still subsisting War in Europe, my Proclamation of the 22d. of April 1793 is the index to my Plan. Sanctioned by your approving voice and by that of Your Representatives in both Houses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain I was well satisfied that our Country, under all the circumstances of the case, had a right to take, and was bound in duty and interest, to take a Neutral

position. Having taken it, I determined, as far as should depend upon me, to maintain it, with moderation, perseverance and firmness.

The considerations, which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that according to my understanding of the matter, that right, so far from being denied by any of the Belligerent Powers has been virtually admitted by all.

The duty of holding a Neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every Nation, in cases in which it is free to act, to maintain inviolate the relations of Peace and amity towards other Nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavour to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption, to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my Administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my Country will never cease to view them with indulgence; and that after forty five years of my life dedicated to its Service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the Mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a Man, who views in it the native soil of himself and his progenitors for several Generations; I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow Citizens, the benign influence of good Laws under a free Government, the ever favourite object of my heart, and the happy reward, as I trust, of our mutual cares, labours and dangers.

On September 19 Washington left Philadelphia for Mount Vernon. ]

## **179. \*To JAMES WARREN**

Middlebrook, March 31, 1779.

Dear Sir: I beseech you not to ascribe my delay in answering your obliging favor of the 16th. of Decr. to disrespect, or want of inclination to continue a correspondence in which I have always taken pleasure, and thought myself honored.

Your Letter of the above date came to my hands in Philadelphia where I attended at the request of Congress to settle some important matters respecting the army and its future operations; and where I was detained till some time in Feby., during that period my time was so much occupied by the immediate and pressing business which carried me down, that I could attend to little else; and upon my return to Camp I found the ordinary business of the Army had run so much behind hand, that, together with the arrangements I had to carry into execution, no leisure was left me to indulge myself sooner in making the acknowledgment I am now about to do, of the pleasure I felt at finding that I still enjoyed a share of your confidence and esteem, and now and then am to be informed of it by Letter. believe me Sir when I add, that this proof of your holding me in remembrance is most acceptable and pleasing.

Our conflict is not likely to cease so soon as every good Man would wish. The measure of iniquity is not yet filled; and unless we can return a little more to first principles, and act a little more upon patriotic ground, I do not know when it will, or, what may be the Issue of the contest. Speculation, Peculation, Engrossing, forestalling with all their concomitants, afford too many melancholy proofs of the decay of public virtue; and too glaring instances of its being the interest and desire of too many who would wish to be thought friends, to continue the War.

Nothing I am convinced but the depreciation of our Currency proceeding in a great measure from the foregoing Causes, aided by Stock jobbing, and party dissensions has fed the hopes of the Enemy and kept the B. Arms in America to this day. They do not scruple to declare this themselves, and add, that we shall be our own conquerers. Cannot our common Country Am. possess virtue enough to disappoint them? Is the paltry consideration of a little dirty pelf to individuals to be placed in competition with the essential rights and liberties of the present generation, and of Millions yet unborn? Shall a few designing men for their own aggrandizement, and to gratify their own avarice, overset the goodly fabric we have been rearing at the expence of so much time, blood, and treasure? and shall we at last

become the victims of our own abominable lust of gain? Forbid it heaven! forbid it all and every State in the Union! by enacting and enforcing efficacious laws for checking the growth of these monstrous evils, and restoring matters, in some degree to the pristine state they were in at the commencement of the War. Our cause is noble, it is the cause of Mankind! and the danger to it, is to be apprehended from ourselves. Shall we slumber and sleep then while we should be punishing those miscreants who have brot. these troubles upon us and who are aimg. to continue us in them, while we should be striving to fill our Battalions, and devising ways and means to appreciate the currency; on the credit of wch. every thing depends? I hope not. **Let vigorous measures be adopted; not to limit the prices of Articles, for this I believe is inconsistent with the very nature of things, and impracticable in itself, but to punish Speculators, forestallers, and extortioners, and above all to sink the money by heavy taxes. To promote public and private oeconomy; Encourage Manufactures &ca.** Measures of this sort gone heartily into by the several States would strike at once at the root of all our evils and give the coup de grace to British hope of subjugating this Continent, either by their Arms or their Arts. The first, as I have before observed, they acknowledge is unequal to the task; the latter I am sure will be so if we are not lost to every thing that is good and virtuous. A little time now, must unfold in some degree, the Enemys designs. Whether the state of affairs in Europe will permit them to augment their Army with more than recruits for the Regiments now on the Continent and therewith make an active and vigorous compaign, or whether with their Florida and Canadian force they will aid and abet the Indians in ravaging our Western Frontier while their Shipp. with detachments harrass (and if they mean to prosecute the predatory War threatened by Administration through their Commissioners) burn and destroy our Sea Coast; or whether, contrary to expectation, they should be more disposed to negotiate than to either is more than I can determine; the latter will depend very much upon their apprehensions from the Court of Spain, and expectations of foreign aid and powerful alliances; at present we seem to be in a Chaos but this cannot last long as I suppose the ultimate determination of the British Court will be developed at the meeting of Parliament after the Hollidays.

Mrs. Washington joins me in cordial wishes, and best respects to Mrs. Warren; she would have done herself the pleasure of writing but the present convayance was sudden. I am, etc.

On March 31 Washington wrote to Lieut. Col. Frederick Weissenfels, of the Second New York Regiment, in answer to his application that the command of the regiment, late Livingston's (Fourth New York Regiment), would be given to the senior lieutenant colonel: "In determining the matter on this ground, I would flatter myself that you will not find yourself in the least injured or deprived of any rank to which you may be intitled." This letter is in the Washington Papers.]

## **184. To THE PRESIDENT OF CONGRESS**

Head Quarters, Valley Forge, April 4, 1778.

Sir: I have now the honor to acknowledge your several letters of the 21st, 29th and 30th ulto. with their inclosures, which have been duly received.

It gives me pain to observe, they appear to contain several implications, by which my sensibility is not a little wounded.

I find myself extremely embarrassed by the Steps I had taken towards an Exchange of prisoners and the formation of a general Cartel, making more ample provision for their future accomodation and relief.

The Views of Congress seem to be very different from what I supposed them, when I entered into my late engagements with General Howe. Their Resolution of the 30th ulto. pointedly requiring a strict adherence to all former ones upon the subject, will in all probability render them impracticable.

I considered some of their Resolutions as dictated on the principle of retaliation, and did not imagine the terms they contained would be insisted on, in negotiating an agreement calculated to remedy the evils which occasioned them. In most respects they might be substantially complied with, but there are some points to which an exact conformity must of necessity destroy the Idea of a Cartel. One is, the obliging the Enemy to pay Gold and Silver on equal terms for continental Currency, estimating the Articles supplied them at their actual prices with us, as seems to be the design of the Resolve of the 19th. December. Another is, that subjecting the inhabitants of these States, taken in Arms against them, to trial and punishment agreeable to the Resolve of the 30th of the same month.

I am well aware that appearances ought to be upheld, and that **we should avoid as much as possible recognizing by any public Act, the depreciation of our currency; but I conceive this end would be**

**answered, as far as might be necessary, by stipulating that all money payments should be made in Gold and Silver, being the common Medium of Commerce among Nations,** at the rate of 4/6 for a Spanish milled dollar &c. by fixing the price of Rations on an equitable Scale, relatively to our respective circumstances, and providing for the payment of what we may owe, by sending in provisions and selling it at their market. The Rates of Money and the prices of provisions and other Commodities differ every where, and in treaties of a similar nature between any two States, it is requisite for mutual convenience, to ascertain some common Ratio, both for the value of Money in payments and for the Rates of those Articles on which they may arise.

It was determined, on mature consideration, not to concede any thing expressly that should contradict the Resolution of the 30th Decemr. but at the same time, if it is designed to be the rule of practice, it is easy to perceive it would at once overturn any Cartel that could be formed. Genl. Howe would never consent to observing it on his part, if such a practice were to exist on ours. Though the law ought not to be contravened, by an express article admitting the exchangeability of such persons, yet if it is not suffered to sleep, it is in vain to expect the operations of it will ever be acquiesced in by the Enemy.

This placed the matter entirely in the hands of the States and naturally would have left no civilians available for exchange with the Continental authority. It had also been resolved by Congress (Dec. 19, 1777) that no exchange take place until all accounts for subsistence of prisoners between the United States and Great Britain be settled and the balance due the United States be paid. "The beauty of it is," wrote Alexander Hamilton to Governor Clinton (March 12), "on a fair settlement, we shall without doubt be in Mr. Howe's debt; and in the meantime, we detain his officers and soldiers as a security for the payment, perhaps forever. At any rate, it cannot take place all next summer." ]

The measures I have taken must evince that it is my determination to pay the fullest attention to the interests of Citizens and to the rights of General Lee in the treaty; and I think it but justice to the Gentlemen appointed to negotiate it, to declare, that I know them to be so fully impressed with the importance of both of those objects, as to make them chearfully observant of the injunctions of Congress, so far as not to conclude any agreement, of

which the exchange of Genl. Lee and the alternative respecting Citizens, are not essential parts. These points had been early determined on.

It is with no small concern that I have been obliged to trouble Congress upon the subjects of this letter, and should they appear to them in the same light they do to me, and they should think proper to remove the obstacles which now oppose the Business in hand, I must request they will be pleased to communicate their determinations, as expeditiously as possible, that the Commissioners may govern themselves accordingly and either proceed to forming a Cartel or to put an end to the negotiation. Before the Resolves of the 30th came to hand, they had met and been in treaty two days, with a prospect of a favorable accomodation.

I am happy to inform Congress, that General Lee will be out on parole tomorrow, in place of General Prescott; and I have every reason to expect, if the negotiation can be continued on admissible terms, that his Exchange will immediately follow the releasement of Col. Campbell and the Hessian Field Officers. It is agreed that Lt. Colo. Allen shall be exchanged for Lt. Colo. Campbell.

The importunate applications of Colo. Lee and Major Swasey to leave the Service oblige me to lay the matter before Congress. Colo. Lee's letter upon the subject was transmitted me the 25th January, but hoping he might change his mind, I deferred writing to Congress on his request. He has renewed it again in urgent terms thro' Genl. Heath, and I have only to observe, that it is a painful circumstance to see Officers of their Merit leaving the Service. It is the case every day. I shall be obliged, by Congress informing me of the dates of the Resignations by the Colonels in the Virginia line. I have only received the date of Colo. Lewis's.

Inclosed is a Letter from Captain Cottineau of the Ship Ferdinand, with an Invoice of her Cargo. The letter only came to hand yesterday, and as it is of an old date, it is highly probable that the Goods are sold. If they are not, from the Captains desire to give the publick a preference in the Sale, Congress will have an opportunity of directing them to be purchased. Most of them would be proper for the Army. I have the honour etc.

## **211. \*FAREWELL ADDRESS84**

David C. Claypoole's account of the publication of the Address is printed by Paltsits. An extract follows: "A few days before the appearance of this

highly interesting document in print, I received a message from the President, by his private secretary, Col. Lear, signifying his desire to see me. I waited on him at the appointed time, and found him sitting alone in the drawing-room. He received me very kindly, and after I had paid my respects to him, desired me to take a seat near him; then addressing himself to me, said, that he had for some time contemplated retiring from public life, and had at length concluded to do so at the end of the (then) present term: that he had some thoughts and reflections on the occasion, which he deemed proper to communicate to the people of the United States, in the form of an address, and which he wished to appear in the Daily Advertiser, of which I was Proprietor and editor. He paused, and I took occasion to thank him for having selected that paper as the channel of communication to the Public, especially as I viewed this choice as an evidence of his approbation of the principles and manner in which the work was conducted. He silently assented, and asked me when I could make the publication. I answered that the time should be made perfectly convenient to himself, and the following Monday was fixed on: he then said that his secretary would deliver me the Copy on the next morning (Friday), and I withdrew. After the proof sheet had been carefully compared with the copy, and corrected by myself, I carried two different Revises, to be examined by the President; who made but few alterations from the original, except in the punctuation, in which he was very minute. The publication of the Address, dated 'United States, September 17th, 1796' being completed on the 19th [bearing the same date with the Paper, Sept. 19th, 1796, being completed], I waited on the President with the original; and, in presenting it to him, expressed my regret at parting with it, and how much I should be gratified by being permitted to retain it: upon which in the most obliging manner, he handed it back to me, saying, that if I wished for it, I might keep it; -- and I then took my leave."

Sparks, who prints the Farewell Address from the publication of it in Claypoole's American Daily Advertiser , of Sept. 19, 1796, states that he copies the following indorsement (which is in the writing of Washington) on Claypoole's paper, "designed as an instruction to the copyist, who recorded the Address in the letter-book: The letter contained in this gazette, addressed 'To the People of the United States,' is to be recorded, and in the order of its date. Let it have a blank page before and after it, so as to stand distinct. Let it be written with a letter larger and fuller than the common

recording hand. And where words are printed with capital letters, it is to be done so in recording. And those other words, that are printed in italics, must be scored underneath and straight by a ruler." This newspaper, with Washington's indorsement thereon, is not now found in the Washington Papers . Claypoole's paper printed the Address as dated September 17, which date is followed by Sparks. ]

United States, September 19, 1796.

Friends, and Fellow-Citizens: The period for a new election of a Citizen, to Administer the Executive government of the United States, being not far distant, and the time actually arrived, when your thoughts must be employed in designating the person, who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation, which binds a dutiful citizen to his country, and that, in with drawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your Suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped, that it would have been much earlier in my power, consistently with motives, which I was not at liberty to disregard, to return to that retirement, from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last Election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our Affairs with foreign Nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice, that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty, or propriety; and am persuaded whatever partiality may be retained for

my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions, with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the Organization and Administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the encreasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment, which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude wch. I owe to my beloved country, for the many honors it has conferred upon me; still more for the stedfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that, under circumstances in which the Passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of Success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts, and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your Union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its Administration in every department may be stamped with wisdom and Virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may

be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments; which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a People. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The Unity of Government which constitutes you one people is also now dear to you. It is justly so; for it is a main Pillar in the Edifice of your real independence, the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very Liberty which you so highly prize. But as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment, that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual and immoveable attachment to it; accustoming yourselves to think and speak of it as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our Country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you, in your national capacity, must always exalt the just pride of Patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same Religion, Manners, Habits and political Principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils, and joint efforts; of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility are greatly outweighed by those which apply more immediately to your Interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal Laws of a common government, finds in the productions of the latter, great additional resources of Maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same Intercourse, benefitting by the Agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the National navigation, it looks forward to the protection of a Maritime strength, to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future Maritime strength of the Atlantic side of the Union, directed by an indissoluble community of Interest as one Nation . Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connection with any foreign Power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular Interest in Union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their Peace by foreign Nations; and, what is of inestimable value! they must derive from Union an exemption from those broils and Wars between themselves, which so frequently afflict neighbouring countries, not tied together by the same government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown Military establishments, which under any form of Government are inauspicious to liberty, and which are to be regarded as particularly hostile to Republican Liberty: In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other. These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of Patriotic desire. Is there a doubt, whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective Sub divisions, will afford a happy issue to the experiment. 'Tis well worth a fair and full experiment With such powerful and obvious motives to Union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason, to distrust the patriotism of those, who in any quarter may endeavor to weaken its bands.

In contemplating the causes wch. may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by Geographical discriminations: Northern and Southern; Atlantic and Western ; whence designing men may endeavour to excite a belief that there is a real difference of local interests and views. One of the expedients of Party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other Districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render Alien to each other those who ought to be bound together by fraternal affection. The

Inhabitants of our Western country have lately had a useful lesson on this head. They have seen, in the Negotiation by the Executive, and in the unanimous ratification by the Senate, of the Treaty with Spain, and in the universal satisfaction at that event, throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their Interests in regard to the Mississippi . They have been witnesses to the formation of two Treaties, that with G: Britain and that with Spain, which secure to them every thing they could desire, in respect to our Foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of [ sic ] these advantages on the UNION by wch. they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their Brethren and connect them with Aliens?

To the efficacy and permanency of Your Union, a Government for the whole is indispensable. No Alliances however strict between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all Alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of Government, better calculated than your former for an intimate Union, and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its Laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all. The very idea of the power and the right of the People to establish Government presupposes the duty of every Individual to obey the established Government.

All obstructions to the execution of the Laws, all combinations and Associations, under whatever plausible character, with the real design to

direct, controul counteract, or awe the regular deliberation and action of the Constituted authorities are destructive of this fundamental principle and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force; to put in the place of the delegated will of the Nation, the will of a party; often a small but artful and enterprizing minority of the Community; and, according to the alternate triumphs of different parties, to make the public administration the Mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modefied by mutual interests. However combinations or Associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the Power of the People, and to usurp for themselves the reins of Government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles however specious the pretexts. one method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of Governments, as of other human institutions; that experience is the surest standard, by which to test the real tendency of the existing Constitution of a country; that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change, from the endless variety of hypotheses and opinion: and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a Government of as much vigour as is consistent with the perfect security of Liberty is indispensable. Liberty itself will find in such a Government, with powers properly distributed and adjusted, its surest Guardian. It is indeed little else than a name, where the Government is too feeble to withstand the enterprises of faction, to confine each member of the Society within the limits prescribed by the laws and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human Mind. It exists under different shapes in all Governments, more or less stifled, controuled, or repressed; but, in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissention, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an Individual: and sooner or later the chief of some prevailing faction more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and the duty of a wise People to discourage and restrain it.

It serves always to distract the Public Councils and enfeeble the Public administration. It agitates the Community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and and [ sic ] the will of one country, are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the Administration of the Government and serve to keep alive the spirit of Liberty. This within certain limits is probably true, and in Governments of a Monarchical cast Patriotism may look with indulgence, if not with layout, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for

every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

**It is important, likewise, that the habits of thinking in a free Country should inspire caution in those entrusted with its administration, to confine themselves within their respective Constitutional spheres; avoiding in the exercise of the Powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power; by dividing and distributing it into different depositories, and constituting each the Guardian of the Public Weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.**

Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labour to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens. The mere Politician, equally with the pious man ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in Courts of Justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined

education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free Government. Who that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric Promote then as an object of primary importance, Institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible: avoiding occasions of expence by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expence, but by vigorous exertions in time of Peace to discharge the Debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your Representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be Revenue; that to have Revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseperable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the Conduct of the Government in making it, and for a spirit of acquiescence in the measures for obtaining Revenue which the public exigencies may at any time dictate.

Observe good faith and justice towds. all Nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great Nation, to give to mankind the magnanimous and too novel example of a People always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary

advantages wch. might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a Nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human Nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular Nations and passionate attachments for others should be excluded; and that in place of them just and amicable feelings towards all should be cultivated. The Nation, which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one Nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate envenomed and bloody contests. The Nation, prompted by illwill and resentment sometimes impels to War the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the Nation subservient to projects of hostility instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the Liberty, of Nations has been the victim.

So likewise, a passionate attachment of one Nation for another produces a variety of evils. Sympathy for the favourite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and Wars of the latter, without adequate inducement or justification: It leads also to concessions to the favourite Nation of priviledges denied to others, which is apt doubly to injure the Nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill will, and a disposition to retaliate, in the parties from whom eql. priviledges are withheld: And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favourite Nation) facility to betray, or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation a commendable deference

for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition corruption or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent Patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public Councils! Such an attachment of a small or weak, towards a great and powerful Nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real Patriots, who may resist the intrigues of the favourite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The Great rule of conduct for us, in regard to foreign Nations is in extending our commercial relations to have with them as little political connection as possible. So far as we have already formed engagements let them be fulfilled, with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships, or enmities:

Our detached and distant situation invites and enables us to pursue a different course. If we remain one People, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us,

will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by our justice shall Counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European Ambition, Rivalship, Interest, Humour or Caprice?

'Tis our true policy to steer clear of permanent Alliances, with any portion of the foreign world. So far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronising infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy). I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all Nations, are recommended by policy, humanity and interest. But even our Commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favours or preferences; consulting the natural course of things; diffusing and deversifying by gentle means the streams of Commerce, but forcing nothing, establishing with Powers so disposed; in order to give to trade a stable course, to define the rights of our Merchants, and to enable the Government to support them; conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that 'tis folly in one Nation to look for disinterested favors from another; that it must pay with a portion of its Independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favours and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favours from Nation to Nation. 'Tis an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my Countrymen these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression, I could wish; that they will controul the usual current of the

passions, or prevent our Nation from running the course which has hitherto marked the Destiny of Nations: But if I may even flatter myself, that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign Intrigue, to guard against the Impostures of pretended patriotism; this hope will be a full recompence for the solicitude for your welfare, by which they have been dictated.

How far in the discharge of my Official duties, I have been guided by the principles which have been delineated, the public Records and other evidences of my conduct must Witness to You and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.'

In relation to the still subsisting War in Europe, my Proclamation of the 22d. of April 1793 is the index to my Plan. Sanctioned by your approving voice and by that of Your Representatives in both Houses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain I was well satisfied that our Country, under all the circumstances of the case, had a right to take, and was bound in duty and interest, to take a Neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it, with moderation, perseverance and firmness.

The considerations, which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that according to my understanding of the matter, that right, so far from being denied by any of the Belligerent Powers has been virtually admitted by all.

The duty of holding a Neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every Nation, in cases in which it is free to act, to maintain inviolate the relations of Peace and amity towards other Nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavour to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption, to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my Administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my Country will never cease to view them with indulgence; and that after forty five years of my life dedicated to its Service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the Mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a Man, who views in it the native soil of himself and his progenitors for several Generations; I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow Citizens, the benign influence of good Laws under a free Government, the ever favourite object of my heart, and the happy reward, as I trust, of our mutual cares, labours and dangers.

On September 19 Washington left Philadelphia for Mount Vernon. ]

## **253. FIRST ANNUAL ADDRESS TO CONGRESS**

January 8, 1790.

Fellow Citizens of the Senate and House of Representatives: I embrace with great satisfaction the opportunity which now presents itself, of congratulating you on the present favourable prospects of our public affairs. The recent accession of the important State of North Carolina to the Constitution of the United States (of which official information has been received); the rising credit and respectability of our Country; the general and increasing good will towards the Government of the Union, and the concord, peace, and plenty, with which we are blessed are circumstances auspicious in an eminent degree, to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection that the measures of the last Session have been as satisfactory to your Constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations and to secure the blessings which a Gracious Providence has placed within

our reach, will in the course of the present important Session, call for the cool and deliberate exertion of your patriotism, firmness and wisdom.

Among the many interesting objects, which will engage your attention, that of providing for the common defence will merit particular regard. **To be prepared for War is one of the most effectual means of perserving peace.**

A free people ought not only to be armed but disciplined; to which end a uniform and well digested plan is requisite: And their safety and interest require, that they should promote such manufactories, as tend to render them independent on others for essential, particularly for military supplies.

The proper establishment of the Troops, which may be deemed indispensable, will be entitled to mature deliberation. 88 In the arrangements, which may be made respecting it, it will be of importance to conciliate the comfortable support of the Officers and Soldiers with a due regard to oeconomy.

There was reason to hope that the pacific measures adopted with regard to certain hostile tribes of Indians would have relieved the Inhabitants of our Southern and Western frontiers from their depredations. But you will perceive from the information contained in the papers which I shall direct to be laid before you (comprehending a communication from the Commonwealth of Virginia) that we ought to be prepared to afford protection to those parts of the Union; and if necessary to punish aggressors.

The interests of the United States requires that our intercourse with other nations should be facilitated, by such provisions as will enable me to fulfill my duty in that respect, in the manner which circumstances may render most conducive to the public good: And to this end that the compensations to be made to the persons who may be employed, should according to the nature of their appointments, be defined by law; and a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient, that the terms on which foreigners may be admitted to the rights of Citizens should be speedily ascertained by a uniform rule of naturalization.

Uniformity in the Currency, Weights and Measures of the United States is an object of great importance, and will I am persuaded be duly attended to.

The advancement of Agriculture, Commerce and Manufactures by all proper means, will not I trust need recommendation. But I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our Country by a due attention to the Post-Office and Post-Roads.

Nor am I less persuaded, that you will agree with me in opinion, that there is nothing which can better deserve your patronage than the promotion of Science and Literature. Knowledge is in every country the surest basis of public happiness. In one in which the measures of Government receive their impression so immediately from the sense of the Community as in ours it is proportionably essential. To the security of a free Constitution it contributes in various ways: By convincing those who are intrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people: and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience and those resulting from the inevitable exigencies of Society; to discriminate the spirit of Liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the Laws.

Whether this desirable object will be the best promoted by affording aids to seminaries of learning already established, by the institution of a national University, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature. 89

On January 11 Washington very briefly acknowledged an address from the Senate in response to this speech. On January 12 he likewise acknowledged a similar address from the House. Both of these replies are recorded in the "Letter Book" in the Washington Papers . ]

## **254. FIRST ANNUAL ADDRESS TO CONGRESS**

January 8, 1790.

Fellow Citizens of the Senate and House of Representatives: I embrace with great satisfaction the opportunity which now presents itself, of congratulating you on the present favourable prospects of our public affairs. The recent accession of the important State of North Carolina to the Constitution of the United States (of which official information has been received); the rising credit and respectability of our Country; the general and increasing good will towards the Government of the Union, and the concord, peace, and plenty, with which we are blessed are circumstances auspicious in an eminent degree, to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection that the measures of the last Session have been as satisfactory to your Constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations and to secure the blessings which a Gracious Providence has placed within our reach, will in the course of the present important Session, call for the cool and deliberate exertion of your patriotism, firmness and wisdom.

Among the many interesting objects, which will engage your attention, that of providing for the common defence will merit particular regard. To be prepared for War is one of the most effectual means of perserving peace.

**A free people ought not only to be armed but disciplined; to which end a uniform and well digested plan is requisite:** And their safety and interest require, that they should promote such manufactories, as tend to render them independent on others for essential, particularly for military supplies.

The proper establishment of the Troops, which may be deemed indispensable, will be entitled to mature deliberation. In the arrangements, which may be made respecting it, it will be of importance to conciliate the comfortable support of the Officers and Soldiers with a due regard to oeconomy.

There was reason to hope that the pacific measures adopted with regard to certain hostile tribes of Indians would have relieved the Inhabitants of our Southern and Western frontiers from their depredations. But you will perceive from the information contained in the papers which I shall direct to be laid before you (comprehending a communication from the Commonwealth of Virginia) that we ought to be prepared to afford protection to those parts of the Union; and if necessary to punish aggressors.

The interests of the United States requires that our intercourse with other nations should be facilitated, by such provisions as will enable me to fulfill my duty in that respect, in the manner which circumstances may render most conducive to the public good: And to this end that the compensations to be made to the persons who may be employed, should according to the nature of their appointments, be defined by law; and a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient, that the terms on which foreigners may be admitted to the rights of Citizens should be speedily ascertained by a uniform rule of naturalization.

Uniformity in the Currency, Weights and Measures of the United States is an object of great importance, and will I am persuaded be duly attended to.

The advancement of Agriculture, Commerce and Manufactures by all proper means, will not I trust need recommendation. But I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our Country by a due attention to the Post-Office and Post-Roads.

Nor am I less persuaded, that you will agree with me in opinion, that there is nothing which can better deserve your patronage than the promotion of Science and Literature. Knowledge is in every country the surest basis of public happiness. In one in which the measures of Government receive their impression so immediately from the sense of the Community as in ours it is proportionably essential. To the security of a free Constitution it contributes in various ways: By convincing those who are intrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people: and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience and those resulting from the inevitable exigencies of Society; to discriminate the spirit of Liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the Laws.

Whether this desirable object will be the best promoted by affording aids to seminaries of learning already established, by the institution of a national University, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature.

On January 11 Washington very briefly acknowledged an address from the Senate in response to this speech. On January 12 he likewise acknowledged a similar address from the House. Both of these replies are recorded in the "Letter Book" in the Washington Papers . ]

## 255. FIRST ANNUAL ADDRESS TO CONGRESS

January 8, 1790.

Fellow Citizens of the Senate and House of Representatives: I embrace with great satisfaction the opportunity which now presents itself, of congratulating you on the present favourable prospects of our public affairs. The recent accession of the important State of North Carolina to the Constitution of the United States (of which official information has been received); the rising credit and respectability of our Country; the general and increasing good will towards the Government of the Union, and the concord, peace, and plenty, with which we are blessed are circumstances auspicious in an eminent degree, to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection that the measures of the last Session have been as satisfactory to your Constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations and to secure the blessings which a Gracious Providence has placed within our reach, will in the course of the present important Session, call for the cool and deliberate exertion of your patriotism, firmness and wisdom.

Among the many interesting objects, which will engage your attention, that of providing for the common defence will merit particular regard. To be prepared for War is one of the most effectual means of perserving peace.

A free people ought not only to be armed but disciplined; to which end a uniform and well digested plan is requisite: **And their safety and interest require, that they should promote such manufactories, as tend to render them independent on others for essential, particularly for military supplies.**

The proper establishment of the Troops, which may be deemed indispensable, will be entitled to mature deliberation. In the arrangements, which may be made respecting it, it will be of importance to conciliate the comfortable support of the Officers and Soldiers with a due regard to oeconomy.

There was reason to hope that the pacific measures adopted with regard to certain hostile tribes of Indians would have relieved the Inhabitants of our Southern and Western frontiers from their depredations. But you will perceive from the information contained in the papers which I shall direct to be laid before you (comprehending a communication from the Commonwealth of Virginia) that we ought to be prepared to afford protection to those parts of the Union; and if necessary to punish aggressors.

The interests of the United States requires that our intercourse with other nations should be facilitated, by such provisions as will enable me to fulfill my duty in that respect, in the manner which circumstances may render most conducive to the public good: And to this end that the compensations to be made to the persons who may be employed, should according to the nature of their appointments, be defined by law; and a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient, that the terms on which foreigners may be admitted to the rights of Citizens should be speedily ascertained by a uniform rule of naturalization.

Uniformity in the Currency, Weights and Measures of the United States is an object of great importance, and will I am persuaded be duly attended to.

The advancement of Agriculture, Commerce and Manufactures by all proper means, will not I trust need recommendation. But I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our Country by a due attention to the Post-Office and Post-Roads.

Nor am I less persuaded, that you will agree with me in opinion, that there is nothing which can better deserve your patronage than the promotion of Science and Literature. Knowledge is in every country the surest basis of public happiness. In one in which the measures of Government receive their

impression so immediately from the sense of the Community as in ours it is proportionably essential. To the security of a free Constitution it contributes in various ways: By convincing those who are intrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people: and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience and those resulting from the inevitable exigencies of Society; to discriminate the spirit of Liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the Laws.

Whether this desirable object will be the best promoted by affording aids to seminaries of learning already established, by the institution of a national University, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature.

On January 11 Washington very briefly acknowledged an address from the Senate in response to this speech. On January 12 he likewise acknowledged a similar address from the House. Both of these replies are recorded in the "Letter Book" in the Washington Papers . ]

## **256. THIRD ANNUAL ADDRESS TO CONGRESS**

October 25, 1791.

Fellow Citizens of the Senate and House of Representatives:

I meet you, upon the present occasion, with the feelings which are naturally inspired by a strong impression of the prosperous situation of our common Country, and by a persuasion equally strong that the labours of the present Session, which has just commenced, will, under the guidance of a spirit no less prudent than patriotic, issue in measures, conducive to the stability and increase of national prosperity.

Numerous as are the Providential blessings which demand our grateful acknowledgments; the abundance with which another year has again rewarded the industry of the husbandman is too important to escape recollection.

Your own observations, in your respective situations, will have satisfied you of the progressive state of Agriculture, Manufactures, Commerce and Navigation: In tracing their causes, you will have remarked, with particular pleasure, the happy effects of that revival of confidence, public as well as private, to which the Constitution and Laws of the United States have so eminently contributed: And you will have observed, with no less interest, new and decisive proofs of the increasing reputation and credit of the Nation. But you nevertheless, cannot fail to derive satisfaction from the confirmation of these circumstances, which will be disclosed, in the several official communications, that will be made to you in the course of your deliberations.

The rapid subscriptions to the Bank of the United States, which completed the sum allowed to be subscribed, in a single day, is among the striking and pleasing evidences which present themselves, not only of confidence in the Government, but of resource in the community.

In the interval of your recess due attention has been paid to the execution of the different objects which were specially provided for by the laws and Resolutions of the last Session.

Among the most important of these is the defence and security of the Western Frontiers. To accomplish it on the most humane principles was a primary wish.

Accordingly, at the same time that treaties have been provisionally concluded, and other proper means used to attach the wavering, and to confirm in their friendship, the well-disposed tribes of Indians; effectual measures have been adopted to make those of a hostile description sensible that a pacification was desired upon terms of moderation and justice.

These measures having proved unsuccessful, it became necessary to convince the refractory of the power of the United States to punish their depredations. Offensive operations have therefore been directed; to be conducted however, as consistently as possible with the dictates of humanity. Some of these have been crowned with full success, and others are yet depending. The expeditions which have been completed were carried on under the authority, and at the expense of the United States by the Militia of Kentucke; whose enterprise, intripidity and good conduct, are entitled to peculiar commendation.

Overtures of peace are still continued to the deluded Tribes, and considerable numbers of individuals belonging to them, have lately

renounced all further opposition, removed from their former situations, and placed themselves under the immediate protection of the United States.

It is sincerely to be desired that all need of coercion, in future, may cease; and that an intimate intercourse may succeed; calculated to advance the happiness of the Indians, and to attach them firmly to the United States.

In order to this it seems necessary: That they should experience the benefits of an impartial administration of justice. That the mode of alienating their lands the main source of discontent and war, should be so defined and regulated, as to obviate imposition, and, as far as may be practicable, controversy concerning the reality, and extent of the alienations which are made. That commerce with them should be promoted under regulations tending to secure an equitable deportment towards them, and that such rational experiments should be made, for imparting to them the blessings of civilization, as may, from time to time suit their condition. That the Executive of the United States should be enabled to employ the means to which the Indians have been long accustomed for uniting their immediate Interests with the preservation of Peace. And that efficacious provision should be made for inflicting adequate penalties upon all those who, by violating their rights, shall infringe the Treaties, and endanger the peace of the Union.

A System corresponding with the mild principles of Religion and Philanthropy towards an unenlightened race of Men, whose happiness materially depends on the conduct of the United States, would be as honorable to the national character as conformable to the dictates of sound policy.

The powers specially vested in me by the Act laying certain duties on distilled spirits, which respect the subdivisions of the districts into Surveys, the appointment of Officers, and the assignment of compensations, have likewise been carried into effect. In a matter in which both materials and experience were wanting to guide the calculation, it will be readily conceived that there must have been difficulty in such an adjustment of the rates of compensation as would conciliate a reasonable competency with a proper regard to the limits prescribed by the law. It is hoped that the circumspection, which has been used will be found in the result to have secured the last of the two objects; but it is probable, that with a view to the first, in some instances, a revision of the provision will be found advisable.

The impressions with which this law has been received by the community, have been, upon the whole, such as were to be expected among enlightened and well-disposed Citizens, from the propriety and necessity of the measure. The novelty, however of the tax, in a considerable part of the United States, and a misconception of some of its provisions, have given occasion, in particular places to some degree of discontent. But it is satisfactory to know that this disposition yields to proper explanations and more just apprehensions of the true nature of the law. and I entertain a full confidence, that it will, in all, give way to motives which arise out of a just sense of duty, and a virtuous regard to the public welfare.

If there are any circumstances, in the law, which consistently with its main design, may be so varied as to remove any well intentioned objections, that may happen to exist, it will consist with a wise moderation to make the proper variations. It is desirable on all occasions, to unite with a steady and firm adherence to constitutional and necessary Acts of Government, the fullest evidence of a disposition, as far as may be practicable, to consult the wishes of every part of the Community, and to lay the foundations of the public administration in the affection of the people.

Pursuant to the authority contained in the several Acts on that subject, a district of ten miles square for the permanent seat of the Government of the United States has been fixed, and announced by proclamation; which district will comprehend lands on both sides of the River Potomack, and the towns of Alexandria and George Town. A City has also been laid out agreeably to a plan which will be placed before Congress: And as there is a prospect, favoured by the rate of sales which have already taken place, of ample funds for carrying on the necessary public buildings, there is every expectation of their due progress.

The completion of the Census of the Inhabitants, for which provision was made by law, has been duly notified (excepting in one instance in which the return has been informal, and another in which it has been omitted or miscarried) and the returns of the Officers, who were charged with this duty, which will be laid before you, will give you the pleasing assurance that the present population of the United States borders on four Millions of persons.

It is proper also to inform you that a further loan of two millions and a half of Florins has been completed in Holland; the terms of which are similar to those of the one last announced, except as to a small reduction of charges.

Another on like terms, for six Millions of Florins, had been set on foot under circumstances that assured immediate completion.

Gentlemen of the Senate:

Two treaties, which have been provisionally concluded with the Cherokees and Six Nations of Indians, will be laid before you for your consideration and ratification.

Gentlemen of the House of Representatives:

In entering upon the discharge of your legislative trust, you must anticipate with pleasure, that many of the difficulties, necessarily incident to the first arrangements of a new Government, for an extensive Country, have been happily surmounted by the zealous, and judicious exertions of your predecessors, in co-operation with the other branch of the legislature. The important objects, which remain to be accomplished, will, I am persuaded, be conducted upon principles equally comprehensive, and equally well calculated for the advancement of the general weal.

The time limited for receiving subscriptions to the loans proposed by the Act making provision for the debt of the United States having expired, statements from the proper department will, as soon as possible, apprise you of the exact result. Enough, however is already known, to afford an assurance that the views of that Act have been substantially fulfilled. The subscription in the domestic debt of the United States, has embraced by far the greatest proportion of that debt; affording at the same time proof of the general satisfaction of the public Creditors with the System which has been proposed to their acceptance, and of the spirit of accommodation to the convenience of the Government with which they are actuated. The subscriptions in the debts of the respective States, as far as the provisions of the law have permitted, may be said to be yet more general. The part of the debt of the United States, which remains unsubscribed, will naturally engage your further deliberations.

It is particularly pleasing to me to be able to announce to you, that the revenues which have been established, promise to be adequate to their objects; and may be permitted, if no unforeseen exigency occurs, to supercede, for the present, the necessity of any new burthens upon our Constituents.

An Object which will claim your early attention, is, a provision for the current service of the ensuing year, together with such ascertained demands upon the Treasury as require to be immediately discharged; and such

casualties as may have arisen in the execution of the public business, for which no specific appropriations may have yet been made; of all which a proper estimate will be laid before you.

Gentlemen of the Senate, and of the House of Representatives:

I shall content myself with a general reference to former communications for several objects, upon which the urgency of other affairs has hitherto postponed any definite resolution. Their importance will recall them to your attention; and I trust that the progress already made in the most arduous arrangements of the Government, will afford you leisure to resume them with advantage.

There are, however, some of them of which I cannot forbear a more particular mention. These are, the Militia; the Post-Office and Post-roads; the Mint; Weights and Measures; a provision for the sale of the vacant lands of the United States.

The first is certainly an object of primary importance, whether viewed in reference to the national security, to the satisfaction of the community, or to the preservation of order. In connection with this, the establishment of competent Magazines and Arsenals, and the fortification of such places as are peculiarly important and vulnerable, naturally present themselves to consideration. **The safety of the United States, under Divine protection, ought to rest on the basis of systematic and solid arrangements; exposed as little as possible to the hazard of fortuitous circumstances.**

The importance of the Post-Office and Post-Roads, on a plan sufficiently liberal and comprehensive, as they respect the expedition, safety and facility of communication, is increased by the instrumentality in diffusing a knowledge of the laws and proceedings of the government; which, while it contributes to the security of the people, serves also to guard them against the effects of misrepresentation and misconception. The establishment of additional cross-posts, especially to some of the important points in the Western and Northern parts of the Union, cannot fail to be of material Utility.

The disorders in the existing currency, and especially the scarcity of small change, a scarcity so peculiarly distressing to the poorer classes, strongly recommend the carrying into immediate effect the resolution already entered into concerning the establishment of a Mint. Measures have been taken, pursuant to that Resolution, for procuring some of the most necessary Artists, together with the requisite Apparatus.

An uniformity in the weights and measures of the Country is among the important objects submitted to you by the Constitution, and if it can be derived from a standard at once invariable and universal, must be no less honorable to the public Councils than conducive to the public convenience.

A provision for the sale of the vacant lands of the United States is particularly urged, among other reasons, by the important considerations that they are pledged as a fund for reimbursing the public debt; that if timely and judiciously applied, they may save the necessity of burthening our citizens with new taxes for the extinguishment of the principal; and that being free to discharge the principal but in a limited proportion no opportunity ought to be lost for availing the public of its right.

On October 28 the Members of the House of Representatives proceeded to the President's house where the Speaker delivered the reply of the House to the addresses of the President, who replied briefly and formally. Both these addresses and reply are entered in the "Letter Book" in the Washington Papers .

On October 31 the Members of the Senate proceeded to the President's house where the Vice President delivered the address of the Senate in reply to the addresses of the President. To this the President replied formally. Both this address and the reply are entered in the "Letter Book." ]

## **257. \*FIFTH ANNUAL ADDRESS TO CONGRESS**

Philadelphia, December 3, 1793

Fellow Citizens of the Senate, and of the House of Representatives

Since the commencement of the term, for which I have been again called into office, no fit occasion has arisen for expressing to my fellow Citizens at large, the deep and respectful sense, which I feel, of the renewed testimony of public approbation. While on the one hand, it awakened my gratitude for all those instances of affectionate partiality, with which I have been honored by my Country; on the other, it could not prevent an earnest wish for that retirement, from which no private consideration should ever have torn me. But influenced by the belief, that my conduct would be estimated according to its real motives; and that the people, and the authorities derived from them, would support exertions, having nothing personal for their object, I have obeyed the suffrage which commanded me to resume the Executive power; and I humbly implore that Being, on whose Will the fate of Nations

depends, to crown with success our mutual endeavours for the general happiness.

As soon as the War in Europe had embraced those Powers, with whom the United States have the most extensive relations; there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace, drawn into question, by the suspicions, too often entertained by belligerent Nations. It seemed therefore to be my duty to admonish our Citizens of the consequences of a contraband trade, and of hostile Acts to any of the parties; and to obtain by a declaration of the existing legal state of things, an easier admission of our right to the immunities, belonging to our situation. Under these impressions the Proclamation, which will be laid before you, was issued.

In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the Treaties, and assert the priviledges, of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at liberty to forbid the Sale of the prizes, permitted by our treaty of Commerce with France to be brought into our ports; I have not refused to cause them to be restored, when they were taken within the protection of our territory; or by vessels commissioned, or equipped in a warlike form within the limits of the United States.

It rests with the wisdom of Congress to correct, improve or enforce this plan of procedure; and it will probably be found expedient, to extend the legal code, and the Jurisdiction of the Courts of the United States, to many cases, which, though dependent on principles already recognized, demand some further provisions.

Where individuals shall within the United States, array themselves in hostility against any of the powers at war; or enter upon Military expeditions, or enterprizes within the jurisdiction of the United States; or usurp and exercise judicial authority within the United States; or where the penalties on violations of the law of Nations may have been indistinctly marked, or are inadequate; these offences cannot receive too early and close an attention, and require prompt and decisive remedies.

Whatsoever those remedies may be, they will be well administered by the Judiciary, who possess a long established course of investigation, effectual process, and Officers in the habit of executing it. In like manner; as several of the Courts have doubted, under particular circumstances, their power to

liberate the vessels of a Nation at peace, and even of a citizen of the United States, although seized under a false colour of being hostile property; and have denied their power to liberate certain captures within the protection of our territory; it would seem proper to regulate their jurisdiction in these points. But if the Executive is to be the resort in either of the two last mentioned cases, it is hoped, that he will be authorized by law, to have facts ascertained by the Courts, when, for his own information, he shall request it.

**I cannot recommend to your notice measures for the fulfilment of our duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of compleat defence, and of exacting from them the fulfilment of their duties towards us.** The United States ought not to indulge a persuasion, that, contrary to the order of human events, they will for ever keep at a distance those painful appeals to arms, with which the history of every other nation abounds. There is a rank due to the United States among Nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known, that we are at all times ready for War.

The documents, which will be presented to you, will shew the amount, and kinds of Arms and military stores now in our Magazines and Arsenals: and yet an addition even to these supplies cannot with prudence be neglected; as it would leave nothing to the uncertainty of procuring a warlike apparatus, in the moment of public danger. Nor can such arrangements, with such objects, be exposed to the censure or jealousy of the warmest friends of Republican Government. They are incapable of abuse in the hands of the Militia, who ought to possess a pride in being the depository of the force of the Republic, and may be trained to a degree of energy, equal to every military exigency of the United States. But it is an inquiry, which cannot be too solemnly pursued, whether the act "more effectually to provide/or the National defence by establishing an uniform Militia throughout the United States" has organized them so as to produce their full effect; whether your own experience in the several States has not detected some imperfections in the scheme; and whether a material feature in an improvement of it, ought not to be, to afford an opportunity for the study of those branches of the Military art, which can scarcely ever be attained by practice alone?

The connexion of the United States with Europe, has become extremely interesting. The occurrences, which relate to it, and have passed under the knowledge of the Executive, will be exhibited to Congress in a subsequent communication.

When we contemplate the war on our frontiers, it may be truly affirmed, that every reasonable effort has been made to adjust the causes of dissension with the Indians, North of the Ohio. The Instructions given to the Commissioners evince a moderation and equity proceeding from a sincere love of peace, and a liberality, having no restriction but the essential interests and dignity of the United States. The attempt, however, of an amicable negotiation having been frustrated, the troops have marched to act offensively. Although the proposed treaty did not arrest the progress of military preparation; it is doubtful, how far the advance of the Season, before good faith justified active movements, may retard them, during the remainder of the year. From the papers and intelligence, which relate to this important subject, you will determine, whether the deficiency in the number of Troops, granted by law, shall be compensated by succours of Militia; or additional encouragements shall be proposed to recruits. An anxiety has been also demonstrated by the Executive, for peace with the Creeks and the Cherokees. The former have been relieved with Corn and with clothing, and offensive measures against them prohibited during the recess of Congress. To satisfy the complaints of the latter, prosecutions have been instituted for the violences committed upon them. But the papers, which will be delivered to you, disclose the critical footing on which we stand in regard to both those tribes; and it is with Congress to pronounce what shall be done.

After they shall have provided for the present emergency, it will merit their most serious labours, to render tranquillity with the Savages permanent, by creating ties of interest. Next to a rigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations in behalf of the United States, is most likely to conciliate their attachment. But it ought to be conducted without fraud, without extortion, with constant and plentiful supplies; with a ready market for the commodities of the Indians, and a stated price for what they give in payment, and receive in exchange. Individuals will not pursue such a traffic, unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only. Should this recommendation accord with the opinion of Congress, they will recollect, that it cannot be accomplished by any means

yet in the hands of the Executive. Gentlemen of the House of Representatives

The Commissioners, charged with the settlement of Accounts between the United and individual States, concluded their important functions, within the time limited by Law; and the balances, struck in their report, which will be laid before Congress, have been placed on the Books of the Treasury.

On the first day of June last, an instalment of one million of florins became payable on the loans of the United States in Holland. This was adjusted by a prolongation of the period of reimbursement, in nature of a new loan, at an interest at five per cent for the term of ten years; and the expences of this operation were a commission of three pr Cent.

The first instalment of the loan of two millions of dollars from the Bank of the United States, has been paid, as was directed by Law. For the second, it is necessary, that provision should be made.

No pecuniary consideration is more urgent, than the regular redemption and discharge of the public debt: on none can delay be more injurious, or an oeconomy of time more valuable.

The productiveness of the public revenues hitherto, has continued to equal the anticipations which were formed of it; but it is not expected to prove commensurate with all the objects, which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped that these may be made, consistently with a due regard to the convenience of our Citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burthens.

But here, I cannot forbear to recommend a repeal of the tax on the transportation of public prints. There is no resource so firm for the Government of the United States, as the affections of the people guided by an enlightened policy; and to this primary good, nothing can conduce more, than a faithful representation of public proceedings, diffused, without restraint, throughout the United States.

An estimate of the appropriations, necessary for the current service of the ensuing year, and a statement of a purchase of Arms and Military stores made during the recess, will be presented to Congress.

Gentlemen of the Senate, and of the House of Representatives

The several subjects, to which I have now referred, open a wide range to your deliberations; and involve some of the choicest interests of our

common Country. Permit me to bring to your remembrance the magnitude of your task. Without an unprejudiced coolness, the welfare of the Government may be hazarded; without harmony, as far as consists with freedom of Sentiment, its dignity may be lost. But, as the Legislative proceedings of the United States will never, I trust, be reproached for the want of temper or candour; so shall not the public happiness languish, from the want of my strenuous and warmest cooperations.

The Senate replied to this address, December 9, and the President answered December 10. The House of Representatives replied to the President in an address agreed upon December 6, and delivered December 7, to which the President answered the same day. These addresses and answers, which are purely formal in character, are entered in the "Letter Book" in the Washington Papers. ]

## **258. \*FIFTH ANNUAL ADDRESS TO CONGRESS**

Philadelphia, December 3, 1793

Fellow Citizens of the Senate, and of the House of Representatives

Since the commencement of the term, for which I have been again called into office, no fit occasion has arisen for expressing to my fellow Citizens at large, the deep and respectful sense, which I feel, of the renewed testimony of public approbation. While on the one hand, it awakened my gratitude for all those instances of affectionate partiality, with which I have been honored by my Country; on the other, it could not prevent an earnest wish for that retirement, from which no private consideration should ever have torn me. But influenced by the belief, that my conduct would be estimated according to its real motives; and that the people, and the authorities derived from them, would support exertions, having nothing personal for their object, I have obeyed the suffrage which commanded me to resume the Executive power; and I humbly implore that Being, on whose Will the fate of Nations depends, to crown with success our mutual endeavours for the general happiness.

As soon as the War in Europe had embraced those Powers, with whom the United States have the most extensive relations; there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace, drawn into question, by the suspicions, too often entertained by belligerent Nations. It seemed therefore to be my duty to

admonish our Citizens of the consequences of a contraband trade, and of hostile Acts to any of the parties; and to obtain by a declaration of the existing legal state of things, an easier admission of our right to the immunities, belonging to our situation. Under these impressions the Proclamation, which will be laid before you, was issued.

In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the Treaties, and assert the privileges, of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at liberty to forbid the Sale of the prizes, permitted by our treaty of Commerce with France to be brought into our ports; I have not refused to cause them to be restored, when they were taken within the protection of our territory; or by vessels commissioned, or equipped in a warlike form within the limits of the United States.

It rests with the wisdom of Congress to correct, improve or enforce this plan of procedure; and it will probably be found expedient, to extend the legal code, and the Jurisdiction of the Courts of the United States, to many cases, which, though dependent on principles already recognized, demand some further provisions.

Where individuals shall within the United States, array themselves in hostility against any of the powers at war; or enter upon Military expeditions, or enterprises within the jurisdiction of the United States; or usurp and exercise judicial authority within the United States; or where the penalties on violations of the law of Nations may have been indistinctly marked, or are inadequate; these offences cannot receive too early and close an attention, and require prompt and decisive remedies.

Whatsoever those remedies may be, they will be well administered by the Judiciary, who possess a long established course of investigation, effectual process, and Officers in the habit of executing it. In like manner; as several of the Courts have doubted, under particular circumstances, their power to liberate the vessels of a Nation at peace, and even of a citizen of the United States, although seized under a false colour of being hostile property; and have denied their power to liberate certain captures within the protection of our territory; it would seem proper to regulate their jurisdiction in these points. But if the Executive is to be the resort in either of the two last mentioned cases, it is hoped, that he will be authorized by law, to have facts

ascertained by the Courts, when, for his own information, he shall request it.

I cannot recommend to your notice measures for the fulfilment of our duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of compleat defence, and of exacting from them the fulfilment of their duties towards us . The United States ought not to indulge a persuasion, that, contrary to the order of human events, they will for ever keep at a distance those painful appeals to arms, with which the history of every other nation abounds. **There is a rank due to the United States among Nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known, that we are at all times ready for War.**

The documents, which will be presented to you, will shew the amount, and kinds of Arms and military stores now in our Magazines and Arsenals: and yet an addition even to these supplies cannot with prudence be neglected; as it would leave nothing to the uncertainty of procuring a warlike apparatus, in the moment of public danger. Nor can such arrangements, with such objects, be exposed to the censure or jealousy of the warmest friends of Republican Government. They are incapable of abuse in the hands of the Militia, who ought to possess a pride in being the depository of the force of the Republic, and may be trained to a degree of energy, equal to every military exigency of the United States. But it is an inquiry, which cannot be too solemnly pursued, whether the act "more effectually to provide/or the National defence by establishing an uniform Militia throughout the United States" has organized them so as to produce their full effect; whether your own experience in the several States has not detected some imperfections in the scheme; and whether a material feature in an improvement of it, ought not to be, to afford an opportunity for the study of those branches of the Military art, which can scarcely ever be attained by practice alone?

The connexion of the United States with Europe, has become extremely interesting. The occurrences, which relate to it, and have passed under the knowledge of the Executive, will be exhibited to Congress in a subsequent communication.

When we contemplate the war on our frontiers, it may be truly affirmed, that every reasonable effort has been made to adjust the causes of

dissension with the Indians, North of the Ohio. The Instructions given to the Commissioners evince a moderation and equity proceeding from a sincere love of peace, and a liberality, having no restriction but the essential interests and dignity of the United States. The attempt, however, of an amicable negotiation having been frustrated, the troops have marched to act offensively. Although the proposed treaty did not arrest the progress of military preparation; it is doubtful, how far the advance of the Season, before good faith justified active movements, may retard them, during the remainder of the year. From the papers and intelligence, which relate to this important subject, you will determine, whether the deficiency in the number of Troops, granted by law, shall be compensated by succours of Militia; or additional encouragements shall be proposed to recruits. An anxiety has been also demonstrated by the Executive, for peace with the Creeks and the Cherokees. The former have been relieved with Corn and with clothing, and offensive measures against them prohibited during the recess of Congress. To satisfy the complaints of the latter, prosecutions have been instituted for the violences committed upon them. But the papers, which will be delivered to you, disclose the critical footing on which we stand in regard to both those tribes; and it is with Congress to pronounce what shall be done.

After they shall have provided for the present emergency, it will merit their most serious labours, to render tranquillity with the Savages permanent, by creating ties of interest. Next to a rigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations in behalf of the United States, is most likely to conciliate their attachment. But it ought to be conducted without fraud, without extortion, with constant and plentiful supplies; with a ready market for the commodities of the Indians, and a stated price for what they give in payment, and receive in exchange. Individuals will not pursue such a traffic, unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only. Should this recommendation accord with the opinion of Congress, they will recollect, that it cannot be accomplished by any means yet in the hands of the Executive. Gentlemen of the House of Representatives

The Commissioners, charged with the settlement of Accounts between the United and individual States, concluded their important functions, within the time limited by Law; and the balances, struck in their report, which will be laid before Congress, have been placed on the Books of the Treasury.

On the first day of June last, an instalment of one million of florins became payable on the loans of the United States in Holland. This was adjusted by a prolongation of the period of reimbursement, in nature of a new loan, at an interest at five per cent for the term of ten years; and the expences of this operation were a commission of three pr Cent.

The first instalment of the loan of two millions of dollars from the Bank of the United States, has been paid, as was directed by Law. For the second, it is necessary, that provision should be made.

No pecuniary consideration is more urgent, than the regular redemption and discharge of the public debt: on none can delay be more injurious, or an oeconomy of time more valuable.

The productiveness of the public revenues hitherto, has continued to equal the anticipations which were formed of it; but it is not expected to prove commensurate with all the objects, which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped that these may be made, consistently with a due regard to the convenience of our Citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burthens.

But here, I cannot forbear to recommend a repeal of the tax on the transportation of public prints. There is no resource so firm for the Government of the United States, as the affections of the people guided by an enlightened policy; and to this primary good, nothing can conduce more, than a faithful representation of public proceedings, diffused, without restraint, throughout the United States.

An estimate of the appropriations, necessary for the current service of the ensuing year, and a statement of a purchase of Arms and Military stores made during the recess, will be presented to Congress.

Gentlemen of the Senate, and of the House of Representatives

The several subjects, to which I have now referred, open a wide range to your deliberations; and involve some of the choicest interests of our common Country. Permit me to bring to your remembrance the magnitude of your task. Without an unprejudiced coolness, the welfare of the Government may be hazarded; without harmony, as far as consists with freedom of Sentiment, its dignity may be lost. But, as the Legislative proceedings of the United States will never, I trust, be reproached for the

want of temper or candour; so shall not the public happiness languish, from the want of my strenuous and warmest cooperations.

The Senate replied to this address, December 9, and the President answered December 10. The House of Representatives replied to the President in an address agreed upon December 6, and delivered December 7, to which the President answered the same day. These addresses and answers, which are purely formal in character, are entered in the "Letter Book" in the Washington Papers. ]

## **262-272. \*FAREWELL ADDRESS**

David C. Claypoole's account of the publication of the Address is printed by Paltsits. An extract follows: "A few days before the appearance of this highly interesting document in print, I received a message from the President, by his private secretary, Col. Lear, signifying his desire to see me. I waited on him at the appointed time, and found him sitting alone in the drawing-room. He received me very kindly, and after I had paid my respects to him, desired me to take a seat near him; then addressing himself to me, said, that he had for some time contemplated retiring from public life, and had at length concluded to do so at the end of the (then) present term: that he had some thoughts and reflections on the occasion, which he deemed proper to communicate to the people of the United States, in the form of an address, and which he wished to appear in the Daily Advertiser, of which I was Proprietor and editor. He paused, and I took occasion to thank him for having selected that paper as the channel of communication to the Public, especially as I viewed this choice as an evidence of his approbation of the principles and manner in which the work was conducted. He silently assented, and asked me when I could make the publication. I answered that the time should be made perfectly convenient to himself, and the following Monday was fixed on: he then said that his secretary would deliver me the Copy on the next morning (Friday), and I withdrew. After the proof sheet had been carefully compared with the copy, and corrected by myself, I carried two different Revises, to be examined by the President; who made but few alterations from the original, except in the punctuation, in which he was very minute. The publication of the Address, dated 'United States, September 17th, 1796' being completed on the 19th [bearing the same date with the Paper, Sept. 19th, 1796, being completed], I waited on

the President with the original; and, in presenting it to him, expressed my regret at parting with it, and how much I should be gratified by being permitted to retain it: upon which in the most obliging manner, he handed it back to me, saying, that if I wished for it, I might keep it; -- and I then took my leave."

Sparks, who prints the Farewell Address from the publication of it in Claypoole's American Daily Advertiser , of Sept. 19, 1796, states that he copies the following indorsement (which is in the writing of Washington) on Claypoole's paper, "designed as an instruction to the copyist, who recorded the Address in the letter-book: The letter contained in this gazette, addressed 'To the People of the United States,' is to be recorded, and in the order of its date. Let it have a blank page before and after it, so as to stand distinct. Let it be written with a letter larger and fuller than the common recording hand. And where words are printed with capital letters, it is to be done so in recording. And those other words, that are printed in italics, must be scored underneath and straight by a ruler." This newspaper, with Washington's indorsement thereon, is not now found in the Washington Papers . Claypoole's paper printed the Address as dated September 17, which date is followed by Sparks. ]

United States, September 19, 1796.

Friends, and Fellow-Citizens: The period for a new election of a Citizen, to Administer the Executive government of the United States, being not far distant, and the time actually arrived, when your thoughts must be employed in designating the person, who is to be cloathed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation, which binds a dutiful citizen to his country, and that, in with drawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your Suffrages have twice called me, have been a uniform sacrifice of inclination

to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped, that it would have been much earlier in my power, consistently with motives, which I was not at liberty to disregard, to return to that retirement, from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last Election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our Affairs with foreign Nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice, that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty, or propriety; and am persuaded whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions, with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the Organization and Administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment, which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that, under circumstances in which the Passions

agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of Success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts, and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your Union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its Administration in every department may be stamped with wisdom and Virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments; which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a People. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The Unity of Government which constitutes you one people is also now dear to you. It is justly so; for it is a main Pillar in the Edifice of your real independence, the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very Liberty which you so highly prize. But as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external

enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment, that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual and immoveable attachment to it; accustoming yourselves to think and speak of it as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our Country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you, in your national capacity, must always exalt the just pride of Patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same Religion, Manners, Habits and political Principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils, and joint efforts; of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility are greatly outweighed by those which apply more immediately to your Interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal Laws of a common government, finds in the productions of the latter, great additional resources of Maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same Intercourse, benefitting by the Agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the National navigation, it looks forward to the protection of a Maritime strength, to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and

more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future Maritime strength of the Atlantic side of the Union, directed by an indissoluble community of Interest as one Nation . Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connection with any foreign Power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular Interest in Union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their Peace by foreign Nations; and, what is of inestimable value! they must derive from Union an exemption from those broils and Wars between themselves, which so frequently afflict neighbouring countries, not tied together by the same government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown Military establishments, which under any form of Government are inauspicious to liberty, and which are to be regarded as particularly hostile to Republican Liberty: In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other. These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of Patriotic desire. Is there a doubt, whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective Sub divisions, will afford a happy issue to the experiment. 'Tis well worth a fair and full experiment With such powerful and obvious motives to Union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason, to distrust the patriotism of those, who in any quarter may endeavor to weaken its bands.

In contemplating the causes wch. may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by Geographical discriminations: Northern and Southern; Atlantic and Western ; whence designing men may endeavour to excite a belief that there is a real difference of local interests and views. One of the expedients of Party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other Districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render Alien to each other those who ought to be bound together by fraternal affection. The Inhabitants of our Western country have lately had a useful lesson on this head. They have seen, in the Negociation by the Executive, and in the unanimous ratification by the Senate, of the Treaty with Spain, and in the universal satisfaction at that event, throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their Interests in regard to the Mississippi . They have been witnesses to the formation of two Treaties, that with G: Britain and that with Spain, which secure to them every thing they could desire, in respect to our Foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of [ sic ] these advantages on the UNION by wch. they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their Brethren and connect them with Aliens?

To the efficacy and permanency of Your Union, a Government for the whole is indispensable. No Alliances however strict between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all Alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of Government, better calculated than your former for an intimate Union, and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its Laws,

acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all. The very idea of the power and the right of the People to establish Government presupposes the duty of every Individual to obey the established Government.

All obstructions to the execution of the Laws, all combinations and Associations, under whatever plausible character, with the real design to direct, controul counteract, or awe the regular deliberation and action of the Constituted authorities are destructive of this fundamental principle and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force; to put in the place of the delegated will of the Nation, the will of a party; often a small but artful and enterprizing minority of the Community; and, according to the alternate triumphs of different parties, to make the public administration the Mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modefied by mutual interests. However combinations or Associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the Power of the People, and to usurp for themselves the reins of Government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles however specious the pretexts. one method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of Governments, as of other human institutions; that experience is the surest standard, by which to test the real tendency of the existing Constitution of a country; that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual

change, from the endless variety of hypotheses and opinion: and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a Government of as much vigour as is consistent with the perfect security of Liberty is indispensable. Liberty itself will find in such a Government, with powers properly distributed and adjusted, its surest Guardian. It is indeed little else than a name, where the Government is too feeble to withstand the enterprises of faction, to confine each member of the Society within the limits prescribed by the laws and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human Mind. It exists under different shapes in all Governments, more or less stifled, controuled, or repressed; but, in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissention, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an Individual: and sooner or later the chief of some prevailing faction more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and the duty of a wise People to discourage and restrain it.

It serves always to distract the Public Councils and enfeeble the Public administration. It agitates the Community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and

corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and and [ sic ] the will of one country, are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the Administration of the Government and serve to keep alive the spirit of Liberty. This within certain limits is probably true, and in Governments of a Monarchical cast Patriotism may look with indulgence, if not with layout, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free Country should inspire caution in those entrusted with its administration, to confine themselves within their respective Constitutional spheres; avoiding in the exercise of the Powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power; by dividing and distributing it into different depositories, and constituting each the Guardian of the Public Weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the

tribute of Patriotism, who should labour to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens. The mere Politician, equally with the pious man ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in Courts of Justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free Government. Who that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric Promote then as an object of primary importance, Institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible: avoiding occasions of expence by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expence, but by vigorous exertions in time of Peace to discharge the Debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your Representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be Revenue; that to have Revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseperable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the Conduct of the Government in

making it, and for a spirit of acquiescence in the measures for obtaining Revenue which the public exigencies may at any time dictate.

**Observe good faith and justice towards all Nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great Nation, to give to mankind the magnanimous and too novel example of a People always guided by an exalted justice and benevolence.** Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a Nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human Nature. Alas! is it rendered impossible by its vices?

**In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular Nations and passionate attachments for others should be excluded; and that in place of them just and amicable feelings towards all should be cultivated. The Nation, which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one Nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate envenomed and bloody contests. The Nation, prompted by illwill and resentment sometimes impels to War the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the Nation subservient to projects of hostility instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the Liberty, of Nations has been the victim.**

**So likewise, a passionate attachment of one Nation for another produces a variety of evils. Sympathy for the favourite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the**

enmities of the other, betrays the former into a participation in the quarrels and Wars of the latter, without adequate inducement or justification: It leads also to concessions to the favourite Nation of priviledges denied to others, which is apt doubly to injure the Nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill will, and a disposition to retaliate, in the parties from whom egl. priviledges are withheld: And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favourite Nation) facility to betray, or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition corruption or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent Patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public Councils! Such an attachment of a small or weak, towards a great and powerful Nation, dooms the former to be the satellite of the latter.

**Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real Patriots, who may resist the intrigues of the favourite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.**

**The Great rule of conduct for us, in regard to foreign Nations is in extending our commercial relations to have with them as little political connection as possible. So far as we have already formed engagements let them be fulfilled, with perfect good faith. Here let us stop.**

**Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies,**

**the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships, or enmities:**

Our detached and distant situation invites and enables us to pursue a different course. If we remain one People, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by our justice shall Counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? **Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European Ambition, Rivalship, Interest, Humour or Caprice?**

**'Tis our true policy to steer clear of permanent Alliances, with any portion of the foreign world. So far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronising infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy). I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary and would be unwise to extend them.**

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to **temporary alliances for extraordinary emergencies.**

**Harmony, liberal intercourse with all Nations, are recommended by policy, humanity and interest. But even our Commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favours or preferences; consulting the natural course of things; diffusing and deversifying by gentle means the streams of Commerce, but forcing nothing, establishing with Powers so disposed; in order to give to trade a stable course, to define the rights of our Merchants, and to enable the Government to support them; conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from**

**time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that 'tis folly in one Nation to look for disinterested favors from another; that it must pay with a portion of its Independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favours and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favours from Nation to Nation. 'Tis an illusion which experience must cure, which a just pride ought to discard.**

In offering to you, my Countrymen these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression, I could wish; that they will controul the usual current of the passions, or prevent our Nation from running the course which has hitherto marked the Destiny of Nations: But if I may even flatter myself, that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign Intrigue, to guard against the Impostures of pretended patriotism; this hope will be a full recompence for the solicitude for your welfare, by which they have been dictated.

How far in the discharge of my Official duties, I have been guided by the principles which have been delineated, the public Records and other evidences of my conduct must Witness to You and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.'

In relation to the still subsisting War in Europe, my Proclamation of the 22d. of April 1793 is the index to my Plan. Sanctioned by your approving voice and by that of Your Representatives in both Houses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain I was well satisfied that our Country, under all the circumstances of the case, had a right to take, and was bound in duty and interest, to take a Neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it, with moderation, perseverance and firmness.

The considerations, which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that according to

my understanding of the matter, that right, so far from being denied by any of the Belligerent Powers has been virtually admitted by all.

The duty of holding a Neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every Nation, in cases in which it is free to act, to maintain inviolate the relations of Peace and amity towards other Nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavour to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption, to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my Administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my Country will never cease to view them with indulgence; and that after forty five years of my life dedicated to its Service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the Mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a Man, who views in it the native soil of himself and his progenitors for several Generations; I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow Citizens, the benign influence of good Laws under a free Government, the ever favourite object of my heart, and the happy reward, as I trust, of our mutual cares, labours and dangers.

On September 19 Washington left Philadelphia for Mount Vernon. ]

## **294. FOURTH ANNUAL ADDRESS TO CONGRESS**

November 6, 1792.

Fellow-Citizens of the Senate, and of the House of Representatives: It is some abatement of the satisfaction, with which I meet you on the present occasion, that in felicitating you on a continuance of the National

prosperity, generally, I am not able to add to it information that the Indian hostilities, which have for some time past distressed our North Western frontier, have terminated.

You will, I am persuaded, learn, with no less concern than I communicate it, that reiterated endeavors, toward effecting a pacification, have hitherto issued only in new and outrageous proofs of persevering hostility, on the part of the tribes with whom we are in contest. An earnest desire to procure tranquillity to the frontier; to stop the further effusion of blood; to arrest the progress of expense; to forward the prevalent wish of the Nation, for peace, has led, through various channels, to strenuous efforts, to accomplish these desirable purposes: In making which efforts, I consulted less my own anticipations of the event, or the scruples, which some considerations were calculated to inspire, than the wish to find the object attainable; or if not attainable, to ascertain unequivocally that such is the case.

A detail of the measures, which have been pursued, and of their consequences, which will be laid before you, while it will confirm to you the want of success, thus far, will, I trust, evince that means as proper and as efficacious as could have been devised, have been employed. The issue of some of them, indeed, is still depending; but a favourable one, though not to be despaired of, is not promised by anything that has yet happened.

In the course of the attempts which have been made, some valuable citizens have fallen victims to their zeal for the public service. A sanction commonly respected even among savages, has been found, in this instance, insufficient to protect from Massacre the emissaries of peace. It will, I presume, be duly considered whether the occasion does not call for an exercise of liberality towards the families of the deceased.

It must add to your concern, to be informed, that besides the continuation of hostile appearances among the tribes North of the Ohio, some threatening symptoms have of late been revived among some of those south of it.

A part of the Cherokees, known by the name of Chickamagas, inhabiting five Villages on the Tennessee River, have been long in the practice of committing depredations on the neighbouring settlements.

It was hoped that the treaty of Holstin, made with the Cherokee nation in July 1791, would have prevented a repetition of such depredations. But the event has not answered this hope. The Chickamagas, aided by some Banditti of another tribe in their vicinity, have recently perpetrated wanton and unprovoked hostilities upon the Citizens of the United States in that

quarter. The information which has been received on this subject will be laid before you. Hitherto defensive precautions only have been strictly enjoined and observed.

It is not understood that any breach of Treaty, or aggression whatsoever, on the part of the United States, or their Citizens, is even alleged as a pretext for the spirit of hostility in this quarter.

I have reason to believe that every practicable exertion has been made (pursuant to the provision by law for that purpose) to be prepared for the alternative of a prosecution of the war, in the event of a failure of pacific overtures. A large proportion of the troops authorized to be raised, has been recruited, though the number is still incomplete. And pains have been taken to discipline and put them in condition for the particular kind of service to be performed. A delay of operations (besides being dictated by the measures which were pursuing towards a pacific termination of the war) has been in itself deemed preferable to immature efforts. A statement from the proper department with regard to the number of troops raised, and some other points which have been suggested, will afford more precise information, as a guide to the legislative consultations; and among other things will enable Congress to judge whether some additional stimulus to the recruiting service may not be adviseable.

In looking forward to the future expense of the operations, which may be found inevitable, I derive consolation from the information I receive, that the product of the revenues for the present year, is likely to supersede the necessity of additional burthens on the community, for the service of the ensuing year. This, however, will be better ascertained in the course of the Session; and it is proper to add, that the information alluded to proceeds upon the supposition of no material extension of the spirit of hostility.

I cannot dismiss the subject of Indian affairs without again recommending to your consideration the expediency of more adequate provision for giving energy to the laws throughout our interior frontier, and for restraining the commission of outrages upon the Indians; without which all pacific plans must prove nugatory. To enable, by competent rewards, the employment of qualified and trusty persons to reside among them, as agents, would also contribute to the preservation of peace and good neighbourhood. If, in addition to these expedients, an eligible plan could be devised for promoting civilization among the friendly tribes, and for carrying on trade with them, upon a scale equal to their wants, and under regulations

calculated to protect them from imposition and extortion, its influence in cementing their interests with our's could not but be considerable.

The prosperous state of our Revenue has been intimated. This would be still more the case, were it not for the impediments, which in some places continue to embarrass the collection of the duties on spirits distilled within the United States. These impediments have lessened, and are lessening in local extent, and as applied to the community at large, the contentment with the law appears to be progressive.

But symptoms of increased opposition having lately manifested themselves in certain quarters, I judged a special interposition on my part, proper and adviseable; and under this impression, have issued a proclamation, warning against all unlawful combinations and proceedings, having for their object or tending to obstruct the operation of the law in question, and announcing that all lawful ways and means would be strictly put in execution for bringing to justice the infractors thereof, and securing obedience thereto.

Measures have also been taken for the prosecution of offenders: and Congress may be assured, that nothing within Constitutional and legal limits, which may depend on me, shall be wanting to assert and maintain the just authority of the laws. In fulfilling this trust, I shall count intirely upon the full cooperation of the other departments of Government, and upon the zealous support of all good Citizens.

I cannot forbear to bring again into the view of the Legislature the subject of a revision of the Judiciary System. A representation from the Judges of the Supreme Court, which will be laid before you, points out some of the inconveniences that are experienced. In the course of the execution of the laws, considerations arise out of the structure of that System, which, in some cases, tend to relax their efficacy. As connected with this subject, provisions to facilitate the taking of bail upon processes out of the Courts of the United States, and supplementary definition of Offences against the Constitution and laws of the Union, and of the punishment for such Offences, will, it is presumed, be found worthy of particular attention.

Observations on the value of peace with other Nations are unnecessary. It would be wise, however, by timely provisions, to guard against those acts of our own Citizens, which might tend to disturb it, and to put ourselves in a condition to give that satisfaction to foreign Nations which we may sometimes have occasion to require from them. I particularly recommend to your consideration the means of preventing those aggressions by our

Citizens on the territory of other nations, and other infractions of the law of Nations, which, furnishing just subject of complaint, might endanger our peace with them. And in general, the maintenance of a friendly intercourse with foreign powers will be presented to your attention by the expiration of the law for that purpose, which takes place if not renewed, at the close of the present session.

In execution of the Authority given by the legislature, measures have been taken for engaging some artists from abroad to aid in the establishment of our mint; others have been employed at home. Provision has been made for the requisite buildings, and these are now putting into proper condition for the purposes of the establishment. There has also been a small beginning in the coinage of half-dismes; the want of small coins in circulation calling the first attention to them.

The regulation of foreign Coins in correspondency with the principles of our national coinage, as being essential to their due operation, and to order in our money concerns, will, I doubt not, be resumed and completed.

It is represented that some provisions in the law, which establishes the Post-Office, operate, in experiment, against the transmission of newspapers to distant parts of the Country. Should this, upon due inquiry, be found to be the case, a full conviction of the importance of facilitating the circulation of political intelligence and information, will, I doubt not, lead to the application of a remedy.

"In addition to these strong marks of disapprobation of the rate of postage on newspapers given by individuals, he was informed that the public mind, so far as it had been expressed in that quarter on the subject, appeared very anxious that an alteration should take place in that part of the post office Law which relates to the transmission of Newspapers."

This letter is entered in the "Letter Book" in the Washington Papers . ]

The adoption of a Constitution for the State of Kentucky has been notified to me. The Legislature will share with me in the satisfaction which arises from an event interesting to the happiness of the part of the Nation to which it relates, and conducive to the general Order.

It is proper likewise to inform you, that since my last communication on the subject, and in further execution of the Acts severally making provision for the public debt, and for the reduction thereof, three new loans have been effected, each for three millions of Florins. One at Antwerp, at the annual interest of four and one half per Cent, with an Allowance of four per Cent

in lieu of all charges; and the other two at Amsterdam, at the annual interest of four per Cent, with an allowance of five and one half per Cent in one case, and of five per Cent in the other in lieu of all charges. The rates of these loans, and the circumstances under which they have been made, are confirmations of the high state of our Credit abroad.

Among the objects to which these funds have been directed to be applied, the payment of the debts due to certain foreign Officers, according to the provision made during the last Session, has been embraced.

Gentlemen of the House of Representatives: **I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter upon a Systematic and effectual arrangement for the regular redemption and discharge of the public debt, according to the right which has been reserved served to the Government. No measure can be more desireable, whether viewed with an eye to its intrinsic importance, or to the general sentiment and wish of the Nation.**

Provision is likewise requisite for the reimbursement of the loan which has been made for the Bank of the United States, pursuant to the eleventh section of the Act by which it is incorporated. In fulfilling the public stipulations in this particular, it is expected a valuable saving will be made.

Appropriations for the current service of the ensuing year, and for such extraordinaries as may require provision, will demand, and, I doubt not, will engage your early attention.

Gentlemen of the Senate and of the House of Representatives: I content myself with recalling your attention, generally, to such objects, not particularized in my present, as have been suggested in my former communications to you.

Various temporary laws will expire during the present Session. Among these, that which regulates trade and intercourse with the Indian Tribes, will merit particular notice.

The results of your common deliberations, hitherto, will, I trust, be productive of solid and durable advantages to our Constituents; such as, by conciliating more and more their ultimate suffrage, will tend to strengthen and confirm their attachment to that constitution of Government, upon which, under Divine Providence, materially depend their Union, their safety and their happiness.

Still further to promote and secure these inestimable ends, there is nothing which can have a more powerful tendency, than the careful cultivation of

harmony, combined with a due regard to stability, in the public Councils.

## **295. \*FIFTH ANNUAL ADDRESS TO CONGRESS**

Philadelphia, December 3, 1793

Fellow Citizens of the Senate, and of the House of Representatives

Since the commencement of the term, for which I have been again called into office, no fit occasion has arisen for expressing to my fellow Citizens at large, the deep and respectful sense, which I feel, of the renewed testimony of public approbation. While on the one hand, it awakened my gratitude for all those instances of affectionate partiality, with which I have been honored by my Country; on the other, it could not prevent an earnest wish for that retirement, from which no private consideration should ever have torn me. But influenced by the belief, that my conduct would be estimated according to its real motives; and that the people, and the authorities derived from them, would support exertions, having nothing personal for their object, I have obeyed the suffrage which commanded me to resume the Executive power; and I humbly implore that Being, on whose Will the fate of Nations depends, to crown with success our mutual endeavours for the general happiness.

As soon as the War in Europe had embraced those Powers, with whom the United States have the most extensive relations; there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace, drawn into question, by the suspicions, too often entertained by belligerent Nations. It seemed therefore to be my duty to admonish our Citizens of the consequences of a contraband trade, and of hostile Acts to any of the parties; and to obtain by a declaration of the existing legal state of things, an easier admission of our right to the immunities, belonging to our situation. Under these impressions the Proclamation, which will be laid before you, was issued.

In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the Treaties, and assert the priviledges, of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at liberty to forbid the Sale of the prizes, permitted by our treaty of Commerce with France to be brought into our ports; I have not refused to cause them to be restored, when they were taken within the protection of our territory; or by

vessels commissioned, or equipped in a warlike form within the limits of the United States.

It rests with the wisdom of Congress to correct, improve or enforce this plan of procedure; and it will probably be found expedient, to extend the legal code, and the Jurisdiction of the Courts of the United States, to many cases, which, though dependent on principles already recognized, demand some further provisions.

Where individuals shall within the United States, array themselves in hostility against any of the powers at war; or enter upon Military expeditions, or enterprizes within the jurisdiction of the United States; or usurp and exercise judicial authority within the United States; or where the penalties on violations of the law of Nations may have been indistinctly marked, or are inadequate; these offences cannot receive too early and close an attention, and require prompt and decisive remedies.

Whatsoever those remedies may be, they will be well administered by the Judiciary, who possess a long established course of investigation, effectual process, and Officers in the habit of executing it. In like manner; as several of the Courts have doubted, under particular circumstances, their power to liberate the vessels of a Nation at peace, and even of a citizen of the United States, although seized under a false colour of being hostile property; and have denied their power to liberate certain captures within the protection of our territory; it would seem proper to regulate their jurisdiction in these points. But if the Executive is to be the resort in either of the two last mentioned cases, it is hoped, that he will be authorized by law, to have facts ascertained by the Courts, when, for his own information, he shall request it.

I cannot recommend to your notice measures for the fulfilment of our duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of compleat defence, and of exacting from them the fulfilment of their duties towards us . The United States ought not to indulge a persuasion, that, contrary to the order of human events, they will for ever keep at a distance those painful appeals to arms, with which the history of every other nation abounds. There is a rank due to the United States among Nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments

of our rising prosperity, it must be known, that we are at all times ready for War.

The documents, which will be presented to you, will shew the amount, and kinds of Arms and military stores now in our Magazines and Arsenals: and yet an addition even to these supplies cannot with prudence be neglected; as it would leave nothing to the uncertainty of procuring a warlike apparatus, in the moment of public danger. Nor can such arrangements, with such objects, be exposed to the censure or jealousy of the warmest friends of Republican Government. They are incapable of abuse in the hands of the Militia, who ought to possess a pride in being the depository of the force of the Republic, and may be trained to a degree of energy, equal to every military exigency of the United States. But it is an inquiry, which cannot be too solemnly pursued, whether the act "more effectually to provide/or the National defence by establishing an uniform Militia throughout the United States" has organized them so as to produce their full effect; whether your own experience in the several States has not detected some imperfections in the scheme; and whether a material feature in an improvement of it, ought not to be, to afford an opportunity for the study of those branches of the Military art, which can scarcely ever be attained by practice alone?

The connexion of the United States with Europe, has become extremely interesting. The occurrences, which relate to it, and have passed under the knowledge of the Executive, will be exhibited to Congress in a subsequent communication.

When we contemplate the war on our frontiers, it may be truly affirmed, that every reasonable effort has been made to adjust the causes of dissension with the Indians, North of the Ohio. The Instructions given to the Commissioners evince a moderation and equity proceeding from a sincere love of peace, and a liberality, having no restriction but the essential interests and dignity of the United States. The attempt, however, of an amicable negotiation having been frustrated, the troops have marched to act offensively. Although the proposed treaty did not arrest the progress of military preparation; it is doubtful, how far the advance of the Season, before good faith justified active movements, may retard them, during the remainder of the year. From the papers and intelligence, which relate to this important subject, you will determine, whether the deficiency in the number of Troops, granted by law, shall be compensated by succours of Militia; or additional encouragements shall be proposed to recruits. An anxiety has

been also demonstrated by the Executive, for peace with the Creeks and the Cherokees. The former have been relieved with Corn and with clothing, and offensive measures against them prohibited during the recess of Congress. To satisfy the complaints of the latter, prosecutions have been instituted for the violences committed upon them. But the papers, which will be delivered to you, disclose the critical footing on which we stand in regard to both those tribes; and it is with Congress to pronounce what shall be done.

After they shall have provided for the present emergency, it will merit their most serious labours, to render tranquillity with the Savages permanent, by creating ties of interest. Next to a rigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations in behalf of the United States, is most likely to conciliate their attachment. But it ought to be conducted without fraud, without extortion, with constant and plentiful supplies; with a ready market for the commodities of the Indians, and a stated price for what they give in payment, and receive in exchange. Individuals will not pursue such a traffic, unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only. Should this recommendation accord with the opinion of Congress, they will recollect, that it cannot be accomplished by any means yet in the hands of the Executive. Gentlemen of the House of Representatives

The Commissioners, charged with the settlement of Accounts between the United and individual States, concluded their important functions, within the time limited by Law; and the balances, struck in their report, which will be laid before Congress, have been placed on the Books of the Treasury.

On the first day of June last, an instalment of one million of florins became payable on the loans of the United States in Holland. This was adjusted by a prolongation of the period of reimbursement, in nature of a new loan, at an interest at five per cent for the term of ten years; and the expences of this operation were a commission of three pr Cent.

The first instalment of the loan of two millions of dollars from the Bank of the United States, has been paid, as was directed by Law. For the second, it is necessary, that provision should be made.

**No pecuniary consideration is more urgent, than the regular redemption and discharge of the public debt: on none can delay be more injurious, or an oeconomy of time more valuable.**

The productiveness of the public revenues hitherto, has continued to equal the anticipations which were formed of it; but it is not expected to prove commensurate with all the objects, which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped that these may be made, consistently with a due regard to the convenience of our Citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burthens.

But here, I cannot forbear to recommend a repeal of the tax on the transportation of public prints. There is no resource so firm for the Government of the United States, as the affections of the people guided by an enlightened policy; and to this primary good, nothing can conduce more, than a faithful representation of public proceedings, diffused, without restraint, throughout the United States.

An estimate of the appropriations, necessary for the current service of the ensuing year, and a statement of a purchase of Arms and Military stores made during the recess, will be presented to Congress.

Gentlemen of the Senate, and of the House of Representatives

The several subjects, to which I have now referred, open a wide range to your deliberations; and involve some of the choicest interests of our common Country. Permit me to bring to your remembrance the magnitude of your task. Without an unprejudiced coolness, the welfare of the Government may be hazarded; without harmony, as far as consists with freedom of Sentiment, its dignity may be lost. But, as the Legislative proceedings of the United States will never, I trust, be reproached for the want of temper or candour; so shall not the public happiness languish, from the want of my strenuous and warmest cooperations.

The Senate replied to this address, December 9, and the President answered December 10. The House of Representatives replied to the President in an address agreed upon December 6, and delivered December 7, to which the President answered the same day. These addresses and answers, which are purely formal in character, are entered in the "Letter Book" in the Washington Papers. ]

## **296. EIGHTH ANNUAL ADDRESS TO CONGRESS**

December 7, 1796.

Fellow Citizens of the Senate and House of Representatives: In recurring to the internal situation of our Country, since I had last the pleasure to Address you, I find ample reason for a renewed expression of that gratitude to the ruler of the Universe, which a continued series of prosperity has so often and so justly called forth.

The Acts of the last Session, which required special arrangements, have been, as far as circumstances would admit, carried into operation.

Measures calculated to insure a continuance of the friendship of the Indians, and to preserve peace along the extent of our interior frontier, have been digested and adopted. In the framing of these, care has been taken to guard on the one hand, our advanced Settlements from the predatory incursions of those unruly Individuals, who cannot be restrained by their Tribes; and on the other hand, to protect the rights secured to the Indians by Treaty; to draw them nearer to the civilized state; and inspire them with correct conceptions of the Power, as well as justice of the Government.

The meeting of the deputies from the Creek Nation at Colerain, in the State of Georgia, which had for a principal object the purchase of a parcel of their land, by that State, broke up without its being accomplished; the Nation having, previous to their departure, instructed them against making any Sale; the occasion however has been improved, to confirm by a new Treaty with the Creeks, their pre-existing engagements with the United States; and to obtain their consent, to the establishment of Trading Houses and Military Posts within their boundary; by means of which, their friendship, and the general peace, may be more effectually secured.

The period during the late Session, at which the appropriation was passed, for carrying into effect the Treaty of Amity, Commerce, and Navigation, between the United States and his Britannic Majesty, necessarily procrastinated the reception of the Posts stipulated to be delivered, beyond the date assigned for that event. As soon however as the Governor General of Canada could be addressed with propriety on the subject, arrangements were cordially and promptly concluded for their evacuation; and the United States took possession of the principal of them, comprehending Oswego, Niagara, Detroit, Michelimackina, and Fort Miami; where, such repairs, and additions have been ordered to be made, as appeared indispensable.

The Commissioners appointed on the part of the United States and of Great Britain, to determine which is the river St. Croix, mentioned in the Treaty of peace of 1783, agreed in the choice of Egbert Benson Esqr. of New York,

for the third Commissioner. The whole met at St. Andrews, in Passamaquoddy Bay, in the beginning of October; and directed surveys to be made of the Rivers in dispute; but deeming it impracticable to have these Surveys completed before the next Year, they adjourned, to meet at Boston in August 1797, for the final decision of the question.

Other Commissioners appointed on the part of the United States, agreeably to the seventh Article of the Treaty with Great Britain, relative to captures and condemnations of Vessels and other property, met the Commissioners of his Britannic Majesty in London, in August last, when John Trumbull, Esqr. was chosen by lot, for the fifth Commissioner. In October following the Board were to proceed to business. As yet there has been no communication of Commissioners on the part of Great Britain, to unite with those who have been appointed on the part of the United States, for carrying into effect the sixth Article of the Treaty.

The Treaty with Spain, required, that the Commissioners for running the boundary line between the territory of the United States, and his Catholic Majesty's Provinces of East and West Florida, should meet at the Natchez, before the expiration of six Months after the exchange of the ratifications, which was effected at Aranjuez on the 25th. day of April; and the troops of his Catholic Majesty occupying any Posts within the limits of the United States, were within the same period to be withdrawn. The Commissioner of the United States therefore, commenced his journey for the Natchez in September; and troops were ordered to occupy the Posts from which the Spanish Garrisons should be withdrawn. Information has been recently received, of the appointment of a Commissioner on the part of his Catholic Majesty for running the boundary line, but none of any appointment, for the adjustment of the claims of our Citizens, whose Vessels were captured by the Armed Vessels of Spain.

In pursuance of the Act of Congress, passed in the last Session, for the protection and relief of American Seamen, Agents were appointed, one to reside in Great Britain, and the other in the West Indies. The effects of the Agency in the West Indies, are not yet fully ascertained; but those which have been communicated afford grounds to believe, the measure will be beneficial. The Agent destined to reside in Great Britain, declining to accept the appointment, the business has consequently devolved on the Minister of the United States in London; and will command his attention, until a new Agent shall be appointed.

After many delays and disappointments, arising out of the European War, the final arrangements for fulfilling the engagements made to the Dey and Regency of Algiers, will, in all present appearance, be crowned with success: but under great, tho' inevitable disadvantages, in the pecuniary transactions, occasioned by that War; which will render a further provision necessary. The actual liberation of all our Citizens who were prisoners in Algiers, while it gratifies every feeling heart, is itself an earnest of a satisfactory termination of the whole negotiation. Measures are in operation for effecting Treaties with the Regencies of Tunis and Tripoli.

To an active external Commerce, the protection of a Naval force is indispensable. This is manifest with regard to Wars in which a State itself is a party. But besides this, it is in our own experience, that the most sincere Neutrality is not a sufficient guard against the depredations of Nations at War. To secure respect to a Neutral Flag, requires a Naval force, organized, and ready to vindicate it, from insult or aggression. This may even prevent the necessity of going to War, by discouraging belligerent Powers from committing such violations of the rights of the Neutral party, as may first or last, leave no other option. From the best information I have been able to obtain, it would seem as if our trade to the mediterranean, without a protecting force, will always be insecure; and our Citizens exposed to the calamities from which numbers of them have but just been relieved.

These considerations invite the United States, to look to the means, and to set about the gradual creation of a Navy. The increasing progress of their Navigation, promises them, at no distant period, the requisite supply of Seamen; and their means, in other respects, favour the undertaking. It is an encouragement, likewise, that their particular situation, will give weight and influence to a moderate Naval force in their hands. Will it not then be adviseable, to begin without delay, to provide, and lay up the materials for the building and equipping of Ships of War; and to proceed in the Work by degrees, in proportion as our resources shall render it practicable without inconvenience; so that a future War of Europe, may not find our Commerce in the same unprotected state, in which it was found by the present.

Congress have repeatedly, and not without success, directed their attention to the encouragement of Manufactures. The object is of too much consequence, not to insure a continuance of their efforts, in every way which shall appear eligible. As a general rule, Manufactures on public account, are inexpedient. But where the state of things in a Country, leaves

little hope that certain branches of Manufacture will, for a great length of time obtain; when these are of a nature essential to the furnishing and equipping of the public force in time of War, are not establishments for procuring them on public account, to the extent of the ordinary demand for the public service, recommended by strong considerations of National policy, as an exception to the general rule? Ought our Country to remain in such cases, dependant on foreign supply, precarious, because liable to be interrupted? If the necessary Articles should, in this mode cost more in time of peace, will not the security and independence thence arising, form an ample compensation? Establishments of this sort, commensurate only with the calls of the public service in time of peace, will, in time of War, easily be extended in proportion to the exigencies of the Government; and may even perhaps be made to yield a surplus for the supply of our Citizens at large; so as to mitigate the privations from the interruption of their trade. If adopted, the plan ought to exclude all those branches which are already, or likely soon to be, established in the Country; in order that there may be no danger of interference with pursuits of individual industry.

It will not be doubted, that with reference either to individual, or National Welfare, Agriculture is of primary importance. In proportion as Nations advance in population, and other circumstances of maturity, this truth becomes more apparent; and renders the cultivation of the Soil more and more, an object of public patronage. Institutions for promoting it, grow up, supported by the public purse: and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end, none have been attended with greater success than the establishment of Boards, composed of proper characters, charged with collecting and diffusing information, and enabled by premiums, and small pecuniary aids, to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvement; by stimulating to enterprise and experiment, and by drawing to a common centre, the results everywhere of individual skill and observation; and spreading them thence over the whole Nation. Experience accordingly has shewn, that they are very cheap Instruments, of immense National benefits. I have heretofore proposed to the consideration of Congress, the expediency of establishing a National University; and also a Military Academy. The desirableness of both these Institutions, has so constantly increased with

every new view I have taken of the subject, that I cannot omit the opportunity of once for all, recalling your attention to them.

The Assembly to which I address myself, is too enlightened not to be fully sensible how much a flourishing state of the Arts and Sciences, contributes to National prosperity and reputation. True it is, that our Country, much to its honor, contains many Seminaries of learning highly respectable and useful; but the funds upon which they rest, are too narrow, to command the ablest Professors, in the different departments of liberal knowledge, for the Institution contemplated, though they would be excellent auxiliaries.

Amongst the motives to such an Institution, the assimilation of the principles, opinions and manners of our Country men, but the common education of a portion of our Youth from every quarter, well deserves attention. The more homogeneous our Citizens can be made in these particulars, the greater will be our prospect of permanent Union; and a primary object of such a National Institution should be, the education of our Youth in the science of Government . In a Republic, what species of knowledge can be equally important? and what duty, more pressing on its Legislature, than to patronize a plan for communicating it to those, who are to be the future guardians of the liberties of the Country?

The Institution of a Military Academy, is also recommended by cogent reasons. However pacific the general policy of a Nation may be, it ought never to be without an adequate stock of Military knowledge for emergencies. The first would impair the energy of its character, and both would hazard its safety, or expose it to greater evils when War could not be avoided. Besides that War, might often, not depend upon its own choice. In proportion, as the observance of pacific maxims, might exempt a Nation from the necessity of practising the rules of the Military Art, ought to be its care in preserving, and transmitting by proper establishments, the knowledge of that Art. Whatever argument may be drawn from particular examples, superficially viewed, a thorough examination of the subject will evince, that the Art of War, is at once comprehensive and complicated; that it demands much previous study; and that the possession of it, in its most improved and perfect state, is always of great moment to the security of a Nation. This, therefore, ought to be a serious care of every Government: and for this purpose, an Academy, where a regular course of Instruction is given, is an obvious expedient, which different Nations have successfully employed.

The compensations to the Officers of the United States, in various instances, and in none more than in respect to the most important stations, appear to call for Legislative revision. The consequences of a defective provision, are of serious import to the Government. If private wealth, is to supply the defect of public retribution, it will greatly contract the sphere within which, the selection of Characters for Office, is to be made, and will proportionally diminish the probability of a choice of Men, able, as well as upright: Besides that it would be repugnant to the vital principles of our Government, virtually to exclude from public trusts, talents and virtue, unless accompanied by wealth.

While in our external relations, some serious inconveniences and embarrassments have been overcome, and others lessened, it is with much pain and deep regret I mention, that circumstances of a very unwelcome nature, have lately occurred. Our trade has suffered, and is suffering, extensive injuries in the West Indies, from the Cruisers, and Agents of the French Republic; and communications have been received from its Minister here, which indicate the danger of a further disturbance of our Commerce, by its authority; and which are, in other respects, far from agreeable.

It has been my constant, sincere, and earnest wish, in conformity with that of our Nation, to maintain cordial harmony, and a perfectly friendly understanding with that Republic. This wish remains unabated; and I shall persevere in the endeavour to fulfil it, to the utmost extent of what shall be consistent with a just, and indispensable regard to the rights and honour of our Country; nor will I easily cease to cherish the expectation, that a spirit of justice, candour and friendship, on the part of the Republic, will eventually ensure success.

In pursuing this course however, I cannot forget what is due to the character of our Government and Nation; or to a full and entire confidence in the good sense, patriotism, selfrespect, and fortitude of my Countrymen.

I reserve for a special Message a more particular communication on this interesting subject.

Gentlemen of the House of Representatives: I have directed an estimate of the Appropriations, necessary for the service of the ensuing year, to be submitted from the proper Department; with a view of the public receipts and expenditures, to the latest period to which an account can be prepared.

It is with satisfaction I am able to inform you, that the Revenues of the United States continue in a state of progressive improvement.

A reinforcement of the existing provisions for discharging our public Debt, was mentioned in my Address at the opening of the last Session. Some preliminary steps were taken towards it, the maturing of which will, no doubt, engage your zealous attention during the present. I will only add, that it will afford me, heart felt satisfaction, to concur in such further measures, as will ascertain to our Country the prospect of a speedy extinguishment of the Debt. **Posterity may have cause to regret, if, from any motive, intervals of tranquillity are left unimproved for accelerating this valuable end.**

Gentlemen of the Senate, and of the House of Representatives: My solicitude to see the Militia of the United States placed on an efficient establishment, has been so often, and so ardently expressed, that I shall but barely recall the subject to your view on the present occasion; at the same time that I shall submit to your enquiry, whether our Harbours are yet sufficiently secured.

The situation in which I now stand, for the last time, in the midst of the Representatives of the People of the United States, naturally recalls the period when the Administration of the present form of Government commenced; and I cannot omit the occasion, to congratulate you and my Country, on the success of the experiment; nor to repeat my fervent supplications to the Supreme Ruler of the Universe, and Sovereign Arbitrer of Nations, that his Providential care may still be extended to the United States; that the virtue and happiness of the People, may be preserved; and that the Government, which they have instituted, for the protection of their liberties, maybe perpetual.

On December 12 the Senate in a body waited on the President at his house, at noon, when the Vice President "delivered" the address of the Senate in answer to this address. This answer is entered in the "Letter Book" in the Washington Papers .

The President replied briefly, and, in response to the Senate's reference to his retirement and his Farewell Address, said: "For the notice you take of my public services, civil and military, and your kind wishes for my personal happiness, I beg you to accept my cordial thanks. Those services, and greater had I possessed the ability to render them, were due to the unanimous calls of my Country; and its approbation is my abundant reward." This reply is also entered in the "Letter Book."

The House of Representatives waited upon the President, at his house, at 2 o'clock p.m., December 15, when the Speaker delivered to the President the reply of the House to the address, to which the President replied at greater length than he did to the Senate. He said, in part:

"To a Citizen whose views were unambitious, who preferred the shade and tranquility] of private life to the splendour and solicitude of elevated stations, and whom the voice of duty and his country could alone have drawn from his chosen retreat, no reward for his public services can be so grateful as public approbation, accompanied by a consciousness that to render those services useful to that Country has been his single aim: and when this approbation is expressed by the Representatives of a free and enlightened Nation, the reward will admit of no addition. Receive, Gentlemen, my sincere and affectionate thanks for this signal testimony that my services have been acceptable and useful to my Country: the strong confidence of my fellow Citizens, while it animated all my actions, ensured their zealous cooperation, which rendered those services successful. The virtue and wisdom of my Successors, joined with the patriotism and intelligence of the Citizens who compose the other Branches of Government, I firmly trust will lead them to the adoption of measures which by the beneficence of Providence, will give stability to our System of government, add to its success, and secure to ourselves and to posterity that liberty which is to all of us so dear." The reply of the House and the rejoinder of the President are entered in the "Letter Book" in the Washington Papers . ]

# The Declaration of Independence

**In Congress, July 4, 1776**

## **The Unanimous Declaration of The Thirteen United States of America**

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be

obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository or their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies, without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offenses:

For abolishing the free System of English Laws in a neighboring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every state of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have

been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, Therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.

And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

**Signers of the Declaration of Independence July 4, 1776**

John Adams, Samuel Adams, Josiah Bartlett, Carter Braxton, Charles Carroll, Samuel Chase, Abraham Clark, George Clymer, William Ellery, William Floyd, Benjamin Franklin, Elbridge Gerry, Button Gwinnett, Lyman Hall, John Hancock, Benjamin Harrison, John Hart, Richard Henry Lee, Joseph Hewes, Thomas Heyward, Jr., William Hooper, Stephen Hopkins, Fras. Hopkinson, Samuel Huntington, Thomas Jefferson, Frans. Lewis, Francis Lightfoot Lee, Phil. Livingston, Thomas Lynch, Jr., Thomas M'Kean, Arthur Middleton, Lewis Morris, Robert Morris, John Morton, Thomas Nelson, Jr., William Paca, John Penn, George Read, Caesar Rodney, George Ross, Benjamin Rush, Edward Rutledge, Roger Sherman, Jason Smith, Richard Stockton, Thomas Stone, George Taylor, Matthew Thornton, Robert Treat Paine, George Walton, William Whipple, William Williams, James Wilson, Johnathan Witherspoon, Oliver Wolcott, George Wythe.

# THE CONSTITUTION OF THE UNITED STATES

## Table Of Contents

[Preamble](#)

[Article I](#)

[Article II](#)

[Article III](#)

[Article IV](#)

[Article V](#)

[Article VI](#)

[Article VII](#)

[Amendment I](#)

[Amendment II](#)

[Amendment III](#)

[Amendment IV](#)

[Amendment V](#)

[Amendment VI](#)

[Amendment VII](#)

[Amendment VIII](#)

[Amendment IX](#)

[Amendment XI](#)

[Amendment XII](#)

[Amendment XIII](#)

[Amendment XIV](#)

[Amendment XV](#)

[Amendment XVI](#)

[Amendment XVII](#)

[Amendment XVIII](#)

[Amendment XIX](#)

[Amendment XX](#)

[Amendment XXI](#)

[Amendment XXII](#)

[Amendment XXIII](#)

[Amendment XXIV](#)

[Amendment XXV](#)

[Amendment XXVI](#)

[Amendment XXVII](#)

# **The Constitution of The United States of America**

# **Preamble**

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

# Article I

**Section 1.** All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**Section 2.** The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their speaker and other Officers; and shall have the sole Power of Impeachment.

**Section 3.** The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the concurrence of two thirds of the Members present. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and

Punishment, according to law.

**Section 4.** The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

**Section 5.** Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

**Section 6.** The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be

questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

**Section 7.** All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations

prescribed in the Case of a Bill.

**Section 8.** The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square), as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

**Section 9.** The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear or pay Duties in another.

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

**Section 10.** No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War,

unless actually invaded, or in such imminent Danger as will not admit of delay.

## Article II

**Section 1.** The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President: and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

**Section 2.** The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

**Section 3.** He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

**Section 4.** The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors.

## Article III

**Section 1.** The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

**Section 2.** The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

**Section 3.** Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

## Article IV

**Section 1.** Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

**Section 2.** The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A person charged in any State with Treason, Felony, or other Crime, who shall flee from justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered upon on Claim of the Party to whom such Service or Labour may be due.

**Section 3.** New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

**Section 4.** The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

## **Article V**

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

## **Article VI**

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## Article VII

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

---

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names:

Go. Washington — President and deputy from Virginia  
Delaware: Geo. Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jaco. Broom

Maryland: James McHenry, Dan of St. Thos. Jenifer, Danl. Carroll

Virginia: John Blair, James Madison, Jr.

North Carolina: Wm. Blount, Richd. Dobbs Spaight, Hu Williamson

South Carolina: J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

Georgia: William Few, Abr. Baldwin

New Hampshire: John Langdon, Nicholas Gilman

Massachusetts: Nathaniel Gorham, Rufus King

Connecticut: Wm. Saml. Johnson, Roger Sherman

New York: Alexander Hamilton

New Jersey: Wil. Livingston, David Brearley, Wm. Paterson, Jona. Dayton

Pennsylvania: B. Franklin, Thomas Mifflin, Robt. Morris, Geo. Clymer,  
Thos. FitzSimons, Jared Ingersoll, James Wilson, Gouv. Morris

# **Amendment I**

[The First (1st) Amendment]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

## **Amendment II**

[The Second (2nd) Amendment]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

## **Amendment III**

[The Third (3rd) Amendment]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

## **Amendment IV**

[The Fourth (4th) Amendment]

The right of the People to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularity describing the place to be searched, and the persons or things to be seized.

## **Amendment V**

[The Fifth (5th) Amendment]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## **Amendment VI**

[The Sixth (6th) Amendment]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have Assistance of Counsel for his defence.

## **Amendment VII**

[The Seventh (7th) Amendment]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

## **Amendment VIII**

[The Eighth (8th) Amendment]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

# **Amendment IX**

[The Ninth (9th) Amendment]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

# **Amendment X**

[The Tenth (10th) Amendment]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

# **Amendment XI**

[The Eleventh (11th) Amendment]

[Ratified in 1795]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

## **Amendment XII**

[The Twelfth (12th) Amendment]

[Ratified in 1804]

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible

to that of Vice-President of the United States.

# **Amendment XIII**

[The Thirteenth (13th) Amendment]

[Ratified in 1865]

**Section 1.** Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

**Section 2.** Congress shall have power to enforce this article by appropriate legislation.

# Amendment XIV

[The Fourteenth (14th) Amendment]

[Ratified in 1868]

**Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Section 2.** Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

**Section 3.** No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

**Section 4.** The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

**Section 5.** The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

# **Amendment XV**

[The Fifteenth (15th) Amendment]

[Ratified in 1870]

**Section 1.** The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

# **Amendment XVI**

[The Sixteenth (16th) Amendment]

[Ratified in 1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

# **Amendment XVII**

[The Seventeenth (17th) Amendment]

[Ratified in 1913]

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

# Amendment XVIII

[The Eighteenth (18th) Amendment]

[Ratified in 1919; Repealed in 1933 by Amendment XXI]

**Section 1.** After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

**Section 2.** The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

**Section 3.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

# **Amendment XIX**

[The Nineteenth (19th) Amendment]

[Ratified in 1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

# Amendment XX

[The Twentieth (20th) Amendment]

[Ratified in 1933]

**Section 1.** The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

**Section 2.** The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

**Section 3.** If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

**Section 4.** The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

**Section 5.** Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

**Section 6.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

# Amendment XXI

[The Twenty-first (21st) Amendment]

[Ratified in 1933]

**Section 1.** The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

**Section 2.** The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

**Section 3.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

# Amendment XXII

[The Twenty-second (22nd) Amendment]

[Ratified in 1951]

**Section 1.** No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

**Section 2.** This Article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

# Amendment XXIII

[The Twenty-third (23rd) Amendment]

[Ratified in 1961]

**Section 1.** The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

# Amendment XXIV

[The Twenty-fourth (24th) Amendment]

[Ratified in 1964]

**Section 1.** The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

# Amendment XXV

[The Twenty-fifth (25th) Amendment]

[Ratified in 1967]

**Section 1.** In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

**Section 2.** Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

**Section 3.** Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

**Section 4.** Whenever the Vice president and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within

twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

# **Amendment XXVI**

[The Twenty-sixth (26th) Amendment]

[Ratified in 1971]

**Section 1.** The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

## **Amendment XXVII**

[The Twenty-seventh (27th) Amendment]

[Ratified in 1992 ]

**Section 1.** No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

[Note about the 27th Amendment: This purported amendment was proposed by Congress on September 25, 1789, when it passed the Senate, having previously passed the House on September 24. (1 Annals of Congress 88, 913). It appears officially in 1 Stat. 97. Having received in 1789-1791 only six state ratifications, the proposal then failed of ratification while ten of the 12 sent to the States by Congress were ratified and proclaimed and became the Bill of Rights. The provision was proclaimed as having been ratified and having become the 27th Amendment, when Michigan ratified on May 7, 1992, there being 50 States in the Union. Proclamation was by the Archivist of the United States, pursuant to 1 U.S.C. Sec. 106b, on May 19, 1992. F.R.Doc. 92-11951, 57 Fed. Reg. 21187. It was also proclaimed by votes of the Senate and House of Representatives. 138 Cong. Rec. (daily ed) S 6948-49, H 3505-06. ]

**copyright 2002, Western Standard Publishing  
(www.originalsources.com)**

Unauthorized duplication and distribution is prohibited.

This volume is part of OriginalSources.com which contains over 300,000 documents. You can check out this incredible collection at  
**www.originalsources.com.**

# DEMOCRACY IN AMERICA

by Alexis de Tocqueville

Table Of Contents

[Volume 1](#)

[Volume 2](#)



# **Democracy in America**

by Alexis de Tocqueville

# Democracy in America, Volume 1

[Introduction](#)

[Special Introduction](#)

[Introductory Chapter](#)

[Chapter 1: Exterior Form of North America](#)

[Chapter 2: Origin of the Anglo-Americans, and its Importance in Relation to Their Future Condition](#)

[Chapter 3: Social Condition of the Anglo-Americans](#)

[Chapter 4: The Principle of the Sovereignty of the People in America](#)

[Chapter 5: Necessity of Examining the Condition of the States Before That of the Union at Large](#)

[Chapter 6: Judicial Power in the United States and its Influence on Political Society](#)

[Chapter 7: Political Jurisdiction in the United States](#)

[Chapter 8: The Federal Constitution](#)

[Chapter 9](#)

[Chapter 10: Parties in the United States](#)

[Chapter 11: Liberty of the Press in the United States](#)

[Chapter 12: Political Associations in the United States](#)

[Chapter 13: Government of the Democracy in America](#)

[Chapter 14: What the Real Advantages are Which American Society Derives From the Government of the Democracy](#)

[Chapter 15: Unlimited Power of the Majority in the United States, and Its Consequences](#)

[Chapter 16: Causes Which Mitigate the Tyranny of the Majority in the United States](#)

[Chapter 17: Principal Causes Which Tend to Maintain the Democratic Republic in the United States](#)

[Chapter 18: The Present and Probable Future Condition of the Three Races Which Inhabit the Territory of the United States](#)

## **Introduction**

IN the eleven years that separated the Declaration of the Independence of the United States from the completion of that act in the ordination of our written Constitution, the great minds of America were bent upon the study of the principles of government that were essential to the preservation of the liberties which had been won at great cost and with heroic labors and sacrifices. Their studies were conducted in view of the imperfections that experience had developed in the government of the Confederation, and they were, therefore, practical and thorough.

When the Constitution was thus perfected and established, a new form of government was created, but it was neither speculative nor experimental as to the principles on which it was based. If they were true principles, as they

were, the government founded upon them was destined to a life and an influence that would continue while the liberties it was intended to preserve should be valued by the human family. Those liberties had been wrung from reluctant monarchs in many confests, in many countries, and were grouped into creeds and established in ordinances sealed with blood, in many great struggles of the people. They were not new to the people. They were consecrated theories, but no government had been previously established for the great purpose of their preservation and enforcement. That which was experimental in our plan of government was the question whether democratic rule could be so organized and conducted that it would not degenerate into license and result in the tyranny of absolutism, without saving to the people the power so often found necessary of repressing or destroying their enemy, when he was found in the person of a single despot.

When, in 1831, Alexis de Tocqueville came to study Democracy in America, the trial of nearly a half-century of the working of our system had been made, and it had been proved, by many crucial tests, to be a government of "liberty regulated by law," with such results in the development of strength, in population, wealth, and military and commercial power, as no age had ever witnessed.

De Tocqueville had a special inquiry to prosecute, in his visit to America, in which his generous and faithful soul and the powers of his great intellect were engaged in the patriotic effort to secure to the people of France the blessings that Democracy in America had ordained and established throughout nearly the entire Western Hemisphere. He had read the story of the French Revolution, much of which had been recently written in the blood of men and women of great distinction who were his progenitors; and had witnessed the agitations and terrors of the Restoration and of the Second Republic, fruitful in crime and sacrifice, and barren of any good to mankind.

He had just witnessed the spread of republican government through all the vast continental possessions of Spain in America, and the loss of her great colonies. He had seen that these revolutions were accomplished almost without the shedding of blood, and he was filled with anxiety to learn the causes that had placed republican government, in France, in such contrast

with Democracy in America.

De Tocqueville was scarcely thirty years old when he began his studies of Democracy in America. It was a bold effort for one who had no special training in government, or in the study of political economy, but he had the example of Lafayette in establishing the military foundation of these liberties, and of Washington, Jefferson, Madison, and Hamilton, all of whom were young men, in building upon the Independence of the United States that wisest and best plan of general government that was ever devised for a free people.

He found that the American people, through their chosen representatives who were instructed by their wisdom and experience and were supported by their virtues—cultivated, purified and ennobled by self-reliance and the love of God had matured, in the excellent wisdom of their counsels, a new plan of government, which embraced every security for their liberties and equal rights and privileges to all in the pursuit of happiness. He came as an honest and impartial student and his great commentary, like those of Paul, was written for the benefit of all nations and people and in vindication of truths that will stand for their deliverance from monarchical rule, while time shall last.

A French aristocrat of the purest strain of blood and of the most honorable lineage, whose family influence was coveted by crowned heads; who had no quarrel with the rulers of the nation, and was secure against want by his inherited estates; was moved by the agitations that compelled France to attempt to grasp suddenly the liberties and happiness we had gained in our revolution and, by his devout love of France, to search out and subject to the test of reason the basic principles of free government that had been embodied in our Constitution. This was the mission of De Tocqueville, and no mission was ever more honorably or justly conducted, or concluded with greater e'clat, or better results for the welfare of mankind.

His researches were logical and exhaustive. They included every phase of every question that then seemed to be apposite to the great inquiry he was making.

The judgment of all who have studied his commentaries seems to have been unanimous, that his talents and learning were fully equal to his task. He began with the physical geography of this country, and examined the characteristics of the people, of all races and conditions, their social and religious sentiments, their education and tastes; their industries, their commerce, their local governments, their passions and prejudices, and their ethics and literature; leaving nothing unnoticed that might afford an argument to prove that our plan and form of government was or was not adapted especially to a peculiar people, or that it would be impracticable in any different country, or among any different people.

The pride and comfort that the American people enjoy in the great commentaries of De Tocqueville are far removed from the selfish adulation that comes from a great and singular success. It is the consciousness of victory over a false theory of government which has afflicted mankind for many ages, that gives joy to the true American, as it did to De Tocqueville in his great triumph.

When De Tocqueville wrote, we had lived less than fifty years under our Constitution. In that time no great national commotion had occurred that tested its strength, or its power of resistance to internal strife, such as had converted his beloved France into fields of slaughter torn by tempests of wrath.

He had a strong conviction that no government could be ordained that could resist these internal forces, when, they are directed to its destruction by bad men, or unreasoning mobs, and many then believed, as some yet believe, that our government is unequal to such pressure, when the assault is thoroughly desperate.

Had De Tocqueville lived to examine the history of the United States from 1860 to 1870, his misgivings as to this power of self-preservation would, probably, have been cleared off. He would have seen that, at the end of the most destructive civil war that ever occurred, when animosities of the bitterest sort had banished all good feeling from the hearts of our people, the States of the American Union, still in complete organization and equipped with all their official entourage, aligned themselves in their places

and took up the powers and duties of local government in perfect order and without embarrassment. This would have dispelled his apprehensions, if he had any, about the power of the United States to withstand the severest shocks of civil war. Could he have traced the further course of events until they open the portals of the twentieth century, he would have cast away his fears of our ability to restore peace, order, and prosperity, in the face of any difficulties, and would have rejoiced to find in the Constitution of the United States the remedy that is provided for the healing of the nation.

De Tocqueville examined, with the care that is worthy the importance of the subject, the nature and value of the system of "local self-government," as we style this most important feature of our plan, and (as has often happened) when this or any subject has become a matter of anxious concern, his treatment of the questions is found to have been masterly and his preconceptions almost prophetic.

We are frequently indebted to him for able expositions and true doctrines relating to subjects that have slumbered in the minds of the people until they were suddenly forced on our attention by unexpected events.

In his introductory chapter, M. De Tocqueville says: "Amongst the novel objects that attracted my attention during my stay in the United States, nothing struck me more forcibly than the general equality of conditions." He referred, doubtless, to social and political conditions among the people of the white race, who are described as "We, the people," in the opening sentence of the Constitution. The last three amendments of the Constitution have so changed this, that those who were then negro slaves are clothed with the rights of citizenship, including the right of suffrage. This was a political party movement, intended to be radical and revolutionary, but it will, ultimately, react because it has not the sanction of public opinion.

If M. De Tocqueville could now search for a law that would negative this provision in its effect upon social equality, he would fail to find it. But he would find it in the unwritten law of the natural aversion of the races. He would find it in public opinion, which is the vital force in every law in a free government. This is a subject that our Constitution failed to regulate, because it was not contemplated by its authors. It is a question that will

settle itself, without serious difficulty. The equality in the suffrage, thus guaranteed to the negro race, alone—for it was not intended to include other colored races—creates a new phase of political conditions that M. De Tocqueville could not foresee. Yet, in his commendation of the local town and county governments, he applauds and sustains that elementary feature of our political organization which, in the end, will render harmless this wide departure from the original plan and purpose of American Democracy. "Local Self-Government," independent of general control, except for general purposes, is the root and origin of all free republican government, and is the antagonist of all great political combinations that threaten the rights of minorities. It is the public opinion formed in the independent expressions of towns and other small civil districts that is the real conservatism of free government. It is equally the enemy of that dangerous evil, the corruption of the ballot-box, from which it is now apprehended that one of our greatest troubles is to arise.

The voter is selected, under our laws, because he has certain physical qualifications—age and sex. His disqualifications, when any are imposed, relate to his education or property, and to the fact that he has not been convicted of crime. Of all men he should be most directly amenable to public opinion.

The test of moral character and devotion to the duties of good citizenship are ignored in the laws, because the courts can seldom deal with such questions in a uniform and satisfactory way, under rules that apply alike to all. Thus the voter, selected by law to represent himself and four other non-voting citizens, is often a person who is unfit for any public duty or trust. In a town government, having a small area of jurisdiction, where the voice of the majority of qualified voters is conclusive, the fitness of the person who is to exercise that high representative privilege can be determined by his neighbors and acquaintances, and, in the great majority of cases, it will be decided honestly and for the good of the country. In such meetings, there is always a spirit of loyalty to the State, because that is loyalty to the people, and a reverence for God that gives weight to the duties and responsibilities of citizenship.

M. De Tocqueville found in these minor local jurisdictions the theoretical conservatism which, in the aggregate, is the safest reliance of the State. So we have found them, in practice, the true protectors of the purity of the ballot, without which all free government will degenerate into absolutism.

In the future of the Republic, we must encounter many difficult and dangerous situations, but the principles established in the Constitution and the check upon hasty or inconsiderate legislation, and upon executive action, and the supreme arbitrament of the courts, will be found sufficient for the safety of personal rights and for the safety of the government, and the prophetic outlook of M. De Tocqueville will be fully realized through the influence of Democracy in America. Each succeeding generation of Americans will find in the pure and impartial reflections of De Tocqueville a new source of pride in our institutions of government, and sound reasons for patriotic effort to preserve them and to inculcate their teachings. They have mastered the power of monarchical rule in the American Hemisphere, freeing religion from all shackles, and will spread, by a quiet but resistless influence, through the islands of the seas to other lands, where the appeals of De Tocqueville for human rights and liberties have already inspired the souls of the people.

## **Special Introduction**

NEARLY two-thirds of a century has elapsed since the appearance of "Democracy in America," by Alexis Charles Henri Clerel de Tocqueville, a French nobleman, born at Paris, July 29, 1805.

Bred to the law, he exhibited an early predilection for philosophy and political economy, and at twenty-two was appointed judge-auditor at the tribunal of Versailles.

In 1831, commissioned ostensibly to investigate the penitentiary system of the United States, he visited this country, with his friend, Gustave de Beaumont, travelling extensively through those parts of the Republic then

subdued to settlement, studying the methods of local, State, and national administration, and observing the manners and habits, the daily life, the business, the industries and occupations of the people.

"Democracy in America," the first of four volumes upon "American Institutions and their Influence," was published in 1835. It was received at once by the scholars and thinkers of Europe as a profound, impartial, and entertaining exposition of the principles of popular, representative self-government.

Napoleon, "the mighty somnambulist of a vanished dream," had abolished feudalism and absolutism, made monarchs and dynasties obsolete, and substituted for the divine right of kings the sovereignty of the people.

Although by birth and sympathies an aristocrat, M. de Tocqueville saw that the reign of tradition and privilege at last was ended. He perceived that civilization, after many bloody centuries, had entered a new epoch. He beheld, and deplored, the excesses that had attended the genesis of the democratic spirit in France, and while he loved liberty, he detested the crimes that had been committed in its name. Belonging neither to the class which regarded the social revolution as an innovation to be resisted, nor to that which considered political equality the universal panacea for the evils of humanity, he resolved by personal observation of the results of democracy in the New World to ascertain its natural consequences, and to learn what the nations of Europe had to hope or fear from its final supremacy.

That a youth of twenty-six should entertain a design so broad and bold implies singular intellectual intrepidity. He had neither model nor precedent. The vastness and novelty of the undertaking increase admiration for the remarkable ability with which the task was performed.

Were literary excellence the sole claim of "Democracy in America" to distinction, the splendor of its composition alone would entitle it to high place among the masterpieces of the century. The first chapter, upon the exterior form of North America, as the theatre upon which the great drama is to be enacted, for graphic and picturesque description of the physical

characteristics of the continent is not surpassed in literature: nor is there any subdivision of the work in which the severest philosophy is not invested with the grace of poetry, and the driest statistics with the charm of romance. Western emigration seemed commonplace and prosaic till M. de Tocqueville said, "This gradual and continuous progress of the European race toward the Rocky Mountains has the solemnity of a providential event; it is like a deluge of men rising unabatedly, and daily driven onward by the hand of God!"

The mind of M. de Tocqueville had the candor of the photographic camera. It recorded impressions with the impartiality of nature. The image was sometimes distorted, and the perspective was not always true, but he was neither a panegyrist, nor an advocate, nor a critic. He observed American phenomena as illustrations, not as proof nor arguments; and although it is apparent that the tendency of his mind was not wholly favorable to the democratic principle, yet those who dissent from his conclusions must commend the ability and courage with which they are expressed.

Though not originally written for Americans, "Democracy in America" must always remain a work of engrossing and constantly increasing interest to citizens of the United States as the first philosophic and comprehensive view of our society, institutions, and destiny. No one can rise even from the most cursory perusal without clearer insight and more patriotic appreciation of the blessings of liberty protected by law, nor without encouragement for the stability and perpetuity of the Republic. The causes which appeared to M. de Tocqueville to menace both, have gone. The despotism of public opinion, the tyranny of majorities, the absence of intellectual freedom which seemed to him to degrade administration and bring statesmanship, learning, and literature to the level of the lowest, are no longer considered. The violence of party spirit has been mitigated, and the judgment of the wise is not subordinated to the prejudices of the ignorant.

Other dangers have come. Equality of conditions no longer exists. Prophets of evil predict the downfall of democracy, but the student of M. de Tocqueville will find consolation and encouragement in the reflection that the same spirit which has vanquished the perils of the past, which he foresaw, will be equally prepared for the responsibilities of the present and

the future.

The last of the four volumes of M. de Tocqueville's work upon American institutions appeared in 1840.

In 1838 he was chosen member of the Academy of Moral and Political Sciences. In 1839 he was elected to the Chamber of Deputies. He became a member of the French Academy in 1841.

In 1848 he was in the Assembly, and from June 2nd to October 31st he was Minister of Foreign Affairs. The coup d'etat of December 2, 1851 drove him from the public service. In 1856 he published "The Old Regime and the Revolution." He died at Cannes, April 15, 1859, at the age of fifty-four.

## **Introductory Chapter**

AMONGST the novel objects that attracted my attention during my stay in the United States, nothing struck me more forcibly than the general equality of conditions. I readily discovered the prodigious influence which this primary fact exercises on the whole course of society, by giving a certain direction to public opinion, and a certain tenor to the laws; by imparting new maxims to the governing powers, and peculiar habits to the governed. I speedily perceived that the influence of this fact extends far beyond the political character and the laws of the country, and that it has no less empire over civil society than over the Government; it creates opinions, engenders sentiments, suggests the ordinary practices of life, and modifies whatever it does not produce. The more I advanced in the study of American society, the more I perceived that the equality of conditions is the fundamental fact from which all others seem to be derived, and the central point at which all my observations constantly terminated.

I then turned my thoughts to our own hemisphere, where I imagined that I discerned something analogous to the spectacle which the New World presented to me. I observed that the equality of conditions is daily

progressing towards those extreme limits which it seems to have reached in the United States, and that the democracy which governs the American communities appears to be rapidly rising into power in Europe. I hence conceived the idea of the book which is now before the reader.

It is evident to all alike that a great democratic revolution is going on amongst us; but there are two opinions as to its nature and consequences. To some it appears to be a novel accident, which as such may still be checked; to others it seems irresistible, because it is the most uniform, the most ancient, and the most permanent tendency which is to be found in history. Let us recollect the situation of France seven hundred years ago, when the territory was divided amongst a small number of families, who were the owners of the soil and the rulers of the inhabitants; the right of governing descended with the family inheritance from generation to generation; force was the only means by which man could act on man, and landed property was the sole source of power. Soon, however, the political power of the clergy was founded, and began to exert itself: the clergy opened its ranks to all classes, to the poor and the rich, the villein and the lord; equality penetrated into the Government through the Church, and the being who as a serf must have vegetated in perpetual bondage took his place as a priest in the midst of nobles, and not infrequently above the heads of kings.

The different relations of men became more complicated and more numerous as society gradually became more stable and more civilized. Thence the want of civil laws was felt; and the order of legal functionaries soon rose from the obscurity of the tribunals and their dusty chambers, to appear at the court of the monarch, by the side of the feudal barons in their ermine and their mail. Whilst the kings were ruining themselves by their great enterprises, and the nobles exhausting their resources by private wars, the lower orders were enriching themselves by commerce. The influence of money began to be perceptible in State affairs. The transactions of business opened a new road to power, and the financier rose to a station of political influence in which he was at once flattered and despised. Gradually the spread of mental acquirements, and the increasing taste for literature and art, opened chances of success to talent; science became a means of government, intelligence led to social power, and the man of letters took a part in the affairs of the State. The value attached to the privileges of birth

decreased in the exact proportion in which new paths were struck out to advancement. In the eleventh century nobility was beyond all price; in the thirteenth it might be purchased; it was conferred for the first time in 1270; and equality was thus introduced into the Government by the aristocracy itself.

In the course of these seven hundred years it sometimes happened that in order to resist the authority of the Crown, or to diminish the power of their rivals, the nobles granted a certain share of political rights to the people. Or, more frequently, the king permitted the lower orders to enjoy a degree of power, with the intention of repressing the aristocracy. In France the kings have always been the most active and the most constant of levellers. When they were strong and ambitious they spared no pains to raise the people to the level of the nobles; when they were temperate or weak they allowed the people to rise above themselves. Some assisted the democracy by their talents, others by their vices. Louis XI and Louis XIV reduced every rank beneath the throne to the same subjection; Louis XV descended, himself and all his Court, into the dust.

As soon as land was held on any other than a feudal tenure, and personal property began in its turn to confer influence and power, every improvement which was introduced in commerce or manufacture was a fresh element of the equality of conditions. Henceforward every new discovery, every new want which it engendered, and every new desire which craved satisfaction, was a step towards the universal level. The taste for luxury, the love of war, the sway of fashion, and the most superficial as well as the deepest passions of the human heart, co-operated to enrich the poor and to impoverish the rich.

From the time when the exercise of the intellect became the source of strength and of wealth, it is impossible not to consider every addition to science, every fresh truth, and every new idea as a germ of power placed within the reach of the people. Poetry, eloquence, and memory, the grace of wit, the glow of imagination, the depth of thought, and all the gifts which are bestowed by Providence with an equal hand, turned to the advantage of the democracy; and even when they were in the possession of its adversaries they still served its cause by throwing into relief the natural

greatness of man; its conquests spread, therefore, with those of civilization and knowledge, and literature became an arsenal where the poorest and the weakest could always find weapons to their hand.

In perusing the pages of our history, we shall scarcely meet with a single great event, in the lapse of seven hundred years, which has not turned to the advantage of equality. The Crusades and the wars of the English decimated the nobles and divided their possessions; the erection of communities introduced an element of democratic liberty into the bosom of feudal monarchy; the invention of fire-arms equalized the villein and the noble on the field of battle; printing opened the same resources to the minds of all classes; the post was organized so as to bring the same information to the door of the poor man's cottage and to the gate of the palace; and Protestantism proclaimed that all men are alike able to find the road to heaven. The discovery of America offered a thousand new paths to fortune, and placed riches and power within the reach of the adventurous and the obscure. If we examine what has happened in France at intervals of fifty years, beginning with the eleventh century, we shall invariably perceive that a twofold revolution has taken place in the state of society. The noble has gone down on the social ladder, and the roturier has gone up; the one descends as the other rises. Every half century brings them nearer to each other, and they will very shortly meet.

Nor is this phenomenon at all peculiar to France. Whithersoever we turn our eyes we shall witness the same continual revolution throughout the whole of Christendom. The various occurrences of national existence have everywhere turned to the advantage of democracy; all men have aided it by their exertions: those who have intentionally labored in its cause, and those who have served it unwittingly; those who have fought for it and those who have declared themselves its opponents, have all been driven along in the same track, have all labored to one end, some ignorantly and some unwillingly; all have been blind instruments in the hands of God.

The gradual development of the equality of conditions is therefore a providential fact, and it possesses all the characteristics of a divine decree: it is universal, it is durable, it constantly eludes all human interference, and all events as well as all men contribute to its progress. Would it, then, be

wise to imagine that a social impulse which dates from so far back can be checked by the efforts of a generation? Is it credible that the democracy which has annihilated the feudal system and vanquished kings will respect the citizen and the capitalist? Will it stop now that it has grown so strong and its adversaries so weak? None can say which way we are going, for all terms of comparison are wanting: the equality of conditions is more complete in the Christian countries of the present day than it has been at any time or in any part of the world; so that the extent of what already exists prevents us from foreseeing what may be yet to come.

The whole book which is here offered to the public has been written under the impression of a kind of religious dread produced in the author's mind by the contemplation of so irresistible a revolution, which has advanced for centuries in spite of such amazing obstacles, and which is still proceeding in the midst of the ruins it has made. It is not necessary that God himself should speak in order to disclose to us the unquestionable signs of His will; we can discern them in the habitual course of nature, and in the invariable tendency of events: I know, without a special revelation, that the planets move in the orbits traced by the Creator's finger. If the men of our time were led by attentive observation and by sincere reflection to acknowledge that the gradual and progressive development of social equality is at once the past and future of their history, this solitary truth would confer the sacred character of a Divine decree upon the change. To attempt to check democracy would be in that case to resist the will of God; and the nations would then be constrained to make the best of the social lot awarded to them by Providence.

The Christian nations of our age seem to me to present a most alarming spectacle; the impulse which is bearing them along is so strong that it cannot be stopped, but it is not yet so rapid that it cannot be guided: their fate is in their hands; yet a little while and it may be so no longer. The first duty which is at this time imposed upon those who direct our affairs is to educate the democracy; to warm its faith, if that be possible; to purify its morals; to direct its energies; to substitute a knowledge of business for its inexperience, and an acquaintance with its true interests for its blind propensities; to adapt its government to time and place, and to modify it in compliance with the occurrences and the actors of the age. A new science

of politics is indispensable to a new world. This, however, is what we think of least; launched in the middle of a rapid stream, we obstinately fix our eyes on the ruins which may still be described upon the shore we have left, whilst the current sweeps us along, and drives us backwards towards the gulf.

In no country in Europe has the great social revolution which I have been describing made such rapid progress as in France; but it has always been borne on by chance. The heads of the State have never had any forethought for its exigencies, and its victories have been obtained without their consent or without their knowledge. The most powerful, the most intelligent, and the most moral classes of the nation have never attempted to connect themselves with it in order to guide it. The people has consequently been abandoned to its wild propensities, and it has grown up like those outcasts who receive their education in the public streets, and who are unacquainted with aught but the vices and wretchedness of society. The existence of a democracy was seemingly unknown, when on a sudden it took possession of the supreme power. Everything was then submitted to its caprices; it was worshipped as the idol of strength; until, when it was enfeebled by its own excesses, the legislator conceived the rash project of annihilating its power, instead of instructing it and correcting its vices; no attempt was made to fit it to govern, but all were bent on excluding it from the government.

The consequence of this has been that the democratic revolution has been effected only in the material parts of society, without that concomitant change in laws, ideas, customs, and manners which was necessary to render such a revolution beneficial. We have gotten a democracy, but without the conditions which lessen its vices and render its natural advantages more prominent; and although we already perceive the evils it brings, we are ignorant of the benefits it may confer.

While the power of the Crown, supported by the aristocracy, peaceably governed the nations of Europe, society possessed, in the midst of its wretchedness, several different advantages can now scarce or conceived. The power of a part of his subjects was an insurmountable barrier to the tyranny of the prince; and the monarch, who felt the almost divine character which he enjoyed in the eyes of the multitude, derived a motive for the just

use of his power from the respect which he inspired. High as they were placed above the people, the nobles could not but take that calm and benevolent interest in its fate which the shepherd feels towards his flock; and without acknowledging the poor as their equals, they watched over the destiny of those whose welfare Providence had entrusted to their care. The people never having conceived the idea of a social condition from its own, and entertaining no expectation of ever ranking with its chiefs, received benefits from them without discussing their rights. It grew attached to them when they were clement and just, and it submitted without resistance or servility to their exactions, as to the inevitable visitations of the arm of God. Custom, and the manners of the time, had moreover created a species of law in the midst of violence, and established certain limits to oppression. As the noble never suspected that anyone would attempt to deprive him of the privileges which he believed to be legitimate, and as the serf looked upon his own inferiority as a consequence of the immutable order of nature, it is easy to imagine that a mutual exchange of good-will took place between two classes so differently gifted by fate. Inequality and wretchedness were then to be found in society; but the souls of neither rank of men were degraded. Men are not corrupted by the exercise of power or debased by the habit of obedience, but by the exercise of a power which they believe to be illegal and by obedience to a rule which they consider to be usurped and oppressive. On one side was wealth, strength, and leisure, accompanied by the refinements of luxury, the elegance of taste, the pleasures of wit, and the religion of art. On the other was labor and a rude ignorance; but in the midst of this coarse and ignorant multitude it was not uncommon to meet with energetic passions, generous sentiments, profound religious convictions, and independent virtues. The body of a State thus organized might boast of its stability, its power, and, above all, of its glory.

But the scene is now changed, and gradually the two ranks mingle; the divisions which once severed mankind are lowered, property is divided, power is held in common, the light of intelligence spreads, and the capacities of all classes are equally cultivated; the State becomes democratic, and the empire of democracy is slowly and peaceably introduced into the institutions and the manners of the nation. I can conceive a society in which all men would profess an equal attachment and respect for the laws of which they are the common authors; in which the

authority of the State would be respected as necessary, though not as divine; and the loyalty of the subject to its chief magistrate would not be a passion, but a quiet and rational persuasion. Every individual being in the possession of rights which he is sure to retain, a kind of manly reliance and reciprocal courtesy would arise between all classes, alike removed from pride and meanness. The people, well acquainted with true interests, would allow that in order to profit by the advantages of society it is necessary to satisfy its demands. In this state of things the voluntary association of the citizens might supply the individual exertions of the nobles, and the community would be alike protected from anarchy and from oppression.

I admit that, in a democratic State thus constituted, society will not be stationary; but the impulses of the social body may be regulated and directed forwards; if there be less splendor than in the halls of an aristocracy, the contrast of misery will be less frequent also; the pleasures of enjoyment may be less excessive, but those of comfort will be more general; the sciences may be less perfectly cultivated, but ignorance will be less common; the impetuosity of the feelings will be repressed, and the habits of the nation softened; there will be more vices and fewer crimes. In the absence of enthusiasm and of an ardent faith, great sacrifices may be obtained from the members of a commonwealth by an appeal to their understandings and their experience; each individual will feel the same necessity for uniting with his fellow-citizens to protect his own weakness; and as he knows that if they are to assist he must co-operate, he will readily perceive that his personal interest is identified with the interest of the community. The nation, taken as a whole, will be less brilliant, less glorious, and perhaps less strong; but the majority of the citizens will enjoy a greater degree of prosperity, and the people will remain quiet, not because it despairs of amelioration, but because it is conscious of the advantages of its condition. If all the consequences of this state of things were not good or useful, society would at least have appropriated all such as were useful and good; and having once and for ever renounced the social advantages of aristocracy, mankind would enter into possession of all the benefits which democracy can afford.

But here it may be asked what we have adopted in the place of those institutions, those ideas, and those customs of our forefathers which we

have abandoned. The spell of royalty is broken, but it has not been succeeded by the majesty of the laws; the people has learned to despise all authority, but fear now extorts a larger tribute of obedience than that which was formerly paid by reverence and by love.

I perceive that we have destroyed those independent beings which were able to cope with tyranny single-handed; but it is the Government that has inherited the privileges of which families, corporations, and individuals have been deprived; the weakness of the whole community has therefore succeeded that influence of a small body of citizens, which, if it was sometimes oppressive, was often conservative. The division of property has lessened the distance which separated the rich from the poor; but it would seem that the nearer they draw to each other, the greater is their mutual hatred, and the more vehement the envy and the dread with which they resist each other's claims to power; the notion of Right is alike insensible to both classes, and Force affords to both the only argument for the present, and the only guarantee for the future. The poor man retains the prejudices of his forefathers without their faith, and their ignorance without their virtues; he has adopted the doctrine of self-interest as the rule of his actions, without understanding the science which controls it, and his egotism is no less blind than his devotedness was formerly. If society is tranquil, it is not because it relies upon its strength and its well-being, but because it knows its weakness and its infirmities; a single effort may cost it its life; everybody feels the evil, but no one has courage or energy enough to seek the cure; the desires, the regret, the sorrows, and the joys of the time produce nothing that is visible or permanent, like the passions of old men which terminate in impotence.

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

The phenomena which the intellectual world presents are not less deplorable. The democracy of France, checked in its course or abandoned to its lawless passions, has overthrown whatever crossed its path, and has shaken all that it has not destroyed. Its empire on society has not been

gradually introduced or peaceably established, but it has constantly advanced in the midst of disorder and the agitation of a conflict. In the heat of the struggle each partisan is hurried beyond the limits of his opinions by the opinions and the excesses of his opponents, until he loses sight of the end of his exertions, and holds a language which disguises his real sentiments or secret instincts. Hence arises the strange confusion which we are witnessing. I cannot recall to my mind a passage in history more worthy of sorrow and of pity than the scenes which are happening under our eyes; it is as if the natural bond which unites the opinions of man to his tastes and his actions to his principles was now broken; the sympathy which has always been acknowledged between the feelings and the ideas of mankind appears to be dissolved, and all the laws of moral analogy to be abolished.

Zealous Christians may be found amongst us whose minds are nurtured in the love and knowledge of a future life, and who readily espouse the cause of human liberty as the source of all moral greatness. Christianity, which has declared that all men are equal in the sight of God, will not refuse to acknowledge that all citizens are equal in the eye of the law. But, by a singular concurrence of events, religion is entangled in those institutions which democracy assails, and it is not unfrequently brought to reject the equality it loves, and to curse that cause of liberty as a foe which it might hallow by its alliance.

By the side of these religious men I discern others whose looks are turned to the earth more than to Heaven; they are the partisans of liberty, not only as the source of the noblest virtues, but more especially as the root of all solid advantages; and they sincerely desire to extend its sway, and to impart its blessings to mankind. It is natural that they should hasten to invoke the assistance of religion, for they must know that liberty cannot be established without morality, nor morality without faith; but they have seen religion in the ranks of their adversaries, and they inquire no further; some of them attack it openly, and the remainder are afraid to defend it.

In former ages slavery has been advocated by the venal and slavish-minded, whilst the independent and the warm-hearted were struggling without hope to save the liberties of mankind. But men of high and generous characters are now to be met with, whose opinions are at variance with their

inclinations, and who praise that servility which they have themselves never known. Others, on the contrary, speak in the name of liberty, as if they were able to feel its sanctity and its majesty, and loudly claim for humanity those rights which they have always disowned. There are virtuous and peaceful individuals whose pure morality, quiet habits, affluence, and talents fit them to be the leaders of the surrounding population; their love of their country is sincere, and they are prepared to make the greatest sacrifices to its welfare, but they confound the abuses of civilization with its benefits, and the idea of evil is inseparable in their minds from that of novelty.

Not far from this class is another party, whose object is to materialize mankind, to hit upon what is expedient without heeding what is just, to acquire knowledge without faith, and prosperity apart from virtue; assuming the title of the champions of modern civilization, and placing themselves in a station which they usurp with insolence, and from which they are driven by their own unworthiness. Where are we then? The religionists are the enemies of liberty, and the friends of liberty attack religion; the high-minded and the noble advocate subjection, and the meanest and most servile minds preach independence; honest and enlightened citizens are opposed to all progress, whilst men without patriotism and without principles are the apostles of civilization and of intelligence. Has such been the fate of the centuries which have preceded our own? and has man always inhabited a world like the present, where nothing is linked together, where virtue is without genius, and genius without honor; where the love of order is confounded with a taste for oppression, and the holy rites of freedom with a contempt of law; where the light thrown by conscience on human actions is dim, and where nothing seems to be any longer forbidden or allowed, honorable or shameful, false or true? I cannot, however, believe that the Creator made man to leave him in an endless struggle with the intellectual miseries which surround us: God destines a calmer and a more certain future to the communities of Europe; I am unacquainted with His designs, but I shall not cease to believe in them because I cannot fathom them, and I had rather mistrust my own capacity than His justice.

There is a country in the world where the great revolution which I am speaking of seems nearly to have reached its natural limits; it has been

effected with ease and simplicity, say rather that this country has attained the consequences of the democratic revolution which we are undergoing without having experienced the revolution itself. The emigrants who fixed themselves on the shores of America in the beginning of the seventeenth century severed the democratic principle from all the principles which repressed it in the old communities of Europe, and transplanted it unalloyed to the New World. It has there been allowed to spread in perfect freedom, and to put forth its consequences in the laws by influencing the manners of the country.

It appears to me beyond a doubt that sooner or later we shall arrive, like the Americans, at an almost complete equality of conditions. But I do not conclude from this that we shall ever be necessarily led to draw the same political consequences which the Americans have derived from a similar social organization. I am far from supposing that they have chosen the only form of government which a democracy may adopt; but the identity of the efficient cause of laws and manners in the two countries is sufficient to account for the immense interest we have in becoming acquainted with its effects in each of them.

It is not, then, merely to satisfy a legitimate curiosity that I have examined America; my wish has been to find instruction by which we may ourselves profit. Whoever should imagine that I have intended to write a panegyric will perceive that such was not my design; nor has it been my object to advocate any form of government in particular, for I am of opinion that absolute excellence is rarely to be found in any legislation; I have not even affected to discuss whether the social revolution, which I believe to be irresistible, is advantageous or prejudicial to mankind; I have acknowledged this revolution as a fact already accomplished or on the eve of its accomplishment; and I have selected the nation, from amongst those which have undergone it, in which its development has been the most peaceful and the most complete, in order to discern its natural consequences, and, if it be possible, to distinguish the means by which it may be rendered profitable. I confess that in America I saw more than America; I sought the image of democracy itself, with its inclinations, its character, its prejudices, and its passions, in order to learn what we have to fear or to hope from its progress.

In the first part of this work I have attempted to show the tendency given to the laws by the democracy of America, which is abandoned almost without restraint to its instinctive propensities, and to exhibit the course it prescribes to the Government and the influence it exercises on affairs. I have sought to discover the evils and the advantages which it produces. I have examined the precautions used by the Americans to direct it, as well as those which they have not adopted, and I have undertaken to point out the causes which enable it to govern society. I do not know whether I have succeeded in making known what I saw in America, but I am certain that such has been my sincere desire, and that I have never, knowingly, moulded facts to ideas, instead of ideas to facts.

Whenever a point could be established by the aid of written documents, I have had recourse to the original text, and to the most authentic and approved works. I have cited my authorities in the notes, and anyone may refer to them. Whenever an opinion, a political custom, or a remark on the manners of the country was concerned, I endeavored to consult the most enlightened men I met with. If the point in question was important or doubtful, I was not satisfied with one testimony, but I formed my opinion on the evidence of several witnesses. Here the reader must necessarily believe me upon my word. I could frequently have quoted names which are either known to him, or which deserve to be so, in proof of what I advance; but I have carefully abstained from this practice. A stranger frequently hears important truths at the fire-side of his host, which the latter would perhaps conceal from the ear of friendship; he consoles himself with his guest for the silence to which he is restricted, and the shortness of the traveller's stay takes away all fear of his indiscretion. I carefully noted every conversation of this nature as soon as it occurred, but these notes will never leave my writing-case; I had rather injure the success of my statements than add my name to the list of those strangers who repay the generous hospitality they have received by subsequent chagrin and annoyance.

I am aware that, notwithstanding my care, nothing will be easier than to criticise this book, if anyone ever chooses to criticise it. Those readers who may examine it closely will discover the fundamental idea which connects the several parts together. But the diversity of the subjects I have had to treat is exceedingly great, and it will not be difficult to oppose an isolated

fact to the body of facts which I quote, or an isolated idea to the body of ideas I put forth. I hope to be read in the spirit which has guided my labors, and that my book may be judged by the general impression it leaves, as I have formed my own judgment not on any single reason, but upon the mass of evidence. It must not be forgotten that the author who wishes to be understood is obliged to push all his ideas to their utmost theoretical consequences, and often to the verge of what is false or impracticable; for if it be necessary sometimes to quit the rules of logic in active life, such is not the case in discourse, and a man finds that almost as many difficulties spring from inconsistency of language as usually arise from inconsistency of conduct.

I conclude by pointing out myself what many readers will consider the principal defect of the work. This book is written to favor no particular views, and in composing it I have entertained no designs of serving or attacking any party; I have undertaken not to see differently, but to look further than parties, and whilst they are busied for the morrow I have turned my thoughts to the Future.

## **Chapter 1: Exterior Form of North America**

North America divided into two vast regions, one inclining towards the Pole, the other towards the Equator—Valley of the Mississippi—Traces of the Revolutions of the Globe—Shore of the Atlantic Ocean where the English Colonies were founded—Difference in the appearance of North and of South America at the time of their Discovery—Forests of North America—Prairies—Wandering Tribes of Natives—Their outward appearance, manners, and language—Traces of an unknown people.

NORTH AMERICA presents in its external form certain general features which it is easy to discriminate at the first glance. A sort of methodical order seems to have regulated the separation of land and water, mountains and valleys. A simple, but grand, arrangement is discoverable amidst the

confusion of objects and the prodigious variety of scenes. This continent is divided, almost equally, into two vast regions, one of which is bounded on the north by the Arctic Pole, and by the two great oceans on the east and west. It stretches towards the south, forming a triangle whose irregular sides meet at length below the great lakes of Canada. The second region begins where the other terminates, and includes all the remainder of the continent. The one slopes gently towards the Pole, the other towards the Equator.

The territory comprehended in the first region descends towards the north with so imperceptible a slope that it may almost be said to form a level plain. Within the bounds of this immense tract of country there are neither high mountains nor deep valleys. Streams meander through it irregularly: great rivers mix their currents, separate and meet again, disperse and form vast marshes, losing all trace of their channels in the labyrinth of waters they have themselves created; and thus, at length, after innumerable windings, fall into the Polar Seas. The great lakes which bound this first region are not walled in, like most of those in the Old World, between hills and rocks. Their banks are flat, and rise but a few feet above the level of their waters; each of them thus forming a vast bowl filled to the brim. The slightest change in the structure of the globe would cause their waters to rush either towards the Pole or to the tropical sea.

The second region is more varied on its surface, and better suited for the habitation of man. Two long chains of mountains divide it from one extreme to the other; the Alleghany ridge takes the form of the shores of the Atlantic Ocean; the other is parallel with the Pacific. The space which lies between these two chains of mountains contains 1,341,649 square miles. Its surface is therefore about six times as great as that of France. This vast territory, however, forms a single valley, one side of which descends gradually from the rounded summits of the Alleghanies, while the other rises in an uninterrupted course towards the tops of the Rocky Mountains. At the bottom of the valley flows an immense river, into which the various 'streams issuing from the mountains fall from all parts. In memory of their native land, the French formerly called this river the St. Louis. The Indians, in their pompous language, have named it the Father of Waters, or the Mississippi.

The Mississippi takes its source above the limit of the two great regions of which I have spoken, not far from the highest point of the table-land where they unite. Near the same spot rises another river, which empties itself into the Polar seas. The course of the Mississippi is at first dubious: it winds several times towards the north, from whence it rose; and at length, after having been delayed in lakes and marshes, it flows slowly onwards to the south. Sometimes quietly gliding along the argillaceous bed which nature has assigned to it, sometimes swollen by storms, the Mississippi waters 2,500 miles in its course. At the distance of 1,364 miles from its mouth this river attains an average depth of fifteen feet; and it is navigated by vessels of 300 tons burden for a course of nearly 500 miles. Fifty-seven large navigable rivers contribute to swell the waters of the Mississippi; amongst others, the Missouri, which traverses a space of 2,500 miles; the Arkansas of 1,300 miles, the Red River 1,000 miles, four whose course is from 800 to 1,000 miles in length, viz., the Illinois, the St. Peter's, the St. Francis, and the Moingona; besides a countless multitude of rivulets which unite from all parts their tributary streams.

The valley which is watered by the Mississippi seems formed to be the bed of this mighty river, which, like a god of antiquity, dispenses both good and evil in its course. On the shores of the stream nature displays an inexhaustible fertility; in proportion as you recede from its banks, the powers of vegetation languish, the soil becomes poor, and the plants that survive have a sickly growth. Nowhere have the great convulsions of the globe left more evident traces than in the valley of the Mississippi; the whole aspect of the country shows the powerful effects of water, both by its fertility and by its barrenness. The waters of the primeval ocean accumulated enormous beds of vegetable mould in the valley, which they levelled as they retired. Upon the right shore of the river are seen immense plains, as smooth as if the husbandman had passed over them with his roller. As you approach the mountains the soil becomes more and more unequal and sterile; the ground is, as it were, pierced in a thousand places by primitive rocks, which appear like the bones of a skeleton whose flesh is partly consumed. The surface of the earth is covered with a granite sand and huge irregular masses of stone, among which a few plants force their growth, and give the appearance of a green field covered with the ruins of a vast edifice. These stones and this sand discover, on examination, a perfect

analogy with those which compose the arid and broken summits of the Rocky Mountains. The flood of waters which washed the soil to the bottom of the valley afterwards carried away portions of the rocks themselves; and these, dashed and bruised against the neighboring cliffs, were left scattered like wrecks at their feet. The valley of the Mississippi is, upon the whole, the most magnificent dwelling-place prepared by God for man's abode; and yet it may be said that at present it is but a mighty desert.

On the eastern side of the Alleghanies, between the base of these mountains and the Atlantic Ocean, there lies a long ridge of rocks and sand, which the sea appears to have left behind as it retired. The mean breadth of this territory does not exceed one hundred miles; but it is about nine hundred miles in length. This part of the American continent has a soil which offers every obstacle to the husbandman, and its vegetation is scanty and unvaried.

Upon this inhospitable coast the first united efforts of human industry were made. The tongue of arid land was the cradle of those English colonies which were destined one day to become the United States of America. The centre of power still remains here; whilst in the backwoods the true elements of the great people to whom the future control of the continent belongs are gathering almost in secrecy together.

When the Europeans first landed on the shores of the West Indies, and afterwards on the coast of South America, they thought themselves transported into those fabulous regions of which poets had sung. The sea sparkled with phosphoric light, and the extraordinary transparency of its waters discovered to the view of the navigator all that had hitherto been hidden in the deep abyss. Here and there appeared little islands perfumed with odoriferous plants, and resembling baskets of flowers floating on the tranquil surface of the ocean. Every object which met the sight, in this enchanting region, seemed prepared to satisfy the wants or contribute to the pleasures of man. Almost all the trees were loaded with nourishing fruits, and those which were useless as food delighted the eye by the brilliancy and variety of their colors. In groves of fragrant lemon-trees, wild figs, flowering myrtles, acacias, and oleanders, which were hung with festoons of various climbing plants, covered with flowers, a multitude of birds unknown in Europe displayed their bright plumage, glittering with purple

and azure, and mingled their warbling with the harmony of a world teeming with life and motion. Underneath this brilliant exterior death was concealed. But the air of these climates had so enervating an influence that man, absorbed by present enjoyment, was rendered regardless of the future.

North America appeared under a very different aspect; there everything was grave, serious, and solemn: it seemed created to be then domain of intelligence, as the south was that of sensual delight. A turbulent and foggy ocean washed its shores. It was girt round by a belt of granite rocks, or by wide tracts of sand. The foliage of its woods was dark and gloomy, for they were composed of firs, larches, evergreen oaks, wild olive-trees, and laurels. Beyond this outer belt lay the thick shades of the central forest, where the largest trees which are produced in the two hemispheres grow side by side. The plane, the catalpa, the sugar-maple, and the Virginian poplar mingled their branches with those of the oak, the beech, and the lime. In these, as in the forests of the Old World, destruction was perpetually going on. The ruins of vegetation were heaped upon each other; but there was no laboring hand to remove them, and their decay was not rapid enough to make room for the continual work of reproduction. Climbing plants, grasses, and other herbs forced their way through the mass of dying trees; they crept along their bending trunks, found nourishment in their dusty cavities, and a passage beneath the lifeless bark. Thus decay gave its assistance to life, and their respective productions were mingled together. The depths of these forests were gloomy and obscure, and a thousand rivulets, undirected in their course by human industry, preserved in them a constant moisture. It was rare to meet with flowers, wild fruits, or birds beneath their shades. The fall of a tree overthrown by age, the rushing torrent of a cataract, the lowing of the buffalo, and the howling of the wind were the only sounds which broke the silence of nature.

To the east of the great river, the woods almost disappeared; in their stead were seen prairies of immense extent. Whether Nature in her infinite variety had denied the germs of trees to these fertile plains, or whether they had once been covered with forests, subsequently destroyed by the hand of man, is a question which neither tradition nor scientific research has been able to resolve.

These immense deserts were not, however, devoid of human inhabitants. Some wandering tribes had been for ages scattered among the forest shades or the green pastures of the prairie. From the mouth of the St. Lawrence to the delta of the Mississippi, and from the Atlantic to the Pacific Ocean, these savages possessed certain points of resemblance which bore witness of their common origin; but at the same time they differed from all other known races of men: they were neither white like the Europeans, nor yellow like most of the Asiatics, nor black like the negroes. Their skin was reddish brown, their hair long and shining, their lips thin, and their cheekbones very prominent. The languages spoken by the North American tribes are various as far as regarded their words, but they were' subject to the same grammatical rules. These rules differed in several points from such as had been observed to govern the origin of language. The idiom of the Americans seemed to be the product of new combinations, and bespoke an effort of the understanding of which the Indians of our days would be incapable.

The social state of these tribes differed also in many respects from all that was seen in the Old World. They seemed to have multiplied freely in the midst of their deserts without coming in contact with other races more civilized than their own. Accordingly, they exhibited none of those indistinct, incoherent notions of right and wrong, none of that deep corruption of manners, which is usually joined with ignorance and rudeness among nations which, after advancing to civilization, have relapsed into a state of barbarism. The Indian was indebted to no one but himself; his virtues, his vices, and his prejudices were his own work; he had grown up in the wild independence of his nature.

If, in polished countries, the lowest of the people are rude and uncivil, it is not merely because they are poor and ignorant, but that, being so, they are in daily contact with rich and enlightened men. The sight of their own hard lot and of their weakness, which is daily contrasted with the happiness and power of some of their fellow-creatures, excites in their hearts at the same time the sentiments of anger and of fear: the consciousness of their inferiority and of their dependence irritates while it humiliates them. This state of mind displays itself in their manners and language; they are at once insolent and servile. The truth of this is easily proved by observation; the

people are more rude in aristocratic countries than elsewhere, in opulent cities than in rural districts. In those places where the rich and powerful are assembled together the weak and the indigent feel themselves oppressed by their inferior condition. Unable to perceive a single chance of regaining their equality, they give up to despair, and allow themselves to fall below the dignity of human nature.

This unfortunate effect of the disparity of conditions is not observable in savage life: the Indians, although they are ignorant and poor, are equal and free. At the period when Europeans first came among them the natives of North America were ignorant of the value of riches, and indifferent to the enjoyments which civilized man procures to himself by their means. Nevertheless there was nothing coarse in their demeanor; they practised an habitual reserve and a kind of aristocratic politeness. Mild and hospitable when at peace, though merciless in war beyond any known degree of human ferocity, the Indian would expose himself to die of hunger in order to succor the stranger who asked admittance by night at the door of his hut; yet he could tear in pieces with his hands the still quivering limbs of his prisoner. The famous republics of antiquity never gave examples of more unshaken courage, more haughty spirits, or more intractable love of independence than were hidden in former times among the wild forests of the New World. The Europeans produced no great impression when they landed upon the shores of North America; their presence engendered neither envy nor fear. What influence could they possess over such men as we have described? The Indian could live without wants, suffer without complaint, and pour out his death-song at the stake. Like all the other members of the great human family, these savages believed in the existence of a better world, and adored, under different names, God the creator of the universe. Their notions on the great intellectual truths were in general simple and philosophical.

Although we have here traced the character of a primitive people, yet it cannot be doubted that another people, more civilized and more advanced in all respects, had preceded it in the same regions.

An obscure tradition which prevailed among the Indians to the north of the Atlantic informs us that these very tribes formerly dwelt on the west side of

the Mississippi. Along the banks of the Ohio, and throughout the central valley, there are frequently found, at this day, tumuli raised by the hands of men. On exploring these heaps of earth to their centre, it is usual to meet with human bones, strange instruments, arms and utensils of all kinds, made of metal, or destined for purposes unknown to the present race. The Indians of our time are unable to give any information relative to the history of this unknown people. Neither did those who lived three hundred years ago, when America was first discovered, leave any accounts from which even an hypothesis could be formed. Tradition—that perishable, yet ever renewed monument of the pristine world—throws no light upon the subject. It is an undoubted fact, however, that in this part of the globe thousands of our fellow-beings had lived. When they came hither, what was their origin, their destiny, their history, and how they perished, no one can tell. How strange does it appear that nations have existed, and afterwards so completely disappeared from the earth that the remembrance of their very names is effaced; their languages are lost; their glory is vanished like a sound without an echo; though perhaps there is not one which has not left behind it some tomb in memory of its passage! The most durable monument of human labor is that which recalls the wretchedness and nothingness of man.

Although the vast country which we have been describing was inhabited by many indigenous tribes, it may justly be said at the time of its discovery by Europeans to have formed one great desert. The Indians occupied without possessing it. It is by agricultural labor that man appropriates the soil, and the early inhabitants of North America lived by the produce of the chase. Their implacable prejudices, their uncontrolled passions, their vices, and still more perhaps their savage virtues, consigned them to inevitable destruction. The ruin of these nations began from the day when Europeans landed on their shores; it has proceeded ever since, and we are now witnessing the completion of it. They seem to have been placed by Providence amidst the riches of the New World to enjoy them for a season, and then surrender them. Those coasts, so admirably adapted for commerce and industry; those wide and deep rivers; that inexhaustible valley of the Mississippi; the whole continent, in short, seemed prepared to be the abode of a great nation, yet unborn.

In that land the great experiment was to be made, by civilized man, of the attempt to construct society upon a new basis; and it was there, for the first time, that theories hitherto unknown, or deemed impracticable, were to exhibit a spectacle for which the world had not been prepared by the history of the past.

## **Chapter 2: Origin of the Anglo-Americans, and its Importance in Relation to Their Future Condition**

### [Reasons of Certain Anomalies Which the Laws and Customs of the Anglo-Americans Present](#)

Utility of knowing the origin of nations in order to understand their social condition and their laws—America the only country in which the starting-point of a great people has been clearly observable—In what respects all who emigrated to British America were similar—In what they differed—

Remark applicable to all Europeans who established themselves on the shores of the New World—Colonization of Virginia—Colonization of New England—Original character of the first inhabitants of New England—their arrival— Their first laws—Their social contract—Penal code borrowed from the Hebrew legislation—Religious fervor—Republican spirit— Intimate union of the spirit of religion with the spirit of liberty.

After the birth of a human being his early years are obscurely spent in the toils or pleasures of childhood. As he grows up the world receives him, when his manhood begins, and he enters into contact with his fellows. He is then studied for the first time, and it is imagined that the germ of the vices and the virtues of his maturer years is then formed. This, if I am not mistaken, is a great error. We must begin higher up; we must watch the infant in its mother's arms; we must see the first images which the external world casts upon the dark mirror of his mind; the first occurrences which he

witnesses; we must hear the first words which awaken the sleeping powers of thought, and stand by his earliest efforts, if we would understand the prejudices, the habits, and the passions which will rule his life. The entire man is, so to speak, to be seen in the cradle of the child.

The growth of nations presents something analogous to this: they all bear some marks of their origin; and the circumstances which accompanied their birth and contributed to their rise affect the whole term of their being. If we were able to go back to the elements of states, and to examine the oldest monuments of their history, I doubt not that we should discover the primal cause of the prejudices, the habits, the ruling passions, and, in short, of all that constitutes what is called the national character; we should then find the explanation of certain customs which now seem at variance with the prevailing manners; of such laws as conflict with established principles; and of such incoherent opinions as are here and there to be met with in society, like those fragments of broken chains which we sometimes see hanging from the vault of an edifice, and supporting nothing. This might explain the destinies of certain nations, which seem borne on by an unknown force to ends of which they themselves are ignorant. But hitherto facts have been wanting to researches of this kind: the spirit of inquiry has only come upon communities in their latter days; and when they at length contemplated their origin, time had already obscured it, or ignorance and pride adorned it with truth-concealing fables.

America is the only country in which it has been possible to witness the natural and tranquil growth of society, and where the influences exercised on the future condition of states by their origin is clearly distinguishable. At the period when the peoples of Europe landed in the New World their national characteristics were already completely formed; each of them had a physiognomy of its own; and as they had already, attained that stage of civilization at which men are led to study themselves, they have transmitted to us a faithful picture of their opinions, their manners, and their laws. The men of the sixteenth century are almost as well known to us as our contemporaries. America, consequently, exhibits in the broad light of day the phenomena which the ignorance or rudeness of earlier ages conceals from our researches. Near enough to the time when the states of America were founded, to be accurately acquainted with their elements, and

sufficiently removed from that period to judge of some of their results, the men of our own day seem destined to see further than their predecessors into the series of human events. Providence has given us a torch which our forefathers did not possess, and has allowed us to discern fundamental causes in the history of the world which the obscurity of the past concealed from them. If we carefully examine the social and political state of America, after having studied its history, we shall remain perfectly convinced that not an opinion, not a custom, not a law, I may even say not an event, is upon record which the origin of that people will not explain. The readers of this book will find the germ of all that is to follow in the present chapter, and the key to almost the whole work.

The emigrants who came, at different periods to occupy the territory now covered by the American Union differed from each other in many respects; their aim was not the same, and they governed themselves on different principles. These men had, however, certain features in common, and they were all placed in an analogous situation. The tie of language is perhaps the strongest and the most durable that can unite mankind. All the emigrants spoke the same tongue; they were all offsets from the same people. Born in a country which had been agitated for centuries by the struggles of faction, and in which all parties had been obliged in their turn to place themselves under the protection of the laws, their political education had been perfected in this rude school, and they were more conversant with the notions of right and the principles of true freedom than the greater part of their European contemporaries. At the period of their first emigrations the parish system, that fruitful germ of free institutions, was deeply rooted in the habits of the English; and with it the doctrine of the sovereignty of the people had been introduced into the bosom of the monarchy of the House of Tudor.

The religious quarrels which have agitated the Christian world were then rife. England had plunged into the new order of things with headlong vehemence. The character of its inhabitants, which had always been sedate and reflective, became argumentative and austere. General information had been increased by intellectual debate, and the mind had received a deeper cultivation. Whilst religion was the topic of discussion, the morals of the people were reformed. All these national features are more or less discoverable in the physiognomy of those adventurers who came to seek a

new home on the opposite shores of the Atlantic.

Another remark, to which we shall hereafter have occasion to recur, is applicable not only to the English, but to the French, the Spaniards, and all the Europeans who successively established themselves in the New World. All these European colonies contained the elements, if not the development, of a complete democracy. Two causes led to this result. It may safely be advanced, that on leaving the mother-country the emigrants had in general no notion of superiority over one another. The happy and the powerful do not go into exile, and there are no surer guarantees of equality among men than poverty and misfortune. It happened, however, on several occasions, that persons of rank were driven to America by political and religious quarrels. Laws were made to establish a gradation of ranks; but it was soon found that the soil of America was opposed to a territorial aristocracy. To bring that refractory land into cultivation, the constant and interested exertions of the owner himself were necessary; and when the ground was prepared, its produce was found to be insufficient to enrich a master and a farmer at the same time. The land was then naturally broken up into small portions, which the proprietor cultivated for himself. Land is the basis of an aristocracy, which clings to the soil that supports it; for it is not by privileges alone, nor by birth, but by landed property handed down from generation to generation, that an aristocracy is constituted. A nation may present immense fortunes and extreme wretchedness, but unless those fortunes are territorial there is no aristocracy, but simply the class of the rich and that of the poor.

All the British colonies had then a great degree of similarity at the epoch of their settlement. All of them, from their first beginning, seemed destined to witness the growth, not of the aristocratic liberty of their mother-country, but of that freedom of the middle and lower orders of which the history of the world had as yet furnished no complete example.

In this general uniformity several striking differences were however discernible, which it is necessary to point out. Two branches may be distinguished in the Anglo-American family, which have hitherto grown up without entirely commingling; the one in the South, the other in the North.

Virginia received the first English colony; the emigrants took possession of it in 1607. The idea that mines of gold and silver are the sources of national wealth was at that time singularly prevalent in Europe; a fatal delusion, which has done more to impoverish the nations which adopted it, and has cost more lives in America, than the united influence of war and bad laws. The men sent to Virginia were seekers of gold, adventures, without resources and without character, whose turbulent and restless spirit endangered the infant colony, and rendered its progress uncertain. The artisans and agriculturists arrived afterwards; and, although they were a more moral and orderly race of men, they were in nowise above the level of the inferior classes in England. No lofty conceptions, no intellectual system, directed the foundation of these new settlements. The colony was scarcely established when slavery was introduced, and this was the main circumstance which has exercised so prodigious an influence on the character, the laws, and all the future prospects of the South. Slavery, as we shall afterwards show, dishonors labor; it introduces idleness into society, and with idleness, ignorance and pride, luxury and distress. It enervates the powers of the mind, and benumbs the activity of man. The influence of slavery, united to the English character, explains the manners and the social condition of the Southern States.

In the North, the same English foundation was modified by the most opposite shades of character; and here I may be allowed to enter into some details. The two or three main ideas which constitute the basis of the social theory of the United States were first combined in the Northern English colonies, more generally denominated the States of New England. The principles of New England spread at first to the neighboring states; they then passed successively to the more distant ones; and at length they imbued the whole Confederation. They now extend their influence beyond its limits over the whole American world. The civilization of New England has been like a beacon lit upon a hill, which, after it has diffused its warmth around, tinges the distant horizon with its glow.

The foundation of New England was a novel spectacle, and all the circumstances attending it were singular and original. The large majority of colonies have been first inhabited either by men without education and without resources, driven by their poverty and their misconduct from the

land which gave them birth, or by speculators and adventurers greedy of gain. Some settlements cannot even boast so honorable an origin; St. Domingo was founded by buccaneers; and the criminal courts of England originally supplied the population of Australia.

The settlers who established themselves on the shores of New England all belonged to the more independent classes of their native country. Their union on the soil of America at once presented the singular phenomenon of a society containing neither lords nor common people, neither rich nor poor. These men possessed, in proportion to their number, a greater mass of intelligence than is to be found in any European nation of our own time. All, without a single exception, had received a good education, and many of them were known in Europe for their talents and their acquirements. The other colonies had been founded by adventurers without family; the emigrants of New England brought with them the best elements of order and morality—they landed in the desert accompanied by their wives and children. But what most especially distinguished them was the aim of their undertaking. They had not been obliged by necessity to leave their country; the social position they abandoned was one to be regretted, and their means of subsistence were certain. Nor did they cross the Atlantic to improve their situation or to increase their wealth; the call which summoned them from the comforts of their homes was purely intellectual; and in facing the inevitable sufferings of exile their object was the triumph of an idea.

The emigrants, or, as they deservedly styled themselves, the Pilgrims, belonged to that English sect the austerity of whose principles had acquired for them the name of Puritans. Puritanism was not merely a religious doctrine, but it corresponded in many points with the most absolute democratic and republican theories. It was this tendency which had aroused its most dangerous adversaries. Persecuted by the Government of the mother-country, and disgusted by the habits of a society opposed to the rigor of their own principles, the Puritans went forth to seek some rude and unfrequented part of the world, where they could live according to their Own opinions, and worship God in freedom.

A few quotations will throw more light upon the spirit of these pious adventurers than all we can say of them. Nathaniel Morton, the historian of

the first years of the settlement, thus opens his subject:

"Gentle Reader,—I have for some length of time looked upon it as a duty incumbent, especially on the immediate successors of those that have had so large experience of those many memorable and signal demonstrations of God's goodness, viz., the first beginners of this Plantation in New England, to commit to writing his gracious dispensations on that behalf; having so many inducements thereunto, not onely otherwise but so plentifully in the Sacred Scriptures: that so, what we have seen, and what our fathers have told us (Psalm lxxviii. 3, 4), we may not hide from our children, showing to the generations to come the praises of the Lord; that especially the seed of Abraham his servant, and the children of Jacob his chosen (Psalm cv. 5, 6), may remember his marvellous works in the beginning and progress of the planting of New England, his wonders and the judgments of his mouth; how that God brought a vine into this wilderness; that he cast out the heathen, and planted it; that he made room for it and caused it to take deep root; and it filled the land (Psalm lxxx. 8, 9). And not onely so, but also that he hath guided his people by his strength to his holy habitation and planted them in the mountain of his inheritance in respect of precious Gospel enjoyments: and that as especially God may have the glory of all unto whom it is most due; so also some rays of glory may reach the names of those blessed Saints that were the main instruments and the beginning of this happy enterprise."

It is impossible to read this opening paragraph without an involuntary feeling of religious awe; it breathes the very savor of Gospel antiquity. The sincerity of the author heightens his power of language. The band which to his eyes was a mere party of adventurers gone forth to seek their fortune beyond seas appears to the reader as the germ of a great nation wafted by Providence to a predestined shore.

The author thus continues his narrative of the departure of the first pilgrim:

---

"So they left that goodly and pleasant city of Leyden, which had been their resting-place for above eleven years; but they knew that they were pilgrims and strangers here below, and looked not much on these things, but lifted up their eyes to Heaven, their dearest country, where God hath prepared for

them a city (Heb. xi. 16), and therein quieted their spirits. When they came to Delfs-Haven they found the ship and all things ready; and such of their friends as could not come with them followed after them, and sundry came from Amsterdam to see them shipt, and to take their leaves of them. One night was spent with little sleep with the most, but with friendly entertainment and Christian discourse, and other real expressions of true Christian love. The next day they went on board, and their friends with them, where truly doleful was the sight of that sad and mournful parting, to hear what sighs and sobs and prayers did sound amongst them; what tears did gush from every eye, and pithy speeches pierced each other's heart, that sundry of the Dutch strangers that stood on the Key as spectators could not refrain from tears. But the tide (which stays for no man) calling them away, that were thus loth to depart, their Reverend Pastor falling down on his knees, and they all with him, with watery cheeks commended them with most fervent prayers unto the Lord and his blessing; and then, with mutual embraces and many tears they took their leaves one of another, which proved to be the last leave to many of them."

The emigrants were about 150 in number, including the women and the children. Their object was to plant a colony on the shores of the Hudson; but after having been driven about for some time in the Atlantic Ocean, they were forced to land on that arid coast of New England which is now the site of the town of Plymouth. The rock is still shown on which the pilgrims disembarked.

"But before we pass on," continues our historian, "let the reader with me make a pause and seriously consider this poor people's present condition, the more to be raised up to admiration of God's goodness towards them in their preservation: for being now passed the vast ocean, and, a sea of troubles before them in expectation, they had now no friends to welcome them, no inns to entertain or refresh them, no houses, or much less towns to repair unto to seek for succour: and for the season it was winter, and they that know the winters of the country know them to be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts. Besides, what could they see but a hideous and desolate wilderness, full of wilde beasts, and wilde men? and what multitudes of them there were, they then knew not: for which way

soever they turned their eyes (save upward to Heaven) they could have but little solace or content in respect of any outward object; for summer being ended, all things stand in appearance with a weather-beaten face, and the whole country full of woods and thickets, represented a wild and savage hew; if they looked behind them, there was the mighty ocean which they had passed, and was now as a main bar or gulph to separate them from all the civil parts of the world."

It must not be imagined that the piety of the Puritans was of a merely speculative kind, or that it took no cognizance of the course of worldly affairs. Puritanism, as I have already remarked, was scarcely less a political than a religious doctrine. No sooner had the emigrants landed on the barren coast described by Nathaniel Morton than it was their first care to constitute a society, by passing the following Act:

"In the name of God. Amen. We, whose names are under-written, the loyal subjects of our dread Sovereign Lord King James, etc., etc., Having undertaken for the glory of God, and advancement of the Christian Faith, and the honour of our King and country, a voyage to plant the first colony in the northern parts of Virginia; Do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid: and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the Colony: unto which we promise all due submission and obedience," etc.

This happened in 1620, and from that time forwards the emigration went on. The religious and political passions which ravaged the British Empire during the whole reign of Charles I drove fresh crowds of sectarians every year to the shores of America. In England the stronghold of Puritanism was in the middle classes, and it was from the middle classes that the majority of the emigrants came. The population of New England increased rapidly; and whilst the hierarchy of rank despotically classed the inhabitants of the mother-country, the colony continued to present the novel spectacle of a community homogeneous in all its parts. A democracy, more perfect than

any which antiquity had dreamt of, started in full size and panoply from the midst of an ancient feudal society.

The English Government was not dissatisfied with an emigration which removed the elements of fresh discord and of further revolutions. On the contrary, everything was done to encourage it, and great exertions were made to mitigate the hardships of those who sought a shelter from the rigor of their country's laws on the soil of America. It seemed as if New England was a region given up to the dreams of fancy and the unrestrained experiments of innovators.

The English colonies (and this is one of the main causes of their prosperity) have always enjoyed more internal freedom and more political independence than the colonies of other nations; but this principle of liberty was nowhere more extensively applied than in the States of New England.

It was generally allowed at that period that the territories of the New World belonged to that European nation which had been the first to discover them. Nearly the whole coast of North America thus became a British possession towards the end of the sixteenth century. The means used by the English Government to people these new domains were of several kinds; the King sometimes appointed a governor of his own choice, who ruled a portion of the New World in the name and under the immediate orders of the Crown; this is the colonial system adopted by other countries of Europe. Sometimes grants of certain tracts were made by the Crown to an individual or to a company, in which case all the civil and political power fell into the hands of one or more persons, who, under the inspection and control of the Crown, sold the lands and governed the inhabitants. Lastly, a third system consisted in allowing a certain number of emigrants to constitute a political society under the protection of the mother-country, and to govern themselves in whatever was not contrary to her laws. This mode of colonization, so remarkably favorable to liberty, was only adopted in New England.

In 1628 a charter of this kind was granted by Charles I to the emigrants who went to form the colony of Massachusetts. But, in general, charters were not given to the colonies of New England till they had acquired a certain

existence. Plymouth, Providence, New Haven, the State of Connecticut, and that of Rhode Island were founded without the co-operation and almost without the knowledge of the mother-country. The new settlers did not derive their incorporation from the seat of the empire, although they did not deny its supremacy; they constituted a society of their own accord, and it was not till thirty or forty years afterwards, under Charles II that their existence was legally recognized by a royal charter.

This frequently renders it difficult to detect the link which connected the emigrants with the land of their forefathers in studying the earliest historical and legislative records of New England. They exercised the rights of sovereignty; they named their magistrates, concluded peace or declared war, made police regulations, and enacted laws as if their allegiance was due only to God. Nothing can be more curious and, at the same time more instructive, than the legislation of that period; it is there that the solution of the great social problem which the United States now present to the world is to be found.

Amongst these documents we shall notice, as especially characteristic, the code of laws promulgated by the little State of Connecticut in 1650. The legislators of Connecticut begin with the penal laws, and, strange to say, they borrow their provisions from the text of Holy Writ. "Whosoever shall worship any other God than the Lord," says the preamble of the Code, "shall surely be put to death." This is followed by ten or twelve enactments of the same kind, copied verbatim from the books of Exodus, Leviticus, and Deuteronomy. Blasphemy, sorcery, adultery, and rape were punished with death; an outrage offered by a son to his parents was to be expiated by the same penalty. The legislation of a rude and half-civilized people was thus applied to an enlightened and moral community. The consequence was that the punishment of death was never more frequently prescribed by the statute, and never more rarely enforced towards the guilty.

The chief care of the legislators, in this body of penal laws, was the maintenance of orderly conduct and good morals in the community: they constantly invaded the domain of conscience, and there was scarcely a sin which was not subject to magisterial censure. The reader is aware of the rigor with which these laws punished rape and adultery; intercourse

between unmarried persons was likewise severely repressed. The judge was empowered to inflict a pecuniary penalty, a whipping, or marriage on the misdemeanants; and if the records of the old courts of New Haven may be believed, prosecutions of this kind were not unfrequent. We find a sentence bearing date the first of May, 1660, inflicting a fine and reprimand on a young woman who was accused of using improper language, and of allowing herself to be kissed. The Code of 1650 abounds in preventive measures. It punishes idleness and drunkenness with severity. Innkeepers are forbidden to furnish more than a certain quantity of liquor to each consumer; and simple lying, whenever it may be injurious, is checked by a fine or a flogging. In other places, the legislator, entirely forgetting the great principles of religious toleration which he had himself upheld in Europe, renders attendance on divine service compulsory, and goes so far as to visit with severe punishment, and even with death, the Christians who chose to worship God according to a ritual differing from his own. Sometimes indeed the zeal of his enactments induces him to descend to the most frivolous particulars: thus a law is to be found in the same Code which prohibits the use of tobacco. It must not be forgotten that these fantastical and vexatious laws were not imposed by authority, but that they were freely voted by all the persons interested, and that the manners of the community were even more austere and more puritanical than the laws. In 1649 a solemn association was formed in Boston to check the worldly luxury of long hair.

These errors are no doubt discreditable to human reason; they attest the inferiority of our nature, which is incapable of laying firm hold upon what is true and just, and is often reduced to the alternative of two excesses. In strict connection with this penal legislation, which bears such striking marks of a narrow sectarian spirit, and of those religious passions which had been warmed by persecution and were still fermenting among the people, a body of political laws is to be found, which, though written two hundred years ago, is still ahead of the liberties of our age. The general principles which are the groundwork of modern constitutions—principles which were imperfectly known in Europe, and not completely triumphant even in Great Britain, in the seventeenth century—were all recognized and determined by the laws of New England: the intervention of the people in public affairs, the free voting of taxes, the responsibility of authorities,

personal liberty, and trial by jury, were all positively established without discussion. From these fruitful principles consequences have been derived and applications have been made such as no nation in Europe has yet ventured to attempt.

In Connecticut the electoral body consisted, from its origin, of the whole number of citizens; and this is readily to be understood, when we recollect that this people enjoyed an almost perfect equality of fortune, and a still greater uniformity of opinions. In Connecticut, at this period, all the executive functionaries were elected, including the Governor of the State. The citizens above the age of sixteen were obliged to bear arms; they formed a national militia, which appointed its own officers, and was to hold itself at all times in readiness to march for the defence of the country.

In the laws of Connecticut, as well as in all those of New England, we find the germ and gradual development of that township independence which is the life and mainspring of American liberty at the present day. The political existence of the majority of the nations of Europe commenced in the Superior ranks of society, and was gradually and imperfectly communicated to the different members of the social body. In America, on the other hand, it may be said that the township was organized before the county, the county before the State, the State before the Union. In New England townships were completely and definitively constituted as early as 1650. The independence of the township was the nucleus round which the local interests, passions, rights, and duties collected and clung. It gave scope to the activity of a real political life most thoroughly who democratic and republican. The colonies still recognized the supremacy of the mother-country; monarchy was still the law of the State; but the republic was already established in every township. The towns named their own magistrates of every kind, rated themselves, and levied their own taxes. In the parish of New England the law of representation was not adopted, but the affairs of the community were discussed, as at Athens, in the market-place, by a general assembly of the citizens.

In studying the laws which were promulgated at this first era of the American republics, it is impossible not to be struck by the remarkable acquaintance with the science of government and the advanced theory of

legislation which they display. The ideas there formed of the duties of society towards its members are evidently much loftier and more comprehensive than those of the European legislators at that time: obligations were there imposed which were elsewhere slighted. In the States of New England, from the first, the condition of the poor was provided for; strict measures were taken for the maintenance of roads, and surveyors were appointed to attend to them; registers were established in every parish, in which the results of public deliberations, and the births, deaths, and marriages of the citizens were entered; clerks were directed to keep these registers; officers were charged with the administration of vacant inheritances, and with the arbitration of litigated landmarks; and many others were created whose chief functions were the maintenance of public order in the community. The law enters into a thousand useful provisions for a number of social wants which are at present very inadequately felt in France.

But it is by the attention it pays to Public Education that the original character of American civilization is at once placed in the clearest light. "It being," says the law, "one chief project of Satan to keep men from the knowledge of the Scripture by persuading from the use of tongues, to the end that learning may not be buried in the graves of our forefathers, in church and commonwealth, the Lord assisting our endeavors..." Here follow clauses establishing schools in every township, and obliging the inhabitants, under pain of heavy fines, to support them. Schools of a superior kind were founded in the same manner in the more populous districts. The municipal authorities were bound to enforce the sending of children to school by their parents; they were empowered to inflict fines upon all who refused compliance; and in case of continued resistance society assumed the place of the parent, took possession of the child, and deprived the father of those natural rights which he used to so bad a purpose. The reader will undoubtedly have remarked the preamble of these enactments: in America religion is the road to knowledge, and the observance of the divine laws leads man to civil freedom.

If, after having cast a rapid glance over the state of American society in 1650, we turn to the condition of Europe, and more especially to that of the Continent, at the same period, we cannot fail to be struck with

astonishment. On the Continent of Europe, at the beginning of the seventeenth century, absolute monarchy had everywhere triumphed over the ruins of the oligarchical and feudal liberties of the Middle Ages. Never were the notions of right more completely confounded than in the midst of the splendor and literature of Europe; never was there less political activity among the people; never were the principles of true freedom less widely circulated; and at that very time those principles, which were scorned or unknown by the nations of Europe, were proclaimed in the deserts of the New World, and were accepted as the future creed of a great people. The boldest theories of the human reason were put into practice by a community so humble that not a statesman condescended to attend to it; and a legislation without a precedent was produced offhand by the imagination of the citizens. In the bosom of this obscure democracy, which had as yet brought forth neither generals, nor philosophers, nor authors, a man might stand up in the face of a free people and pronounce the following fine definition of liberty.

"Nor would I have you to mistake in the point of your own liberty. There is a liberty of a corrupt nature which is effected both by men and beasts to do what they list, and this liberty is inconsistent with authority, impatient of all restraint; by this liberty 'summus omnes deteriores': 'tis the grand enemy of truth and peace, and all the ordinances of God are bent against it. But there is a civil, a moral, a federal liberty which is the proper end and object of authority; it is a liberty for that only which is just and good: for this liberty you are to stand with the hazard of your very lives and whatsoever crosses it is not authority, but a distemper thereof. This liberty is maintained in a way of subjection to authority; and the authority set over you will, in all administrations for your good, be quietly submitted unto by all but such as have a disposition to shake off the yoke and lose their true liberty, by their murmuring at the honor and power of authority."

The remarks I have made will suffice to display the character of Anglo-American civilization in its true light. It is the result and this should be constantly present to the mind of two distinct elements, which in other places have been in frequent hostility, but which in America have been admirably incorporated and combined with one another. I allude to the spirit

of Religion and free spirit of Liberty.

The settlers of New England were at the same time ardent sectarians and daring innovators. Narrow as the limits of some of their religious opinions were, they were entirely free from political prejudices. Hence arose two tendencies, distinct but not opposite, which are constantly discernible in the manners as well as in the laws of the country.

It might be imagined that men who sacrificed their friends, their family, and their native land to a religious conviction were absorbed in the pursuit of the intellectual advantages which they purchased at so dear a rate. The energy, however, with which they strove for the acquirement of wealth, moral enjoyment, and the comforts as well as liberties of the world, is scarcely inferior to that with which they devoted themselves to Heaven.

Political principles and all human laws and institutions were moulded and altered at their pleasure; the barriers of the society in which they were born were broken down before them; the old principles which had governed the world for ages were no more; a path without a turn and a field without an horizon were opened to the exploring and ardent curiosity of man: but at the limits of the political world he checks his researches, he discreetly lays aside the use of his most formidable faculties, he no longer consents to doubt or to innovate, but carefully abstaining from raising the curtain of the sanctuary, he yields with submissive respect to truths which he will not discuss. Thus, in the moral world everything is classed, adapted, decided, and foreseen; in the political world everything is agitated, uncertain, and disputed: in the one is a passive, though a voluntary, obedience; in the other an independence scornful of experience and jealous of authority.

These two tendencies, apparently so discrepant, are far from conflicting; they advance together, and mutually support each other. Religion perceives that civil liberty affords a noble exercise to the faculties of man, and that the political world is a field prepared by the Creator for the efforts of the intelligence. Contented with the freedom and the power which it enjoys in its own sphere, and with the place which it occupies, the empire of religion is never more surely established than when it reigns in the hearts of men unsupported by aught beside its native strength. Religion is no less the

companion of liberty in all its battles and its triumphs; the cradle of its infancy, and the divine source of its claims. The safeguard of morality is religion, and morality is the best security of law and the surest pledge of freedom.

### **Reasons of Certain Anomalies Which the Laws and Customs of the Anglo-Americans Present**

Remains of aristocratic institutions in the midst of a complete democracy—  
Why?—Distinction carefully to be drawn between what is of Puritanical  
and what is of English origin.

The reader is cautioned not to draw too general or too absolute an inference from what has been said. The social condition, the religion, and the manners of the first emigrants undoubtedly exercised an immense influence on the destiny of their new country. Nevertheless they were not in a situation to found a state of things solely dependent on themselves: no man can entirely shake off the influence of the past, and the settlers, intentionally or involuntarily, mingled habits and notions derived from their education and from the traditions of their country with those habits and notions which were exclusively their own. To form a judgment on the Anglo-Americans of the present day it is therefore necessary to distinguish what is of Puritanical and what is of English origin.

Laws and customs are frequently to be met with in the United States which contrast strongly with all that surrounds them. These laws seem to be drawn up in a spirit contrary to the prevailing tenor of the American legislation; and these customs are no less opposed to the tone of society. If the English colonies had been founded in an age of darkness, or if their origin was already lost in the lapse of years, the problem would be insoluble.

I shall quote a single example to illustrate what I advance. The civil and criminal procedure of the Americans has only two means of action—

committal and bail. The first measure taken by the magistrate is to exact security from the defendant, or, in case of refusal, to incarcerate him: the ground of the accusation and the importance of the charges against him are then discussed. It is evident that a legislation of this kind is hostile to the poor man, and favorable only to the rich. The poor man has not always a security to produce, even in a civil cause; and if he is obliged to wait for justice in prison, he is speedily reduced to distress. The wealthy individual, on the contrary, always escapes imprisonment in civil causes; nay, more, he may readily elude the punishment which awaits him for a delinquency by breaking his bail. So that all the penalties of the law are, for him, reducible to fines. Nothing can be more aristocratic than this system of legislation. Yet in America it is the poor who make the law, and they usually reserve the greatest social advantages to themselves. The explanation of the phenomenon is to be found in England; the laws of which I speak are English, and the Americans have retained them, however repugnant they may be to the tenor of their legislation and the mass of their ideas. Next to its habits, the thing which a nation is least apt to change is its civil legislation. Civil laws are only familiarly known to legal men, whose direct interest it is to maintain them as they are, whether good or bad, simply because they themselves are conversant with them. The body of the nation is scarcely acquainted with them; it merely perceives their action in particular cases; but it has some difficulty in seizing their tendency, and obeys them without premeditation. I have quoted one instance where it would have been easy to adduce a great number of others. The surface of American society is, if I may use the expression, covered with a layer of democracy, from beneath which the old aristocratic colors sometimes peep.

### **Chapter 3: Social Condition of the Anglo-Americans**

SOCIAL condition is commonly the result of circumstances, sometimes of laws, oftener still of these two causes united; but wherever it exists, it may justly be considered as the source of almost all the laws, the usages, and the ideas which regulate the conduct of nations; whatever it does not produce it modifies. It is therefore necessary, if we would become acquainted with the

legislation and the manners of a nation, to begin by the study of its social condition.

## **The Striking Characteristic of the Social Condition of the Anglo-Americans in its Essential Democracy**

[The Striking Characteristic of the Social Condition of the Anglo-Americans in its Essential Democracy](#)

[Political Consequences of the Social Condition of the Anglo-Americans](#)

The first emigrants of New England—Their equality—Aristocratic laws introduced in the South—Period of the Revolution—Change in the law of descent—Effects produced by this change—Democracy carried to its utmost limits in the new States of the West—Equality of education.

Many important observations suggest themselves upon the social condition of the Anglo-Americans, but there is one which takes precedence of all the rest. The social condition of the Americans is eminently democratic; this was its character at the foundation of the Colonies, and is still more strongly marked at the present day. I have stated in the preceding chapter that great equality existed among the emigrants who settled on the shores of New England. The germ of aristocracy was never planted in that part of the Union. The only influence which obtained there was that of intellect; the people were used to reverence certain names as the emblems of knowledge and virtue. Some of their fellow-citizens acquired a power over the rest which might truly have been called aristocratic, if it had been capable of transmission from father to son.

This was the state of things to the east of the Hudson: to the south-west of that river, and in the direction of the Floridas, the case was different. In

most of the States situated to the south-west of the Hudson some great English proprietors had settled, who had imported with them aristocratic principles and the English law of descent. I have explained the reasons why it was impossible ever to establish a powerful aristocracy in America; these reasons existed with less force to the south-west of the Hudson. In the South, one man, aided by slaves, could cultivate a great extent of country: it was therefore common to see rich landed proprietors. But their influence was not altogether aristocratic as that term is understood in Europe, since they possessed no privileges; and the cultivation of their estates being carried on by slaves, they had no tenants depending on them, and consequently no patronage. Still, the great proprietors south of the Hudson constituted a superior class, having ideas and tastes of its own, and forming the centre of political action. This kind of aristocracy sympathized with the body of the people, whose passions and interests it easily embraced; but it was too weak and too short-lived to excite either love or hatred for itself. This was the class which headed the insurrection in the South, and furnished the best leaders of the American revolution.

At the period of which we are now speaking society was shaken to its centre: the people, in whose name the struggle had taken place, conceived the desire of exercising the authority which it had acquired; its democratic tendencies were awakened; and having thrown off the yoke of the mother-country, it aspired to independence of every kind. The influence of individuals gradually ceased to be felt, and custom and law united together to produce the same result.

But the law of descent was the last step to equality. I am surprised that ancient and modern jurists have not attributed to this law a greater influence on human affairs. It is true that these laws belong to civil affairs; but they ought nevertheless to be placed at the head of all political institutions; for, whilst political laws are only the symbol of a nation's condition, they exercise an incredible influence upon its social state. They have, moreover, a sure and uniform manner of operating upon society, affecting, as it were, generations yet unborn.

Through their means man acquires a kind of preternatural power over the future lot of his fellow-creatures. When the legislator has regulated the law

of inheritance, he may rest from his labor. The machine once put in motion will go on for ages, and advance, as if self-guided, towards a given point. When framed in a particular manner, this law unites, draws together, and vests property and power in a few hands: its tendency is clearly aristocratic. On opposite principles its action is still more rapid; it divides, distributes, and disperses both property and power. Alarmed by the rapidity of its progress, those who despair of arresting its motion endeavor to obstruct it by difficulties and impediments; they vainly seek to counteract its effect by contrary efforts; but it gradually reduces or destroys every obstacle, until by its incessant activity the bulwarks of the influence of wealth are ground down to the fine and shifting sand which is the basis of democracy. When the law of inheritance permits, still more when it decrees, the equal division of a father's property amongst all his children, its effects are of two kinds: it is important to distinguish them from each other, although they tend to the same end.

In virtue of the law of partible inheritance, the death of every proprietor brings about a kind of revolution in property; not only do his possessions change hands, but their very nature is altered, since they are parcelled into shares, which become smaller and smaller at each division. This is the direct and, as it were, the physical effect of the law. It follows, then, that in countries where equality of inheritance is established by law, property, and especially landed property, must have a tendency to perpetual diminution. The effects, however, of such legislation would only be perceptible after a lapse of time, if the law was abandoned to its own working; for supposing the family to consist of two children (and in a country peopled as France is the average number is not above three), these children, sharing amongst them the fortune of both parents, would not be poorer than their father or mother.

But the law of equal division exercises its influence not merely upon the property itself, but it affects the minds of the heirs, and brings their passions into play. These indirect consequences tend powerfully to the destruction of large fortunes, and especially of large domains. Among nations whose law of descent is founded upon the right of primogeniture landed estates often pass from generation to generation without undergoing division, the consequence of which is that family feeling is to a certain degree

incorporated with the estate. The family represents the estate, the estate the family; whose name, together with its origin, its glory, its power, and its virtues, is thus perpetuated in an imperishable memorial of the past and a sure pledge of the future.

When the equal partition of property is established by law, the intimate connection is destroyed between family feeling and the preservation of the paternal estate; the property ceases to represent the family; for as it must inevitably be divided after one or two generations, it has evidently a constant tendency to diminish, and must in the end be completely dispersed. The sons of the great landed proprietor, if they are few in number, or if fortune befriends them, may indeed entertain the hope of being as wealthy as their father, but not that of possessing the same property as he did; the riches must necessarily be composed of elements different from his.

Now, from the moment that you divest the landowner of that interest in the preservation of his estate which he derives from association, from tradition, and from family pride, you may be certain that sooner or later he will dispose of it; for there is a strong pecuniary interest in favor of selling, as floating capital produces higher interest than real property, and is more readily available to gratify the passions of the moment.

Great landed estates which have once been divided never come together again; for the small proprietor draws from his land a better revenue, in proportion, than the large owner does from his, and of course he sells it at a higher rate. The calculations of gain, therefore, which decide the rich man to sell his domain will still more powerfully influence him against buying small estates to unite them into a large one.

What is called family pride is often founded upon an illusion of self-love. A man wishes to perpetuate and immortalize himself, as it were, in his great-grandchildren. Where the esprit de famille ceases to act individual selfishness comes into play. When the idea of family becomes vague, indeterminate, and uncertain, a man thinks of his present convenience; he provides for the establishment of his succeeding generation, and no more. Either a man gives up the idea of perpetuating his family, or at any rate he seeks to accomplish it by other means than that of a landed estate. Thus not

only does the law of partible inheritance render it difficult for families to preserve their ancestral domains entire, but it deprives them of the inclination to attempt it, and compels them in some measure to co-operate with the law in their own extinction.

The law of equal distribution proceeds by two methods: by acting upon things, it acts upon persons; by influencing persons, it affects things. By these means the law succeeds in striking at the root of landed property, and dispersing rapidly both families and fortunes.

Most certainly it is not for us Frenchmen of the nineteenth century, who daily witness the political and social changes which the law of partition is bringing to pass, to question its influence. It is perpetually conspicuous in our country, overthrowing the walls of our dwellings and removing the landmarks of our fields. But although it has produced great effects in France, much still remains for it to do. Our recollections, opinions, and habits present powerful obstacles to its progress.

In the United States it has nearly completed its work of destruction, and there we can best study its results. The English laws concerning the transmission of property were abolished in almost all the States at the time of the Revolution. The law of entail was so modified as not to interrupt the free circulation of property. The first generation having passed away, estates began to be parcelled out, and the change became more and more rapid with the progress of time. At this moment, after a lapse of a little more than sixty years, the aspect of society is totally altered; the families of the great landed proprietors are almost all commingled with the general mass. In the State of New York, which formerly contained many of these, there are but two who still keep their heads above the stream, and they must shortly disappear. The sons of these opulent citizens are become merchants, lawyers, or physicians. Most of them have lapsed into obscurity. The last trace of hereditary ranks and distinctions is destroyed—the law of partition has reduced all to one level.

I do not mean that there is any deficiency of wealthy individuals in the United States; I know of no country, indeed, where the love of money has taken stronger hold on the affections of men, and where the profounder

contempt is expressed for the theory of the permanent equality of property. But wealth circulates with inconceivable rapidity, and experience shows that it is rare to find two succeeding generations in the full enjoyment of it.

This picture, which may perhaps be thought to be over-charged, still gives a very imperfect idea of what is taking place in the new States of the West and South-west. At the end of the last century a few bold adventurers began to penetrate into the valleys of the Mississippi, and the mass of the population very soon began to move in that direction: communities unheard of till then were seen to emerge from the wilds: States whose names were not in existence a few years before claimed their place in the American Union; and in the Western settlements we may behold democracy arrived at its utmost extreme. In these States, founded off-hand, and, as it were, by chance, the inhabitants are but of yesterday. Scarcely known to one another, the nearest neighbors are ignorant of each other's history. In this part of the American continent, therefore, the population has not experienced the influence of great names and great wealth, nor even that of the natural aristocracy of knowledge and virtue. None are there to wield that respectable power which men willingly grant to the remembrance of a life spent in doing good before their eyes. The new States of the West are already inhabited, but society has no existence among them.

It is not only the fortunes of men which are equal in America; even their requirements partake in some degree of the same uniformity. I do not believe that there is a country in the world where, in proportion to the population, there are so few uninstructed and at the same time so few learned individuals. Primary instruction is within the reach of everybody; superior instruction is scarcely to be obtained by any. This is not surprising; it is in fact the necessary consequence of what we have advanced above. Almost all the Americans are in easy circumstances, and can therefore obtain the first elements of human knowledge.

In America there are comparatively few who are rich enough to live without a profession. Every profession requires an apprenticeship, which limits the time of instruction to the early years of life. At fifteen they enter upon their calling, and thus their education ends at the age when ours begins. Whatever is done afterwards is with a view to some special and lucrative

object; a science is taken up as a matter of business, and the only branch of it which is attended to is such as admits of an immediate practical application. In America most of the rich men were formerly poor; most of those who now enjoy leisure were absorbed in business during their youth; the consequence of which is, that when they might have had a taste for study they had no time for it, and when time is at their disposal they have no longer the inclination.

There is no class, then, in America, in which the taste for intellectual pleasures is transmitted with hereditary fortune and leisure, and by which the labors of the intellect are held in honor. Accordingly there is an equal want of the desire and the power of application to these objects.

A middle standard is fixed in America for human knowledge. All approach as near to it as they can; some as they rise, others as they descend. Of course, an immense multitude of persons are to be found who entertain the same number of ideas on religion, history, science, political economy, legislation, and government. The gifts of intellect proceed directly from God, and man cannot prevent their unequal distribution. But in consequence of the state of things which we have here represented it happens that, although the capacities of men are widely different, as the Creator has doubtless intended they should be, they are submitted to the same method of treatment.

In America the aristocratic element has always been feeble from its birth; and if at the present day it is not actually destroyed, it is at any rate so completely disabled that we can scarcely assign to it any degree of influence in the course of affairs. The democratic principle, on the contrary, has gained so much strength by time, by events, and by legislation, as to have become not only predominant but all-powerful. There is no family or corporate authority, and it is rare to find even the influence of individual character enjoy any durability.

America, then, exhibits in her social state a most extraordinary phenomenon. Men are there seen on a greater equality in point of fortune and intellect, or, in other words, more equal in their strength, than in any other country of the world, or in any age of which history has preserved the

remembrance.

## **Political Consequences of the Social Condition of the Anglo-Americans**

The political consequences of such a social condition as this are easily deducible. It is impossible to believe that equality will not eventually find its way into the political world as it does everywhere else. To conceive of men remaining forever unequal upon one single point, yet equal on all others, is impossible; they must come in the end to be equal upon all. Now I know of only two methods of establishing equality in the political world; every citizen must be put in possession of his rights, or rights must be granted to no one. For nations which are arrived at the same stage of social existence as the Anglo-Americans, it is therefore very difficult to discover a medium between the sovereignty of all and the absolute power of one man: and it would be vain to deny that the social condition which I have been describing is equally liable to each of these consequences.

There is, in fact, a manly and lawful passion for equality which excites men to wish all to be powerful and honored. This passion tends to elevate the humble to the rank of the great; but there exists also in the human heart a depraved taste for equality, which impels the weak to attempt to lower the powerful to their own level, and reduces men to prefer equality in slavery to inequality with freedom. Not that those nations whose social condition is democratic naturally despise liberty; on the contrary, they have an instinctive love of it. But liberty is not the chief and constant object of their desires; equality is their idol: they make rapid and sudden efforts to obtain liberty, and if they miss their aim resign themselves to their disappointment; but nothing can satisfy them except equality, and rather than lose it they resolve to perish.

On the other hand, in a State where the citizens are nearly on an equality, it becomes difficult for them to preserve their independence against the aggressions of power. No one among them being strong enough to engage in the struggle with advantage, nothing but a general combination can protect their liberty. And such a union is not always to be found.

From the same social position, then, nations may derive one or the other of two great political results; these results are extremely different from each other, but they may both proceed from the same cause.

The Anglo-Americans are the first nations who, having been exposed to this formidable alternative, have been happy enough to escape the dominion of absolute power. They have been allowed by their circumstances, their origin, their intelligence, and especially by their moral feeling, to establish and maintain the sovereignty of the people.

## **Chapter 4: The Principle of the Sovereignty of the People in America**

It predominates over the whole of society in America—Application made of this principle by the Americans even before their Revolution—Development given to it by that Revolution—Gradual and irresistible extension of the elective qualification.

WHENEVER the political laws of the United States are to be discussed, it is with the doctrine of the sovereignty of the people that we must begin. The principle of the sovereignty of the people, which is to be found, more or less, at the bottom of almost all human institutions, generally remains concealed from view. It is obeyed without being recognized, or if for a moment it be brought to light, it is hastily cast back into the gloom of the sanctuary. "The will of the nation" is one of those expressions which have been most profusely abused by the wily and the despotic of every age. To the eyes of some it has been represented by the venal suffrages of a few of the satellites of power; to others by the votes of a timid or an interested minority; and some have even discovered it in the silence of a people, on the supposition that the fact of submission established the right of command.

In America the principle of the sovereignty of the people is not either barren or concealed, as it is with some other nations; It is recognized by the customs and proclaimed by the laws; it spreads freely, and arrives without impediment at its most remote consequences. If there be a country in the world where the doctrine of the sovereignty of the people can be fairly appreciated, where it can be studied in its application to the affairs of society, and where its dangers and its advantages may be foreseen, that country is assuredly America.

I have already observed that, from their origin, the sovereignty of the people was the fundamental principle of the greater number of British colonies in America. It was far, however, from then exercising as much influence on the government of society as it now does. Two obstacles, the one external, the other internal, checked its invasive progress. It could not ostensibly disclose itself in the laws of colonies which were still constrained to obey the mother-country: it was therefore obliged to spread secretly, and to gain ground in the provincial assemblies, and especially in the townships.

American society was not yet prepared to adopt it with all its consequences. The intelligence of New England, and the wealth of the country to the south of the Hudson (as I have shown in the preceding chapter), long exercised a sort of aristocratic influence, which tended to retain the exercise of social authority in the hands of a few. The public functionaries were not universally elected, and the citizens were not all of them electors. The electoral franchise was everywhere placed within certain limits, and made dependent on a certain qualification, which was exceedingly low in the North and more considerable in the South.

The American revolution broke out, and the doctrine of the sovereignty of the people, which had been nurtured in the townships and municipalities, took possession of the State: every class was enlisted in its cause; battles were fought, and victories obtained for it, until it became the law of laws.

A no less rapid change was effected in the interior of society, where the law of descent completed the abolition of local influences.

At the very time when this consequence of the laws and of the revolution was apparent to every eye, victory was irrevocably pronounced in favor of the democratic cause. All power was, in fact, in its hands, and resistance was no longer possible. The higher orders submitted without a murmur and without a struggle to an evil which was thenceforth inevitable. The ordinary fate of falling powers awaited them; each of their several members followed his own interests; and as it was impossible to wring the power from the hands of a people which they did not detest sufficiently to brave, their only aim was to secure its good-will at any price. The most democratic laws were consequently voted by the very men whose interests they impaired; and thus, although the higher classes did not excite the passions of the people against their order, they accelerated the triumph of the new state of things; so that by a singular change the democratic impulse was found to be most irresistible in the very States where the aristocracy had the firmest hold. The State of Maryland, which had been founded by men of rank, was the first to proclaim universal suffrage, and to introduce the most democratic forms into the conduct of its government.

When a nation modifies the elective qualification, it may easily be foreseen that sooner or later that qualification will be entirely abolished. There is no more invariable rule in the history of society: the further electoral rights are extended, the greater is the need of extending them; for after each concession the strength of the democracy increases, and its demands increase with its strength. The ambition of those who are below the appointed rate is irritated in exact proportion to the great number of those who are above it. The exception at last becomes the rule, concession follows concession, and no stop can be made short of universal suffrage.

At the present day the principle of the sovereignty of the people has acquired, in the United States, all the practical development which the imagination can conceive. It is unencumbered by those fictions which have been thrown over it in other countries, and it appears in every possible form according to the exigency of the occasion. Sometimes the laws are made by the people in a body, as at Athens; and sometimes its representatives, chosen by universal suffrage, transact business in its name, and almost under its immediate control.

In some countries a power exists which, though it is in a degree foreign to the social body, directs it, and forces it to pursue a certain track. In others the ruling force is divided, being partly within and partly without the ranks of the people. But nothing of the kind is to be seen in the United States; there society governs itself for itself. All power centres in its bosom; and scarcely an individual is to be met with who would venture to conceive, or, still less, to express, the idea of seeking it elsewhere. The nation participates in the making of its laws by the choice of its legislators, and in the execution of them by the choice of the agents of the executive government; it may almost be said to govern itself, so feeble and so restricted is the share left to the administration, so little do the authorities forget their popular origin and the power from which they emanate.

## **Chapter 5: Necessity of Examining the Condition of the States Before That of the Union at Large**

[The American System of Townships and Municipal Bodies](#)

[Limits of the Township](#)

[Authorities of the Township in New England](#)

[Existence of the Township](#)

[Public Spirit of the Townships of New England](#)

[The Counties of New England](#)

[Administration in New England](#)

[General Remarks on the Administration of the United States](#)

[Of the State](#)

## Legislative Power of the State

## The Executive Power of the State

## Political Effects of the System of Local Administration in the United States

It is proposed to examine in the following chapter what is form of government established in America on the principle of the sovereignty of the people; what are its resources, its hindrances, its advantages, and its dangers. The first difficulty which presents itself arises from the complex nature of the constitution of the United States, which consists of two distinct social structures, connected and, as it were, encased one within the other; two governments, completely separate and almost independent, the one fulfilling the ordinary duties and responding to the daily and indefinite calls of a community, the other circumscribed within certain limits, and only exercising an exceptional authority over the general interests of the country. In short, there are twenty-four small sovereign nations, whose agglomeration constitutes the body of the Union. To examine the Union before we have studied the States would be to adopt a method filled with obstacles. The form of the Federal Government of the United States was the last which was adopted; and it is in fact nothing more than a modification or a summary of those republican principles which were current in the whole community before it existed, and independently of its existence. Moreover, the Federal Government is, as I have just observed, the exception; the Government of the States is the rule. The author who should attempt to exhibit the picture as a whole before he had explained its details would necessarily fall into obscurity and repetition.

The great political principles which govern American society at this day undoubtedly took their origin and their growth in the State. It is therefore necessary to become acquainted with the State in order to possess a clue to the remainder. The States which at present compose the American Union all present the same features, as far as regards the external aspect of their institutions. Their political or administrative existence is centred in three focuses of action, which may not inaptly be compared to the different

nervous centres which convey motion to the human body. The township is the lowest in order, then the county, and lastly the State; and I propose to devote the following chapter to the examination of these three divisions.

## **The American System of Townships and Municipal Bodies**

Why the Author begins the examination of the political institutions with the township—Its existence in all nations—Difficulty of establishing and preserving municipal independence—Its importance—Why the Author has selected the township system of New England as the main topic of his discussion.

It is not undesignedly that I begin this subject with the Township. The village or township is the only association which is so perfectly natural that wherever a number of men are collected it seems to constitute itself.

The town, or tithing, as the smallest division of a community, must necessarily exist in all nations, whatever their laws and customs may be: if man makes monarchies and establishes republics, the first association of mankind seems constituted by the hand of God. But although the existence of the township is coeval with that of man, its liberties are not the less rarely respected and easily destroyed. A nation is always able to establish great political assemblies, because it habitually contains a certain number of individuals fitted by their talents, if not by their habits, for the direction of affairs. The township is, on the contrary, composed of coarser materials, which are less easily fashioned by the legislator. The difficulties which attend the consolidation of its independence rather augment than diminish with the increasing enlightenment of the people. A highly civilized community spurns the attempts of a local independence, is disgusted at its numerous blunders, and is apt to despair of success before the experiment is completed. Again, no immunities are so ill protected from the encroachments of the supreme power as those of municipal bodies in general: they are unable to struggle, single-handed, against a strong or an

enterprising government, and they cannot defend their cause with success unless it be identified with the customs of the nation and supported by public opinion. Thus until the independence of townships is amalgamated with the manners of a people it is easily destroyed, and it is only after a long existence in the laws that it can be thus amalgamated. Municipal freedom is not the fruit of human device; it is rarely created; but it is, as it were, secretly and spontaneously engendered in the midst of a semi-barbarous state of society. The constant action of the laws and the national habits, peculiar circumstances, and above all time, may consolidate it; but there is certainly no nation on the continent of Europe which has experienced its advantages. Nevertheless local assemblies of citizens constitute the strength of free nations. Town-meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty. The transient passions and the interests of an hour, or the chance of circumstances, may have created the external forms of independence; but the despotic tendency which has been repelled will, sooner or later, inevitably reappear on the surface.

In order to explain to the reader the general principles on which the political organization of the counties and townships of the United States rests, I have thought it expedient to choose one of the States of New England as an example, to examine the mechanism of its constitution, and then to cast a general glance over the country. The township and the county are not organized in the same manner in every part of the Union; it is, however, easy to perceive that the same principles have guided the formation of both of them throughout the Union. I am inclined to believe that these principles have been carried further in New England than elsewhere, and consequently that they offer greater facilities to the observations of a stranger. The institutions of New England form a complete and regular whole; they have received the sanction of time, they have the support of the laws, and the still stronger support of the manners of the community, over which they exercise the most prodigious influence; they consequently deserve our attention on every account.

## **Limits of the Township**

The township of New England is a division which stands between the commune and the canton of France, and which corresponds in general to the English tithing, or town. Its average population is from two to three thousand; so that, on the one hand, the interests of its inhabitants are not likely to conflict, and, on the other, men capable of conducting its affairs are always to be found among its citizens.

## **Authorities of the Township in New England**

The people the source of all power here as elsewhere—Manages its own affairs—No corporation—The greater part of the authority vested in the hands of the Selectmen—How the Selectmen act—Town-meeting—Enumeration of the public officers of the township—Obligatory and remunerated functions.

In the township, as well as everywhere else, the people is the only source of power; but in no stage of government does the body of citizens exercise a more immediate influence. In America the people is a master whose exigencies demand obedience to the utmost limits of possibility.

In New England the majority acts by representatives in the conduct of the public business of the State; but if such an arrangement be necessary in general affairs, in the townships, where the legislative and administrative action of the government is in more immediate contact with the subject, the system of representation is not adopted. There is no corporation; but the body of electors, after having designated its magistrates, directs them in everything that exceeds the simple and ordinary executive business of the State.

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

The public duties in the township are extremely numerous and minutely divided, as we shall see further on; but the larger proportion of administrative power is vested in the hands of a small number of individuals, called "the Selectmen." The general laws of the State impose a certain number of obligations on the selectmen, which they may fulfil without the authorization of the body they represent, but which they can only neglect on their own responsibility. The law of the State obliges them, for instance, to draw up the list of electors in their townships; and if they omit this part of their functions, they are guilty of a misdemeanor. In all the affairs, however, which are determined by the town-meeting, the selectmen are the organs of the popular mandate, as in France the Maire executes the decree of the municipal council. They usually act upon their own responsibility, and merely put in practice principles which have been previously recognized by the majority. But if any change is to be introduced in the existing state of things, or if they wish to undertake any new enterprise, they are obliged to refer to the source of their power. If, for instance, a school is to be established, the selectmen convoke the whole body of the electors on a certain day at an appointed place; they explain the urgency of the case; they give their opinion on the means of satisfying it, on the probable expense, and the site which seems to be most favorable. The meeting is consulted on these several points; it adopts the principle, marks out the site, votes the rate, and confides the execution of its resolution to the selectmen.

The selectmen have alone the right of calling a town-meeting, but they may be requested to do so: if ten citizens are desirous of submitting a new project to the assent of the township, they may demand a general convocation of the inhabitants; the selectmen are obliged to comply, but they have only the right of presiding at the meeting.

The selectmen are elected every year in the month of April or of May. The town-meeting chooses at the same time a number of other municipal magistrates, who are entrusted with important administrative functions. The

assessors rate the township; the collectors receive the rate. A constable is appointed to keep the peace, to watch the streets, and to forward the execution of the laws; the town-clerk records all the town votes, orders, grants, births, deaths, and marriages; the treasurer keeps the funds; the overseer of the poor performs the difficult task of superintending the action of the poor-laws; committee-men are appointed to attend to the schools and to public instruction; and the road-surveyors, who take care of the greater and lesser thoroughfares of the township, complete the list of the principal functionaries. They are, however, still further subdivided; and amongst the municipal officers are to be found parish commissioners, who audit the expenses of public worship; different classes of inspectors, some of whom are to direct the citizens in case of fire; tithing-men, listers, haywards, chimney-viewers, fence-viewers to maintain the bounds of property, timber-measurers, and sealers of weights and measures.

There are nineteen principal officers in a township. Every inhabitant is constrained, on the pain of being fined, to undertake these different functions; which, however, are almost all paid, in order that the poorer citizens may be able to give up their time without loss. In general the American system is not to grant a fixed salary to its functionaries. Every service has its price, and they are remunerated in proportion to what they have done.

### **Existence of the Township**

Every one the best judge of his own interest—Corollary of the principle of the sovereignty of the people—Application of those doctrines in the townships of America—The township of New England is sovereign in all that concerns itself alone: subject to the State in all other matters—Bond of the township and the State—In France the Government lends its agent to the Commune—In America the reverse occurs.

I have already observed that the principle of the sovereignty of the people governs the whole political system of the Anglo-Americans. Every page of this book will afford new instances of the same doctrine. In the nations by which the sovereignty of the people is recognized every individual possesses an equal share of power, and participates alike in the government of the State. Every individual is, therefore, supposed to be as well informed, as virtuous, and as strong as any of his fellow-citizens. He obeys the government, not because he is inferior to the authorities which conduct it, or that he is less capable than his neighbor of governing himself, but because he acknowledges the utility of an association with his fellow-men, and because he knows that no such association can exist without a regulating force. If he be a subject in all that concerns the mutual relations of citizens, he is free and responsible to God alone for all that concerns himself. Hence arises the maxim that every one is the best and the sole judge of his own private interest, and that society has no right to control a man's actions, unless they are prejudicial to the common weal, or unless the common weal demands his co-operation. This doctrine is universally admitted in the United States. I shall hereafter examine the general influence which it exercises on the ordinary actions of life; I am now speaking of the nature of municipal bodies.

The township, taken as a whole, and in relation to the government of the country, may be looked upon as an individual to whom the theory I have just alluded to is applied. Municipal independence is therefore a natural consequence of the principle of the sovereignty of the people in the United States: all the American republics recognize it more or less; but circumstances have peculiarly favored its growth in New England.

In this part of the Union the impulsion of political activity was given in the townships; and it may almost be said that each of them originally formed an independent nation. When the Kings of England asserted their supremacy, they were contented to assume the central power of the State. The townships of New England remained as they were before; and although they are now subject to the State, they were at first scarcely dependent upon it. It is important to remember that they have not been invested with privileges, but that they have, on the contrary, forfeited a portion of their independence to the State. The townships are only subordinate to the State

in those interests which I shall term social, as they are common to all the citizens. They are independent in all that concerns themselves; and amongst the inhabitants of New England I believe that not a man is to be found who would acknowledge that the State has any right to interfere in their local interests. The towns of New England buy and sell, sue or are sued, augment or diminish their rates, without the slightest opposition on the part of the administrative authority of the State.

They are bound, however, to comply with the demands of the community. If the State is in need of money, a town can neither give nor withhold the supplies. If the State projects a road, the township cannot refuse to let it cross its territory; if a police regulation is made by the State, it must be enforced by the town. A uniform system of instruction is organized all over the country, and every town is bound to establish the schools which the law ordains. In speaking of the administration of the United States I shall have occasion to point out the means by which the townships are compelled to obey in these different cases: I here merely show the existence of the obligation. Strict as this obligation is, the government of the State imposes it in principle only, and in its performance the township resumes all its independent rights. Thus, taxes are voted by the State, but they are levied and collected by the township; the existence of a school is obligatory, but the township builds, pays, and superintends it. In France the State-collector receives the local imposts; in America the town-collector receives the taxes of the State. Thus the French Government lends its agents to the commune; in America the township is the agent of the Government. This fact alone shows the extent of the differences which exist between the two nations.

### **Public Spirit of the Townships of New England**

How the township of New England wins the affections of its inhabitants—Difficulty of creating local public spirit in Europe—The rights and duties of the American township favorable to it—Characteristics of home in the United States—Manifestations of public spirit in New England—Its happy effects.

In America, not only do municipal bodies exist, but they are kept alive and supported by public spirit. The township of New England possesses two advantages which infallibly secure the attentive interest of mankind, namely, independence and authority. Its sphere is indeed small and limited, but within that sphere its action is unrestrained; and its independence gives to it a real importance which its extent and population may not always ensure.

It is to be remembered that the affections of men generally lie on the side of authority. Patriotism is not durable in a conquered nation. The New Englander is attached to his township, not only because he was born in it, but because it constitutes a social body of which he is a member, and whose government claims and deserves the exercise of his sagacity. In Europe the absence of local public spirit is a frequent subject of regret to those who are in power; everyone agrees that there is no surer guarantee of order and tranquillity, and yet nothing is more difficult to create. If the municipal bodies were made powerful and independent, the authorities of the nation might be disunited and the peace of the country endangered. Yet, without power and independence, a town may contain good subjects, but it can have no active citizens. Another important fact is that the township of New England is so constituted as to excite the warmest of human affections, without arousing the ambitious passions of the heart of man. The officers of the county are not elected, and their authority is very limited. Even the State is only a second-rate community, whose tranquil and obscure administration offers no inducement sufficient to draw men away from the circle of their interests into the turmoil of public affairs. The federal government confers power and honor on the men who conduct it; but these individuals can never be very numerous. The high station of the Presidency can only be reached at an advanced period of life, and the other federal functionaries are generally men who have been favored by fortune, or distinguished in some other career. Such cannot be the permanent aim of the ambitious. But the township serves as a centre for the desire of public esteem, the want of exciting interests, and the taste for authority and popularity, in the midst of the ordinary relations of life; and the passions which commonly embroil society change their character when they find a vent so near the domestic

hearth and the family circle.

In the American States power has been disseminated with admirable skill for the purpose of interesting the greatest possible number of persons in the common weal. Independently of the electors who are from time to time called into action, the body politic is divided into innumerable functionaries and officers, who all, in their several spheres, represent the same powerful whole in whose name they act. The local administration thus affords an unfailing source of profit and interest to a vast number of individuals.

The American system, which divides the local authority among so many citizens, does not scruple to multiply the functions of the town officers. For in the United States it is believed, and with truth, that patriotism is a kind of devotion which is strengthened by ritual observance. In this manner the activity of the township is continually perceptible; it is daily manifested in the fulfilment of a duty or the exercise of a right, and a constant though gentle motion is thus kept up in society which animates without disturbing it.

The American attaches himself to his home as the mountaineer clings to his hills, because the characteristic features of his country are there more distinctly marked than elsewhere. The existence of the townships of New England is in general a happy one. Their government is suited to their tastes, and chosen by themselves. In the midst of the profound peace and general comfort which reign in America the commotions of municipal discord are unfrequent. The conduct of local business is easy. The political education of the people has long been complete; say rather that it was complete when the people first set foot upon the soil. In New England no tradition exists of a distinction of ranks; no portion of the community is tempted to oppress the remainder; and the abuses which may injure isolated individuals are forgotten in the general contentment which prevails. If the government is defective (and it would no doubt be easy to point out its deficiencies), the fact that it really emanates from those it governs, and that it acts, either ill or well, casts the protecting spell of a parental pride over its faults. No term of comparison disturbs the satisfaction of the citizen: England formerly governed the mass of the colonies, but the people was always sovereign in the township where its rule is not only an ancient but a

primitive state.

The native of New England is attached to his township because it is independent and free: his co-operation in its affairs ensures his attachment to its interest; the well-being it affords him secures his affection; and its welfare is the aim of his ambition and of his future exertions: he takes a part in every occurrence in the place; he practises the art of government in the small sphere within his reach; he accustoms himself to those forms which can alone ensure the steady progress of liberty; he imbibes their spirit; he acquires a taste for order, comprehends the union or the balance of powers, and collects clear practical notions on the nature of his duties and the extent of his rights.

### **The Counties of New England**

The division of the counties in America has considerable analogy with that of the arrondissements of France. The limits of the counties are arbitrarily laid down, and the various districts which they contain have no necessary connection, no common tradition or natural sympathy; their object is simply to facilitate the administration of justice.

The extent of the township was too small to contain a system of judicial institutions; each county has, however, a court of justice, a sheriff to execute its decrees, and a prison for criminals. There are certain wants which are felt alike by all the townships of a county; it is therefore natural that they should be satisfied by a central authority. In the State of Massachusetts this authority is vested in the hands of several magistrates, who are appointed by the Governor of the State, with the advice of his council. The officers of the county have only a limited and occasional authority, which is applicable to certain predetermined cases. The State and the townships possess all the power requisite to conduct public business. The budget of the county is drawn up by its officers, and is voted by the legislature, but there is no assembly which directly or indirectly represents

the county. It has, therefore, properly speaking, no political existence.

A twofold tendency may be discerned in the American constitutions, which impels the legislator to centralize the legislative and to disperse the executive power. The township of New England has in itself an indestructible element of independence; and this distinct existence could only be fictitiously introduced into the county, where its utility has not been felt. But all the townships united have but one representation, which is the State, the centre of the national authority: beyond the action of the township and that of the nation, nothing can be said to exist but the influence of individual exertion.

### **Administration in New England**

Administration not perceived in America—Why?—The Europeans believe that liberty is promoted by depriving the social authority of some of its rights; the Americans, by dividing its exercise—Almost all the administration confined to the township, and divided amongst the town-officers—No trace of an administrative body to be perceived, either in the township or above it—The reason of this—How it happens that the administration of the State is uniform—Who is empowered to enforce the obedience of the township and the county to the law—The introduction of judicial power into the administration—Consequence of the extension of the elective principle to all functionaries—The Justice of the Peace in New England—By whom appointed—County officer: ensures the administration of the townships—Court of Sessions—Its action—Right of inspection and indictment disseminated like the other administrative functions—Informers encouraged by the division of fines.

Nothing is more striking to an European traveller in the United States than the absence of what we term the Government, or the Administration. Written laws exist in America, and one sees that they are daily executed; but although everything is in motion, the hand which gives the impulse to

the social machine can nowhere be discovered. Nevertheless, as all peoples are obliged to have recourse to certain grammatical forms, which are the foundation of human language, in order to express their thoughts; so all communities are obliged to secure their existence by submitting to a certain dose of authority, without which they fall a prey to anarchy. This authority may be distributed in several ways, but it must always exist somewhere.

There are two methods of diminishing the force of authority in a nation: The first is to weaken the supreme power in its very principle, by forbidding or preventing society from acting in its own defence under certain circumstances. To weaken authority in this manner is what is generally termed in Europe to lay the foundations of freedom. The second manner of diminishing the influence of authority does not consist in stripping society of any of its rights, nor in paralyzing its effort, but in distributing the exercise of its privileges in various hands, and in multiplying functionaries, to each of whom the degree of power necessary for him to perform his duty is entrusted. There may be nations whom this distribution of social powers might lead to anarchy; but in itself it is not anarchical. The action of authority is indeed thus rendered less irresistible and less perilous, but it is not totally suppressed.

The revolution of the United States was the result of a mature and dignified taste for freedom, and not of a vague or ill-defined craving for independence. It contracted no alliance with the turbulent passions of anarchy; but its course was marked, on the contrary, by an attachment to whatever was lawful and orderly.

It was never assumed in the United States that the citizen of a free country has a right to do whatever he pleases; on the contrary, social obligations were there imposed upon him more various than anywhere else. No idea was ever entertained of attacking the principles or of contesting the rights of society; but the exercise of its authority was divided, to the end that the office might be powerful and the officer insignificant, and that the community should be at once regulated and free. In no country in the world does the law hold so absolute a language as in America, and in no country is the right of applying it vested in so many hands. The administrative power in the United States presents nothing either central or hierarchical in

its constitution, which accounts for its passing, unperceived. The power exists, but its representative is not to be perceived.

We have already seen that the independent townships of New England protect their own private interests; and the municipal magistrates are the persons to whom the execution of the laws of the State is most frequently entrusted. Besides the general laws, the State sometimes passes general police regulations; but more commonly the townships and town-officers, conjointly with the justices of the peace, regulate the minor details of social life, according to the necessities of the different localities, and promulgate such enactments as concern the health of the community, and the peace as well as morality of the citizens. Lastly, these municipal magistrates provide, of their own accord and without any delegated powers, for those unforeseen emergencies which frequently occur in society.

It results from what we have said that in the State of Massachusetts the administrative authority is almost entirely restricted to the township, but that it is distributed among a great number of individuals. In the French commune there is properly but one official functionary, namely, the Maire; and in New England we have seen that there are nineteen. These nineteen functionaries do not in general depend upon one another. The law carefully prescribes a circle of action to each of these magistrates; and within that circle they have an entire right to perform their functions independently of any other authority. Above the township scarcely any trace of a series of official dignitaries is to be found. It sometimes happens that the county officers alter a decision of the townships or town magistrates, but in general the authorities of the county have no right to interfere with the authorities of the township, except in such matters as concern the county.

The magistrates of the township, as well as those of the county, are bound to communicate their acts to the central government in a very small number of predetermined cases. But the central government is not represented by an individual whose business it is to publish police regulations and ordinances enforcing the execution of the laws; to keep up a regular communication with the officers of the township and the county; to inspect their conduct, to direct their actions, or to reprimand their faults. There is no point which

serves as a centre to the radii of the administration.

What, then, is the uniform plan on which the government is conducted, and how is the compliance of the counties and their magistrates or the townships and their officers enforced? In the States of New England the legislative authority embraces more subjects than it does in France; the legislator penetrates to the very core of the administration; the law descends to the most minute details; the same enactment prescribes the principle and the method of its application, and thus imposes a multitude of strict and rigorously defined obligations on the secondary functionaries of the State. The consequence of this is that if all the secondary functionaries of the administration conform to the law, society in all its branches proceeds with the greatest uniformity: the difficulty remains of compelling the secondary functionaries of the administration to conform to the law. It may be affirmed that, in general, society has only two methods of enforcing the execution of the laws at its disposal: a discretionary power may be entrusted to a superior functionary of directing all the others, and of cashiering them in case of disobedience; or the courts of justice may be authorized to inflict judicial penalties on the offender: but these two methods are not always available.

The right of directing a civil officer presupposes that of cashiering him if he does not obey orders, and of rewarding him by promotion if he fulfils his duties with propriety. But an elected magistrate can neither be cashiered nor promoted. All elective functions are inalienable until their term is expired. In fact, the elected magistrate has nothing either to expect or to fear from his constituents; and when all public offices are filled by ballot there can be no series of official dignities, because the double right of commanding and of enforcing obedience can never be vested in the same individual, and because the power of issuing an order can never be joined to that of inflicting a punishment or bestowing a reward.

The communities therefore in which the secondary functionaries of the government are elected are perforce obliged to make great use of judicial penalties as a means of administration. This is not evident at first sight; for those in power are apt to look upon the institution of elective functionaries as one concession, and the subjection of the elected magistrate to the judges

of the land as another. They are equally averse to both these innovations; and as they are more pressingly solicited to grant the former than the latter, they accede to the election of the magistrate, and leave him independent of the judicial power. Nevertheless, the second of these measures is the only thing that can possibly counterbalance the first; and it will be found that an elective authority which is not subject to judicial power will, sooner or later, either elude all control or be destroyed. The courts of justice are the only possible medium between the central power and the administrative bodies; they alone can compel the elected functionary to obey, without violating the rights of the elector. The extension of judicial power in the political world ought therefore to be in the exact ratio of the extension of elective offices: if these two institutions do not go hand in hand, the State must fall into anarchy or into subjection.

It has always been remarked that habits of legal business do not render men apt to the exercise of administrative authority. The Americans have borrowed from the English, their fathers, the idea of an institution which is unknown upon the continent of Europe: I allude to that of the Justices of the Peace. The Justice of the Peace is a sort of mezzo termine between the magistrate and the man of the world, between the civil officer and the judge. A justice of the peace is a well-informed citizen, though he is not necessarily versed in the knowledge of the laws. His office simply obliges him to execute the police regulations of society; a task in which good sense and integrity are of more avail than legal science. The justice introduces into the administration a certain taste for established forms and publicity, which renders him a most unserviceable instrument of despotism; and, on the other hand, he is not blinded by those superstitions which render legal officers unfit members of a government. The Americans have adopted the system of the English justices of the peace, but they have deprived it of that aristocratic character which is discernible in the mother-country. The Governor of Massachusetts appoints a certain number of justices of the peace in every county, whose functions last seven years. He further designates three individuals from amongst the whole body of justices who form in each county what is called the Court of Sessions. The justices take a personal share in public business; they are sometimes entrusted with administrative functions in conjunction with elected officers, they sometimes constitute a tribunal, before which the magistrates summarily

prosecute a refractory citizen, or the citizens inform against the abuses of the magistrate. But it is in the Court of Sessions that they exercise their most important functions. This court meets twice a year in the county town; in Massachusetts it is empowered to enforce the obedience of the greater number of public officers. It must be observed, that in the State of Massachusetts the Court of Sessions is at the same time an administrative body, properly so called, and a political tribunal. It has been asserted that the county is a purely administrative division. The Court of Sessions presides over that small number of affairs which, as they concern several townships, or all the townships of the county in common, cannot be entrusted to any one of them in particular. In all that concerns county business the duties of the Court of Sessions are purely administrative; and if in its investigations it occasionally borrows the forms of judicial procedure, it is only with a view to its own information, or as a guarantee to the community over which it presides. But when the administration of the township is brought before it, it always acts as a judicial body, and in some few cases as an official assembly.

The first difficulty is to procure the obedience of an authority as entirely independent of the general laws of the State as the township is. We have stated that assessors are annually named by the town-meetings to levy the taxes. If a township attempts to evade the payment of the taxes by neglecting to name its assessors, the Court of Sessions condemns it to a heavy penalty. The fine is levied on each of the inhabitants; and the sheriff of the county, who is the officer of justice, executes the mandate. Thus it is that in the United States the authority of the Government is mysteriously concealed under the forms of a judicial sentence; and its influence is at the same time fortified by that irresistible power with which men have invested the formalities of law.

These proceedings are easy to follow and to understand. The demands made upon a township are in general plain and accurately defined; they consist in a simple fact without any Complication, or in a principle without its application in detail. But the difficulty increases when it is not the obedience of the township, but that of the town officers which is to be enforced. All the reprehensible actions of which a public functionary may

be guilty are reducible to the following heads:

He may execute the law without energy or zeal;

He may neglect to execute the law;

He may do what the law enjoins him not to do.

The last two violations of duty can alone come under the cognizance of a tribunal; a positive and appreciable fact is the indispensable foundation of an action at law. Thus, if the selectmen omit to fulfil the legal formalities usual at town elections, they may be condemned to pay a fine; but when the public officer performs his duty without ability, and when he obeys the letter of the law without zeal or energy, he is at least beyond the reach of judicial interference. The Court of Sessions, even when it is invested with its official powers, is in this case unable to compel him to a more satisfactory obedience. The fear of removal is the only check to these quasi-offences; and as the Court of Sessions does not originate the town authorities, it cannot remove functionaries whom it does not appoint. Moreover, a perpetual investigation would be necessary to convict the officer of negligence or lukewarmness; and the Court of Sessions sits but twice a year and then only judges such offences as are brought before its notice. The only security of that active and enlightened obedience which a court of justice cannot impose upon public officers lies in the possibility of their arbitrary removal. In France this security is sought for in powers exercised by the heads of the administration; in America it is sought for in the principle of election.

Thus, to recapitulate in a few words what I have been showing: If a public officer in New England commits a crime in the exercise of his functions, the ordinary courts of justice are always called upon to pass sentence upon him. If he commits a fault in his official capacity, a purely administrative tribunal is empowered to punish him; and, if the affair is important or urgent, the judge supplies the omission of the functionary. Lastly, if the same individual is guilty of one of those intangible offences of which human justice has no cognizance, he annually appears before a tribunal from which

there is no appeal, which can at once reduce him to insignificance and deprive him of his charge. This system undoubtedly possesses great advantages, but its execution is attended with a practical difficulty which it is important to point out.

I have already observed that the administrative tribunal, which is called the Court of Sessions, has no right of inspection over the town officers. It can only interfere when the conduct of a magistrate is specially brought under its notice; and this is the delicate part of the system. The Americans of New England are unacquainted with the office of public prosecutor in the Court of Sessions, and it may readily be perceived that it could not have been established without difficulty. If an accusing magistrate had merely been appointed in the chief town of each county, and if he had been unassisted by agents in the townships, he would not have been better acquainted with what was going on in the county than the members of the Court of Sessions. But to appoint agents in each township would have been to centre in his person the most formidable of powers, that of a judicial administration. Moreover, laws are the children of habit, and nothing of the kind exists in the legislation of England. The Americans have therefore divided the offices of inspection and of prosecution, as well as all the other functions of the administration. Grand jurors are bound by the law to apprise the court to which they belong of all the misdemeanors which may have been committed in their county. There are certain great offences which are officially prosecuted by the States; but more frequently the task of punishing delinquents devolves upon the fiscal officer, whose province it is to receive the fine: thus the treasurer of the township is charged with the prosecution of such administrative offences as fall under his notice. But a more special appeal is made by American legislation to the private interest of the citizen; and this great principle is constantly to be met with in studying the laws of the United States. American legislators are more apt to give men credit for intelligence than for honesty, and they rely not a little on personal cupidity for the execution of the laws. When an individual is really and sensibly injured by an administrative abuse, it is natural that his personal interest should induce him to prosecute. But if a legal formality be required, which, however advantageous to the community, is of small importance to individuals, plaintiffs may be less easily found; and thus, by a tacit agreement, the laws may fall into disuse. Reduced by their system to

this extremity, the Americans are obliged to encourage informers by bestowing on them a portion of the penalty in certain cases, and to insure the execution of the laws by the dangerous expedient of degrading the morals of the people. The only administrative authority above the county magistrates is, properly speaking, that of the Government.

### **General Remarks on the Administration of the United States**

Differences of the States of the Union in their system of administration—  
Activity and perfection of the local authorities decrease towards the South  
—Power of the magistrate increases; that of the elector diminishes—  
Administration passes from the township to the county—States of New  
York, Ohio, Pennsylvania—Principles of administration applicable to the  
whole Union—Election of public officers, and inalienability of their  
functions—Absence of gradation of ranks—Introduction of judicial  
resources into the administration.

I have already premised that, after having examined the constitution of the township and the county of New England in detail, I should take a general view of the remainder of the Union. Townships and a local activity exist in every State; but in no part of the confederation is a township to be met with precisely similar to those of New England. The more we descend towards the South, the less active does the business of the township or parish become; the number of magistrates, of functions, and of rights decreases; the population exercises a less immediate influence on affairs; town meetings are less frequent, and the subjects of debate less numerous. The power of the elected magistrate is augmented and that of the elector diminished, whilst the public spirit of the local communities is less awakened and less influential. These differences may be perceived to a certain extent in the State of New York; they are very sensible in Pennsylvania; but they become less striking as we advance to the northwest. The majority of the emigrants who settle in the northwestern States are natives of New England, and they carry the habits of their mother country

with them into that which they adopt. A township in Ohio is by no means dissimilar from a township in Massachusetts.

We have seen that in Massachusetts the mainspring of public administration lies in the township. It forms the common centre of the interests and affections of the citizens. But this ceases to be the case as we descend to States in which knowledge is less generally diffused, and where the township consequently offers fewer guarantees of a wise and active administration. As we leave New England, therefore, we find that the importance of the town is gradually transferred to the county, which becomes the centre of administration, and the intermediate power between the Government and the citizen. In Massachusetts the business of the county is conducted by the Court of Sessions, which is composed of a quorum named by the Governor and his council; but the county has no representative assembly, and its expenditure is voted by the national legislature. In the great State of New York, on the contrary, and in those of Ohio and Pennsylvania, the inhabitants of each county choose a certain number of representatives, who constitute the assembly of the county. The county assembly has the right of taxing the inhabitants to a certain extent; and in this respect it enjoys the privileges of a real legislative body: at the same time it exercises an executive power in the county, frequently directs the administration of the townships, and restricts their authority within much narrower bounds than in Massachusetts.

Such are the principal differences which the systems of county and town administration present in the Federal States. Were it my intention to examine the provisions of American law minutely, I should have to point out still further differences in the executive details of the several communities. But what I have already said may suffice to show the general principles on which the administration of the United States rests. These principles are differently applied; their consequences are more or less numerous in various localities; but they are always substantially the same. The laws differ, and their outward features change, but their character does not vary. If the township and the county are not everywhere constituted in the same manner, it is at least true that in the United States the county and the township are always based upon the same principle, namely, that everyone is the best judge of what concerns himself alone, and the most

proper person to supply his private wants. The township and the county are therefore bound to take care of their special interests: the State governs, but it does not interfere with their administration. Exceptions to this rule may be met with, but not a contrary principle.

The first consequence of this doctrine has been to cause all the magistrates to be chosen either by or at least from amongst the citizens. As the officers are everywhere elected or appointed for a certain period, it has been impossible to establish the rules of a dependent series of authorities; there are almost as many independent functionaries as there are functions, and the executive power is disseminated in a multitude of hands. Hence arose the indispensable necessity of introducing the control of the courts of justice over the administration, and the system of pecuniary penalties, by which the secondary bodies and their representatives are constrained to obey the laws. This system obtains from one end of the Union to the other. The power of punishing the misconduct of public officers, or of performing the part of the executive in urgent cases, has not, however, been bestowed on the same judges in all the States. The Anglo-Americans derived the institution of justices of the peace from a common source; but although it exists in all the States, it is not always turned to the same use. The justices of the peace everywhere participate in the administration of the townships and the counties, either as public officers or as the judges of public misdemeanors, but in most of the States the more important classes of public offences come under the cognizance of the ordinary tribunals.

The election of public officers, or the inalienability of their functions, the absence of a gradation of powers, and the introduction of a judicial control over the secondary branches of the administration, are the universal characteristics of the American system from Maine to the Floridas. In some States (and that of New York has advanced most in this direction) traces of a centralized administration begin to be discernible. In the State of New York the officers of the central government exercise, in certain cases, a sort of inspection or control over the secondary bodies.

At other times they constitute a court of appeal for the decision of affairs. In the State of New York judicial penalties are less used than in other parts as a means of administration, and the right of prosecuting the offences of public

officers is vested in fewer hands. The same tendency is faintly observable in some other States; but in general the prominent feature of the administration in the United States is its excessive local independence.

## **Of the State**

I have described the townships and the administration; it now remains for me to speak of the State and the Government. This is ground I may pass over rapidly, without fear of being misunderstood; for all I have to say is to be found in written forms of the various constitutions, which are easily to be procured. These constitutions rest upon a simple and rational theory; their forms have been adopted by all constitutional nations, and are become familiar to us. In this place, therefore, it is only necessary for me to give a short analysis; I shall endeavor afterwards to pass judgment upon what I now describe.

## **Legislative Power of the State**

Division of the Legislative Body into two Houses—Senate—House of Representatives—Different functions of these two Bodies.

The legislative power of the State is vested in two assemblies, the first of which generally bears the name of the Senate. The Senate is commonly a legislative body; but it sometimes becomes an executive and judicial one. It takes a part in the government in several ways, according to the constitution of the different States; but it is in the nomination of public functionaries that it most commonly assumes an executive power. It partakes of judicial power in the trial of certain political offences, and sometimes also in the decision of certain civil cases. The number of its members is always small.

The other branch of the legislature, which is usually called the House of Representatives, has no share whatever in the administration, and only takes a part in the judicial power inasmuch as it impeaches public functionaries before the Senate. The members of the two Houses are nearly everywhere subject to the same conditions of election. They are chosen in the same manner, and by the same citizens. The only difference which exists between them is, that the term for which the Senate is chosen is in general longer than that of the House of Representatives. The latter seldom remain in office longer than a year; the former usually sit two or three years. By granting to the senators the privilege of being chosen for several years, and being renewed seriatim, the law takes care to preserve in the legislative body a nucleus of men already accustomed to public business, and capable of exercising a salutary influence upon the junior members.

The Americans, plainly, did not desire, by this separation of the legislative body into two branches, to make one house hereditary and the other elective; one aristocratic and the other democratic. It was not their object to create in the one a bulwark to power, whilst the other represented the interests and passions of the people. The only advantages which result from the present constitution of the United States are the division of the legislative power and the consequent check upon political assemblies; with the creation of a tribunal of appeal for the revision of the laws.

Time and experience, however, have convinced the Americans that if these are its only advantages, the division of the legislative power is still a principle of the greatest necessity. Pennsylvania was the only one of the United States which at first attempted to establish a single House of Assembly, and Franklin himself was so far carried away by the necessary consequences of the principle of the sovereignty of the people as to have concurred in the measure; but the Pennsylvanians were soon obliged to change the law, and to create two Houses. Thus the principle of the division of the legislative power was finally established, and its necessity may henceforward be regarded as a demonstrated truth. This theory, which was nearly unknown to the republics of antiquity—which was introduced into the world almost by accident, like so many other great truths—and misunderstood by several modern nations, is at length become an axiom in

the political science of the present age.

### **The Executive Power of the State**

Office of Governor in an American State—The place he occupies in relation to the Legislature—His rights and his duties—His dependence on the people.

The executive power of the State may with truth be said to be represented by the Governor, although he enjoys but a portion of its rights. The supreme magistrate, under the title of Governor, is the official moderator and counsellor of the legislature. He is armed with a veto or suspensive power, which allows him to stop, or at least to retard, its movements at pleasure. He lays the wants of the country before the legislative body, and points out the means which he thinks may be usefully employed in providing for them; he is the natural executor of its decrees in all the undertakings which interest the nation at large. In the absence of the legislature, the Governor is bound to take all necessary steps to guard the State against violent shocks and unforeseen dangers. The whole military power of the State is at the disposal of the Governor. He is the commander of the militia, and head of the armed force. When the authority, which is by general consent awarded to the laws, is disregarded, the Governor puts himself at the head of the armed force of the State, to quell resistance, and to restore order. Lastly, the Governor takes no share in the administration of townships and counties, except it be indirectly in the nomination of Justices of the Peace, which nomination he has not the power to cancel. The Governor is an elected magistrate, and is generally chosen for one or two years only; so that he always continues to be strictly dependent upon the majority who returned him.

### **Political Effects of the System of Local Administration in the United States**

Necessary distinction between the general centralization of Government and the centralization of the local administration—Local administration not centralized in the United States: great general centralization of the Government—Some bad consequences resulting to the United States from the local administration—Administrative advantages attending this order of things—The power which conducts the Government is less regular, less enlightened, less learned, but much greater than in Europe—Political advantages of this order of things—In the United States the interests of the country are everywhere kept in view—Support given to the Government by the community—Provincial institutions more necessary in proportion as the social condition becomes more democratic—Reason of this.

Centralization is become a word of general and daily use, without any precise meaning being attached to it. Nevertheless, there exist two distinct kinds of centralization, which it is necessary to discriminate with accuracy. Certain interests are common to all parts of a nation, such as the enactment of its general laws and the maintenance of its foreign relations. Other interests are peculiar to certain parts of the nation; such, for instance, as the business of different townships. When the power which directs the general interests is centred in one place, or vested in the same persons, it constitutes a central government. In like manner the power of directing partial or local interests, when brought together into one place, constitutes what may be termed a central administration.

Upon some points these two kinds of centralization coalesce; but by classifying the objects which fall more particularly within the province of each of them, they may easily be distinguished. It is evident that a central government acquires immense power when united to administrative centralization. Thus combined, it accustoms men to set their own will habitually and completely aside; to submit, not only for once, or upon one point, but in every respect, and at all times. Not only, therefore, does this union of power subdue them compulsorily, but it affects them in the ordinary habits of life, and influences each individual, first separately and

then collectively.

These two kinds of centralization mutually assist and attract each other; but they must not be supposed to be inseparable. It is impossible to imagine a more completely central government than that which existed in France under Louis XIV.; when the same individual was the author and the interpreter of the laws, and the representative of France at home and abroad, he was justified in asserting that the State was identified with his person. Nevertheless, the administration was much less centralized under Louis XIV than it is at the present day.

In England the centralization of the government is carried to great perfection; the State has the compact vigor of a man, and by the sole act of its will it puts immense engines in motion, and wields or collects the efforts of its authority. Indeed, I cannot conceive that a nation can enjoy a secure or prosperous existence without a powerful centralization of government. But I am of opinion that a central administration enervates the nations in which it exists by incessantly diminishing their public spirit. If such an administration succeeds in condensing at a given moment, on a given point, all the disposable resources of a people, it impairs at least the renewal of those resources. It may ensure a victory in the hour of strife, but it gradually relaxes the sinews of strength. It may contribute admirably to the transient greatness of a man, but it cannot ensure the durable prosperity of a nation.

If we pay proper attention, we shall find that whenever it is said that a State cannot act because it has no central point, it is the centralization of the government in which it is deficient. It is frequently asserted, and we are prepared to assent to the proposition, that the German empire was never able to bring all its powers into action. But the reason was, that the State was never able to enforce obedience to its general laws, because the several members of that great body always claimed the right, or found the means, of refusing their co-operation to the representatives of the common authority, even in the affairs which concerned the mass of the people; in other words, because there was no centralization of government. The same remark is applicable to the Middle Ages; the cause of all the confusion of feudal society was that the control, not only of local but of general interests, was divided amongst a thousand hands, and broken up in a thousand

different ways; the absence of a central government prevented the nations of Europe from advancing with energy in any straightforward course.

We have shown that in the United States no central administration and no dependent series of public functionaries exist. Local authority has been carried to lengths which no European nation could endure without great inconvenience, and which has even produced some disadvantageous consequences in America. But in the United States the centralization of the Government is complete; and it would be easy to prove that the national power is more compact than it has ever been in the old nations of Europe. Not only is there but one legislative body in each State; not only does there exist but one source of political authority; but district assemblies and county courts have not in general been multiplied, lest they should be tempted to exceed their administrative duties, and interfere with the Government. In America the legislature of each State is supreme; nothing can impede its authority; neither privileges, nor local immunities, nor personal influence, nor even the empire of reason, since it represents that majority which claims to be the sole organ of reason. Its own determination is, therefore, the only limit to this action. In juxtaposition to it, and under its immediate control, is the representative of the executive power, whose duty it is to constrain the refractory to submit by superior force. The only symptom of weakness lies in certain details of the action of the Government. The American republics have no standing armies to intimidate a discontented minority; but as no minority has as yet been reduced to declare open war, the necessity of an army has not been felt. The State usually employs the officers of the township or the county to deal with the citizens. Thus, for instance, in New England, the assessor fixes the rate of taxes; the collector receives them; the town-treasurer transmits the amount to the public treasury; and the disputes which may arise are brought before the ordinary courts of justice. This method of collecting taxes is slow as well as inconvenient, and it would prove a perpetual hindrance to a Government whose pecuniary demands were large. It is desirable that, in whatever materially affects its existence, the Government should be served by officers of its own, appointed by itself, removable at pleasure, and accustomed to rapid methods of proceeding. But it will always be easy for the central government, organized as it is in America, to introduce new and more efficacious modes of action,

proportioned to its wants.

The absence of a central government will not, then, as has often been asserted, prove the destruction of the republics of the New World; far from supposing that the American governments are not sufficiently centralized, I shall prove hereafter that they are too much so. The legislative bodies daily encroach upon the authority of the Government, and their tendency, like that of the French Convention, is to appropriate it entirely to themselves. Under these circumstances the social power is constantly changing hands, because it is subordinate to the power of the people, which is too apt to forget the maxims of wisdom and of foresight in the consciousness of its strength: hence arises its danger; and thus its vigor, and not its impotence, will probably be the cause of its ultimate destruction.

The system of local administration produces several different effects in America. The Americans seem to me to have out-stepped the limits of sound policy in isolating the administration of the Government; for order, even in second-rate affairs, is a matter of national importance. As the State has no administrative functionaries of its own, stationed on different points of its territory, to whom it can give a common impulse, the consequence is that it rarely attempts to issue any general police regulations. The want of these regulations is severely felt, and is frequently observed by Europeans. The appearance of disorder which prevails on the surface leads him at first to imagine that society is in a state of anarchy; nor does he perceive his mistake till he has gone deeper into the subject. Certain undertakings are of importance to the whole State; but they cannot be put in execution, because there is no national administration to direct them. Abandoned to the exertions of the towns or counties, under the care of elected or temporary agents, they lead to no result, or at least to no durable benefit.

The partisans of centralization in Europe are wont to maintain that the Government directs the affairs of each locality better than the citizens could do it for themselves; this may be true when the central power is enlightened, and when the local districts are ignorant; when it is as alert as they are slow; when it is accustomed to act, and they to obey. Indeed, it is evident that this double tendency must augment with the increase of centralization, and that the readiness of the one and the incapacity of the

others must become more and more prominent. But I deny that such is the case when the people is as enlightened, as awake to its interests, and as accustomed to reflect on them, as the Americans are. I am persuaded, on the contrary, that in this case the collective strength of the citizens will always conduce more efficaciously to the public welfare than the authority of the Government. It is difficult to point out with certainty the means of arousing a sleeping population, and of giving it passions and knowledge which it does not possess; it is, I am well aware, an arduous task to persuade men to busy themselves about their own affairs; and it would frequently be easier to interest them in the punctilios of court etiquette than in the repairs of their common dwelling. But whenever a central administration affects to supersede the persons most interested, I am inclined to suppose that it is either misled or desirous to mislead. However enlightened and however skilful a central power may be, it cannot of itself embrace all the details of the existence of a great nation. Such vigilance exceeds the powers of man. And when it attempts to create and set in motion so many complicated springs, it must submit to a very imperfect result, or consume itself in bootless efforts.

Centralization succeeds more easily, indeed, in subjecting the external actions of men to a certain uniformity, which at least commands our regard, independently of the objects to which it is applied, like those devotees who worship the statue and forget the deity it represents. Centralization imparts without difficulty an admirable regularity to the routine of business; provides for the details of the social police with sagacity; represses the smallest disorder and the most petty misdemeanors; maintains society in a status quo alike secure from improvement and decline; and perpetuates a drowsy precision in the conduct of affairs, which is hailed by the heads of the administration as a sign of perfect order and public tranquillity: in short, it excels more in prevention than in action. Its force deserts it when society is to be disturbed or accelerated in its course; and if once the co-operation of private citizens is necessary to the furtherance of its measures, the secret of its impotence is disclosed. Even whilst it invokes their assistance, it is on the condition that they shall act exactly as much as the Government chooses, and exactly in the manner it appoints. They are to take charge of the details, without aspiring to guide the system; they are to work in a dark and subordinate sphere, and only to judge the acts in which they have

themselves co-operated by their results. These, however, are not conditions on which the alliance of the human will is to be obtained; its carriage must be free and its actions responsible, or (such is the constitution of man) the citizen had rather remain a passive spectator than a dependent actor in schemes with which he is unacquainted.

It is undeniable that the want of those uniform regulations which control the conduct of every inhabitant of France is not unfrequently felt in the United States. Gross instances of social indifference and neglect are to be met with, and from time to time disgraceful blemishes are seen in complete contrast with the surrounding civilization. Useful undertakings which cannot succeed without perpetual attention and rigorous exactitude are very frequently abandoned in the end; for in America, as well as in other countries, the people is subject to sudden impulses and momentary exertions. The European who is accustomed to find a functionary always at hand to interfere with all he undertakes has some difficulty in accustoming himself to the complex mechanism of the administration of the townships. In general it may be affirmed that the lesser details of the police, which render life easy and comfortable, are neglected in America; but that the essential guarantees of man in society are as strong there as elsewhere. In America the power which conducts the Government is far less regular, less enlightened, and less learned, but an hundredfold more authoritative than in Europe. In no country in the world do the citizens make such exertions for the common weal; and I am acquainted with no people which has established schools as numerous and as efficacious, places of public worship better suited to the wants of the inhabitants, or roads kept in better repair. Uniformity or permanence of design, the minute arrangement of details, and the perfection of an ingenious administration, must not be sought for in the United States; but it will be easy to find, on the other hand, the symptoms of a power which, if it is somewhat barbarous, is at least robust; and of an existence which is checkered with accidents indeed, but cheered at the same time by animation and effort.

Granting for an instant that the villages and counties of the United States would be more usefully governed by a remote authority which they had never seen than by functionaries taken from the midst of them—admitting, for the sake of argument, that the country would be more secure, and the

resources of society better employed, if the whole administration centred in a single arm—still the political advantages which the Americans derive from their system would induce me to prefer it to the contrary plan. It profits me but little, after all, that a vigilant authority should protect the tranquillity of my pleasures and constantly avert all dangers from my path, without my care or my concern, if this same authority is the absolute mistress of my liberty and of my life, and if it so monopolizes all the energy of existence that when it languishes everything languishes around it, that when it sleeps everything must sleep, that when it dies the State itself must perish.

In certain countries of Europe the natives consider themselves as a kind of settlers, indifferent to the fate of the spot upon which they live. The greatest changes are effected without their concurrence and (unless chance may have apprised them of the event) without their knowledge; nay more, the citizen is unconcerned as to the condition of his village, the police of his street, the repairs of the church or of the parsonage; for he looks upon all these things as unconnected with himself, and as the property of a powerful stranger whom he calls the Government. He has only a life-interest in these possessions, and he entertains no notions of ownership or of improvement. This want of interest in his own affairs goes so far that, if his own safety or that of his children is endangered, instead of trying to avert the peril, he will fold his arms, and wait till the nation comes to his assistance. This same individual, who has so completely sacrificed his own free will, has no natural propensity to obedience; he cowers, it is true, before the pettiest officer; but he braves the law with the spirit of a conquered foe as soon as its superior force is removed: his oscillations between servitude and license are perpetual. When a nation has arrived at this state it must either change its customs and its laws or perish: the source of public virtue is dry, and, though it may contain subjects, the race of citizens is extinct. Such communities are a natural prey to foreign conquests, and if they do not disappear from the scene of life, it is because they are surrounded by other nations similar or inferior to themselves: it is because the instinctive feeling of their country's claims still exists in their hearts; and because an involuntary pride in the name it bears, or a vague reminiscence of its bygone fame, suffices to give them the impulse of self-preservation.

Nor can the prodigious exertions made by tribes in the defence of a country to which they did not belong be adduced in favor of such a system; for it will be found that in these cases their main incitement was religion. The permanence, the glory, or the prosperity of the nation were become parts of their faith, and in defending the country they inhabited they defended that Holy City of which they were all citizens. The Turkish tribes have never taken an active share in the conduct of the affairs of society, but they accomplished stupendous enterprises as long as the victories of the Sultan were the triumphs of the Mohammedan faith. In the present age they are in rapid decay, because their religion is departing, and despotism only remains. Montesquieu, who attributed to absolute power an authority peculiar to itself, did it, as I conceive, an undeserved honor; for despotism, taken by itself, can produce no durable results. On close inspection we shall find that religion, and not fear, has ever been the cause of the long-lived prosperity of an absolute government. Whatever exertions may be made, no true power can be founded among men which does not depend upon the free union of their inclinations; and patriotism and religion are the only two motives in the world which can permanently direct the whole of a body politic to one end.

Laws cannot succeed in rekindling the ardor of an extinguished faith, but men may be interested in the fate of their country by the laws. By this influence the vague impulse of patriotism, which never abandons the human heart, may be directed and revived; and if it be connected with the thoughts, the passions, and the daily habits of life, it may be consolidated into a durable and rational sentiment.

Let it not be said that the time for the experiment is already past; for the old age of nations is not like the old age of men, and every fresh generation is a new people ready for the care of the legislator.

It is not the administrative but the political effects of the local system that I most admire in America. In the United States the interests of the country are everywhere kept in view; they are an object of solicitude to the people of the whole Union, and every citizen is as warmly attached to them as if they were his own. He takes pride in the glory of his nation; he boasts of its success, to which he conceives himself to have contributed, and he rejoices

in the general prosperity by which he profits. The feeling he entertains towards the State is analogous to that which unites him to his family, and it is by a kind of egotism that he interests himself in the welfare of his country.

The European generally submits to a public officer because he represents a superior force; but to an American he represents a right. In America it may be said that no one renders obedience to man, but to justice and to law. If the opinion which the citizen entertains of himself is exaggerated, it is at least salutary; he unhesitatingly confides in his own powers, which appear to him to be all-sufficient. When a private individual meditates an undertaking, however directly connected it may be with the welfare of society, he never thinks of soliciting the co-operation of the Government, but he publishes his plan, offers to execute it himself, courts the assistance of other individuals, and struggles manfully against all obstacles. Undoubtedly he is often less successful than the State might have been in his position; but in the end the sum of these private undertakings far exceeds all that the Government could have done.

As the administrative authority is within the reach of the citizens, whom it in some degree represents, it excites neither their jealousy nor their hatred; as its resources are limited, every one feels that he must not rely solely on its assistance. Thus, when the administration thinks fit to interfere, it is not abandoned to itself as in Europe; the duties of the private citizens are not supposed to have lapsed because the State assists in their fulfilment, but every one is ready, on the contrary, to guide and to support it. This action of individual exertions, joined to that of the public authorities, frequently performs what the most energetic central administration would be unable to execute. It would be easy to adduce several facts in proof of what I advance, but I had rather give only one, with which I am more thoroughly acquainted. In America the means which the authorities have at their disposal for the discovery of crimes and the arrest of criminals are few. The State police does not exist, and passports are unknown. The criminal police of the United States cannot be compared to that of France; the magistrates and public prosecutors are not numerous, and the examinations of prisoners are rapid and oral. Nevertheless in no country does crime more rarely elude punishment. The reason is, that every one conceives himself to be interested

in furnishing evidence of the act committed, and in stopping the delinquent. During my stay in the United States I witnessed the spontaneous formation of committees for the pursuit and prosecution of a man who had committed a great crime in a certain county. In Europe a criminal is an unhappy being who is struggling for his life against the ministers of justice, whilst the population is merely a spectator of the conflict; in America he is looked upon as an enemy of the human race, and the whole of mankind is against him.

I believe that provincial institutions are useful to all nations, but nowhere do they appear to me to be more indispensable than amongst a democratic people. In an aristocracy order can always be maintained in the midst of liberty, and as the rulers have a great deal to lose order is to them a first-rate consideration. In like manner an aristocracy protects the people from the excesses of despotism, because it always possesses an organized power ready to resist a despot. But a democracy without provincial institutions has no security against these evils. How can a populace, unaccustomed to freedom in small concerns, learn to use it temperately in great affairs? What resistance can be offered to tyranny in a country where every private individual is impotent, and where the citizens are united by no common tie? Those who dread the license of the mob, and those who fear the rule of absolute power, ought alike to desire the progressive growth of provincial liberties.

On the other hand, I am convinced that democratic nations are most exposed to fall beneath the yoke of a central administration, for several reasons, amongst which is the following. The constant tendency of these nations is to concentrate all the strength of the Government in the hands of the only power which directly represents the people, because beyond the people nothing is to be perceived but a mass of equal individuals confounded together. But when the same power is already in possession of all the attributes of the Government, it can scarcely refrain from penetrating into the details of the administration, and an opportunity of doing so is sure to present itself in the end, as was the case in France. In the French Revolution there were two impulses in opposite directions, which must never be confounded—the one was favorable to liberty, the other to despotism. Under the ancient monarchy the King was the sole author of the

laws, and below the power of the sovereign certain vestiges of provincial institutions, half destroyed, were still distinguishable. These provincial institutions were incoherent, ill compacted, and frequently absurd; in the hands of the aristocracy they had sometimes been converted into instruments of oppression. The Revolution declared itself the enemy of royalty and of provincial institutions at the same time; it confounded all that had preceded it—despotic power and the checks to its abuses—in indiscriminate hatred, and its tendency was at once to overthrow and to centralize. This double character of the French Revolution is a fact which has been adroitly handled by the friends of absolute power. Can they be accused of laboring in the cause of despotism when they are defending that central administration which was one of the great innovations of the Revolution? In this manner popularity may be conciliated with hostility to the rights of the people, and the secret slave of tyranny may be the professed admirer of freedom.

I have visited the two nations in which the system of provincial liberty has been most perfectly established, and I have listened to the opinions of different parties in those countries. In America I met with men who secretly aspired to destroy the democratic institutions of the Union; in England I found others who attacked the aristocracy openly, but I know of no one who does not regard provincial independence as a great benefit. In both countries I have heard a thousand different causes assigned for the evils of the State, but the local system was never mentioned amongst them. I have heard citizens attribute the power and prosperity of their country to a multitude of reasons, but they all placed the advantages of local institutions in the foremost rank. Am I to suppose that when men who are naturally so divided on religious opinions and on political theories agree on one point (and that one of which they have daily experience), they are all in error? The only nations which deny the utility of provincial liberties are those which have fewest of them; in other words, those who are unacquainted with the institution are the only persons who pass a censure upon it.

## **Chapter 6: Judicial Power in the United States and its Influence on Political Society**

## Other Powers Granted to American Judges

The Anglo-Americans have retained the characteristics of judicial power which are common to all nations—They have, however, made it a powerful political organ—How—In what the judicial system of the Anglo-Americans differs from that of all other nations—Why the American judges have the right of declaring the laws to be unconstitutional—How they use this right—Precautions taken by the legislator to prevent its abuse.

I HAVE thought it essential to devote a separate chapter to the judicial authorities of the United States, lest their great political importance should be lessened in the reader's eyes by a merely incidental mention of them. Confederations have existed in other countries beside America, and republics have not been established upon the shores of the New World alone; the representative system of government has been adopted in several States of Europe, but I am not aware that any nation of the globe has hitherto organized a judicial power on the principle now adopted by the Americans. The judicial organization of the United States is the institution which a stranger has the greatest difficulty in understanding. He hears the authority of a judge invoked in the political occurrences of every day, and he naturally concludes that in the United States the judges are important political functionaries; nevertheless, when he examines the nature of the tribunals, they offer nothing which is contrary to the usual habits and privileges of those bodies, and the magistrates seem to him to interfere in public affairs of chance, but by a chance which recurs every day.

When the Parliament of Paris remonstrated, or refused to enregister an edict, or when it summoned a functionary accused of malversation to its bar, its political influence as a judicial body was clearly visible; but nothing of the kind is to be seen in the United States. The Americans have retained all the ordinary characteristics of judicial authority, and have carefully

restricted its action to the ordinary circle of its functions.

The first characteristic of judicial power in all nations is the duty of arbitration. But rights must be contested in order to warrant the interference of a tribunal; and an action must be brought to obtain the decision of a judge. As long, therefore, as the law is uncontested, the judicial authority is not called upon to discuss it, and it may exist without being perceived. When a judge in a given case attacks a law relating to that case, he extends the circle of his customary duties, without however stepping beyond it; since he is in some measure obliged to decide upon the law in order to decide the case. But if he pronounces upon a law without resting upon a case, he clearly steps beyond his sphere, and invades that of the legislative authority.

The second characteristic of judicial power is that it pronounces on special cases, and not upon general principles. If a judge in deciding a particular point destroys a general principle, by passing a judgment which tends to reject all the inferences from that principle, and consequently to annul it, he remains within the ordinary limits of his functions. But if he directly attacks a general principle without having a particular case' in view, he leaves the circle in which all nations have agreed to confine his authority, he assumes a more important, and perhaps a more useful, influence than that of the magistrate, but he ceases to be a representative of the judicial power.

The third characteristic of the judicial power is its inability to act unless it is appealed to, or until it has taken cognizance of an affair. This characteristic is less general than the other two; but, notwithstanding the exceptions, I think it may be regarded as essential. The judicial power is by its nature devoid of action; it must be put in motion in order to produce a result. When it is called upon to repress a crime, it punishes the criminal; when a wrong is to be redressed, it is ready to redress it; when an act requires interpretation, it is prepared to interpret it; but it does not pursue criminals, hunt out wrongs, or examine into evidence of its own accord. A judicial functionary who should open proceedings, and usurp the censorship of the laws, would in some measure do violence to the passive nature of his authority.

The Americans have retained these three distinguishing characteristics of the judicial power; an American judge can only pronounce a decision when litigation has arisen, he is only conversant with special cases, and he cannot act until the cause has been duly brought before the court. His position is therefore perfectly similar to that of the magistrate of other nations; and he is nevertheless invested with immense political power. If the sphere of his authority and his means of action are the same as those of other judges, it may be asked whence he derives a power which they do not possess. The cause of this difference lies in the simple fact that the Americans have acknowledged the right of the judges to found their decisions on the constitution rather than on the laws. In other words, they have left them at liberty not to apply such laws as may appear to them to be unconstitutional.

I am aware that a similar right has been claimed—but claimed in vain—by courts of justice in other countries; but in America it is recognized by all authorities; and not a party, nor so much as an individual, is found to contest it. This fact can only be explained by the principles of the American constitution. In France the constitution is (or at least is supposed to be) immutable; and the received theory is that no power has the right of changing any part of it. In England the Parliament has an acknowledged right to modify the constitution; as, therefore, the constitution may undergo perpetual changes, it does not in reality exist; the Parliament is at once a legislative and a constituent assembly. The political theories of America are more simple and more rational. An American constitution is not supposed to be immutable as in France, nor is it susceptible of modification by the ordinary powers of society as in England. It constitutes a detached whole, which, as it represents the determination of the whole people, is no less binding on the legislator than on the private citizen, but which may be altered by the will of the people in predetermined cases, according to established rules. In America the constitution may therefore vary, but as long as it exists it is the origin of all authority, and the sole vehicle of the predominating force.

It is easy to perceive in what manner these differences must act upon the position and the rights of the judicial bodies in the three countries I have cited. If in France the tribunals were authorized to disobey the laws on the ground of their being opposed to the constitution, the supreme power would

in fact be placed in their hands, since they alone would have the right of interpreting a constitution, the clauses of which can be modified by no authority. They would therefore take the place of the nation, and exercise as absolute a sway over society as the inherent weakness of judicial power would allow them to do. Undoubtedly, as the French judges are incompetent to declare a law to be unconstitutional, the power of changing the constitution is indirectly given to the legislative body, since no legal barrier would oppose the alterations which it might prescribe. But it is better to grant the power of changing the constitution of the people to men who represent (however imperfectly) the will of the people, than to men who represent no one but themselves.

It would be still more unreasonable to invest the English judges with the right of resisting the decisions of the legislative body, since the Parliament which makes the laws also makes the constitution; and consequently a law emanating from the three powers of the State can in no case be unconstitutional. But neither of these remarks is applicable to America.

In the United States the constitution governs the legislator as much as the private citizen; as it is the first of laws it cannot be modified by a law, and it is therefore just that the tribunals should obey the constitution in preference to any law. This condition is essential to the power of the judicature, for to select that legal obligation by which he is most strictly bound is the natural right of every magistrate.

In France the constitution is also the first of laws, and the judges have the same right to take it as the ground of their decisions, but were they to exercise this right they must perforce encroach on rights more sacred than their own, namely, on those of society, in whose name they are acting. In this case the State-motive clearly prevails over the motives of an individual. In America, where the nation can always reduce its magistrates to obedience by changing its constitution, no danger of this kind is to be feared. Upon this point, therefore, the political and the logical reasons agree, and the people as well as the judges preserve their privileges.

Whenever a law which the judge holds to be unconstitutional is argued in a tribunal of the United States he may refuse to admit it as a rule; this power

is the only one which is peculiar to the American magistrate, but it gives rise to immense political influence. Few laws can escape the searching analysis of the judicial power for any length of time, for there are few which are not prejudicial to some private interest or other, and none which may not be brought before a court of justice by the choice of parties, or by the necessity of the case. But from the time that a judge has refused to apply any given law in a case, that law loses a portion of its moral cogency. The persons to whose interests it is prejudicial learn that means exist of evading its authority, and similar suits are multiplied, until it becomes powerless. One of two alternatives must then be resorted to: the people must alter the constitution, or the legislature must repeal the law. The political power which the Americans have intrusted to their courts of justice is therefore immense, but the evils of this power are considerably diminished by the obligation which has been imposed of attacking the laws through the courts of justice alone. If the judge had been empowered to contest the laws on the ground of theoretical generalities, if he had been enabled to open an attack or to pass a censure on the legislator, he would have played a prominent part in the political sphere; and as the champion or the antagonist of a party, he would have arrayed the hostile passions of the nation in the conflict. But when a judge contests a law applied to some particular case in an obscure proceeding, the importance of his attack is concealed from the public gaze, his decision bears upon the interest of an individual, and if the law is slighted it is only collaterally. Moreover, although it is censured, it is not abolished; its moral force may be diminished, but its cogency is by no means suspended, and its final destruction can only be accomplished by the reiterated attacks of judicial functionaries. It will readily be understood that by connecting the censorship of the laws with the private interests of members of the community, and by intimately uniting the prosecution of the law with the prosecution of an individual, legislation is protected from wanton assailants, and from the daily aggressions of party spirit. The errors of the legislator are exposed whenever their evil consequences are most felt, and it is always a positive and appreciable fact which serves as the basis of a prosecution.

I am inclined to believe this practice of the American courts to be at once the most favorable to liberty as well as to public order. If the judge could only attack the legislator openly and directly, he would sometimes be afraid

to oppose any resistance to his will; and at other moments party spirit might encourage him to brave it at every turn. The laws would consequently be attacked when the power from which they emanate is weak, and obeyed when it is strong. That is to say, when it would be useful to respect them they would be contested, and when it would be easy to convert them into an instrument of oppression they would be respected. But the American judge is brought into the political arena independently of his own will. He only judges the law because he is obliged to judge a case. The political question which he is called upon to resolve is connected with the interest of the suitors, and he cannot refuse to decide it without abdicating the duties of his post. He performs his functions as a citizen by fulfilling the precise duties which belong to his profession as a magistrate. It is true that upon this system the judicial censorship which is exercised by the courts of justice over the legislation cannot extend to all laws indiscriminately, inasmuch as some of them can never give rise to that exact species of contestation which is termed a lawsuit; and even when such a contestation is possible, it may happen that no one cares to bring it before a court of justice. The Americans have often felt this disadvantage, but they have left the remedy incomplete, lest they should give it an efficacy which might in some cases prove dangerous. Within these limits the power vested in the American courts of justice of pronouncing a statute to be unconstitutional forms one of the most powerful barriers which has ever been devised against the tyranny of political assemblies.

### **Other Powers Granted to American Judges**

In the United States all the citizens have the right of indicting public functionaries before the ordinary tribunals—How they use this right—Art. 75 of the French Constitution of the An VIII—The Americans and the English cannot understand the purport of this clause.

It is perfectly natural that in a free country like America all the citizens should have the right of indicting public functionaries before the ordinary

tribunals, and that all the judges should have the power of punishing public offences. The right granted to the courts of justice of judging the agents of the executive government, when they have violated the laws, is so natural a one that it cannot be looked upon as an extraordinary privilege. Nor do the springs of government appear to me to be weakened in the United States by the custom which renders all public officers responsible to the judges of the land. The Americans seem, on the contrary, to have increased by this means that respect which is due to the authorities, and at the same time to have rendered those who are in power more scrupulous of offending public opinion. I was struck by the small number of political trials which occur in the United States, but I had no difficulty in accounting for this circumstance. A law-suit, of whatever nature it may be, is always a difficult and expensive undertaking. It is easy to attack a public man in a journal, but the motives which can warrant an action at law must be serious. A solid ground of complaint must therefore exist to induce an individual to prosecute a public officer, and public officers are careful not to furnish these grounds of complaint when they are afraid of being prosecuted.

This does not depend upon the republican form of American institutions, for the same facts present themselves in England. These two nations do not regard the impeachment of the principal officers of State as a sufficient guarantee of their independence. But they hold that the right of minor prosecutions, which are within the reach of the whole community, is a better pledge of freedom than those great judicial actions which are rarely employed until it is too late.

In the Middle Ages, when it was very difficult to overtake offenders, the judges inflicted the most dreadful tortures on the few who were arrested, which by no means diminished the number of crimes. It has since been discovered that when justice is more certain and more mild, it is at the same time more efficacious. The English and the Americans hold that tyranny and oppression are to be treated like any other crime, by lessening the penalty and facilitating conviction.

In the year VIII of the French Republic a constitution was drawn up in which the following clause was introduced: "Art. 75. All the agents of the government below the rank of ministers can only be prosecuted for offences

relating to their several functions by virtue of a decree of the Conseil d'Etat; in which case the prosecution takes place before the ordinary tribunals." This clause survived the "Constitution de l'An VIII," and it is still maintained in spite of the just complaints of the nation. I have always found the utmost difficulty in explaining its meaning to Englishmen or Americans. They were at once led to conclude that the Conseil d'Etat in France was a great tribunal, established in the centre of the kingdom, which exercised a preliminary and somewhat tyrannical jurisdiction in all political causes. But when I told them that the Conseil d'Etat was not a judicial body, in the common sense of the term, but an administrative council composed of men dependent on the Crown, so that the king, after having ordered one of his servants, called a Prefect, to commit an injustice, has the power of commanding another of his servants, called a Councillor of State, to prevent the former from being punished; when I demonstrated to them that the citizen who has been injured by the order of the sovereign is obliged to solicit from the sovereign permission to obtain redress, they refused to credit so flagrant an abuse, and were tempted to accuse me of falsehood or of ignorance. It frequently happened before the Revolution that a Parliament issued a warrant against a public officer who had committed an offence, and sometimes the proceedings were stopped by the authority of the Crown, which enforced compliance with its absolute and despotic will. It is painful to perceive how much lower we are sunk than our forefathers, since we allow things to pass under the color of justice and the sanction of the law which violence alone could impose upon them.

## **Chapter 7: Political Jurisdiction in the United States**

Definition of political jurisdiction—What is understood by political jurisdiction in France, in England, and in the United States—In America the political judge can only pass sentence on public officers—He more frequently passes a sentence of removal from office than a penalty—Political jurisdiction as it exists in the United States is, notwithstanding its mildness, and perhaps in consequence of that mildness, a most powerful instrument in the hands of the majority.

I UNDERSTAND, by political jurisdiction, that temporary right of pronouncing a legal decision with which a political body may be invested.

In absolute governments no utility can accrue from the introduction of extraordinary forms of procedure; the prince in whose name an offender is prosecuted is as much the sovereign of the courts of justice as of everything else, and the idea which is entertained of his power is of itself a sufficient security. The only thing he has to fear is, that the external formalities of justice should be neglected, and that his authority should be dishonored from a wish to render it more absolute. But in most free countries, in which the majority can never exercise the same influence upon the tribunals as an absolute monarch, the judicial power has occasionally been vested for a time in the representatives of the nation. It has been thought better to introduce a temporary confusion between the functions of the different authorities than to violate the necessary principle of the unity of government.

England, France, and the United States have established this political jurisdiction by law; and it is curious to examine the different adaptations which these three great nations have made of the principle. In England and in France the House of Lords and the Chambre des Paris constitute the highest criminal court of their respective nations, and although they do not habitually try all political offences, they are competent to try them all. Another political body enjoys the right of impeachment before the House of Lords: the only difference which exists between the two countries in this respect is, that in England the Commons may impeach whomsoever they please before the Lords, whilst in France the Deputies can only employ this mode of prosecution against the ministers of the Crown.

In both countries the Upper House may make use of all the existing penal laws of the nation to punish the delinquents.

In the United States, as well as in Europe, one branch of the legislature is authorized to impeach and another to judge: the House of Representatives arraigns the offender, and the Senate awards his sentence. But the Senate

can only try such persons as are brought before it by the House of Representatives, and those persons must belong to the class of public functionaries. Thus the jurisdiction of the Senate is less extensive than that of the Peers of France, whilst the right of impeachment by the Representatives is more general than that of the Deputies. But the great difference which exists between Europe and America is, that in Europe political tribunals are empowered to inflict all the dispositions of the penal code, while in America, when they have deprived the offender of his official rank, and have declared him incapable of filling any political office for the future, their jurisdiction terminates and that of the ordinary tribunals begins.

Suppose, for instance, that the President of the United States has committed the crime of high treason; the House of Representatives impeaches him, and the Senate degrades him; he must then be tried by a jury, which alone can deprive him of his liberty or his life. This accurately illustrates the subject we are treating. The political jurisdiction which is established by the laws of Europe is intended to try great offenders, whatever may be their birth, their rank, or their powers in the State; and to this end all the privileges of the courts of justice are temporarily extended to a great political assembly. The legislator is then transformed into the magistrate; he is called upon to admit, to distinguish, and to punish the offence; and as he exercises all the authority of a judge, the law restricts him to the observance of all the duties of that high office, and of all the formalities of justice. When a public functionary is impeached before an English or a French political tribunal, and is found guilty, the sentence deprives him ipso facto of his functions, and it may pronounce him to be incapable of resuming them or any others for the future. But in this case the political interdict is a consequence of the sentence, and not the sentence itself. In Europe the sentence of a political tribunal is to be regarded as a judicial verdict rather than as an administrative measure. In the United States the Contrary takes place; and although the decision of the Senate is judicial in its form, since the Senators are obliged to comply with the practices and formalities of a court of justice; although it is judicial in respect to the motives on which it is founded, since the Senate is in general obliged to take an offence at common law as the basis of its sentence; nevertheless the object of the proceeding is purely administrative. If it had been the intention of the

American legislator to invest a political body with great judicial authority, its action would not have been limited to the circle of public functionaries, since the most dangerous enemies of the State may be in the possession of no functions at all; and this is especially true in republics, where party influence is the first of authorities, and where the strength of many a leader is increased by his exercising no legal power.

If it had been the intention of the American legislator to give society the means of repressing State offences by exemplary punishment, according to the practice of ordinary justice, the resources of the penal code would all have been placed at the disposal of the political tribunals. But the weapon with which they are intrusted is an imperfect one, and it can never reach the most dangerous offenders, since men who aim at the entire subversion of the laws are not likely to murmur at a political interdict.

The main object of the political jurisdiction which obtains in the United States is, therefore, to deprive the ill-disposed citizen of an authority which he has used amiss, and to prevent him from ever acquiring it again. This is evidently an administrative measure sanctioned by the formalities of a judicial decision. In this matter the Americans have created a mixed system; they have surrounded the act which removes a public functionary with the securities of a political trial; and they have deprived all political condemnations of their severest penalties. Every link of the system may easily be traced from this point; we at once perceive why the American constitutions subject all the civil functionaries to the jurisdiction of the Senate, whilst the military, whose crimes are nevertheless more formidable, are exempted from that tribunal. In the civil service none of the American functionaries can be said to be removable; the places which some of them occupy are inalienable, and the others are chosen for a term which cannot be shortened. It is therefore necessary to try them all in order to deprive them of their authority. But military officers are dependent on the chief magistrate of the State, who is himself a civil functionary, and the decision which condemns him is a blow upon them all.

If we now compare the American and the European systems, we shall meet with differences no less striking in the different effects which each of them produces or may produce. In France and in England the jurisdiction of

political bodies is looked upon as an extraordinary resource, which is only to be employed in order to rescue society from unwonted dangers. It is not to be denied that these tribunals, as they are constituted in Europe, are apt to violate the conservative principle of the balance of power in the State, and to threaten incessantly the lives and liberties of the subject. The same political jurisdiction in the United States is only indirectly hostile to the balance of power; it cannot menace the lives of the citizens, and it does not hover, as in Europe, over the heads of the community, since those only who have submitted to its authority on accepting office are exposed to the severity of its investigations. It is at the same time less formidable and less efficacious; indeed, it had not been considered by the legislators of the United States as a remedy for the more violent evils of society, but as an ordinary means of conducting the government. In this respect it probably exercises more real influence on the social body in America than in Europe. We must not be misled by the apparent mildness of the American legislation in all that relates to political jurisdiction. It is to be observed, in the first place, that in the United States the tribunal which passes sentence is composed of the same elements, and subject to the same influences, as the body which impeaches the offender, and that this uniformity gives an almost irresistible impulse to the vindictive passions of parties. If political judges in the United States cannot inflict such heavy penalties as those of Europe, there is the less chance of their acquitting a prisoner; and the conviction, if it is less formidable, is more certain. The principal object of the political tribunals of Europe is to punish the offender; the purpose of those in America is to deprive him of his authority. A political condemnation in the United States may, therefore, be looked upon as a preventive measure; and there is no reason for restricting the judges to the exact definitions of criminal law. Nothing can be more alarming than the excessive latitude with which political offences are described in the laws of America. Article II., Section 4, of the Constitution of the United States runs thus:—"The President, Vice- President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Many of the Constitutions of the States are even less explicit. "Public officers," says the Constitution of Massachusetts, "shall be impeached for misconduct or maladministration;" the Constitution of Virginia declares that all the civil officers who shall have offended against the State, by maladministration,

corruption, or other high crimes, may be impeached by the House of Delegates; in some constitutions no offences are specified, in order to subject the public functionaries to an unlimited responsibility. But I will venture to affirm that it is precisely their mildness which renders the American laws most formidable in this respect. We have shown that in Europe the removal of a functionary and his political interdiction are the consequences of the penalty he is to undergo, and that in America they constitute the penalty itself. The consequence is that in Europe political tribunals are invested with rights which they are afraid to use, and that the fear of punishing too much hinders them from punishing at all. But in America no one hesitates to inflict a penalty from which humanity does not recoil. To condemn a political opponent to death, in order to deprive him of his power, is to commit what all the world would execrate as a horrible assassination; but to declare that opponent unworthy to exercise that authority, to deprive him of it, and to leave him uninjured in life and limb, may be judged to be the fair issue of the struggle. But this sentence, which it is so easy to pronounce, is not the less fatally severe to the majority of those upon whom it is inflicted. Great criminals may undoubtedly brave its intangible rigor, but ordinary offenders will dread it as a condemnation which destroys their position in the world, casts a blight upon their honor, and condemns them to a shameful inactivity worse than death. The influence exercised in the United States upon the progress of society by the jurisdiction of political bodies may not appear to be formidable, but it is only the more immense. It does not directly coerce the subject, but it renders the majority more absolute over those in power; it does not confer an unbounded authority on the legislator which can only be exerted at some momentous crisis, but it establishes a temperate and regular influence, which is at all times available. If the power is decreased, it can, on the other hand, be more conveniently employed and more easily abused. By preventing political tribunals from inflicting judicial punishments the Americans seem to have eluded the worst consequences of legislative tyranny, rather than tyranny itself; and I am not sure that political jurisdiction, as it is constituted in the United States, is not the most formidable weapon which has ever been placed in the rude grasp of a popular majority. When the American republics begin to degenerate it will be easy to verify the truth of this observation, by remarking whether the

number of political impeachments augments.

## **Chapter 8: The Federal Constitution**

[History of the Federal Constitution](#)

[Summary of the Federal Constitution](#)

[Prerogative of the Federal Government](#)

[Federal Powers](#)

[Legislative Powers](#)

[A Further Difference Between the Senate and the House of Representatives](#)

[The Executive Power](#)

[Differences Between the Position of the President of the United States and that of a Constitutional King of France](#)

[Accidental Causes Which May Increase the Influence of the Executive Government](#)

[Why the President of the United States Does Not Require the Majority of the Two Houses in Order to Carry on the Government](#)

[Election of the President](#)

[Mode of Election](#)

[Crisis of the Election](#)

[Re-election of the President](#)

Federal Courts

Means of Determining the Jurisdiction of the Federal Courts

Different Cases of Jurisdiction

Procedure of the Federal Courts

High Rank of the Supreme Court Amongst the Great Powers of State

In What Respects the Federal Constitution is Superior to that of the States

Characteristics Which Distinguish the Federal Constitution of the United States of America from all Other Federal Constitutions

Advantages of the Federal System in General, and its Special Utility in America

Why the Federal System is Not Adapted to All Peoples, and How the Anglo-Americans Were Enabled to Adopt It

I HAVE hitherto considered each State as a separate whole, and I have explained the different springs which the people sets in motion, and the different means of action which it employs. But all the States which I have considered as independent are forced to submit, in certain cases, to the supreme authority of the Union. The time is now come for me to examine separately the supremacy with which the Union has been invested, and to cast a rapid glance over the Federal Constitution.

**History of the Federal Constitution**

Origin of the first Union—Its weakness—Congress appeals to the constituent authority—Interval of two years between this appeal and the promulgation of the new Constitution.

The thirteen colonies which simultaneously threw off the yoke of England towards the end of the last century professed, as I have already observed, the same religion, the same language, the same customs, and almost the same laws; they were struggling against a common enemy; and these reasons were sufficiently strong to unite them one to another, and to consolidate them into one nation. But as each of them had enjoyed a separate existence and a government within its own control, the peculiar interests and customs which resulted from this system were opposed to a compact and intimate union which would have absorbed the individual importance of each in the general importance of all. Hence arose two opposite tendencies, the one prompting the Anglo-Americans to unite, the other to divide their strength. As long as the war with the mother-country lasted the principle of union was kept alive by necessity; and although the laws which constituted it were defective, the common tie subsisted in spite of their imperfections. But no sooner was peace concluded than the faults of the legislation became manifest, and the State seemed to be suddenly dissolved. Each colony became an independent republic, and assumed an absolute sovereignty. The federal government, condemned to impotence by its constitution, and no longer sustained by the presence of a common danger, witnessed the outrages offered to its flag by the great nations of Europe, whilst it was scarcely able to maintain its ground against the Indian tribes, and to pay the interest of the debt which had been contracted during the war of independence. It was already on the verge of destruction, when it officially proclaimed its inability to conduct the government, and appealed to the constituent authority of the nation. If America ever approached (for however brief a time) that lofty pinnacle of glory to which the fancy of its inhabitants is wont to point, it was at the solemn moment at which the power of the nation abdicated, as it were, the empire of the land. All ages have furnished the spectacle of a people struggling with energy to win its independence; and the efforts of the Americans in throwing off the English yoke have been considerably exaggerated. Separated from their enemies by three thousand miles of ocean, and backed by a powerful ally, the success of

the United States may be more justly attributed to their geographical position than to the valor of their armies or the patriotism of their citizens. It would be ridiculous to compare the American war to the wars of the French Revolution, or the efforts of the Americans to those of the French when they were attacked by the whole of Europe, without credit and without allies, yet capable of opposing a twentieth part of their population to the world, and of bearing the torch of revolution beyond their frontiers whilst they stifled its devouring flame within the bosom of their country. But it is a novelty in the history of society to see a great people turn a calm and scrutinizing eye upon itself, when apprised by the legislature that the wheels of government are stopped; to see it carefully examine the extent of the evil, and patiently wait for two whole years until a remedy was discovered, which it voluntarily adopted without having wrung a tear or a drop of blood from mankind. At the time when the inadequacy of the first constitution was discovered America possessed the double advantage of that calm which had succeeded the effervescence of the revolution, and of those great men who had led the revolution to a successful issue. The assembly which accepted the task of composing the second constitution was small; but George Washington was its President, and it contained the choicest talents and the noblest hearts which had ever appeared in the New World. This national commission, after long and mature deliberation, offered to the acceptance of the people the body of general laws which still rules the Union. All the States adopted it successively. The new Federal Government commenced its functions in 1789, after an interregnum of two years. The Revolution of America terminated when that of France began.

### **Summary of the Federal Constitution**

Division of authority between the Federal Government and the States—The Government of the States is the rule, the Federal Government the exception.

The first question which awaited the Americans was intricate, and by no means easy of solution: the object was so to divide the authority of the

different States which composed the Union that each of them should continue to govern itself in all that concerned its internal prosperity, whilst the entire nation, represented by the Union, should continue to form a compact body, and to provide for the general exigencies of the people. It was as impossible to determine beforehand, with any degree of accuracy, the share of authority which each of two governments was to enjoy, as to foresee all the incidents in the existence of a nation.

The obligations and the claims of the Federal Government were simple and easily definable, because the Union had been formed with the express purpose of meeting the general exigencies of the people; but the claims and obligations of the states were, on the other hand, complicated and various, because those Governments had penetrated into all the details of social life. The attributes of the Federal Government were therefore carefully enumerated and all that was not included amongst them was declared to constitute a part of the privileges of the several Governments of the States. Thus the government of the States remained the rule, and that of the Confederation became the exception.

But as it was foreseen that, in practice, questions might arise as to the exact limits of this exceptional authority, and that it would be dangerous to submit these questions to the decision of the ordinary courts of justice, established in the States by the States themselves, a high Federal court was created, which was destined, amongst other functions, to maintain the balance of power which had been established by the Constitution between the two rival Governments.

### **Prerogative of the Federal Government**

Power of declaring war, making peace, and levying general taxes vested in the Federal Government—What part of the internal policy of the country it may direct—The Government of the Union in some respects more central than the King's Government in the old French monarchy.

The external relations of a people may be compared to those of private individuals, and they cannot be advantageously maintained without the agency of a single head of a Government. The exclusive right of making peace and war, of concluding treaties of commerce, of raising armies, and equipping fleets, was granted to the Union. The necessity of a national Government was less imperiously felt in the conduct of the internal policy of society; but there are certain general interests which can only be attended to with advantage by a general authority. The Union was invested with the power of controlling the monetary system, of directing the post office, and of opening the great roads which were to establish a communication between the different parts of the country. The independence of the Government of each State was formally recognized in its sphere; nevertheless, the Federal Government was authorized to interfere in the internal affairs of the States in a few predetermined cases, in which an indiscreet abuse of their independence might compromise the security of the Union at large. Thus, whilst the power of modifying and changing their legislation at pleasure was preserved in all the republics, they were forbidden to enact *ex post facto* laws, or to create a class of nobles in their community. Lastly, as it was necessary that the Federal Government should be able to fulfil its engagements, it was endowed with an unlimited power of levying taxes.

In examining the balance of power as established by the Federal Constitution; in remarking on the one hand the portion of sovereignty which has been reserved to the several States, and on the other the share of power which the Union has assumed, it is evident that the Federal legislators entertained the clearest and most accurate notions on the nature of the centralization of government. The United States form not only a republic, but a confederation; nevertheless the authority of the nation is more central than it was in several of the monarchies of Europe when the American Constitution was formed. Take, for instance, the two following examples.

Thirteen supreme courts of justice existed in France, which, generally speaking, had the right of interpreting the law without appeal; and those provinces which were styled *pays d'etats* were authorized to refuse their

assent to an impost which had been levied by the sovereign who represented the nation. In the Union there is but one tribunal to interpret, as there is one legislature to make the laws; and an impost voted by the representatives of the nation is binding upon all the citizens. In these two essential points, therefore, the Union exercises more central authority than the French monarchy possessed, although the Union is only an assemblage of confederate republics.

In Spain certain provinces had the right of establishing a system of custom-house duties peculiar to themselves, although that privilege belongs, by its very nature, to the national sovereignty. In America the Congress alone has the right of regulating the commercial relations of the States. The government of the Confederation is therefore more centralized in this respect than the kingdom of Spain. It is true that the power of the Crown in France or in Spain was always able to obtain by force whatever the Constitution of the country denied, and that the ultimate result was consequently the same; but I am here discussing the theory of the Constitution.

## **Federal Powers**

After having settled the limits within which the Federal Government was to act, the next point was to determine the powers which it was to exert.

## **Legislative Powers**

Division of the Legislative Body into two branches—Difference in the manner of forming the two Houses—The principle of the independence of the States predominates in the formation of the Senate—The principle of the sovereignty of the nation in the composition of the House of

Representatives—Singular effects of the fact that a Constitution can only be logical in the early stages of a nation.

The plan which had been laid down beforehand for the Constitutions of the several States was followed, in many points, in the organization of the powers of the Union. The Federal legislature of the Union was composed of a Senate and a House of Representatives. A spirit of conciliation prescribed the observance of distinct principles in the formation of these two assemblies. I have already shown that two contrary interests were opposed to each other in the establishment of the Federal Constitution. These two interests had given rise to two opinions. It was the wish of one party to convert the Union into a league of independent States, or a sort of congress, at which the representatives of the several peoples would meet to discuss certain points of their common interests. The other party desired to unite the inhabitants of the American colonies into one sole nation, and to establish a Government which should act as the sole representative of the nation, as far as the limited sphere of its authority would permit. The practical consequences of these two theories were exceedingly different.

The question was, whether a league was to be established instead of a national Government; whether the majority of the States, instead of the majority of the inhabitants of the Union, was to give the law: for every State, the small as well as the great, would then remain in the full enjoyment of its independence, and enter the Union upon a footing of perfect equality. If, however, the inhabitants of the United States were to be considered as belonging to one and the same nation, it would be just that the majority of the citizens of the Union should prescribe the law. Of course the lesser States could not subscribe to the application of this doctrine without, in fact, abdicating their existence in relation to the sovereignty of the Confederation; since they would have passed from the condition of a co-equal and co-legislative authority to that of an insignificant fraction of a great people. But if the former system would have invested them with an excessive authority, the latter would have annulled their influence altogether. Under these circumstances the result was, that the strict rules of logic were evaded, as is usually the case when interests are opposed to arguments. A middle course was hit upon by the legislators, which brought

together by force two systems theoretically irreconcilable.

The principle of the independence of the States prevailed in the formation of the Senate, and that of the sovereignty of the nation predominated in the composition of the House of Representatives. It was decided that each State should send two senators to Congress, and a number of representatives proportioned to its population. It results from this arrangement that the State of New York has at the present day forty representatives and only two senators; the State of Delaware has two senators and only one representative; the State of Delaware is therefore equal to the State of New York in the Senate, whilst the latter has forty times the influence of the former in the House of Representatives. Thus, if the minority of the nation preponderates in the Senate, it may paralyze the decisions of the majority represented in the other House, which is contrary to the spirit of constitutional government.

These facts show how rare and how difficult it is rationally and logically to combine all the several parts of legislation. In the course of time different interests arise, and different principles are sanctioned by the same people; and when a general constitution is to be established, these interests and principles are so many natural obstacles to the rigorous application of any political system, with all its consequences. The early stages of national existence are the only periods at which it is possible to maintain the complete logic of legislation; and when we perceive a nation in the enjoyment of this advantage, before we hasten to conclude that it is wise, we should do well to remember that it is young. When the Federal Constitution was formed, the interests of independence for the separate States, and the interest of union for the whole people, were the only two conflicting interests which existed amongst the Anglo-Americans, and a compromise was necessarily made between them.

It is, however, just to acknowledge that this part of the Constitution has not hitherto produced those evils which might have been feared. All the States are young and contiguous; their customs, their ideas, and their exigencies are not dissimilar; and the differences which result from their size or inferiority do not suffice to set their interests at variance. The small States have consequently never been induced to league themselves together in the

Senate to oppose the designs of the larger ones; and indeed there is so irresistible an authority in the legitimate expression of the will of a people that the Senate could offer but a feeble opposition to the vote of the majority of the House of Representatives.

It must not be forgotten, on the other hand, that it was not in the power of the American legislators to reduce to a single nation the people for whom they were making laws. The object of the Federal Constitution was not to destroy the independence of the States, but to restrain it. By acknowledging the real authority of these secondary communities (and it was impossible to deprive them of it), they disavowed beforehand the habitual use of constraint in enforcing the decisions of the majority. Upon this principle the introduction of the influence of the States into the mechanism of the Federal Government was by no means to be wondered at, since it only attested the existence of an acknowledged power, which was to be humored and not forcibly checked.

### **A Further Difference Between the Senate and the House of Representatives**

The Senate named by the provincial legislators, the Representatives by the people—Double election of the former; single election of the latter—Term of the different offices—Peculiar functions of each House.

The Senate not only differs from the other House in the principle which it represents, but also in the mode of its election, in the term for which it is chosen, and in the nature of its functions. The House of Representatives is named by the people, the Senate by the legislators of each State; the former is directly elected, the latter is elected by an elected body; the term for which the representatives are chosen is only two years, that of the senators is six. The functions of the House of Representatives are purely legislative, and the only share it takes in the judicial power is in the impeachment of public officers. The Senate co-operates in the work of legislation, and tries

those political offences which the House of Representatives submits to its decision. It also acts as the great executive council of the nation; the treaties which are concluded by the President must be ratified by the Senate, and the appointments he may make must be definitely approved by the same body.

## **The Executive Power**

Dependence of the President—He is elective and responsible—He is free to act in his own sphere under the inspection, but not under the direction, of the Senate—His salary fixed at his entry into office—Suspensive veto.

The American legislators undertook a difficult task in attempting to create an executive power dependent on the majority of the people, and nevertheless sufficiently strong to act without restraint in its own sphere. It was indispensable to the maintenance of the republican form of government that the representative of the executive power should be subject to the will of the nation.

The President is an elective magistrate. His honor, his property, his liberty, and his life are the securities which the people has for the temperate use of his power. But in the exercise of his authority he cannot be said to be perfectly independent; the Senate takes cognizance of his relations with foreign powers, and of the distribution of public appointments, so that he can neither be bribed nor can he employ the means of corruption. The legislators of the Union acknowledged that the executive power would be incompetent to fulfil its task with dignity and utility, unless it enjoyed a greater degree of stability and of strength than had been granted to it in the separate States.

The President is chosen for four years, and he may be re-elected; so that the chances of a prolonged administration may inspire him with hopeful undertakings for the public good, and with the means of carrying them into

execution. The President was made the sole representative of the executive power of the Union, and care was taken not to render his decisions subordinate to the vote of a council—a dangerous measure, which tends at the same time to clog the action of the Government and to diminish its responsibility. The Senate has the right of annulling certain acts of the President; but it cannot compel him to take any steps, nor does it participate in the exercise of the executive power.

The action of the legislature on the executive power may be direct; and we have just shown that the Americans carefully obviated this influence; but it may, on the other hand, be indirect. Public assemblies which have the power of depriving an officer of state of his salary encroach upon his independence; and as they are free to make the laws, it is to be feared lest they should gradually appropriate to themselves a portion of that authority which the Constitution had vested in his hands. This dependence of the executive power is one of the defects inherent in republican constitutions. The Americans have not been able to counteract the tendency which legislative assemblies have to get possession of the government, but they have rendered this propensity less irresistible. The salary of the President is fixed, at the time of his entering upon office, for the whole period of his magistracy. The President is, moreover, provided with a suspensive veto, which allows him to oppose the passing of such laws as might destroy the portion of independence which the Constitution awards him. The struggle between the President and the legislature must always be an unequal one, since the latter is certain of bearing down all resistance by persevering in its plans; but the suspensive veto forces it at least to reconsider the matter, and, if the motion be persisted in, it must then be backed by a majority of two-thirds of the whole house. The veto is, in fact, a sort of appeal to the people. The executive power, which, without this security, might have been secretly oppressed, adopts this means of pleading its cause and stating its motives. But if the legislature is certain of overpowering all resistance by persevering in its plans, I reply, that in the constitutions of all nations, of whatever kind they may be, a certain point exists at which the legislator is obliged to have recourse to the good sense and the virtue of his fellow-citizens. This point is more prominent and more discoverable in republics, whilst it is more remote and more carefully concealed in monarchies, but it always exists somewhere. There is no country in the world in which

everything can be provided for by the laws, or in which political institutions can prove a substitute for common sense and public morality.

### **Differences Between the Position of the President of the United States and that of a Constitutional King of France**

Executive power in the Northern States as limited and as partial as the supremacy which it represents—Executive power in France as universal as the supremacy it represents—The King a branch of the legislature—The President the mere executor of the law—Other differences resulting from the duration of the two powers—The President checked in the exercise of the executive authority—The King independent in its exercise—Notwithstanding these discrepancies France is more akin to a republic than the Union to a monarchy—Comparison of the number of public officers depending upon the executive power in the two countries.

The executive power has so important an influence on the destinies of nations that I am inclined to pause for an instant at this portion of my subject, in order more clearly to explain the part it sustains in America. In order to form an accurate idea of the position of the President of the United States, it may not be irrelevant to compare it to that of one of the constitutional kings of Europe. In this comparison I shall pay but little attention to the external signs of power, which are more apt to deceive the eye of the observer than to guide his researches. When a monarchy is being gradually transformed into a republic, the executive power retains the titles, the honors, the etiquette, and even the funds of royalty long after its authority has disappeared. The English, after having cut off the head of one king and expelled another from his throne, were accustomed to accost the successor of those princes upon their knees. On the other hand, when a republic falls under the sway of a single individual, the demeanor of the sovereign is simple and unpretending, as if his authority was not yet paramount. When the emperors exercised an unlimited control over the fortunes and the lives of their fellow-citizens, it was customary to call them

Caesar in conversation, and they were in the habit of supping without formality at their friends' houses. It is therefore necessary to look below the surface.

The sovereignty of the United States is shared between the Union and the States, whilst in France it is undivided and compact: hence arises the first and the most notable difference which exists between the President of the United States and the King of France. In the United States the executive power is as limited and partial as the sovereignty of the Union in whose name it acts; in France it is as universal as the authority of the State. The Americans have a federal and the French a national Government.

This cause of inferiority results from the nature of things, but it is not the only one; the second in importance is as follows: Sovereignty may be defined to be the right of making laws: in France, the King really exercises a portion of the sovereign power, since the laws have no weight till he has given his assent to them; he is, moreover, the executor of all they ordain. The President is also the executor of the laws, but he does not really cooperate in their formation, since the refusal of his assent does not annul them. He is therefore merely to be considered as the agent of the sovereign power. But not only does the King of France exercise a portion of the sovereign power, he also contributes to the nomination of the legislature, which exercises the other portion. He has the privilege of appointing the members of one chamber, and of dissolving the other at his pleasure; whereas the President of the United States has no share in the formation of the legislative body, and cannot dissolve any part of it. The King has the same right of bringing forward measures as the Chambers; a right which the President does not possess. The King is represented in each assembly by his ministers, who explain his intentions, Support his opinions, and maintain the principles of the Government. The President and his ministers are alike excluded from Congress; so that his influence and his opinions can only penetrate indirectly into that great body. The King of France is therefore on an equal footing with the legislature, which can no more act without him than he can without it. The President exercises an authority inferior to, and depending upon, that of the legislature.

Even in the exercise of the executive power, properly so called—the point upon which his position seems to be most analogous to that of the King of France—the President labors under several causes of inferiority. The authority of the King, in France, has, in the first place, the advantage of duration over that of the President, and durability is one of the chief elements of strength; nothing is either loved or feared but what is likely to endure. The President of the United States is a magistrate elected for four years; the King, in France, is an hereditary sovereign. In the exercise of the executive power the President of the United States is constantly subject to a jealous scrutiny. He may make, but he cannot conclude, a treaty; he may designate, but he cannot appoint, a public officer. The King of France is absolute within the limits of his authority. The President of the United States is responsible for his actions; but the person of the King is declared inviolable by the French Charter.

Nevertheless, the supremacy of public opinion is no less above the head of the one than of the other. This power is less definite, less evident, and less sanctioned by the laws in France than in America, but in fact it exists. In America, it acts by elections and decrees; in France it proceeds by revolutions; but notwithstanding the different constitutions of these two countries, public opinion is the predominant authority in both of them. The fundamental principle of legislation—a principle essentially republican—is the same in both countries, although its consequences may be different, and its results more or less extensive. Whence I am led to conclude that France with its King is nearer akin to a republic than the Union with its President is to a monarchy.

In what I have been saying I have only touched upon the main points of distinction; and if I could have entered into details, the contrast would have been rendered still more striking.

I have remarked that the authority of the President in the United States is only exercised within the limits of a partial sovereignty, whilst that of the King in France is undivided. I might have gone on to show that the power of the King's government in France exceeds its natural limits, however extensive they may be, and penetrates in a thousand different ways into the administration of private interests. Amongst the examples of this influence

may be quoted that which results from the great number of public functionaries, who all derive their appointments from the Government. This number now exceeds all previous limits; it amounts to 138,000 nominations, each of which may be considered as an element of power. The President of the United States has not the exclusive right of making any public appointments, and their whole number scarcely exceeds 12,000.

### **Accidental Causes Which May Increase the Influence of the Executive Government**

External security of the Union—Army of six thousand men—Few ships—  
The President has no opportunity of exercising his great prerogatives—In  
the prerogatives he exercises he is weak.

If the executive government is feebler in America than in France, the cause is more attributable to the circumstances than to the laws of the country.

It is chiefly in its foreign relations that the executive power of a nation is called upon to exert its skill and its vigor. If the existence of the Union were perpetually threatened, and if its chief interests were in daily connection with those of other powerful nations, the executive government would assume an increased importance in proportion to the measures expected of it, and those which it would carry into effect. The President of the United States is the commander-in-chief of the army, but of an army composed of only six thousand men; he commands the fleet, but the fleet reckons but few sail; he conducts the foreign relations of the Union, but the United States are a nation without neighbors. Separated from the rest of the world by the ocean, and too weak as yet to aim at the dominion of the seas, they have no enemies, and their interests rarely come into contact with those of any other nation of the globe.

The practical part of a Government must not be judged by the theory of its constitution. The President of the United States is in the possession of

almost royal prerogatives, which he has no opportunity of exercising; and those privileges which he can at present use are very circumscribed. The laws allow him to possess a degree of influence which circumstances do not permit him to employ.

On the other hand, the great strength of the royal prerogative in France arises from circumstances far more than from the laws. There the executive government is constantly struggling against prodigious obstacles, and exerting all its energies to repress them; so that it increases by the extent of its achievements, and by the importance of the events it controls, without modifying its constitution. If the laws had made it as feeble and as circumscribed as it is in the Union, its influence would very soon become still more preponderant.

### **Why the President of the United States Does Not Require the Majority of the Two Houses in Order to Carry on the Government**

It is an established axiom in Europe that a constitutional King cannot persevere in a system of government which is opposed by the two other branches of the legislature. But several Presidents of the United States have been known to lose the majority in the legislative body without being obliged to abandon the supreme power, and without inflicting a serious evil upon society. I have heard this fact quoted as an instance of the independence and the power of the executive government in America: a moment's reflection will convince us, On the contrary, that it is a proof of its extreme weakness.

A King in Europe requires the support of the legislature to enable him to perform the duties imposed upon him by the Constitution, because those duties are enormous. A constitutional King in Europe is not merely the executor of the law, but the execution of its provisions devolves so completely upon him that he has the power of paralyzing its influence if it opposes his designs. He requires the assistance of the legislative assemblies to make the law, but those assemblies stand in need of his aid to execute it:

these two authorities cannot subsist without each other, and the mechanism of government is stopped as soon as they are at variance.

In America the President cannot prevent any law from being passed, nor can he evade the obligation of enforcing it. His sincere and zealous cooperation is no doubt useful, but it is not indispensable, in the carrying on of public affairs. All his important acts are or indirectly submitted to the legislature, and of his own free authority he can do little. It is therefore his weakness and not his power, which enables him to remain in opposition to Congress. In Europe, harmony must reign between the Crown and the other branches of the legislature, because a collision between them may prove serious; in America, this harmony is not indispensable, because such a collision is impossible.

### **Election of the President**

Dangers of the elective system increase in proportion to the extent of the prerogative—This system possible in America because no powerful executive authority is required—What circumstances are favorable to the elective system—Why the election of the President does not cause a deviation from the principles of the Government—Influence of the election of the President on secondary functionaries.

The dangers of the system of election applied to the head of the executive government of a great people have been sufficiently exemplified by experience and by history, and the remarks I am about to make refer to America alone. These dangers may be more or less formidable in proportion to the place which the executive power occupies, and to the importance it possesses in the State; and they may vary according to the mode of election and the circumstances in which the electors are placed. The most weighty argument against the election of a chief magistrate is, that it offers so splendid a lure to private ambition, and is so apt to inflame men in the pursuit of power, that when legitimate means are wanting force

may not unfrequently seize what right denied.

It is clear that the greater the privileges of the executive authority are, the greater is the temptation; the more the ambition of the candidates is excited, the more warmly are their interests espoused by a throng of partisans who hope to share the power when their patron has won the prize. The dangers of the elective system increase, therefore, in the exact ratio of the influence exercised by the executive power in the affairs of State. The revolutions of Poland were not solely attributable to the elective system in general, but to the fact that the elected monarch was the sovereign of a powerful kingdom. Before we can discuss the absolute advantages of the elective system we must make preliminary inquiries as to whether the geographical position, the laws, the habits, the manners, and the opinions of the people amongst whom it is to be introduced will admit of the establishment of a weak and dependent executive government; for to attempt to render the representative of the State a powerful sovereign, and at the same time elective, is, in my Opinion, to entertain two incompatible designs. To reduce hereditary royalty to the condition of an elective authority, the only means that I am acquainted with are to circumscribe its sphere of action beforehand, gradually to diminish its prerogatives, and to accustom the people to live without its protection. Nothing, however, is further from the designs of the republicans of Europe than this course: as many of them owe their hatred of tyranny to the sufferings which they have personally undergone, it is Oppression, and not the extent of the executive power, which excites their hostility, and they attack the former without perceiving how nearly it is connected with the latter.

Hitherto no citizen has shown any disposition to expose his honor and his life in order to become the President of the United States; because the power of that office is temporary, limited, and subordinate. The prize of fortune must be great to encourage adventurers in so desperate a game. No candidate has as yet been able to arouse the dangerous enthusiasm or the passionate sympathies of the people in his favor, for the very simple reason that when he is at the head of the Government he has but little power, but little wealth, and but little glory to share amongst his friends; and his influence in the State is too small for the success or the ruin of a faction to

depend upon the elevation of an individual to power.

The great advantage of hereditary monarchies is, that as the private interest of a family is always intimately connected with the interests of the State, the executive government is never suspended for a single instant; and if the affairs of a monarchy are not better conducted than those of a republic, at least there is always some one to conduct them, well or ill, according to his capacity. In elective States, on the contrary, the wheels of government cease to act, as it were, of their own accord at the approach of an election, and even for some time previous to that event. The laws may indeed accelerate the operation of the election, which may be conducted with such simplicity and rapidity that the seat of power will never be left vacant; but, notwithstanding these precautions, a break necessarily occurs in the minds of the people.

At the approach of an election the head of the executive government is wholly occupied by the coming struggle; his future plans are doubtful; he can undertake nothing new, and he will only prosecute with indifference those designs which another will perhaps terminate. " I am so near the time of my retirement from office," said President Jefferson on the 21st of January, 1809 (six weeks before the election), "that I feel no passion, I take no part, I express no sentiment. It appears to me just to leave to my successor the commencement of those measures which he will have to prosecute, and for which he will be responsible."

On the other hand, the eyes of the nation are centred on a single point; all are watching the gradual birth of so important an event. The wider the influence of the executive power extends, the greater and the more necessary is its constant action, the more fatal is the term of suspense; and a nation which is accustomed to the government, or, still more, one used to the administrative protection of a powerful executive authority would be infallibly convulsed by an election of this kind. In the United States the action of the Government may be slackened with impunity, because it is always weak and circumscribed.

One of the principal vices of the elective system is that it always introduces a certain degree of instability into the internal and external policy of the

State. But this disadvantage is less sensibly felt if the share of power vested in the elected magistrate is small. In Rome the principles of the Government underwent no variation, although the Consuls were changed every year, because the Senate, which was an hereditary assembly, possessed the directing authority. If the elective system were adopted in Europe, the condition of most of the monarchical States would be changed at every new election. In America the President exercises a certain influence on State affairs, but he does not conduct them; the preponderating power is vested in the representatives of the whole nation. The political maxims of the country depend therefore on the mass of the people, not on the President alone; and consequently in America the elective system has no very prejudicial influence on the fixed principles of the Government. But the want of fixed principles is an evil so inherent in the elective system that it is still extremely perceptible in the narrow sphere to which the authority of the President extends.

The Americans have admitted that the head of the executive power, who has to bear the whole responsibility of the duties he is called upon to fulfil, ought to be empowered to choose his own agents, and to remove them at pleasure: the legislative bodies watch the conduct of the President more than they direct it. The consequence of this arrangement is, that at every new election the fate of all the Federal public officers is in suspense. Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor: and I am not aware that General Jackson allowed a single removable functionary employed in the Federal service to retain his place beyond the first year which succeeded his election. It is sometimes made a subject of complaint that in the constitutional monarchies of Europe the fate of the humbler servants of an Administration depends upon that of the Ministers. But in elective Governments this evil is far greater. In a constitutional monarchy successive ministries are rapidly formed; but as the principal representative of the executive power does not change, the spirit of innovation is kept within bounds; the changes which take place are in the details rather than in the principles of the administrative system; but to substitute one system for another, as is done in America every four years, by law, is to cause a sort of revolution. As to the misfortunes which may fall upon individuals in consequence of this state of things, it must be allowed that the uncertain

situation of the public officers is less fraught with evil consequences in America than elsewhere. It is so easy to acquire an independent position in the United States that the public officer who loses his place may be deprived of the comforts of life, but not of the means of subsistence.

I remarked at the beginning of this chapter that the dangers of the elective system applied to the head of the State are augmented or decreased by the peculiar circumstances of the people which adopts it. However the functions of the executive power may be restricted, it must always exercise a great influence upon the foreign policy of the country, for a negotiation cannot be opened or successfully carried on otherwise than by a single agent. The more precarious and the more perilous the position of a people becomes, the more absolute is the want of a fixed and consistent external policy, and the more dangerous does the elective system of the Chief Magistrate become. The policy of the Americans in relation to the whole world is exceedingly simple; for it may almost be said that no country stands in need of them, nor do they require the co-operation of any other people. Their independence is never threatened. In their present condition, therefore, the functions of the executive power are no less limited by circumstances than by the laws; and the President may frequently change his line of policy without involving the State in difficulty or destruction.

Whatever the prerogatives of the executive power may be, the period which immediately precedes an election and the moment of its duration must always be considered as a national crisis, which is perilous in proportion to the internal embarrassments and the external dangers of the country. Few of the nations of Europe could escape the calamities of anarchy or of conquest every time they might have to elect a new sovereign. In America society is so constituted that it can stand without assistance upon its own basis; nothing is to be feared from the pressure of external dangers, and the election of the President is a cause of agitation, but not of ruin.

### **Mode of Election**

Skill of the American legislators shown in the mode of election adopted by them—Creation of a special electoral body—Separate votes of these electors—Case in which the House of Representatives is called upon to choose the President—Results of the twelve elections which have taken place since the Constitution has been established.

Besides the dangers which are inherent in the system, many other difficulties may arise from the mode of election, which may be obviated by the precaution of the legislator. When a people met in arms on some public spot to choose its head, it was exposed to all the chances of civil war resulting from so martial a mode of proceeding, besides the dangers of the elective system in itself. The Polish laws, which subjected the election of the sovereign to the veto of a single individual, suggested the murder of that individual or prepared the way to anarchy.

In the examination of the institutions and the political as well as social condition of the United States, we are struck by the admirable harmony of the gifts of fortune and the efforts of man. The nation possessed two of the main causes of internal peace; it was a new country, but it was inhabited by a people grown old in the exercise of freedom. America had no hostile neighbors to dread; and the American legislators, profiting by these favorable circumstances, created a weak and subordinate executive power which could without danger be made elective.

It then only remained for them to choose the least dangerous of the various modes of election; and the rules which they laid down upon this point admirably correspond to the securities which the physical and political constitution of the country already afforded. Their object was to find the mode of election which would best express the choice of the people with the least possible excitement and suspense. It was admitted in the first place that the simple majority should be decisive; but the difficulty was to obtain this majority without an interval of delay which it was most important to avoid. It rarely happens that an individual can at once collect the majority of the suffrages of a great people; and this difficulty is enhanced in a republic of confederate States, where local influences are apt to preponderate. The means by which it was proposed to obviate this second

obstacle was to delegate the electoral powers of the nation to a body of representatives. This mode of election rendered a majority more probable; for the fewer the electors are, the greater is the chance of their coming to a final decision. It also offered an additional probability of a judicious choice. It then remained to be decided whether this right of election was to be entrusted to a legislative body, the habitual representative assembly of the nation, or whether an electoral assembly should be formed for the express purpose of proceeding to the nomination of a President. The Americans chose the latter alternative, from a belief that the individuals who were returned to make the laws were incompetent to represent the wishes of the nation in the election of its chief magistrate; and that, as they are chosen for more than a year, the constituency they represent might have changed its opinion in that time. It was thought that if the legislature was empowered to elect the head of the executive power, its members would, for some time before the election, be exposed to the manoeuvres of corruption and the tricks of intrigue; whereas the special electors would, like a jury, remain mixed up with the crowd till the day of action, when they would appear for the sole purpose of giving their votes.

It was therefore established that every State should name a certain number of electors, who in their turn should elect the President; and as it had been observed that the assemblies to which the choice of a chief magistrate had been entrusted in elective countries inevitably became the centres of passion and of cabal; that they sometimes usurped an authority which did not belong to them; and that their proceedings, or the uncertainty which resulted from them, were sometimes prolonged so much as to endanger the welfare of the State, it was determined that the electors should all vote upon the same day, without being convoked to the same place. This double election rendered a majority probable, though not certain; for it was possible that as many differences might exist between the electors as between their constituents. In this case it was necessary to have recourse to one of three measures; either to appoint new electors, or to consult a second time those already appointed, or to defer the election to another authority. The first two of these alternatives, independently of the uncertainty of their results, were likely to delay the final decision, and to perpetuate an agitation which must always be accompanied with danger. The third expedient was therefore adopted, and it was agreed that the votes should be transmitted

sealed to the President of the Senate, and that they should be opened and counted in the presence of the Senate and the House of Representatives. If none of the candidates has a majority, the House of Representatives then proceeds immediately to elect a President, but with the condition that it must fix upon one of the three candidates who have the highest numbers.

Thus it is only in case of an event which cannot often happen, and which can never be foreseen, that the election is entrusted to the ordinary representatives of the nation; and even then they are obliged to choose a citizen who has already been designated by a powerful minority of the special electors. It is by this happy expedient that the respect which is due to the popular voice is combined with the utmost celerity of execution and those precautions which the peace of the country demands. But the decision of the question by the House of Representatives does not necessarily offer an immediate solution of the difficulty, for the majority of that assembly may still be doubtful, and in this case the Constitution prescribes no remedy. Nevertheless, by restricting the number of candidates to three, and by referring the matter to the judgment of an enlightened public body, it has smoothed all the obstacles which are not inherent in the elective system.

In the forty-four years which have elapsed since the promulgation of the Federal Constitution the United States have twelve times chosen a President. Ten of these elections took place simultaneously by the votes of the special electors in the different States. The House of Representatives has only twice exercised its conditional privilege of deciding in cases of uncertainty; the first time was at the election of Mr. Jefferson in 1801; the second was in 1825, when Mr. Quincy Adams was named.

### **Crisis of the Election**

The Election may be considered as a national crisis—Why?—Passions of the people—Anxiety of the President—Calm which succeeds the agitation of the election.

I have shown what the circumstances are which favored the adoption of the elective system in the United States, and what precautions were taken by the legislators to obviate its dangers. The Americans are habitually accustomed to all kinds of elections, and they know by experience the utmost degree of excitement which is compatible with security. The vast extent of the country and the dissemination of the inhabitants render a collision between parties less probable and less dangerous there than elsewhere. The political circumstances under which the elections have hitherto been carried on have presented no real embarrassments to the nation.

Nevertheless, the epoch of the election of a President of the United States may be considered as a crisis in the affairs of the nation. The influence which he exercises on public business is no doubt feeble and indirect; but the choice of the President, which is of small importance to each individual citizen, concerns the citizens collectively; and however trifling an interest may be, it assumes a great degree of importance as soon as it becomes general. The President possesses but few means of rewarding his supporters in comparison to the kings of Europe, but the places which are at his disposal are sufficiently numerous to interest, directly or indirectly, several thousand electors in his success. Political parties in the United States are led to rally round an individual, in order to acquire a more tangible shape in the eyes of the crowd, and the name of the candidate for the Presidency is put forward as the symbol and personification of their theories. For these reasons parties are strongly interested in gaining the election, not so much with a view to the triumph of their principles under the auspices of the President-elect as to show by the majority which returned him, the strength of the supporters of those principles.

For a long while before the appointed time is at hand the election becomes the most important and the all-engrossing topic of discussion. The ardor of faction is redoubled; and all the artificial passions which the imagination can create in the bosom of a happy and peaceful land are agitated and brought to light. The President, on the other hand, is absorbed by the cares of self-defence. He no longer governs for the interest of the State, but for

that of his re-election; he does homage to the majority, and instead of checking its passions, as his duty commands him to do, he frequently courts its worst caprices. As the election draws near, the activity of intrigue and the agitation of the populace increase; the citizens are divided into hostile camps, each of which assumes the name of its favorite candidate; the whole nation glows with feverish excitement; the election is the daily theme of the public papers, the subject of private conversation, the end of every thought and every action, the sole interest of the present. As soon as the choice is determined, this ardor is dispelled; and as a calmer season returns, the current of the State, which had nearly broken its banks, sinks to its usual level a but who can refrain from astonishment at the causes of the storm.

### **Re-election of the President**

When the head of the executive power is re-eligible, it is the State which is the source of intrigue and corruption—The desire of being re-elected the chief aim of a President of the United States—Disadvantage of the system peculiar to America—The natural evil of democracy is that it subordinates all authority to the slightest desires of the majority—The re-election of the President encourages this evil.

It may be asked whether the legislators of the United States did right or wrong in allowing the re-election of the President. It seems at first sight contrary to all reason to prevent the head of the executive power from being elected a second time. The influence which the talents and the character of a single individual may exercise upon the fate of a whole people, in critical circumstances or arduous times, is well known: a law preventing the re-election of the chief magistrate would deprive the citizens of the surest pledge of the prosperity and the security of the commonwealth; and, by a singular inconsistency, a man would be excluded from the government at the very time when he had shown his ability in conducting its affairs.

But if these arguments are strong, perhaps still more powerful reasons may be advanced against them. Intrigue and corruption are the natural defects of elective government; but when the head of the State can be re-elected these evils rise to a great height, and compromise the very existence of the country. When a simple candidate seeks to rise by intrigue, his manoeuvres must necessarily be limited to a narrow sphere; but when the chief magistrate enters the lists, he borrows the strength of the government for his own purposes. In the former case the feeble resources of an individual are in action; in the latter, the State itself, with all its immense influence, is busied in the work of corruption and cabal. The private citizen, who employs the most immoral practices to acquire power, can only act in a manner indirectly prejudicial to the public prosperity. But if the representative of the executive descends into the combat, the cares of government dwindle into second-rate importance, and the success of his election is his first concern. All laws and all the negotiations he undertakes are to him nothing more than electioneering schemes; places become the reward of services rendered, not to the nation, but to its chief; and the influence of the government, if not injurious to the country, is at least no longer beneficial to the community for which it was created.

It is impossible to consider the ordinary course of affairs in the United States without perceiving that the desire of being re-elected is the chief aim of the President; that his whole administration, and even his most indifferent measures, tend to this object; and that, as the crisis approaches, his personal interest takes the place of his interest in the public good. The principle of re-eligibility renders the corrupt influence of elective government still more extensive and pernicious.

In America it exercises a peculiarly fatal influence on the sources of national existence. Every government seems to be afflicted by some evil which is inherent in its nature, and the genius of the legislator is shown in eluding its attacks. A State may survive the influence of a host of bad laws, and the mischief they cause is frequently exaggerated; but a law which encourages the growth of the canker within must prove fatal in the end, although its bad consequences may not be immediately perceived.

The principle of destruction in absolute monarchies lies in the excessive and unreasonable extension of the prerogative of the crown; and a measure tending to remove the constitutional provisions which counterbalance this influence would be radically bad, even if its immediate consequences were unattended with evil. By a parity of reasoning, in countries governed by a democracy, where the people is perpetually drawing all authority to itself, the laws which increase or accelerate its action are the direct assailants of the very principle of the government.

The greatest proof of the ability of the American legislators is, that they clearly discerned this truth, and that they had the courage to act up to it. They conceived that a certain authority above the body of the people was necessary, which should enjoy a degree of independence, without, however, being entirely beyond the popular control; an authority which would be forced to comply with the permanent determinations of the majority, but which would be able to resist its caprices, and to refuse its most dangerous demands. To this end they centred the whole executive power of the nation in a single arm; they granted extensive prerogatives to the President, and they armed him with the veto to resist the encroachments of the legislature.

But by introducing the principle of re-election they partly destroyed their work; and they rendered the President but little inclined to exert the great power they had vested in his hands. If ineligible a second time, the President would be far from independent of the people, for his responsibility would not be lessened; but the favor of the people would not be so necessary to him as to induce him to court it by humoring its desires. If re-eligible (and this is more especially true at the present day, when political morality is relaxed, and when great men are rare), the President of the United States becomes an easy tool in the hands of the majority. He adopts its likings and its animosities, he hastens to anticipate its wishes, he forestalls its complaints, he yields to its idlest cravings, and instead of guiding it, as the legislature intended that he should do, he is ever ready to follow its bidding. Thus, in order not to deprive the State of the talents of an individual, those talents have been rendered almost useless; and to reserve an expedient for extraordinary perils, the country has been exposed to daily dangers.

## Federal Courts

Political importance of the judiciary in the United States—Difficulty of treating this subject—Utility of judicial power in confederations—What tribunals could be introduced into the Union—Necessity of establishing federal courts of justice—Organization of the national judiciary—The Supreme Court—In what it differs from all known tribunals.

I have inquired into the legislative and executive power of the Union, and the judicial power now remains to be examined; but in this place I cannot conceal my fears from the reader. Their judicial institutions exercise a great influence on the condition of the Anglo-Americans, and they occupy a prominent place amongst what are probably called political institutions: in this respect they are peculiarly deserving of our attention. But I am at a loss to explain the political action of the American tribunals without entering into some technical details of their constitution and their forms of proceeding; and I know not how to descend to these minutiae without wearying the curiosity of the reader by the natural aridity of the subject, or without risking to fall into obscurity through a desire to be succinct. I can scarcely hope to escape these various evils; for if I appear too lengthy to a man of the world, a lawyer may on the other hand complain of my brevity. But these are the natural disadvantages of my subject, and more especially of the point which I am about to discuss.

The great difficulty was, not to devise the Constitution to the Federal Government, but to find out a method of enforcing its laws. Governments have in general but two means of overcoming the opposition of the people they govern, viz., the physical force which is at their own disposal, and the moral force which they derive from the decisions of the courts of justice.

A government which should have no other means of exacting obedience than open war must be very near its ruin, for one of two alternatives would then probably occur: if its authority was small and its character temperate, it would not resort to violence till the last extremity, and it would connive at a

number of partial acts of insubordination, in which case the State would gradually fall into anarchy; if it was enterprising and powerful, it would perpetually have recourse to its physical strength, and would speedily degenerate into a military despotism. So that its activity would not be less prejudicial to the community than its inaction.

The great end of justice is to substitute the notion of right for that of violence, and to place a legal barrier between the power of the government and the use of physical force. The authority which is awarded to the intervention of a court of justice by the general opinion of mankind is so surprisingly great that it clings to the mere formalities of justice, and gives a bodily influence to the shadow of the law. The moral force which courts of justice possess renders the introduction of physical force exceedingly rare, and is very frequently substituted for it; but if the latter proves to be indispensable, its power is doubled by the association of the idea of law.

A federal government stands in greater need of the support of judicial institutions than any other, because it is naturally weak and exposed to formidable opposition. If it were always obliged to resort to violence in the first instance, it could not fulfil its task. The Union, therefore, required a national judiciary to enforce the obedience of the citizens to the laws, and to repeal the attacks which might be directed against them. The question then remained as to what tribunals were to exercise these privileges; were they to be entrusted to the courts of justice which were already organized in every State? or was it necessary to create federal courts? It may easily be proved that the Union could not adapt the judicial power of the States to its wants. The separation of the judiciary from the administrative power of the State no doubt affects the security of every citizen and the liberty of all. But it is no less important to the existence of the nation that these several powers should have the same origin, should follow the same principles, and act in the same sphere; in a word, that they should be correlative and homogeneous. No one, I presume, ever suggested the advantage of trying offences committed in France by a foreign court of justice, in order to secure the impartiality of the judges. The Americans form one people in relation to their Federal Government; but in the bosom of this people divers political bodies have been allowed to subsist which are dependent on the national Government in a few points, and independent in all the rest; which

have all a distinct origin, maxims peculiar to themselves, and special means of carrying on their affairs. To entrust the execution of the laws of the Union to tribunals instituted by these political bodies would be to allow foreign judges to preside over the nation. Nay, more; not only is each State foreign to the Union at large, but it is in perpetual opposition to the common interests, since whatever authority the Union loses turns to the advantage of the States. Thus to enforce the laws of the Union by means of the tribunals of the States would be to allow not only foreign but partial judges to preside over the nation.

But the number, Still more than the mere character, of the tribunals of the States rendered them unfit for the service of the nation. When the Federal Constitution was formed there were already thirteen courts of justice in the United States which decided causes without appeal. That number is now increased to twenty-four. To suppose that a State can subsist when its fundamental laws may be subjected to four-and-twenty different interpretations at the same time is to advance a proposition alike contrary to reason and to experience.

The American legislators therefore agreed to create a federal judiciary power to apply the laws of the Union, and to determine certain questions affecting general interests, which were carefully determined beforehand. The entire judicial power of the Union was centred in one tribunal, which was denominated the Supreme Court of the United States. But, to facilitate the expedition of business, inferior courts were appended to it, which were empowered to decide causes of small importance without appeal, and with appeal causes of more magnitude. The members of the Supreme Court are named neither by the people nor the legislature, but by the President of the United States, acting with the advice of the Senate. In order to render them independent of the other authorities, their office was made inalienable; and it was determined that their salary, when once fixed, should not be altered by the legislature. It was easy to proclaim the principle of a Federal judiciary, but difficulties multiplied when the extent of its jurisdiction was to be determined.

### **Means of Determining the Jurisdiction of the Federal Courts**

Difficulty of determining the jurisdiction of separate courts of justice in confederations—The courts of the Union obtained the right of fixing their own jurisdiction—In what respect this rule attacks the portion of sovereignty reserved to the several States—The sovereignty of these States restricted by the laws, and the interpretation of the laws—Consequently, the danger of the several States is more apparent than real.

As the Constitution of the United States recognized two distinct powers in presence of each other, represented in a judicial point of view by two distinct classes of courts of justice, the utmost care which could be taken in defining their separate jurisdictions would have been insufficient to prevent frequent collisions between those tribunals. The question then arose to whom the right of deciding the competency of each court was to be referred.

In nations which constitute a single body politic, when a question is debated between two courts relating to their mutual jurisdiction, a third tribunal is generally within reach to decide the difference; and this is effected without difficulty, because in these nations the questions of judicial competency have no connection with the privileges of the national supremacy. But it was impossible to create an arbiter between a superior court of the Union and the superior court of a separate State which would not belong to one of these two classes. It was, therefore, necessary to allow one of these courts to judge its own cause, and to take or to retain cognizance of the point which was contested. To grant this privilege to the different courts of the States would have been to destroy the sovereignty of the Union *de facto* after having established it *de jure*; for the interpretation of the Constitution would soon have restored that portion of independence to the States of which the terms of that act deprived them. The object of the creation of a Federal tribunal was to prevent the courts of the States from deciding questions affecting the national interests in their own department, and so to form a uniform body of jurisprudence for the interpretation of the laws of the Union. This end would not have been accomplished if the courts of the several States had been competent to decide upon cases in their separate

capacities from which they were obliged to abstain as Federal tribunals. The Supreme Court of the United States was therefore invested with the right of determining all questions of jurisdiction.

This was a severe blow upon the independence of the States, which was thus restricted not only by the laws, but by the interpretation of them; by one limit which was known, and by another which was dubious; by a rule which was certain, and a rule which was arbitrary. It is true the Constitution had laid down the precise limits of the Federal supremacy, but whenever this supremacy is contested by one of the States, a Federal tribunal decides the question. Nevertheless, the dangers with which the independence of the States was threatened by this mode of proceeding are less serious than they appeared to be. We shall see hereafter that in America the real strength of the country is vested in the provincial far more than in the Federal Government. The Federal judges are conscious of the relative weakness of the power in whose name they act, and they are more inclined to abandon a right of jurisdiction in cases where it is justly their own than to assert a privilege to which they have no legal claim.

### **Different Cases of Jurisdiction**

The matter and the party are the first conditions of the Federal jurisdiction—Suits in which ambassadors are engaged—Suits of the Union—Of a separate State—By whom tried—Causes resulting from the laws of the Union—Why judged by the Federal tribunals—Causes relating to the performance of contracts tried by the Federal courts—Consequence of this arrangement.

After having appointed the means of fixing the competency of the Federal courts, the legislators of the Union defined the cases which should come within their jurisdiction. It was established, on the one hand, that certain parties must always be brought before the Federal courts, without any regard to the special nature of the cause; and, on the other, that certain

causes must always be brought before the same courts, without any regard to the quality of the parties in the suit. These distinctions were therefore admitted to be the basis of the Federal jurisdiction.

Ambassadors are the representatives of nations in a state of amity with the Union, and whatever concerns these personages concerns in some degree the whole Union. When an ambassador is a party in a suit, that suit affects the welfare of the nation, and a Federal tribunal is naturally called upon to decide it.

The Union itself may be invoked in legal proceedings, and in this case it would be alike contrary to the customs of all nations and to common sense to appeal to a tribunal representing any other sovereignty than its own; the Federal courts, therefore, take cognizance of these affairs.

When two parties belonging to two different States are engaged in a suit, the case cannot with propriety be brought before a court of either State. The surest expedient is to select a tribunal like that of the Union, which can excite the suspicions of neither party, and which offers the most natural as well as the most certain remedy.

When the two parties are not private individuals, but States, an important political consideration is added to the same motive of equity. The quality of the parties in this case gives a national importance to all their disputes; and the most trifling litigation of the States may be said to involve the peace of the whole Union.

The nature of the cause frequently prescribes the rule of competency. Thus all the questions which concern maritime commerce evidently fall under the cognizance of the Federal tribunals. Almost all these questions are connected with the interpretation of the law of nations, and in this respect they essentially interest the Union in relation to foreign powers. Moreover, as the sea is not included within the limits of any peculiar jurisdiction, the national courts can only hear causes which originate in maritime affairs.

The Constitution comprises under one head almost all the cases which by their very nature come within the limits of the Federal courts. The rule

which it lays down is simple, but pregnant with an entire system of ideas, and with a vast multitude of facts. It declares that the judicial power of the Supreme Court shall extend to all cases in law and equity arising under the laws of the United States.

Two examples will put the intention of the legislator in the clearest light:

The Constitution prohibits the States from making laws on the value and circulation of money: If, notwithstanding this prohibition, a State passes a law of this kind, with which the interested parties refuse to comply because it is contrary to the Constitution, the case must come before a Federal court, because it arises under the laws of the United States. Again, if difficulties arise in the levying of import duties which have been voted by Congress, the Federal court must decide the case, because it arises under the interpretation of a law of the United States.

This rule is in perfect accordance with the fundamental principles of the Federal Constitution. The Union, as it was established in 1789, possesses, it is true, a limited supremacy; but it was intended that within its limits it should form one and the same people. Within those limits the Union is sovereign. When this point is established and admitted, the inference is easy; for if it be acknowledged that the United States constitute one and the same people within the bounds prescribed by their Constitution, it is impossible to refuse them the rights which belong to other nations. But it has been allowed, from the origin of society, that every nation has the right of deciding by its own courts those questions which concern the execution of its own laws. To this it is answered that the Union is in so singular a position that in relation to some matters it constitutes a people, and that in relation to all the rest it is a nonentity. But the inference to be drawn is, that in the laws relating to these matters the Union possesses all the rights of absolute sovereignty. The difficulty is to know what these matters are; and when once it is resolved (and we have shown how it was resolved, in speaking of the means of determining the jurisdiction of the Federal courts) no further doubt can arise; for as soon as it is established that a suit is Federal—that is to say, that it belongs to the share of sovereignty reserved by the Constitution of the Union—the natural consequence is that it should

come within the jurisdiction of a Federal court.

Whenever the laws of the United States are attacked, or whenever they are resorted to in self-defence, the Federal courts must be appealed to. Thus the jurisdiction of the tribunals of the Union extends and narrows its limits exactly in the same ratio as the sovereignty of the Union augments or decreases. We have shown that the principal aim of the legislators of 1789 was to divide the sovereign authority into two parts. In the one they placed the control of all the general interests of the Union, in the other the control of the special interests of its component States. Their chief solicitude was to arm the Federal Government with sufficient power to enable it to resist, within its sphere, the encroachments of the several States. As for these communities, the principle of independence within certain limits of their own was adopted in their behalf; and they were concealed from the inspection, and protected from the control, of the central Government. In speaking of the division of authority, I observed that this latter principle had not always been held sacred, since the States are prevented from passing certain laws which apparently belong to their own particular sphere of interest. When a State of the Union passes a law of this kind, the citizens who are injured by its execution can appeal to the Federal courts.

Thus the jurisdiction of the Federal courts extends not only to all the cases which arise under the laws of the Union, but also to those which arise under laws made by the several States in opposition to the Constitution. The States are prohibited from making *ex post facto* laws in criminal cases, and any person condemned by virtue of a law of this kind can appeal to the judicial power of the Union. The States are likewise prohibited from making laws which may have a tendency to impair the obligations of contracts. If a citizen thinks that an obligation of this kind is impaired by a law passed in his State, he may refuse to obey it, and may appeal to the Federal courts.

This provision appears to me to be the most serious attack upon the independence of the States. The rights awarded to the Federal Government for purposes of obvious national importance are definite and easily comprehensible; but those with which this last clause invests it are not either clearly appreciable or accurately defined. For there are vast numbers

of political laws which influence the existence of obligations of contracts, which may thus furnish an easy pretext for the aggressions of the central authority.

### **Procedure of the Federal Courts**

Natural weakness of the judiciary power in confederations—Legislators ought to strive as much as possible to bring private individuals, and not States, before the Federal Courts—How the Americans have succeeded in this—Direct prosecution of private individuals in the Federal Courts—Indirect prosecution of the States which violate the laws of the Union—The decrees of the Supreme Court enervate but do not destroy the provincial laws.

I have shown what the privileges of the Federal courts are, and it is no less important to point out the manner in which they are exercised. The irresistible authority of justice in countries in which the sovereignty is undivided is derived from the fact that the tribunals of those countries represent the entire nation at issue with the individual against whom their decree is directed, and the idea of power is thus introduced to corroborate the idea of right. But this is not always the case in countries in which the sovereignty is divided; in them the judicial power is more frequently opposed to a fraction of the nation than to an isolated individual, and its moral authority and physical strength are consequently diminished. In federal States the power of the judge is naturally decreased, and that of the justiciable parties is augmented. The aim of the legislator in confederate States ought therefore to be to render the position of the courts of justice analogous to that which they occupy in countries where the sovereignty is undivided; in other words, his efforts ought constantly to tend to maintain the judicial power of the confederation as the representative of the nation, and the justiciable party as the representative of an individual interest.

Every government, whatever may be its constitution, requires the means of constraining its subjects to discharge their obligations, and of protecting its privileges from their assaults. As far as the direct action of the Government on the community is concerned, the Constitution of the United States contrived, by a master-stroke of policy, that the federal courts, acting in the name of the laws, should only take cognizance of parties in an individual capacity. For, as it had been declared that the Union consisted of one and the same people within the limits laid down by the Constitution, the inference was that the Government created by this Constitution, and acting within these limits, was invested with all the privileges of a national government, one of the principal of which is the right of transmitting its injunctions directly to the private citizen. When, for instance, the Union votes an impost, it does not apply to the States for the levying of it, but to every American citizen in proportion to his assessment. The Supreme Court, which is empowered to enforce the execution of this law of the Union, exerts its influence not upon a refractory State, but upon the private taxpayer; and, like the judicial power of other nations, it is opposed to the person of an individual. It is to be observed that the Union chose its own antagonist; and as that antagonist is feeble, he is naturally worsted.

But the difficulty increases when the proceedings are not brought forward by but against the Union. The Constitution recognizes the legislative power of the States; and a law so enacted may impair the privileges of the Union, in which case a collision is unavoidable between that body and the State which has passed the law: and it only remains to select the least dangerous remedy, which is very clearly deducible from the general principles I have before established.

It may be conceived that, in the case under consideration, the Union might have used the State before a Federal court, which would have annulled the act: and by this means it would have adopted a natural course of proceeding; but the judicial power would have been placed in open hostility to the State, and it was desirable to avoid this predicament as much as possible. The Americans hold that it is nearly impossible that a new law should not impair the interests of some private individual by its provisions: these private interests are assumed by the American legislators as the ground of attack against such measures as may be prejudicial to the Union,

and it is to these cases that the protection of the Supreme Court is extended.

Suppose a State vends a certain portion of its territory to a company, and that a year afterwards it passes a law by which the territory is otherwise disposed of, and that clause of the Constitution which prohibits laws impairing the obligation of contracts violated. When the purchaser under the second act appears to take possession, the possessor under the first act brings his action before the tribunals of the Union, and causes the title of the claimant to be pronounced null and void! Thus, in point of fact, the judicial power of the Union is contesting the claims of the sovereignty of a State; but it only acts indirectly and upon a special application of detail: it attacks the law in its consequences, not in its principle, and it rather weakens than destroys it.

The last hypothesis that remained was that each State formed a corporation enjoying a separate existence and distinct civil rights, and that it could therefore sue or be sued before a tribunal. Thus a State could bring an action against another State. In this instance the Union was not called upon to contest a provincial law, but to try a suit in which a State was a party. This suit was perfectly similar to any other cause, except that the quality of the parties was different; and here the danger pointed out at the beginning of this chapter exists with less chance of being avoided. The inherent disadvantage of the very essence of Federal constitutions is that they engender parties in the bosom of the nation which present powerful obstacles to the free course of justice.

### **High Rank of the Supreme Court Amongst the Great Powers of State**

No nation ever constituted so great a judicial power as the Americans—  
Extent of its prerogative—Its political influence—The tranquillity and the  
very existence of the Union depend on the discretion of the seven Federal  
Judges.

When we have successively examined in detail the organization of the Supreme Court, and the entire prerogatives which it exercises, we shall readily admit that a more imposing judicial power was never constituted by any people. The Supreme Court is placed at the head of all known tribunals, both by the nature of its rights and the class of justiciable parties which it controls.

In all the civilized countries of Europe the Government has always shown the greatest repugnance to allow the cases to which it was itself a party to be decided by the ordinary course of justice. This repugnance naturally attains its utmost height in an absolute Government; and, on the other hand, the privileges of the courts of justice are extended with the increasing liberties of the people: but no European nation has at present held that all judicial controversies, without regard to their origin, can be decided by the judges of common law.

In America this theory has been actually put in practice, and the Supreme Court of the United States is the sole tribunal of the nation. Its power extends to all the cases arising under laws and treaties made by the executive and legislative authorities, to all cases of admiralty and maritime jurisdiction, and in general to all points which affect the law of nations. It may even be affirmed that, although its constitution is essentially judicial, its prerogatives are almost entirely political. Its sole object is to enforce the execution of the laws of the Union; and the Union only regulates the relations of the Government with the citizens, and of the nation with Foreign Powers: the relations of citizens amongst themselves are almost exclusively regulated by the sovereignty of the States.

A second and still greater cause of the preponderance of this court may be adduced. In the nations of Europe the courts of justice are only called upon to try the controversies of private individuals; but the Supreme Court of the United States summons sovereign powers to its bar. When the clerk of the court advances on the steps of the tribunal, and simply says, "The State of New York versus the State of Ohio," it is impossible not to feel that the Court which he addresses is no ordinary body; and when it is recollected that one of these parties represents one million, and the other two millions of men, one is struck by the responsibility of the seven judges whose

decision is about to satisfy or to disappoint so large a number of their fellow-citizens.

The peace, the prosperity, and the very existence of the Union are vested in the hands of the seven judges. Without their active co-operation the Constitution would be a dead letter: the Executive appeals to them for assistance against the encroachments of the legislative powers; the Legislature demands their protection from the designs of the Executive; they defend the Union from the disobedience of the States, the States from the exaggerated claims of the Union, the public interest against the interests of private citizens, and the conservative spirit of order against the fleeting innovations of democracy. Their power is enormous, but it is clothed in the authority of public opinion. They are the all-powerful guardians of a people which respects law, but they would be impotent against popular neglect or popular contempt. The force of public opinion is the most intractable of agents, because its exact limits cannot be defined; and it is not less dangerous to exceed than to remain below the boundary prescribed.

The Federal judges must not only be good citizens, and men possessed of that information and integrity which are indispensable to magistrates, but they must be statesmen—politicians, not unread in the signs of the times, not afraid to brave the obstacles which can be subdued, nor slow to turn aside such encroaching elements as may threaten the supremacy of the Union and the obedience which is due to the laws.

The President, who exercises a limited power, may err without causing great mischief in the State. Congress may decide amiss without destroying the Union, because the electoral body in which Congress originates may cause it to retract its decision by changing its members. But if the Supreme Court is ever composed of imprudent men or bad citizens, the Union may be plunged into anarchy or civil war.

The real cause of this danger, however, does not lie in the constitution of the tribunal, but in the very nature of Federal Governments. We have observed that in confederate peoples it is especially necessary to consolidate the judicial authority, because in no other nations do those independent persons who are able to cope with the social body exist in greater power or in a

better condition to resist the physical strength of the Government. But the more a power requires to be strengthened, the more extensive and independent it must be made; and the dangers which its abuse may create are heightened by its independence and its strength. The source of the evil is not, therefore, in the constitution of the power, but in the constitution of those States which render its existence necessary.

### **In What Respects the Federal Constitution is Superior to that of the States**

In what respects the Constitution of the Union can be compared to that of the States—Superiority of the Constitution of the Union attributable to the wisdom of the Federal legislators—Legislature of the Union less dependent on the people than that of the States—Executive power more independent in its sphere—Judicial power less subjected to the inclinations of the majority—Practical consequence of these facts—The dangers inherent in a democratic government eluded by the Federal legislators, and increased by the legislators of the States.

The Federal Constitution differs essentially from that of the States in the ends which it is intended to accomplish, but in the means by which these ends are promoted a greater analogy exists between them. The objects of the Governments are different, but their forms are the same; and in this special point of view there is some advantage in comparing them together.

I am of opinion that the Federal Constitution is superior to all the Constitutions of the States, for several reasons.

The present Constitution of the Union was formed at a later period than those of the majority of the States, and it may have derived some ameliorations from past experience. But we shall be led to acknowledge that this is only a secondary cause of its superiority, when we recollect that eleven new States have been added to the American Confederation since the

promulgation of the Federal Constitution, and that these new republics have always rather exaggerated than avoided the defects which existed in the former Constitutions.

The chief cause of the superiority of the Federal Constitution lay in the character of the legislators who composed it. At the time when it was formed the dangers of the Confederation were imminent, and its ruin seemed inevitable. In this extremity the people chose the men who most deserved the esteem, rather than those who had gained the affections, of the country. I have already observed that distinguished as almost all the legislators of the Union were for their intelligence, they were still more so for their patriotism. They had all been nurtured at a time when the spirit of liberty was braced by a continual struggle against a powerful and predominant authority. When the contest was terminated, whilst the excited passions of the populace persisted in warring with dangers which had ceased to threaten them, these men stopped short in their career; they cast a calmer and more penetrating look upon the country which was now their own; they perceived that the war of independence was definitely ended, and that the only dangers which America had to fear were those which might result from the abuse of the freedom she had won. They had the courage to say what they believed to be true, because they were animated by a warm and sincere love of liberty; and they ventured to propose restrictions, because they were resolutely opposed to destruction.

The greater number of the Constitutions of the States assign one year for the duration of the House of Representatives, and two years for that of the Senate; so that members of the legislative body are constantly and narrowly tied down by the slightest desires of their constituents. The legislators of the Union were of opinion that this excessive dependence of the Legislature tended to alter the nature of the main consequences of the representative system, since it vested the source, not only of authority, but of government, in the people. They increased the length of the time for which the representatives were returned, in order to give them freer scope for the exercise of their own judgment.

The Federal Constitution, as well as the Constitutions of the different States, divided the legislative body into two branches. But in the States

these two branches were composed of the same elements, and elected in the same manner. The consequence was that the passions and inclinations of the populace were as rapidly and as energetically represented in one chamber as in the other, and that laws were made with all the characteristics of violence and precipitation. By the Federal Constitution the two houses originate in like manner in the choice of the people; but the conditions of eligibility and the mode of election were changed, to the end that, if, as is the case in certain nations, one branch of the Legislature represents the same interests as the other, it may at least represent a superior degree of intelligence and discretion. A mature age was made one of the conditions of the senatorial dignity, and the Upper House was chosen by an elected assembly of a limited number of members.

To concentrate the whole social force in the hands of the legislative body is the natural tendency of democracies; for as this is the power which emanates the most directly from the people, it is made to participate most fully in the preponderating authority of the multitude, and it is naturally led to monopolize every species of influence. This concentration is at once prejudicial to a well-conducted administration, and favorable to the despotism of the majority. The legislators of the States frequently yielded to these democratic propensities, which were invariably and courageously resisted by the founders of the Union.

In the States the executive power is vested in the hands of a magistrate, who is apparently placed upon a level with the Legislature, but who is in reality nothing more than the blind agent and the passive instrument of its decisions. He can derive no influence from the duration of his functions, which terminate with the revolving year, or from the exercise of prerogatives which can scarcely be said to exist. The Legislature can condemn him to inaction by intrusting the execution of the laws to special committees of its own members, and can annul his temporary dignity by depriving him of his salary. The Federal Constitution vests all the privileges and all the responsibility of the executive power in a single individual. The duration of the Presidency is fixed at four years; the salary of the individual who fills that office cannot be altered during the term of his functions; he is protected by a body of official dependents, and armed with a suspensive veto. In short, every effort was made to confer a strong and independent

position upon the executive authority within the limits which had been prescribed to it.

In the Constitutions of all the States the judicial power is that which remains the most independent of the legislative authority; nevertheless, in all the States the Legislature has reserved to itself the right of regulating the emoluments of the judges, a practice which necessarily subjects these magistrates to its immediate influence. In some States the judges are only temporarily appointed, which deprives them of a great portion of their power and their freedom. In others the legislative and judicial powers are entirely confounded; thus the Senate of New York, for instance, constitutes in certain cases the Superior Court of the State. The Federal Constitution, on the other hand, carefully separates the judicial authority from all external influences; and it provides for the independence of the judges, by declaring that their salary shall not be altered, and that their functions shall be inalienable.

The practical consequences of these different systems may easily be perceived. An attentive observer will soon remark that the business of the Union is incomparably better conducted than that of any individual State. The conduct of the Federal Government is more fair and more temperate than that of the States, its designs are more fraught with wisdom, its projects are more durable and more skilfully combined, its measures are put into execution with more vigor and consistency.

I recapitulate the substance of this chapter in a few words: The existence of democracies is threatened by two dangers, viz., the complete subjection of the legislative body to the caprices of the electoral body, and the concentration of all the powers of the Government in the legislative authority. The growth of these evils has been encouraged by the policy of the legislators of the States, but it has been resisted by the legislators of the Union by every means which lay within their control.

### **Characteristics Which Distinguish the Federal Constitution of the United States of America from all Other Federal Constitutions**

American Union appears to resemble all other confederations—  
Nevertheless its effects are different—Reason of this—Distinctions  
between the Union and all other confederations—The American  
Government not a federal but an imperfect national Government.

The United States of America do not afford either the first or the only instance of confederate States, several of which have existed in modern Europe, without adverting to those of antiquity. Switzerland, the Germanic Empire, and the Republic of the United Provinces either have been or still are confederations. In studying the constitutions of these different countries, the politician is surprised to observe that the powers with which they invested the Federal Government are nearly identical with the privileges awarded by the American Constitution to the Government of the United States. They confer upon the central power the same rights of making peace and war, of raising money and troops, and of providing for the general exigencies and the common interests of the nation. Nevertheless the Federal Government of these different peoples has always been as remarkable for its weakness and inefficiency as that of the Union is for its vigorous and enterprising spirit. Again, the first American Confederation perished through the excessive weakness of its Government; and this weak Government was, notwithstanding, in possession of rights even more extensive than those of the Federal Government of the present day. But the more recent Constitution of the United States contains certain principles which exercise a most important influence, although they do not at once strike the observer.

This Constitution, which may at first sight be confounded with the federal constitutions which preceded it, rests upon a novel theory, which may be considered as a great invention in modern political science. In all the confederations which had been formed before the American Constitution of 1789 the allied States agreed to obey the injunctions of a Federal Government; but they reserved to themselves the right of ordaining and enforcing the execution of the laws of the Union. The American States which combined in 1789 agreed that the Federal Government should not

only dictate the laws, but that it should execute its own enactments. In both cases the right is the same, but the exercise of the right is different; and this alteration produced the most momentous consequences.

In all the confederations which had been formed before the American Union the Federal Government demanded its supplies at the hands of the separate Governments; and if the measure it prescribed was onerous to any one of those bodies means were found to evade its claims: if the State was powerful, it had recourse to arms; if it was weak, it connived at the resistance which the law of the Union, its sovereign, met with, and resorted to inaction under the plea of inability. Under these circumstances one of the two alternatives has invariably occurred; either the most preponderant of the allied peoples has assumed the privileges of the Federal authority and ruled all the States in its name, or the Federal Government has been abandoned by its natural supporters, anarchy has arisen between the confederates, and the Union has lost all powers of action.

In America the subjects of the Union are not States, but private citizens: the national Government levies a tax, not upon the State of Massachusetts, but upon each inhabitant of Massachusetts. All former confederate governments presided over communities, but that of the Union rules individuals; its force is not borrowed, but self-derived; and it is served by its own civil and military officers, by its own army, and its own courts of justice. It cannot be doubted that the spirit of the nation, the passions of the multitude, and the provincial prejudices of each State tend singularly to diminish the authority of a Federal authority thus constituted, and to facilitate the means of resistance to its mandates; but the comparative weakness of a restricted sovereignty is an evil inherent in the Federal system. In America, each State has fewer opportunities of resistance and fewer temptations to non-compliance; nor can such a design be put in execution (if indeed it be entertained) without an open violation of the laws of the Union, a direct interruption of the ordinary course of justice, and a bold declaration of revolt; in a word, without taking a decisive step which men hesitate to adopt.

In all former confederations the privileges of the Union furnished more elements of discord than of power, since they multiplied the claims of the

nation without augmenting the means of enforcing them: and in accordance with this fact it may be remarked that the real weakness of federal governments has almost always been in the exact ratio of their nominal power. Such is not the case in the American Union, in which, as in ordinary governments, the Federal Government has the means of enforcing all it is empowered to demand.

The human understanding more easily invents new things than new words, and we are thence constrained to employ a multitude of improper and inadequate expressions. When several nations form a permanent league and establish a supreme authority, which, although it has not the same influence over the members of the community as a national government, acts upon each of the Confederate States in a body, this Government, which is so essentially different from all others, is denominated a Federal one. Another form of society is afterwards discovered, in which several peoples are fused into one and the same nation with regard to certain common interests, although they remain distinct, or at least only confederate, with regard to all their other concerns. In this case the central power acts directly upon those whom it governs, whom it rules, and whom it judges, in the same manner, as, but in a more limited circle than, a national government. Here the term Federal Government is clearly no longer applicable to a state of things which must be styled an incomplete national Government: a form of government has been found out which is neither exactly national nor federal; but no further progress has been made, and the new word which will one day designate this novel invention does not yet exist.

The absence of this new species of confederation has been the cause which has brought all Unions to Civil War, to subjection, or to a stagnant apathy, and the peoples which formed these leagues have been either too dull to discern, or too pusillanimous to apply this great remedy. The American Confederation perished by the same defects.

But the Confederate States of America had been long accustomed to form a portion of one empire before they had won their independence; they had not contracted the habit of governing themselves, and their national prejudices had not taken deep root in their minds. Superior to the rest of the world in political knowledge, and sharing that knowledge equally amongst

themselves, they were little agitated by the passions which generally oppose the extension of federal authority in a nation, and those passions were checked by the wisdom of the chief citizens. The Americans applied the remedy with prudent firmness as soon as they were conscious of the evil; they amended their laws, and they saved their country.

### **Advantages of the Federal System in General, and its Special Utility in America**

Happiness and freedom of small nations—Power of great nations—Great empires favorable to the growth of civilization—Strength often the first element of national prosperity—Aim of the Federal system to unite the twofold advantages resulting from a small and from a large territory—Advantages derived by the United States from this system—The law adapts itself to the exigencies of the population; population does not conform to the exigencies of the law—Activity, amelioration, love and enjoyment of freedom in the American communities—Public spirit of the Union the abstract of provincial patriotism—Principles and things circulate freely over the territory of the United States—The Union is happy and free as a little nation, and respected as a great empire.

In small nations the scrutiny of society penetrates into every part, and the spirit of improvement enters into the most trifling details; as the ambition of the people is necessarily checked by its weakness, all the efforts and resources of the citizens are turned to the internal benefit of the community, and are not likely to evaporate in the fleeting breath of glory. The desires of every individual are limited, because extraordinary faculties are rarely to be met with. The gifts of an equal fortune render the various conditions of life uniform, and the manners of the inhabitants are orderly and simple. Thus, if one estimate the gradations of popular morality and enlightenment, we shall generally find that in small nations there are more persons in easy circumstances, a more numerous population, and a more tranquil state of

society, than in great empires.

When tyranny is established in the bosom of a small nation, it is more galling than elsewhere, because, as it acts within a narrow circle, every point of that circle is subject to its direct influence. It supplies the place of those great designs which it cannot entertain by a violent or an exasperating interference in a multitude of minute details; and it leaves the political world, to which it properly belongs, to meddle with the arrangements of domestic life. Tastes as well as actions are to be regulated at its pleasure; and the families of the citizens as well as the affairs of the State are to be governed by its decisions. This invasion of rights occurs, however, but seldom, and freedom is in truth the natural state of small communities. The temptations which the Government offers to ambition are too weak, and the resources of private individuals are too slender, for the sovereign power easily to fall within the grasp of a single citizen; and should such an event have occurred, the subjects of the State can without difficulty overthrow the tyrant and his oppression by a simultaneous effort.

Small nations have therefore ever been the cradle of political liberty; and the fact that many of them have lost their immunities by extending their dominion shows that the freedom they enjoyed was more a consequence of the inferior size than of the character of the people.

The history of the world affords no instance of a great nation retaining the form of republican government for a long series of years, and this has led to the conclusion that such a state of things is impracticable. For my own part, I cannot but censure the imprudence of attempting to limit the possible and to judge the future on the part of a being who is hourly deceived by the most palpable realities of life, and who is constantly taken by surprise in the circumstances with which he is most familiar. But it may be advanced with confidence that the existence of a great republic will always be exposed to far greater perils than that of a small one.

All the passions which are most fatal to republican institutions spread with an increasing territory, whilst the virtues which maintain their dignity do not augment in the same proportion. The ambition of the citizens increases with the power of the State; the strength of parties with the importance of

the ends they have in view; but that devotion to the common weal which is the surest check on destructive passions is not stronger in a large than in a small republic. It might, indeed, be proved without difficulty that it is less powerful and less sincere. The arrogance of wealth and the dejection of wretchedness, capital cities of unwonted extent, a lax morality, a vulgar egotism, and a great confusion of interests, are the dangers which almost invariably arise from the magnitude of States. But several of these evils are scarcely prejudicial to a monarchy, and some of them contribute to maintain its existence. In monarchical States the strength of the government is its own; it may use, but it does not depend on, the community, and the authority of the prince is proportioned to the prosperity of the nation; but the only security which a republican government possesses against these evils lies in the support of the majority. This support is not, however, proportionably greater in a large republic than it is in a small one; and thus, whilst the means of attack perpetually increase both in number and in influence, the power of resistance remains the same, or it may rather be said to diminish, since the propensities and interests of the people are diversified by the increase of the population, and the difficulty of forming a compact majority is constantly augmented. It has been observed, moreover, that the intensity of human passions is heightened, not only by the importance of the end which they propose to attain, but by the multitude of individuals who are animated by them at the same time. Every one has had occasion to remark that his emotions in the midst of a sympathizing crowd are far greater than those which he would have felt in solitude. In great republics the impetus of political passion is irresistible, not only because it aims at gigantic purposes, but because it is felt and shared by millions of men at the same time.

It may therefore be asserted as a general proposition that nothing is more opposed to the well-being and the freedom of man than vast empires. Nevertheless it is important to acknowledge the peculiar advantages of great States. For the very reason which renders the desire of power more intense in these communities than amongst ordinary men, the love of glory is also more prominent in the hearts of a class of citizens, who regard the applause of a great people as a reward worthy of their exertions, and an elevating encouragement to man. If we would learn why it is that great nations contribute more powerfully to the spread of human improvement

than small States, we shall discover an adequate cause in the rapid and energetic circulation of ideas, and in those great cities which are the intellectual centres where all the rays of human genius are reflected and combined. To this it may be added that most important discoveries demand a display of national power which the Government of a small State is unable to make; in great nations the Government entertains a greater number of general notions, and is more completely disengaged from the routine of precedent and the egotism of local prejudice; its designs are conceived with more talent, and executed with more boldness.

In time of peace the well-being of small nations is undoubtedly more general and more complete, but they are apt to suffer more acutely from the calamities of war than those great empires whose distant frontiers may for ages avert the presence of the danger from the mass of the people, which is therefore more frequently afflicted than ruined by the evil.

But in this matter, as in many others, the argument derived from the necessity of the case predominates over all others. If none but small nations existed, I do not doubt that mankind would be more happy and more free; but the existence of great nations is unavoidable.

This consideration introduces the element of physical strength as a condition of national prosperity. It profits a people but little to be affluent and free if it is perpetually exposed to be pillaged or subjugated; the number of its manufactures and the extent of its commerce are of small advantage if another nation has the empire of the seas and gives the law in all the markets of the globe. Small nations are often impoverished, not because they are small, but because they are weak; the great empires prosper less because they are great than because they are strong. Physical strength is therefore one of the first conditions of the happiness and even of the existence of nations. Hence it occurs that, unless very peculiar circumstances intervene, small nations are always united to large empires in the end, either by force or by their own consent: yet I am unacquainted with a more deplorable spectacle than that of a people unable either to defend or to maintain its independence.

The Federal system was created with the intention of combining the different advantages which result from the greater and the lesser extent of nations; and a single glance over the United States of America suffices to discover the advantages which they have derived from its adoption.

In great centralized nations the legislator is obliged to impart a character of uniformity to the laws which does not always suit the diversity of customs and of districts; as he takes no cognizance of special cases, he can only proceed upon general principles; and the population is obliged to conform to the exigencies of the legislation, since the legislation cannot adapt itself to the exigencies and the customs of the population, which is the cause of endless trouble and misery. This disadvantage does not exist in confederations. Congress regulates the principal measures of the national Government, and all the details of the administration are reserved to the provincial legislatures. It is impossible to imagine how much this division of sovereignty contributes to the well-being of each of the States which compose the Union. In these small communities, which are never agitated by the desire of aggrandizement or the cares of self-defence, all public authority and private energy is employed in internal amelioration. The central government of each State, which is in immediate juxtaposition to the citizens, is daily apprised of the wants which arise in society; and new projects are proposed every year, which are discussed either at town meetings or by the legislature of the State, and which are transmitted by the press to stimulate the zeal and to excite the interest of the citizens. This spirit of amelioration is constantly alive in the American republics, without compromising their tranquillity; the ambition of power yields to the less refined and less dangerous love of comfort. It is generally believed in America that the existence and the permanence of the republican form of government in the New World depend upon the existence and the permanence of the Federal system; and it is not unusual to attribute a large share of the misfortunes which have befallen the new States of South America to the injudicious erection of great republics, instead of a divided and confederate sovereignty.

It is incontestably true that the love and the habits of republican government in the United States were engendered in the townships and in the provincial assemblies. In a small State, like that of Connecticut for instance, where

cutting a canal or laying down a road is a momentous political question, where the State has no army to pay and no wars to carry on, and where much wealth and much honor cannot be bestowed upon the chief citizens, no form of government can be more natural or more appropriate than that of a republic. But it is this same republican spirit, it is these manners and customs of a free people, which are engendered and nurtured in the different States, to be afterwards applied to the country at large. The public spirit of the Union is, so to speak, nothing more than an abstract of the patriotic zeal of the provinces. Every citizen of the United States transfuses his attachment to his little republic in the common store of American patriotism. In defending the Union he defends the increasing prosperity of his own district, the right of conducting its affairs, and the hope of causing measures of improvement to be adopted which may be favorable to his own interest; and these are motives which are wont to stir men more readily than the general interests of the country and the glory of the nation.

On the other hand, if the temper and the manners of the inhabitants especially fitted them to promote the welfare of a great republic, the Federal system smoothed the obstacles which they might have encountered. The confederation of all the American States presents none of the ordinary disadvantages resulting from great agglomerations of men. The Union is a great republic in extent, but the paucity of objects for which its Government provides assimilates it to a small State. Its acts are important, but they are rare. As the sovereignty of the Union is limited and incomplete, its exercise is not incompatible with liberty; for it does not excite those insatiable desires of fame and power which have proved so fatal to great republics. As there is no common centre to the country, vast capital cities, colossal wealth, abject poverty, and sudden revolutions are alike unknown; and political passion, instead of spreading over the land like a torrent of desolation, spends its strength against the interests and the individual passions of every State.

Nevertheless, all commodities and ideas circulate throughout the Union as freely as in a country inhabited by one people. Nothing checks the spirit of enterprise. Government avails itself of the assistance of all who have talents or knowledge to serve it. Within the frontiers of the Union the profoundest peace prevails, as within the heart of some great empire; abroad, it ranks

with the most powerful nations of the earth; two thousand miles of coast are open to the commerce of the world; and as it possesses the keys of the globe, its flag is respected in the most remote seas. The Union is as happy and as free as a small people, and as glorious and as strong as a great nation.

### **Why the Federal System is Not Adapted to All Peoples, and How the Anglo-Americans Were Enabled to Adopt It**

Every Federal system contains defects which baffle the efforts of the legislator—The Federal system is complex—It demands a daily exercise of discretion on the part of the citizens—Practical knowledge of government common amongst the Americans—Relative weakness of the Government of the Union, another defect inherent in the Federal system—The Americans have diminished without remedying it—The sovereignty of the separate States apparently weaker, but really stronger, than that of the Union—Why?—Natural causes of union must exist between confederate peoples besides the laws—What these causes are amongst the Anglo-Americans—Maine and Georgia, separated by a distance of a thousand miles, more naturally united than Normandy and Brittany—War, the main peril of confederations—This proved even by the example of the United States—The Union has no great wars to fear—Why?—Dangers to which Europeans would be exposed if they adopted the Federal system of the Americans.

When a legislator succeeds, after persevering efforts, in exercising an indirect influence upon the destiny of nations, his genius is lauded by mankind, whilst, in point of fact, the geographical position of the country which he is unable to change, a social condition which arose without his cooperation, manners and opinions which he cannot trace to their source, and an origin with which he is unacquainted, exercise so irresistible an influence over the courses of society that he is himself borne away by the current, after an ineffectual resistance. Like the navigator, he may direct the vessel which bears him along, but he can neither change its structure, nor

raise the winds, nor lull the waters which swell beneath him.

I have shown the advantages which the Americans derive from their federal System; it remains for me to point out the circumstances which rendered that system practicable, as its benefits are not to be enjoyed by all nations. The incidental defects of the Federal system which originate in the laws may be corrected by the skill of the legislator, but there are further evils inherent in the system which cannot be counteracted by the peoples which adopt it. These nations must therefore find the strength necessary to support the natural imperfections of their Government.

The most prominent evil of all Federal systems is the very complex nature of the means they employ. Two sovereignties are necessarily in presence of each other. The legislator may simplify and equalize the action of these two sovereignties, by limiting each of them to a sphere of authority accurately defined; but he cannot combine them into one, or prevent them from coming into collision at certain points. The Federal system therefore rests upon a theory which is necessarily complicated, and which demands the daily exercise of a considerable share of discretion on the part of those it governs.

A proposition must be plain to be adopted by the understanding of a people. A false notion which is clear and precise will always meet with a greater number of adherents in the world than a true principle which is obscure or involved. Hence it arises that parties, which are like small communities in the heart of the nation, invariably adopt some principle or some name as a symbol, which very inadequately represents the end they have in view and the means which are at their disposal, but without which they could neither act nor subsist. The governments which are founded upon a single principle or a single feeling which is easily defined are perhaps not the best, but they are unquestionably the strongest and the most durable in the world.

In examining the Constitution of the United States, which is the most perfect federal constitution that ever existed, one is startled, on the other hand, at the variety of information and the excellence of discretion which it presupposes in the people whom it is meant to govern. The government of the Union depends entirely upon legal fictions; the Union is an ideal nation

which only exists in the mind, and whose limits and extent can only be discerned by the understanding.

When once the general theory is comprehended, numberless difficulties remain to be solved in its application; for the sovereignty of the Union is so involved in that of the States that it is impossible to distinguish its boundaries at the first glance. The whole structure of the Government is artificial and conventional and it would be ill adapted to a people which has not been long accustomed to conduct its own affairs, or to one in which the science of politics has not descended to the humblest classes of society. I have never been more struck by the good sense and the practical judgment of the Americans than in the ingenious devices by which they elude the numberless difficulties resulting from their Federal Constitution. I scarcely ever met with a plain American citizen who could not distinguish, with surprising facility, the obligations created by the laws of Congress from those created by the laws of his own State; and who, after having discriminated between the matters which come under the cognizance of the Union and those which the local legislature is competent to regulate, could not point out the exact limit of the several jurisdictions of the Federal courts and the tribunals of the State.

The Constitution of the United States is like those exquisite productions of human industry which ensure wealth and renown to their inventors, but which are profitless in any other hands. This truth is exemplified by the condition of Mexico at the present time. The Mexicans were desirous of establishing a federal system, and they took the Federal Constitution of their neighbors, the Anglo-Americans, as their model, and copied it with considerable accuracy. But although they had borrowed the letter of the law, they were unable to create or to introduce the spirit and the sense which give it life. They were involved in ceaseless embarrassments between the mechanism of their double government; the sovereignty of the States and that of the Union perpetually exceeded their respective privileges, and entered into collision; and to the present day Mexico is alternately the victim of anarchy and the slave of military despotism.

The second and the most fatal of all the defects I have alluded to, and that which I believe to be inherent in the federal system, is the relative weakness

of the government of the Union. The principle upon which all confederations rest is that of a divided sovereignty. The legislator may render this partition less perceptible, he may even conceal it for a time from the public eye, but he cannot prevent it from existing, and a divided sovereignty must always be less powerful than an entire supremacy. The reader has seen in the remarks I have made on the Constitution of the United States that the Americans have displayed singular ingenuity in combining the restriction of the power of the Union within the narrow limits of a federal government with the semblance and, to a certain extent, with the force of a national government. By this means the legislators of the Union have succeeded in diminishing, though not in counteracting the natural danger of confederations.

It has been remarked that the American Government does not apply itself to the States, but that it immediately transmits its injunctions to the citizens, and compels them as isolated individuals to comply with its demands. But if the Federal law were to clash with the interests and the prejudices of a State, it might be feared that all the citizens of that State would conceive themselves to be interested in the cause of a single individual who should refuse to obey. If all the citizens of the State were aggrieved at the same time and in the same manner by the authority of the Union, the Federal Government would vainly attempt to subdue them individually; they would instinctively unite in a common defence, and they would derive a ready-prepared organization from the share of sovereignty which the institution of their State allows them to enjoy. Fiction would give way to reality, and an organized portion of the territory might then contest the central authority. The same observation holds good with regard to the Federal jurisdiction. If the courts of the Union violated an important law of a State in a private case, the real, if not the apparent, contest would arise between the aggrieved State represented by a citizen and the Union represented by its courts of justice.

He would have but a partial knowledge of the world who should imagine that it is possible, by the aid of legal fictions, to prevent men from finding out and employing those means of gratifying their passions which have been left open to them and it may be doubted whether the American legislators, when they rendered a collision between the two sovereigns less

probable, destroyed the cause of such a misfortune. But it may even be affirmed that they were unable to ensure the preponderance of the Federal element in a case of this kind. The Union is possessed of money and of troops, but the affections and the prejudices of the people are in the bosom of the States. The sovereignty of the Union is an abstract being, which is connected with but few external objects; the sovereignty of the States is hourly perceptible, easily understood, constantly active; and if the former is of recent creation, the latter is coeval with the people itself. The sovereignty of the Union is factitious, that of the States is natural, and derives its existence from its own simple influence, like the authority of a parent. The supreme power of the nation only affects a few of the chief interests of society; it represents an immense but remote country, and claims a feeling of patriotism which is vague and ill defined; but the authority of the States controls every individual citizen at every hour and in all circumstances; it protects his property, his freedom, and his life; and when we recollect the traditions, the customs, the prejudices of local and familiar attachment with which it is connected, we cannot doubt of the superiority of a power which is interwoven with every circumstance that renders the love of one's native country instinctive in the human heart.

Since legislators are unable to obviate such dangerous collisions as occur between the two sovereignties which coexist in the federal system, their first object must be, not only to dissuade the confederate States from warfare, but to encourage such institutions as may promote the maintenance of peace. Hence it results that the Federal compact cannot be lasting unless there exists in the communities which are leagued together a certain number of inducements to union which render their common dependence agreeable, and the task of the Government light, and that system cannot succeed without the presence of favorable circumstances added to the influence of good laws. All the peoples which have ever formed a confederation have been held together by a certain number of common interests, which served as the intellectual ties of association.

But the sentiments and the principles of man must be taken into consideration as well as his immediate interests. A certain uniformity of civilization is not less necessary to the durability of a confederation than a uniformity of interests in the States which compose it. In Switzerland the

difference which exists between the Canton of Uri and the Canton of Vaud is equal to that between the fifteenth and the nineteenth centuries; and, properly speaking, Switzerland has never possessed a federal government. The union between these two cantons only subsists upon the map, and their discrepancies would soon be perceived if an attempt were made by a central authority to prescribe the same laws to the whole territory.

One of the circumstances which most powerfully contribute to support the Federal Government in America is that the States have not only similar interests, a common origin, and a common tongue, but that they are also arrived at the same stage of civilization; which almost always renders a union feasible. I do not know of any European nation, how small soever it may be, which does not present less uniformity in its different provinces than the American people, which occupies a territory as extensive as one-half of Europe. The distance from the State of Maine to that of Georgia is reckoned at about one thousand miles; but the difference between the civilization of Maine and that of Georgia is slighter than the difference between the habits of Normandy and those of Brittany. Maine and Georgia, which are placed at the opposite extremities of a great empire, are consequently in the natural possession of more real inducements to form a confederation than Normandy and Brittany, which are only separated by a bridge.

The geographical position of the country contributed to increase the facilities which the American legislators derived from the manners and customs of the inhabitants; and it is to this circumstance that the adoption and the maintenance of the Federal system are mainly attributable.

The most important occurrence which can mark the annals of a people is the breaking out of a war. In war a people struggles with the energy of a single man against foreign nations in the defence of its very existence. The skill of a government, the good sense of the community, and the natural fondness which men entertain for their country, may suffice to maintain peace in the interior of a district, and to favor its internal prosperity; but a nation can only carry on a great war at the cost of more numerous and more painful sacrifices; and to suppose that a great number of men will of their own accord comply with these exigencies of the State is to betray an ignorance

of mankind. All the peoples which have been obliged to sustain a long and serious warfare have consequently been led to augment the power of their government. Those which have not succeeded in this attempt have been subjugated. A long war almost always places nations in the wretched alternative of being abandoned to ruin by defeat or to despotism by success. War therefore renders the symptoms of the weakness of a government most palpable and most alarming; and I have shown that the inherent defeat of federal governments is that of being weak.

The Federal system is not only deficient in every kind of centralized administration, but the central government itself is imperfectly organized, which is invariably an influential cause of inferiority when the nation is opposed to other countries which are themselves governed by a single authority. In the Federal Constitution of the United States, by which the central government possesses more real force, this evil is still extremely sensible. An example will illustrate the case to the reader.

The Constitution confers upon Congress the right of calling forth militia to execute the laws of the Union, suppress insurrections, and repel invasions; and another article declares that the President of the United States is the commander-in-chief of the militia. In the war of 1812 the President ordered the militia of the Northern States to march to the frontiers; but Connecticut and Massachusetts, whose interests were impaired by the war, refused to obey the command. They argued that the Constitution authorizes the Federal Government to call forth the militia in case of insurrection or invasion, but that in the present instance there was neither invasion nor insurrection. They added, that the same Constitution which conferred upon the Union the right of calling forth the militia reserved to the States that of naming the officers; and that consequently (as they understood the clause) no officer of the Union had any right to command the militia, even during war, except the President in person; and in this case they were ordered to join an army commanded by another individual. These absurd and pernicious doctrines received the sanction not only of the governors and the legislative bodies, but also of the courts of justice in both States; and the Federal Government was constrained to raise elsewhere the troops which it required.

The only safeguard which the American Union, with all the relative perfection of its laws, possesses against the dissolution which would be produced by a great war, lies in its probable exemption from that calamity. Placed in the centre of an immense continent, which offers a boundless field for human industry, the Union is almost as much insulated from the world as if its frontiers were girt by the ocean. Canada contains only a million of inhabitants, and its population is divided into two inimical nations. The rigor of the climate limits the extension of its territory, and shuts up its ports during the six months of winter. From Canada to the Gulf of Mexico a few savage tribes are to be met with, which retire, perishing in their retreat, before six thousand soldiers. To the South, the Union has a point of contact with the empire of Mexico; and it is thence that serious hostilities may one day be expected to arise. But for a long while to come the uncivilized state of the Mexican community, the depravity of its morals, and its extreme poverty, will prevent that country from ranking high amongst nations. As for the Powers of Europe, they are too distant to be formidable.

The great advantage of the United States does not, then, consist in a Federal Constitution which allows them to carry on great wars, but in a geographical position which renders such enterprises extremely improbable.

No one can be more inclined than I am myself to appreciate the advantages of the federal system, which I hold to be one of the combinations most favorable to the prosperity and freedom of man. I envy the lot of those nations which have been enabled to adopt it; but I cannot believe that any confederate peoples could maintain a long or an equal contest with a nation of similar strength in which the government should be centralized. A people which should divide its sovereignty into fractional powers, in the presence of the great military monarchies of Europe, would, in my opinion, by that very act, abdicate its power, and perhaps its existence and its name. But such is the admirable position of the New World that man has no other enemy than himself; and that, in order to be happy and to be free, it suffices to seek the gifts of prosperity and the knowledge of freedom.

## Chapter 9

## Why the People May Strictly Be Said to Govern in the United States

I HAVE hitherto examined the institutions of the United States; I have passed their legislation in review, and I have depicted the present characteristics of political society in that Country. But a sovereign power exists above these institutions and beyond these characteristic features which may destroy or modify them at its pleasure—I mean that of the people. It remains to be shown in what manner this power, which regulates the laws, acts: its propensities and its passions remain to be pointed out, as well as the secret springs which retard, accelerate, or direct its irresistible course; and the effects of its unbounded authority, with the destiny which is probably reserved for it.

## **Why the People May Strictly Be Said to Govern in the United States**

In America the people appoints the legislative and the executive power, and furnishes the jurors who punish all offences against the laws. The American institutions are democratic, not only in their principle but in all their consequences; and the people elects its representatives directly, and for the most part annually, in order to ensure their dependence. The people is therefore the real directing power; and although the form of government is representative, it is evident that the opinions, the prejudices, the interests, and even the passions of the community are hindered by no durable obstacles from exercising a perpetual influence on society. In the United States the majority governs in the name of the people, as is the case in all the countries in which the people is supreme. The majority is principally composed of peaceful citizens who, either by inclination or by interest, are sincerely desirous of the welfare of their country. But they are surrounded by the incessant agitation of parties, which attempt to gain their co-operation and to avail themselves of their support.

## **Chapter 10: Parties in the United States**

### [Remains of the Aristocratic Party in the United States](#)

Great distinction to be made between parties—Parties which are to each other as rival nations—Parties properly so called—Difference between great and small parties—Epochs which produce them—Their characteristics—America has had great parties—They are extinct—Federalists—Republicans—Defeat of the Federalists—Difficulty of creating parties in the United States—What is done with this intention—Aristocratic or

democratic character to be met with in all parties—Struggle of General Jackson against the Bank.

A GREAT distinction must be made between parties. Some countries are so large that the different populations which inhabit them have contradictory interests, although they are the subjects of the same Government, and they may thence be in a perpetual state of opposition. In this case the different fractions of the people may more properly be considered as distinct nations than as mere parties; and if a civil war breaks out, the struggle is carried on by rival peoples rather than by factions in the State.

But when the citizens entertain different opinions upon subjects which affect the whole country alike, such, for instance, as the principles upon which the government is to be conducted, then distinctions arise which may correctly be styled parties. Parties are a necessary evil in free governments; but they have not at all times the same character and the same propensities.

At certain periods a nation may be oppressed by such insupportable evils as to conceive the design of effecting a total change in its political constitution; at other times the mischief lies still deeper, and the existence of society itself is endangered. Such are the times of great revolutions and of great parties. But between these epochs of misery and of confusion there are periods during which human society seems to rest, and mankind to make a pause. This pause is, indeed, only apparent, for time does not stop its course for nations any more than for men; they are all advancing towards a goal with which they are unacquainted; and we only imagine them to be stationary when their progress escapes our observation, as men who are going at a foot-pace seem to be standing still to those who run.

But however this may be, there are certain epochs at which the changes that take place in the social and political constitution of nations are so slow and so insensible that men imagine their present condition to be a final state; and the human mind, believing itself to be firmly based upon certain foundations, does not extend its researches beyond the horizon which it descries. These are the times of small parties and of intrigue.

The political parties which I style great are those which cling to principles more than to their consequences; to general, and not to especial cases; to ideas, and not to men. These parties are usually distinguished by a nobler character, by more generous passions, more genuine convictions, and a more bold and open conduct than the others. In them private interest, which always plays the chief part in political passions, is more studiously veiled under the pretext of the public good; and it may even be sometimes concealed from the eyes of the very persons whom it excites and impels.

Minor parties are, on the other hand, generally deficient in political faith. As they are not sustained or dignified by a lofty purpose, they ostensibly display the egotism of their character in their actions. They glow with a factitious zeal; their language is vehement, but their conduct is timid and irresolute. The means they employ are as wretched as the end at which they aim. Hence it arises that when a calm state of things succeeds a violent revolution, the leaders of society seem suddenly to disappear, and the powers of the human mind to lie concealed. Society is convulsed by great parties, by minor ones it is agitated; it is torn by the former, by the latter it is degraded; and if these sometimes save it by a salutary perturbation, those invariably disturb it to no good end.

America has already lost the great parties which once divided the nation; and if her happiness is considerably increased, her morality has suffered by their extinction. When the War of Independence was terminated, and the foundations of the new Government were to be laid down, the nation was divided between two opinions—two opinions which are as old as the world, and which are perpetually to be met with under all the forms and all the names which have ever obtained in free communities—the one tending to limit, the other to extend indefinitely, the power of the people. The conflict of these two opinions never assumed that degree of violence in America which it has frequently displayed elsewhere. Both parties of the Americans were, in fact, agreed upon the most essential points; and neither of them had to destroy a traditional constitution, or to overthrow the structure of society, in order to ensure its own triumph. In neither of them, consequently, were a great number of private interests affected by success or by defeat; but moral principles of a high order, such as the love of equality and of independence, were concerned in the struggle, and they sufficed to kindle

violent passions.

The party which desired to limit the power of the people endeavored to apply its doctrines more especially to the Constitution of the Union, whence it derived its name of Federal. The other party, which affected to be more exclusively attached to the cause of liberty, took that of Republican. America is a land of democracy, and the Federalists were always in a minority; but they reckoned on their side almost all the great men who had been called forth by the War of Independence, and their moral influence was very considerable. Their cause was, moreover, favored by circumstances. The ruin of the Confederation had impressed the people with a dread of anarchy, and the Federalists did not fail to profit by this transient disposition of the multitude. For ten or twelve years they were at the head of affairs, and they were able to apply some, though not all, of their principles; for the hostile current was becoming from day to day too violent to be checked or stemmed. In 1801 the Republicans got possession of the Government; Thomas Jefferson was named President; and he increased the influence of their party by the weight of his celebrity, the greatness of his talents, and the immense extent of his popularity.

The means by which the Federalists had maintained their position were artificial, and their resources were temporary; it was by the virtues or the talents of their leaders that they had risen to power. When the Republicans attained to that lofty station, their opponents were overwhelmed by utter defeat. An immense majority declared itself against the retiring party, and the Federalists found themselves in so small a minority that they at once despaired of their future success. From that moment the Republican or Democratic party has proceeded from conquest to conquest, until it has acquired absolute supremacy in the country. The Federalists, perceiving that they were vanquished without resource, and isolated in the midst of the nation, fell into two divisions, of which one joined the victorious Republicans, and the other abandoned its rallying-point and its name. Many years have already elapsed since they ceased to exist as a party.

The accession of the Federalists to power was, in my opinion, one of the most fortunate incidents which accompanied the formation of the great American Union; they resisted the inevitable propensities of their age and

of the country. But whether their theories were good or bad, they had the effect of being inapplicable, as a system, to the society which they professed to govern, and that which occurred under the auspices of Jefferson must therefore have taken place sooner or later. But their Government gave the new republic time to acquire a certain stability, and afterwards to support the rapid growth of the very doctrines which they had combated. A considerable number of their principles were in point of fact embodied in the political creed of their opponents; and the Federal Constitution which subsists at the present day is a lasting monument of their patriotism and their wisdom.

Great political parties are not, then, to be met with in the United States at the present time. Parties, indeed, may be found which threaten the future tranquillity of the Union; but there are none which seem to contest the present form of Government or the present course of society. The parties by which the Union is menaced do not rest upon abstract principles, but upon temporal interests. These interests, disseminated in the provinces of so vast an empire, may be said to constitute rival nations rather than parties. Thus, upon a recent occasion, the North contended for the system of commercial prohibition, and the South took up arms in favor of free trade, simply because the North is a manufacturing and the South an agricultural district; and that the restrictive system which was profitable to the one was prejudicial to the other.

In the absence of great parties, the United States abound with lesser controversies; and public opinion is divided into a thousand minute shades of difference upon questions of very little moment. The pains which are taken to create parties are inconceivable, and at the present day it is no easy task. In the United States there is no religious animosity, because all religion is respected, and no sect is predominant; there is no jealousy of rank, because the people is everything, and none can contest its authority; lastly, there is no public indigence to supply the means of agitation, because the physical position of the country opens so wide a field to industry that man is able to accomplish the most surprising undertakings with his own native resources. Nevertheless, ambitious men are interested in the creation of parties, since it is difficult to eject a person from authority upon the mere ground that his place is coveted by others. The skill of the actors in the

political world lies therefore in the art of creating parties. A political aspirant in the United States begins by discriminating his own interest, and by calculating upon those interests which may be collected around and amalgamated with it; he then contrives to discover some doctrine or some principle which may suit the purposes of this new association, and which he adopts in order to bring forward his party and to secure his popularity; just as the imprimatur of a King was in former days incorporated with the volume which it authorized, but to which it nowise belonged. When these preliminaries are terminated, the new party is ushered into the political world.

All the domestic controversies of the Americans at first appear to a stranger to be so incomprehensible and so puerile that he is at a loss whether to pity a people which takes such arrant trifles in good earnest, or to envy the happiness which enables it to discuss them. But when he comes to study, the secret propensities which govern the factions of America, he easily perceives that the greater part of them are more or less connected with one or the other of those two divisions which have always existed in free communities. The deeper we penetrate into the working of these parties, the more do we perceive that the object of the one is to limit, and that of the other to extend, the popular authority. I do not assert that the ostensible end, or even that the secret aim, of American parties is to promote the rule of aristocracy or democracy in the country; but I affirm that aristocratic or democratic passions may easily be detected at the bottom of all parties, and that, although they escape a superficial observation, they are the main point and the very soul of every faction in the United States.

To quote a recent example. When the President attacked the Bank, the country was excited and parties were formed; the well-informed classes rallied round the Bank, the common people round the President. But it must not be imagined that the people had formed a rational opinion upon a question which offers so many difficulties to the most experienced statesmen. The Bank is a great establishment which enjoys an independent existence, and the people, accustomed to make and unmake whatsoever it pleases, is startled to meet with this obstacle to its authority. In the midst of the perpetual fluctuation of society the community is irritated by so permanent an institution, and is led to attack it in order to see whether it can

be shaken and controlled, like all the other institutions of the country.

### **Remains of the Aristocratic Party in the United States**

Secret opposition of wealthy individuals to democracy—Their retirement—Their taste for exclusive pleasures and for luxury at home—Their simplicity abroad—Their affected condescension towards the people.

It sometimes happens in a people amongst which various opinions prevail that the balance of the several parties is lost, and one of them obtains an irresistible preponderance, overpowers all obstacles, harasses its opponents, and appropriates all the resources of society to its own purposes. The vanquished citizens despair of success and they conceal their dissatisfaction in silence and in general apathy. The nation seems to be governed by a single principle, and the prevailing party assumes the credit of having restored peace and unanimity to the country. But this apparent unanimity is merely a cloak to alarming dissensions and perpetual opposition.

This is precisely what occurred in America; when the democratic party got the upper hand, it took exclusive possession of the conduct of affairs, and from that time the laws and the customs of society have been adapted to its caprices. At the present day the more affluent classes of society are so entirely removed from the direction of political affairs in the United States that wealth, far from conferring a right to the exercise of power, is rather an obstacle than a means of attaining to it. The wealthy members of the community abandon the lists, through unwillingness to contend, and frequently to contend in vain, against the poorest classes of their fellow citizens. They concentrate all their enjoyments in the privacy of their homes, where they occupy a rank which cannot be assumed in public; and they constitute a private society in the State, which has its own tastes and its own pleasures. They submit to this state of things as an irremediable evil, but they are careful not to show that they are galled by its continuance; it is even not uncommon to hear them laud the delights of a republican

government, and the advantages of democratic institutions when they are in public. Next to hating their enemies, men are most inclined to flatter them.

Mark, for instance, that opulent citizen, who is as anxious as a Jew of the Middle Ages to conceal his wealth. His dress is plain, his demeanor unassuming; but the interior of his dwelling glitters with luxury, and none but a few chosen guests whom he haughtily styles his equals are allowed to penetrate into this sanctuary. No European noble is more exclusive in his pleasures, or more jealous of the smallest advantages which his privileged station confers upon him. But the very same individual crosses the city to reach a dark counting-house in the centre of traffic, where every one may accost him who pleases. If he meets his cobbler upon the way, they stop and converse; the two citizens discuss the affairs of the State in which they have an equal interest, and they shake hands before they part.

But beneath this artificial enthusiasm, and these obsequious attentions to the preponderating power, it is easy to perceive that the wealthy members of the community entertain a hearty distaste to the democratic institutions of their country. The populace is at once the object of their scorn and of their fears. If the maladministration of the democracy ever brings about a revolutionary crisis, and if monarchical institutions ever become practicable in the United States, the truth of what I advance will become obvious.

The two chief weapons which parties use in order to ensure success are the public press and the formation of associations.

## **Chapter 11: Liberty of the Press in the United States**

Difficulty of restraining the liberty of the press—Particular reasons which some nations have to cherish this liberty—The liberty of the press a necessary consequence of the sovereignty of the people as it is understood in America—Violent language of the periodical press in the United States—Propensities of the periodical press—Illustrated by the United States—Opinion of the Americans upon the repression of the abuse of the liberty of

the press by judicial prosecutions—Reasons for which the press is less powerful in America than in France.

The influence of the liberty of the press does not affect political opinions alone, but it extends to all the Opinions of men, and it modifies customs as well as laws. In another part of this work I shall attempt to determinate the degree of influence which the liberty of the press has exercised upon civil society in the United States, and to point out the direction which it has given to the ideas, as well as the tone which it has imparted to the character and the feelings, of the Anglo-Americans, but at present I purpose simply to examine the effects produced by the liberty of the press in the political world.

I confess that I do not entertain that firm and complete attachment to the liberty of the press which things that are supremely good in their very nature are wont to excite in the mind; and I approve of it more from a recollection of the evils it prevents than from a consideration of the advantages it ensures.

If any one could point out an intermediate and yet a tenable position between the complete independence and the entire subjection of the public expression of Opinion, I should perhaps be inclined to adopt it; but the difficulty is to discover this position. If it is your intention to correct the abuses of unlicensed printing and to restore the use of orderly language, you may in the first instance try the offender by a jury; but if the jury acquits him, the opinion which was that of a single individual becomes the opinion of the country at large. Too much and too little has therefore hitherto been done. If you proceed, you must bring the delinquent before a court of permanent judges. But even here the cause must be heard before it can be decided; and the very principles which no book would have ventured to avow are blazoned forth in the pleadings, and what was obscurely hinted at in a single composition is then repeated in a multitude of other publications. The language in which a thought is embodied is the mere carcass of the thought, and not the idea itself; tribunals may condemn the form, but the sense and spirit of the work is too subtle for their authority. Too much has still been done to recede, too little to attain your end; you must therefore

proceed. If you establish a censorship of the press, the tongue of the public speaker will still make itself heard, and you have only increased the mischief. The powers of thought do not rely, like the powers of physical strength, upon the number of their mechanical agents, nor can a host of authors be reckoned like the troops which compose an army; on the contrary, the authority of a principle is often increased by the smallness of the number of men by whom it is expressed. The words of a strong-minded man, which penetrate amidst the passions of a listening assembly, have more power than the vociferations of a thousand orators; and if it be allowed to speak freely in any public place, the consequence is the same as if free speaking was allowed in every village. The liberty of discourse must therefore be destroyed as well as the liberty of the press; this is the necessary term of your efforts; but if your object was to repress the abuses of liberty, they have brought you to the feet of a despot. You have been led from the extreme of independence to the extreme of subjection without meeting with a single tenable position for shelter or repose.

There are certain nations which have peculiar reasons for cherishing the liberty of the press, independently of the general motives which I have just pointed out. For in certain countries which profess to enjoy the privileges of freedom every individual agent of the Government may violate the laws with impunity, since those whom he oppresses cannot prosecute him before the courts of justice. In this case the liberty of the press is not merely a guarantee, but it is the only guarantee, of their liberty and their security which the citizens possess. If the rulers of these nations propose to abolish the independence of the press, the people would be justified in saying: Give us the right of prosecuting your offences before the ordinary tribunals, and perhaps we may then waive our right of appeal to the tribunal of public opinion.

But in the countries in which the doctrine of the sovereignty of the people ostensibly prevails, the censorship of the press is not only dangerous, but it is absurd. When the right of every citizen to co-operate in the government of society is acknowledged, every citizen must be presumed to possess the power of discriminating between the different opinions of his contemporaries, and of appreciating the different facts from which inferences may be drawn. The sovereignty of the people and the liberty of

the press may therefore be looked upon as correlative institutions; just as the censorship of the press and universal suffrage are two things which are irreconcilably opposed, and which cannot long be retained among the institutions of the same people. Not a single individual of the twelve millions who inhabit the territory of the United States has as yet dared to propose any restrictions to the liberty of the press. The first newspaper over which I cast my eyes, upon my arrival in America, contained the following article:

In all this affair the language of Jackson has been that of a heartless despot, solely occupied with the preservation of his own authority. Ambition is his crime, and it will be his punishment too: intrigue is his native element, and intrigue will confound his tricks, and will deprive him of his power: he governs by means of corruption, and his immoral practices will redound to his shame and confusion. His conduct in the political arena has been that of a shameless and lawless gamester. He succeeded at the time, but the hour of retribution approaches, and he will be obliged to disgorge his winnings, to throw aside his false dice, and to end his days in some retirement, where he may curse his madness at his leisure; for repentance is a virtue with which his heart is likely to remain forever

It is not uncommonly imagined in France that the virulence of the press originates in the uncertain social condition, in the political excitement, and the general sense of consequent evil which prevail in that country; and it is therefore supposed that as soon as society has resumed a certain degree of composure the press will abandon its present vehemence. I am inclined to think that the above causes explain the reason of the extraordinary ascendancy it has acquired over the nation, but that they do not exercise much influence upon the tone of its language. The periodical press appears to me to be actuated by passions and propensities independent of the circumstances in which it is placed, and the present position of America corroborates this Opinion.

America is perhaps, at this moment, the country of the whole world which contains the fewest germs of revolution; but the press is not less destructive in its principles than in France, and it displays the same violence without the same reasons for indignation. In America, as in France, it constitutes a

singular power, so strangely composed of mingled good and evil that it is at the same time indispensable to the existence of freedom, and nearly incompatible with the maintenance of public order. Its power is certainly much greater in France than in the United States; though nothing is more rare in the latter country than to hear of a prosecution having been instituted against it. The reason of this is perfectly simple: the Americans, having once admitted the doctrine of the sovereignty of the people, apply it with perfect consistency. It was never their intention to found a permanent state of things with elements which undergo daily modifications; and there is consequently nothing criminal in an attack upon the existing laws, provided it be not attended with a violent infraction of them. They are moreover of opinion that courts of justice are unable to check the abuses of the press; and that as the subtilty of human language perpetually eludes the severity of judicial analysis, offences of this nature are apt to escape the hand which attempts to apprehend them. They hold that to act with efficacy upon the press it would be necessary to find a tribunal, not only devoted to the existing order of things, but capable of surmounting the influence of public opinion; a tribunal which should conduct its proceedings without publicity, which should pronounce its decrees without assigning its motives, and punish the intentions even more than the language of an author. Whosoever should have the power of creating and maintaining a tribunal of this kind would waste his time in prosecuting the liberty of the press; for he would be the supreme master of the whole community, and he would be as free to rid himself of the authors as of their writings. In this question, therefore, there is no medium between servitude and extreme license; in order to enjoy the inestimable benefits which the liberty of the press ensures, it is necessary to submit to the inevitable evils which it engenders. To expect to acquire the former and to escape the latter is to cherish one of those illusions which commonly mislead nations in their times of sickness, when, tired with faction and exhausted by effort, they attempt to combine hostile opinions and contrary principles upon the same soil.

The small influence of the American journals is attributable to several reasons, amongst which are the following:

The liberty of writing, like all other liberty, is most formidable when it is a novelty; for a people which has never been accustomed to co-operate in the

conduct of State affairs places implicit confidence in the first tribune who arouses its attention. The Anglo-Americans have enjoyed this liberty ever since the foundation of the settlements; moreover, the press cannot create human passions by its own power, however skilfully it may kindle them where they exist. In America politics are discussed with animation and a varied activity, but they rarely touch those deep passions which are excited whenever the positive interest of a part of the community is impaired: but in the United States the interests of the community are in a most prosperous condition. A single glance upon a French and an American newspaper is sufficient to show the difference which exists between the two nations on this head. In France the space allotted to commercial advertisements is very limited, and the intelligence is not considerable, but the most essential part of the journal is that which contains the discussion of the politics of the day. In America three-quarters of the enormous sheet which is set before the reader are filled with advertisements, and the remainder is frequently occupied by political intelligence or trivial anecdotes: it is only from time to time that one finds a corner devoted to passionate discussions like those with which the journalists of France are wont to indulge their readers.

It has been demonstrated by observation, and discovered by the innate sagacity of the pettiest as well as the greatest of despots, that the influence of a power is increased in proportion as its direction is rendered more central. In France the press combines a twofold centralization; almost all its power is centred in the same spot, and vested in the same hands, for its organs are far from numerous. The influence of a public press thus constituted, upon a sceptical nation, must be unbounded. It is an enemy with which a Government may sign an occasional truce, but which it is difficult to resist for any length of time.

Neither of these kinds of centralization exists in America. The United States have no metropolis; the intelligence as well as the power of the country are dispersed abroad, and instead of radiating from a point, they cross each other in every direction; the Americans have established no central control over the expression of opinion, any more than over the conduct of business. These are circumstances which do not depend on human foresight; but it is owing to the laws of the Union that there are no licenses to be granted to printers, no securities demanded from editors as in France, and no stamp

duty as in France and formerly in England. The consequence of this is that nothing is easier than to set up a newspaper, and a small number of readers suffices to defray the expenses of the editor.

The number of periodical and occasional publications which appears in the United States actually surpasses belief. The most enlightened Americans attribute the subordinate influence of the press to this excessive dissemination; and it is adopted as an axiom of political science in that country that the only way to neutralize the effect of public journals is to multiply them indefinitely. I cannot conceive that a truth which is so self-evident should not already have been more generally admitted in Europe; it is comprehensible that the persons who hope to bring about revolutions by means of free press should be desirous of confining its action to a few powerful organs, but it is perfectly incredible that the partisans of the existing state of things, and the natural supporters of the law, should attempt to diminish the influence of the press by concentrating its authority. The Governments of Europe seem to treat the press with the courtesy of the knights of old; they are anxious to furnish it with the same central power which they have found to be so trusty a weapon, in order to enhance the glory of their resistance to its attacks.

In America there is scarcely a hamlet which has not its own newspaper. It may readily be imagined that neither discipline nor unity of design can be communicated to so multifarious a host, and each one is consequently led to fight under his own standard. All the political journals of the United States are indeed arrayed on the side of the administration or against it; but they attack and defend in a thousand different ways. They cannot succeed in forming those great currents of opinion which overwhelm the most solid obstacles. This division of the influence of the press produces a variety of other consequences which are scarcely less remarkable. The facility with which journals can be established induces a multitude of individuals to take a part in them; but as the extent of competition precludes the possibility of considerable profit, the most distinguished classes of society are rarely led to engage in these undertakings. But such is the number of the public prints that, even if they were a source of wealth, writers of ability could not be found to direct them all. The journalists of the United States are usually placed in a very humble position, with a scanty education and a vulgar turn

of mind. The will of the majority is the most general of laws, and it establishes certain habits which form the characteristics of each peculiar class of society; thus it dictates the etiquette practised at courts and the etiquette of the bar. The characteristics of the French journalist consist in a violent, but frequently an eloquent and lofty, manner of discussing the politics of the day; and the exceptions to this habitual practice are only occasional. The characteristics of the American journalist consist in an open and coarse appeal to the passions of the populace; and he habitually abandons the principles of political science to assail the characters of individuals, to track them into private life, and disclose all their weaknesses and errors.

Nothing can be more deplorable than this abuse of the powers of thought; I shall have occasion to point out hereafter the influence of the newspapers upon the taste and the morality of the American people, but my present subject exclusively concerns the political world. It cannot be denied that the effects of this extreme license of the press tend indirectly to the maintenance of public order. The individuals who are already in the possession of a high station in the esteem of their fellow-citizens are afraid to write in the newspapers, and they are thus deprived of the most powerful instrument which they can use to excite the passions of the multitude to their own advantage.

The personal opinions of the editors have no kind of weight in the eyes of the public: the only use of a journal is, that it imparts the knowledge of certain facts, and it is only by altering or distorting those facts that a journalist can contribute to the support of his own views.

But although the press is limited to these resources, its influence in America is immense. It is the power which impels the circulation of political life through all the districts of that vast territory. Its eye is constantly open to detect the secret springs of political designs, and to summon the leaders of all parties to the bar of public opinion. It rallies the interests of the community round certain principles, and it draws up the creed which factions adopt; for it affords a means of intercourse between parties which hear, and which address each other without ever having been in immediate contact. When a great number of the organs of the press adopt the same line

of conduct, their influence becomes irresistible; and public opinion, when it is perpetually assailed from the same side, eventually yields to the attack. In the United States each separate journal exercises but little authority, but the power of the periodical press is only second to that of the people.

The opinions established in the United States under the empire of the liberty of the press are frequently more firmly rooted than those which are formed elsewhere under the sanction of a censor.

In the United States the democracy perpetually raises fresh individuals to the conduct of public affairs; and the measures of the administration are consequently seldom regulated by the strict rules of consistency or of order. But the general principles of the Government are more stable, and the opinions most prevalent in society are generally more durable than in many other countries. When once the Americans have taken up an idea, whether it be well or ill founded, nothing is more difficult than to eradicate it from their minds. The same tenacity of opinion has been observed in England, where, for the last century, greater freedom of conscience and more invincible prejudices have existed than in all the other countries of Europe. I attribute this consequence to a cause which may at first sight appear to have a very opposite tendency, namely, to the liberty of the press. The nations amongst which this liberty exists are as apt to cling to their opinions from pride as from conviction. They cherish them because they hold them to be just, and because they exercised their own free-will in choosing them; and they maintain them not only because they are true, but because they are their own. Several other reasons conduce to the same end.

It was remarked by a man of genius that "ignorance lies at the two ends of knowledge." Perhaps it would have been more correct to have said, that absolute convictions are to be met with at the two extremities, and that doubt lies in the middle; for the human intellect may be considered in three distinct states, which frequently succeed one another. A man believes implicitly, because he adopts a proposition without inquiry. He doubts as soon as he is assailed by the objections which his inquiries may have aroused. But he frequently succeeds in satisfying these doubts, and then he begins to believe afresh: he no longer lays hold on a truth in its most shadowy and uncertain form, but he sees it clearly before him, and he

advances onwards by the light it gives him.

When the liberty of the press acts upon men who are in the first of these three states, it does not immediately disturb their habit of believing implicitly without investigation, but it constantly modifies the objects of their intuitive convictions. The human mind continues to discern but one point upon the whole intellectual horizon, and that point is in continual motion. Such are the symptoms of sudden revolutions, and of the misfortunes which are sure to befall those generations which abruptly adopt the unconditional freedom of the press.

The circle of novel ideas is, however, soon terminated; the touch of experience is upon them, and the doubt and mistrust which their uncertainty produces become universal. We may rest assured that the majority of mankind will either believe they know not wherefore, or will not know what to believe. Few are the beings who can ever hope to attain to that state of rational and independent conviction which true knowledge can beget in defiance of the attacks of doubt.

It has been remarked that in times of great religious fervor men sometimes change their religious opinions; whereas in times of general scepticism everyone clings to his own persuasion. The same thing takes place in politics under the liberty of the press. In countries where all the theories of social science have been contested in their turn, the citizens who have adopted one of them stick to it, not so much because they are assured of its excellence, as because they are not convinced of the superiority of any other. In the present age men are not very ready to die in defence of their Opinions, but they are rarely inclined to change them; and there are fewer martyrs as well as fewer apostates.

Another still more valid reason may yet be adduced: when no abstract opinions are looked upon as certain, men cling to the mere propensities and external interests of their position, which are naturally more tangible and more permanent than any opinions in the world.

It is not a question of easy solution whether aristocracy or democracy is most fit to govern a country. But it is certain that democracy annoys one

part of the community, and that aristocracy oppresses another part. When the question is reduced to the simple expression of the struggle between poverty and wealth, the tendency of each side of the dispute becomes perfectly evident without further controversy.

## **Chapter 12: Political Associations in the United States**

Daily use which the Anglo-Americans make of the right of association—  
Three kinds of political associations—In what manner the Americans apply the representative system to associations—Dangers resulting to the State—  
Great Convention of 1831 relative to the Tariff—Legislative character of this Convention—Why the unlimited exercise of the right of association is less dangerous in the United States than elsewhere—Why it may be looked upon as necessary—Utility of associations in a democratic people.

IN no country in the world has the principle of association been more successfully used, or more unsparingly applied to a multitude of different objects, than in America. Besides the permanent associations which are established by law under the names of townships, cities, and counties, a vast number of others are formed and maintained by the agency of private individuals.

The citizen of the United States is taught from his earliest infancy to rely upon his own exertions in order to resist the evils and the difficulties of life; he looks upon social authority with an eye of mistrust and anxiety, and he only claims its assistance when he is quite unable to shift without it. This habit may even be traced in the schools of the rising generation, where the children in their games are wont to submit to rules which they have themselves established, and to punish misdemeanors which they have themselves defined. The same spirit pervades every act of social life. If a stoppage occurs in a thoroughfare, and the circulation of the public is hindered, the neighbors immediately constitute a deliberative body; and this extemporaneous assembly gives rise to an executive power which remedies

the inconvenience before anybody has thought of recurring to an authority superior to that of the persons immediately concerned. If the public pleasures are concerned, an association is formed to provide for the splendor and the regularity of the entertainment. Societies are formed to resist enemies which are exclusively of a moral nature, and to diminish the vice of intemperance: in the United States associations are established to promote public order, commerce, industry, morality, and religion; for there is no end which the human will, seconded by the collective exertions of individuals, despairs of attaining.

I shall hereafter have occasion to show the effects of association upon the course of society, and I must confine myself for the present to the political world. When once the right of association is recognized, the citizens may employ it in several different ways.

An association consists simply in the public assent which a number of individuals give to certain doctrines, and in the engagement which they contract to promote the spread of those doctrines by their exertions. The right of association with these views is very analogous to the liberty of unlicensed writing; but societies thus formed possess more authority than the press. When an opinion is represented by a society, it necessarily assumes a more exact and explicit form. It numbers its partisans, and compromises their welfare in its cause: they, on the other hand, become acquainted with each other, and their zeal is increased by their number. An association unites the efforts of minds which have a tendency to diverge in one single channel, and urges them vigorously towards one single end which it points out.

The second degree in the right of association is the power of meeting. When an association is allowed to establish centres of action at certain important points in the country, its activity is increased and its influence extended. Men have the opportunity of seeing each other; means of execution are more readily combined, and opinions are maintained with a degree of warmth and energy which written language cannot approach.

Lastly, in the exercise of the right of political association, there is a third degree: the partisans of an opinion may unite in electoral bodies, and

choose delegates to represent them in a central assembly. This is, properly speaking, the application of the representative system to a party.

Thus, in the first instance, a society is formed between individuals professing the same Opinion, and the tie which keeps it together is of a purely intellectual nature; in the second case, small assemblies are formed which only represent a fraction of the party. Lastly, in the third case, they constitute a separate nation in the midst of the nation, a government within the Government. Their delegates, like the real delegates of the majority, represent the entire collective force of their party; and they enjoy a certain degree of that national dignity and great influence which belong to the chosen representatives of the people. It is true that they have not the right of making the laws, but they have the power of attacking those which are in being, and of drawing up beforehand those which they may afterwards cause to be adopted.

If, in a people which is imperfectly accustomed to the exercise of freedom, or which is exposed to violent political passions, a deliberating minority, which confines itself to the contemplation of future laws, be placed in juxtaposition to the legislative majority, I cannot but believe that public tranquillity incurs very great risks in that nation. There is doubtless a very wide difference between proving that one law is in itself better than another and proving that the former ought to be substituted for the latter. But the imagination of the populace is very apt to overlook this difference, which is so apparent to the minds of thinking men. It sometimes happens that a nation is divided into two nearly equal parties, each of which affects to represent the majority. If, in immediate contiguity to the directing power, another power be established, which exercises almost as much moral authority as the former, it is not to be believed that it will long be content to speak without acting; or that it will always be restrained by the abstract consideration of the nature of associations which are meant to direct but not to enforce opinions, to suggest but not to make the laws.

The more we consider the independence of the press in its principal consequences, the more are we convinced that it is the chief and, so to speak, the constitutive element of freedom in the modern world. A nation which is determined to remain free is therefore right in demanding the

unrestrained exercise of this independence. But the unrestrained liberty of political association cannot be entirely assimilated to the liberty of the press. The one is at the same time less necessary and more dangerous than the other. A nation may confine it within certain limits without forfeiting any part of its self-control; and it may sometimes be obliged to do so in order to maintain its own authority.

In America the liberty of association for political purposes is unbounded. An example will show in the clearest light to what an extent this privilege is tolerated.

The question of the tariff, or of free trade, produced a great manifestation of party feeling in America; the tariff was not only a subject of debate as a matter of opinion, but it exercised a favorable or a prejudicial influence upon several very powerful interests of the States. The North attributed a great portion of its prosperity, and the South all its sufferings, to this system; insomuch that for a long time the tariff was the sole source of the political animosities which agitated the Union.

In 1831, when the dispute was raging with the utmost virulence, a private citizen of Massachusetts proposed to all the enemies of the tariff, by means of the public prints, to send delegates to Philadelphia in order to consult together upon the means which were most fitted to promote freedom of trade. This proposal circulated in a few days from Maine to New Orleans by the power of the printing-press: the opponents of the tariff adopted it with enthusiasm; meetings were formed on all sides, and delegates were named. The majority of these individuals were well known, and some of them had earned a considerable degree of celebrity. South Carolina alone, which afterwards took up arms in the same cause, sent sixty-three delegates. On October 1, 1831, this assembly, which according to the American custom had taken the name of a Convention, met at Philadelphia; it consisted of more than two hundred members. Its debates were public, and they at once assumed a legislative character; the extent of the powers of Congress, the theories of free trade, and the different clauses of the tariff, were discussed in turn. At the end of ten days' deliberation the Convention broke up, after having published an address to the American people, in which it declared:

I. That Congress had not the right of making a tariff, and that the existing tariff was unconstitutional;

II. That the prohibition of free trade was prejudicial to the interests of all nations, and to that of the American people in particular.

It must be acknowledged that the unrestrained liberty of political association has not hitherto produced, in the United States, those fatal consequences which might perhaps be expected from it elsewhere. The right of association was imported from England, and it has always existed in America; so that the exercise of this privilege is now amalgamated with the manners and customs of the people. At the present time the liberty of association is become a necessary guarantee against the tyranny of the majority. In the United States, as soon as a party is become preponderant, all public authority passes under its control; its private supporters occupy all the places, and have all the force of the administration at their disposal. As the most distinguished partisans of the other side of the question are unable to surmount the obstacles which exclude them from power, they require some means of establishing themselves upon their own basis, and of opposing the moral authority of the minority to the physical power which domineers over it. Thus a dangerous expedient is used to obviate a still more formidable danger.

The omnipotence of the majority appears to me to present such extreme perils to the American Republics that the dangerous measure which is used to repress it seems to be more advantageous than prejudicial. And here I am about to advance a proposition which may remind the reader of what I said before in speaking of municipal freedom: There are no countries in which associations are more needed, to prevent the despotism of faction or the arbitrary power of a prince, than those which are democratically constituted. In aristocratic nations the body of the nobles and the more opulent part of the community are in themselves natural associations, which act as checks upon the abuses of power. In countries in which these associations do not exist, if private individuals are unable to create an artificial and a temporary substitute for them, I can imagine no permanent

protection against the most galling tyranny; and a great people may be oppressed by a small faction, or by a single individual, with impunity.

The meeting of a great political Convention (for there are Conventions of all kinds), which may frequently become a necessary measure, is always a serious occurrence, even in America, and one which is never looked forward to, by the judicious friends of the country, without alarm. This was very perceptible in the Convention of 1831, at which the exertions of all the most distinguished members of the Assembly tended to moderate its language, and to restrain the subjects which it treated within certain limits. It is probable, in fact, that the Convention of 1831 exercised a very great influence upon the minds of the malcontents, and prepared them for the open revolt against the commercial laws of the Union which took place in 1832.

It cannot be denied that the unrestrained liberty of association for political purposes is the privilege which a people is longest in learning how to exercise. If it does not throw the nation into anarchy, it perpetually augments the chances of that calamity. On one point, however, this perilous liberty offers a security against dangers of another kind; in countries where associations are free, secret societies are unknown. In America there are numerous factions, but no conspiracies.

Different ways in which the right of association is understood in Europe and in the United States—Different use which is made of it.

The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow-creatures, and of acting in common with them. I am therefore led to conclude that the right of association is almost as inalienable as the right of personal liberty. No legislator can attack it without impairing the very foundations of society. Nevertheless, if the liberty of association is a fruitful source of advantages and prosperity to some nations, it may be perverted or carried to excess by others, and the element of life may be changed into an element of destruction. A comparison of the different methods which associations pursue in those countries in which they are managed with discretion, as well as in those where liberty degenerates into license, may perhaps be thought

useful both to governments and to parties.

The greater part of Europeans look upon an association as a weapon which is to be hastily fashioned, and immediately tried in the conflict. A society is formed for discussion, but the idea of impending action prevails in the minds of those who constitute it: it is, in fact, an army; and the time given to parley serves to reckon up the strength and to animate the courage of the host, after which they direct their march against the enemy. Resources which lie within the bounds of the law may suggest themselves to the persons who compose it as means, but never as the only means, of success.

Such, however, is not the manner in which the right of association is understood in the United States. In America the citizens who form the minority associate, in order, in the first place, to show their numerical strength, and so to diminish the moral authority of the majority; and, in the second place, to stimulate competition, and to discover those arguments which are most fitted to act upon the majority; for they always entertain hopes of drawing over their opponents to their own side, and of afterwards disposing of the supreme power in their name. Political associations in the United States are therefore peaceable in their intentions, and strictly legal in the means which they employ; and they assert with perfect truth that they only aim at success by lawful expedients.

The difference which exists between the Americans and ourselves depends on several causes. In Europe there are numerous parties so diametrically opposed to the majority that they can never hope to acquire its support, and at the same time they think that they are sufficiently strong in themselves to struggle and to defend their cause. When a party of this kind forms an association, its object is, not to conquer, but to fight. In America the individuals who hold opinions very much opposed to those of the majority are no sort of impediment to its power, and all other parties hope to win it over to their own principles in the end. The exercise of the right of association becomes dangerous in proportion to the impossibility which excludes great parties from acquiring the majority. In a country like the United States, in which the differences of opinion are mere differences of hue, the right of association may remain unrestrained without evil consequences. The inexperience of many of the European nations in the

enjoyment of liberty leads them only to look upon the liberty of association as a right of attacking the Government. The first notion which presents itself to a party, as well as to an individual, when it has acquired a consciousness of its own strength, is that of violence: the notion of persuasion arises at a later period and is only derived from experience. The English, who are divided into parties which differ most essentially from each other, rarely abuse the right of association, because they have long been accustomed to exercise it. In France the passion for war is so intense that there is no undertaking so mad, or so injurious to the welfare of the State, that a man does not consider himself honored in defending it, at the risk of his life.

But perhaps the most powerful of the causes which tend to mitigate the excesses of political association in the United States is Universal Suffrage. In countries in which universal suffrage exists the majority is never doubtful, because neither party can pretend to represent that portion of the community which has not voted. The associations which are formed are aware, as well as the nation at large, that they do not represent the majority: this is, indeed, a condition inseparable from their existence; for if they did represent the preponderating power, they would change the law instead of soliciting its reform. The consequence of this is that the moral influence of the Government which they attack is very much increased, and their own power is very much enfeebled.

In Europe there are few associations which do not affect to represent the majority, or which do not believe that they represent it. This conviction or this pretension tends to augment their force amazingly, and contributes no less to legalize their measures. Violence may seem to be excusable in defence of the cause of oppressed right. Thus it is, in the vast labyrinth of human laws, that extreme liberty sometimes corrects the abuses of license, and that extreme democracy obviates the dangers of democratic government. In Europe, associations consider themselves, in some degree, as the legislative and executive councils of the people, which is unable to speak for itself. In America, where they only represent a minority of the nation, they argue and they petition.

The means which the associations of Europe employ are in accordance with the end which they propose to obtain. As the principal aim of these bodies is to act, and not to debate, to fight rather than to persuade, they are naturally led to adopt a form of organization which differs from the ordinary customs of civil bodies, and which assumes the habits and the maxims of military life. They centralize the direction of their resources as much as possible, and they intrust the power of the whole party to a very small number of leaders.

The members of these associations respond to a watchword, like soldiers on duty; they profess the doctrine of passive obedience; say rather, that in uniting together they at once abjure the exercise of their own judgment and free will; and the tyrannical control which these societies exercise is often far more insupportable than the authority possessed over society by the Government which they attack. Their moral force is much diminished by these excesses, and they lose the powerful interest which is always excited by a struggle between oppressors and the oppressed. The man who in given cases consents to obey his fellows with servility, and who submits his activity and even his opinions to their control, can have no claim to rank as a free citizen.

The Americans have also established certain forms of government which are applied to their associations, but these are invariably borrowed from the forms of the civil administration. The independence of each individual is formally recognized; the tendency of the members of the association points, as it does in the body of the community, towards the same end, but they are not obliged to follow the same track. No one abjures the exercise of his reason and his free will; but every one exerts that reason and that will for the benefit of a common undertaking.

## **Chapter 13: Government of the Democracy in America**

[Universal Suffrage](#)

Choice of the People, and Instinctive Preferences of the American Democracy.

Causes Which May Partly Correct These Tendencies of the Democracy.

Influence Which the American Democracy has Exercised on the Laws Relating to Elections

Public Officers Under the Control of the Democracy in America

Arbitrary Power of Magistrates Under the Rule of the American Democracy.

Instability of the Administration in the United States

Charges Levied by the State Under the Rule of the American Democracy.

Tendencies of the American Democracy as Regards the Salaries of Public Officers

Difficulty of Distinguishing the Causes Which Contribute to the Economy of the American Government

Whether the Expenditure of the United States Can Be Compared to That of France

Corruption and Vices of the Rulers in a Democracy, and Consequent Effects Upon Public Morality.

Efforts of Which a Democracy is Capable

Self-Control of the American Democracy.

Conduct of Foreign Affairs by the American Democracy.

I AM well aware of the difficulties which attend this part of my subject, but although every expression which I am about to make use of may clash, upon some one point, with the feelings of the different parties which divide my country, I shall speak my opinion with the most perfect openness.

In Europe we are at a loss how to judge the true character and the more permanent propensities of democracy, because in Europe two conflicting principles exist, and we do not know what to attribute to the principles themselves, and what to refer to the passions which they bring into collision. Such, however, is not the case in America; there the people reigns without any obstacle, and it has no perils to dread and no injuries to avenge. In America, democracy is swayed by its own free propensities; its course is natural and its activity is unrestrained; the United States consequently afford the most favorable opportunity of studying its real character. And to no people can this inquiry be more vitally interesting than to the French nation, which is blindly driven onwards by a daily and irresistible impulse towards a state of things which may prove either despotic or republican, but which will assuredly be democratic.

### **Universal Suffrage**

I have already observed that universal suffrage has been adopted in all the States of the Union; it consequently occurs amongst different populations which occupy very different positions in the scale of society. I have had opportunities of observing its effects in different localities, and amongst races of men who are nearly strangers to each other by their language, their religion, and their manner of life; in Louisiana as well as in New England, in Georgia and in Canada. I have remarked that Universal Suffrage is far from producing in America either all the good or all the evil consequences which are assigned to it in Europe, and that its effects differ very widely from those which are usually attributed to it.

## **Choice of the People, and Instinctive Preferences of the American Democracy**

In the United States the most able men are rarely placed at the head of affairs—Reason of this peculiarity—The envy which prevails in the lower orders of France against the higher classes is not a French, but a purely democratic sentiment—For what reason the most distinguished men in America frequently seclude themselves from public affairs.

Many people in Europe are apt to believe without saying it, or to say without believing it, that one of the great advantages of universal suffrage is, that it entrusts the direction of public affairs to men who are worthy of the public confidence. They admit that the people is unable to govern for itself, but they aver that it is always sincerely disposed to promote the welfare of the State, and that it instinctively designates those persons who are animated by the same good wishes, and who are the most fit to wield the supreme authority. I confess that the observations I made in America by no means coincide with these opinions. On my arrival in the United States I was surprised to find so much distinguished talent among the subjects, and so little among the heads of the Government. It is a well-authenticated fact, that at the present day the most able men in the United States are very rarely placed at the head of affairs; and it must be acknowledged that such has been the result in proportion as democracy has out-stepped all its former limits. The race of American statesmen has evidently dwindled most remarkably in the course of the last fifty years.

Several causes may be assigned to this phenomenon. It is impossible, notwithstanding the most strenuous exertions, to raise the intelligence of the people above a certain level. Whatever may be the facilities of acquiring information, whatever may be the profusion of easy methods and of cheap science, the human mind can never be instructed and educated without devoting a considerable space of time to those objects.

The greater or the lesser possibility of subsisting without labor is therefore the necessary boundary of intellectual improvement. This boundary is more remote in some countries and more restricted in others; but it must exist somewhere as long as the people is constrained to work in order to procure the means of physical subsistence, that is to say, as long as it retains its popular character. It is therefore quite as difficult to imagine a State in which all the citizens should be very well informed as a State in which they should all be wealthy; these two difficulties may be looked upon as correlative. It may very readily be admitted that the mass of the citizens are sincerely disposed to promote the welfare of their country; nay more, it may even be allowed that the lower classes are less apt to be swayed by considerations of personal interest than the higher orders: but it is always more or less impossible for them to discern the best means of attaining the end which they desire with sincerity. Long and patient observation, joined to a multitude of different notions, is required to form a just estimate of the character of a single individual; and can it be supposed that the vulgar have the power of succeeding in an inquiry which misleads the penetration of genius itself? The people has neither the time nor the means which are essential to the prosecution of an investigation of this kind: its conclusions are hastily formed from a superficial inspection of the more prominent features of a question. Hence it often assents to the clamor of a mountebank who knows the secret of stimulating its tastes, while its truest friends frequently fail in their exertions.

Moreover, the democracy is not only deficient in that soundness of judgment which is necessary to select men really deserving of its confidence, but it has neither the desire nor the inclination to find them out. It cannot be denied that democratic institutions have a very strong tendency to promote the feeling of envy in the human heart; not so much because they afford to every one the means of rising to the level of any of his fellow-citizens, as because those means perpetually disappoint the persons who employ them. Democratic institutions awaken and foster a passion for equality which they can never entirely satisfy. This complete equality eludes the grasp of the people at the very moment at which it thinks to hold it fast, and "flies," as Pascal says, "with eternal flight"; the people is excited in the pursuit of an advantage, which is more precious because it is not sufficiently remote to be unknown, or sufficiently near to be enjoyed. The

lower orders are agitated by the chance of success, they are irritated by its uncertainty; and they pass from the enthusiasm of pursuit to the exhaustion of ill-success, and lastly to the acrimony of disappointment. Whatever transcends their own limits appears to be an obstacle to their desires, and there is no kind of superiority, however legitimate it may be, which is not irksome in their sight.

It has been supposed that the secret instinct which leads the lower orders to remove their superiors as much as possible from the direction of public affairs is peculiar to France. This, however, is an error; the propensity to which I allude is not inherent in any particular nation, but in democratic institutions in general; and although it may have been heightened by peculiar political circumstances, it owes its origin to a higher cause.

In the United States the people is not disposed to hate the superior classes of society; but it is not very favorably inclined towards them, and it carefully excludes them from the exercise of authority. It does not entertain any dread of distinguished talents, but it is rarely captivated by them; and it awards its approbation very sparingly to such as have risen without the popular support.

Whilst the natural propensities of democracy induce the people to reject the most distinguished citizens as its rulers, these individuals are no less apt to retire from a political career in which it is almost impossible to retain their independence, or to advance without degrading themselves. This opinion has been very candidly set forth by Chancellor Kent, who says, in speaking with great eulogiums of that part of the Constitution which empowers the Executive to nominate the judges: "It is indeed probable that the men who are best fitted to discharge the duties of this high office would have too much reserve in their manners, and too much austerity in their principles, for them to be returned by the majority at an election where universal suffrage is adopted." Such were the Opinions which were printed without contradiction in America in the year 1830!

I hold it to be sufficiently demonstrated that universal suffrage is by no means a guarantee of the wisdom of the popular choice, and that, whatever

its advantages may be, this is not one of them.

### **Causes Which May Partly Correct These Tendencies of the Democracy**

Contrary effects produced on peoples as well as on individuals by great dangers—Why so many distinguished men stood at the head of affairs in America fifty years ago—Influence which the intelligence and the manners of the people exercise upon its choice—Example of New England—States of the Southwest—Influence of certain laws upon the choice of the people—Election by an elected body—Its effects upon the composition of the Senate.

When a State is threatened by serious dangers, the people frequently succeeds in selecting the citizens who are the most able to save it. It has been observed that man rarely retains his customary level in presence of very critical circumstances; he rises above or he sinks below his usual condition, and the same thing occurs in nations at large. Extreme perils sometimes quench the energy of a people instead of stimulating it; they excite without directing its passions, and instead of clearing they confuse its powers of perception. The Jews deluged the smoking ruins of their temple with the carnage of the remnant of their host. But it is more common, both in the case of nations and in that of individuals, to find extraordinary virtues arising from the very imminence of the danger. Great characters are then thrown into relief, as edifices which are concealed by the gloom of night are illuminated by the glare of a conflagration. At those dangerous times genius no longer abstains from presenting itself in the arena; and the people, alarmed by the perils of its situation, buries its envious passions in a short oblivion. Great names may then be drawn from the balloting-box.

I have already observed that the American statesmen of the present day are very inferior to those who stood at the head of affairs fifty years ago. This is as much a consequence of the circumstances as of the laws of the country. When America was struggling in the high cause of independence to throw

off the yoke of another country, and when it was about to usher a new nation into the world, the spirits of its inhabitants were roused to the height which their great efforts required. In this general excitement the most distinguished men were ready to forestall the wants of the community, and the people clung to them for support, and placed them at its head. But events of this magnitude are rare, and it is from an inspection of the ordinary course of affairs that our judgment must be formed.

If passing occurrences sometimes act as checks upon the passions of democracy, the intelligence and the manners of the community exercise an influence which is not less powerful and far more permanent. This is extremely perceptible in the United States.

In New England the education and the liberties of the communities were engendered by the moral and religious principles of their founders. Where society has acquired a sufficient degree of stability to enable it to hold certain maxims and to retain fixed habits, the lower orders are accustomed to respect intellectual superiority and to submit to it without complaint, although they set at naught all those privileges which wealth and birth have introduced among mankind. The democracy in New England consequently makes a more judicious choice than it does elsewhere.

But as we descend towards the South, to those States in which the constitution of society is more modern and less strong, where instruction is less general, and where the principles of morality, of religion, and of liberty are less happily combined, we perceive that the talents and the virtues of those who are in authority become more and more rare.

Lastly, when we arrive at the new South-western States, in which the constitution of society dates but from yesterday, and presents an agglomeration of adventurers and speculators, we are amazed at the persons who are invested with public authority, and we are led to ask by what force, independent of the legislation and of the men who direct it, the State can be protected, and society be made to flourish.

There are certain laws of a democratic nature which contribute, nevertheless, to correct, in some measure, the dangerous tendencies of

democracy. On entering the House of Representatives of Washington one is struck by the vulgar demeanor of that great assembly. The eye frequently does not discover a man of celebrity within its walls. Its members are almost all obscure individuals whose names present no associations to the mind: they are mostly village lawyers, men in trade, or even persons belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly.

At a few yards' distance from this spot is the door of the Senate, which contains within a small space a large proportion of the celebrated men of America. Scarcely an individual is to be perceived in it who does not recall the idea of an active and illustrious career: the Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose language would at all times do honor to the most remarkable parliamentary debates of Europe.

What then is the cause of this strange contrast, and why are the most able citizens to be found in one assembly rather than in the other? Why is the former body remarkable for its vulgarity and its poverty of talent, whilst the latter seems to enjoy a monopoly of intelligence and of sound judgment? Both of these assemblies emanate from the people; both of them are chosen by universal suffrage; and no voice has hitherto been heard to assert in America that the Senate is hostile to the interests of the people. From what cause, then, does so startling a difference arise? The only reason which appears to me adequately to account for it is, that the House of Representatives is elected by the populace directly, and that the Senate is elected by elected bodies. The whole body of the citizens names the legislature of each State, and the Federal Constitution converts these legislatures into so many electoral bodies, which return the members of the Senate. The senators are elected by an indirect application of universal suffrage; for the legislatures which name them are not aristocratic or privileged bodies which exercise the electoral franchise in their own right; but they are chosen by the totality of the citizens; they are generally elected every year, and new members may constantly be chosen who will employ their electoral rights in conformity with the wishes of the public. But this transmission of the popular authority through an assembly of chosen men

operates an important change in it, by refining its discretion and improving the forms which it adopts. Men who are chosen in this manner accurately represent the majority of the nation which governs them; but they represent the elevated thoughts which are current in the community, the propensities which prompt its nobler actions, rather than the petty passions which disturb or the vices which disgrace it.

The time may be already anticipated at which the American Republics will be obliged to introduce the plan of election by an elected body more frequently into their system of representation, or they will incur no small risk of perishing miserably amongst the shoals of democracy.

And here I have no scruple in confessing that I look upon this peculiar system of election as the only means of bringing the exercise of political power to the level of all classes of the people. Those thinkers who regard this institution as the exclusive weapon of a party, and those who fear, on the other hand, to make use of it, seem to me to fall into as great an error in the one case as in the other.

### **Influence Which the American Democracy has Exercised on the Laws Relating to Elections**

When elections are rare, they expose the State to a violent crisis—When they are frequent, they keep up a degree of feverish excitement—The Americans have preferred the second of these two evils Mutability of the laws—Opinions of Hamilton and Jefferson on this subject.

When elections recur at long intervals the State is exposed to violent agitation every time they take place. Parties exert themselves to the utmost in order to gain a prize which is so rarely within their reach; and as the evil is almost irremediable for the candidates who fail, the consequences of their disappointed ambition may prove most disastrous; if, on the other hand, the legal struggle can be repeated within a short space of time, the defeated

parties take patience. When elections occur frequently, their recurrence keeps society in a perpetual state of feverish excitement, and imparts a continual instability to public affairs.

Thus, on the one hand the State is exposed to the perils of a revolution, on the other to perpetual mutability; the former system threatens the very existence of the Government, the latter is an obstacle to all steady and consistent policy. The Americans have preferred the second of these evils to the first; but they were led to this conclusion by their instinct much more than by their reason; for a taste for variety is one of the characteristic passions of democracy. An extraordinary mutability has, by this means, been introduced into their legislation. Many of the Americans consider the instability of their laws as a necessary consequence of a system whose general results are beneficial. But no one in the United States affects to deny the fact of this instability, or to contend that it is not a great evil.

Hamilton, after having demonstrated the utility of a power which might prevent, or which might at least impede, the promulgation of bad laws, adds: "It might perhaps be said that the power of preventing bad laws includes that of preventing good ones, and may be used to the one purpose as well as to the other. But this objection will have little weight with those who can properly estimate the mischiefs of that inconstancy and mutability in the laws which form the greatest blemish in the character and genius of our governments." (Federalist, No. 73.) And again in No. 62 of the same work he observes: "The facility and excess of law-making seem to be the diseases to which our governments are most liable. . . The mischievous effects of the mutability in the public councils arising from a rapid succession of new members would fill a volume: every new election in the States is found to change one-half of the representatives. From this change of men must proceed a change of opinions and of measures, which forfeits the respect and confidence of other nations, poisons the blessings of liberty itself, and diminishes the attachment and reverence of the people toward a political system which betrays so many marks of infirmity."

Jefferson himself, the greatest Democrat whom the democracy of America has yet produced, pointed out the same evils. "The instability of our laws," said he in a letter to Madison, "is really a very serious inconvenience. I

think that we ought to have obviated it by deciding that a whole year should always be allowed to elapse between the bringing in of a bill and the final passing of it. It should afterward be discussed and put to the vote without the possibility of making any alteration in it; and if the circumstances of the case required a more speedy decision, the question should not be decided by a simple majority, but by a majority of at least two-thirds of both houses."

### **Public Officers Under the Control of the Democracy in America**

Simple exterior of the American public officers—No official costume—All public officers are remunerated—Political consequences of this system—  
No public career exists in America—Result of this.

Public officers in the United States are commingled with the crowd of citizens; they have neither palaces, nor guards, nor ceremonial costumes. This simple exterior of the persons in authority is connected not only with the peculiarities of the American character, but with the fundamental principles of that society. In the estimation of the democracy a government is not a benefit, but a necessary evil. A certain degree of power must be granted to public officers, for they would be of no use without it. But the ostensible semblance of authority is by no means indispensable to the conduct of affairs, and it is needlessly offensive to the susceptibility of the public. The public officers themselves are well aware that they only enjoy the superiority over their fellow-citizens which they derive from their authority upon condition of putting themselves on a level with the whole community by their manners. A public officer in the United States is uniformly civil, accessible to all the world, attentive to all requests, and obliging in his replies. I was pleased by these characteristics of a democratic government; and I was struck by the manly independence of the citizens, who respect the office more than the officer, and who are less attached to the emblems of authority than to the man who bears them.

I am inclined to believe that the influence which costumes really exercise, in an age like that in which we live, has been a good deal exaggerated. I never perceived that a public officer in America was the less respected whilst he was in the discharge of his duties because his own merit was set off by no adventitious signs. On the other hand, it is very doubtful whether a peculiar dress contributes to the respect which public characters ought to have for their own position, at least when they are not otherwise inclined to respect it. When a magistrate (and in France such instances are not rare) indulges his trivial wit at the expense of the prisoner, or derides the predicament in which a culprit is placed, it would be well to deprive him of his robes of office, to see whether he would recall some portion of the natural dignity of mankind when he is reduced to the apparel of a private citizen.

A democracy may, however, allow a certain show of magisterial pomp, and clothe its officers in silks and gold, without seriously compromising its principles. Privileges of this kind are transitory; they belong to the place, and are distinct from the individual: but if public officers are not uniformly remunerated by the State, the public charges must be entrusted to men of opulence and independence, who constitute the basis of an aristocracy; and if the people still retains its right of election, that election can only be made from a certain class of citizens. When a democratic republic renders offices which had formerly been remunerated gratuitous, it may safely be believed that the State is advancing to monarchical institutions; and when a monarchy begins to remunerate such officers as had hitherto been unpaid, it is a sure sign that it is approaching toward a despotic or a republican form of government. The substitution of paid for unpaid functionaries is of itself, in my opinion, sufficient to constitute a serious revolution.

I look upon the entire absence of gratuitous functionaries in America as one of the most prominent signs of the absolute dominion which democracy exercises in that country. All public services, of whatsoever nature they may be, are paid; so that every one has not merely the right, but also the means of performing them. Although, in democratic States, all the citizens are qualified to occupy stations in the Government, all are not tempted to try for them. The number and the capacities of the candidates are more apt to

restrict the choice of electors than the conditions of the candidanship.

In nations in which the principle of election extends to every place in the State no political career can, properly speaking, be said to exist. Men are promoted as if by chance to the rank which they enjoy, and they are by no means sure of retaining it. The consequence is that in tranquil times public functions offer but few lures to ambition. In the United States the persons who engage in the perplexities of political life are individuals of very moderate pretensions. The pursuit of wealth generally diverts men of great talents and of great passions from the pursuit of power, and it very frequently happens that a man does not undertake to direct the fortune of the State until he has discovered his incompetence to conduct his own affairs. The vast number of very ordinary men who occupy public stations is quite as attributable to these causes as to the bad choice of the democracy. In the United States, I am not sure that the people would return the men of superior abilities who might solicit its support, but it is certain that men of this description do not come forward.

### **Arbitrary Power of Magistrates Under the Rule of the American Democracy**

For what reason the arbitrary power of Magistrates is greater in absolute monarchies and in democratic republics than it is in limited monarchies—  
Arbitrary power of the Magistrates in New England.

In two different kinds of government the magistrates exercise a considerable degree of arbitrary power; namely, under the absolute government of a single individual, and under that of a democracy. This identical result proceeds from causes which are nearly analogous.

In despotic States the fortune of no citizen is secure; and public officers are not more safe than private individuals. The sovereign, who has under his control the lives, the property, and sometimes the honor of the men whom

he employs, does not scruple to allow them a great latitude of action, because he is convinced that they will not use it to his prejudice. In despotic States the sovereign is so attached to the exercise of his power, that he dislikes the constraint even of his own regulations; and he is well pleased that his agents should follow a somewhat fortuitous line of conduct, provided he be certain that their actions will never counteract his desires.

In democracies, as the majority has every year the right of depriving the officers whom it has appointed of their power, it has no reason to fear any abuse of their authority. As the people is always able to signify its wishes to those who conduct the Government, it prefers leaving them to make their own exertions to prescribing an invariable rule of conduct which would at once fetter their activity and the popular authority.

It may even be observed, on attentive consideration, that under the rule of a democracy the arbitrary power of the magistrate must be still greater than in despotic States. In the latter the sovereign has the power of punishing all the faults with which he becomes acquainted, but it would be vain for him to hope to become acquainted with all those which are committed. In the former the sovereign power is not only supreme, but it is universally present. The American functionaries are, in point of fact, much more independent in the sphere of action which the law traces out for them than any public officer in Europe. Very frequently the object which they are to accomplish is simply pointed out to them, and the choice of the means is left to their own discretion.

In New England, for instance, the selectmen of each township are bound to draw up the list of persons who are to serve on the jury; the only rule which is laid down to guide them in their choice is that they are to select citizens possessing the elective franchise and enjoying a fair reputation. In France the lives and liberties of the subjects would be thought to be in danger if a public officer of any kind was entrusted with so formidable a right. In New England the same magistrates are empowered to post the names of habitual drunkards in public-houses, and to prohibit the inhabitants of a town from supplying them with liquor. A censorial power of this excessive kind would be revolting to the population of the most absolute monarchies; here,

however, it is submitted to without difficulty.

Nowhere has so much been left by the law to the arbitrary determination of the magistrate as in democratic republics, because this arbitrary power is unattended by any alarming consequences. It may even be asserted that the freedom of the magistrate increases as the elective franchise is extended, and as the duration of the time of office is shortened. Hence arises the great difficulty which attends the conversion of a democratic republic into a monarchy. The magistrate ceases to be elective, but he retains the rights and the habits of an elected officer, which lead directly to despotism.

It is only in limited monarchies that the law, which prescribes the sphere in which public officers are to act, superintends all their measures. The cause of this may be easily detected. In limited monarchies the power is divided between the King does not venture to place the public officers under the control of the people, lest they should be tempted to betray his interests; on the other hand, the people fears lest the magistrates should serve to oppress the liberties of the country, if they were entirely dependent upon the Crown; they cannot therefore be said to depend on either one or the other. The same cause which induces the king and the people to render public officers independent suggests the necessity of such securities as may prevent their independence from encroaching upon the authority of the former and the liberties of the latter. They consequently agree as to the necessity of restricting the functionary to a line of conduct laid down beforehand, and they are interested in confining him by certain regulations which he cannot evade.

### **Instability of the Administration in the United States**

In America the public acts of a community frequently leave fewer traces than the occurrences of a family—Newspapers the only historical remains—Instability of the administration prejudicial to the art of government.

The authority which public men possess in America is so brief, and they are so soon commingled with the ever-changing population of the country, that the acts of a community frequently leave fewer traces than the occurrences of a private family. The public administration is, so to speak, oral and traditionary. But little is committed to writing, and that little is wafted away forever, like the leaves of the Sibyl, by the smallest breeze.

The only historical remains in the United States are the newspapers; but if a number be wanting, the chain of time is broken, and the present is severed from the past. I am convinced that in fifty years it will be more difficult to collect authentic documents concerning the social condition of the Americans at the present day than it is to find remains of the administration of France during the Middle Ages; and if the United States were ever invaded by barbarians, it would be necessary to have recourse to the history of other nations in order to learn anything of the people which now inhabits them.

The instability of the administration has penetrated into the habits of the people: it even appears to suit the general taste, and no one cares for what occurred before his time. No methodical system is pursued; no archives are formed; and no documents are brought together when it would be very easy to do so. Where they exist, little store is set upon them; and I have amongst my papers several original public documents which were given to me in answer to some of my inquiries. In America society seems to live from hand to mouth, like an army in the field. Nevertheless, the art of administration may undoubtedly be ranked as a science, and no sciences can be improved if the discoveries and observations of successive generations are not connected together in the order in which they occur. One man, in the short space of his life remarks a fact; another conceives an idea; the former invents a means of execution, the latter reduces a truth to a fixed proposition; and mankind gathers the fruits of individual experience upon its way and gradually forms the sciences. But the persons who conduct the administration in America can seldom afford any instruction to each other; and when they assume the direction of society, they simply possess those attainments which are most widely disseminated in the community, and no experience peculiar to themselves. Democracy, carried to its furthest limits, is therefore prejudicial to the art of government; and

for this reason it is better adapted to a people already versed in the conduct of an administration than to a nation which is uninitiated in public affairs.

This remark, indeed, is not exclusively applicable to the science of administration. Although a democratic government is founded upon a very simple and natural principle, it always presupposes the existence of a high degree of culture and enlightenment in society. At the first glance it may be imagined to belong to the earliest ages of the world; but maturer observation will convince us that it could only come last in the succession of human history.

### **Charges Levied by the State Under the Rule of the American Democracy**

In all communities citizens divisible into three classes—Habits of each of these classes in the direction of public finances—Why public expenditure must tend to increase when the people governs—What renders the extravagance of a democracy less to be feared in America—Public expenditure under a democracy.

Before we can affirm whether a democratic form of government is economical or not, we must establish a suitable standard of comparison. The question would be one of easy solution if we were to attempt to draw a parallel between a democratic republic and an absolute monarchy. The public expenditure would be found to be more considerable under the former than under the latter; such is the case with all free States compared to those which are not so. It is certain that despotism ruins individuals by preventing them from producing wealth, much more than by depriving them of the wealth they have produced; it dries up the source of riches, whilst it usually respects acquired property. Freedom, on the contrary, engenders far more benefits than it destroys; and the nations which are favored by free institutions invariably find that their resources increase even more rapidly

than their taxes.

My present object is to compare free nations to each other, and to point out the influence of democracy upon the finances of a State.

Communities, as well as organic bodies, are subject to certain fixed rules in their formation which they cannot evade. They are composed of certain elements which are common to them at all times and under all circumstances. The people may always be mentally divided into three distinct classes. The first of these classes consists of the wealthy; the second, of those who are in easy circumstances; and the third is composed of those who have little or no property, and who subsist more especially the work which they perform for the two superior orders. The proportion of the individuals who are included in these three divisions may vary according to the condition of society, but the divisions themselves can never be obliterated.

It is evident that each of these classes will exercise an influence peculiar to its own propensities upon the administration of the finances of the State. If the first of the three exclusively possesses the legislative power, it is probable that it will not be sparing of the public funds, because the taxes which are levied on a large fortune only tend to diminish the sum of superfluous enjoyment, and are, in point of fact, but little felt. If the second class has the power of making the laws, it will certainly not be lavish of taxes, because nothing is so onerous as a large impost which is levied upon a small income. The government of the middle classes appears to me to be the most economical, though perhaps not the most enlightened, and certainly not the most generous, of free governments.

But let us now suppose that the legislative authority is vested in the lowest orders: there are two striking reasons which show that the tendency of the expenditure will be to increase, not to diminish. As the great majority of those who create the laws are possessed of no property upon which taxes can be imposed, all the money which is spent for the community appears to be spent to their advantage, at no cost of their own; and those who are possessed of some little property readily find means of regulating the taxes so that they are burdensome to the wealthy and profitable to the poor,

although the rich are unable to take the same advantage when they are in possession of the Government.

In countries in which the poor should be exclusively invested with the power of making the laws no great economy of public expenditure ought to be expected: that expenditure will always be considerable; either because the taxes do not weigh upon those who levy them, or because they are levied in such a manner as not to weigh upon those classes. In other words, the government of the democracy is the only one under which the power which lays on taxes escapes the payment of them.

It may be objected (but the argument has no real weight) that the true interest of the people is indissolubly connected with that of the wealthier portion of the community, since it cannot but suffer by the severe measures to which it resorts. But is it not the true interest of kings to render their subjects happy, and the true interest of nobles to admit recruits into their order on suitable grounds? If remote advantages had power to prevail over the passions and the exigencies of the moment, no such thing as a tyrannical sovereign or an exclusive aristocracy could ever exist.

Again, it may be objected that the poor are never invested with the sole power of making the laws; but I reply, that wherever universal suffrage has been established the majority of the community unquestionably exercises the legislative authority; and if it be proved that the poor always constitute the majority, it may be added, with perfect truth, that in the countries in which they possess the elective franchise they possess the sole power of making laws. But it is certain that in all the nations of the world the greater number has always consisted of those persons who hold no property, or of those whose property is insufficient to exempt them from the necessity of working in order to procure an easy subsistence. Universal suffrage does therefore, in point of fact, invest the poor with the government of society.

The disastrous influence which popular authority may sometimes exercise upon the finances of a State was very clearly seen in some of the democratic republics of antiquity, in which the public treasure was exhausted in order to relieve indigent citizens, or to supply the games and theatrical amusements of the populace. It is true that the representative

system was then very imperfectly known, and that, at the present time, the influence of popular passion is less felt in the conduct of public affairs; but it may be believed that the delegate will in the end conform to the principles of his constituents, and favor their propensities as much as their interests.

The extravagance of democracy is, however, less to be dreaded in proportion as the people acquires a share of property, because on the one hand the contributions of the rich are then less needed, and, on the other, it is more difficult to lay on taxes which do not affect the interests of the lower classes. On this account universal suffrage would be less dangerous in France than in England, because in the latter country the property on which taxes may be levied is vested in fewer hands. America, where the great majority of the citizens possess some fortune, is in a still more favorable position than France.

There are still further causes which may increase the sum of public expenditure in democratic countries. When the aristocracy governs, the individuals who conduct the affairs of State are exempted by their own station in society from every kind of privation; they are contented with their position; power and renown are the objects for which they strive; and, as they are placed far above the obscurer throng of citizens, they do not always distinctly perceive how the well-being of the mass of the people ought to redound to their own honor. They are not indeed callous to the sufferings of the poor, but they cannot feel those miseries as acutely as if they were themselves partakers of them. Provided that the people appear to submit to its lot, the rulers are satisfied, and they demand nothing further from the Government. An aristocracy is more intent upon the means of maintaining its influence than upon the means of improving its condition.

When, on the contrary, the people is invested with the supreme authority, the perpetual sense of their own miseries impels the rulers of society to seek for perpetual ameliorations. A thousand different objects are subjected to improvement; the most trivial details are sought out as susceptible of amendment; and those changes which are accompanied with considerable expense are more especially advocated, since the object is to render the condition of the poor more tolerable, who cannot pay for themselves.

Moreover, all democratic communities are agitated by an ill-defined excitement and by a kind of feverish impatience, that engender a multitude of innovations, almost all of which are attended with expense.

In monarchies and aristocracies the natural taste which the rulers have for power and for renown is stimulated by the promptings of ambition, and they are frequently incited by these temptations to very costly undertakings. In democracies, where the rulers labor under privations, they can only be courted by such means as improve their well-being, and these improvements cannot take place without a sacrifice of money. When a people begins to reflect upon its situation, it discovers a multitude of wants to which it had not before been subject, and to satisfy these exigencies recourse must be had to the coffers of the State. Hence it arises that the public charges increase in proportion as civilization spreads, and that imposts are augmented as knowledge pervades the community.

The last cause which frequently renders a democratic government dearer than any other is, that a democracy does not succeed in moderating its expenditure, because it does not understand the art of being economical. As the designs which it entertains are frequently changed, and the agents of those designs are still more frequently removed, its undertakings are often ill conducted or left unfinished: in the former case the State spends sums out of all proportion to the end which it proposes to accomplish; in the second, the expense itself is unprofitable.

### **Tendencies of the American Democracy as Regards the Salaries of Public Officers**

In democracies those who establish high salaries have no chance of profiting by them—Tendency of the American democracy to increase the salaries of subordinate officers and to lower those of the more important functionaries—Reason of this—Comparative statement of the salaries of public officers in the United States and in France.

There is a powerful reason which usually induces democracies to economize upon the salaries of public officers. As the number of citizens who dispense the remuneration is extremely large in democratic countries, so the number of persons who can hope to be benefited by the receipt of it is comparatively small. In aristocratic countries, on the contrary, the individuals who fix high salaries have almost always a vague hope of profiting by them. These appointments may be looked upon as a capital which they create for their own use, or at least as a resource for their children.

It must, however, be allowed that a democratic State is most parsimonious towards its principal agents. In America the secondary officers are much better paid, and the dignitaries of the administration much worse, than they are elsewhere.

These opposite effects result from the same cause; the people fixes the salaries of the public officers in both cases; and the scale of remuneration is determined by the consideration of its own wants. It is held to be fair that the servants of the public should be placed in the same easy circumstances as the public itself; but when the question turns upon the salaries of the great officers of State, this rule fails, and chance alone can guide the popular decision. The poor have no adequate conception of the wants which the higher classes of society may feel. The sum which is scanty to the rich appears enormous to the poor man whose wants do not extend beyond the necessaries of life; and in his estimation the Governor of a State, with his twelve or fifteen hundred dollars a year, is a very fortunate and enviable being. If you undertake to convince him that the representative of a great people ought to be able to maintain some show of splendor in the eyes of foreign nations, he will perhaps assent to your meaning; but when he reflects on his own humble dwelling, and on the hard-earned produce of his wearisome toil, he remembers all that he could do with a salary which you say is insufficient, and he is startled or almost frightened at the sight of such uncommon wealth. Besides, the secondary public officer is almost on a level with the people, whilst the others are raised above it. The former may

therefore excite his interest, but the latter begins to arouse his envy.

This is very clearly seen in the United States, where the salaries seem to decrease as the authority of those who receive them augments.

Under the rule of an aristocracy it frequently happens, on the contrary, that whilst the high officers are receiving munificent salaries, the inferior ones have not more than enough to procure the necessaries of life. The reason of this fact is easily discoverable from causes very analogous to those to which I have just alluded. If a democracy is unable to Conceive the pleasures of the rich or to witness them without envy, an aristocracy is slow to understand, or, to speak more correctly, is unacquainted with, the privations of the poor. The poor man is not (if we use the term aright) the fellow of the rich one; but he is a being of another species. An aristocracy is therefore apt to care but little for the fate of its subordinate agents; and their salaries are only raised when they refuse to perform their service for too scanty a remuneration.

It is the parsimonious conduct of democracy towards its principal officers which has countenanced a supposition of far more economical propensities than any which it really possesses. It is true that it scarcely allows the means of honorable subsistence to the individuals who conduct its affairs; but enormous sums are lavished to meet the exigencies or to facilitate the enjoyments of the people. The money raised by taxation may be better employed, but it is not saved. In general, democracy gives largely to the community, and very sparingly to those who govern it. The reverse is the case in aristocratic countries, where the money of the State is expended to the profit of the persons who are at the head of affairs.

### **Difficulty of Distinguishing the Causes Which Contribute to the Economy of the American Government**

We are liable to frequent errors in the research of those facts which exercise a serious influence upon the fate of mankind, since nothing is more difficult

than to appreciate their real value. One people is naturally inconsistent and enthusiastic; another is sober and calculating; and these characteristics originate in their physical constitution or in remote causes with which we are unacquainted.

There are nations which are fond of parade and the bustle of festivity, and which do not regret the costly gaieties of an hour. Others, on the contrary, are attached to more retiring pleasures, and seem almost ashamed of appearing to be pleased. In some countries the highest value is set upon the beauty of public edifices; in others the productions of art are treated with indifference, and everything which is unproductive is looked down upon with contempt. In some renown, in others money, is the ruling passion.

Independently of the laws, all these causes concur to exercise a very powerful influence upon the conduct of the finances of the State. If the Americans never spend the money of the people in galas, it is not only because the imposition of taxes is under the control of the people, but because the people takes no delight in public rejoicings. If they repudiate all ornament from their architecture, and set no store on any but the more practical and homely advantages, it is not only because they live under democratic institutions, but because they are a commercial nation. The habits of private life are continued in public; and we ought carefully to distinguish that economy which depends upon their institutions from that which is the natural result of their manners and customs.

### **Whether the Expenditure of the United States Can Be Compared to That of France**

Two points to be established in order to estimate the extent of the public charges, viz., the national wealth and the rate of taxation—The wealth and the charges of France not accurately known—Why the wealth and charges of the Union cannot be accurately known—Researches of the author with a view to discover the amount of taxation of Pennsylvania—General

symptoms which may serve to indicate the amount of the public charges in a given nation—Result of this investigation for the Union.

Many attempts have recently been made in France to compare the public expenditure of that country with the expenditure of the United States; all these attempts have, however, been unattended by success, and a few words will suffice to show that they could not have had a satisfactory result.

In order to estimate the amount of the public charges of a people two preliminaries are indispensable: it is necessary, in the first place, to know the wealth of that people; and in the second, to learn what portion of that wealth is devoted to the expenditure of the State. To show the amount of taxation without showing the resources which are destined to meet the demand, is to undertake a futile labor; for it is not the expenditure, but the relation of the expenditure to the revenue, which it is desirable to know.

The same rate of taxation which may easily be supported by a wealthy contributor will reduce a poor one to extreme misery. The wealth of nations is composed of several distinct elements, of which population is the first, real property the second, and personal property the third. The first of these three elements may be discovered without difficulty. Amongst civilized nations it is easy to obtain an accurate census of the inhabitants; but the two others cannot be determined with so much facility. It is difficult to take an exact account of all the lands in a country which are under cultivation, with their natural or their acquired value; and it is still more impossible to estimate the entire personal property which is at the disposal of a nation, and which eludes the strictest analysis by the diversity and the number of shapes under which it may occur. And, indeed, we find that the most ancient civilized nations of Europe, including even those in which the administration is most central, have not succeeded, as yet, in determining the exact condition of their wealth.

In America the attempt has never been made; for how would such an investigation be possible in a country where society has not yet settled into habits of regularity and tranquillity; where the national Government is not assisted by a multitude of agents whose exertions it can command and

direct to one sole end; and where statistics are not studied, because no one is able to collect the necessary documents, or to find time to peruse them? Thus the primary elements of the calculations which have been made in France cannot be obtained in the Union; the relative wealth of the two countries is unknown; the property of the former is not accurately determined, and no means exist of Computing that of the latter.

I consent, therefore, for the sake of the discussion, to abandon this necessary term of the comparison, and I confine myself to a computation of the actual amount of taxation, without investigating the relation which subsists between the taxation and the revenue. But the reader will perceive that my task has not been facilitated by the limits which I here lay down for my researches.

It cannot be doubted that the central administration of France, assisted by all the public officers who are at its disposal, might determine with exactitude the amount of the direct and indirect taxes levied upon the citizens. But this investigation, which no private individual can undertake, has not hitherto been completed by the French Government, or, at least, its results have not been made public. We are acquainted with the sum total of the charges of the State; we know the amount of the departmental expenditure; but the expenses of the communal divisions have not been computed, and the amount of the public expenses of France is consequently unknown.

If we now turn to America, we shall perceive that the difficulties are multiplied and enhanced. The Union publishes an exact return of the amount of its expenditure; the budgets of the four and twenty States furnish similar returns of their revenues; but the expenses incident to the affairs of the counties and the townships are unknown.

The authority of the Federal government cannot oblige the provincial governments to throw any light upon this point; and even if these governments were inclined to afford their simultaneous co-operation, it may be doubted whether they possess the means of procuring a satisfactory answer. Independently of the natural difficulties of the task, the political organization of the country would act as a hindrance to the success of their

efforts. The county and town magistrates are not appointed by the authorities of the State, and they are not subjected to their control. It is therefore very allowable to suppose that, if the State was desirous of obtaining the returns which we require, its design would be counteracted by the neglect of those subordinate officers whom it would be obliged to employ.? It is, in point of fact, useless to inquire what the Americans might do to forward this inquiry, since it is certain that they have hitherto done nothing at all. There does not exist a single individual at the present day, in America or in Europe, who can inform us what each citizen of the Union annually contributes to the public charges of the nation.

Hence we must conclude that it is no less difficult to compare the social expenditure than it is to estimate the relative wealth of France and America. I will even add that it would be dangerous to attempt this comparison; for when statistics are not based upon computations which are strictly accurate, they mislead instead of guiding aright. The mind is easily imposed upon by the false affectation of exactness, which prevails even in the misstatements of science, and it adopts with confidence errors which are dressed in the forms of mathematical truth.

We abandon, therefore, our numerical investigation, with the hope of meeting with data of another kind. In the absence of positive documents, we may form an opinion as to the proportion which the taxation of a people bears to its real prosperity, by observing whether its external appearance is flourishing; whether, after having discharged the calls of the State, the poor man retains the means of subsistence, and the rich the means of enjoyment; and whether both classes are contented with their position, seeking, however, to ameliorate it by perpetual exertions, so that industry is never in want of capital, nor capital unemployed by industry. The observer who draws his inferences from these signs will, undoubtedly, be led to the conclusion that the American of the United States contributes a much smaller portion of his income to the State than the citizen of France. Nor, indeed, can the result be otherwise.

A portion of the French debt is the consequence of two successive invasions; and the Union has no similar calamity to fear. A nation placed upon the continent of Europe is obliged to maintain a large standing army;

the isolated position of the Union enables it to have only 6,000 soldiers. The French have a fleet of 300 sail; the Americans have 52 vessels. How, then, can the inhabitants of the Union be called upon to contribute as largely as the inhabitants of France? No parallel can be drawn between the finances of two countries so differently situated.

It is by examining what actually takes place in the Union, and not by comparing the Union with France, that we may discover whether the American Government is really economical. On casting my eyes over the different republics which form the confederation, I perceive that their Governments lack perseverance in their undertakings, and that they exercise no steady control over the men whom they employ. Whence I naturally infer that they must often spend the money of the people to no purpose, or consume more of it than is really necessary to their undertakings. Great efforts are made, in accordance with the democratic origin of society, to satisfy the exigencies of the lower orders, to open the career of power to their endeavors, and to diffuse knowledge and comfort amongst them. The poor are maintained, immense sums are annually devoted to public instruction, all services whatsoever are remunerated, and the most subordinate agents are liberally paid. If this kind of government appears to me to be useful and rational, I am nevertheless constrained to admit that it is expensive.

Wherever the poor direct public affairs and dispose of the national resources, it appears certain that, as they profit by the expenditure of the State, they are apt to augment that expenditure.

I conclude, therefore, without having recourse to inaccurate computations, and without hazarding a comparison which might prove incorrect, that the democratic government of the Americans is not a cheap government, as is sometimes asserted; and I have no hesitation in predicting that, if the people of the United States is ever involved in serious difficulties, its taxation will speedily be increased to the rate of that which prevails in the greater part of the aristocracies and the monarchies of Europe.

## **Corruption and Vices of the Rulers in a Democracy, and Consequent Effects Upon Public Morality**

In aristocracies rulers sometimes endeavor to corrupt the people—In democracies rulers frequently show themselves to be corrupt—In the former their vices are directly prejudicial to the morality of the people—In the latter their indirect influence is still more pernicious.

A distinction must be made, when the aristocratic and the democratic principles mutually inveigh against each other, as tending to facilitate corruption. In aristocratic governments the individuals who are placed at the head of affairs are rich men, who are solely desirous of power. In democracies statesmen are poor, and they have their fortunes to make. The consequence is that in aristocratic States the rulers are rarely accessible to corruption, and have very little craving for money; whilst the reverse is the case in democratic nations.

But in aristocracies, as those who are desirous of arriving at (That is precisely what has since occurred.) at the head of affairs are possessed of considerable wealth, and as the number of persons by whose assistance they may rise is comparatively small, the government is, if I may use the expression, put up to a sort of auction. In democracies, on the contrary, those who are covetous of power are very seldom wealthy, and the number of citizens who confer that power is extremely great. Perhaps in democracies the number of men who might be bought is by no means smaller, but buyers are rarely to be met with; and, besides, it would be necessary to buy so many persons at once that the attempt is rendered nugatory.

Many of the men who have been in the administration in France during the last forty years have been accused of making their fortunes at the expense of the State or of its allies; a reproach which was rarely addressed to the public characters of the ancient monarchy. But in France the practice of bribing electors is almost unknown, whilst it is notoriously and publicly

carried on in England. In the United States I never heard a man accused of spending his wealth in corrupting the populace; but I have often heard the probity of public officers questioned; still more frequently have heard their success attributed to low intrigues and immoral practices.

If, then, the men who conduct the government of an aristocracy sometimes endeavor to corrupt the people, the heads of a democracy are themselves corrupt. In the former case the morality of the people is directly assailed; in the latter an indirect influence is exercised upon the people which is still more to be dreaded.

As the rulers of democratic nations are almost always exposed to the suspicion of dishonorable conduct, they in some measure lend the authority of the Government to the base practices of which they are accused. They thus afford an example which must prove discouraging to the struggles of virtuous independence, and must foster the secret calculations of a vicious ambition. If it be asserted that evil passions are displayed in all ranks of society, that they ascend the throne by hereditary right, and that despicable characters are to be met with at the head of aristocratic nations as well as in the sphere of a democracy, this objection has but little weight in my estimation. The corruption of men who have casually risen to power has a coarse and vulgar infection in it which renders it contagious to the multitude. On the contrary, there is a kind of aristocratic refinement and an air of grandeur in the depravity of the great, which frequently prevent it from spreading abroad.

The people can never penetrate into the perplexing labyrinth of court intrigue, and it will always have difficulty in detecting the turpitude which lurks under elegant manners, refined tastes, and graceful language. But to pillage the public purse, and to vend the favors of the State, are arts which the meanest villain may comprehend, and hope to practice in his turn.

In reality it is far less prejudicial to witness the immorality of the great than to witness that immorality which leads to greatness. In a democracy private citizens see a man of their own rank in life, who rises from that obscure position, and who becomes possessed of riches and of power in a few years; the spectacle excites their surprise and their envy, and they are led to inquire

how the person who was yesterday their equal is today their ruler. To attribute his rise to his talents or his virtues is unpleasant; for it is tacitly to acknowledge that they are themselves less virtuous and less talented than he was. They are therefore led (and not unfrequently their conjecture is a correct one) to impute his success mainly to some one of his defects; and an odious mixture is thus formed of the ideas of turpitude and power, unworthiness and success, utility and dishonor.

### **Efforts of Which a Democracy is Capable**

The Union has only had one struggle hitherto for its existence—Enthusiasm at the commencement of the war—Indifference towards its close—Difficulty of establishing military conscription or impressment of seamen in America—Why a democratic people is less capable of sustained effort than another.

I here warn the reader that I speak of a government which implicitly follows the real desires of a people, and not of a government which simply commands in its name. Nothing is so irresistible as a tyrannical power commanding in the name of the people, because, whilst it exercises that moral influence which belongs to the decision of the majority, it acts at the same time with the promptitude and the tenacity of a single man.

It is difficult to say what degree of exertion a democratic government may be capable of making a crisis in the history of the nation. But no great democratic republic has hitherto existed in the world. To style the oligarchy which ruled over France in 1793 by that name would be to offer an insult to the republican form of government. The United States afford the first example of the kind.

The American Union has now subsisted for half a century, in the course of which time its existence has only once been attacked, namely, during the War of Independence. At the commencement of that long war, various

occurrences took place which betokened an extraordinary zeal for the service of the country. But as the contest was prolonged, symptoms of private egotism began to show themselves. No money was poured into the public treasury; few recruits could be raised to join the army; the people wished to acquire independence, but was very ill-disposed to undergo the privations by which alone it could be obtained. "Tax laws," says Hamilton in the *Federalist* (No. 12), "have in vain been multiplied; new methods to enforce the collection have in vain been tried; the public expectation has been uniformly disappointed and the treasuries of the States have remained empty. The popular system of administration inherent in the nature of popular government, coinciding with the real scarcity of money incident to a languid and mutilated state of trade, has hitherto defeated every experiment for extensive collections, and has at length taught the different legislatures the folly of attempting them."

The United States have not had any serious war to carry on ever since that period. In order, therefore, to appreciate the sacrifices which democratic nations may impose upon themselves, we must wait until the American people is obliged to put half its entire income at the disposal of the Government, as was done by the English; or until it sends forth a twentieth part of its population to the field of battle, as was done by France.

In America the use of conscription is unknown, and men are induced to enlist by bounties. The notions and habits of the people of the United States are so opposed to compulsory enlistment that I do not imagine it can ever be sanctioned by the laws. What is termed the conscription in France is assuredly the heaviest tax upon the population of that country; yet how could a great continental war be carried on without it? The Americans have not adopted the British impressment of seamen, and they have nothing which corresponds to the French system of maritime conscription; the navy, as well as the merchant service, is supplied by voluntary service. But it is not easy to conceive how a people can sustain a great maritime war without having recourse to one or the other of these two systems. Indeed, the Union, which has fought with some honor upon the seas, has never possessed a very numerous fleet, and the equipment of the small number of American vessels has always been excessively expensive.

I have heard American statesmen confess that the Union will have great difficulty in maintaining its rank on the seas without adopting the system of impressment or of maritime conscription; but the difficulty is to induce the people, which exercises the supreme authority, to submit to impressment or any compulsory system.

It is incontestable that in times of danger a free people displays far more energy than one which is not so. But I incline to believe that this is more especially the case in those free nations in which the democratic element preponderates. Democracy appears to me to be much better adapted for the peaceful conduct of society, or for an occasional effort of remarkable vigor, than for the hardy and prolonged endurance of the storms which beset the political existence of nations. The reason is very evident; it is enthusiasm which prompts men to expose themselves to dangers and privations, but they will not support them long without reflection. There is more calculation, even in the impulses of bravery, than is generally attributed to them; and although the first efforts are suggested by passion, perseverance is maintained by a distinct regard of the purpose in view. A portion of what we value is exposed, in order to save the remainder.

But it is this distinct perception of the future, founded upon a sound judgment and an enlightened experience, which is most frequently wanting in democracies. The populace is more apt to feel than to reason; and if its present sufferings are great, it is to be feared that the still greater sufferings attendant upon defeat will be forgotten.

Another cause tends to render the efforts of a democratic government less persevering than those of an aristocracy. Not only are the lower classes less awakened than the higher orders to the good or evil chances of the future, but they are liable to suffer far more acutely from present privations. The noble exposes his life, indeed, but the chance of glory is equal to the chance of harm. If he sacrifices a large portion of his income to the State, he deprives himself for a time of the pleasures of affluence; but to the poor man death is embellished by no pomp or renown, and the imposts which are irksome to the rich are fatal to him.

This relative impotence of democratic republics is, perhaps, the greatest obstacle to the foundation of a republic of this kind in Europe. In order that such a State should subsist in one country of the Old World, it would be necessary that similar institutions should be introduced into all the other nations.

I am of opinion that a democratic government tends in the end to increase the real strength of society; but it can never combine, upon a single point and at a given time, so much power as an aristocracy or a monarchy. If a democratic country remained during a whole century subject to a republican government, it would probably at the end of that period be more populous and more prosperous than the neighboring despotic States. But it would have incurred the risk of being conquered much oftener than they would in that lapse of years.

### **Self-Control of the American Democracy**

The American people acquiesces slowly, or frequently does not acquiesce, in what is beneficial to its interests—The faults of the American democracy are for the most part reparable.

The difficulty which a democracy has in conquering the passions and in subduing the exigencies of the moment, with a view to the future, is conspicuous in the most trivial occurrences of the United States. The people, which is surrounded by flatterers, has great difficulty in surmounting its inclinations, and whenever it is solicited to undergo a privation or any kind of inconvenience, even to attain an end which is sanctioned by its own rational conviction, it almost always refuses to comply at first. The deference of the Americans to the laws has been very justly applauded; but it must be added that in America the legislation is made by the people and for the people. Consequently, in the United States the law favors those classes which are most interested in evading it elsewhere. It may therefore be supposed that an offensive law, which should

not be acknowledged to be one of immediate utility, would either not be enacted or would not be obeyed.

In America there is no law against fraudulent bankruptcies; not because they are few, but because there are a great number of bankruptcies. The dread of being prosecuted as a bankrupt acts with more intensity upon the mind of the majority of the people than the fear of being involved in losses or ruin by the failure of other parties, and a sort of guilty tolerance is extended by the public conscience to an offence which everyone condemns in his individual capacity. In the new States of the Southwest the citizens generally take justice into their own hands, and murders are of very frequent occurrence. This arises from the rude manners and the ignorance of the inhabitants of those deserts, who do not perceive the utility of investing the law with adequate force, and who prefer duels to prosecutions.

Someone observed to me one day, in Philadelphia, that almost all crimes in America are caused by the abuse of intoxicating liquors, which the lower classes can procure in great abundance, from their excessive cheapness. "How comes it," said I, "that you do not put a duty upon brandy?" "Our legislators," rejoined my informant, "have frequently thought of this expedient; but the task of putting it in operation is a difficult one; a revolt might be apprehended, and the members who should vote for a law of this kind would be sure of losing their seats." "Whence I am to infer," replied I, "that the drinking population constitutes the majority in your country, and that temperance is somewhat unpopular."

When these things are pointed out to the American statesmen, they content themselves with assuring you that time will operate the necessary change, and that the experience of evil will teach the people its true interests. This is frequently true, although a democracy is more liable to error than a monarch or a body of nobles; the chances of its regaining the right path when once it has acknowledged its mistake, are greater also; because it is rarely embarrassed by internal interests, which conflict with those of the majority, and resist the authority of reason. But a democracy can only obtain truth as the result of experience, and many nations may forfeit their existence whilst they are awaiting the consequences of their errors.

The great privilege of the Americans does not simply consist in their being more enlightened than 'other nations, but in their being able to repair the faults they may commit. To which it must be added, that a democracy cannot derive substantial benefit from past experience, unless it be arrived at a certain pitch of knowledge and civilization. There are tribes and peoples whose education has been so vicious, and whose character presents so strange a mixture of passion, of ignorance, and of erroneous notions upon all subjects, that they are unable to discern the causes of their own wretchedness, and they fall a sacrifice to ills with which they are unacquainted.

I have crossed vast tracts of country that were formerly inhabited by powerful Indian nations which are now extinct; I have myself passed some time in the midst of mutilated tribes, which witness the daily decline of their numerical strength and of the glory of their independence; and I have heard these Indians themselves anticipate the impending doom of their race. Every European can perceive means which would rescue these unfortunate beings from inevitable destruction. They alone are insensible to the expedient; they feel the woe which year after year heaps upon their heads, but they will perish to a man without accepting the remedy. It would be necessary to employ force to induce them to submit to the protection and the constraint of civilization.

The incessant revolutions which have convulsed the South American provinces for the last quarter of a century have frequently been adverted to with astonishment, and expectations have been expressed that those nations would speedily return to their natural state. But can it be affirmed that the turmoil of revolution is not actually the most natural state of the South American Spaniards at the present time? In that country society is plunged into difficulties from which all its efforts are insufficient to rescue it. The inhabitants of that fair portion of the Western Hemisphere seem obstinately bent on pursuing the work of inward havoc. If they fall into a momentary repose from the effects of exhaustion, that repose prepares them for a fresh state of frenzy. When I consider their condition, which alternates between misery and crime, I should be inclined to believe that despotism itself would be a benefit to them, if it were possible that the words despotism and

benefit could ever be united in my mind.

## **Conduct of Foreign Affairs by the American Democracy**

Direction given to the foreign policy of the United States by Washington and Jefferson—Almost all the defects inherent in democratic institutions are brought to light in the conduct of foreign affairs—Their advantages are less perceptible.

We have seen that the Federal Constitution entrusts the permanent direction of the external interests of the nation to the President and the Senate, which tends in some degree to detach the general foreign policy of the Union from the control of the people. It cannot therefore be asserted with truth that the external affairs of State are conducted by the democracy.

The policy of America owes its rise to Washington, and after him to Jefferson, who established those principles which it observes at the present day. Washington said in the admirable letter which he addressed to his fellow-citizens, and which may be looked upon as his political bequest to the country: "The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop. Europe has a set of primary interests which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities. Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously

respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel. Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice? It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it; therefore, let those engagements be observed in their genuine sense; but in my opinion it is unnecessary, and would be unwise, to extend them. Taking care always to keep ourselves, by suitable establishments, in a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies." In a previous part of the same letter Washington makes the following admirable and just remark: "The nation which indulges towards another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest."

The political conduct of Washington was always guided by these maxims. He succeeded in maintaining his country in a state of peace whilst all the other nations of the globe were at War; and he laid it down as a fundamental doctrine, that the true interest of the Americans consisted in a perfect neutrality with regard to the internal dissensions of the European Powers.

Jefferson went still further, and he introduced a maxim into the policy of the Union, which affirms that "the Americans ought never to solicit any privileges from foreign nations, in order not to be obliged to grant similar privileges themselves."

These two principles, which were so plain and so just as to be adapted to the capacity of the populace, have greatly simplified the foreign policy of the United States. As the Union takes no part in the affairs of Europe, it has, properly speaking, no foreign interests to discuss, since it has at present no

powerful neighbors on the American continent. The country is as much removed from the passions of the Old World by its position as by the line of policy which it has chosen, and it is neither called upon to repudiate nor to espouse the conflicting interests of Europe; whilst the dissensions of the New World are still concealed within the bosom of the future.

The Union is free from all pre-existing obligations, and it is consequently enabled to profit by the experience of the old nations of Europe, without being obliged, as they are, to make the best of the past, and to adapt it to their present circumstances; or to accept that immense inheritance which they derive from their forefathers—an inheritance of glory mingled with calamities, and of alliances conflicting with national antipathies. The foreign policy of the United States is reduced by its very nature to await the chances of the future history of the nation, and for the present it consists more in abstaining from interference than in exerting its activity.

It is therefore very difficult to ascertain, at present, what degree of sagacity the American democracy will display in the conduct of the foreign policy of the country; and upon this point its adversaries, as well as its advocates, must suspend their judgment. As for myself I have no hesitation in avowing my conviction, that it is most especially in the conduct of foreign relations that democratic governments appear to me to be decidedly inferior to governments carried on upon different principles. Experience, instruction, and habit may almost always succeed in creating a species of practical discretion in democracies, and that science of the daily occurrences of life which is called good sense. Good sense may suffice to direct the ordinary course of society; and amongst a people whose education has been provided for, the advantages of democratic liberty in the internal affairs of the country may more than compensate for the evils inherent in a democratic government. But such is not always the case in the mutual relations of foreign nations.

Foreign politics demand scarcely any of those qualities which a democracy possesses; and they require, on the contrary, the perfect use of almost all those faculties in which it is deficient. Democracy is favorable to the increase of the internal resources of the State; it tends to diffuse a moderate independence; it promotes the growth of public spirit, and fortifies the

respect which is entertained for law in all classes of society; and these are advantages which only exercise an indirect influence over the relations which one people bears to another. But a democracy is unable to regulate the details of an important undertaking, to persevere in a design, and to work out its execution in the presence of serious obstacles. It cannot combine its measures with secrecy, and it will not await their consequences with patience. These are qualities which more especially belong to an individual or to an aristocracy; and they are precisely the means by which an individual people attains to a predominant position.

If, on the contrary, we observe the natural defects of aristocracy, we shall find that their influence is comparatively innoxious in the direction of the external affairs of a State. The capital fault of which aristocratic bodies may be accused is that they are more apt to contrive their own advantage than that of the mass of the people. In foreign politics it is rare for the interest of the aristocracy to be in any way distinct from that of the people.

The propensity which democracies have to obey the impulse of passion rather than the suggestions of prudence, and to abandon a mature design for the gratification of a momentary caprice, was very clearly seen in America on the breaking out of the French Revolution. It was then as evident to the simplest capacity as it is at the present time that the interest of the Americans forbade them to take any part in the contest which was about to deluge Europe with blood, but which could by no means injure the welfare of their own country. Nevertheless the sympathies of the people declared themselves with so much violence in behalf of France that nothing but the inflexible character of Washington, and the immense popularity which he enjoyed, could have prevented the Americans from declaring war against England. And even then, the exertions which the austere reason of that great man made to repress the generous but imprudent passions of his fellow-citizens, very nearly deprived him of the sole recompense which he had ever claimed—that of his country's love. The majority then reprobated the line of policy which he adopted, and which has since been unanimously approved by the nation. If the Constitution and the favor of the public had not entrusted the direction of the foreign affairs of the country to Washington, it is certain that the American nation would at that time have

taken the very measures which it now condemns.

Almost all the nations which have ever exercised a powerful influence upon the destinies of the world by conceiving, following up, and executing vast designs—from the Romans to the English—have been governed by aristocratic institutions. Nor will this be a subject of wonder when we recollect that nothing in the world has so absolute a fixity of purpose as an aristocracy. The mass of the people may be led astray by ignorance or passion; the mind of a king may be biased, and his perseverance in his designs may be shaken—besides which a king is not immortal—but an aristocratic body is too numerous to be led astray by the blandishments of intrigue, and yet not numerous enough to yield readily to the intoxicating influence of unreflecting passion: it has the energy of a firm and enlightened individual, added to the power which it derives from perpetuity.

## **Chapter 14: What the Real Advantages are Which American Society Derives From the Government of the Democracy**

[General Tendency of the Laws Under the Rule of the American Democracy, and Habits of Those Who Apply Them](#)

[Public Spirit in the United States](#)

[Notion of Rights in the United States](#)

[Respect For the Law in the United States](#)

[Activity Which Pervades all the Branches of the Body Politic in the United States; Influence Which It Exercises Upon Society.](#)

BEFORE I enter upon the subject of the present chapter I am induced to remind the reader of what I have more than once adverted to in the course

of this book. The political institutions of the United States appear to me to be one of the forms of government which a democracy may adopt; but I do not regard the American Constitution as the best, or as the only one, which a democratic people may establish. In showing the advantages which the Americans derive from the government of democracy, I am therefore very far from meaning, or from believing, that similar advantages can only be obtained from the same laws.

### **General Tendency of the Laws Under the Rule of the American Democracy, and Habits of Those Who Apply Them**

Defects of a democratic government easy to be discovered—Its advantages only to be discerned by long observation—Democracy in America often inexpert, but the general tendency of the laws advantageous—In the American democracy public officers have no permanent interests distinct from those of the majority—Result of this state of things.

The defects and the weaknesses of a democratic government may very readily be discovered; they are demonstrated by the most flagrant instances, whilst its beneficial influence is less perceptibly exercised. A single glance suffices to detect its evil consequences, but its good qualities can only be discerned by long observation. The laws of the American democracy are frequently defective or incomplete; they sometimes attack vested rights, or give a sanction to others which are dangerous to the community; but even if they were good, the frequent changes which they undergo would be an evil. How comes it, then, that the American republics prosper and maintain their position?

In the consideration of laws a distinction must be carefully observed between the end at which they aim and the means by which they are directed to that end, between their absolute and their relative excellence. If it be the intention of the legislator to favor the interests of the minority at the expense of the majority, and if the measures he takes are so combined as

to accomplish the object he has in view with the least possible expense of time and exertion, the law may be well drawn up, although its purpose be bad; and the more efficacious it is, the greater is the mischief which it causes.

Democratic laws generally tend to promote the welfare of the greatest possible number; for they emanate from the majority of the citizens, who are subject to error, but who cannot have an interest opposed to their own advantage. The laws of an aristocracy tend, on the contrary, to concentrate wealth and power in the hands of the minority, because an aristocracy, by its very nature, constitutes a minority. It may therefore be asserted, as a general proposition, that the purpose of a democracy in the conduct of its legislation is useful to a greater number of citizens than that of an aristocracy. This is, however, the sum total of its advantages.

Aristocracies are infinitely more expert in the science of legislation than democracies ever can be. They are possessed of a self-control which protects them from the errors of temporary excitement, and they form lasting designs which they mature with the assistance of favorable opportunities. Aristocratic government proceeds with the dexterity of art; it understands how to make the collective force of all its laws converge at the same time to a given point. Such is not the case with democracies, whose laws are almost always ineffective or inopportune. The means of democracy are therefore more imperfect than those of aristocracy, and the measures which it unwittingly adopts are frequently opposed to its own cause; but the object it has in view is more useful.

Let us now imagine a community so organized by nature, or by its constitution, that it can support the transitory action of bad laws, and that it can await, without destruction, the general tendency of the legislation: we shall then be able to conceive that a democratic government, notwithstanding its defects, will be most fitted to conduce to the prosperity of this community. This is precisely what has occurred in the United States; and I repeat, what I have before remarked, that the great advantage of the Americans consists in their being able to commit faults which they may afterward repair.

An analogous observation may be made respecting public officers. It is easy to perceive that the American democracy frequently errs in the choice of the individuals to whom it entrusts the power of the administration; but it is more difficult to say why the State prospers under their rule. In the first place it is to be remarked, that if in a democratic State the governors have less honesty and less capacity than elsewhere, the governed, on the other hand, are more enlightened and more attentive to their interests. As the people in democracies is more incessantly vigilant in its affairs and more jealous of its rights, it prevents its representatives from abandoning that general line of conduct which its own interest prescribes. In the second place, it must be remembered that if the democratic magistrate is more apt to misuse his power, he possesses it for a shorter period of time. But there is yet another reason which is still more general and conclusive. It is no doubt of importance to the welfare of nations that they should be governed by men of talents and virtue; but it is perhaps still more important that the interests of those men should not differ from the interests of the community at large; for, if such were the case, virtues of a high order might become useless, and talents might be turned to a bad account. I say that it is important that the interests of the persons in authority should not conflict with or oppose the interests of the community at large; but I do not insist upon their having the same interests as the whole population, because I am not aware that such a state of things ever existed in any country.

No political form has hitherto been discovered which is equally favorable to the prosperity and the development of all the classes into which society is divided. These classes continue to form, as it were, a certain number of distinct nations in the same nation; and experience has shown that it is no less dangerous to place the fate of these classes exclusively in the hands of any one of them than it is to make one people the arbiter of the destiny of another. When the rich alone govern, the interest of the poor is always endangered; and when the poor make the laws, that of the rich incurs very serious risks. The advantage of democracy does not consist, therefore, as has sometimes been asserted, in favoring the prosperity of all, but simply in contributing to the well-being of the greatest possible number.

The men who are entrusted with the direction of public affairs in the United States are frequently inferior, both in point of capacity and of morality, to

those whom aristocratic institutions would raise to power. But their interest is identified and confounded with that of the majority of their fellow-citizens. They may frequently be faithless and frequently mistaken, but they will never systematically adopt a line of conduct opposed to the will of the majority; and it is impossible that they should give a dangerous or an exclusive tendency to the government.

The mal-administration of a democratic magistrate is a mere isolated fact, which only occurs during the short period for which he is elected. Corruption and incapacity do not act as common interests, which may connect men permanently with one another. A corrupt or an incapable magistrate will not concert his measures with another magistrate, simply because that individual is as corrupt and as incapable as himself; and these two men will never unite their endeavors to promote the corruption and inaptitude of their remote posterity. The ambition and the manoeuvres of the one will serve, on the contrary, to unmask the other. The vices of a magistrate, in democratic states, are usually peculiar to his own person.

But under aristocratic governments public men are swayed by the interest of their order, which, if it is sometimes confounded with the interests of the majority, is very frequently distinct from them. This interest is the common and lasting bond which unites them together; it induces them to coalesce, and to combine their efforts in order to attain an end which does not always ensure the greatest happiness of the greatest number; and it serves not only to connect the persons in authority, but to unite them to a considerable portion of the community, since a numerous body of citizens belongs to the aristocracy, without being invested with official functions. The aristocratic magistrate is therefore constantly supported by a portion of the community, as well as by the Government of which he is a member.

The common purpose which connects the interest of the magistrates in aristocracies with that of a portion of their contemporaries identifies it with that of future generations; their influence belongs to the future as much as to the present. The aristocratic magistrate is urged at the same time toward the same point by the passions of the community, by his own, and I may almost add by those of his posterity. Is it, then, wonderful that he does not resist such repeated impulses? And indeed aristocracies are often carried

away by the spirit of their order without being corrupted by it; and they unconsciously fashion society to their own ends, and prepare it for their own descendants.

The English aristocracy is perhaps the most liberal which ever existed, and no body of men has ever, uninterruptedly, furnished so many honorable and enlightened individuals to the government of a country. It cannot, however, escape observation that in the legislation of England the good of the poor has been sacrificed to the advantage of the rich, and the rights of the majority to the privileges of the few. The consequence is, that England, at the present day, combines the extremes of fortune in the bosom of her society, and her perils and calamities are almost equal to her power and her renown.

In the United States, where the public officers have no interests to promote connected with their caste, the general and constant influence of the Government is beneficial, although the individuals who conduct it are frequently unskilful and sometimes contemptible. There is indeed a secret tendency in democratic institutions to render the exertions of the citizens subservient to the prosperity of the community, notwithstanding their private vices and mistakes; whilst in aristocratic institutions there is a secret propensity which, notwithstanding the talents and the virtues of those who conduct the government, leads them to contribute to the evils which oppress their fellow-creatures. In aristocratic governments public men may frequently do injuries which they do not intend, and in democratic states they produce advantages which they never thought of.

### **Public Spirit in the United States**

Patriotism of instinct—Patriotism of reflection—Their different characteristics—Nations ought to strive to acquire the second when the first has disappeared—Efforts of the Americans to acquire it—Interest of the individual intimately connected with that of the country.

There is one sort of patriotic attachment which principally arises from that instinctive, disinterested, and undefinable feeling which connects the affections of man with his birthplace. This natural fondness is united to a taste for ancient customs, and to a reverence for ancestral traditions of the past; those who cherish it love their country as they love the mansions of their fathers. They enjoy the tranquillity which it affords them; they cling to the peaceful habits which they have contracted within its bosom; they are attached to the reminiscences which it awakens, and they are even pleased by the state of obedience in which they are placed. This patriotism is sometimes stimulated by religious enthusiasm, and then it is capable of making the most prodigious efforts. It is in itself a kind of religion; it does not reason, but it acts from the impulse of faith and of sentiment. By some nations the monarch has been regarded as a personification of the country; and the fervor of patriotism being converted into the fervor of loyalty, they took a sympathetic pride in his conquests, and gloried in his power. At one time, under the ancient monarchy, the French felt a sort of satisfaction in the sense of their dependence upon the arbitrary pleasure of their king, and they were wont to say with pride, "We are the subjects of the most powerful king in the world."

But, like all instinctive passions, this kind of patriotism is more apt to prompt transient exertion than to supply the motives of continuous endeavor. It may save the State in critical circumstances, but it will not unfrequently allow the nation to decline in the midst of peace. Whilst the manners of a people are simple and its faith unshaken, whilst society is steadily based upon traditional institutions whose legitimacy has never been contested, this instinctive patriotism is wont to endure.

But there is another species of attachment to a country which is more rational than the one we have been describing. It is perhaps less generous and less ardent, but it is more fruitful and more lasting; it is coeval with the spread of knowledge, it is nurtured by the laws, it grows by the exercise of civil rights, and, in the end, it is confounded with the personal interest of the citizen. A man comprehends the influence which the prosperity of his country has upon his own welfare; he is aware that the laws authorize him

to contribute his assistance to that prosperity, and he labors to promote it as a portion of his interest in the first place, and as a portion of his right in the second.

But epochs sometimes occur, in the course of the existence of a nation, at which the ancient customs of a people are changed, public morality destroyed, religious belief disturbed, and the spell of tradition broken, whilst the diffusion of knowledge is yet imperfect, and the civil rights of the community are ill secured, or confined within very narrow limits. The country then assumes a dim and dubious shape in the eyes of the citizens; they no longer behold it in the soil which they inhabit, for that soil is to them a dull inanimate clod; nor in the usages of their forefathers, which they have been taught to look upon as a debasing yoke; nor in religion, for of that they doubt; nor in the laws, which do not originate in their own authority; nor in the legislator, whom they fear and despise. The country is lost to their senses, they can neither discover it under its own nor under borrowed features, and they entrench themselves within the dull precincts of a narrow egotism. They are emancipated from prejudice without having acknowledged the empire of reason; they are neither animated by the instinctive patriotism of monarchical subjects nor by the thinking patriotism of republican citizens; but they have stopped halfway between the two, in the midst of confusion and of distress.

In this predicament, to retreat is impossible; for a people cannot restore the vivacity of its earlier times, any more than a man can return to the innocence and the bloom of childhood; such things may be regretted, but they cannot be renewed. The only thing, then, which remains to be done is to proceed, and to accelerate the union of private with public interests, since the period of disinterested patriotism is gone by forever.

I am certainly very far from averring that, in order to obtain this result, the exercise of political rights should be immediately granted to all the members of the community. But I maintain that the most powerful, and perhaps the only, means of interesting men in the welfare of their country which we still possess is to make them partakers in the Government. At the present time civic zeal seems to me to be inseparable from the exercise of political rights; and I hold that the number of citizens will be found to

augment or to decrease in Europe in proportion as those rights are extended.

In the United States the inhabitants were thrown but as yesterday upon the soil which they now occupy, and they brought neither customs nor traditions with them there; they meet each other for the first time with no previous acquaintance; in short, the instinctive love of their country can scarcely exist in their minds; but everyone takes as zealous an interest in the affairs of his township, his county, and of the whole State, as if they were his own, because everyone, in his sphere, takes an active part in the government of society.

The lower orders in the United States are alive to the perception of the influence exercised by the general prosperity upon their own welfare; and simple as this observation is, it is one which is but too rarely made by the people. But in America the people regards this prosperity as the result of its own exertions; the citizen looks upon the fortune of the public as his private interest, and he co-operates in its success, not so much from a sense of pride or of duty, as from what I shall venture to term cupidity.

It is unnecessary to study the institutions and the history of the Americans in order to discover the truth of this remark, for their manners render it sufficiently evident. As the American participates in all that is done in his country, he thinks himself obliged to defend whatever may be censured; for it is not only his country which is attacked upon these occasions, but it is himself. The consequence is, that his national pride resorts to a thousand artifices, and to all the petty tricks of individual vanity.

Nothing is more embarrassing in the ordinary intercourse of life than this irritable patriotism of the Americans. A stranger may be very well inclined to praise many of the institutions of 'their country, but he begs permission to blame some of the peculiarities which he observes—a permission which is, however, inexorably refused. America is therefore a free country, in which, lest anybody should be hurt by your remarks, you are not allowed to speak freely of private individuals, or of the State, of the citizens or of the authorities, of public or of private undertakings, or, in short, of anything at all, except it be of the climate and the soil; and even then Americans will be found ready to defend either the one or the other, as if they had been

contrived by the inhabitants of the country.

In our times option must be made between the patriotism of all and the government of a few; for the force and activity which the first confers are irreconcilable with the guarantees of tranquillity which the second furnishes.

### **Notion of Rights in the United States**

No great people without a notion of rights—How the notion of rights can be given to people—Respect of rights in the United States—Whence it arises.

After the idea of virtue, I know no higher principle than that of right; or, to speak more accurately, these two ideas are commingled in one. The idea of right is simply that of virtue introduced into the political world. It is the idea of right which enabled men to define anarchy and tyranny; and which taught them to remain independent without arrogance, as well as to obey without servility. The man who submits to violence is debased by his compliance; but when he obeys the mandate of one who possesses that right of authority which he acknowledges in a fellow-creature, he rises in some measure above the person who delivers the command. There are no great men without virtue, and there are no great nations—it may almost be added that there would be no society—without the notion of rights; for what is the condition of a mass of rational and intelligent beings who are only united together by the bond of force?

I am persuaded that the only means which we possess at the present time of inculcating the notion of rights, and of rendering it, as it were, palpable to the senses, is to invest all the members of the community with the peaceful exercise of certain rights: this is very clearly seen in children, who are men without the strength and the experience of manhood. When a child begins to move in the midst of the objects which surround him, he is instinctively led to turn everything which he can lay his hands upon to his own purposes; he

has no notion of the property of others; but as he gradually learns the value of things, and begins to perceive that he may in his turn be deprived of his possessions, he becomes more circumspect, and he observes those rights in others which he wishes to have respected in himself. The principle which the child derives from the possession of his toys is taught to the man by the objects which he may call his own. In America those complaints against property in general which are so frequent in Europe are never heard, because in America there are no paupers; and as everyone has property of his own to defend, everyone recognizes the principle upon which he holds it.

The same thing occurs in the political world. In America the lowest classes have conceived a very high notion of political rights, because they exercise those rights; and they refrain from attacking those of other people, in order to ensure their own from attack. Whilst in Europe the same classes sometimes recalcitrate even against the supreme power, the American submits without a murmur to the authority of the pettiest magistrate.

This truth is exemplified by the most trivial details of national peculiarities. In France very few pleasures are exclusively reserved for the higher classes; the poor are admitted wherever the rich are received, and they consequently behave with propriety, and respect whatever contributes to the enjoyments in which they themselves participate. In England, where wealth has a monopoly of amusement as well as of power, complaints are made that whenever the poor happen to steal into the enclosures which are reserved for the pleasures of the rich, they commit acts of wanton mischief: can this be wondered at, since care has been taken that they should have nothing to lose?

The government of democracy brings the notion of political rights to the level of the humblest citizens, just as the dissemination of wealth brings the notion of property within the reach of all the members of the community; and I confess that, to my mind, this is one of its greatest advantages. I do not assert that it is easy to teach men to exercise political rights; but I maintain that, when it is possible, the effects which result from it are highly important; and I add that, if there ever was a time at which such an attempt ought to be made, that time is our own. It is clear that the influence of

religious belief is shaken, and that the notion of divine rights is declining; it is evident that public morality is vitiated, and the notion of moral rights is also disappearing: these are general symptoms of the substitution of argument for faith, and of calculation for the impulses of sentiment. If, in the midst of this general disruption, you do not succeed in connecting the notion of rights with that of personal interest, which is the only immutable point in the human heart, what means will you have of governing the world except by fear? When I am told that, since the laws are weak and the populace is wild, since passions are excited and the authority of virtue is paralyzed, no measures must be taken to increase the rights of the democracy, I reply, that it is for these very reasons that some measures of the kind must be taken; and I am persuaded that governments are still more interested in taking them than society at large, because governments are liable to be destroyed and society cannot perish.

I am not, however, inclined to exaggerate the example which America furnishes. In those States the people are invested with political rights at a time when they could scarcely be abused, for the citizens were few in number and simple in their manners. As they have increased, the Americans have not augmented the power of the democracy, but they have, if I may use the expression, extended its dominions.

It cannot be doubted that the moment at which political rights are granted to a people that had before been without them is a very critical, though it be a necessary one. A child may kill before he is aware of the value of life; and he may deprive another person of his property before he is aware that his own may be taken away from him. The lower orders, when first they are invested with political rights, stand, in relation to those rights, in the same position as the child does to the whole of nature, and the celebrated adage may then be applied to them, *Homo puer robustus*. This truth may even be perceived in America. The States in which the citizens have enjoyed their rights longest are those in which they make the best use of them.

It cannot be repeated too often that nothing is more fertile in prodigies than the art of being free; but there is nothing more arduous than the apprenticeship of liberty. Such is not the case with despotic institutions: despotism often promises to make an end for a thousand previous ills; it

supports the right, it protects the oppressed, and it maintains public order. The nation is lulled by the temporary prosperity which accrues to it, until it is roused to a sense of its own misery. Liberty, on the contrary, is generally established in the midst of agitation, it is perfected by civil discord, and its benefits cannot be appreciated until it is already old.

### **Respect For the Law in the United States**

Respect of the Americans for the law—Parental affection which they entertain for it—Personal interest of everyone to increase the authority of the law.

It is not always feasible to consult the whole people, either directly or indirectly, in the formation of the law; but it cannot be denied that, when such a measure is possible the authority of the law is very much augmented. This popular origin, which impairs the excellence and the wisdom of legislation, contributes prodigiously to increase its power. There is an amazing strength in the expression of the determination of a whole people, and when it declares itself the imagination of those who are most inclined to contest it is overawed by its authority. The truth of this fact is very well known by parties, and they consequently strive to make out a majority whenever they can. If they have not the greater number of voters on their side, they assert that the true majority abstained from voting; and if they are foiled even there, they have recourse to the body of those persons who had no votes to give.

In the United States, except slaves, servants, and paupers in the receipt of relief from the townships, there is no class of persons who do not exercise the elective franchise, and who do not indirectly contribute to make the laws. Those who design to attack the laws must consequently either modify the opinion of the nation or trample upon its decision.

A second reason, which is still more weighty, may be further adduced; in the United States everyone is personally interested in enforcing the obedience of the whole community to the law; for as the minority may shortly rally the majority to its principles, it is interested in professing that respect for the decrees of the legislator which it may soon have occasion to claim for its own. However irksome an enactment may be, the citizen of the United States complies with it, not only because it is the work of the majority, but because it originates in his own authority, and he regards it as a contract to which he is himself a party.

In the United States, then, that numerous and turbulent multitude does not exist which always looks upon the law as its natural enemy, and accordingly surveys it with fear and with distrust. It is impossible, on the other hand, not to perceive that all classes display the utmost reliance upon the legislation of their country, and that they are attached to it by a kind of parental affection.

I am wrong, however, in saying all classes; for as in America the European scale of authority is inverted, the wealthy are there placed in a position analogous to that of the poor in the Old World, and it is the opulent classes which frequently look upon the law with suspicion. I have already observed that the advantage of democracy is not, as has been sometimes asserted, that it protects the interests of the whole community, but simply that it protects those of the majority. In the United States, where the poor rule, the rich have always some reason to dread the abuses of their power. This natural anxiety of the rich may produce a sullen dissatisfaction, but society is not disturbed by it; for the same reason which induces the rich to withhold their confidence in the legislative authority makes them obey its mandates; their wealth, which prevents them from making the law, prevents them from withstanding it. Amongst civilized nations revolts are rarely excited, except by such persons as have nothing to lose by them and if the laws of a democracy are not always worthy of respect, at least they always obtain it; for those who usually infringe the laws have no excuse for not complying with the enactments they have themselves made, and by which they are themselves benefited, whilst the citizens whose interests might be promoted by the infraction of them are induced, by their character and their stations, to submit to the decisions of the legislature, whatever they may be. Besides

which, the people in America obeys the law not only because it emanates from the popular authority, but because that authority may modify it in any points which may prove vexatous; a law is observed because it is a self-imposed evil in the first place, and an evil of transient duration in the second.

### **Activity Which Pervades all the Branches of the Body Politic in the United States; Influence Which It Exercises Upon Society**

More difficult to conceive the political activity which pervades the United States than the freedom and equality which reign there—The great activity which perpetually agitates the legislative bodies is only an episode to the general activity—Difficult for an American to confine himself to his own business—Political agitation extends to all social intercourse—Commercial activity of the Americans partly attributable to this cause—Indirect advantages which society derives from a democratic government.

On passing from a country in which free institutions are established to one where they do not exist, the traveller is struck by the change; in the former all is bustle and activity, in the latter everything is calm and motionless. In the one, amelioration and progress are the general topics of inquiry; in the other, it seems as if the community only aspired to repose in the enjoyment of the advantages which it has acquired. Nevertheless, the country which exerts itself so strenuously to promote its welfare is generally more wealthy and more prosperous than that which appears to be so contented with its lot; and when we compare them together, we can scarcely conceive how so many new wants are daily felt in the former, whilst so few seem to occur in the latter.

If this remark is applicable to those free countries in which monarchical and aristocratic institutions subsist, it is still more striking with regard to democratic republics. In these States it is not only a portion of the people which is busied with the amelioration of its social condition, but the whole

community is engaged in the task; and it is not the exigencies and the convenience of a single class for which a provision is to be made, but the exigencies and the convenience of all ranks of life.

It is not impossible to conceive the surpassing liberty which the Americans enjoy; some idea may likewise be formed of the extreme equality which subsists amongst them, but the political activity which pervades the United States must be seen in order to be understood. No sooner do you set foot upon the American soil than you are stunned by a kind of tumult; a confused clamor is heard on every side; and a thousand simultaneous voices demand the immediate satisfaction of their social wants. Everything is in motion around you; here, the people of one quarter of a town are met to decide upon the building of a church; there, the election of a representative is going on; a little further the delegates of a district are posting to the town in order to consult upon some local improvements; or in another place the laborers of a village quit their ploughs to deliberate upon the project of a road or a public school. Meetings are called for the sole purpose of declaring their disapprobation of the line of conduct pursued by the Government; whilst in other assemblies the citizens salute the authorities of the day as the fathers of their country. Societies are formed which regard drunkenness as the principal cause of the evils under which the State labors, and which solemnly bind themselves to give a constant example of temperance.

The great political agitation of the American legislative bodies, which is the only kind of excitement that attracts the attention of foreign countries, is a mere episode or a sort of continuation of that universal movement which originates in the lowest classes of the people and extends successively to all the ranks of society. It is impossible to spend more efforts in the pursuit of enjoyment.

The cares of political life engross a most prominent place in the occupation of a citizen in the United States, and almost the only pleasure of which an American has any idea is to take a part in the Government, and to discuss the part he has taken. This feeling pervades the most trifling habits of life; even the women frequently attend public meetings and listen to political harangues as a recreation after their household labors. Debating clubs are to

a certain extent a substitute for theatrical entertainments: an American cannot converse, but he can discuss; and when he attempts to talk he falls into a dissertation. He speaks to you as if he was addressing a meeting; and if he should chance to warm in the course of the discussion, he will infallibly say, "Gentlemen," to the person with whom he is conversing.

In some countries the inhabitants display a certain repugnance to avail themselves of the political privileges with which the law invests them; it would seem that they set too high a value upon their time to spend it on the interests of the community; and they prefer to withdraw within the exact limits of a wholesome egotism, marked out by four sunk fences and a quickset hedge. But if an American were condemned to confine his activity to his own affairs, he would be robbed of one-half of his existence; he would feel an immense void in the life which he is accustomed to lead, and his wretchedness would be unbearable. I am persuaded that, if ever a despotic government is established in America, it will find it more difficult to surmount the habits which free institutions have engendered than to conquer the attachment of the citizens to freedom.

This ceaseless agitation which democratic government has introduced into the political world influences all social intercourse. I am not sure that upon the whole this is not the greatest advantage of democracy. And I am much less inclined to applaud it for what it does than for what it causes to be done.

It is incontestable that the people frequently conducts public business very ill; but it is impossible that the lower orders should take a part in public business without extending the circle of their ideas, and without quitting the ordinary routine of their mental acquirements. The humblest individual who is called upon to co-operate in the government of society acquires a certain degree of self-respect; and as he possesses authority, he can command the services of minds much more enlightened than his own. He is canvassed by a multitude of applicants, who seek to deceive him in a thousand different ways, but who instruct him by their deceit. He takes a part in political undertakings which did not originate in his own conception, but which give him a taste for undertakings of the kind. New ameliorations are daily pointed out in the property which he holds in common with others, and this

gives him the desire of improving that property which is more peculiarly his own. He is perhaps neither happier nor better than those who came before him, but he is better informed and more active. I have no doubt that the democratic institutions of the United States, joined to the physical constitution of the country, are the cause (not the direct, as is so often asserted, but the indirect cause) of the prodigious commercial activity of the inhabitants. It is not engendered by the laws, but the people learns how to promote it by the experience derived from legislation.

When the opponents of democracy assert that a single individual performs the duties which he undertakes much better than the government of the community, it appears to me that they are perfectly right. The government of an individual, supposing an equality of instruction on either side, is more consistent, more persevering, and more accurate than that of a multitude, and it is much better qualified judiciously to discriminate the characters of the men it employs. If any deny what I advance, they have certainly never seen a democratic government, or have formed' their opinion upon very partial evidence. It is true that even when local circumstances and the disposition of the people allow democratic institutions to subsist, they never display a regular and methodical system of government. Democratic liberty is far from accomplishing all the projects it undertakes, with the skill of an adroit despotism. It frequently abandons them before they have borne their fruits, or risks them when the consequences may prove dangerous; but in the end it produces more than any absolute government, and if it do fewer things well, it does a greater number of things. Under its sway the transactions of the public administration are not nearly so important as what is done by private exertion. Democracy does not confer the most skilful kind of government upon the people, but it produces that which the most skilful governments are frequently unable to awaken, namely, an all-pervading and restless activity, a superabundant force, and an energy which is inseparable from it, and which may, under favorable circumstances, beget the most amazing benefits. These are the true advantages of democracy.

In the present age, when the destinies of Christendom seem to be in suspense, some hasten to assail democracy as its foe whilst it is yet in its early growth; and others are ready with their vows of adoration for this new deity which is springing forth from chaos: but both parties are very

imperfectly acquainted with the object of their hatred or of their desires; they strike in the dark, and distribute their blows by mere chance.

We must first understand what the purport of society and the aim of government is held to be. If it be your intention to confer a certain elevation upon the human mind, and to teach it to regard the things of this world with generous feelings, to inspire men with a scorn of mere temporal advantage, to give birth to living convictions, and to keep alive the spirit of honorable devotedness; if you hold it to be a good thing to refine the habits, to embellish the manners, to cultivate the arts of a nation, and to promote the love of poetry, of beauty, and of renown; if you would constitute a people not unfitted to act with power upon all other nations, nor unprepared for those high enterprises which, whatever be the result of its efforts, will leave a name forever famous in time—if you believe such to be the principal object of society, you must avoid the government of democracy, which would be a very uncertain guide to the end you have in view.

But if you hold it to be expedient to divert the moral and intellectual activity of man to the production of comfort, and to the acquirement of the necessaries of life; if a clear understanding be more profitable to man than genius; if your object be not to stimulate the virtues of heroism, but to create habits of peace; if you had rather witness vices than crimes and are content to meet with fewer noble deeds, provided offences be diminished in the same proportion; if, instead of living in the midst of a brilliant state of society, you are contented to have prosperity around you; if, in short, you are of opinion that the principal object of a Government is not to confer the greatest possible share of power and of glory upon the body of the nation, but to ensure the greatest degree of enjoyment and the least degree of misery to each of the individuals who compose it—if such be your desires, you can have no surer means of satisfying them than by equalizing the conditions of men, and establishing democratic institutions.

But if the time be passed at which such a choice was possible, and if some superhuman power impel us towards one or the other of these two governments without consulting our wishes, let us at least endeavor to make the best of that which is allotted to us; and let us so inquire into its good and its evil propensities as to be able to foster the former and repress the latter

to the utmost.

## **Chapter 15: Unlimited Power of the Majority in the United States, and Its Consequences**

[How the Unlimited Power of the Majority Increases in America the Instability of Legislation and Administration Inherent in Democracy.](#)

[Tyranny of the Majority.](#)

[Effects of the Unlimited Power of the Majority Upon the Arbitrary Authority of the American Public Officers](#)

[Power Exercised by the Majority in America Upon Opinion](#)

[Effects of the Tyranny of the Majority Upon the National Character of the Americans](#)

[The Greatest Dangers of the American Republics Proceed From the Unlimited Power of the Majority.](#)

Natural strength of the majority in democracies—Most of the American Constitutions have increased this strength by artificial means—How this has been done—Pledged delegates—Moral power of the majority—Opinion as to its infallibility—Respect for its rights, how augmented in the United States.

THE very essence of democratic government consists in the absolute sovereignty of the majority; for there is nothing in democratic States which is capable of resisting it. Most of the American Constitutions have sought to

increase this natural strength of the majority by artificial means.

The legislature is, of all political institutions, the one which is most easily swayed by the wishes of the majority. The Americans determined that the members of the legislature should be elected by the people immediately, and for a very brief term, in order to subject them, not only to the general convictions, but even to the daily passions, of their constituents. The members of both houses are taken from the same class in society, and are nominated in the same manner; so that the modifications of the legislative bodies are almost as rapid and quite as irresistible as those of a single assembly. It is to a legislature thus constituted that almost all the authority of the government has been entrusted.

But whilst the law increased the strength of those authorities which of themselves were strong, it enfeebled more and more those which were naturally weak. It deprived the representatives of the executive of all stability and independence, and by subjecting them completely to the caprices of the legislature, it robbed them of the slender influence which the nature of a democratic government might have allowed them to retain. In several States the judicial power was also submitted to the elective discretion of the majority, and in all of them its existence was made to depend on the pleasure of the legislative authority, since the representatives were empowered annually to regulate the stipend of the judges.

Custom, however, has done even more than law. A proceeding which will in the end set all the guarantees of representative government at naught is becoming more and more general in the United States; it frequently happens that the electors, who choose a delegate, point out a certain line of conduct to him, and impose upon him a certain number of positive obligations which he is pledged to fulfil. With the exception of the tumult, this comes to the same thing as if the majority of the populace held its deliberations in the market-place.

Several other circumstances concur in rendering the power of the majority in America not only preponderant, but irresistible. The 'moral authority of the majority is partly based upon the notion that there is more intelligence and more wisdom in a great number of men collected together than in a

single individual, and that the quantity of legislators is more important than their quality. The theory of equality is in fact applied to the intellect of man: and human pride is thus assailed in its last retreat by a doctrine which the minority hesitate to admit, and in which they very slowly concur. Like all other powers, and perhaps more than all other powers, the authority of the many requires the sanction of time; at first it enforces obedience by constraint, but its laws are not respected until they have long been maintained.

The right of governing society, which the majority supposes itself to derive from its superior intelligence, was introduced into the United States by the first settlers, and this idea, which would be sufficient of itself to create a free nation, has now been amalgamated with the manners of the people and the minor incidents of social intercourse.

The French, under the old monarchy, held it for a maxim (which is still a fundamental principle of the English Constitution) that the King could do no wrong; and if he did do wrong, the blame was imputed to his advisers. This notion was highly favorable to habits of obedience, and it enabled the subject to complain of the law without ceasing to love and honor the lawgiver. The Americans entertain the same opinion with respect to the majority.

The moral power of the majority is founded upon yet another principle, which is, that the interests of the many are to be preferred to those of a few. It will readily be perceived that the respect here professed for the rights of the majority must naturally increase or diminish according to the state of parties. When a nation is divided into several irreconcilable factions, the privilege of the majority is often overlooked, because it is intolerable to comply with its demands.

If there existed in America a class of citizens whom the legislating majority sought to deprive of exclusive privileges which they had possessed for ages, and to bring down from an elevated station to the level of the ranks of the multitude, it is probable that the minority would be less ready to comply with its laws. But as the United States were colonized by men holding equal rank amongst themselves, there is as yet no natural or permanent source of

dissension between the interests of its different inhabitants.

There are certain communities in which the persons who constitute the minority can never hope to draw over the majority to their side, because they must then give up the very point which is at issue between them. Thus, an aristocracy can never become a majority whilst it retains its exclusive privileges, and it cannot cede its privileges without ceasing to be an aristocracy.

In the United States political questions cannot be taken up in so general and absolute a manner, and all parties are willing to recognize the rights of the majority, because they all hope to turn those rights to their own advantage at some future time. The majority therefore in that country exercises a prodigious actual authority, and a moral influence which is scarcely less preponderant; no obstacles exist which can impede or so much as retard its progress, or which can induce it to heed the complaints of those whom it crushes upon its path. This state of things is fatal in itself and dangerous for the future.

### **How the Unlimited Power of the Majority Increases in America the Instability of Legislation and Administration Inherent in Democracy**

The Americans increase the mutability of the laws which is inherent in democracy by changing the legislature every year, and by investing it with unbounded authority—The same effect is produced upon the administration—In America social amelioration is conducted more energetically but less perseveringly than in Europe.

I have already spoken of the natural defects of democratic institutions, and they all of them increase at the exact ratio of the power of the majority. To begin with the most evident of them all; the mutability of the laws is an evil inherent in democratic government, because it is natural to democracies to raise men to power in very rapid succession. But this evil is more or less

sensible in proportion to the authority and the means of action which the legislature possesses.

In America the authority exercised by the legislative bodies is supreme; nothing prevents them from accomplishing their wishes with celerity, and with irresistible power, whilst they are supplied by new representatives every year. That is to say, the circumstances which contribute most powerfully to democratic instability, and which admit of the free application of caprice to every object in the State, are here in full operation. In conformity with this principle, America is, at the present day, the country in the world where laws last the shortest time. Almost all the American constitutions have been amended within the course of thirty years: there is therefore not a single American State which has not modified the principles of its legislation in that lapse of time. As for the laws themselves, a single glance upon the archives of the different States of the Union suffices to convince one that in America the activity of the legislator never slackens. Not that the American democracy is naturally less stable than any other, but that it is allowed to follow its capricious propensities in the formation of the laws.

The omnipotence of the majority, and the rapid as well as absolute manner in which its decisions are executed in the United States, has not only the effect of rendering the law unstable, but it exercises the same influence upon the execution of the law and the conduct of the public administration. As the majority is the only power which it is important to court, all its projects are taken up with the greatest ardor, but no sooner is its attention distracted than all this ardor ceases whilst in the free States of Europe the administration is at once independent and secure, so that the projects of the legislature are put into execution, although its immediate attention may be directed to other objects.

In America certain ameliorations are undertaken with much more zeal and activity than elsewhere; in Europe the same ends are promoted by much less social effort, more continuously applied.

Some years ago several pious individuals undertook to ameliorate the condition of the prisons. The public was excited by the statements which

they put forward, and flee regeneration of criminals became a very popular undertaking. New prisons were built, and for the first time the idea of reforming as well as of punishing the delinquent formed a part of prison discipline. But this happy alteration, in which the public had taken so hearty an interest, and which the exertions of the citizens had irresistibly accelerated, could not be completed in a moment. Whilst the new penitentiaries were being erected (and it was the pleasure of the majority that they should be terminated with all possible celerity), the old prisons existed, which still contained a great number of offenders. These jails became more unwholesome and more corrupt in proportion as the new establishments were beautified and improved, forming a contrast which may readily be understood. The majority was so eagerly employed in founding the new prisons that those which already existed were forgotten; and as the general attention was diverted to a novel object, the care which had hitherto been bestowed upon the others ceased. The salutary regulations of discipline were first relaxed, and afterwards broken; so that in the immediate neighborhood of a prison which bore witness to the mild and enlightened spirit of our time, dungeons might be met with which reminded the visitor of the barbarity of the Middle Ages.

### **Tyranny of the Majority**

How the principle of the sovereignty of the people is to be understood—  
Impossibility of conceiving a mixed government—The sovereign power  
must centre somewhere—Precautions to be taken to control its action—  
These precautions have not been taken in the United States—  
Consequences.

I hold it to be an impious and an execrable maxim that, politically speaking, a people has a right to do whatsoever it pleases, and yet I have asserted that all authority originates in the will of the majority. Am I then, in contradiction with myself?

A general law—which bears the name of Justice—has been made and sanctioned, not only by a majority of this or that people, but by a majority of mankind. The rights of every people are consequently confined within the limits of what is just. A nation may be considered in the light of a jury which is empowered to represent society at large, and to apply the great and general law of justice. Ought such a jury, which represents society, to have more power than the society in which the laws it applies originate?

When I refuse to obey an unjust law, I do not contest the right which the majority has of commanding, but I simply appeal from the sovereignty of the people to the sovereignty of mankind. It has been asserted that a people can never entirely outstep the boundaries of justice and of reason in those affairs which are more peculiarly its own, and that consequently full power may fearlessly be given to the majority by which it is represented. But this language is that of a slave.

A majority taken collectively may be regarded as a being whose opinions, and most frequently whose interests, are opposed to those of another being, which is styled a minority. If it be admitted that a man, possessing absolute power, may misuse that power by wronging his adversaries, why should a majority not be liable to the same reproach? Men are not apt to change their characters by agglomeration; nor does their patience in the presence of obstacles increase with the consciousness of their strength. And for these reasons I can never willingly invest any number of my fellow-creatures with that unlimited authority which I should refuse to any one of them.

I do not think that it is possible to combine several principles in the same government, so as at the same time to maintain freedom, and really to oppose them to one another. The form of government which is usually termed mixed has always appeared to me to be a mere chimera. Accurately speaking there is no such thing as a mixed government (with the meaning usually given to that word), because in all communities some one principle of action may be discovered which preponderates over the others. England in the last century, which has been more especially cited as an example of this form of Government, was in point of fact an essentially aristocratic State, although it comprised very powerful elements of democracy; for the laws and customs of the country were such that the aristocracy could not

but preponderate in the end, and subject the direction of public affairs to its own will. The error arose from too much attention being paid to the actual struggle which was going on between the nobles and the people, without considering the probable issue of the contest, which was in reality the important point. When a community really has a mixed government, that is to say, when it is equally divided between two adverse principles, it must either pass through a revolution or fall into complete dissolution.

I am therefore of opinion that some one social power must always be made to predominate over the others; but I think that liberty is endangered when this power is checked by no obstacles which may retard its course, and force it to moderate its own vehemence.

Unlimited power is in itself a bad and dangerous thing; human beings are not competent to exercise it with discretion, and God alone can be omnipotent, because His wisdom and His justice are always equal to His power. But no power upon earth is so worthy of honor for itself, or of reverential obedience to the rights which it represents, that I would consent to admit its uncontrolled and all-predominant authority. When I see that the right and the means of absolute command are conferred on a people or upon a king, upon an aristocracy or a democracy, a monarchy or a republic, I recognize the germ of tyranny, and I journey onward to a land of more hopeful institutions.

In my opinion the main evil of the present democratic institutions of the United States does not arise, as is often asserted in Europe, from their weakness, but from their overpowering strength; and I am not so much alarmed at the excessive liberty which reigns in that country as at the very inadequate securities which exist against tyranny.

When an individual or a party is wronged in the United States, to whom can he apply for redress? If to public opinion, public opinion constitutes the majority; if to the legislature, it represents the majority, and implicitly obeys its injunctions; if to the executive power, it is appointed by the majority, and remains a passive tool in its hands; the public troops consist of the majority under arms; the jury is the majority invested with the right of hearing judicial cases; and in certain States even the judges are elected by the

majority. However iniquitous or absurd the evil of which you complain may be, you must submit to it as well as you can.

If, on the other hand, a legislative power could be so constituted as to represent the majority without necessarily being the slave of its passions; an executive, so as to retain a certain degree of uncontrolled authority; and a judiciary, so as to remain independent of the two other powers; a government would be formed which would still be democratic without incurring any risk of tyrannical abuse.

I do not say that tyrannical abuses frequently occur in America at the present day, but I maintain that no sure barrier is established against them, and that the causes which mitigate the government are to be found in the circumstances and the manners of the country more than in its laws.

### **Effects of the Unlimited Power of the Majority Upon the Arbitrary Authority of the American Public Officers**

Liberty left by the American laws to public officers within a certain sphere  
—Their power.

A distinction must be drawn between tyranny and arbitrary power. Tyranny may be exercised by means of the law, and in that case it is not arbitrary; arbitrary power may be exercised for the good of the community at large, in which case it is not tyrannical. Tyranny usually employs arbitrary means, but, if necessary, it can rule without them.

In the United States the unbounded power of the majority, which is favorable to the legal despotism of the legislature, is likewise favorable to the arbitrary authority of the magistrate. The majority has an entire control over the law when it is made and when it is executed; and as it possesses an equal authority over those who are in power and the community at large, it considers public officers as its passive agents, and readily confides the task

of serving its designs to their vigilance. The details of their office and the privileges which they are to enjoy are rarely defined beforehand; but the majority treats them as a master does his servants when they are always at work in his sight, and he has the power of directing or reprimanding them at every instant.

In general the American functionaries are far more independent than the French civil officers within the sphere which is prescribed to them. Sometimes, even, they are allowed by the popular authority to exceed those bounds; and as they are protected by the opinion, and backed by the cooperation, of the majority, they venture upon such manifestations of their power as astonish a European. By this means habits are formed in the heart of a free country which may some day prove fatal to its liberties.

### **Power Exercised by the Majority in America Upon Opinion**

In America, when the majority has once irrevocably decided a question, all discussion ceases—Reason of this—Moral power exercised by the majority upon opinion—Democratic republics have deprived despotism of its physical instruments—Their despotism sways the minds of men.

It is in the examination of the display of public opinion in the United States that we clearly perceive how far the power of the majority surpasses all the powers with which we are acquainted in Europe. Intellectual principles exercise an influence which is so invisible, and often so inappreciable, that they baffle the toils of oppression. At the present time the most absolute monarchs in Europe are unable to prevent certain notions, which are opposed to their authority, from circulating in secret throughout their dominions, and even in their courts. Such is not the case in America; as long as the majority is still undecided, discussion is carried on; but as soon as its decision is irrevocably pronounced, a submissive silence is observed, and the friends, as well as the opponents, of the measure unite in assenting to its propriety. The reason of this is perfectly clear: no monarch is so

absolute as to combine all the powers of society in his own hands, and to conquer all opposition with the energy of a majority which is invested with the right of making and of executing the laws.

The authority of a king is purely physical, and it controls the actions of the subject without subduing his private will; but the majority possesses a power which is physical and moral at the same time; it acts upon the will as well as upon the actions of men, and it represses not only all contest, but all controversy.

I know no country in which there is so little true independence of mind and freedom of discussion as in America. In any constitutional state in Europe every sort of religious and political theory may be advocated and propagated abroad; for there is no country in Europe so subdued by any single authority as not to contain citizens who are ready to protect the man who raises his voice in the cause of truth from the consequences of his hardihood. If he is unfortunate enough to live under an absolute government, the people is upon his side; if he inhabits a free country, he may find a shelter behind the authority of the throne, if he require one. The aristocratic part of society supports him in some countries, and the democracy in others. But in a nation where democratic institutions exist, organized like those of the United States, there is but one sole authority, one single element of strength and of success, with nothing beyond it.

In America the majority raises very formidable barriers to the liberty of opinion: within these barriers an author may write whatever he pleases, but he will repent it if he ever step beyond them. Not that he is exposed to the terrors of an auto-da-fe, but he is tormented by the slights and persecutions of daily obloquy. His political career is closed forever, since he has offended the only authority which is able to promote his success. Every sort of compensation, even that of celebrity, is refused to him. Before he published his opinions he imagined that he held them in common with many others; but no sooner has he declared them openly than he is loudly censured by his overbearing opponents, whilst those who think without having the courage to speak, like him, abandon him in silence. He yields at length, oppressed by the daily efforts he has been making, and he subsides

into silence, as if he was tormented by remorse for having spoken the truth.

Fetters and headsmen were the coarse instruments which tyranny formerly employed; but the civilization of our age has refined the arts of despotism which seemed, however, to have been sufficiently perfected before. The excesses of monarchical power had devised a variety of physical means of oppression: the democratic republics of the present day have rendered it as entirely an affair of the mind as that will which it is intended to coerce. Under the absolute sway of an individual despot the body was attacked in order to subdue the soul, and the soul escaped the blows which were directed against it and rose superior to the attempt; but such is not the course adopted by tyranny in democratic republics; there the body is left free, and the soul is enslaved. The sovereign can no longer say, "You shall think as I do on pain of death;" but he says, "You are free to think differently from me, and to retain your life, your property, and all that you possess; but if such be your determination, you are henceforth an alien among your people. You may retain your civil rights, but they will be useless to you, for you will never be chosen by your fellow-citizens if you solicit their suffrages, and they will affect to scorn you if you solicit their esteem. You will remain among men, but you will be deprived of the rights of mankind. Your fellow-creatures will shun you like an impure being, and those who are most persuaded of your innocence will abandon you too, lest they should be shunned in their turn. Go in peace! I have given you your life, but it is an existence incomparably worse than death."

Monarchical institutions have thrown an odium upon despotism; let us beware lest democratic republics should restore oppression, and should render it less odious and less degrading in the eyes of the many, by making it still more onerous to the few.

Works have been published in the proudest nations of the Old World expressly intended to censure the vices and deride the follies of the times: Labruyere inhabited the palace of Louis XIV when he composed his chapter upon the Great, and Moliere criticised the courtiers in the very pieces which were acted before the Court. But the ruling power in the United States is not to be made game of; the smallest reproach irritates its sensibility, and the slightest joke which has any foundation in truth renders it indignant; from

the style of its language to the more solid virtues of its character, everything must be made the subject of encomium. No writer, whatever be his eminence, can escape from this tribute of adulation to his fellow-citizens. The majority lives in the perpetual practice of self-applause, and there are certain truths which the Americans can only learn from strangers or from experience.

If great writers have not at present existed in America, the reason is very simply given in these facts; there can be no literary genius without freedom of opinion, and freedom of opinion does not exist in America. The Inquisition has never been able to prevent a vast number of anti-religious books from circulating in Spain. The empire of the majority succeeds much better in the United States, since it actually removes the wish of publishing them. Unbelievers are to be met with in America, but, to say the truth, there is no public organ of infidelity. Attempts have been made by some governments to protect the morality of nations by prohibiting licentious books. In the United States no one is punished for this sort of works, but no one is induced to write them; not because all the citizens are immaculate in their manners, but because the majority of the community is decent and orderly.

In these cases the advantages derived from the exercise of this power are unquestionable, and I am simply discussing the nature of the power itself. This irresistible authority is a constant fact, and its judicious exercise is an accidental occurrence.

### **Effects of the Tyranny of the Majority Upon the National Character of the Americans**

Effects of the tyranny of the majority more sensibly felt hitherto in the manners than in the conduct of society—They check the development of leading characters—Democratic republics organized like the United States bring the practice of courting favor within the reach of the many—Proofs of

this spirit in the United States—Why there is more patriotism in the people than in those who govern in its name.

The tendencies which I have just alluded to are as yet very slightly perceptible in political society, but they already begin to exercise an unfavorable influence upon the national character of the Americans. I am inclined to attribute the singular paucity of distinguished political characters to the ever-increasing activity of the despotism of the majority in the United States. When the American Revolution broke out they arose in great numbers, for public opinion then served, not to tyrannize over, but to direct the exertions of individuals. Those celebrated men took a full part in the general agitation of mind common at that period, and they attained a high degree of personal fame, which was reflected back upon the nation, but which was by no means borrowed from it.

In absolute governments the great nobles who are nearest to the throne flatter the passions of the Sovereign, and voluntarily truckle to his caprices. But the mass of the nation does not degrade itself by servitude: it often submits from weakness, from habit, or from ignorance, and sometimes from loyalty. Some nations have been known to sacrifice their own desires to those of the sovereign with pleasure and with pride, thus exhibiting a sort of independence in the very act of submission. These peoples are miserable, but they are not degraded. There is a great difference between doing what one does not approve and feigning to approve what one does; the one is the necessary case of a weak person, the other befits the temper of a lackey.

In free countries, where everyone is more or less called upon to give his opinion in the affairs of state; in democratic republics, where public life is incessantly commingled with domestic affairs, where the sovereign authority is accessible on every side, and where its attention can almost always be attracted by vociferation, more persons are to be met with who speculate upon its foibles and live at the cost of its passions than in absolute monarchies. Not because men are naturally worse in these States than elsewhere, but the temptation is stronger, and of easier access at the same time. The result is a far more extensive debasement of the characters of

citizens.

Democratic republics extend the practice of currying favor with the many, and they introduce it into a greater number of classes at once: this is one of the most serious reproaches that can be addressed to them. In democratic States organized on the principles of the American republics, this is more especially the case, where the authority of the majority is so absolute and so irresistible that a man must give up his rights as a citizen, and almost abjure his quality as a human being, if he intends to stray from the track which it lays down.

In that immense crowd which throngs the avenues to power in the United States I found very few men who displayed any of that manly candor and that masculine independence of opinion which frequently distinguished the Americans in former times, and which constitutes the leading feature in distinguished characters, wheresoever they may be found. It seems, at first sight, as if all the minds of the Americans were formed upon one model, so accurately do they correspond in their manner of judging. A stranger does, indeed, sometimes meet with Americans who dissent from these rigorous formularies; with men who deplore the defects of the laws, the mutability and the ignorance of democracy; who even go so far as to observe the evil tendencies which impair the national character, and to point out such remedies as it might be possible to apply; but no one is there to hear these things besides yourself, and you, to whom these secret reflections are confided, are a stranger and a bird of passage. They are very ready to communicate truths which are useless to you, but they continue to hold a different language in public.

If ever these lines are read in America, I am well assured of two things: in the first place, that all who peruse them will raise their voices to condemn me; and in the second place, that very many of them will acquit me at the bottom of their conscience.

I have heard of patriotism in the United States, and it is a virtue which may be found among the people, but never among the leaders of the people. This may be explained by analogy; despotism debases the oppressed much more than the oppressor: in absolute monarchies the king has often great virtues,

but the courtiers are invariably servile. It is true that the American courtiers do not say "Sire," or "Your Majesty"—a distinction without a difference. They are forever talking of the natural intelligence of the populace they serve; they do not debate the question as to which of the virtues of their master is pre-eminently worthy of admiration, for they assure him that he possesses all the virtues under heaven without having acquired them, or without caring to acquire them; they do not give him their daughters and their wives to be raised at his pleasure to the rank of his concubines, but, by sacrificing their opinions, they prostitute themselves. Moralists and philosophers in America are not obliged to conceal their opinions under the veil of allegory; but, before they venture upon a harsh truth, they say, "We are aware that the people which we are addressing is too superior to all the weaknesses of human nature to lose the command of its temper for an instant; and we should not hold this language if we were not speaking to men whom their virtues and their intelligence render more worthy of freedom than all the rest of the world." It would have been impossible for the sycophants of Louis XIV to flatter more dexterously. For my part, I am persuaded that in all governments, whatever their nature may be, servility will cower to force, and adulation will cling to power. The only means of preventing men from degrading themselves is to invest no one with that unlimited authority which is the surest method of debasing them.

### **The Greatest Dangers of the American Republics Proceed From the Unlimited Power of the Majority**

Democratic republics liable to perish from a misuse of their power, and not by impotence—The Governments of the American republics are more centralized and more energetic than those of the monarchies of Europe—Dangers resulting from this—Opinions of Hamilton and Jefferson upon this point.

Governments usually fall a sacrifice to impotence or to tyranny. In the former case their power escapes from them; it is wrested from their grasp in

the latter. Many observers, who have witnessed the anarchy of democratic States, have imagined that the government of those States was naturally weak and impotent. The truth is, that when once hostilities are begun between parties, the government loses its control over society. But I do not think that a democratic power is naturally without force or without resources: say, rather, that it is almost always by the abuse of its force and the misemployment of its resources that a democratic government fails. Anarchy is almost always produced by its tyranny or its mistakes, but not by its want of strength.

It is important not to confound stability with force, or the greatness of a thing with its duration. In democratic republics, the power which directs the society is not stable; for it often changes hands and assumes a new direction. But whichever way it turns, its force is almost irresistible. The Governments of the American republics appear to me to be as much centralized as those of the absolute monarchies of Europe, and more energetic than they are. I do not, therefore, imagine that they will perish from weakness.

If ever the free institutions of America are destroyed, that event may be attributed to the unlimited authority of the majority, which may at some future time urge the minorities to desperation, and oblige them to have recourse to physical force. Anarchy will then be the result, but it will have been brought about by despotism.

Mr. Hamilton expresses the same opinion in the "Federalist," No. 51. "It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Justice is the end of government. It is the end of civil society. It ever has been, and ever will be, pursued until it be obtained, or until liberty be lost in the pursuit. In a society, under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger: and as in the latter state even the stronger individuals are prompted by the uncertainty of their condition to submit to a government which may protect the weak as well as themselves, so in the former state will the more powerful factions be

gradually induced by a like motive to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that, if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of right under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of the factious majorities, that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it."

Jefferson has also thus expressed himself in a letter to Madison: "The executive power in our Government is not the only, perhaps not even the principal, object of my solicitude. The tyranny of the Legislature is really the danger most to be feared, and will continue to be so for many years to come. The tyranny of the executive power will come in its turn, but at a more distant period." I am glad to cite the opinion of Jefferson upon this subject rather than that of another, because I consider him to be the most powerful advocate democracy has ever sent forth.

## **Chapter 16: Causes Which Mitigate the Tyranny of the Majority in the United States**

[Absence of Central Administration](#)

[The Profession of the Law in the United States Serves to Counterpoise the Democracy](#)

[Trial by Jury in the United States Considered as a Political Institution](#)

**Absence of Central Administration**

The national majority does not pretend to conduct all business—Is obliged to employ the town and county magistrates to execute its supreme decisions.

I HAVE already pointed out the distinction which is to be made between a centralized government and a centralized administration. The former exists in America, but the latter is nearly unknown there. If the directing power of the American communities had both these instruments of government at its disposal, and united the habit of executing its own commands to the right of commanding; if, after having established the general principles of government, it descended to the details of public business; and if, having regulated the great interests of the country, it could penetrate into the privacy of individual interests, freedom would soon be banished from the New World.

But in the United States the majority, which so frequently displays the tastes and the propensities of a de spot, is still destitute of the more perfect instruments of tyranny. In the American republics the activity of the central Government has never as yet been extended beyond a limited number of objects sufficiently prominent to call forth its attention. The secondary affairs of society have never been regulated by its authority, and nothing has hitherto betrayed its desire of interfering in them. The majority is become more and more absolute, but it has not increased the prerogatives of the central government; those great prerogatives have been confined to a certain sphere; and although the despotism of the majority may be galling upon one point, it cannot be said to extend to all. However the predominant party in the nation may be carried away by its passions, however ardent it may be in the pursuit of its projects, it cannot oblige all the citizens to comply with its desires in the same manner and at the same time throughout the country. When the central Government which represents that majority has issued a decree, it must entrust the execution of its will to agents, over whom it frequently has no control, and whom it cannot perpetually direct. The townships, municipal bodies, and counties may therefore be looked upon as concealed break-waters, which check or part the tide of popular

excitement. If an oppressive law were passed, the liberties of the people would still be protected by the means by which that law would be put in execution: the majority cannot descend to the details and (as I will venture to style them) the puerilities of administrative tyranny. Nor does the people entertain that full consciousness of its authority which would prompt it to interfere in these matters; it knows the extent of its natural powers, but it is unacquainted with the increased resources which the art of government might furnish.

This point deserves attention, for if a democratic republic similar to that of the United States were ever founded in a country where the power of a single individual had previously subsisted, and the effects of a centralized administration had sunk deep into the habits and the laws of the people, I do not hesitate to assert, that in that country a more insufferable despotism would prevail than any which now exists in the monarchical States of Europe, or indeed than any which could be found on this side of the confines of Asia.

### **The Profession of the Law in the United States Serves to Counterpoise the Democracy**

Utility of discriminating the natural propensities of the members of the legal profession—These men called upon to act a prominent part in future society—In what manner the peculiar pursuits of lawyers give an aristocratic turn to their ideas—Accidental causes which may check this tendency—Ease with which the aristocracy coalesces with legal men—Use of lawyers to a despot—The profession of the law constitutes the only aristocratic element with which the natural elements of democracy will combine—Peculiar causes which tend to give an aristocratic turn of mind to the English and American lawyers—The aristocracy of America is on the bench and at the bar—Influence of lawyers upon American society—Their peculiar magisterial habits affect the legislature, the administration, and even the people.

In visiting the Americans and in studying their laws we perceive that the authority they have entrusted to members of the legal profession, and the influence which these individuals exercise in the Government, is the most powerful existing security against the excesses of democracy. This effect seems to me to result from a general cause which it is useful to investigate, since it may produce analogous consequences elsewhere.

The members of the legal profession have taken an important part in all the vicissitudes of political society in Europe during the last five hundred years. At one time they have been the instruments of those who were invested with political authority, and at another they have succeeded in converting political authorities into their instrument. In the Middle Ages they afforded a powerful support to the Crown, and since that period they have exerted themselves to the utmost to limit the royal prerogative. In England they have contracted a close alliance with the aristocracy; in France they have proved to be the most dangerous enemies of that class. It is my object to inquire whether, under all these circumstances, the members of the legal profession have been swayed by sudden and momentary impulses; or whether they have been impelled by principles which are inherent in their pursuits, and which will always recur in history. I am incited to this investigation by reflecting that this particular class of men will most likely play a prominent part in that order of things to which the events of our time are giving birth.

Men who have more especially devoted themselves to legal pursuits derive from those occupations certain habits of order, a taste for formalities, and a kind of instinctive regard for the regular connection of ideas, which naturally render them very hostile to the revolutionary spirit and the unreflecting passions of the multitude.

The special information which lawyers derive from their studies ensures them a separate station in society, and they constitute a sort of privileged body in the scale of intelligence. This notion of their superiority perpetually recurs to them in the practice of their profession: they are the masters of a science which is necessary, but which is not very generally known; they

serve as arbiters between the citizens; and the habit of directing the blind passions of parties in litigation to their purpose inspires them with a certain contempt for the judgment of the multitude. To this it may be added that they naturally constitute a body, not by any previous understanding, or by an agreement which directs them to a common end; but the analogy of their studies and the uniformity of their proceedings connect their minds together, as much as a common interest could combine their endeavors.

A portion of the tastes and of the habits of the aristocracy may consequently be discovered in the characters of men in the profession of the law. They participate in the same instinctive love of order and of formalities; and they entertain the same repugnance to the actions of the multitude, and the same secret contempt of the government of the people. I do not mean to say that the natural propensities of lawyers are sufficiently strong to sway them irresistibly; for they, like most other men, are governed by their private interests and the advantages of the moment.

In a state of society in which the members of the legal profession are prevented from holding that rank in the political world which they enjoy in private life, we may rest assured that they will be the foremost agents of revolution. But it must then be inquired whether the cause which induces them to innovate and to destroy is accidental, or whether it belongs to some lasting purpose which they entertain. It is true that lawyers mainly contributed to the overthrow of the French monarchy in 1789; but it remains to be seen whether they acted thus because they had studied the laws, or because they were prohibited from co-operating in the work of legislation.

Five hundred years ago the English nobles headed the people, and spoke in its name; at the present time the aristocracy supports the throne, and defends the royal prerogative. But aristocracy has, notwithstanding this, its peculiar instincts and propensities. We must be careful not to confound isolated members of a body with the body itself. In all free governments, of whatsoever form they may be, members of the legal profession will be found at the head of all parties. The same remark is also applicable to the aristocracy; for almost all the democratic convulsions which have agitated

the world have been directed by nobles.

A privileged body can never satisfy the ambition of all its members; it has always more talents and more passions to content and to employ than it can find places; so that a considerable number of individuals are usually to be met with who are inclined to attack those very privileges which they find it impossible to turn to their own account.

I do not, then, assert that all the members of the legal profession are at all times the friends of order and the opponents of innovation, but merely that most of them usually are so. In a Community in which lawyers are allowed to occupy, without opposition, that high station which naturally belongs to them, their general spirit will be eminently conservative and antidemocratic. When an aristocracy excludes the leaders of that profession from its ranks, it excites enemies which are the more formidable to its security as they are independent of the nobility by their industrious pursuits; and they feel themselves to be its equal in point of intelligence, although they enjoy less opulence and less power. But whenever an aristocracy consents to impart some of its privileges to these same individuals, the two classes coalesce very readily, and assume, as it were, the consistency of a single order of family interests.

I am, in like manner, inclined to believe that a monarch will always be able to convert legal practitioners into the most serviceable instruments of his authority. There is a far greater affinity between this class of individuals and the executive power than there is between them and the people; just as there is a greater natural affinity between the nobles and the monarch than between the nobles and the people, although the higher orders of society have occasionally resisted the prerogative of the Crown in concert with the lower classes.

Lawyers are attached to public order beyond every other consideration, and the best security of public order is authority. It must not be forgotten that, if they prize the free institutions of their country much, they nevertheless value the legality of those institutions far more: they are less afraid of tyranny than of arbitrary power; and provided that the legislature take upon

itself to deprive men of their independence, they are not dissatisfied.

I am therefore convinced that the prince who, in presence of an encroaching democracy, should endeavor to impair the judicial authority in his dominions, and to diminish the political influence of lawyers, would commit a great mistake. He would let slip the substance of authority to grasp at the shadow. He would act more wisely in introducing men connected with the law into the government; and if he entrusted them with the conduct of a despotic power, bearing some marks of violence, that power would most likely assume the external features of justice and of legality in their hands.

The government of democracy is favorable to the political power of lawyers; for when the wealthy, the noble, and the prince are excluded from the government, they are sure to occupy the highest stations, in their own right, as it were, since they are the only men of information and sagacity, beyond the sphere of the people, who can be the object of the popular choice. If, then, they are led by their tastes to combine with the aristocracy and to support the Crown, they are naturally brought into contact with the people by their interests. They like the government of democracy, without participating in its propensities and without imitating its weaknesses; whence they derive a two fold authority, from it and over it. The people in democratic states does not mistrust the members of the legal profession, because it is well known that they are interested in serving the popular cause; and it listens to them without irritation, because it does not attribute to them any sinister designs. The object of lawyers is not, indeed, to overthrow the institutions of democracy, but they constantly endeavor to give it an impulse which diverts it from its real tendency, by means which are foreign to its nature. Lawyers belong to the people by birth and interest, to the aristocracy by habit and by taste, and they may be looked upon as the natural bond and connecting link of the two great classes of society.

The profession of the law is the only aristocratic element which can be amalgamated without violence with the natural elements of democracy, and which can be advantageously and permanently combined with them. I am not unacquainted with the defects which are inherent in the character of that body of men; but without this admixture of lawyer-like sobriety with the

democratic principle, I question whether democratic institutions could long be maintained, and I cannot believe that a republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people.

This aristocratic character, which I hold to be common to the legal profession, is much more distinctly marked in the United States and in England than in any other country. This proceeds not only from the legal studies of the English and American lawyers, but from the nature of the legislation, and the position which those persons occupy in the two countries. The English and the Americans have retained the law of precedents; that is to say, they continue to found their legal opinions and the decisions of their courts upon the opinions and the decisions of their forefathers. In the mind of an English or American lawyer a taste and a reverence for what is old is almost always united to a love of regular and lawful proceedings.

This predisposition has another effect upon the character of the legal profession and upon the general course of society. The English and American lawyers investigate what has been done; the French advocate inquires what should have been done; the former produce precedents, the latter reasons. A French observer is surprised to hear how often an English or an American lawyer quotes the opinions of others, and how little he alludes to his own; whilst the reverse occurs in France. There the most trifling litigation is never conducted without the introduction of an entire system of ideas peculiar to the counsel employed; and the fundamental principles of law are discussed in order to obtain a perch of land by the decision of the court. This abnegation of his own opinion, and this implicit deference to the opinion of his forefathers, which are common to the English and American lawyer, this subjection of thought which he is obliged to profess, necessarily give him more timid habits and more sluggish inclinations in England and America than in France.

The French codes are often difficult of comprehension, but they can be read by every one; nothing, on the other hand, can be more impenetrable to the uninitiated than a legislation founded upon precedents. The indispensable want of legal assistance which is felt in England and in the United States,

and the high opinion which is generally entertained of the ability of the legal profession, tend to separate it more and more from the people, and to place it in a distinct class. The French lawyer is simply a man extensively acquainted with the statutes of his country; but the English or American lawyer resembles the hierophants of Egypt, for, like them, he is the sole interpreter of an occult science.

The station which lawyers occupy in England and America exercises no less an influence upon their habits and their opinions. The English aristocracy, which has taken care to attract to its sphere whatever is at all analogous to itself, has conferred a high degree of importance and of authority upon the members of the legal profession. In English society lawyers do not occupy the first rank, but they are contented with the station assigned to them; they constitute, as it were, the younger branch of the English aristocracy, and they are attached to their elder brothers, although they do not enjoy all their privileges. The English lawyers consequently mingle the taste and the ideas of the aristocratic circles in which they move with the aristocratic interests of their profession.

And indeed the lawyer-like character which I am endeavoring to depict is most distinctly to be met with in England: there laws are esteemed not so much because they are good as because they are old; and if it be necessary to modify them in any respect, or to adapt them to the changes which time operates in society, recourse is had to the most inconceivable contrivances in order to uphold the traditionary fabric, and to maintain that nothing has been done which does not square with the intentions and complete the labors of former generations. The very individuals who conduct these changes disclaim all intention of innovation, and they had rather resort to absurd expedients than plead guilty to so great a crime. This spirit appertains more especially to the English lawyers; they seem indifferent to the real meaning of what they treat, and they direct all their attention to the letter, seeming inclined to infringe the rules of common sense and of humanity rather than to swerve one tittle from the law. The English legislation may be compared to the stock of an old tree, upon which lawyers have engrafted the most various shoots, with the hope that, although their fruits may differ, their foliage at least will be confounded with the venerable

trunk which supports them all.

In America there are no nobles or men of letters, and the people is apt to mistrust the wealthy; lawyers consequently form the highest political class, and the most cultivated circle of society. They have therefore nothing to gain by innovation, which adds a conservative interest to their natural taste for public order. If I were asked where I place the American aristocracy, I should reply without hesitation that it is not composed of the rich, who are united together by no common tie, but that it occupies the judicial bench and the bar.

The more we reflect upon all that occurs in the United States the more shall we be persuaded that the lawyers as a body form the most powerful, if not the only, counterpoise to the democratic element. In that country we perceive how eminently the legal profession is qualified by its powers, and even by its defects, to neutralize the vices which are inherent in popular government. When the American people is intoxicated by passion, or carried away by the impetuosity of its ideas, it is checked and stopped by the almost invisible influence of its legal counsellors, who secretly oppose their aristocratic propensities to its democratic instincts, their superstitious attachment to what is antique to its love of novelty, their narrow views to its immense designs, and their habitual procrastination to its ardent impatience.

The courts of justice are the most visible organs by which the legal profession is enabled to control the democracy. The judge is a lawyer, who, independently of the taste for regularity and order which he has contracted in the study of legislation, derives an additional love of stability from his own inalienable functions. His legal attainments have already raised him to a distinguished rank amongst his fellow-citizens; his political power completes the distinction of his station, and gives him the inclinations natural to privileged classes.

Armed with the power of declaring the laws to be unconstitutional, the American magistrate perpetually interferes in political affairs. He cannot force the people to make laws, but at least he can oblige it not to disobey its own enactments; or to act inconsistently with its own principles. I am aware that a secret tendency to diminish the judicial power exists in the United

States, and by most of the constitutions of the several States the Government can, upon the demand of the two houses of the legislature, remove the judges from their station. By some other constitutions the members of the tribunals are elected, and they are even subjected to frequent re-elections. I venture to predict that these innovations will sooner or later be attended with fatal consequences, and that it will be found out at some future period that the attack which is made upon the judicial power has affected the democratic republic itself.

It must not, however, be supposed that the legal spirit of Which I have been speaking has been confined, in the United States, to the courts of justice; it extends far beyond them. As the lawyers constitute the only enlightened class which the people does not mistrust, they are naturally called upon to occupy most of the public stations. They fill the legislative assemblies, and they conduct the administration; they consequently exercise a powerful influence upon the formation of the law, and upon its execution. The lawyers are, however, obliged to yield to the current of public opinion, which is too strong for them to resist it, but it is easy to find indications of what their conduct would be if they were free to act as they chose. The Americans, who have made such copious innovations in their political legislation, have introduced very sparing alterations in their civil laws, and that with great difficulty, although those laws are frequently repugnant to their social condition. The reason of this is, that in matters of civil law the majority is obliged to defer to the authority of the legal profession, and that the American lawyers are disinclined to innovate when they are left to their own choice.

It is curious for a Frenchman, accustomed to a very different state of things, to hear the perpetual complaints which are made in the United States against the stationary propensities of legal men, and their prejudices in favor of existing institutions.

The influence of the legal habits which are common in America extends beyond the limits I have just pointed out. Scarcely any question arises in the United States which does not become, sooner or later, a subject of judicial debate; hence all parties are obliged to borrow the ideas, and even the language, usual in judicial proceedings in their daily controversies. As most

public men are, or have been, legal practitioners, they introduce the customs and technicalities of their profession into the affairs of the country. The jury extends this habitude to all classes. The language of the law thus becomes, in some measure, a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, where it descends to the lowest classes, so that the whole people contracts the habits and the tastes of the magistrate. The lawyers of the United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself to all the movements of the social body; but this party extends over the whole Community, and it penetrates into all classes of society; it acts upon the country imperceptibly, but it finally fashions it to suit its purposes.

### **Trial by Jury in the United States Considered as a Political Institution**

Trial by jury, which is one of the instruments of the sovereignty of the people, deserves to be compared with the other laws which establish that sovereignty—Composition of the jury in the United States—Effect of trial by jury upon the national character—It educates the people—It tends to establish the authority of the magistrates and to extend a knowledge of law among the people.

Since I have been led by my subject to recur to the administration of justice in the United States, I will not pass over this point without adverting to the institution of the jury. Trial by jury may be considered in two separate points of view, as a judicial and as a political institution. If it entered into my present purpose to inquire how far trial by jury (more especially in civil cases) contributes to insure the best administration of justice, I admit that its utility might be contested. As the jury was first introduced at a time when society was in an uncivilized state, and when courts of justice were merely called upon to decide on the evidence of facts, it is not an easy task to adapt it to the wants of a highly civilized community when the mutual relations of

men are multiplied to a surprising extent, and have assumed the enlightened and intellectual character of the age.

My present object is to consider the jury as a political institution, and any other course would divert me from my subject. Of trial by jury, considered as a judicial institution, I shall here say but very few words. When the English adopted trial by jury they were a semi-barbarous people; they are become, in course of time, one of the most enlightened nations of the earth; and their attachment to this institution seems to have increased with their increasing cultivation. They soon spread beyond their insular boundaries to every corner of the habitable globe; some have formed colonies, others independent states; the mother-country has maintained its monarchical constitution; many of its offspring have founded powerful republics; but wherever the English have been they have boasted of the privilege of trial by jury. They have established it, or hastened to re-establish it, in all their settlements. A judicial institution which obtains the suffrages of a great people for so long a series of ages, which is zealously renewed at every epoch of civilization, in all the climates of the earth and under every form of human government, cannot be contrary to the spirit of justice.

I turn, however, from this part of the subject. To look upon the jury as a mere judicial institution is to confine our attention to a very narrow view of it; for however great its influence may be upon the decisions of the law courts, that influence is very subordinate to the powerful effects which it produces on the destinies of the community at large. The jury is above all a political institution, and it must be regarded in this light in order to be duly appreciated.

By the jury I mean a certain number of citizens chosen indiscriminately, and invested with a temporary right of judging. Trial by jury, as applied to the repression of crime, appears to me to introduce an eminently republican element into the government upon the following grounds:—

The institution of the jury may be aristocratic or democratic, according to the class of society from which the jurors are selected; but it always preserves its republican character, inasmuch as it places the real direction of society in the hands of the governed, or of a portion of the governed,

instead of leaving it under the authority of the Government. Force is never more than a transient element of success; and after force comes the notion of right. A government which should only be able to crush its enemies upon a field of battle would very soon be destroyed. The true sanction of political laws is to be found in penal legislation, and if that sanction be wanting the law will sooner or later lose its cogency. He who punishes infractions of the law is therefore the real master of society. Now the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judicial authority. The institution of the jury consequently invests the people, or that class of citizens, with the direction of society.

In England the jury is returned from the aristocratic portion of the nation; the aristocracy makes the laws, applies the laws, and punishes all infractions of the laws; everything is established upon a consistent footing, and England may with truth be said to constitute an aristocratic republic. In the United States the same system is applied to the whole people. Every American citizen is qualified to be an elector, a juror, and is eligible to office. The system of the jury, as it is understood in America, appears to me to be as direct and as extreme a consequence of the sovereignty of the people as universal suffrage. These institutions are two instruments of equal power, which contribute to the supremacy of the majority. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. The monarchs of the House of Tudor sent to prison jurors who refused to convict, and Napoleon caused them to be returned by his agents.

However clear most of these truths may seem to be, they do not command universal assent, and in France, at least, the institution of trial by jury is still very imperfectly understood. If the question arises as to the proper qualification of jurors, it is confined to a discussion of the intelligence and knowledge of the citizens who may be returned, as if the jury was merely a judicial institution. This appears to me to be the least part of the subject. The jury is pre-eminently a political institution; it must be regarded as one form of the sovereignty of the people; when that sovereignty is repudiated, it must be rejected, or it must be adapted to the laws by which that sovereignty is established. The jury is that portion of the nation to which the execution of the laws is entrusted, as the Houses of Parliament constitute

that part of the nation which makes the laws; and in order that society may be governed with consistency and uniformity, the list of citizens qualified to serve on juries must increase and diminish with the list of electors. This I hold to be the point of view most worthy of the attention of the legislator, and all that remains is merely accessory.

I am so entirely convinced that the jury is pre-eminently a political institution that I still consider it in this light when it is applied in civil causes. Laws are always unstable unless they are founded upon the manners of a nation; manners are the only durable and resisting power in a people. When the jury is reserved for criminal offences, the people only witnesses its occasional action in certain particular cases; the ordinary course of life goes on without its interference, and it is considered as an instrument, but not as the only instrument, of obtaining justice. This is true a' fortiori when the jury is only applied to certain criminal causes.

When, on the contrary, the influence of the jury is extended to civil causes, its application is constantly palpable; it affects all the interests of the community; everyone co-operates in its work: it thus penetrates into all the usages of life, it fashions the human mind to its peculiar forms, and is gradually associated with the idea of justice itself.

The institution of the jury, if confined to criminal causes, is always in danger, but when once it is introduced into civil proceedings it defies the aggressions of time and of man. If it had been as easy to remove the jury from the manners as from the laws of England, it would have perished under Henry VIII, and Elizabeth, and the civil jury did in reality, at that period, save the liberties of the country. In whatever manner the jury be applied, it cannot fail to exercise a powerful influence upon the national character; but this influence is prodigiously increased when it is introduced into civil causes. The jury, and more especially the jury in civil cases, serves to communicate the spirit of the judges to the minds of all the citizens; and this spirit, with the habits which attend it, is the soundest preparation for free institutions. It imbues all classes with a respect for the thing judged, and with the notion of right. If these two elements be removed, the love of independence is reduced to a mere destructive passion. It teaches men to practice equity, every man learns to judge his neighbor as

he would himself be judged; and this is especially true of the jury in civil causes, for, whilst the number of persons who have reason to apprehend a criminal prosecution is small, every one is liable to have a civil action brought against him. The jury teaches every man not to recoil before the responsibility of his own actions, and impresses him with that manly confidence without which political virtue cannot exist. It invests each citizen with a kind of magistracy, it makes them all feel the duties which they are bound to discharge towards society, and the part which they take in the Government. By obliging men to turn their attention to affairs which are not exclusively their own, it rubs off that individual egotism which is the rust of society.

The jury contributes most powerfully to form the judgment and to increase the natural intelligence of a people, and this is, in my opinion, its greatest advantage. It may be regarded as a gratuitous public school ever open, in which every juror learns to exercise his rights, enters into daily communication with the most learned and enlightened members of the upper classes, and becomes practically acquainted with the laws of his country, which are brought within the reach of his capacity by the efforts of the bar, the advice of the judge, and even by the passions of the parties. I think that the practical intelligence and political good sense of the Americans are mainly attributable to the long use which they have made of the jury in civil causes. I do not know whether the jury is useful to those who are in litigation; but I am certain it is highly beneficial to those who decide the litigation; and I look upon it as one of the most efficacious means for the education of the people which society can employ.

What I have hitherto said applies to all nations, but the remark I am now about to make is peculiar to the Americans and to democratic peoples. I have already observed that in democracies the members of the legal profession and the magistrates constitute the only aristocratic body which can check the irregularities of the people. This aristocracy is invested with no physical power, but it exercises its conservative influence upon the minds of men, and the most abundant source of its authority is the institution of the civil jury. In criminal causes, when society is armed against a single individual, the jury is apt to look upon the judge as the passive instrument of social power, and to mistrust his advice. Moreover,

criminal causes are entirely founded upon the evidence of facts which common sense can readily appreciate; upon this ground the judge and the jury are equal. Such, however, is not the case in civil causes; then the judge appears as a disinterested arbiter between the conflicting passions of the parties. The jurors look up to him with confidence and listen to him with respect, for in this instance their intelligence is completely under the control of his learning. It is the judge who sums up the various arguments with which their memory has been wearied out, and who guides them through the devious course of the proceedings; he points their attention to the exact question of fact which they are called upon to solve, and he puts the answer to the question of law into their mouths. His influence upon their verdict is almost unlimited.

If I am called upon to explain why I am but little moved by the arguments derived from the ignorance of jurors in civil causes, I reply, that in these proceedings, whenever the question to be solved is not a mere question of fact, the jury has only the semblance of a judicial body. The jury sanctions the decision of the judge, they by the authority of society which they represent, and he by that of reason and of law.

In England and in America the judges exercise an influence upon criminal trials which the French judges have never possessed. The reason of this difference may easily be discovered; the English and American magistrates establish their authority in civil causes, and only transfer it afterwards to tribunals of another kind, where that authority was not acquired. In some cases (and they are frequently the most important ones) the American judges have the right of deciding causes alone. Upon these occasions they are accidentally placed in the position which the French judges habitually occupy, but they are invested with far more power than the latter; they are still surrounded by the reminiscence of the jury, and their judgment has almost as much authority as the voice of the community at large, represented by that institution. Their influence extends beyond the limits of the courts; in the recreations of private life as well as in the turmoil of public business, abroad and in the legislative assemblies, the American judge is constantly surrounded by men who are accustomed to regard his intelligence as superior to their own, and after having exercised his power in the decision of causes, he continues to influence the habits of thought and

the characters of the individuals who took a part in his judgment.

The jury, then, which seems to restrict the rights of magistracy, does in reality consolidate its power, and in no country are the judges so powerful as there, where the people partakes their privileges. It is more especially by means of the jury in civil causes that the American magistrates imbue all classes of society with the spirit of their profession. Thus the jury, which is the most energetic means of making the people rule, is also the most efficacious means of teaching it to rule well.

## **Chapter 17: Principal Causes Which Tend to Maintain the Democratic Republic in the United States**

[Accidental or Providential Causes Which Contribute to the Maintenance of the Democratic Republic in The United States](#)

[Influence of the Laws Upon the Maintenance of the Democratic Republic in the United States](#)

[Influence of Manners Upon the Maintenance of the Democratic Republic in the United States](#)

[Religion Considered as a Political Institution, Which Powerfully Contributes to the Maintenance of the Democratic Republic Amongst the Americans](#)

[Indirect Influence of Religious Opinions Upon Political Society in the United States](#)

[Principal Causes Which Render Religion Powerful in America](#)

[How the Instruction, the Habits, and the Practical Experience of the Americans Promote the Success of their Democratic Institutions](#)

The Laws Contribute More to the Maintenance of the Democratic Republic in the United States than the Physical Circumstances of the Country, and the Manner More than the Laws

Whether Laws and Manners are Sufficient to Maintain Democratic Institutions in Other Countries Besides America

Importance of What Precedes With Respect to the State of Europe

Democratic republic subsists in the United States, the principal object of this book has been to account for the fact of its existence. Several of the causes which contribute to maintain the institutions of America have been involuntarily passed by or only hinted at as I was borne along by my subject. Others I have been unable to discuss, and those on which I have dwelt most are, as it were, buried in the details of the former parts of this work. I think, therefore, that before I proceed to speak of the future, I cannot do better than collect within a small compass the reasons which best explain the present. In this retrospective chapter I shall be succinct, for I shall take care to remind the reader very summarily of what he already knows; and I shall only select the most prominent of those facts which I have not yet pointed out.

All the causes which contribute to the maintenance of the democratic republic in the United States are reducible to three heads:—

- I. The peculiar and accidental situation in which Providence has placed the Americans.
- II. The laws.
- III. The manners and customs of the people.

## **Accidental or Providential Causes Which Contribute to the Maintenance of the Democratic Republic in The United States**

The Union has no neighbors—No metropolis—The Americans have had the chances of birth in their favor—America an empty country—How this circumstance contributes powerfully to the maintenance of the democratic republic in America—How the American wilds are peopled—Avidity of the Anglo-Americans in taking possession of the solitudes of the New World—Influence of physical prosperity upon the political opinions of the Americans.

A thousand circumstances, independent of the will of man, concur to facilitate the maintenance of a democratic republic in the United States. Some of these peculiarities are known, the others may easily be pointed out; but I shall confine my—self to the most prominent amongst them.

The Americans have no neighbors, and consequently they have no great wars, or financial crises, or inroads, or conquest to dread; they require neither great taxes, nor great armies, nor great generals; and they have nothing to fear from a scourge which is more formidable to republics than all these evils combined, namely, military glory. It is impossible to deny the inconceivable influence which military glory exercises upon the spirit of a nation. General Jackson, whom the Americans have twice elected to the head of their Government, is a man of a violent temper and mediocre talents; no one circumstance in the whole course of his career ever proved that he is qualified to govern a free people, and indeed the majority of the enlightened classes of the Union has always been opposed to him. But he was raised to the Presidency, and has been maintained in that lofty station, solely by the recollection of a victory which he gained twenty years ago under the walls of New Orleans, a victory which was, however, a very ordinary achievement, and which could only be remembered in a country where battles are rare. Now the people which is thus carried away by the illusions of glory is unquestionably the most cold and calculating, the most unmilitary (if I may use the expression), and the most prosaic of all the

peoples of the earth.

America has no great capital a city, whose influence is directly or indirectly felt over the whole extent of the country, which I hold to be one of the first causes of the maintenance of republican institutions in the United States. In cities men cannot be prevented from concerting together, and from awakening a mutual excitement which prompts sudden and passionate resolutions. Cities may be looked upon as large assemblies, of which all the inhabitants are members; their populace exercises a prodigious influence upon the magistrates, and frequently executes its own wishes without their intervention.

To subject the provinces to the metropolis is therefore not only to place the destiny of the empire in the hands of a portion of the community, which may be reprobated as unjust, but to place it in the hands of a populace acting under its own impulses, which must be avoided as dangerous. The pre-ponderance of capital cities is therefore a serious blow upon the representative system, and it exposes modern republics to the same defect as the republics of antiquity, which all perished from not having been acquainted with that form of government.

It would be easy for me to adduce a great number of secondary causes which have contributed to establish, and which concur to maintain, the democratic republic of the United States. But I discern two principal circumstances amongst these favorable elements, which I hasten to point out. I have already observed that the origin of the American settlements may be looked upon as the first and most efficacious cause to which the present prosperity of the United States may be attributed. The Americans had the chances of birth in their favor, and their forefathers imported that equality of conditions into the country whence the democratic republic has very naturally taken its rise. Nor was this all they did; for besides this republican condition of society, the early settlers bequeathed to their descendants those customs, manners, and opinions which contribute most to the success of a republican form of government. When I reflect upon the consequences of this primary circumstance, methinks I see the destiny of America embodied in the first Puritan who landed on those shores, lust as

the human race was represented by the first man.

The chief circumstance which has favored the establishment and the maintenance of a democratic republic in the United States is the nature of the territory which the Americans inhabit. Their ancestors gave them the love of equality and of freedom, but God himself gave them the means of remaining equal and free, by placing them upon a boundless continent, which is open to their exertions. General prosperity is favorable to the stability of all governments, but more particularly of a democratic constitution, which depends upon the dispositions of the majority, and more particularly of that portion of the community which is most exposed to feel the pressure of want. When the people rules, it must be rendered happy, or it will overturn the State, and misery is apt to stimulate it to those excesses to which ambition rouses kings. The physical causes, independent of the laws, which contribute to promote general prosperity, are more numerous in America than they have ever been in any other country in the world, at any other period of history. In the United States not only is legislation democratic, but nature herself favors the cause of the people.

In what part of human tradition can be found anything at all similar to that which is occurring under our eyes in North America? The celebrated communities of antiquity were all founded in the midst of hostile nations, which they were obliged to subjugate before they could flourish in their place. Even the moderns have found, in some parts of South America, vast regions inhabited by a people of inferior civilization, but which occupied and cultivated the soil. To found their new states it was necessary to extirpate or to subdue a numerous population, until civilization has been made to blush for their success. But North America was only inhabited by wandering tribes, who took no thought of the natural riches of the soil, and that vast country was still, properly speaking, an empty continent, a desert land awaiting its inhabitants.

Everything is extraordinary in America, the social condition of the inhabitants, as well as the laws; but the soil upon which these institutions are founded is more extraordinary than all the rest. When man was first placed upon the earth by the Creator, the earth was inexhaustible in its youth, but man was weak and ignorant; and when he had learned to explore

the treasures which it contained, hosts of his fellow creatures covered its surface, and he was obliged to earn an asylum for repose and for freedom by the sword. At that same period North America was discovered, as if it had been kept in reserve by the Deity, and had just risen from beneath the waters of the deluge.

That continent still presents, as it did in the primeval time, rivers which rise from never-failing sources, green and moist solitudes, and fields which the ploughshare of the husbandman has never turned. In this state it is offered to man, not in the barbarous and isolated condition of the early ages, but to a being who is already in possession of the most potent secrets of the natural world, who is united to his fellow-men, and instructed by the experience of fifty centuries. At this very time thirteen millions of civilized Europeans are peaceably spreading over those fertile plains, with whose resources and whose extent they are not yet themselves accurately acquainted. Three or four thousand soldiers drive the wandering races of the aborigines before them; these are followed by the pioneers, who pierce the Woods, scare off the beasts of prey, explore the courses of the inland streams, and make ready the triumphal procession of civilization across the waste.

The favorable influence of the temporal prosperity of America upon the institutions of that country has been so often described by others, and adverted to by myself, that I shall not enlarge upon it beyond the addition of a few facts. An erroneous notion is generally entertained that the deserts of America are peopled by European emigrants, who annually disembark upon the coasts of the New World, whilst the American population increases and multiplies upon the soil which its forefathers tilled. The European settler, however, usually arrives in the United States without friends, and sometimes without resources; in order to subsist he is obliged to work for hire, and he rarely proceeds beyond that belt of industrious population which adjoins the ocean. The desert cannot be explored without capital or credit; and the body must be accustomed to the rigors of a new climate before it can be exposed to the climates of forest life. It is the Americans themselves who daily quit the spots which gave them birth to acquire extensive domains in a remote country. Thus the European leaves his cottage for the trans-Atlantic shores; and the American, who is born on that

very coast, plunges in his turn into the wilds of Central America. This double emigration is incessant; it begins in the remotest parts of Europe, it crosses the Atlantic Ocean, and it advances over the solitudes of the New World. Millions of men are marching at once towards the same horizon; their language, their religion, their manners differ, their object is the same. The gifts of fortune are promised in the West, and to the West they bend their course.

No event can be compared with this continuous removal of the human race, except perhaps those irruptions which preceded the fall of the Roman Empire. Then, as well as now, generations of men were impelled forwards in the same direction to meet and struggle on the same spot; but the designs of Providence were not the same; then, every newcomer was the harbinger of destruction and of death; now, every adventurer brings with him the elements of prosperity and of life. The future still conceals from us the ulterior consequences of this emigration of the Americans towards the West; but we can readily apprehend its more immediate results. As a portion of the inhabitants annually leave the States in which they were born, the population of these States increases very slowly, although they have long been established: thus in Connecticut, which only contains fifty-nine inhabitants to the square mile, the population has not increased by more than one-quarter in forty years, whilst that of England has been augmented by one-third in the lapse of the same period. The European emigrant always lands, therefore, in a country which is but half full, and where hands are in request: he becomes a work-man in easy circumstances; his son goes to seek his fortune in unpeopled regions, and he becomes a rich landowner. The former amasses the capital which the latter invests, and the stranger as well as the native is unacquainted with want.

The laws of the United States are extremely favorable to the division of property; but a cause which is more powerful than the laws prevents property from being divided to excess. This is very perceptible in the States which are beginning to be thickly peopled; Massachusetts is the most populous part of the Union, but it contains only eighty inhabitants to the square mile, which is must less than in France, where 162 are reckoned to the same extent of country. But in Massachusetts estates are very rarely divided; the eldest son takes the land, and the others go to seek their fortune

in the desert. The law has abolished the rights of primogeniture, but circumstances have concurred to re-establish it under a form of which none can complain, and by which no just rights are impaired.

A single fact will suffice to show the prodigious number of individuals who leave New England, in this manner, to settle themselves in the wilds. We were assured in 1830 that thirty-six of the members of Congress were born in the little State of Connecticut. The population of Connecticut, which constitutes only one forty-third part of that of the United States, thus furnished one-eighth of the whole body of representatives. The States of Connecticut, however, only sends five delegates to Congress; and the thirty-one others sit for the new Western States. If these thirty-one individuals had remained in Connecticut, it is probable that instead of becoming rich landowners they would have remained humble laborers, that they would have lived in obscurity without being able to rise into public life, and that, far from becoming useful members of the legislature, they might have been unruly citizens.

These reflections do not escape the observation of the Americans any more than of ourselves. "It cannot be doubted," says Chancellor Kent in his "Treatise on American Law," "that the division of landed estates must produce great evils when it is carried to such excess as that each parcel of land is insufficient to support a family; but these disadvantages have never been felt in the United States, and many generations must elapse before they can be felt. The extent of our inhabited territory, the abundance of adjacent land, and the continual stream of emigration flowing from the shores of the Atlantic towards the interior of the country, suffice as yet, and will long suffice, to prevent the parcelling out of estates."

It is difficult to describe the rapacity with which the American rushes forward to secure the immense booty which fortune proffers to him. In the pursuit he fearlessly braves the arrow of the Indian and the distempers of the forest; he is unimpressed by the silence of the woods; the approach of beasts of prey does not disturb him; for he is goaded onwards by a passion more intense than the love of life. Before him lies a boundless continent, and he urges onwards as if time pressed, and he was afraid of finding no room for his exertions. I have spoken of the emigration from the older

States, but how shall I describe that which takes place from the more recent ones? Fifty years have scarcely elapsed since that of Ohio was founded; the greater part of its inhabitants were not born within its confines; its capital has only been built thirty years, and its territory is still covered by an immense extent of uncultivated fields; nevertheless the population of Ohio is already proceeding westward, and most of the settlers who descend to the fertile savannahs of Illinois are citizens of Ohio. These men left their first country to improve their condition; they quit their resting-place to ameliorate it still more; fortune awaits them everywhere, but happiness they cannot attain. The desire of prosperity is become an ardent and restless passion in their minds which grows by what it gains. They early broke the ties which bound them to their natal earth, and they have contracted no fresh ones on their way. Emigration was at first necessary to them as a means of subsistence; and it soon becomes a sort of game of chance, which they pursue for the emotions it excites as much as for the gain it procures.

Sometimes the progress of man is so rapid that the desert reappears behind him. The woods stoop to give him a passage, and spring up again when he has passed. It is not uncommon in crossing the new States of the West to meet with deserted dwellings in the midst of the wilds; the traveller frequently discovers the vestiges of a log house in the most solitary retreats, which bear witness to the power, and no less to the inconstancy of man. In these abandoned fields, and over these ruins of a day, the primeval forest soon scatters a fresh vegetation, the beasts resume the haunts which were once their own, and Nature covers the traces of man's path with branches and with flowers, which obliterate his evanescent track.

I remember that, in crossing one of the woodland districts Which still cover the State of New York, I reached the shores of a lake embosomed in forests coeval with the world. A small island, covered with woods whose thick foliage concealed its banks, rose from the centre of the waters. Upon the shores of the lake no object attested the presence of man except a column of smoke which might be seen on the horizon rising from the tops of the trees to the clouds, and seeming to hang from heaven rather than to be mounting to the sky. An Indian shallop was hauled up on the sand, which tempted me to visit the islet that had first attracted my attention, and in a few minutes I set foot upon its banks. The whole island formed one of those delicious

solitudes of the New World which almost lead civilized man to regret the haunts of the savage. A luxuriant vegetation bore witness to the incomparable fruitfulness of the soil. The deep silence which is common to the wilds of North America was only broken by the hoarse cooing of the wood-pigeon, and the tapping of the woodpecker upon the bark of trees. I was far from supposing that this spot had ever been inhabited, so completely did Nature seem to be left to her own caprices; but when I reached the centre of the isle I thought that I discovered some traces of man. I then proceeded to examine the surrounding objects with care, and I soon perceived that a European had undoubtedly been led to seek a refuge in this retreat. Yet what changes had taken place in the scene of his labors! The logs which he had hastily hewn to build himself a shed had sprouted afresh; the very props were intertwined with living verdure, and his cabin was transformed into a bower. In the midst of these shrubs a few stones were to be seen, blackened with fire and sprinkled with thin ashes; here the hearth had no doubt been, and the chimney in falling had covered it with rubbish. I stood for some time in silent admiration of the exuberance of Nature and the littleness of man: and when I was obliged to leave that enchanting solitude, I exclaimed with melancholy, "Are ruins, then, already here?"

In Europe we are wont to look upon a restless disposition, an unbounded desire of riches, and an excessive love of independence, as propensities very formidable to society. Yet these are the very elements which ensure a long and peaceful duration to the republics of America. Without these unquiet passions the population would collect in certain spots, and would soon be subject to wants like those of the Old World, which it is difficult to satisfy; for such is the present good fortune of the New World, that the vices of its inhabitants are scarcely less favorable to society than their virtues. These circumstances exercise a great influence on the estimation in which human actions are held in the two hemispheres. The Americans frequently term what we should call cupidity a laudable industry; and they blame as faint-heartedness what we consider to be the virtue of moderate desires.

In France, simple tastes, orderly manners, domestic affections, and the attachments which men feel to the place of their birth, are looked upon as great guarantees of the tranquillity and happiness of the State. But in America nothing seems to be more prejudicial to society than these virtues.

The French Canadians, who have faithfully preserved the traditions of their pristine manners, are already embarrassed for room upon their small territory; and this little community, which has so recently begun to exist, will shortly be a prey to the calamities incident to old nations. In Canada, the most enlightened, patriotic, and humane inhabitants make extraordinary efforts to render the people dissatisfied with those simple enjoyments which still content it. There, the seductions of wealth are vaunted with as much zeal as the charms of an honest but limited income in the Old World, and more exertions are made to excite the passions of the citizens there than to calm them elsewhere. If we listen to their eulogies, we shall hear that nothing is more praiseworthy than to exchange the pure and homely pleasures which even the poor man tastes in his own country for the dull delights of prosperity under a foreign sky; to leave the patrimonial hearth and the turf beneath which his forefathers sleep; in short, to abandon the living and the dead in quest of fortune.

At the present time America presents a field for human effort far more extensive than any sum of labor which can be applied to work it. In America too much knowledge cannot be diffused; for all knowledge, whilst it may serve him who possesses it, turns also to the advantage of those who are without it. New wants are not to be feared, since they can be satisfied without difficulty; the growth of human passions need not be dreaded, since all passions may find an easy and a legitimate object; nor can men be put in possession of too much freedom, since they are scarcely ever tempted to misuse their liberties.

The American republics of the present day are like companies of adventurers formed to explore in common the waste lands of the New World, and busied in a flourishing trade. The passions which agitate the Americans most deeply are not their political but their commercial passions; or, to speak more correctly, they introduce the habits they contract in business into their political life. They love order, without which affairs do not prosper; and they set an especial value upon a regular conduct, which is the foundation of a solid business; they prefer the good sense which amasses large fortunes to that enterprising spirit which frequently dissipates them; general ideas alarm their minds, which are accustomed to

positive calculations, and they hold practice in more honor than theory.

It is in America that one learns to understand the influence which physical prosperity exercises over political actions, and even over opinions which ought to acknowledge no sway but that of reason; and it is more especially amongst strangers that this truth is perceptible. Most of the European emigrants to the New World carry with them that wild love of independence and of change which our calamities are so apt to engender. I sometimes met with Europeans in the United States who had been obliged to leave their own country on account of their political opinions. They all astonished me by the language they held, but one of them surprised me more than all the rest. As I was crossing one of the most remote districts of Pennsylvania I was benighted, and obliged to beg for hospitality at the gate of a wealthy planter, who was a Frenchman by birth. He bade me sit down beside his fire, and we began to talk with that freedom which befits persons who meet in the backwoods, two thousand leagues from their native country. I was aware that my host had been a great leveller and an ardent demagogue forty years ago, and that his name was not unknown to fame. I was, therefore, not a little surprised to hear him discuss the rights of property as an economist or a landowner might have done: he spoke of the necessary gradations which fortune establishes among men, of obedience to established laws, of the influence of good morals in commonwealths, and of the support which religious opinions give to order and to freedom; he even went to far as to quote an evangelical authority in corroboration of one of his political tenets.

I listened, and marvelled at the feebleness of human reason. A proposition is true or false, but no art can prove it to be one or the other, in the midst of the uncertainties of science and the conflicting lessons of experience, until a new incident disperses the clouds of doubt; I was poor, I become rich, and I am not to expect that prosperity will act upon my conduct, and leave my judgment free; my opinions change with my fortune, and the happy circumstances which I turn to my advantage furnish me with that decisive argument which was before wanting.

The influence of prosperity acts still more freely upon the American than upon strangers. The American has always seen the connection of public order and public prosperity, intimately united as they are, go on before his

eyes; he does not conceive that one can subsist without the other; he has therefore nothing to forget; nor has he, like so many Europeans, to unlearn the lessons of his early education.

## **Influence of the Laws Upon the Maintenance of the Democratic Republic in the United States**

Three principal causes of the maintenance of the democratic republic—  
Federal Constitutions—Municipal institutions—Judicial power.

The principal aim of this book has been to make known the laws of the United States; if this purpose has been accomplished, the reader is already enabled to judge for himself which are the laws that really tend to maintain the democratic republic, and which endanger its existence. If I have not succeeded in explaining this in the whole course of my work, I cannot hope to do so within the limits of a single chapter. It is not my intention to retrace the path I have already pursued, and a very few lines will suffice to recapitulate what I have previously explained.

Three circumstances seem to me to contribute most powerfully to the maintenance of the democratic republic in the United States.

The first is that Federal form of Government which the Americans have adopted, and which enables the Union to combine the power of a great empire with the security of a small State.

The second consists in those municipal institutions which limit the despotism of the majority, and at the same time impart a taste for freedom and a knowledge of the art of being free to the people.

The third is to be met with in the constitution of the judicial power. I have shown in what manner the courts of justice serve to repress the excesses of democracy, and how they check and direct the impulses of the majority

without stopping its activity.

## **Influence of Manners Upon the Maintenance of the Democratic Republic in the United States**

I have previously remarked that the manners of the people may be considered as one of the general causes to which the maintenance of a democratic republic in the United States is attributable. I here used the word manners with the meaning which the ancients attached to the word mores, for I apply it not only to manners in their proper sense of what constitutes the character of social intercourse, but I extend it to the various notions and opinions current among men, and to the mass of those ideas which constitute their character of mind. I comprise, therefore, under this term the whole moral and intellectual condition of a people. My intention is not to draw a picture of American manners, but simply to point out such features of them as are favorable to the maintenance of political institutions.

### **Religion Considered as a Political Institution, Which Powerfully Contributes to the Maintenance of the Democratic Republic Amongst the Americans**

North America peopled by men who professed a democratic and republican Christianity—Arrival of the Catholics—For what reason the Catholics form the most democratic and the most republican class at the present time.

Every religion is to be found in juxtaposition to a political opinion which is connected with it by affinity. If the human mind be left to follow its own bent, it will regulate the temporal and spiritual institutions of society upon one uniform principle; and man will endeavor, if I may use the expression

to harmonize the state in which he lives upon earth with the state which he believes to await him in heaven. The greatest part of British America was peopled by men who, after having shaken off the authority of the Pope, acknowledged no other religious supremacy; they brought with them into the New World a form of Christianity which I cannot better describe than by styling it a democratic and republican religion. This sect contributed powerfully to the establishment of a democracy and a republic, and from the earliest settlement of the emigrants politics and religion contracted an alliance which has never been dissolved.

About fifty years ago Ireland began to pour a Catholic population into the United States; on the other hand, the Catholics of America made proselytes, and at the present moment more than a million of Christians professing the truths of the Church of Rome are to be met with in the Union. The Catholics are faithful to the observances of their religion; they are fervent and zealous in the support and belief of their doctrines. Nevertheless they constitute the most republican and the most democratic class of citizens which exists in the United States; and although this fact may surprise the observer at first, the causes by which it is occasioned may easily be discovered upon reflection.

I think that the Catholic religion has erroneously been looked upon as the natural enemy of democracy. Amongst the various sects of Christians, Catholicism seems to me, on the contrary, to be one of those which are most favorable to the equality of conditions. In the Catholic Church, the religious community is composed of only two elements, the priest and the people. The priest alone rises above the rank of his flock, and all below him are equal.

On doctrinal points the Catholic faith places all human capacities upon the same level; it subjects the wise and ignorant, the man of genius and the vulgar crowd, to the details of the same creed; it imposes the same observances upon the rich and needy, it inflicts the same austerities upon the strong and the weak, it listens to no compromise with mortal man, but, reducing all the human race to the same standard, it confounds all the distinctions of society at the foot of the same altar, even as they are confounded in the sight of God. If Catholicism predisposes the faithful to

obedience, it certainly does not prepare them for inequality; but the contrary may be said of Protestantism, which generally tends to make men independent, more than to render them equal.

Catholicism is like an absolute monarchy; if the sovereign be removed, all the other classes of society are more equal than they are in republics. It has not unfrequently occurred that the Catholic priest has left the service of the altar to mix with the governing powers of society, and to take his place amongst the civil gradations of men. This religious influence has sometimes been used to secure the interests of that political state of things to which he belonged. At other times Catholics have taken the side of aristocracy from a spirit of religion.

But no sooner is the priesthood entirely separated from the government, as is the case in the United States, than is found that no class of men are more naturally disposed than the Catholics to transfuse the doctrine of the equality of conditions into the political world. If, then, the Catholic citizens of the United States are not forcibly led by the nature of their tenets to adopt democratic and republican principles, at least they are not necessarily opposed to them; and their social position, as well as their limited number, obliges them to adopt these opinions. Most of the Catholics are poor, and they have no chance of taking a part in the government unless it be open to all the citizens. They constitute a minority, and all rights must be respected in order to insure to them the free exercise of their own privileges. These two causes induce them, unconsciously, to adopt political doctrines, which they would perhaps support with less zeal if they were rich and preponderant.

The Catholic clergy of the United States has never attempted to oppose this political tendency, but it seeks rather to justify its results. The priests in America have divided the intellectual world into two parts: in the one they place the doctrines of revealed religion, which command their assent; in the other they leave those truths which they believe to have been freely left open to the researches of political inquiry. Thus the Catholics of the United States are at the same time the most faithful believers and the most zealous citizens.

It may be asserted that in the United States no religious doctrine displays the slightest hostility to democratic and republican institutions. The clergy of all the different sects hold the same language, their opinions are consonant to the laws, and the human intellect flows onwards in one sole current.

I happened to be staying in one of the largest towns in the Union, when I was invited to attend a public meeting which had been called for the purpose of assisting the Poles, and of sending them supplies of arms and money. I found two or three thousand persons collected in a vast hall which had been prepared to receive them. In a short time a priest in his ecclesiastical robes advanced to the front of the hustings: the spectators rose, and stood uncovered, whilst he spoke in the following terms:—

"Almighty God! the God of Armies! Thou who didst strengthen the hearts and guide the arms of our fathers when they were fighting for the sacred rights of national independence; Thou who didst make them triumph over a hateful oppression, and hast granted to our people the benefits of liberty and peace; Turn, O Lord, a favorable eye upon the other hemisphere; pitifully look down upon that heroic nation which is even now struggling as we did in the former time, and for the same rights which we defended with our blood. Thou, who didst create Man in the likeness of the same image, let not tyranny mar Thy work, and establish inequality upon the earth. Almighty God! do Thou watch over the destiny of the Poles, and render them worthy to be free. May Thy wisdom direct their councils, and may Thy strength sustain their arms! Shed forth Thy terror over their enemies, scatter the powers which take counsel against them; and vouchsafe that the injustice which the world has witnessed for fifty years, be not consummated in our time. O Lord, who holdest alike the hearts of nations and of men in Thy powerful hand; raise up allies to the sacred cause of right; arouse the French nation from the apathy in which its rulers retain it, that it go forth again to fight for the liberties of the world.

"Lord, turn not Thou Thy face from us, and grant that we may always be the most religious as well as the freest people of the earth. Almighty God, hear our supplications this day. Save the Poles, we beseech Thee, in the name of Thy well-beloved Son, our Lord Jesus Christ, who died upon the

cross for the salvation of men. Amen."

The whole meeting responded "Amen!" with devotion.

## **Indirect Influence of Religious Opinions Upon Political Society in the United States**

Christian morality common to all sects—Influence of religion upon the manners of the Americans—Respect for the marriage tie—In what manner religion confines the imagination of the Americans within certain limits, and checks the passion of innovation—Opinion of the Americans on the political utility of religion—Their exertions to extend and secure its predominance.

I have just shown what the direct influence of religion upon politics is in the United States, but its indirect influence appears to me to be still more considerable, and it never instructs the Americans more fully in the art of being free than when it says nothing of freedom.

The sects which exist in the United States are innumerable. They all differ in respect to the worship which is due from man to his Creator, but they all agree in respect to the duties which are due from man to man. Each sect adores the Deity in its own peculiar manner, but all the sects preach the same moral law in the name of God. If it be of the highest importance to man, as an individual, that his religion should be true, the case of society is not the same. Society has no future life to hope for or to fear; and provided the citizens profess a religion, the peculiar tenets of that religion are of very little importance to its interests. Moreover, almost all the sects of the United States are comprised within the great unity of Christianity, and Christian morality is everywhere the same.

It may be believed without unfairness that a certain number of Americans pursue a peculiar form of worship, from habit more than from conviction. In the United States the sovereign authority is religious, and consequently hypocrisy must be common; but there is no country in the whole world in which the Christian religion retains a greater influence over the souls of men than in America; and there can be no greater proof of its utility, and of

its conformity to human nature, than that its influence is most powerfully felt over the most enlightened and free nation of the earth.

I have remarked that the members of the American clergy in general, without even excepting those who do not admit religious liberty, are all in favor of civil freedom; but they do not support any particular political system. They keep aloof from parties and from public affairs. In the United States religion exercises but little influence upon the laws and upon the details of public opinion, but it directs the manners of the community, and by regulating domestic life it regulates the State.

I do not question that the great austerity of manners which is observable in the United States, arises, in the first instance, from religious faith. Religion is often unable to restrain man from the numberless temptations of fortune; nor can it check that passion for gain which every incident of his life contributes to arouse, but its influence over the mind of woman is supreme, and women are the protectors of morals. There is certainly no country in the world where the tie of marriage is so much respected as in America, or where conjugal happiness is more highly or worthily appreciated. In Europe almost all the disturbances of society arise from the irregularities of domestic life. To despise the natural bonds and legitimate pleasures of home, is to contract a taste for excesses, a restlessness of heart, and the evil of fluctuating desires. Agitated by the tumultuous passions which frequently disturb his dwelling, the European is galled by the obedience which the legislative powers of the State exact. But when the American retires from the turmoil of public life to the bosom of his family, he finds in it the image of order and of peace. There his pleasures are simple and natural, his joys are innocent and calm; and as he finds that an orderly life is the surest path to happiness, he accustoms himself without difficulty to moderate his opinions as well as his tastes. Whilst the European endeavors to forget his domestic troubles by agitating society, the American derives from his own home that love of order which he afterwards carries with him into public affairs.

In the United States the influence of religion is not confined TO the manners, but it extends to the intelligence of the people. Amongst the Anglo-Americans, there are some who profess the doctrines of Christianity

from a sincere belief in them, and others who do the same because they are afraid to be suspected of unbelief. Christianity, therefore, reigns without any obstacle, by universal consent; the consequence is, as I have before observed, that every principle of the moral world is fixed and determinate, although the political world is abandoned to the debates and the experiments of men. Thus the human mind is never left to wander across a boundless field; and, whatever may be its pretensions, it is checked from time to time by barriers which it cannot surmount, Before it can perpetrate innovation, certain primal and immutable principles are laid down, and the boldest conceptions of human device are subjected to certain forms which retard and stop their completion.

The imagination of the Americans, even in its greatest flights, is circumspect and undecided; its impulses are checked, and its works unfinished, These habits of restraint recur in political society, and are singularly favorable both to the tranquillity of the people and to the durability of the institutions it has established. Nature and circumstances concurred to make the inhabitants of the United States bold men, as is sufficiently attested by the enterprising spirit with which they seek for fortune. If the mind of the Americans were free from all trammels, they would very shortly become the most daring innovators and the most implacable disputants in the world. But the revolutionists of America are obliged to profess an ostensible respect for Christian morality and equity, which does not easily permit them to violate the laws that oppose their designs; nor would they find it easy to surmount the scruples of their partisans, even if they were able to get over their own. Hitherto no one in the United States has dared to advance the maxim, that everything is permissible with a view to the interests of society; an impious adage which seems to have been invented in an age of freedom to shelter all the tyrants of future ages. Thus whilst the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust.

Religion in America takes no direct part in the government of society, but it must nevertheless be regarded as the foremost of the political institutions of that country; for if it does not impart a taste for freedom, it facilitates the use of free institutions. Indeed, it is in this same point of view that the

inhabitants of the United States themselves look upon religious belief. I do not know whether all the Americans have a sincere faith in their religion, for who can search the human heart? but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation, and to every rank of society.

In the United States, if a political character attacks a sect, this may not prevent even the partisans of that very sect from supporting him; but if he attacks all the sects together, everyone abandons him, and he remains alone.

Whilst I was in America, a witness, who happened to be called at the assizes of the county of Chester (State of New York), declared that he did not believe in the existence of God, or in the immortality of the soul. The judge refused to admit his evidence, on the ground that the witness had destroyed beforehand all the confidence of the Court in what he was about to say. The newspapers related the fact without any further comment.

The Americans combine the notions of Christianity and of liberty so intimately in their minds, that it is impossible to make them conceive the one without the other; and with them this conviction does not spring from that barren traditional faith which seems to vegetate in the soul rather than to live.

I have known of societies formed by the Americans to send out ministers of the Gospel into the new Western States to found schools and churches there, lest religion should be suffered to die away in those remote settlements, and the rising States be less fitted to enjoy free institutions than the people from which they emanated. I met with wealthy New Englanders who abandoned the country in which they were born in order to lay the foundations of Christianity and of freedom on the banks of the Missouri, or in the prairies of Illinois. Thus religious zeal is perpetually stimulated in the United States by the duties of patriotism. These men do not act from an exclusive consideration of the promises of a future life; eternity is only one motive of their devotion to the cause; and if you converse with these missionaries of Christian civilization, you will be surprised to find how much value they set upon the goods of this world, and that you meet with a politician where you

expected to find a priest. They will tell you that "all the American republics are collectively involved with each other; if the republics of the West were to fall into anarchy, or to be mastered by a despot, the republican institutions which now flourish upon the shores of the Atlantic Ocean would be in great peril. It is, therefore, our interest that the new States should be religious, in order to maintain our liberties."

Such are the opinions of the Americans, and if any hold that the religious spirit which I admire is the very thing most amiss in America, and that the only element wanting to the freedom and happiness of the human race is to believe in some blind cosmogony, or to assert with Cabanis the secretion of thought by the brain, I can only reply that those who hold this language have never been in America, and that they have never seen a religious or a free nation. When they return from their expedition, we shall hear what they have to say.

There are persons in France who look upon republican institutions as a temporary means of power, of wealth, and distinction; men who are the condottieri of liberty, and who fight for their own advantage, whatever be the colors they wear: it is not to these that I address myself. But there are others who look forward to the republican form of government as a tranquil and lasting state, towards which modern society is daily impelled by the ideas and manners of the time, and who sincerely desire to prepare men to be free. When these men attack religious opinions, they obey the dictates of their passions to the prejudice of their interests. Despotism may govern without faith, but liberty cannot. Religion is much more necessary in the republic which they set forth in glowing colors than in the monarchy which they attack; and it is more needed in democratic republics than in any others. How is it possible that society should escape destruction if the moral tie be not strengthened in proportion as the political tie is relaxed? and what can be done with a people which is its own master, if it be not submissive to the Divinity?

### **Principal Causes Which Render Religion Powerful in America**

Care taken by the Americans to separate the Church from the State—The laws, public opinion, and even the exertions of the clergy concur to promote this end—Influence of religion upon the mind in the United States attributable to this cause—Reason of this—What is the natural state of men with regard to religion at the present time—What are the peculiar and incidental causes which prevent men, in certain countries, from arriving at this state.

The philosophers of the eighteenth century explained the gradual decay of religious faith in a very simple manner. Religious zeal, said they, must necessarily fail, the more generally liberty is established and knowledge diffused. Unfortunately, facts are by no means in accordance with their theory. There are certain populations in Europe whose unbelief is only equalled by their ignorance and their debasement, whilst in America one of the freest and most enlightened nations in the world fulfils all the outward duties of religious fervor.

Upon my arrival in the United States, the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there the more did I perceive the great political consequences resulting from this state of things, to which I was unaccustomed. In France I had almost always seen the spirit of religion and the spirit of freedom pursuing courses diametrically opposed to each other; but in America I found that they were intimately united, and that they reigned in common over the same country. My desire to discover the causes of this phenomenon increased from day to day. In order to satisfy it I questioned the members of all the different sects; and I more especially sought the society of the clergy, who are the depositaries of the different persuasions, and who are more especially interested in their duration. As a member of the Roman Catholic Church I was more particularly brought into contact with several of its priests, with whom I became intimately acquainted. To each of these men I expressed my astonishment and I explained my doubts; I found that they differed upon matters of detail alone; and that they mainly attributed the peaceful dominion of religion in their country to the separation of church and State. I

do not hesitate to affirm that during my stay in America I did not meet with a single individual, of the clergy or of the laity, who was not of the same opinion upon this point.

This led me to examine more attentively than I had hitherto done, the station which the American clergy occupy in political society. I learned with surprise that they filled no public appointments; not one of them is to be met with in the administration, and they are not even represented in the legislative assemblies. In several States the law excludes them from political life, public opinion in all. And when I came to inquire into the prevailing spirit of the clergy I found that most of its members seemed to retire of their own accord from the exercise of power, and that they made it the pride of their profession to abstain from politics.

I heard them inveigh against ambition and deceit, under whatever political opinions these vices might chance to lurk; but I learned from their discourses that men are not guilty in the eye of God for any opinions concerning political government which they may profess with sincerity, any more than they are for their mistakes in building a house or in driving a furrow. I perceived that these ministers of the gospel eschewed all parties with the anxiety attendant upon personal interest. These facts convinced me that what I had been told was true; and it then became my object to investigate their causes, and to inquire how it happened that the real authority of religion was increased by a state of things which diminished its apparent force: these causes did not long escape my researches.

The short space of threescore years can never content the imagination of man; nor can the imperfect joys of this world satisfy his heart. Man alone, of all created beings, displays a natural contempt of existence, and yet a boundless desire to exist; he scorns life, but he dreads annihilation. These different feelings incessantly urge his soul to the contemplation of a future state, and religion directs his musings thither. Religion, then, is simply another form of hope; and it is no less natural to the human heart than hope itself. Men cannot abandon their religious faith without a kind of aberration of intellect, and a sort of violent distortion of their true natures; but they are invincibly brought back to more pious sentiments; for unbelief is an accident, and faith is the only permanent state of mankind. If we only

consider religious institutions in a purely human point of view, they may be said to derive an inexhaustible element of strength from man himself, since they belong to one of the constituent principles of human nature.

I am aware that at certain times religion may strengthen this influence, which originates in itself, by the artificial power of the laws, and by the support of those temporal institutions which direct society. Religions, intimately united to the governments of the earth, have been known to exercise a sovereign authority derived from the twofold source of terror and of faith; but when a religion contracts an alliance of this nature, I do not hesitate to affirm that it commits the same error as a man who should sacrifice his future to his present welfare; and in obtaining a power to which it has no claim, it risks that authority which is rightfully its own. When a religion founds its empire upon the desire of immortality which lives in every human heart, it may aspire to universal dominion; but when it connects itself with a government, it must necessarily adopt maxims which are only applicable to certain nations. Thus, in forming an alliance with a political power, religion augments its authority over a few, and forfeits the hope of reigning over all.

As long as a religion rests upon those sentiments which are the consolation of all affliction, it may attract the affections of mankind. But if it be mixed up with the bitter passions of the world, it may be constrained to defend allies whom its interests, and not the principle of love, have given to it; or to repel as antagonists men who are still attached to its own spirit, however opposed they may be to the powers to which it is allied. The Church cannot share the temporal power of the State without being the object of a portion of that animosity which the latter excites.

The political powers which seem to be most firmly established have frequently no better guarantee for their duration than the opinions of a generation, the interests of the time, or the life of an individual. A law may modify the social condition which seems to be most fixed and determinate; and with the social condition everything else must change. The powers of society are more or less fugitive, like the years which we spend upon the earth; they succeed each other with rapidity, like the fleeting cares of life; and no government has ever yet been founded upon an invariable

disposition of the human heart, or upon an imperishable interest.

As long as a religion is sustained by those feelings, propensities, and passions which are found to occur under the same forms, at all the different periods of history, it may defy the efforts of time; or at least it can only be destroyed by another religion. But when religion clings to the interests of the world, it becomes almost as fragile a thing as the powers of earth. It is the only one of them all which can hope for immortality; but if it be connected with their ephemeral authority, it shares their fortunes, and may fall with those transient passions which supported them for a day. The alliance which religion contracts with political powers must needs be onerous to itself; since it does not require their assistance to live, and by giving them its assistance it may be exposed to decay.

The danger which I have just pointed out always exists, but it is not always equally visible. In some ages governments seem to be imperishable; in others, the existence of society appears to be more precarious than the life of man. Some constitutions plunge the citizens into a lethargic somnolence, and others rouse them to feverish excitement. When governments appear to be so strong, and laws so stable, men do not perceive the dangers which may accrue from a union of Church and State. When governments display so much weakness, and laws so much inconstancy, the danger is self-evident, but it is no longer possible to avoid it; to be effectual, measures must be taken to discover its approach.

In proportion as a nation assumes a democratic condition of society, and as communities display democratic propensities, it becomes more and more dangerous to connect religion with political institutions; for the time is coming when authority will be bandied from hand to hand, when political theories will succeed each other, and when men, laws, and constitutions will disappear, or be modified from day to day, and this, not for a season only, but unceasingly. Agitation and mutability are inherent in the nature of democratic republics, just as Stagnation and inertness are the law of absolute monarchies.

If the Americans, who change the head of the Government once in four years, who elect new legislators every two years, and renew the provincial

officers every twelvemonth; if the Americans, who have abandoned the political world to the attempts of innovators, had not placed religion beyond their reach, where could it abide in the ebb and flow of human opinions? where would that respect which belongs to it be paid, amidst the struggles of faction? and what would become of its immortality, in the midst of perpetual decay? The American clergy were the first to perceive this truth, and to act in conformity with it. They saw that they must renounce their religious influence, if they were to strive for political power; and they chose to give up the support of the State, rather than to share its vicissitudes.

In America, religion is perhaps less powerful than it has been at certain periods in the history of certain peoples; but its influence is more lasting. It restricts itself to its own resources, but of those none can deprive it: its circle is limited to certain principles, but those principles are entirely its own, and under its undisputed control.

On every side in Europe we hear voices complaining of the absence of religious faith, and inquiring the means of restoring to religion some remnant of its pristine authority. It seems to me that we must first attentively consider what ought to be the natural state of men with regard to religion at the present time; and when we know what we have to hope and to fear, we may discern the end to which our efforts ought to be directed.

The two great dangers which threaten the existence of religions are schism and indifference. In ages of fervent devotion, men sometimes abandon their religion, but they only shake it off in order to adopt another. Their faith changes the objects to which it is directed, but it suffers no decline. The old religion then excites enthusiastic attachment or bitter enmity in either party; some leave it with anger, others cling to it with increased devotedness, and although persuasions differ, irreligion is unknown. Such, however, is not the case when a religious belief is secretly undermined by doctrines which may be termed negative, since they deny the truth of one religion without affirming that of any other. Prodigious revolutions then take place in the human mind, without the apparent co-operation of the passions of man, and almost without his knowledge. Men lose the objects of their fondest hopes, as if through forgetfulness. They are carried away by an imperceptible current which they have not the courage to stem, but which they follow

with regret, since it bears them from a faith they love, to a scepticism that plunges them into despair.

In ages which answer to this description, men desert their religious opinions from lukewarmness rather than from dislike; they do not reject them, but the sentiments by which they were once fostered disappear. But if the unbeliever does not admit religion to be true, he still considers it useful. Regarding religious institutions in a human point of view, he acknowledges their influence upon manners and legislation. He admits that they may serve to make men live in peace with one another, and to prepare them gently for the hour of death. He regrets the faith which he has lost; and as he is deprived of a treasure which he has learned to estimate at its full value, he scruples to take it from those who still possess it.

On the other hand, those who continue to believe are not afraid openly to avow their faith. They look upon those who do not share their persuasion as more worthy of pity than of opposition; and they are aware that to acquire the esteem of the unbelieving, they are not obliged to follow their example. They are hostile to no one in the world; and as they do not consider the society in which they live as an arena in which religion is bound to face its thousand deadly foes, they love their contemporaries, whilst they condemn their weaknesses and lament their errors.

As those who do not believe, conceal their incredulity; and as those who believe, display their faith, public opinion pronounces itself in favor of religion: love, support, and honor are bestowed upon it, and it is only by searching the human soul that we can detect the wounds which it has received. The mass of mankind, who are never without the feeling of religion, do not perceive anything at variance with the established faith. The instinctive desire of a future life brings the crowd about the altar, and opens the hearts of men to the precepts and consolations of religion.

But this picture is not applicable to us: for there are men amongst us who have ceased to believe in Christianity, without adopting any other religion; others who are in the perplexities of doubt, and who already affect not to believe; and others, again, who are afraid to avow that Christian faith which

they still cherish in secret.

Amidst these lukewarm partisans and ardent antagonists a small number of believers exist, who are ready to brave all obstacles and to scorn all dangers in defence of their faith. They have done violence to human weakness, in order to rise Superior to public opinion. Excited by the effort they have made, they scarcely knew where to stop; and as they know that the first use which the French made of independence was to attack religion, they look upon their contemporaries with dread, and they recoil in alarm from the liberty which their fellow-citizens are seeking to obtain. As unbelief appears to them to be a novelty, they comprise all that is new in one indiscriminate animosity. They are at war with their age and country, and they look upon every opinion which is put forth there as the necessary enemy of the faith.

Such is not the natural state of men with regard to religion at the present day; and some extraordinary or incidental cause must be at work in France to prevent the human mind from following its original propensities and to drive it beyond the limits at which it ought naturally to stop. I am intimately convinced that this extraordinary and incidental cause is the close connection of politics and religion. The unbelievers of Europe attack the Christians as their political opponents, rather than as their religious adversaries; they hate the Christian religion as the opinion of a party, much more than as an error of belief; and they reject the clergy less because they are the representatives of the Divinity than because they are the allies of authority.

In Europe, Christianity has been intimately united to the powers of the earth. Those powers are now in decay, and it is, as it were, buried under their ruins. The living body of religion has been bound down to the dead corpse of super-annuated polity: cut but the bonds which restrain it, and that which is alive will rise once more. I know not what could restore the Christian Church of Europe to the energy of its earlier days; that power belongs to God alone; but it may be the effect of human policy to leave the faith in the full exercise of the strength which it still retains.

## **How the Instruction, the Habits, and the Practical Experience of the Americans Promote the Success of their Democratic Institutions**

What is to be understood by the instruction of the American people—The human mind more superficially instructed in the United States than in Europe—No one completely uninstructed—Reason of this—Rapidity with which opinions are diffused even in the uncultivated States of the West—Practical experience more serviceable to the Americans than book-learning.

I have but little to add to what I have already said concerning the influence which the instruction and the habits of the Americans exercise upon the maintenance of their political institutions.

America has hitherto produced very few writers of distinction; it possesses no great historians, and not a single eminent poet. The inhabitants of that country look upon what are properly styled literary pursuits with a kind of disapprobation; and there are towns of very second-rate importance in Europe in which more literary works are annually published than in the twenty-four States of the Union put together. The spirit of the Americans is averse to general ideas; and it does not seek theoretical discoveries. Neither politics nor manufactures direct them to these occupations; and although new laws are perpetually enacted in the United States, no great writers have hitherto inquired into the general principles of their legislation. The Americans have lawyers and commentators, but no jurists; and they furnish examples rather than lessons to the world. The same observation applies to the mechanical arts. In America, the inventions of Europe are adopted with sagacity; they are perfected, and adapted with admirable skill to the wants of the country. Manufactures exist, but the science of manufacture is not cultivated; and they have good workmen, but very few inventors. Fulton was obliged to proffer his services to foreign nations for a long time before he was able to devote them to his own country.

The observer who is desirous of forming an opinion on the state of instruction amongst the Anglo-Americans must consider the same object

from two different points of view. If he only singles out the learned, he will be astonished to find how rare they are; but if he counts the ignorant, the American people will appear to be the most enlightened community in the world. The whole population, as I observed in another place, is situated between these two extremes. In New England, every citizen receives the elementary notions of human knowledge; he is moreover taught the doctrines and the evidences of his religion, the history of his country, and the leading features of its Constitution. In the States of Connecticut and Massachusetts, it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon.

When I compare the Greek and Roman republics with these American States; the manuscript libraries of the former, and their rude population, with the innumerable journals and the enlightened people of the latter; when I remember all the attempts which are made to judge the modern republics by the assistance of those of antiquity, and to infer what will happen in our time from what took place two thousand years ago, I am tempted to burn my books, in order to apply none but novel ideas to so novel a condition of society.

What I have said of New England must not, however, be applied indistinctly to the whole Union; as we advance towards the West or the South, the instruction of the people diminishes. In the States which are adjacent to the Gulf of Mexico, a certain number of individuals may be found, as in our own countries, who are devoid of the rudiments of instruction. But there is not a single district in the United States sunk in complete ignorance; and for a very simple reason: the peoples of Europe started from the darkness of a barbarous condition, to advance toward the light of civilization; their progress has been unequal; some of them have improved apace, whilst others have loitered in their course, and some have stopped, and are still sleeping upon the way.

Such has not been the case in the United States. The Anglo-Americans settled in a state of civilization, upon that territory which their descendants occupy; they had not to begin to learn, and it was sufficient for them not to forget. Now the children of these same Americans are the persons who, year

by year, transport their dwellings into the wilds; and with their dwellings their acquired information and their esteem for knowledge. Education has taught them the utility of instruction, and has enabled them to transmit that instruction to their posterity. In the United States society has no infancy, but it is born in man's estate.

The Americans never use the word "peasant," because they have no idea of the peculiar class which that term denotes; the ignorance of more remote ages, the simplicity of rural life, and the rusticity of the villager have not been preserved amongst them; and they are alike unacquainted with the virtues, the vices, the coarse habits, and the simple graces of an early stage of civilization. At the extreme borders of the Confederate States, upon the confines of society and of the wilderness, a population of bold adventurers have taken up their abode, who pierce the solitudes of the American woods, and seek a country there, in order to escape that poverty which awaited them in their native provinces. As soon as the pioneer arrives upon the spot which is to serve him for a retreat, he fells a few trees and builds a log-house. Nothing can offer a more miserable aspect than these isolated dwellings. The traveller who approaches one of them towards nightfall, sees the flicker of the hearth-flame through the chinks in the walls; and at night, if the wind rises, he hears the roof of boughs shake to and fro in the midst of the great forest trees. Who would not suppose that this poor hut is the asylum of rudeness and ignorance? Yet no sort of comparison can be drawn between the pioneer and the dwelling which shelters him. Everything about him is primitive and unformed, but he is himself the result of the labor and the experience of eighteen centuries. He wears the dress, and he speaks the language of cities; he is acquainted with the past, curious of the future, and ready for argument upon the present; he is, in short, a highly civilized being, who consents, for a time, to inhabit the backwoods, and who penetrates into the wilds of the New World with the Bible, an axe, and a file of newspapers.

It is difficult to imagine the incredible rapidity with which public opinion circulates in the midst of these deserts. I do not think that so much intellectual intercourse takes place in the most enlightened and populous districts of France. It cannot be doubted that, in the United States, the instruction of the people powerfully contributes to the support of a

democratic republic; and such must always be the case, I believe, where instruction which awakens the understanding is not separated from moral education which amends the heart. But I by no means exaggerate this benefit, and I am still further from thinking, as so many people do think in Europe, that men can be instantaneously made citizens by teaching them to read and write. True information is mainly derived from experience; and if the Americans had not been gradually accustomed to govern themselves, their book-learning would not assist them much at the present day.

I have lived a great deal with the people in the United States, and I cannot express how much I admire their experience and their good sense. An American should never be allowed to speak of Europe; for he will then probably display a vast deal of presumption and very foolish pride. He will take up with those crude and vague notions which are so useful to the ignorant all over the world. But if you question him respecting his own country, the cloud which dimmed his intelligence will immediately disperse; his language will become as clear and as precise as his thoughts. He will inform you what his rights are, and by what means he exercises them; he will be able to point out the customs which obtain in the political world. You will find that he is well acquainted with the rules of the administration, and that he is familiar with the mechanism of the laws. The citizen of the United States does not acquire his practical science and his positive notions from books; the instruction he has acquired may have prepared him for receiving those ideas, but it did not furnish them. The American learns to know the laws by participating in the act of legislation; and he takes a lesson in the forms of government from governing. The great work of society is ever going on beneath his eyes, and, as it were, under his hands.

In the United States politics are the end and aim of education; in Europe its principal object is to fit men for private life. The interference of the citizens in public affairs is too rare an occurrence for it to be anticipated beforehand. Upon casting a glance over society in the two hemispheres, these differences are indicated even by its external aspect.

In Europe we frequently introduce the ideas and the habits of private life into public affairs; and as we pass at once from the domestic circle to the

government of the State, we may frequently be heard to discuss the great interests of society in the same manner in which we converse with our friends. The Americans, on the other hand, transfuse the habits of public life into their manners in private; and in their country the jury is introduced into the games of schoolboys, and parliamentary forms are observed in the order of a feast.

**The Laws Contribute More to the Maintenance of the Democratic Republic in the United States than the Physical Circumstances of the Country, and the Manner More than the Laws**

All the nations of America have a democratic state of society—Yet democratic institutions only subsist amongst the Anglo-Americans—The Spaniards of South America, equally favored by physical causes as the Anglo-Americans, unable to maintain a democratic republic—Mexico, which has adopted the Constitution of the United States, in the same predicament—The Anglo-Americans of the West less able to maintain it than those of the East—Reason of these different results.

I have remarked that the maintenance of democratic institutions in the United States is attributable to the circumstances, the laws, and the manners of that country. Most Europeans are only acquainted with the first of these three causes, and they are apt to give it a preponderating importance which it does not really possess.

It is true that the Anglo-Saxons settled in the New World in a state of social equality; the low-born and the noble were not to be found amongst them; and professional prejudices were always as entirely unknown as the prejudices of birth. Thus, as the condition of society was democratic, the empire of democracy was established without difficulty. But this circumstance is by no means peculiar to the United States; almost all the trans-Atlantic colonies were founded by men equal amongst themselves, or who became so by inhabiting them. In no one part of the New World have

Europeans been able to create an aristocracy. Nevertheless, democratic institutions prosper nowhere but in the United States.

The American Union has no enemies to contend with; it stands in the wilds like an island in the ocean. But the Spaniards of South America were no less isolated by nature; yet their position has not relieved them from the charge of standing armies. They make war upon each other when they have no foreign enemies to oppose; and the Anglo-American democracy is the only one which has hitherto been able to maintain itself in peace.

The territory of the Union presents a boundless field to human activity, and inexhaustible materials for industry and labor. The passion of wealth takes the place of ambition, and the warmth of faction is mitigated by a sense of prosperity. But in what portion of the globe shall we meet with more fertile plains, with mightier rivers, or with more unexplored and inexhaustible riches than in South America?

Nevertheless, South America has been unable to maintain democratic institutions. If the welfare of nations depended on their being placed in a remote position, with an unbounded space of habitable territory before them, the Spaniards of South America would have no reason to complain of their fate. And although they might enjoy less prosperity than the inhabitants of the United States, their lot might still be such as to excite the envy of some nations in Europe. There are, however, no nations upon the face of the earth more miserable than those of South America.

Thus, not only are physical causes inadequate to produce results analogous to those which occur in North America, but they are unable to raise the population of South America above the level of European States, where they act in a contrary direction. Physical causes do not, therefore, affect the destiny of nations so much as has been supposed.

I have met with men in New England who were on the point of leaving a country, where they might have remained in easy circumstances, to go to seek their fortune in the wilds. Not far from that district I found a French population in Canada, which was closely crowded on a narrow territory, although the same wilds were at hand; and whilst the emigrant from the

United States purchased an extensive estate with the earnings of a short term of labor, the Canadian paid as much for land as he would have done in France. Nature offers the solitudes of the New World to Europeans; but they are not always acquainted with the means of turning her gifts to account. Other peoples of America have the same physical conditions of prosperity as the Anglo-Americans, but without their laws and their manners; and these peoples are wretched. The laws and manners of the Anglo-Americans are therefore that efficient cause of their greatness which is the object of my inquiry.

I am far from supposing that the American laws are pre-eminently good in themselves; I do not hold them to be applicable to all democratic peoples; and several of them seem to be dangerous, even in the United States. Nevertheless, it cannot be denied that the American legislation, taken collectively, is extremely well adapted to the genius of the people and the nature of the country which it is intended govern. The American laws are therefore good, and to them must be attributed a large portion of the success which attends the government of democracy in America: but I do not believe them to be the principal cause of that success; and if they seem to me to have more influence upon the social happiness of the Americans than the nature of the country, on the other hand there is reason to believe that their effect is still inferior to that produced by the manners of the people.

The Federal laws undoubtedly constitute the most important part of the legislation of the United States. Mexico, which is not less fortunately situated than the Anglo-American Union, has adopted the same laws, but is unable to accustom itself to the government of democracy. Some other cause is therefore at work, independently of those physical circumstances and peculiar laws which enable the democracy to rule in the United States.

Another still more striking proof may be adduced. Almost all the inhabitants of the territory of the Union are the descendants of a common stock; they speak the same language, they worship God in the same manner, they are affected by the same physical causes, and they obey the same laws. Whence, then, do their characteristic differences arise? Why, in the Eastern States of the Union, does the republican government display vigor and regularity, and proceed with mature deliberation? Whence does it derive the

wisdom and the durability which mark its acts, whilst in the Western States, on the contrary, society seems to be ruled by the powers of chance? There, public business is conducted with an irregularity and a passionate and feverish excitement, which does not announce a long or sure duration.

I am no longer comparing the Anglo-American States to foreign nations; but I am contrasting them with each other, and endeavoring to discover why they are so unlike. The arguments which are derived from the nature of the country and the difference of legislation are here all set aside. Recourse must be had to some other cause; and what other cause can there be except the manners of the people?

It is in the Eastern States that the Anglo-Americans have been longest accustomed to the government of democracy, and that they have adopted the habits and conceived the notions most favorable to its maintenance. Democracy has gradually penetrated into their customs, their opinions, and the forms of social intercourse; it is to be found in all the details of daily life equally as in the laws. In the Eastern States the instruction and practical education of the people have been most perfected, and religion has been most thoroughly amalgamated with liberty. Now these habits, opinions, customs, and convictions are precisely the constituent elements of that which I have denominated manners.

In the Western States, on the contrary, a portion of the same advantages is still wanting. Many of the Americans of the West were born in the woods, and they mix the ideas and the customs of savage life with the civilization of their parents. Their passions are more intense; their religious morality less authoritative; and their convictions less secure. The inhabitants exercise no sort of control over their fellow-citizens, for they are scarcely acquainted with each other. The nations of the West display, to a certain extent, the inexperience and the rude habits of a people in its infancy; for although they are composed of old elements, their assemblage is of recent date.

The manners of the Americans of the United States are, then, the real cause which renders that people the only one of the American nations that is able to support a democratic government; and it is the influence of manners which produces the different degrees of order and of prosperity that may be

distinguished in the several Anglo-American democracies. Thus the effect which the geographical position of a country may have upon the duration of democratic institutions is exaggerated in Europe. Too much importance is attributed to legislation, too little to manners. These three great causes serve, no doubt, to regulate and direct the American democracy; but if they were to be classed in their proper order, I should say that the physical circumstances are less efficient than the laws, and the laws very subordinate to the manners of the people. I am convinced that the most advantageous situation and the best possible laws cannot maintain a constitution in spite of the manners of a country; whilst the latter may turn the most unfavorable positions and the worst laws to some advantage. The importance of manners is a common truth to which study and experience incessantly direct our attention. It may be regarded as a central point in the range of human observation, and the common termination of all inquiry. So seriously do I insist upon this head, that if I have hitherto failed in making the reader feel the important influence which I attribute to the practical experience, the habits, the opinions, in short, to the manners of the Americans, upon the maintenance of their institutions, I have failed in the principal object of my work.

### **Whether Laws and Manners are Sufficient to Maintain Democratic Institutions in Other Countries Besides America**

The Anglo-Americans, if transported into Europe, would be obliged to modify their laws—Distinction to be made between democratic institutions and American institutions—Democratic laws may be conceived better than, or at least different from, those which the American democracy has adopted—The example of America only proves that it is possible to regulate democracy by the assistance of manners and legislation.

I have asserted that the success of democratic institutions in the United States is more intimately connected with the laws themselves, and the manners of the people, than with the nature of the country. But does it

follow that the same causes would of themselves produce the same results, if they were put into operation elsewhere; and if the country is no adequate substitute for laws and manners, can laws and manners in their turn prove a substitute for the country? It will readily be understood that the necessary elements of a reply to this question are wanting: other peoples are to be found in the New World besides the Anglo-Americans, and as these people are affected by the same physical circumstances as the latter, they may fairly be compared together. But there are no nations out of America which have adopted the same laws and manners, being destitute of the physical advantages peculiar to the Anglo-Americans. No standard of comparison therefore exists, and we can only hazard an opinion upon this subject.

It appears to me, in the first place, that a careful distinction must be made between the institutions of the United States and democratic institutions in general. When I reflect upon the state of Europe, its mighty nations, its populous Cities, its formidable armies, and the complex nature of its politics, I cannot suppose that even the Anglo-Americans, if they were transported to our hemisphere, with their ideas, their religion, and their manners, could exist without considerably altering their laws. But a democratic nation may be imagined, organized differently from the American people. It is not impossible to conceive a government really established upon the will of the majority; but in which the majority, repressing its natural propensity to equality, should consent, with a view to the order and the stability of the State, to invest a family or an individual with all the prerogatives of the executive. A democratic society might exist, in which the forces of the nation would be more centralized than they are in the United States; the people would exercise a less direct and less irresistible influence upon public affairs, and yet every citizen invested with certain rights would participate, within his sphere, in the conduct of the government. The observations I made amongst the Anglo-Americans induce me to believe that democratic institutions of this kind, prudently introduced into society, so as gradually to mix with the habits and to be interfused with the opinions of the people, might subsist in other countries besides America. If the laws of the United States were the only imaginable democratic laws, or the most perfect which it is possible to conceive, I should admit that the success of those institutions affords no proof of the success of democratic institutions in general, in a country less favored by

natural circumstances. But as the laws of America appear to me to be defective in several respects, and as I can readily imagine others of the same general nature, the peculiar advantages of that country do not prove that democratic institutions cannot succeed in a nation less favored by circumstances, if ruled by better laws.

If human nature were different in America from what it is elsewhere; or if the social condition of the Americans engendered habits and opinions amongst them different from those which originate in the same social condition in the Old World, the American democracies would afford no means of predicting what may occur in other democracies. If the Americans displayed the same propensities as all other democratic nations, and if their legislators had relied upon the nature of the country and the favor of circumstances to restrain those propensities within due limits, the prosperity of the United States would be exclusively attributable to physical causes, and it would afford no encouragement to a people inclined to imitate their example, without sharing their natural advantages. But neither of these suppositions is borne out by facts.

In America the same passions are to be met with as in Europe; some originating in human nature, others in the democratic condition of society. Thus in the United States I found that restlessness of heart which is natural to men, when all ranks are nearly equal and the chances of elevation are the same to all. I found the democratic feeling of envy expressed under a thousand different forms. I remarked that the people frequently displayed, in the conduct of affairs, a consummate mixture of ignorance and presumption; and I inferred that in America, men are liable to the same failings and the same absurdities as amongst ourselves. But upon examining the state of society more attentively, I speedily discovered that the Americans had made great and successful efforts to counteract these imperfections of human nature, and to correct the natural defects of democracy. Their diverse municipal laws appeared to me to be a means of restraining the ambition of the citizens within a narrow sphere, and of turning those same passions which might have worked havoc in the State, to the good of the township or the parish. The American legislators have succeeded to a certain extent in opposing the notion of rights to the feelings of envy; the permanence of the religious world to the continual shifting of

politics; the experience of the people to its theoretical ignorance; and its practical knowledge of business to the impatience of its desires.

The Americans, then, have not relied upon the nature of their country to counterpoise those dangers which originate in their Constitution and in their political laws. To evils which are common to all democratic peoples they have applied remedies which none but themselves had ever thought of before; and although they were the first to make the experiment, they have succeeded in it.

The manners and laws of the Americans are not the only ones which may suit a democratic people; but the Americans have shown that it would be wrong to despair of regulating democracy by the aid of manners and of laws. If other nations should borrow this general and pregnant idea from the Americans, without however intending to imitate them in the peculiar application which they have made of it; if they should attempt to fit themselves for that social condition, which it seems to be the will of Providence to impose upon the generations of this age, and so to escape from the despotism or the anarchy which threatens them; what reason is there to suppose that their efforts would not be crowned with success? The organization and the establishment of democracy in Christendom is the great political problem of the time. The Americans, unquestionably, have not resolved this problem, but they furnish useful data to those who undertake the task.

### **Importance of What Precedes With Respect to the State of Europe**

It may readily be discovered with what intention I undertook the foregoing inquiries. The question here discussed is interesting not only to the United States, but to the whole world; it concerns, not a nation, but all mankind. If those nations whose social condition is democratic could only remain free as long as they are inhabitants of the wilds, we could not but despair of the future destiny of the human race; for democracy is rapidly acquiring a more extended sway, and the wilds are gradually peopled with men. If it were

true that laws and manners are insufficient to maintain democratic institutions, what refuge would remain open to the nations, except the despotism of a single individual? I am aware that there are many worthy persons at the present time who are not alarmed at this latter alternative, and who are so tired of liberty as to be glad of repose, far from those storms by which it is attended, But these individuals are ill acquainted with the haven towards which they are bound. They are so deluded by their recollections, as to judge the tendency of absolute power by what it was formerly, and not by what it might become at the present time.

If absolute power were re-established amongst the democratic nations of Europe, I am persuaded that it would assume a new form, and appear under features unknown to our forefathers. There was a time in Europe when the laws and the consent of the people had invested princes with almost unlimited authority; but they scarcely ever availed themselves of it. I do not speak of the prerogatives of the nobility, of the authority of supreme courts of justice, of corporations and their chartered rights, or of provincial privileges, which served to break the blows of the sovereign authority, and to maintain a spirit of resistance in the nation. Independently of these political institutions— which, however proposed they might be to personal liberty, served to keep alive the love of freedom in the mind of the public, and which may be esteemed to have been useful in this respect—the manners and opinions of the nation confined the royal authority within barriers which were not less powerful, although they were less conspicuous. Religion, the affections of the people, the benevolence of the prince, the sense of honor, family pride, provincial prejudices, custom, and public opinion limited the power of kings, and restrained their authority within an invisible circle. The constitution of nations was despotic at that time, but their manners were free. Princes had the right, but they had neither the means nor the desire, of doing whatever they pleased.

But what now remains of those barriers which formerly arrested the aggressions of tyranny? Since religion has lost its empire over the souls of men, the most prominent boundary which divided good from evil is overthrown; the very elements of the moral world are indeterminate; the princes and the peoples of the earth are guided by chance, and none can define the natural limits of despotism and the bounds of license. Long

revolutions have forever destroyed the respect which surrounded the rulers of the State; and since they have been relieved from the burden of public esteem, princes may henceforward surrender themselves without fear to the seductions of arbitrary power.

When kings find that the hearts of their subjects are turned towards them, they are clement, because they are conscious of their strength, and they are chary of the affection of their people, because the affection of their people is the bulwark of the throne. A mutual interchange of good-will then takes place between the prince and the people, which resembles the gracious intercourse of domestic society. The subjects may murmur at the sovereign's decree, but they are grieved to displease him; and the sovereign chastises his subjects with the light hand of parental affection.

But when once the spell of royalty is broken in the tumult of revolution; when successive monarchs have crossed the throne, so as alternately to display to the people the weakness of their right and the harshness of their power, the sovereign is no longer regarded by any as the Father of the State, and he is feared by all as its master. If he be weak, he is despised; if he be strong, he is detested. He himself is full of animosity and alarm; he finds that he is as a stranger in his own country, and he treats his subjects like conquered enemies.

When the provinces and the towns formed so many different nations in the midst of their common country, each of them had a will of its own, which was opposed to the general spirit of subjection; but now that all the parts of the same empire, after having lost their immunities, their customs, their prejudices, their traditions, and their names, are subjected and accustomed to the same laws, it is not more difficult to oppress them collectively than it was formerly to oppress them singly.

Whilst the nobles enjoyed their power, and indeed long after that power was lost, the honor of aristocracy conferred an extraordinary degree of force upon their personal opposition. They afford instances of men who, notwithstanding their weakness, still entertained a high opinion of their personal value, and dared to cope single-handed with the efforts of the public authority. But at the present day, when all ranks are more and more

confounded, when the individual disappears in the throng, and is easily lost in the midst of a common obscurity, when the honor of monarchy has almost lost its empire without being succeeded by public virtue, and when nothing can enable man to rise above himself, who shall say at what point the exigencies of power and the servility of weakness will stop?

As long as family feeling was kept alive, the antagonist of oppression was never alone; he looked about him, and found his clients, his hereditary friends, and his kinsfolk. If this support was wanting, he was sustained by his ancestors and animated by his posterity. But when patrimonial estates are divided, and when a few years suffice to confound the distinctions of a race, where can family feeling be found? What force can there be in the customs of a country which has changed and is still perpetually changing, its aspect; in which every act of tyranny has a precedent, and every crime an example; in which there is nothing so old that its antiquity can save it from destruction, and nothing so unparalleled that its novelty can prevent it from being done? What resistance can be offered by manners of so pliant a make that they have already often yielded? What strength can even public opinion have retained, when no twenty persons are connected by a common tie; when not a man, nor a family, nor chartered corporation, nor class, nor free institution, has the power of representing or exerting that opinion; and when every citizen—being equally weak, equally poor, and equally dependent—has only his personal impotence to oppose to the organized force of the government?

The annals of France furnish nothing analogous to the condition in which that country might then be thrown. But it may more aptly be assimilated to the times of old, and to those hideous eras of Roman oppression, when the manners of the people were corrupted, their traditions obliterated, their habits destroyed, their opinions shaken, and freedom, expelled from the laws, could find no refuge in the land; when nothing protected the citizens, and the citizens no longer protected themselves; when human nature was the sport of man, and princes wearied out the clemency of Heaven before they exhausted the patience of their subjects. Those who hope to revive the monarchy of Henry IV or of Louis XIV, appear to me to be afflicted with mental blindness; and when I consider the present condition of several European nations—a condition to which all the others tend—I am led to

believe that they will soon be left with no other alternative than democratic liberty, or the tyranny of the Caesars.

And indeed it is deserving of consideration, whether men are to be entirely emancipated or entirely enslaved; whether their rights are to be made equal, or wholly taken away from them. If the rulers of society were reduced either gradually to raise the crowd to their own level, or to sink the citizens below that of humanity, would not the doubts of many be resolved, the consciences of many be healed, and the community prepared to make great sacrifices with little difficulty? In that case, the gradual growth of democratic manners and institutions should be regarded, not as the best, but as the only means of preserving freedom; and without liking the government of democracy, it might be adopted as the most applicable and the fairest remedy for the present ills of society.

It is difficult to associate a people in the work of government; but it is still more difficult to supply it with experience, and to inspire it with the feelings which it requires in order to govern well. I grant that the caprices of democracy are perpetual; its instruments are rude; its laws imperfect. But if it were true that soon no just medium would exist between the empire of democracy and the dominion of a single arm, should we not rather incline towards the former than submit voluntarily to the latter? And if complete equality be our fate, is it not better to be levelled by free institutions than by despotic power?

Those who, after having read this book, should imagine that my intention in writing it has been to propose the laws and manners of the Anglo-Americans for the imitation of all democratic peoples, would commit a very great mistake; they must have paid more attention to the form than to the substance of my ideas. My aim has been to show, by the example of America, that laws, and especially manners, may exist which will allow a democratic people to remain free. But I am very far from thinking that we ought to follow the example of the American democracy, and copy the means which it has employed to attain its ends; for I am well aware of the influence which the nature of a country and its political precedents exercise upon a constitution; and I should regard it as a great misfortune for mankind

if liberty were to exist all over the world under the same forms.

But I am of opinion that if we do not succeed in gradually introducing democratic institutions into France, and if we despair of imparting to the citizens those ideas and sentiments which first prepare them for freedom, and afterwards allow them to enjoy it, there will be no independence at all, either for the middling classes or the nobility, for the poor or for the rich, but an equal tyranny over all; and I foresee that if the peaceable empire of the majority be not founded amongst us in time, we shall sooner or later arrive at the unlimited authority of a single despot.

## **Chapter 18: The Present and Probable Future Condition of the Three Races Which Inhabit the Territory of the United States**

[The Present and Probable Future Condition of the Indian Tribes Which Inhabit the Territory Possessed by the Union](#)

[Situation of the Black Population in the United States and Dangers With Which Its Presence Threatens the Whites](#)

[What are the Chances in Favor of the Duration of the American Union, and What Dangers Threaten It](#)

[Of the Republican Institutions of the United States, and What Their Chances of Duration Are](#)

[Reflection on the Causes of the Commercial Prosperity of the United States](#)

[Conclusion](#)

THE principal part of the task which I had imposed upon myself is now performed. I have shown, as far as I was able, the laws and the manners of

the American democracy. Here I might stop; but the reader would perhaps feel that I had not satisfied his expectations.

The absolute supremacy of democracy is not all that we meet with in America; the inhabitants of the New World may be considered from more than one point of view. In the course of this work my subject has often led me to speak of the Indians and the Negroes; but I have never been able to stop in order to show what place these two races occupy in the midst of the democratic people whom I was engaged in describing. I have mentioned in what spirit, and according to what laws, the Anglo-American Union was formed; but I could only glance at the dangers which menace that confederation, whilst it was equally impossible for me to give a detailed account of its chances of duration, independently of its laws and manners. When speaking of the united republican States, I hazarded no conjectures upon the permanence of republican forms in the New World, and when making frequent allusion to the commercial activity which reigns in the Union, I was unable to inquire into the future condition of the Americans as a commercial people.

These topics are collaterally connected with my subject without forming a part of it; they are American without being democratic; and to portray democracy has been my principal aim. It was therefore necessary to postpone these questions, which I now take up as the proper termination of my work.

The territory now occupied or claimed by the American Union spreads from the shores of the Atlantic to those of the Pacific Ocean. On the east and west its limits are those of the continent itself. On the south it advances nearly to the tropic, and it extends upwards to the icy regions of the North. The human beings who are scattered over this space do not form, as in Europe, so many branches of the same stock. Three races, naturally distinct, and, I might almost say, hostile to each other, are discoverable amongst them at the first glance. Almost insurmountable barriers had been raised between them by education and by law, as well as by their origin and outward characteristics; but fortune has brought them together on the same soil, where, although they are mixed, they do not amalgamate, and each

race fulfils its destiny apart.

Amongst these widely differing families of men, the first which attracts attention, the superior in intelligence, in power and in enjoyment, is the white or European, the man pre-eminent; and in subordinate grades, the negro and the Indian. These two unhappy races have nothing in common; neither birth, nor features, nor language, nor habits. Their only resemblance lies in their misfortunes. Both of them occupy an inferior rank in the country they inhabit; both suffer from tyranny; and if their wrongs are not the same, they originate, at any rate, with the same authors.

If we reasoned from what passes in the world, we should almost say that the European is to the other races of mankind, what man is to the lower animals;—he makes them subservient to his use; and when he cannot subdue, he destroys them. Oppression has, at one stroke, deprived the descendants of the Africans of almost all the privileges of humanity. The negro of the United States has lost all remembrance of his country; the language which his forefathers spoke is never heard around him; he abjured their religion and forgot their customs when he ceased to belong to Africa, without acquiring any claim to European privileges. But he remains half way between the two communities; sold by the one, repulsed by the other; finding not a spot in the universe to call by the name of country, except the faint image of a home which the shelter of his master's roof affords.

The negro has no family; woman is merely the temporary companion of his pleasures, and his children are upon an equality with himself from the moment of their birth. Am I to call it a proof of God's mercy or a visitation of his wrath, that man in certain states appears to be insensible to his extreme wretchedness, and almost affects, with a depraved taste, the cause of his misfortunes? The negro, who is plunged in this abyss of evils, scarcely feels his own calamitous situation. Violence made him a slave, and the habit of servitude gives him the thoughts and desires of a slave; he admires his tyrants more than he hates them, and finds his joy and his pride in the servile imitation of those who oppress him: his understanding is degraded to the level of his soul.

The negro enters upon slavery as soon as he is born: nay, he may have been purchased in the womb, and have begun his slavery before he began his existence. Equally devoid of wants and of enjoyment, and useless to himself, he learns, with his first notions of existence, that he is the property of another, who has an interest in preserving his life, and that the care of it does not devolve upon himself; even the power of thought appears to him a useless gift of Providence, and he quietly enjoys the privileges of his debasement. If he becomes free, independence is often felt by him to be a heavier burden than slavery; for having learned, in the course of his life, to submit to everything except reason, he is too much unacquainted with her dictates to obey them. A thousand new desires beset him, and he is destitute of the knowledge and energy necessary to resist them: these are masters which it is necessary to contend with, and he has learnt only to submit and obey. In short, he sinks to such a depth of wretchedness, that while servitude brutalizes, liberty destroys him.

Oppression has been no less fatal to the Indian than to the negro race, but its effects are different. Before the arrival of white men in the New World, the inhabitants of North America lived quietly in their woods, enduring the vicissitudes and practising the virtues and vices common to savage nations. The Europeans, having dispersed the Indian tribes and driven them into the deserts, condemned them to a wandering life full of inexpressible sufferings.

Savage nations are only controlled by opinion and by custom. When the North American Indians had lost the sentiment of attachment to their country; when their families were dispersed, their traditions obscured, and the chain of their recollections broken; when all their habits were changed, and their wants increased beyond measure, European tyranny rendered them more disorderly and less civilized than they were before. The moral and physical condition of these tribes continually grew worse, and they became more barbarous as they became more wretched. Nevertheless, the Europeans have not been able to metamorphose the character of the Indians; and though they have had power to destroy them, they have never been able to make them submit to the rules of civilized society.

The lot of the negro is placed on the extreme limit of servitude, while that of the Indian lies on the uttermost verge of liberty; and slavery does not produce more fatal effects upon the first, than independence upon the second. The negro has lost all property in his own person, and he cannot dispose of his existence without committing a sort of fraud: but the savage is his own master as soon as he is able to act; parental authority is scarcely known to him; he has never bent his will to that of any of his kind, nor learned the difference between voluntary obedience and a shameful subjection; and the very name of law is unknown to him. To be free, with him, signifies to escape from all the shackles of society. As he delights in this barbarous independence, and would rather perish than sacrifice the least part of it, civilization has little power over him.

The negro makes a thousand fruitless efforts to insinuate himself amongst men who repulse him; he conforms to the tastes of his oppressors, adopts their opinions, and hopes by imitating them to form a part of their community. Having been told from infancy that his race is naturally inferior to that of the whites, he assents to the proposition and is ashamed of his own nature. In each of his features he discovers a trace of slavery, and, if it were in his power, he would willingly rid himself of everything that makes him what he is.

The Indian, on the contrary, has his imagination inflated with the pretended nobility of his origin, and lives and dies in the midst of these dreams of pride. Far from desiring to conform his habits to ours, he loves his savage life as the distinguishing mark of his race, and he repels every advance to civilization, less perhaps from the hatred which he entertains for it, than from a dread of resembling the Europeans. While he has nothing to oppose to our perfection in the arts but the resources of the desert, to our tactics nothing but undisciplined courage; whilst our well-digested plans are met by the spontaneous instincts of savage life, who can wonder if he fails in this unequal contest?

The negro, who earnestly desires to mingle his race with that of the European, cannot effect it; while the Indian, who might succeed to a certain extent, disdains to make the attempt. The servility of the one dooms him to

slavery, the pride of the other to death.

I remember that while I was travelling through the forests which still cover the State of Alabama, I arrived one day at the log house of a pioneer. I did not wish to penetrate into the dwelling of the American, but retired to rest myself for a while on the margin of a spring, which was not far off, in the woods. While I was in this place (which was in the neighborhood of the Creek territory), an Indian woman appeared, followed by a negress, and holding by the hand a little white girl of five or six years old, whom I took to be the daughter of the pioneer. A sort of barbarous luxury set off the costume of the Indian; rings of metal were hanging from her nostrils and ears; her hair, which was adorned with glass beads, fell loosely upon her shoulders; and I saw that she was not married, for she still wore that necklace of shells which the bride always deposits on the nuptial couch. The negress was clad in squalid European garments. They all three came and seated themselves upon the banks of the fountain; and the young Indian, taking the child in her arms, lavished upon her such fond caresses as mothers give; while the negress endeavored by various little artifices to attract the attention of the young Creole.

The child displayed in her slightest gestures a consciousness of superiority which formed a strange contrast with her infantine weakness; as if she received the attentions of her companions with a sort of condescension. The negress was seated on the ground before her mistress, watching her smallest desires, and apparently divided between strong affection for the child and servile fear; whilst the savage displayed, in the midst of her tenderness, an air of freedom and of pride which was almost ferocious. I had approached the group, and I contemplated them in silence; but my curiosity was probably displeasing to the Indian woman, for she suddenly rose, pushed the child roughly from her, and giving me an angry look plunged into the thicket. I had often chanced to see individuals met together in the same place, who belonged to the three races of men which people North America. I had perceived from many different results the preponderance of the whites. But in the picture which I have just been describing there was something peculiarly touching; a bond of affection here united the oppressors with the oppressed, and the effort of nature to bring them together rendered still more striking the immense distance placed between

them by prejudice and by law.

### **The Present and Probable Future Condition of the Indian Tribes Which Inhabit the Territory Possessed by the Union**

Gradual disappearance of the native tribes—Manner in which it takes place—Miseries accompanying the forced migrations of the Indians—The savages of North America had only two ways of escaping destruction; war or civilization—They are no longer able to make war—Reasons why they refused to become civilized when it was in their power, and why they cannot become so now that they desire it—Instance of the Creeks and Cherokees—Policy of the particular States towards these Indians—Policy of the Federal Government.

None of the Indian tribes which formerly inhabited the territory of New England—the Naragansetts, the Mohicans, the Pecots—have any existence but in the recollection of man. The Lenapes, who received William Penn, a hundred and fifty years ago, upon the banks of the Delaware, have disappeared; and I myself met with the last of the Iroquois, who were begging alms. The nations I have mentioned formerly covered the country to the sea-coast; but a traveller at the present day must penetrate more than a hundred leagues into the interior of the continent to find an Indian. Not only have these wild tribes receded, but they are destroyed; and as they give way or perish, an immense and increasing people fills their place. There is no instance upon record of so prodigious a growth, or so rapid a destruction: the manner in which the latter change takes place is not difficult to describe.

When the Indians were the sole inhabitants of the wilds from whence they have since been expelled, their wants were few. Their arms were of their own manufacture, their only drink was the water of the brook, and their clothes consisted of the skins of animals, whose flesh furnished them with

food.

The Europeans introduced amongst the savages of North America fire-arms, ardent spirits, and iron: they taught them to exchange for manufactured stuffs, the rough garments which had previously satisfied their untutored simplicity. Having acquired new tastes, without the arts by which they could be gratified, the Indians were obliged to have recourse to the workmanship of the whites; but in return for their productions the savage had nothing to offer except the rich furs which still abounded in his woods. Hence the chase became necessary, not merely to provide for his subsistence, but in order to procure the only objects of barter which he could furnish to Europe. Whilst the wants of the natives were thus increasing, their resources continued to diminish.

From the moment when a European settlement is formed in the neighborhood of the territory occupied by the Indians, the beasts of chase take the alarm. Thousands of savages, wandering in the forests and destitute of any fixed dwelling, did not disturb them; but as soon as the continuous sounds of European labor are heard in their neighborhood, they begin to flee away, and retire to the West, where their instinct teaches them that they will find deserts of immeasurable extent. "The buffalo is constantly receding," say Messrs. Clarke and Cass in their Report of the year 1829; "a few years since they approached the base of the Alleghany; and a few years hence they may even be rare upon the immense plains which extend to the base of the Rocky Mountains." I have been assured that this effect of the approach of the whites is often felt at two hundred leagues' distance from their frontier. Their influence is thus exerted over tribes whose name is unknown to them; and who suffer the evils of usurpation long before they are acquainted with the authors of their distress.

Bold adventurers soon penetrate into the country the Indians have deserted, and when they have advanced about fifteen or twenty leagues from the extreme frontiers of the whites, they begin to build habitations for civilized beings in the midst of the wilderness. This is done without difficulty, as the territory of a hunting-nation is ill-defined; it is the common property of the tribe, and belongs to no one in particular, so that individual interests are not

concerned in the protection of any part of it.

A few European families, settled in different situations at a considerable distance from each other, soon drive away the wild animals which remain between their places of abode. The Indians, who had previously lived in a sort of abundance, then find it difficult to subsist, and still more difficult to procure the articles of barter which they stand in need of.

To drive away their game is to deprive them of the means of existence, as effectually as if the fields of our agriculturists were stricken with barrenness; and they are reduced, like famished wolves, to prowl through the forsaken woods in quest of prey. Their instinctive love of their country attaches them to the soil which gave them birth, even after it has ceased to yield anything but misery and death. At length they are compelled to acquiesce, and to depart: they follow the traces of the elk, the buffalo, and the beaver, and are guided by these wild animals in the choice of their future country. Properly speaking, therefore, it is not the Europeans who drive away the native inhabitants of America; it is famine which compels them to recede; a happy distinction which had escaped the casuists of former times, and for which we are indebted to modern discovery!

It is impossible to conceive the extent of the sufferings which attend these forced emigrations. They are undertaken by a people already exhausted and reduced; and the countries to which the newcomers betake themselves are inhabited by other tribes which receive them with jealous hostility. Hunger is in the rear; war awaits them, and misery besets them on all sides. In the hope of escaping from such a host of enemies, they separate, and each individual endeavors to procure the means of supporting his existence in solitude and secrecy, living in the immensity of the desert like an outcast in civilized society. The social tie, which distress had long since weakened, is then dissolved; they have lost their country, and their people soon desert them: their very families are obliterated; the names they bore in common are forgotten, their language perishes, and all traces of their origin disappear. Their nation has ceased to exist, except in the recollection of the antiquaries of America and a few of the learned of Europe.

I should be sorry to have my reader suppose that I am coloring the picture too highly; I saw with my own eyes several of the cases of misery which I have been describing; and I was the witness of sufferings which I have not the power to portray.

At the end of the year 1831, whilst I was on the left bank of the Mississippi at a place named by Europeans, Memphis, there arrived a numerous band of Choctaws (or Chactas, as they are called by the French in Louisiana). These savages had left their country, and were endeavoring to gain the right bank of the Mississippi, where they hoped to find an asylum which had been promised them by the American government. It was then the middle of winter, and the cold was unusually severe; the snow had frozen hard upon the ground, and the river was drifting huge masses of ice, The Indians had their families with them; and they brought in their train the wounded and sick, with children newly born, and old men upon the verge of death. They possessed neither tents nor wagons, but only their arms and some provisions. I saw them embark to pass the mighty river, and never will that solemn spectacle fade from my remembrance. No cry, no sob was heard amongst the assembled crowd; all were silent. Their calamities were of ancient date, and they knew them to be irremediable. The Indians had all stepped into the bark which was to carry them across, but their dogs remained upon the bank. As soon as these animals perceived that their masters were finally leaving the shore, they set up a dismal howl, and, plunging all together into the icy waters of the Mississippi, they swam after the boat.

The ejection of the Indians very often takes place at the present day, in a regular, and, as it were, a legal manner. When the European population begins to approach the limit of the desert inhabited by a savage tribe, the government of the United States usually dispatches envoys to them, who assemble the Indians in a large plain, and having first eaten and drunk with them, accost them in the following manner: "What have you to do in the land of your fathers? Before long, you must dig up their bones in order to live. In what respect is the country you inhabit better than another? Are there no woods, marshes, or prairies, except where you dwell? And can you live nowhere but under your own sun? Beyond those mountains which you see at the horizon, beyond the lake which bounds your territory on the west,

there lie vast countries where beasts of chase are found in great abundance; sell your lands to us, and go to live happily in those solitudes." After holding this language, they spread before the eyes of the Indians firearms, woollen garments, kegs of brandy, glass necklaces, bracelets of tinsel, earrings, and looking-glasses. If, when they have beheld all these riches, they still hesitate, it is insinuated that they have not the means of refusing their required consent, and that the government itself will not long have the power of protecting them in their rights. What are they to do? Half convinced, and half compelled, they go to inhabit new deserts, where the importunate whites will not let them remain ten years in tranquillity. In this manner do the Americans obtain, at a very low price, whole provinces, which the richest sovereigns of Europe could not purchase.

These are great evils; and it must be added that they appear to me to be irremediable. I believe that the Indian nations of North America are doomed to perish; and that whenever the Europeans shall be established on the shores of the Pacific Ocean, that race of men will be no more. The Indians had only the two alternatives of war or civilization; in other words, they must either have destroyed the Europeans or become their equals.

At the first settlement of the colonies they might have found it possible, by uniting their forces, to deliver themselves from the small bodies of strangers who landed on their continent. They several times attempted to do it, and were on the point of succeeding; but the disproportion of their resources, at the present day, when compared with those of the whites, is too great to allow such an enterprise to be thought of. Nevertheless, there do arise from time to time among the Indians men of penetration, who foresee the final destiny which awaits the native population, and who exert themselves to unite all the tribes in common hostility to the Europeans; but their efforts are unavailing. Those tribes which are in the neighborhood of the whites, are too much weakened to offer an effectual resistance; whilst the others, giving way to that childish carelessness of the morrow which characterizes savage life, wait for the near approach of danger before they prepare to meet it; some are unable, the others are unwilling, to exert themselves.

It is easy to foresee that the Indians will never conform to civilization; or that it will be too late, whenever they may be inclined to make the

experiment.

Civilization is the result of a long social process which takes place in the same spot, and is handed down from one generation to another, each one profiting by the experience of the last. Of all nations, those submit to civilization with the most difficulty which habitually live by the chase, Pastoral tribes, indeed, often change their place of abode; but they follow a regular order in their migrations, and often return again to their old stations, whilst the dwelling of the hunter varies with that of the animals he pursues.

Several attempts have been made to diffuse knowledge amongst the Indians, without controlling their wandering propensities; by the Jesuits in Canada, and by the Puritans in New England; but none of these endeavors were crowned by any lasting success. Civilization began in the cabin, but it soon retired to expire in the woods. The great error of these legislators of the Indians was their not understanding that, in order to succeed in civilizing a people, it is first necessary to fix it; which cannot be done without inducing it to cultivate the soil; the Indians ought in the first place to have been accustomed to agriculture. But not only are they destitute of this indispensable preliminary to civilization, they would even have great difficulty in acquiring it. Men who have once abandoned themselves to the restless and adventurous life of the hunter, feel an insurmountable disgust for the constant and regular labor which tillage requires. We see this proved in the bosom of our own society; but it is far more visible among peoples whose partiality for the chase is a part of their national character.

Independently of this general difficulty, there is another, which applies peculiarly to the Indians; they consider labor not merely as an evil, but as a disgrace; so that their pride prevents them from becoming civilized, as much as their indolence.

There is no Indian so wretched as not to retain under his hut of bark a lofty idea of his personal worth; he considers the cares of industry and labor as degrading occupations; he compares the husbandman to the ox which traces the furrow; and even in our most ingenious handicraft, he can see nothing but the labor of slaves. Not that he is devoid of admiration for the power and intellectual greatness of the whites; but although the result of our efforts

surprises him, he contemns the means by which we obtain it; and while he acknowledges our ascendancy, he still believes in his superiority. War and hunting are the only pursuits which appear to him worthy to be the occupations of a man. The Indian, in the dreary solitude of his woods, cherishes the same ideas, the same opinions as the noble of the Middle Ages in his castle, and he only requires to become a conqueror to complete the resemblance; thus, however Strange it may seem, it is in the forests of the New World, and not amongst the Europeans who people its coasts, that the ancient prejudices of Europe are still in existence.

More than once, in the course of this work, I have endeavored to explain the prodigious influence which the social condition appears to exercise upon the laws and the manners of men; and I beg to add a few words on the same subject.

When I perceive the resemblance which exists between the political institutions of our ancestors, the Germans, and of the wandering tribes of North America; between the customs described by Tacitus, and those of which I have sometimes been a witness, I cannot help thinking that the same cause has brought about the same results in both hemispheres; and that in the midst of the apparent diversity of human affairs, a certain number of primary facts may be discovered, from which all the others are derived. In what we usually call the German institutions, then, I am inclined only to perceive barbarian habits; and the opinions of savages in what we style feudal principles.

However strongly the vices and prejudices of the North American Indians may be opposed to their becoming agricultural and civilized, necessity sometimes obliges them to it. Several of the southern nations, and amongst others the Cherokees and the Creeks, were surrounded by Europeans, who had landed on the shores of the Atlantic; and who, either descending the Ohio or proceeding up the Mississippi, arrived simultaneously upon their borders. These tribes have not been driven from place to place, like their Northern brethren; but they have been gradually enclosed within narrow limits, like the game within the thicket, before the huntsmen plunge into the interior. The Indians who were thus placed between civilization and death, found themselves obliged to live by ignominious labor like the whites. They

took to agriculture, and without entirely forsaking their old habits or manners, sacrificed only as much as was necessary to their existence.

The Cherokees went further; they created a written language; established a permanent form of government; and as everything proceeds rapidly in the New World, before they had all of them clothes, they set up a newspaper.

The growth of European habits has been remarkably accelerated among these Indians by the mixed race which has sprung up. Deriving intelligence from their father's side, without entirely losing the savage customs of the mother, the half-blood forms the natural link between civilization and barbarism. Wherever this race has multiplied the savage state has become modified, and a great change has taken place in the manners of the people.

The success of the Cherokees proves that the Indians are capable of civilization, but it does not prove that they will succeed in it. This difficulty which the Indians find in submitting to civilization proceeds from the influence of a general cause, which it is almost impossible for them to escape. An attentive survey of history demonstrates that, in general, barbarous nations have raised themselves to civilization by degrees, and by their own efforts. Whenever they derive knowledge from a foreign people, they stood towards it in the relation of conquerors, and not of a conquered nation. When the conquered nation is enlightened, and the conquerors are half savage, as in the case of the invasion of Rome by the Northern nations or that of China by the Mongols, the power which victory bestows upon the barbarian is sufficient to keep up his importance among civilized men, and permit him to rank as their equal, until he becomes their rival: the one has might on his side, the other has intelligence; the former admires the knowledge and the arts of the conquered, the latter envies the power of the conquerors. The barbarians at length admit civilized man into their palaces, and he in turn opens his schools to the barbarians. But when the side on which the physical force lies, also possesses an intellectual preponderance, the conquered party seldom become civilized; it retreats, or is destroyed. It may therefore be said, in a general way, that savages go forth in arms to seek knowledge, but that they do not receive it when it comes to them.

If the Indian tribes which now inhabit the heart of the continent could summon up energy enough to attempt to civilize themselves, they might possibly succeed. Superior already to the barbarous nations which surround them, they would gradually gain strength and experience, and when the Europeans should appear upon their borders, they would be in a state, if not to maintain their independence, at least to assert their right to the soil, and to incorporate themselves with the conquerors. But it is the misfortune of Indians to be brought into contact with a civilized people, which is also (it must be owned) the most avaricious nation on the globe, whilst they are still semi-barbarian: to find despots in their instructors, and to receive knowledge from the hand of oppression. Living in the freedom of the woods, the North American Indian was destitute, but he had no feeling of inferiority towards anyone; as soon, however, as he desires to penetrate into the social scale of the whites, he takes the lowest rank in society, for he enters, ignorant and poor, within the pale of science and wealth. After having led a life of agitation, beset with evils and dangers, but at the same time filled with proud emotions, he is obliged to submit to a wearisome, obscure, and degraded state; and to gain the bread which nourishes him by hard and ignoble labor; such are in his eyes the only results of which civilization can boast: and even this much he is not sure to obtain.

When the Indians undertake to imitate their European neighbors, and to till the earth like the settlers, they are immediately exposed to a very formidable competition. The white man is skilled in the craft of agriculture; the Indian is a rough beginner in an art with which he is unacquainted. The former reaps abundant crops without difficulty, the latter meets with a thousand obstacles in raising the fruits of the earth.

The European is placed amongst a population whose wants he knows and partakes. The savage is isolated in the midst of a hostile people, with whose manners, language, and laws he is imperfectly acquainted, but without whose assistance he cannot live. He can only procure the materials of comfort by bartering his commodities against the goods of the European, for the assistance of his countrymen is wholly insufficient to supply his wants. When the Indian wishes to sell the produce of his labor, he cannot always meet with a purchaser, whilst the European readily finds a market; and the former can only produce at a considerable cost that which the latter

vends at a very low rate. Thus the Indian has no sooner escaped those evils to which barbarous nations are exposed, than he is subjected to the still greater miseries of civilized communities; and he finds it scarcely less difficult to live in the midst of our abundance, than in the depth of his own wilderness.

He has not yet lost the habits of his erratic life; the traditions of his fathers and his passion for the chase are still alive within him. The wild enjoyments which formerly animated him in the woods, painfully excite his troubled imagination; and his former privations appear to be less keen, his former perils less appalling. He contrasts the independence which he possessed amongst his equals with the servile position which he occupies in civilized society. On the other hand, the solitudes which were so long his free home are still at hand; a few hours' march will bring him back to them once more. The whites offer him a sum, which seems to him to be considerable, for the ground which he has begun to clear. This money of the Europeans may possibly furnish him with the means of a happy and peaceful subsistence in remoter regions; and he quits the plough, resumes his native arms, and returns to the wilderness forever. The condition of the Creeks and Cherokees, to which I have already alluded, sufficiently corroborates the truth of this deplorable picture.

The Indians, in the little which they have done, have unquestionably displayed as much natural genius as the peoples of Europe in their most important designs; but nations as well as men require time to learn, whatever may be their intelligence and their zeal. Whilst the savages were engaged in the work of civilization, the Europeans continued to surround them on every side, and to confine them within narrower limits; the two races gradually met, and they are now in immediate juxtaposition to each other. The Indian is already superior to his barbarous parent, but he is still very far below his white neighbor. With their resources and acquired knowledge, the Europeans soon appropriated to themselves most of the advantages which the natives might have derived from the possession of the soil; they have settled in the country, they have purchased land at a very low rate or have occupied it by force, and the Indians have been ruined by a competition which they had not the means of resisting. They were isolated in their own country, and their race only constituted a colony of

troublesome aliens in the midst of a numerous and domineering people.

Washington said in one of his messages to Congress, "We are more enlightened and more powerful than the Indian nations, we are therefore bound in honor to treat them with kindness and even with generosity." But this virtuous and high-minded policy has not been followed. The rapacity of the settlers is usually backed by the tyranny of the government. Although the Cherokees and the Creeks are established upon the territory which they inhabited before the settlement of the Europeans, and although the Americans have frequently treated with them as with foreign nations, the surrounding States have not consented to acknowledge them as independent peoples, and attempts have been made to subject these children of the woods to Anglo-American magistrates, laws, and customs. Destitution had driven these unfortunate Indians to civilization, and oppression now drives them back to their former condition: many of them abandon the soil which they had begun to clear, and return to their savage course of life.

If we consider the tyrannical measures which have been adopted by the legislatures of the Southern States, the conduct of their Governors, and the decrees of their courts of justice, we shall be convinced that the entire expulsion of the Indians is the final result to which the efforts of their policy are directed. The Americans of that part of the Union look with jealousy upon the aborigines, they are aware that these tribes have not yet lost the traditions of savage life, and before civilization has permanently fixed them to the soil, it is intended to force them to recede by reducing them to despair. The Creeks and Cherokees, oppressed by the several States, have appealed to the central government, which is by no means insensible to their misfortunes, and is sincerely desirous of saving the remnant of the natives, and of maintaining them in the free possession of that territory, which the Union is pledged to respect. But the several States oppose so formidable a resistance to the execution of this design, that the government is obliged to consent to the extirpation of a few barbarous tribes in order not to endanger the safety of the American Union.

But the federal government, which is not able to protect the Indians, would fain mitigate the hardships of their lot; and, with this intention, proposals have been made to transport them into more remote regions at the public

cost.

Between the thirty-third and thirty-seventh degrees of north latitude, a vast tract of country lies, which has taken the name of Arkansas, from the principal river that waters its extent. It is bounded on the one side by the confines of Mexico, on the other by the Mississippi. Numberless streams cross it in every direction; the climate is mild, and the soil productive, but it is only inhabited by a few wandering hordes of Savages. The government of the Union wishes to transport the broken remnants of the indigenous population of the South to the portion of this country which is nearest to Mexico, and at a great distance from the American settlements.

We were assured, towards the end of the year 1831, that 10,000 Indians had already gone down to the shores of the Arkansas; and fresh detachments were constantly following them; but Congress has been unable to excite a unanimous determination in those whom it is disposed to protect. Some, indeed, are willing to quit the seat of oppression, but the most enlightened members of the community refuse to abandon their recent dwellings and their springing crops; they are of opinion that the work of civilization, once interrupted, will never be resumed; they fear that those domestic habits which have been so recently contracted, may be irrevocably lost in the midst of a country which is still barbarous, and where nothing is prepared for the subsistence of an agricultural people; they know that their entrance into those wilds will be opposed by inimical hordes, and that they have lost the energy of barbarians, without acquiring the resources of civilization to resist their attacks. Moreover, the Indians readily discover that the settlement which is proposed to them is merely a temporary expedient. Who can assure them that they will at length be allowed to dwell in peace in their new retreat? The United States pledge themselves to the observance of the obligation; but the territory which they at present occupy was formerly secured to them by the most solemn oaths of Anglo-American faith. The American government does not indeed rob them of their lands, but it allows perpetual incursions to be made on them. In a few years the same white population which now flocks around them, will track them to the solitudes of the Arkansas; they will then be exposed to the same evils without the same remedies, and as the limits of the earth will at last fail them, their only

refuge is the grave.

The Union treats the Indians with less cupidity and rigor than the policy of the several States, but the two governments are alike destitute of good faith. The States extend what they are pleased to term the benefits of their laws to the Indians, with a belief that the tribes will recede rather than submit; and the central government, which promises a permanent refuge to these unhappy beings is well aware of its inability to secure it to them.

Thus the tyranny of the States obliges the savages to retire, the Union, by its promises and resources, facilitates their retreat; and these measures tend to precisely the same end. "By the will of our Father in Heaven, the Governor of the whole world," said the Cherokees in their petition to Congress, "the red man of America has become small, and the white man great and renowned. When the ancestors of the people of these United States first came to the shores of America they found the red man strong: though he was ignorant and savage, yet he received them kindly, and gave them dry land to rest their weary feet. They met in peace, and shook hands in token of friendship. Whatever the white man wanted and asked of the Indian, the latter willingly gave. At that time the Indian was the lord, and the white man the suppliant. But now the scene has changed. The strength of the red man has become weakness. As his neighbors increased in numbers his power became less and less, and now, of the many and powerful tribes who once covered these United States, only a few are to be seen a few whom a sweeping pestilence has left. The northern tribes, who were once so numerous and powerful, are now nearly extinct. Thus it has happened to the red man of America. Shall we, who are remnants, share the same fate?"

"The land on which we stand we have received as an inheritance from our fathers, who possessed it from time immemorial, as a gift from our common Father in Heaven. They bequeathed it to us as their children, and we have sacredly kept it, as containing the remains of our beloved men, This right of inheritance we have never ceded nor ever forfeited. Permit us to ask what better right can the people have to a country than the right of inheritance and immemorial peaceable possession? We know it is said of late by the State of Georgia and by the Executive of the United States, that we have forfeited think this is said gratuitously. At what time have we made the

forfeit? What great crime have we committed, whereby we must forever be divested of our country and rights? Was it when we were hostile to the United States, and took part with the King of Great Britain, during the struggle for independence? If so, why was not this forfeiture declared in the first treaty of peace between the United States and our beloved men? Why was not such an article as the following inserted in the treaty:—"The United States give peace to the Cherokees, but, for the part they took in the late war, declare them to be but tenants at will, to be removed when the convenience of the States, within whose chartered limits they live, shall require it"? That was the proper time to assume such a possession. But it was not thought of, nor would our forefathers have agreed to any treaty whose tendency was to deprive them of their rights and their country."

Such is the language of the Indians: their assertions are true, their forebodings inevitable. From whichever side we consider the destinies of the aborigines of North America, their calamities appear to be irremediable: if they continue barbarous, they are forced to retire; if they attempt to civilize their manners, the contact of a more civilized community subjects them to oppression and destitution. They perish if they continue to wander from waste to waste, and if they attempt to settle they still must perish; the assistance of Europeans is necessary to instruct them, but the approach of Europeans corrupts and repels them into savage life; they refuse to change their habits as long as their solitudes are their own, and it is too late to change them when they are constrained to submit.

The Spaniards pursued the Indians with bloodhounds, like wild beasts; they sacked the New World with no more temper or compassion than a city taken by storm; but destruction must cease, and frenzy be stayed; the remnant of the Indian population which had escaped the massacre mixed with its conquerors, and adopted in the end their religion and their manners. The conduct of the Americans of the United States towards the aborigines is characterized, on the other hand, by a singular attachment to the formalities of law. Provided that the Indians retain their barbarous condition, the Americans take no part in their affairs; they treat them as independent nations, and do not possess themselves of their hunting grounds without a treaty of purchase; and if an Indian nation happens to be so encroached upon as to be unable to subsist upon its territory, they afford it brotherly

assistance in transporting it to a grave sufficiently remote from the land of its fathers.

The Spaniards were unable to exterminate the Indian race by those unparalleled atrocities which brand them with indelible shame, nor did they even succeed in wholly depriving it of its rights; but the Americans of the United States have accomplished this twofold purpose with singular felicity; tranquilly, legally, philanthropically, without shedding blood, and without violating a single great principle of morality in the eyes of the world. It is impossible to destroy men with more respect for the laws of humanity.

[I leave this chapter wholly unchanged, for it has always appeared to me to be one of the most eloquent and touching parts of this book. But it has ceased to be prophetic; the destruction of the Indian race in the United States is already consummated. In 1870 there remained but 25,731 Indians in the whole territory of the Union, and of these by far the largest part exist in California, Michigan, Wisconsin, Dakota, and New Mexico and Nevada. In New England, Pennsylvania, and New York the race is extinct; and the predictions of M. de Tocqueville are fulfilled.—Translator's Note.]

### **Situation of the Black Population in the United States and Dangers With Which Its Presence Threatens the Whites**

Why it is more difficult to abolish slavery, and to efface all vestiges of it amongst the moderns than it was amongst the ancients—In the United States the prejudices of the Whites against the Blacks seem to increase in proportion as slavery is abolished—Situation of the Negroes in the Northern and Southern States—Why the Americans abolish slavery—Servitude, which debases the slave, impoverishes the master—Contrast between the left and the right bank of the Ohio—To what attributable—The Black race, as well as slavery, recedes towards the South—Explanation of this fact—Difficulties attendant upon the abolition of slavery in the South—Dangers to come—General anxiety—Foundation of a Black colony in

Africa—Why the Americans of the South increase the hardships of slavery, whilst they are distressed at its continuance.

The Indians will perish in the same isolated condition in which they have lived; but the destiny of the negroes is in some measure interwoven with that of the Europeans. These two races are attached to each other without intermingling, and they are alike unable entirely to separate or to combine. The most formidable of all the ills which threaten the future existence of the Union arises from the presence of a black population upon its territory; and in contemplating the cause of the present embarrassments or of the future dangers of the United States, the observer is invariably led to consider this as a primary fact.

The permanent evils to which mankind is subjected are usually produced by the vehement or the increasing efforts of men; but there is one calamity which penetrated furtively into the world, and which was at first scarcely distinguishable amidst the ordinary abuses of power; it originated with an individual whose name history has not preserved; it was wafted like some accursed germ upon a portion of the soil, but it afterwards nurtured itself, grew without effort, and spreads naturally with the society to which it belongs. I need scarcely add that this calamity is slavery. Christianity suppressed slavery, but the Christians of the sixteenth century re-established it—as an exception, indeed, to their social system, and restricted to one of the races of mankind; but the wound thus inflicted upon humanity, though less extensive, was at the same time rendered far more difficult of cure.

It is important to make an accurate distinction between slavery itself and its consequences. The immediate evils which are produced by slavery were very nearly the same in antiquity as they are amongst the moderns; but the consequences of these evils were different. The slave, amongst the ancients, belonged to the same race as his master, and he was often the superior of the two in education and instruction. Freedom was the only distinction between them; and when freedom was conferred they were easily confounded together. The ancients, then, had a very simple means of avoiding slavery and its evil consequences, which was that of affranchisement; and they succeeded as soon as they adopted this measure

generally. Not but, in ancient States, the vestiges of servitude subsisted for some time after servitude itself was abolished. There is a natural prejudice which prompts men to despise whomsoever has been their inferior long after he is become their equal; and the real inequality which is produced by fortune or by law is always succeeded by an imaginary inequality which is implanted in the manners of the people. Nevertheless, this secondary consequence of slavery was limited to a certain term amongst the ancients, for the freedman bore so entire a resemblance to those born free, that it soon became impossible to distinguish him from amongst them.

The greatest difficulty in antiquity was that of altering the law; amongst the moderns it is that of altering the manners; and, as far as we are concerned, the real obstacles begin where those of the ancients left off. This arises from the circumstance that, amongst the moderns, the abstract and transient fact of slavery is fatally united to the physical and permanent fact of color. The tradition of slavery dishonors the race, and the peculiarity of the race perpetuates the tradition of slavery. No African has ever voluntarily emigrated to the shores of the New World; whence it must be inferred, that all the blacks who are now to be found in that hemisphere are either slaves or freedmen. Thus the negro transmits the eternal mark of his ignominy to all his descendants; and although the law may abolish slavery, God alone can obliterate the traces of its existence.

The modern slave differs from his master not only in his condition, but in his origin. You may set the negro free, but you cannot make him otherwise than an alien to the European. Nor is this all; we scarcely acknowledge the common features of mankind in this child of debasement whom slavery has brought amongst us. His physiognomy is to our eyes hideous, his understanding weak, his tastes low; and we are almost inclined to look upon him as a being intermediate between man and the brutes. The moderns, then, after they have abolished slavery, have three prejudices to contend against, which are less easy to attack and far less easy to conquer than the mere fact of servitude: the prejudice of the master, the prejudice of the race, and the prejudice of color.

It is difficult for us, who have had the good fortune to be born amongst men like ourselves by nature, and equal to ourselves by law, to conceive the

irreconcilable differences which separate the negro from the European in America. But we may derive some faint notion of them from analogy. France was formerly a country in which numerous distinctions of rank existed, that had been created by the legislation. Nothing can be more fictitious than a purely legal inferiority; nothing more contrary to the instinct of mankind than these permanent divisions which had been established between beings evidently similar. Nevertheless these divisions subsisted for ages; they still subsist in many places; and on all sides they have left imaginary vestiges, which time alone can efface. If it be so difficult to root out an inequality which solely originates in the law, how are those distinctions to be destroyed which seem to be based upon the immutable laws of Nature herself? When I remember the extreme difficulty with which aristocratic bodies, of whatever nature they may be, are commingled with the mass of the people; and the exceeding care which they take to preserve the ideal boundaries of their caste inviolate, I despair of seeing an aristocracy disappear which is founded upon visible and indelible signs. Those who hope that the Europeans will ever mix with the negroes, appear to me to delude themselves; and I am not led to any such conclusion by my own reason, or by the evidence of facts.

Hitherto, wherever the whites have been the most powerful, they have maintained the blacks in a subordinate or a servile position; wherever the negroes have been strongest they have destroyed the whites; such has been the only retribution which has ever taken place between the two races.

I see that in a certain portion of the territory of the United States at the present day, the legal barrier which separated the two races is tending to fall away, but not that which exists in the manners of the country; slavery recedes, but the prejudice to which it has given birth remains Stationary. Whosoever has inhabited the United States must have perceived that in those parts of the Union in which the negroes are no longer slaves, they have in no wise drawn nearer to the whites. On the contrary, the prejudice of the race appears to be stronger in the States which have abolished slavery, than in those where it still exists; and nowhere is it so intolerant as in those States where servitude has never been known.

It is true, that in the North of the Union, marriages may be legally contracted between negroes and whites; but public opinion would stigmatize a man who should connect himself with a negress as infamous, and it would be difficult to meet with a single instance of such a union. The electoral franchise has been conferred upon the negroes in almost all the States in which slavery has been abolished; but if they come forward to vote, their lives are in danger. If oppressed, they may bring an action at law, but they will find none but whites amongst their judges; and although they may legally serve as jurors, prejudice repulses them from that office. The Same schools do not receive the child of the black and of the European. In the theatres, gold cannot procure a seat for the servile race beside their former masters; in the hospitals they lie apart; and although they are allowed to invoke the same Divinity as the whites, it must be at a different altar, and in their own churches, with their own clergy. The gates of Heaven are not closed against these unhappy beings; but their inferiority is continued to the very confines of the other world; when the negro is defunct, his bones are cast aside, and the distinction of condition prevails even in the equality of death. The negro is free, but he can share neither the rights, nor the pleasures, nor the labor, nor the afflictions, nor the tomb of him whose equal he has been declared to be; and he cannot meet him upon fair terms in life or in death.

In the South, where slavery still exists, the negroes are less carefully kept apart; they sometimes share the labor and the recreations of the whites; the whites consent to intermix with them to a certain extent, and although the legislation treats them more harshly, the habits of the people are more tolerant and compassionate. In the South the master is not afraid to raise his slave to his own standing, because he knows that he can in a moment reduce him to the dust at pleasure. In the North the white no longer distinctly perceives the barrier which separates him from the degraded race, and he shuns the negro with the more pertinacity, since he fears lest they should some day be confounded together.

Amongst the Americans of the South, nature sometimes reasserts her rights, and restores a transient equality between the blacks and the whites; but in the North pride restrains the most imperious of human passions. The American of the Northern States would perhaps allow the negress to share

his licentious pleasures, if the laws of his country did not declare that she may aspire to be the legitimate partner of his bed; but he recoils with horror from her who might become his wife.

Thus it is, in the United States, that the prejudice which repels the negroes seems to increase in proportion as they are emancipated, and inequality is sanctioned by the manners whilst it is effaced from the laws of the country. But if the relative position of the two races which inhabit the United States is such as I have described, it may be asked why the Americans have abolished slavery in the North of the Union, why they maintain it in the South, and why they aggravate its hardships there? The answer is easily given. It is not for the good of the negroes, but for that of the whites, that measures are taken to abolish slavery in the United States.

The first negroes were imported into Virginia about the year 1621. In America, therefore, as well as in the rest of the globe, slavery originated in the South. Thence it spread from one settlement to another; but the number of slaves diminished towards the Northern States, and the negro population was always very limited in New England.

A century had scarcely elapsed since the foundation of the colonies, when the attention of the planters was struck by the extraordinary fact, that the provinces which were comparatively destitute of slaves, increased in population, in wealth, and in prosperity more rapidly than those which contained the greatest number of negroes. In the former, however, the inhabitants were obliged to cultivate the soil themselves, or by hired laborers; in the latter they were furnished with hands for which they paid no wages; yet although labor and expenses were on the one side, and ease with economy on the other, the former were in possession of the most advantageous system. This consequence seemed to be the more difficult to explain, since the settlers, who all belonged to the same European race, had the same habits, the same civilization, the same laws, and their shades of difference were extremely slight.

Time, however, continued to advance, and the Anglo-Americans, spreading beyond the coasts of the Atlantic Ocean, penetrated farther and farther into the solitudes of the West; they met with a new soil and an unwonted

climate; the obstacles which opposed them were of the most various character; their races intermingled, the inhabitants of the South went up towards the North, those of the North descended to the South; but in the midst of all these causes, the same result occurred at every step, and in general, the colonies in which there were no slaves became more populous and more rich than those in which slavery flourished. The more progress was made, the more was it shown that slavery, which is so cruel to the slave, is prejudicial to the master.

But this truth was most satisfactorily demonstrated when civilization reached the banks of the Ohio. The stream which the Indians had distinguished by the name of Ohio, or Beautiful River, waters one of the most magnificent valleys that has ever been made the abode of man. Undulating lands extend upon both shores of the Ohio, whose soil affords inexhaustible treasures to the laborer; on either bank the air is wholesome and the climate mild, and each of them forms the extreme frontier of a vast State: That which follows the numerous windings of the Ohio upon the left is called Kentucky, that upon the right bears the name of the river. These two States only differ in a single respect; Kentucky has admitted slavery, but the State of Ohio has prohibited the existence of slaves within its borders.

Thus the traveller who floats down the current of the Ohio to the spot where that river falls into the Mississippi, may be said to sail between liberty and servitude; and a transient inspection of the surrounding objects will convince him as to which of the two is most favorable to mankind. Upon the left bank of the stream the population is rare; from time to time one descries a troop of slaves loitering in the half-desert fields; the primeval forest recurs at every turn; society seems to be asleep, man to be idle, and nature alone offers a scene of activity and of life. From the right bank, on the contrary, a confused hum is heard which proclaims the presence of industry; the fields are covered with abundant harvests, the elegance of the dwellings announces the taste and activity of the laborer, and man appears to be in the enjoyment of that wealth and contentment which is the reward of labor.

The State of Kentucky was founded in 1775, the State of Ohio only twelve years later; but twelve years are more in America than half a century in Europe, and, at the present day, the population of Ohio exceeds that of Kentucky by two hundred and fifty thousand souls. These opposite consequences of slavery and freedom may readily be understood, and they suffice to explain many of the differences which we remark between the civilization of antiquity and that of our own time.

Upon the left bank of the Ohio labor is confounded with the idea of slavery, upon the right bank it is identified with that of prosperity and improvement; on the one side it is degraded, on the other it is honored; on the former territory no white laborers can be found, for they would be afraid of assimilating themselves to the negroes; on the latter no one is idle, for the white population extends its activity and its intelligence to every kind of employment. Thus the men whose task it is to cultivate the rich soil of Kentucky are ignorant and lukewarm; whilst those who are active and enlightened either do nothing or pass over into the State of Ohio, where they may work without dishonor.

It is true that in Kentucky the planters are not obliged to pay wages to the slaves whom they employ; but they derive small profits from their labor, whilst the wages paid to free workmen would be returned with interest in the value of their services. The free workman is paid, but he does his work quicker than the slave, and rapidity of execution is one of the great elements of economy. The white sells his services, but they are only purchased at the times at which they may be useful; the black can claim no remuneration for his toil, but the expense of his maintenance is perpetual; he must be supported in his old age as well as in the prime of manhood, in his profitless infancy as well as in the productive years of youth. Payment must equally be made in order to obtain the services of either class of men: the free workman receives his wages in money, the slave in education, in food, in care, and in clothing. The money which a master spends in the maintenance of his slaves goes gradually and in detail, so that it is scarcely perceived; the salary of the free workman is paid in a round sum, which appears only to enrich the individual who receives it, but in the end the slave has cost more than the free servant, and his labor is less productive.

The influence of slavery extends still further; it affects the character of the master, and imparts a peculiar tendency to his ideas and his tastes. Upon both banks of the Ohio, the character of the inhabitants is enterprising and energetic; but this vigor is very differently exercised in the two States. The white inhabitant of Ohio, who is obliged to subsist by his own exertions, regards temporal prosperity as the principal aim of his existence; and as the country which he occupies presents inexhaustible resources to his industry and ever-varying lures to his activity, his acquisitive ardor surpasses the ordinary limits of human cupidity: he is tormented by the desire of wealth, and he boldly enters upon every path which fortune opens to him; he becomes a sailor, a pioneer, an artisan, or a laborer with the same indifference, and he supports, with equal constancy, the fatigues and the dangers incidental to these various professions; the resources of his intelligence are astonishing, and his avidity in the pursuit of gain amounts to a species of heroism.

But the Kentuckian scorns not only labor, but all the undertakings which labor promotes; as he lives in an idle independence, his tastes are those of an idle man; money loses a portion of its value in his eyes; he covets wealth much less than pleasure and excitement; and the energy which his neighbor devotes to gain, turns with him to a passionate love of field sports and military exercises; he delights in violent bodily exertion, he is familiar with the use of arms, and is accustomed from a very early age to expose his life in single combat. Thus slavery not only prevents the whites from becoming opulent, but even from desiring to become so.

As the same causes have been continually producing opposite effects for the last two centuries in the British colonies of North America, they have established a very striking difference between the commercial capacity of the inhabitants of the South and those of the North. At the present day it is only the Northern States which are in possession of shipping, manufactures, railroads, and canals. This difference is perceptible not only in comparing the North with the South, but in comparing the several Southern States. Almost all the individuals who carry on commercial operations, or who endeavor to turn slave labor to account in the most Southern districts of the Union, have emigrated from the North. The natives of the Northern States are constantly spreading over that portion of the American territory where

they have less to fear from competition; they discover resources there which escaped the notice of the inhabitants; and, as they comply with a system which they do not approve, they succeed in turning it to better advantage than those who first founded and who still maintain it.

Were I inclined to continue this parallel, I could easily prove that almost all the differences which may be remarked between the characters of the Americans in the Southern and in the Northern States have originated in slavery; but this would divert me from my subject, and my present intention is not to point out all the consequences of servitude, but those effects which it has produced upon the prosperity of the countries which have admitted it.

The influence of slavery upon the production of wealth must have been very imperfectly known in antiquity, as slavery then obtained throughout the civilized world; and the nations which were unacquainted with it were barbarous. And indeed Christianity only abolished slavery by advocating the claims of the slave; at the present time it may be attacked in the name of the master, and, upon this point, interest is reconciled with morality.

As these truths became apparent in the United States, slavery receded before the progress of experience. Servitude had begun in the South, and had thence spread towards the North; but it now retires again. Freedom, which started from the North, now descends uninterruptedly towards the South. Amongst the great States, Pennsylvania now constitutes the extreme limit of slavery to the North: but even within those limits the slave system is shaken: Maryland, which is immediately below Pennsylvania, is preparing for its abolition; and Virginia, which comes next to Maryland, is already discussing its utility and its dangers.

No great change takes place in human institutions without involving amongst its causes the law of inheritance. When the law of primogeniture obtained in the South, each family was represented by a wealthy individual, who was neither compelled nor induced to labor; and he was surrounded, as by parasitic plants, by the other members of his family who were then excluded by law from sharing the common inheritance, and who led the same kind of life as himself. The very same thing then occurred in all the families of the South as still happens in the wealthy families of some

countries in Europe, namely, that the younger sons remain in the same state of idleness as their elder brother, without being as rich as he is. This identical result seems to be produced in Europe and in America by wholly analogous causes. In the South of the United States the whole race of whites formed an aristocratic body, which was headed by a certain number of privileged individuals, whose wealth was permanent, and whose leisure was hereditary. These leaders of the American nobility kept alive the traditional prejudices of the white race in the body of which they were the representatives, and maintained the honor of inactive life. This aristocracy contained many who were poor, but none who would work; its members preferred want to labor, consequently no competition was set on foot against negro laborers and slaves, and, whatever opinion might be entertained as to the utility of their efforts, it was indispensable to employ them, since there was no one else to work.

No sooner was the law of primogeniture abolished than fortunes began to diminish, and all the families of the country were simultaneously reduced to a state in which labor became necessary to procure the means of subsistence: several of them have since entirely disappeared, and all of them learned to look forward to the time at which it would be necessary for everyone to provide for his own wants. Wealthy individuals are still to be met with, but they no longer constitute a compact and hereditary body, nor have they been able to adopt a line of conduct in which they could persevere, and which they could infuse into all ranks of society. The prejudice which stigmatized labor was in the first place abandoned by common consent; the number of needy men was increased, and the needy were allowed to gain a laborious subsistence without blushing for their exertions. Thus one of the most immediate consequences of the partible quality of estates has been to create a class of free laborers. As soon as a competition was set on foot between the free laborer and the slave, the inferiority of the latter became manifest, and slavery was attacked in its fundamental principle, which is the interest of the master.

As slavery recedes, the black population follows its retrograde course, and returns with it towards those tropical regions from which it originally came. However singular this fact may at first appear to be, it may readily be explained. Although the Americans abolish the principle of slavery, they do

not set their slaves free. To illustrate this remark, I will quote the example of the State of New York. In 1788, the State of New York prohibited the sale of slaves within its limits, which was an indirect method of prohibiting the importation of blacks. Thenceforward the number of negroes could only increase according to the ratio of the natural increase of population. But eight years later a more decisive measure was taken, and it was enacted that all children born of slave parents after July 4, 1799, should be free. No increase could then take place, and although slaves still existed, slavery might be said to be abolished.

From the time at which a Northern State prohibited the importation of slaves, no slaves were brought from the South to be sold in its markets. On the other hand, as the sale of slaves was forbidden in that State, an owner was no longer able to get rid of his slave (who thus became a burdensome possession) otherwise than by transporting him to the South. But when a Northern State declared that the son of the slave should be born free, the slave lost a large portion of his market value, since his posterity was no longer included in the bargain, and the owner had then a strong interest in transporting him to the South. Thus the same law prevents the slaves of the South from coming to the Northern States, and drives those of the North to the South.

The want of free hands is felt in a State in proportion as the number of slaves decreases. But in proportion as labor is performed by free hands, slave labor becomes less productive; and the slave is then a useless or onerous possession, whom it is important to export to those Southern States where the same competition is not to be feared. Thus the abolition of slavery does not set the slave free, but it merely transfers him from one master to another, and from the North to the South.

The emancipated negroes, and those born after the abolition of slavery, do not, indeed, migrate from the North to the South; but their situation with regard to the Europeans is not unlike that of the aborigines of America; they remain half civilized, and deprived of their rights in the midst of a population which is far Superior to them in wealth and in knowledge; where they are exposed to the tyranny of the laws and the intolerance of the people. On some accounts they are still more to be pitied than the Indians,

since they are haunted by the reminiscence of slavery, and they cannot claim possession of a single portion of the soil: many of them perish miserably, and the rest congregate in the great towns, where they perform the meanest offices, and lead a wretched and precarious existence.

But even if the number of negroes continued to increase as rapidly as when they were still in a state of slavery as the number of whites augments with twofold rapidity since the abolition of slavery, the blacks would soon be, as it were, lost in the midst of a strange population.

A district which is cultivated by slaves is in general more scantily peopled than a district cultivated by free labor: moreover, America is still a new country, and a State is therefore not half peopled at the time when it abolishes slavery. No sooner is an end put to slavery than the want of free labor is felt, and a crowd of enterprising adventurers immediately arrive from all parts of the country, who hasten to profit by the fresh resources which are then opened to industry. The soil is soon divided amongst them, and a family of white settlers takes possession of each tract of country. Besides which, European emigration is exclusively directed to the free States; for what would be the fate of a poor emigrant who crosses the Atlantic in search of ease and happiness if he were to land in a country where labor is stigmatized as degrading?

Thus the white population grows by its natural increase, and at the same time by the immense influx of emigrants; whilst the black population receives no emigrants, and is upon its decline, The proportion which existed between the two races is soon inverted. The negroes constitute a scanty remnant, a poor tribe of vagrants, which is lost in the midst of an immense people in full possession of the land; and the presence of the blacks is only marked by the injustice and the hardships of which they are the unhappy victims.

In several of the Western States the negro race never made its appearance, and in all the Northern States it is rapidly declining. Thus the great question of its future condition is confined within a narrow circle, where it becomes less formidable, though not more easy of solution.

The more we descend towards the South, the more difficult does it become to abolish slavery with advantage: and this arises from several physical causes which it is important to point out.

The first of these causes is the climate; it is well known that in proportion as Europeans approach the tropics they suffer more from labor. Many of the Americans even assert that within a certain latitude the exertions which a negro can make without danger are fatal to them; but I do not think that this opinion, which is so favorable to the indolence of the inhabitants of southern regions, is confirmed by experience. The southern parts of the Union are not hotter than the South of Italy and of Spain; and it may be asked why the European cannot work as well there as in the two latter countries. If slavery has been abolished in Italy and in Spain without causing the destruction of the masters, why should not the same thing take place in the Union? I cannot believe that nature has prohibited the Europeans in Georgia and the Floridas, under pain of death, from raising the means of subsistence from the soil, but their labor would unquestionably be more irksome and less productive to them than to the inhabitants of New England. As the free workman thus loses a portion of his superiority over the slave in the Southern States, there are fewer inducements to abolish slavery.

All the plants of Europe grow in the northern parts of the Union; the South has special productions of its own. It has been observed that slave labor is a very expensive method of cultivating corn. The farmer of corn land in a country where slavery is unknown habitually retains a small number of laborers in his service, and at seed-time and harvest he hires several. But the agriculturist in a slave State is obliged to keep a large number of slaves the whole year round, in order to sow his fields and to gather in his crops, although their services are only required for a few weeks; but slaves are unable to wait till they are hired, and to subsist by their own labor in the mean time like free laborers; in order to have their services they must be bought. Slavery, independently of its general disadvantages, is therefore still more inapplicable to countries in which corn is cultivated than to those which produce crops of a different kind. The cultivation of tobacco, of cotton, and especially of the sugar-cane, demands, on the other hand, unremitting attention: and women and children are employed in it, ""hose

services are of but little use in the cultivation of wheat. Thus slavery is naturally more fitted to the countries from which these productions are derived. Tobacco, cotton, and the sugar-cane are exclusively grown in the South, and they form one of the principal sources of the wealth of those States. If slavery were abolished, the inhabitants of the South would be constrained to adopt one of two alternatives: they must either change their system of cultivation, and then they would come into competition with the more active and more experienced inhabitants of the North; or, if they continued to cultivate the same produce without slave labor, they would have to support the competition of the other States of the South, which might still retain their slaves. Thus, peculiar reasons for maintaining slavery exist in the South which do not operate in the North.

But there is yet another motive which is more cogent than all the others: the South might indeed, rigorously speaking, abolish slavery; but how should it rid its territory of the black population? Slaves and slavery are driven from the North by the same law, but this twofold result cannot be hoped for in the South.

The arguments which I have adduced to show that slavery is more natural and more advantageous in the South than in the North, sufficiently prove that the number of slaves must be far greater in the former districts. It was to the southern settlements that the first Africans were brought, and it is there that the greatest number of them have always been imported. As we advance towards the South, the prejudice which sanctions idleness increases in power. In the States nearest to the tropics there is not a single white laborer; the negroes are consequently much more numerous in the South than in the North. And, as I have already observed, this disproportion increases daily, since the negroes are transferred to one part of the Union as soon as slavery is abolished in the other. Thus the black population augments in the South, not only by its natural fecundity, but by the compulsory emigration of the negroes from the North; and the African race has causes of increase in the South very analogous to those which so powerfully accelerate the growth of the European race in the North.

In the State of Maine there is one negro in 300 inhabitants; in Massachusetts, one in 100; in New York, two in 100; in Pennsylvania, three

in the same number; in Maryland, thirty-four; in Virginia, forty-two; and lastly, in South Carolina fifty-five per cent. Such was the proportion of the black population to the whites in the year 1830. But this proportion is perpetually changing, as it constantly decreases in the North and augments in the South.

It is evident that the most Southern States of the Union cannot abolish slavery without incurring very great dangers, which the North had no reason to apprehend when it emancipated its black population. We have already shown the system by which the Northern States secure the transition from slavery to freedom, by keeping the present generation in chains, and setting their descendants free; by this means the negroes are gradually introduced into society; and whilst the men who might abuse their freedom are kept in a state of servitude, those who are emancipated may learn the art of being free before they become their own masters. But it would be difficult to apply this method in the South. To declare that all the negroes born after a certain period shall be free, is to introduce the principle and the notion of liberty into the heart of slavery; the blacks whom the law thus maintains in a state of slavery from which their children are delivered, are astonished at so unequal a fate, and their astonishment is only the prelude to their impatience and irritation. Thenceforward slavery loses, in their eyes, that kind of moral power which it derived from time and habit; it is reduced to a mere palpable abuse of force. The Northern States had nothing to fear from the contrast, because in them the blacks were few in number, and the white population was very considerable. But if this faint dawn of freedom were to show two millions of men their true position, the oppressors would have reason to tremble. After having affranchised the children of their slaves the Europeans of the Southern States would very shortly be obliged to extend the same benefit to the whole black population.

In the North, as I have already remarked, a twofold migration ensues upon the abolition of slavery, or even precedes that event when circumstances have rendered it probable; the slaves quit the country to be transported southwards; and the whites of the Northern States, as well as the emigrants from Europe, hasten to fill up their place. But these two causes cannot operate in the same manner in the Southern States. On the one hand, the mass of slaves is too great for any expectation of their ever being removed

from the country to be entertained; and on the other hand, the Europeans and Anglo-Americans of the North are afraid to come to inhabit a country in which labor has not yet been reinstated in its rightful honors. Besides, they very justly look upon the States in which the proportion of the negroes equals or exceeds that of the whites, as exposed to very great dangers; and they refrain from turning their activity in that direction.

Thus the inhabitants of the South would not be able, like their Northern countrymen, to initiate the slaves gradually into a state of freedom by abolishing slavery; they have no means of perceptibly diminishing the black population, and they would remain unsupported to repress its excesses. So that in the course of a few years, a great people of free negroes would exist in the heart of a white nation of equal size.

The same abuses of power which still maintain slavery, would then become the source of the most alarming perils which the white population of the South might have to apprehend. At the present time the descendants of the Europeans are the sole owners of the land; the absolute masters of all labor; and the only persons who are possessed of wealth, knowledge, and arms. The black is destitute of all these advantages, but he subsists without them because he is a slave. If he were free, and obliged to provide for his own subsistence, would it be possible for him to remain without these things and to support life? Or would not the very instruments of the present superiority of the white, whilst slavery exists, expose him to a thousand dangers if it were abolished?

As long as the negro remains a slave, he may be kept in a condition not very far removed from that of the brutes; but, with his liberty, he cannot but acquire a degree of instruction which will enable him to appreciate his misfortunes, and to discern a remedy for them. Moreover, there exists a singular principle of relative justice which is very firmly implanted in the human heart. Men are much more forcibly struck by those inequalities which exist within the circle of the same class, than with those which may be remarked between different classes. It is more easy for them to admit slavery, than to allow several millions of citizens to exist under a load of eternal infamy and hereditary wretchedness. In the North the population of freed negroes feels these hardships and resents these indignities; but its

numbers and its powers are small, whilst in the South it would be numerous and strong.

As soon as it is admitted that the whites and the emancipated blacks are placed upon the same territory in the situation of two alien communities, it will readily be understood that there are but two alternatives for the future; the negroes and the whites must either wholly part or wholly mingle. I have already expressed the conviction which I entertain as to the latter event. I do not imagine that the white and black races will ever live in any country upon an equal footing. But I believe the difficulty to be still greater in the United States than elsewhere. An isolated individual may surmount the prejudices of religion, of his country, or of his race, and if this individual is a king he may effect surprising changes in society; but a whole people cannot rise, as it were, above itself. A despot who should subject the Americans and their former slaves to the same yoke, might perhaps succeed in commingling their races; but as long as the American democracy remains at the head of affairs, no one will undertake so difficult a task; and it may be foreseen that the freer the white population of the United States becomes, the more isolated will it remain.

I have previously observed that the mixed race is the true bond of union between the Europeans and the Indians; just so the mulattoes are the true means of transition between the white and the negro; so that wherever mulattoes abound, the intermixture of the two races is not impossible. In some parts of America, the European and the negro races are so crossed by one another, that it is rare to meet with a man who is entirely black, or entirely white: when they are arrived at this point, the two races may really be said to be combined; or rather to have been absorbed in a third race, which is connected with both without being identical with either.

Of all the Europeans the English are those who have mixed least with the negroes. More mulattoes are to be seen in the South of the Union than in the North, but still they are infinitely more scarce than in any other European colony: mulattoes are by no means numerous in the United States; they have no force peculiar to themselves, and when quarrels originating in differences of color take place, they generally side with the whites; just as the lackeys of the great, in Europe, assume the contemptuous airs of

nobility to the lower orders.

The pride of origin, which is natural to the English, is singularly augmented by the personal pride which democratic liberty fosters amongst the Americans: the white citizen of the United States is proud of his race, and proud of himself. But if the whites and the negroes do not intermingle in the North of the Union, how should they mix in the South? Can it be supposed for an instant, that an American of the Southern States, placed, as he must forever be, between the white man with all his physical and moral superiority and the negro, will ever think of preferring the latter? The Americans of the Southern States have two powerful passions which will always keep them aloof; the first is the fear of being assimilated to the negroes, their former slaves; and the second the dread of sinking below the whites, their neighbors.

If I were called upon to predict what will probably occur at some future time, I should say, that the abolition of slavery in the South will, in the common course of things, increase the repugnance of the white population for the men of color. I found this opinion upon the analogous observation which I already had occasion to make in the North. I there remarked that the white inhabitants of the North avoid the negroes with increasing care, in proportion as the legal barriers of separation are removed by the legislature; and why should not the same result take place in the South? In the North, the whites are deterred from intermingling with the blacks by the fear of an imaginary danger; in the South, where the danger would be real, I cannot imagine that the fear would be less general.

If, on the one hand, it be admitted (and the fact is unquestionable) that the colored population perpetually accumulates in the extreme South, and that it increases more rapidly than that of the whites; and if, on the other hand, it be allowed that it is impossible to foresee a time at which the whites and the blacks will be so intermingled as to derive the same benefits from society; must it not be inferred that the blacks and the whites will, sooner or later, come to open strife in the Southern States of the Union? But if it be asked what the issue of the struggle is likely to be, it will readily be understood that we are here left to form a very vague surmise of the truth. The human mind may succeed in tracing a wide circle, as it were, which includes the

course of future events; but within that circle a thousand various chances and circumstances may direct it in as many different ways; and in every picture of the future there is a dim spot, which the eye of the understanding cannot penetrate. It appears, however, to be extremely probable that in the West Indian Islands the white race is destined to be subdued, and the black population to share the same fate upon the continent.

In the West India Islands the white planters are surrounded by an immense black population; on the continent, the blacks are placed between the ocean and an innumerable people, which already extends over them in a dense mass, from the icy confines of Canada to the frontiers of Virginia, and from the banks of the Missouri to the shores of the Atlantic. If the white citizens of North America remain united, it cannot be supposed that the negroes will escape the destruction with which they are menaced; they must be subdued by want or by the sword. But the black population which is accumulated along the coast of the Gulf of Mexico, has a chance of success if the American Union is dissolved when the struggle between the two races begins. If the federal tie were broken, the citizens of the South would be wrong to rely upon any lasting succor from their Northern countrymen. The latter are well aware that the danger can never reach them; and unless they are constrained to march to the assistance of the South by a positive obligation, it may be foreseen that the sympathy of color will be insufficient to stimulate their exertions.

Yet, at whatever period the strife may break out, the whites of the South, even if they are abandoned to their own resources, will enter the lists with an immense superiority of knowledge and of the means of warfare; but the blacks will have numerical strength and the energy of despair upon their side, and these are powerful resources to men who have taken up arms. The fate of the white population of the Southern States will, perhaps, be similar to that of the Moors in Spain. After having occupied the land for centuries, it will perhaps be forced to retire to the country whence its ancestors came, and to abandon to the negroes the possession of a territory, which Providence seems to have more peculiarly destined for them, since they can subsist and labor in it more easily than the whites.

The danger of a conflict between the white and the black inhabitants of the Southern States of the Union—a danger which, however remote it may be, is inevitable—perpetually haunts the imagination of the Americans. The inhabitants of the North make it a common topic of conversation, although they have no direct injury to fear from the struggle; but they vainly endeavor to devise some means of obviating the misfortunes which they foresee. In the Southern States the subject is not discussed: the planter does not allude to the future in conversing with strangers; the citizen does not communicate his apprehensions to his friends; he seeks to conceal them from himself; but there is something more alarming in the tacit forebodings of the South, than in the clamorous fears of the Northern States.

This all-pervading disquietude has given birth to an undertaking which is but little known, but which may have the effect of changing the fate of a portion of the human race. From apprehension of the dangers which I have just been describing, a certain number of American citizens have formed a society for the purpose of exporting to the coast of Guinea, at their own expense, such free negroes as may be willing to escape from the oppression to which they are subject. In 1820, the society to which I allude formed a settlement in Africa, upon the seventh degree of north latitude, which bears the name of Liberia. The most recent intelligence informs us that 2,500 negroes are collected there; they have introduced the democratic institutions of America into the country of their forefathers; and Liberia has a representative system of government, negro jurymen, negro magistrates, and negro priests; churches have been built, newspapers established, and, by a singular change in the vicissitudes of the world, white men are prohibited from sojourning within the settlement.

This is indeed a strange caprice of fortune. Two hundred years have now elapsed since the inhabitants of Europe undertook to tear the negro from his family and his home, in order to transport him to the shores of North America; at the present day, the European settlers are engaged in sending back the descendants of those very negroes to the Continent from which they were originally taken; and the barbarous Africans have been brought into contact with civilization in the midst of bondage, and have become acquainted with free political institutions in slavery. Up to the present time Africa has been closed against the arts and sciences of the whites; but the

inventions of Europe will perhaps penetrate into those regions, now that they are introduced by Africans themselves. The settlement of Liberia is founded upon a lofty and a most fruitful idea; but whatever may be its results with regard to the Continent of Africa, it can afford no remedy to the New World.

In twelve years the Colonization Society has transported 2,500 negroes to Africa; in the same space of time about 700,000 blacks were born in the United States. If the colony of Liberia were so situated as to be able to receive thousands of new inhabitants every year, and if the negroes were in a state to be sent thither with advantage; if the Union were to supply the society with annual subsidies, and to transport the negroes to Africa in the vessels of the State, it would still be unable to counterpoise the natural increase of population amongst the blacks; and as it could not remove as many men in a year as are born upon its territory within the same space of time, it would fail in suspending the growth of the evil which is daily increasing in the States. The negro race will never leave those shores of the American continent, to which it was brought by the passions and the vices of Europeans; and it will not disappear from the New World as long as it continues to exist, The inhabitants of the United States may retard the calamities which they apprehend, but they cannot now destroy their efficient cause.

I am obliged to confess that I do not regard the abolition of slavery as a means of warding off the struggle of the two races in the United States. The negroes may long remain slaves without complaining; but if they are once raised to the level of free men, they will soon revolt at being deprived of all their civil rights; and as they cannot become the equals of the whites, they will speedily declare themselves as enemies. In the North everything contributed to facilitate the emancipation of the slaves; and slavery was abolished, without placing the free negroes in a position which could become formidable, since their number was too small for them ever to claim the exercise of their rights. But such is not the case in the South. The question of slavery was a question of commerce and manufacture for the slave-owners in the North; for those of the South, it is a question of life and death. God forbid that I should seek to justify the principle of negro slavery, as has been done by some American writers! But I only observe that all the

countries which formerly adopted that execrable principle are not equally able to abandon it at the present time.

When I contemplate the condition of the South, I can only discover two alternatives which may be adopted by the white inhabitants of those States; viz., either to emancipate the negroes, and to intermingle with them; or, remaining isolated from them, to keep them in a state of slavery as long as possible. All intermediate measures seem to me likely to terminate, and that shortly, in the most horrible of civil wars, and perhaps in the extirpation of one or other of the two races. Such is the view which the Americans of the South take of the question, and they act consistently with it. As they are determined not to mingle with the negroes, they refuse to emancipate them.

Not that the inhabitants of the South regard slavery as necessary to the wealth of the planter, for on this point many of them agree with their Northern countrymen in freely admitting that slavery is prejudicial to their interest; but they are convinced that, however prejudicial it may be, they hold their lives upon no other tenure. The instruction which is now diffused in the South has convinced the inhabitants that slavery is injurious to the slave-owner, but it has also shown them, more clearly than before, that no means exist of getting rid of its bad consequences. Hence arises a singular contrast; the more the utility of slavery is contested, the more firmly it is established in the laws; and whilst the principle of servitude is gradually abolished in the North, that self-same principle gives rise to more and more rigorous consequences in the South.

The legislation of the Southern States with regard to slaves, presents at the present day such unparalleled atrocities as suffice to show how radically the laws of humanity have been perverted, and to betray the desperate position of the community in which that legislation has been promulgated. The Americans of this portion of the Union have not, indeed, augmented the hardships of slavery; they have, on the contrary, bettered the physical condition of the slaves. The only means by which the ancients maintained slavery were fetters and death; the Americans of the South of the Union have discovered more intellectual securities for the duration of their power. They have employed their despotism and their violence against the human mind. In antiquity, precautions were taken to prevent the slave from

breaking his chains; at the present day measures are adopted to deprive him even of the desire of freedom. The ancients kept the bodies of their slaves in bondage, but they placed no restraint upon the mind and no check upon education; and they acted consistently with their established principle, since a natural termination of slavery then existed, and one day or other the slave might be set free, and become the equal of his master. But the Americans of the South, who do not admit that the negroes can ever be commingled with themselves, have forbidden them to be taught to read or to write, under severe penalties; and as they will not raise them to their own level, they sink them as nearly as possible to that of the brutes.

The hope of liberty had always been allowed to the slave to cheer the hardships of his condition. But the Americans of the South are well aware that emancipation cannot but be dangerous, when the freed man can never be assimilated to his former master. To give a man his freedom, and to leave him in wretchedness and ignominy, is nothing less than to prepare a future chief for a revolt of the slaves. Moreover, it has long been remarked that the presence of a free negro vaguely agitates the minds of his less fortunate brethren, and conveys to them a dim notion of their rights. The Americans of the South have consequently taken measures to prevent slave-owners from emancipating their slaves in most cases; not indeed by a positive prohibition, but by subjecting that step to various forms which it is difficult to comply with.

I happened to meet with an old man, in the South of the Union, who had lived in illicit intercourse with one of his negresses, and had had several children by her, who were born the slaves of their father. He had indeed frequently thought of bequeathing to them at least their liberty; but years had elapsed without his being able to surmount the legal obstacles to their emancipation, and in the mean while his old age was come, and he was about to die. He pictured to himself his sons dragged from market to market, and passing from the authority of a parent to the rod of the stranger, until these horrid anticipations worked his expiring imagination into frenzy. When I saw him he was a prey to all the anguish of despair, and he made me feel how awful is the retribution of nature upon those who have broken her laws.

These evils are unquestionably great; but they are the necessary and foreseen consequence of the very principle of modern slavery. When the Europeans chose their slaves from a race differing from their own, which many of them considered as inferior to the other races of mankind, and which they all repelled with horror from any notion of intimate connection, they must have believed that slavery would last forever; since there is no intermediate state which can be durable between the excessive inequality produced by servitude and the complete equality which originates in independence. The Europeans did imperfectly feel this truth, but without acknowledging it even to themselves. Whenever they have had to do with negroes, their conduct has either been dictated by their interest and their pride, or by their compassion. They first violated every right of humanity by their treatment of the negro and they afterwards informed him that those rights were precious and inviolable. They affected to open their ranks to the slaves, but the negroes who attempted to penetrate into the community were driven back with scorn; and they have incautiously and involuntarily been led to admit of freedom instead of slavery, without having the courage to be wholly iniquitous, or wholly just.

If it be impossible to anticipate a period at which the Americans of the South will mingle their blood with that of the negroes, can they allow their slaves to become free without compromising their own security? And if they are obliged to keep that race in bondage in order to save their own families, may they not be excused for availing themselves of the means best adapted to that end? The events which are taking place in the Southern States of the Union appear to me to be at once the most horrible and the most natural results of slavery. When I see the order of nature overthrown, and when I hear the cry of humanity in its vain struggle against the laws, my indignation does not light upon the men of our own time who are the instruments of these outrages; but I reserve my execration for those who, after a thousand years of freedom, brought back slavery into the world once more.

Whatever may be the efforts of the Americans of the South to maintain slavery, they will not always succeed. Slavery, which is now confined to a single tract of the civilized earth, which is attacked by Christianity as unjust, and by political economy as prejudicial; and which is now

contrasted with democratic liberties and the information of our age, cannot survive. By the choice of the master, or by the will of the slave, it will cease; and in either case great calamities may be expected to ensue. If liberty be refused to the negroes of the South, they will in the end seize it for themselves by force; if it be given, they will abuse it ere long.

### **What are the Chances in Favor of the Duration of the American Union, and What Dangers Threaten It**

Reason for which the preponderating force lies in the States rather than in the Union—The Union will only last as long as all the States choose to belong to it—Causes which tend to keep them united—Utility of the Union to resist foreign enemies, and to prevent the existence of foreigners in America—No natural barriers between the several States—No conflicting interests to divide them—Reciprocal interests of the Northern, Southern, and Western States—Intellectual ties of union—Uniformity of opinions—Dangers of the Union resulting from the different characters and the passions of its citizens—Character of the citizens in the South and in the North—The rapid growth of the Union one' of its greatest dangers—Progress of the population to the Northwest—Power gravitates in the same direction—Passions originating from sudden turns of fortune—Whether the existing Government of the Union tends to gain strength, or to lose it—Various signs of its decrease—Internal improvements—Waste lands—Indians—The Bank—The Tariff—General Jackson.

The maintenance of the existing institutions of the several States depends in some measure upon the maintenance of the Union itself. It is therefore important in the first instance to inquire into the probable fate of the Union. One point may indeed be assumed at once: if the present confederation were dissolved, it appears to me to be incontestable that the States of which it is now composed would not return to their original isolated condition, but that several unions would then be formed in the place of one, It is not my intention to inquire into the principles upon which these new unions would

probably be established, but merely to show what the causes are which may effect the dismemberment of the existing confederation.

With this object I shall be obliged to retrace some of the steps which I have already taken, and to revert to topics which I have before discussed. I am aware that the reader may accuse me of repetition, but the importance of the matter which still remains to be treated is my excuse; I had rather say too much, than say too little to be thoroughly understood, and I prefer injuring the author to slighting the subject.

The legislators who formed the Constitution of 1789 endeavored to confer a distinct and preponderating authority upon the federal power. But they were confined by the conditions of the task which they had undertaken to perform. They were not appointed to constitute the government of a single people, but to regulate the association of several States; and, whatever their inclinations might be, they could not but divide the exercise of sovereignty in the end.

In order to understand the consequences of this division, it is necessary to make a short distinction between the affairs of the Government. There are some objects which are national by their very nature, that is to say, which affect the nation as a body, and can only be intrusted to the man or the assembly of men who most completely represent the entire nation. Amongst these may be reckoned war and diplomacy. There are other objects which are provincial by their very nature, that is to say, which only affect certain localities, and which can only be properly treated in that locality. Such, for instance, is the budget of a municipality. Lastly, there are certain objects of a mixed nature, which are national inasmuch as they affect all the citizens who compose the nation, and which are provincial inasmuch as it is not necessary that the nation itself should provide for them all. Such are the rights which regulate the civil and political condition of the citizens. No society can exist without civil and political rights. These rights therefore interest all the citizens alike; but it is not always necessary to the existence and the prosperity of the nation that these rights should be uniform, nor, consequently, that they should be regulated by the central authority.

There are, then, two distinct categories of objects which are submitted to the direction of the sovereign power; and these categories occur in all well-constituted communities, whatever the basis of the political constitution may otherwise be. Between these two extremes the objects which I have termed mixed may be considered to lie. As these objects are neither exclusively national nor entirely provincial, they may be obtained by a national or by a provincial government, according to the agreement of the contracting parties, without in any way impairing the contract of association.

The sovereign power is usually formed by the union of separate individuals, who compose a people; and individual powers or collective forces, each representing a very small portion of the sovereign authority, are the sole elements which are subjected to the general Government of their choice. In this case the general Government is more naturally called upon to regulate, not only those affairs which are of essential national importance, but those which are of a more local interest; and the local governments are reduced to that small share of sovereign authority which is indispensable to their prosperity.

But sometimes the sovereign authority is composed of pre-organized political bodies, by virtue of circumstances anterior to their union; and in this case the provincial governments assume the control, not only of those affairs which more peculiarly belong to their province, but of all, or of a part of the mixed affairs to which allusion has been made. For the confederate nations which were independent sovereign States before their union, and which still represent a very considerable share of the sovereign power, have only consented to cede to the general Government the exercise of those rights which are indispensable to the Union.

When the national Government, independently of the prerogatives inherent in its nature, is invested with the right of regulating the affairs which relate partly to the general and partly to the local interests, it possesses a preponderating influence. Not only are its own rights extensive, but all the rights which it does not possess exist by its sufferance, and it may be apprehended that the provincial governments may be deprived of their

natural and necessary prerogatives by its influence.

When, on the other hand, the provincial governments are invested with the power of regulating those same affairs of mixed interest, an opposite tendency prevails in society. The preponderating force resides in the province, not in the nation; and it may be apprehended that the national Government may in the end be stripped of the privileges which are necessary to its existence.

Independent nations have therefore a natural tendency to centralization, and confederations to dismemberment.

It now only remains for us to apply these general principles to the American Union. The several States were necessarily possessed of the right of regulating all exclusively provincial affairs. Moreover these same States retained the rights of determining the civil and political competency of the citizens, or regulating the reciprocal relations of the members of the community, and of dispensing justice; rights which are of a general nature, but which do not necessarily appertain to the national Government. We have shown that the Government of the Union is invested with the power of acting in the name of the whole nation in those cases in which the nation has to appear as a single and undivided power; as, for instance, in foreign relations, and in offering a common resistance to a common enemy; in short, in conducting those affairs which I have styled exclusively national.

In this division of the rights of sovereignty, the share of the Union seems at first sight to be more considerable than that of the States; but a more attentive investigation shows it to be less so. The undertakings of the Government of the Union are more vast, but their influence is more rarely felt. Those of the provincial governments are comparatively small, but they are incessant, and they serve to keep alive the authority which they represent. The Government of the Union watches the general interests of the country; but the general interests of a people have a very questionable influence upon individual happiness, whilst provincial interests produce a most immediate effect upon the welfare of the inhabitants. The Union secures the independence and the greatness of the nation, which do not immediately affect private citizens; but the several States maintain the

liberty, regulate the rights, protect the fortune, and secure the life and the whole future prosperity of every citizen.

The Federal Government is very far removed from its subjects, whilst the provincial governments are within the reach of them all, and are ready to attend to the smallest appeal. The central Government has upon its side the passions of a few superior men who aspire to conduct it; but upon the side of the provincial governments are the interests of all those second-rate individuals who can only hope to obtain power within their own State, and who nevertheless exercise the largest share of authority over the people because they are placed nearest to its level. The Americans have therefore much more to hope and to fear from the States than from the Union; and, in conformity with the natural tendency of the human mind, they are more likely to attach themselves to the former than to the latter. In this respect their habits and feelings harmonize with their interests.

When a compact nation divides its sovereignty, and adopts a confederate form of government, the traditions, the customs, and the manners of the people are for a long time at variance with their legislation; and the former tend to give a degree of influence to the central government which the latter forbids. When a number of confederate states unite to form a single nation, the same causes operate in an opposite direction. I have no doubt that if France were to become a confederate republic like that of the United States, the government would at first display more energy than that of the Union; and if the Union were to alter its constitution to a monarchy like that of France, I think that the American Government would be a long time in acquiring the force which now rules the latter nation. When the national existence of the Anglo-Americans began, their provincial existence was already of long standing; necessary relations were established between the townships and the individual citizens of the same States; and they were accustomed to consider some objects as common to them all, and to conduct other affairs as exclusively relating to their own special interests.

The Union is a vast body which presents no definite object to patriotic feeling. The forms and limits of the State are distinct and circumscribed; since it represents a certain number of objects which are familiar to the citizens and beloved by all. It is identified with the very soil, with the right

of property and the domestic affections, with the recollections of the past, the labors of the present, and the hopes of the future. Patriotism, then, which is frequently a mere extension of individual egotism, is still directed to the State, and is not excited by the Union. Thus the tendency of the interests, the habits, and the feelings of the people is to centre political activity in the States, in preference to the Union.

It is easy to estimate the different forces of the two governments, by remarking the manner in which they fulfil their respective functions. Whenever the government of a State has occasion to address an individual or an assembly of individuals, its language is clear and imperative; and such is also the tone of the Federal Government in its intercourse with individuals, but no Sooner has it anything to do with a State than it begins to parley, to explain its motives and to justify its conduct, to argue, to advise, and, in short, anything but to command. If doubts are raised as to the limits of the constitutional powers of each government, the provincial government prefers its claim with boldness, and takes prompt and energetic steps to support it. In the mean while the Government of the Union reasons; it appeals to the interests, to the good sense, to the glory of the nation; it temporizes, it negotiates, and does not consent to act until it is reduced to the last extremity. At first sight it might readily be imagined that it is the provincial government which is armed with the authority of the nation, and that Congress represents a single State.

The Federal Government is, therefore, notwithstanding the precautions of those who founded it, naturally so weak that it more peculiarly requires the free consent of the governed to enable it to subsist. It is easy to perceive that its object is to enable the States to realize with facility their determination of remaining united; and, as long as this preliminary condition exists, its authority is great, temperate, and effective. The Constitution fits the Government to control individuals, and easily to surmount such obstacles as they may be inclined to offer; but it was by no means established with a view to the possible separation of one or more of the States from the Union.

If the sovereignty of the Union were to engage in a struggle with that of the States at the present day, its defeat may be confidently predicted; and it is

not probable that such a struggle would be seriously undertaken. As often as a steady resistance is offered to the Federal Government it will be found to yield. Experience has hitherto shown that whenever a State has demanded anything with perseverance and resolution, it has invariably succeeded; and that if a separate government has distinctly refused to act, it was left to do as it thought fit.

But even if the Government of the Union had any strength inherent in itself, the physical situation of the country would render the exercise of that strength very difficult. The United States cover an immense territory; they are separated from each other by great distances; and the population is disseminated over the surface of a country which is still half a wilderness. If the Union were to undertake to enforce the allegiance of the confederate States by military means, it would be in a position very analogous to that of England at the time of the War of Independence.

However strong a government may be, it cannot easily escape from the consequences of a principle which it has once admitted as the foundation of its constitution. The Union was formed by the voluntary agreement of the States; and, in uniting together, they have not forfeited their nationality, nor have they been reduced to the condition of one and the same people. If one of the States chose to withdraw its name from the contract, it would be difficult to disprove its right of doing so; and the Federal Government would have no means of maintaining its claims directly, either by force or by right. In order to enable the Federal Government easily to conquer the resistance which may be offered to it by any one of its subjects, it would be necessary that one or more of them should be specially interested in the existence of the Union, as has frequently been the case in the history of confederations.

If it be supposed that amongst the States which are united by the federal tie there are some which exclusively enjoy the principal advantages of union, or whose prosperity depends on the duration of that union, it is unquestionable that they will always be ready to support the central Government in enforcing the obedience of the others. But the Government would then be exerting a force not derived from itself, but from a principle contrary to its nature. States form confederations in order to derive equal

advantages from their union; and in the case just alluded to, the Federal Government would derive its power from the unequal distribution of those benefits amongst the States.

If one of the confederate States have acquired a preponderance sufficiently great to enable it to take exclusive possession of the central authority, it will consider the other States as subject provinces and it will cause its own supremacy to be respected under the borrowed name of the sovereignty of the Union. Great things may then be done in the name of the Federal Government, but in reality that Government will have ceased to exist. In both these cases, the power which acts in the name of the confederation becomes stronger the more it abandons the natural state and the acknowledged principles of confederations.

In America the existing Union is advantageous to all the States, but it is not indispensable to any one of them. Several of them might break the federal tie without compromising the welfare of the others, although their own prosperity would be lessened. As the existence and the happiness of none of the States are wholly dependent on the present Constitution, they would none of them be disposed to make great personal sacrifices to maintain it. On the other hand, there is no State which seems hitherto to have its ambition much interested in the maintenance of the existing Union. They certainly do not all exercise the same influence in the federal councils, but no one of them can hope to domineer over the rest, or to treat them as its inferiors or as its subjects.

It appears to me unquestionable that if any portion of the Union seriously desired to separate itself from the other States, they would not be able, nor indeed would they attempt, to prevent it; and that the present Union will only last as long as the States which compose it choose to continue members of the confederation. If this point be admitted, the question becomes less difficult; and our object is, not to inquire whether the States of the existing Union are capable of separating, but whether they will choose to remain united.

Amongst the various reasons which tend to render the existing Union useful to the Americans, two principal causes are peculiarly evident to the

observer. Although the Americans are, as it were, alone upon their continent, their commerce makes them the neighbors of all the nations with which they trade. Notwithstanding their apparent isolation, the Americans require a certain degree of strength, which they cannot retain otherwise than by remaining united to each other. If the States were to split, they would not only diminish the strength which they are now able to display towards foreign nations, but they would soon create foreign powers upon their own territory. A system of inland custom-houses would then be established; the valleys would be divided by imaginary boundary lines; the courses of the rivers would be confined by territorial distinctions; and a multitude of hindrances would prevent the Americans from exploring the whole of that vast continent which Providence has allotted to them for a dominion. At present they have no invasion to fear, and consequently no standing armies to maintain, no taxes to levy. If the Union were dissolved, all these burdensome measures might ere long be required. The Americans are then very powerfully interested in the maintenance of their Union. On the other hand, it is almost impossible to discover any sort of material interest which might at present tempt a portion of the Union to separate from the other States.

When we cast our eyes upon the map of the United States, we perceive the chain of the Alleghany Mountains, running from the northeast to the southwest, and crossing nearly one thousand miles of country; and we are led to imagine that the design of Providence was to raise between the valley of the Mississippi and the coast of the Atlantic Ocean one of those natural barriers which break the mutual intercourse of men, and form the necessary limits of different States. But the average height of the Alleghanies does not exceed 2,500 feet; their greatest elevation is not above 4,000 feet; their rounded summits, and the spacious valleys which they conceal within their passes, are of easy access from several sides. Besides which, the principal rivers which fall into the Atlantic Ocean—the Hudson, the Susquehanna, and the Potomac—take their rise beyond the Alleghanies, in an open district, which borders upon the valley of the Mississippi. These streams quit this tract of country, make their way through the barrier which would seem to turn them westward, and as they wind through the mountains they open an easy and natural passage to man. No natural barrier exists in the regions which are now inhabited by the Anglo-Americans; the Alleghanies

are so far from serving as a boundary to separate nations, that they do not even serve as a frontier to the States. New York, Pennsylvania, and Virginia comprise them within their borders, and they extend as much to the west as to the east of the line. The territory now occupied by the twenty-four States of the Union, and the three great districts which have not yet acquired the rank of States, although they already contain inhabitants, covers a surface of 1,002,600 square miles, which is about equal to five times the extent of France. Within these limits the qualities of the soil, the temperature, and the produce of the country, are extremely various. The vast extent of territory occupied by the Anglo-American republics has given rise to doubts as to the maintenance of their Union. Here a distinction must be made; contrary interests sometimes arise in the different provinces of a vast empire, which often terminate in open dissensions; and the extent of the country is then most prejudicial to the power of the State. But if the inhabitants of these vast regions are not divided by contrary interests, the extent of the territory may be favorable to their prosperity; for the unity of the government promotes the interchange of the different productions of the soil, and increases their value by facilitating their consumption.

It is indeed easy to discover different interests in the different parts of the Union, but I am unacquainted with any which are hostile to each other, The Southern States are almost exclusively agricultural. The Northern States are more peculiarly commercial and manufacturing. The States of the West are at the same time agricultural and manufacturing. In the South the crops consist of tobacco, of rice, of cotton, and of sugar; in the North and the West, of wheat and maize. These are different sources of wealth; but union is the means by which these sources are opened to all, and rendered equally advantageous to the several districts.

The North, which ships the produce of the Anglo-Americans to all parts of the world, and brings back the produce of the globe to the Union, is evidently interested in maintaining the confederation in its present condition, in order that the number of American producers and consumers may remain as large as possible. The North is the most natural agent of communication between the South and the West of the Union on the one hand, and the rest of the world upon the other; the North is therefore interested in the union and prosperity of the South and the West, in order

that they may continue to furnish raw materials for its manufactures, and cargoes for its shipping.

The South and the West, on their side, are still more directly interested in the preservation of the Union, and the prosperity of the North. The produce of the South is, for the most part, exported beyond seas; the South and the West consequently stand in need of the commercial resources of the North. They are likewise interested in the maintenance of a powerful fleet by the Union, to protect them efficaciously. The South and the West have no vessels, but they cannot refuse a willing subsidy to defray the expenses of the navy; for if the fleets of Europe were to blockade the ports of the South and the delta of the Mississippi, what would become of the rice of the Carolinas, the tobacco of Virginia, and the sugar and cotton which grow in the valley of the Mississippi? Every portion of the federal budget does therefore contribute to the maintenance of material interests which are common to all the confederate States.

Independently of this commercial utility, the South and the West of the Union derive great political advantages from their connection with the North. The South contains an enormous slave population; a population which is already alarming, and still more formidable for the future. The States of the West lie in the remotest parts of a single valley; and all the rivers which intersect their territory rise in the Rocky Mountains or in the Alleghanies, and fall into the Mississippi, which bears them onwards to the Gulf of Mexico. The Western States are consequently entirely cut off, by their position, from the traditions of Europe and the civilization of the Old World. The inhabitants of the South, then, are induced to support the Union in order to avail themselves of its protection against the blacks; and the inhabitants of the West in order not to be excluded from a free communication with the rest of the globe, and shut up in the wilds of central America. The North cannot but desire the maintenance of the Union, in order to remain, as it now is, the connecting link between that vast body and the other parts of the world.

The temporal interests of all the several parts of the Union are, then, intimately connected; and the same assertion holds true respecting those opinions and sentiments which may be termed the immaterial interests of

men.

The inhabitants of the United States talk a great deal of their attachment to their country; but I confess that I do not rely upon that calculating patriotism which is founded upon interest, and which a change in the interests at stake may obliterate, Nor do I attach much importance to the language of the Americans, when they manifest, in their daily conversations, the intention of maintaining the federal system adopted by their forefathers. A government retains its sway over a great number of citizens, far less by the voluntary and rational consent of the multitude, than by that instinctive, and to a certain extent involuntary agreement, which results from similarity of feelings and of I will never admit men constitute a social body, simply because they obey the same head and the same laws. Society can only exist when a great number of men consider a great number of things in the same point of view; when they hold the same opinions upon many subjects, and when the same occurrences suggest the same thoughts and impressions to their minds.

The observer who examines the present condition of the United States upon this principle, will readily discover, that although the citizens are divided into twenty-four distinct sovereignties, they nevertheless constitute a single people; and he may perhaps be led to think that the state of the Anglo-American Union is more truly a state of society than that of certain nations of Europe which live under the same legislation and the same prince.

Although the Anglo-Americans have several religious sects, they all regard religion in the same manner. They are not always agreed upon the measures which are most conducive to good government, and they vary upon some of the forms of government which it is expedient to adopt; but they are unanimous upon the general principles which ought to rule human society. From Maine to the Floridas, and from the Missouri to the Atlantic Ocean, the people is held to be the legitimate source of all power. The same notions are entertained respecting liberty and equality, the liberty of the press, the right of association, the jury, and the responsibility of the agents of Government.

If we turn from their political and religious opinions to the moral and philosophical principles which regulate the daily actions of life and govern their conduct, we shall still find the same uniformity. The Anglo-Americans acknowledge the absolute moral authority of the reason of the community, as they acknowledge the political authority of the mass of citizens; and they hold that public opinion is the surest arbiter of what is lawful or forbidden, true or false. The majority of them believe that a man will be led to do what is just and good by following his own interest rightly understood. They hold that every man is born in possession of the right of self-government and that no one has the right of constraining his fellow-creatures to be happy. They have all a lively faith in the perfectibility of man; they are of opinion that the effects of the diffusion of knowledge must necessarily be advantageous, and the consequences of ignorance fatal; they all consider society as a body in a state of improvement, humanity as a changing scene, in which nothing is, or ought to be, permanent; and they admit that what appears to them to be good to-day may be superseded by something better to-morrow. I do not give all these opinions as true, but I quote them as characteristic of the Americans.

The Anglo-Americans are not only united together by these common opinions, but they are separated from all other nations by a common feeling of pride. For the last fifty years no pains have been spared to convince the inhabitants of the United States that they constitute the only religious, enlightened, and free people. They perceive that, for the present, their own democratic institutions succeed, whilst those of other countries fail; hence they conceive an overweening opinion of their superiority, and they are not very remote from believing themselves to belong to a distinct race of mankind.

The dangers which threaten the American Union do not originate in the diversity of interests or of opinions, but in the various characters and passions of the Americans. The men who inhabit the vast territory of the United States are almost all the issue of a common stock; but the effects of the climate, and more especially of slavery, have gradually introduced very striking differences between the British settler of the Southern States and the British settler of the North. In Europe it is generally believed that slavery has rendered the interests of one part of the Union contrary to those

of another part; but I by no means remarked this to be the case: slavery has not created interests in the South contrary to those of the North, but it has modified the character and changed the habits of the natives of the South.

I have already explained the influence which slavery has exercised upon the commercial ability of the Americans in the South; and this same influence equally extends to their manners. The slave is a servant who never remonstrates, and who submits to everything without complaint. He may sometimes assassinate, but he never withstands, his master. In the South there are no families so poor as not to have slaves. The citizen of the Southern States of the Union is invested with a sort of domestic dictatorship, from his earliest years; the first notion he acquires in life is that he is born to command, and the first habit which he contracts is that of being obeyed without resistance. His education tends, then, to give him the character of a supercilious and a hasty man; irascible, violent, and ardent in his desires, impatient of obstacles, but easily discouraged if he cannot succeed upon his first attempt.

The American of the Northern States is surrounded by no slaves in his childhood; he is even unattended by free servants, and is usually obliged to provide for his own wants. No sooner does he enter the world than the idea of necessity assails him on every side: he soon learns to know exactly the natural limit of his authority; he never expects to subdue those who withstand him, by force; and he knows that the surest means of obtaining the support of his fellow-creatures, is to win their favor. He therefore becomes patient, reflecting, tolerant, slow to act, and persevering in his designs.

In the Southern States the more immediate wants of life are always supplied; the inhabitants of those parts are not busied in the material cares of life, which are always provided for by others; and their imagination is diverted to more captivating and less definite objects. The American of the South is fond of grandeur, luxury, and renown, of gayety, of pleasure, and above all of idleness; nothing obliges him to exert himself in order to subsist; and as he has no necessary occupations, he gives way to indolence, and does not even attempt what would be useful.

But the equality of fortunes, and the absence of slavery in the North, plunge the inhabitants in those same cares of daily life which are disdained by the white population of the South. They are taught from infancy to combat want, and to place comfort above all the pleasures of the intellect or the heart. The imagination is extinguished by the trivial details of life, and the ideas become less numerous and less general, but far more practical and more precise. As prosperity is the sole aim of exertion, it is excellently well attained; nature and mankind are turned to the best pecuniary advantage, and society is dexterously made to contribute to the welfare of each of its members, whilst individual egotism is the source of general happiness.

The citizen of the North has not only experience, but knowledge: nevertheless he sets but little value upon the pleasures of knowledge; he esteems it as the means of attaining a certain end, and he is only anxious to seize its more lucrative applications. The citizen of the South is more given to act upon impulse; he is more clever, more frank, more generous, more intellectual, and more brilliant. The former, with a greater degree of activity, of common-sense, of information, and of general aptitude, has the characteristic good and evil qualities of the middle classes. The latter has the tastes, the prejudices, the weaknesses, and the magnanimity of all aristocracies. If two men are united in society, who have the same interests, and to a certain extent the same opinions, but different characters, different acquirements, and a different style of civilization, it is probable that these men will not agree. The same remark is applicable to a society of nations. Slavery, then, does not attack the American Union directly in its interests, but indirectly in its manners.

The States which gave their assent to the federal contract in 1790 were thirteen in number; the Union now consists of thirty-four members. The population, which amounted to nearly 4,000,000 in 1790, had more than tripled in the space of forty years; and in 1830 it amounted to nearly 13,000,000. Changes of such magnitude cannot take place without some danger.

A society of nations, as well as a society of individuals, derives its principal chances of duration from the wisdom of its members, their individual weakness, and their limited number. The Americans who quit the coasts of

the Atlantic Ocean to plunge into the western wilderness, are adventurers impatient of restraint, greedy of wealth, and frequently men expelled from the States in which they were born. When they arrive in the deserts they are unknown to each other, and they have neither traditions, family feeling, nor the force of example to check their excesses. The empire of the laws is feeble amongst them; that of morality is still more powerless. The settlers who are constantly peopling the valley of the Mississippi are, then, in every respect very inferior to the Americans who inhabit the older parts of the Union. Nevertheless, they already exercise a great influence in its councils; and they arrive at the government of the commonwealth before they have learnt to govern themselves.

The greater the individual weakness of each of the contracting parties, the greater are the chances of the duration of the contract; for their safety is then dependent upon their union. When, in 1790, the most populous of the American republics did not contain 500,000 inhabitants, each of them felt its own insignificance as an independent people, and this feeling rendered compliance with the federal authority more easy. But when one of the confederate States reckons, like the State of New York, 2,000,000 of inhabitants, and covers an extent of territory equal in surface to a quarter of France, it feels its own strength; and although it may continue to support the Union as advantageous to its prosperity, it no longer regards that body as necessary to its existence; and as it continues to belong to the federal compact, it soon aims at preponderance in the federal assemblies. The probable unanimity of the States is diminished as their number increases. At present the interests of the different parts of the Union are not at variance; but who is able to foresee the multifarious changes of the future, in a country in which towns are founded from day to day, and States almost from year to year?

Since the first settlement of the British colonies, the number of inhabitants has about doubled every twenty-two years. I perceive no causes which are likely to check this progressive increase of the Anglo-American population for the next hundred years; and before that space of time has elapsed, I believe that the territories and dependencies of the United States will be covered by more than 100,000,000 of inhabitants, and divided into forty States. I admit that these 100,000,000 of men have no hostile interests. I

suppose, on the contrary, that they are all equally interested in the maintenance of the Union; but I am still of opinion that where there are 100,000,000 of men, and forty distinct nations, unequally strong, the continuance of the Federal Government can only be a fortunate accident.

Whatever faith I may have in the perfectibility of man, until human nature is altered, and men wholly transformed, I shall refuse to believe in the duration of a government which is called upon to hold together forty different peoples, disseminated over a territory equal to one-half of Europe in extent; to avoid all rivalry, ambition, and struggles between them, and to direct their independent activity to the accomplishment of the same designs.

But the greatest peril to which the Union is exposed by its increase arises from the continual changes which take place in the position of its internal strength. The distance from Lake Superior to the Gulf of Mexico extends from the 47th to the 30th degree of latitude, a distance of more than 1,200 miles as the bird flies. The frontier of the United States winds along the whole of this immense line, sometimes falling within its limits, but more frequently extending far beyond it, into the waste. It has been calculated that the whites advance every year a mean distance of seventeen miles along the whole of his vast boundary. Obstacles, such as an unproductive district, a lake or an Indian nation unexpectedly encountered, are sometimes met with. The advancing column then halts for a while; its two extremities fall back upon themselves, and as soon as they are reunited they proceed onwards. This gradual and continuous progress of the European race towards the Rocky Mountains has the solemnity of a providential event; it is like a deluge of men rising unabatedly, and daily driven onwards by the hand of God.

Within this first line of conquering settlers towns are built, and vast States founded. In 1790 there were only a few thousand pioneers sprinkled along the valleys of the Mississippi; and at the present day these valleys contain as many inhabitants as were to be found in the whole Union in 1790. Their population amounts to nearly 4,000,000. The city of Washington was founded in 1800, in the very centre of the Union; but such are the changes which have taken place, that it now stands at one of the extremities; and the delegates of the most remote Western States are already obliged to perform

a journey as long as that from Vienna to Paris.

All the States are borne onwards at the same time in the path of fortune, but of course they do not all increase and prosper in the same proportion. To the North of the Union the detached branches of the Alleghany chain, which extend as far as the Atlantic Ocean, form spacious roads and ports, which are constantly accessible to vessels of the greatest burden. But from the Potomac to the mouth of the Mississippi the coast is sandy and flat. In this part of the Union the mouths of almost all the rivers are obstructed; and the few harbors which exist amongst these lagoons afford much shallower water to vessels, and much fewer commercial advantages than those of the North.

This first natural cause of inferiority is united to another cause proceeding from the laws. We have already seen that slavery, which is abolished in the North, still exists in the South; and I have pointed out its fatal consequences upon the prosperity of the planter himself.

The North is therefore superior to the South both in commerce and manufacture; the natural consequence of which is the more rapid increase of population and of wealth within its borders. The States situate upon the shores of the Atlantic Ocean are already half-peopled. Most of the land is held by an owner; and these districts cannot therefore receive so many emigrants as the Western States, where a boundless field is still open to their exertions. The valley of the Mississippi is far more fertile than the coast of the Atlantic Ocean. This reason, added to all the others, contributes to drive the Europeans westward—a fact which may be rigorously demonstrated by figures. It is found that the sum total of the population of all the United States has about tripled in the course of forty years. But in the recent States adjacent to the Mississippi, the population has increased thirty-one-fold, within the same space of time.

The relative position of the central federal power is continually displaced. Forty years ago the majority of the citizens of the Union was established upon the coast of the Atlantic, in the environs of the spot upon which Washington now stands; but the great body of the people is now advancing inland and to the north, so that in twenty years the majority will

unquestionably be on the western side of the Alleghanies. If the Union goes on to subsist, the basin of the Mississippi is evidently marked out, by its fertility and its extent, as the future centre of the Federal Government. In thirty or forty years, that tract of country will have assumed the rank which naturally belongs to it. It is easy to calculate that its population, compared to that of the coast of the Atlantic, will be, in round numbers, as 40 to 11. In a few years the States which founded the Union will lose the direction of its policy, and the population of the valley of the Mississippi will preponderate in the federal assemblies.

This constant gravitation of the federal power and influence towards the northwest is shown every ten years, when a general census of the population is made, and the number of delegates which each State sends to Congress is settled afresh. In 1790 Virginia had nineteen representatives in Congress. This number continued to increase until the year 1813, when it reached to twenty-three; from that time it began to decrease, and in 1833 Virginia elected only twenty-one representatives. During the same period the State of New York progressed in the contrary direction: in 1790 it had ten representatives in Congress; in 1813, twenty-seven; in 1823, thirty-four; and in 1833, forty. The State of Ohio had only one representative in 1803, and in 1833 it had already nineteen.

It is difficult to imagine a durable union of a people which is rich and strong with one which is poor and weak, even if it were proved that the strength and wealth of the one are not the causes of the weakness and poverty of the other. But union is still more difficult to maintain at a time at which one party is losing strength, and the other is gaining it. This rapid and disproportionate increase of certain States threatens the independence of the others. New York might perhaps succeed, with its 2,000,000 of inhabitants and its forty representatives, in dictating to the other States in Congress. But even if the more powerful States make no attempt to bear down the lesser ones, the danger still exists; for there is almost as much in the possibility of the act as in the act itself. The weak generally mistrust the justice and the reason of the strong. The States which increase less rapidly than the others look upon those which are more favored by fortune with envy and suspicion. Hence arise the deep-seated uneasiness and ill-defined agitation which are observable in the South, and which form so striking a contrast to

the confidence and prosperity which are common to other parts of the Union. I am inclined to think that the hostile measures taken by the Southern provinces upon a recent occasion are attributable to no other cause. The inhabitants of the Southern States are, of all the Americans, those who are most interested in the maintenance of the Union; they would assuredly suffer most from being left to themselves; and yet they are the only citizens who threaten to break the tie of confederation. But it is easy to perceive that the South, which has given four Presidents, Washington, Jefferson, Madison, and Monroe, to the Union, which perceives that it is losing its federal influence, and that the number of its representatives in Congress is diminishing from year to year, whilst those of the Northern and Western States are increasing; the South, which is peopled with ardent and irascible beings, is becoming more and more irritated and alarmed. The citizens reflect upon their present position and remember their past influence, with the melancholy uneasiness of men who suspect oppression: if they discover a law of the Union which is not unequivocally favorable to their interests, they protest against it as an abuse of force; and if their ardent remonstrances are not listened to, they threaten to quit an association which loads them with burdens whilst it deprives them of their due profits. "The tariff," said the inhabitants of Carolina in 1832, "enriches the North, and ruins the South; for if this were not the case, to what can we attribute the continually increasing power and wealth of the North, with its inclement skies and arid soil; whilst the South, which may be styled the garden of America, is rapidly declining?"

If the changes which I have described were gradual, so that each generation at least might have time to disappear with the order of things under which it had lived, the danger would be less; but the progress of society in America is precipitate, and almost revolutionary. The same citizen may have lived to see his State take the lead in the Union, and afterwards become powerless in the federal assemblies; and an Anglo-American republic has been known to grow as rapidly as a man passing from birth and infancy to maturity in the course of thirty years. It must not be imagined, however, that the States which lose their preponderance, also lose their population or their riches: no stop is put to their prosperity, and they even go on to increase more rapidly than any kingdom in Europe. But they believe themselves to be impoverished because their wealth does not augment as rapidly as that of

their neighbors; any they think that their power is lost, because they suddenly come into collision with a power greater than their own: thus they are more hurt in their feelings and their passions than in their interests. But this is amply sufficient to endanger the maintenance of the Union. If kings and peoples had only had their true interests in view ever since the beginning of the world, the name of war would scarcely be known among mankind.

Thus the prosperity of the United States is the source of the most serious dangers that threaten them, since it tends to create in some of the confederate States that over-excitement which accompanies a rapid increase of fortune; and to awaken in others those feelings of eu'n', mistrust, and regret which usually attend upon the loss of it. The Americans contemplate this extraordinary and hasty progress with exultation; but they would be wiser to consider it with sorrow and alarm. The Americans of the United States must inevitably become one of the greatest nations in the world; their offset will cover almost the whole of North America; the continent which they inhabit is their dominion, and it cannot escape them. What urges them to take possession of it so soon? Riches, power, and renown cannot fail to be theirs at some future time, but they rush upon their fortune as if but a moment remained for them to make it their own.

I think that I have demonstrated that the existence of the present confederation depends entirely on the continued assent of all the confederates; and, starting from this principle, I have inquired into the causes which may induce the several States to separate from the others. The Union may, however, perish in two different ways: one of the confederate States may choose to retire from the compact, and so forcibly to sever the federal tie; and it is to this supposition that most of the remarks that I have made apply: or the authority of the Federal Government may be progressively entrenched on by the simultaneous tendency of the united republics to resume their independence. The central power, successively stripped of all its prerogatives, and reduced to impotence by tacit consent, would become incompetent to fulfil its purpose; and the second Union would perish, like the first, by a sort of senile inaptitude. The gradual weakening of the federal tie, which may finally lead to the dissolution of the Union, is a distinct circumstance, that may produce a variety of minor

consequences before it operates so violent a change. The confederation might still subsist, although its Government were reduced to such a degree of inanity as to paralyze the nation, to cause internal anarchy, and to check the general prosperity of the country.

After having investigated the causes which may induce the Anglo-Americans to disunite, it is important to inquire whether, if the Union continues to subsist, their Government will extend or contract its sphere of action, and whether it will become more energetic or more weak.

The Americans are evidently disposed to look upon their future condition with alarm. They perceive that in most of the nations of the world the exercise of the rights of sovereignty tends to fall under the control of a few individuals, and they are dismayed by the idea that such will also be the case in their own country. Even the statesmen feel, or affect to feel, these fears; for, in America, centralization is by no means popular, and there is no surer means of courting the majority than by inveighing against the encroachments of the central power. The Americans do not perceive that the countries in which this alarming tendency to centralization exists are inhabited by a single people; whilst the fact of the Union being composed of different confederate communities is sufficient to baffle all the inferences which might be drawn from analogous circumstances. I confess that I am inclined to consider the fears of a great number of Americans as purely imaginary; and far from participating in their dread of the consolidation of power in the hands of the Union, I think that the Federal Government is visibly losing strength.

To prove this assertion I shall not have recourse to any remote occurrences, but to circumstances which I have myself witnessed, and which belong to our own time.

An attentive examination of what is going on in the United States will easily convince us that two opposite tendencies exist in that country, like two distinct currents flowing in contrary directions in the same channel. The Union has now existed for forty-five years, and in the course of that time a vast number of provincial prejudices, which were at first hostile to its power, have died away. The patriotic feeling which attached each of the

Americans to his own native State is become less exclusive; and the different parts of the Union have become more intimately connected the better they have become acquainted with each other. The post, that great instrument of intellectual intercourse, now reaches into the backwoods; and steamboats have established daily means of communication between the different points of the coast. An inland navigation of unexampled rapidity conveys commodities up and down the rivers of the country. And to these facilities of nature and art may be added those restless cravings, that busy-mindedness, and love of pelf, which are constantly urging the American into active life, and bringing him into contact with his fellow-citizens. He crosses the country in every direction; he visits all the various populations of the land; and there is not a province in France in which the natives are so well known to each other as the 13,000,000 of men who cover the territory of the United States.

But whilst the Americans intermingle, they grow in resemblance of each other; the differences resulting from their climate, their origin, and their institutions, diminish; and they all draw nearer and nearer to the common type. Every year, thousands of men leave the North to settle in different parts of the Union: they bring with them their faith, their opinions, and their manners; and as they are more enlightened than the men amongst whom they are about to dwell, they soon rise to the head of affairs, and they adapt society to their own advantage. This continual emigration of the North to the South is peculiarly favorable to the fusion of all the different provincial characters into one national character. The civilization of the North appears to be the common standard, to which the whole nation will one day be assimilated.

The commercial ties which unite the confederate States are strengthened by the increasing manufactures of the Americans; and the union which began to exist in their opinions, gradually forms a part of their habits: the course of time has swept away the bugbear thoughts which haunted the imaginations of the citizens in 1789. The federal power is not become oppressive; it has not destroyed the independence of the States it has not subjected the confederates to monarchical institutions; and the Union has not rendered the lesser States dependent upon the larger ones; but the confederation has continued to increase in population, in wealth, and in

power. I am therefore convinced that the natural obstacles to the continuance of the American Union are not so powerful at the present time as they were in 1789; and that the enemies of the Union are not so numerous.

Nevertheless, a careful examination of the history of the United States for the last forty-five years will readily convince us that the federal power is declining; nor is it difficult to explain the causes of this phenomenon. When the Constitution of 1789 was promulgated, the nation was a prey to anarchy; the Union, which succeeded this confusion, excited much dread and much animosity; but it was warmly supported because it satisfied an imperious want. Thus, although it was more attacked than it is now, the federal power soon reached the maximum of its authority, as is usually the case with a government which triumphs after having braced its strength by the struggle. At that time the interpretation of the Constitution seemed to extend, rather than to repress, the federal sovereignty; and the Union offered, in several respects, the appearance of a single and undivided people, directed in its foreign and internal policy by a single Government. But to attain this point the people had risen, to a certain extent, above itself.

The Constitution had not destroyed the distinct sovereignty of the States; and all communities, of whatever nature they may be, are impelled by a secret propensity to assert their independence. This propensity is still more decided in a country like America, in which every village forms a sort of republic accustomed to conduct its own affairs. It therefore cost the States an effort to submit to the federal supremacy; and all efforts, however successful they may be, necessarily subside with the causes in which they originated.

As the Federal Government consolidated its authority, America resumed its rank amongst the nations, peace returned to its frontiers, and public credit was restored; confusion was succeeded by a fixed state of things, which was favorable to the full and free exercise of industrious enterprise. It was this very prosperity which made the Americans forget the cause to which it was attributable; and when once the danger was passed, the energy and the patriotism which had enabled them to brave it disappeared from amongst them. No sooner were they delivered from the cares which oppressed them,

than they easily returned to their ordinary habits, and gave themselves up without resistance to their natural inclinations. When a powerful Government no longer appeared to be necessary, they once more began to think it irksome. The Union encouraged a general prosperity, and the States were not inclined to abandon the Union; but they desired to render the action of the power which represented that body as light as possible. The general principle of Union was adopted, but in every minor detail there was an actual tendency to independence. The principle of confederation was every day more easily admitted, and more rarely applied; so that the Federal Government brought about its own decline, whilst it was creating order and peace.

As soon as this tendency of public opinion began to be manifested externally, the leaders of parties, who live by the passions of the people, began to work it to their own advantage. The position of the Federal Government then became exceedingly critical. Its enemies were in possession of the popular favor; and they obtained the right of conducting its policy by pledging themselves to lessen its influence. From that time forwards the Government of the Union has invariably been obliged to recede, as often as it has attempted to enter the lists with the governments of the States. And whenever an interpretation of the terms of the Federal Constitution has been called for, that interpretation has most frequently been opposed to the Union, and favorable to the States.

The Constitution invested the Federal Government with the right of providing for the interests of the nation; and it had been held that no other authority was so fit to superintend the internal improvements" which affected the prosperity of the whole Union; such, for instance, as the cutting of canals. But the States were alarmed at a power, distinct from their own, which could thus dispose of a portion of their territory; and they were afraid that the central Government would, by this means, acquire a formidable extent of patronage within their own confines, and exercise a degree of influence which they intended to reserve exclusively to their own agents. The Democratic party, which has constantly been opposed to the increase of the federal authority, then accused the Congress of usurpation, and the Chief Magistrate of ambition. The central Government was intimidated by the opposition; and it soon acknowledged its error, promising exactly to

confine its influence for the future within the circle which was prescribed to it.

The Constitution confers upon the Union the right of treating with foreign nations. The Indian tribes, which border upon the frontiers of the United States, had usually been regarded in this light. As long as these savages consented to retire before the civilized settlers, the federal right was not contested: but as soon as an Indian tribe attempted to fix its dwelling upon a given spot, the adjacent States claimed possession of the lands and the rights of sovereignty over the natives. The central Government soon recognized both these claims; and after it had concluded treaties with the Indians as independent nations, it gave them up as subjects to the legislative tyranny of the States.

Some of the States which had been founded upon the coast of the Atlantic, extended indefinitely to the West, into wild regions where no European had ever penetrated. The States whose confines were irrevocably fixed, looked with a jealous eye upon the unbounded regions which the future would enable their neighbors to explore. The latter then agreed, with a view to conciliate the others, and to facilitate the act of union, to lay down their own boundaries, and to abandon all the territory which lay beyond those limits to the confederation at large. Thenceforward the Federal Government became the owner of all the uncultivated lands which lie beyond the borders of the thirteen States first confederated. It was invested with the right of parcelling and selling them, and the sums derived from this source were exclusively reserved to the public treasure of the Union, in order to furnish supplies for purchasing tracts of country from the Indians, for opening roads to the remote settlements, and for accelerating the increase of civilization as much as possible. New States have, however, been formed in the course of time, in the midst of those wilds which were formerly ceded by the inhabitants of the shores of the Atlantic. Congress has gone on to sell, for the profit of the nation at large, the uncultivated lands which those new States contained. But the latter at length asserted that, as they were now fully constituted, they ought to enjoy the exclusive right of converting the produce of these sales to their own use. As their remonstrances became more and more threatening, Congress thought fit to deprive the Union of a portion of the privileges which it had hitherto enjoyed; and at the end of

1832 it passed a law by which the greatest part of the revenue derived from the sale of lands was made over to the new western republics, although the lands themselves were not ceded to them.

The slightest observation in the United States enables one to appreciate the advantages which the country derives from the bank. These advantages are of several kinds, but one of them is peculiarly striking to the stranger. The banknotes of the United States are taken upon the borders of the desert for the same value as at Philadelphia, where the bank conducts its operations.

The Bank of the United States is nevertheless the object of great animosity. Its directors have proclaimed their hostility to the President: and they are accused, not without some show of probability, of having abused their influence to thwart his election. The President therefore attacks the establishment which they represent with all the warmth of personal enmity; and he is encouraged in the pursuit of his revenge by the conviction that he is supported by the secret propensities of the majority. The bank may be regarded as the great monetary tie of the Union, just as Congress is the great legislative tie; and the same passions which tend to render the States independent of the central power, contribute to the overthrow of the bank.

The Bank of the United States always holds a great number of the notes issued by the provincial banks, which it can at any time oblige them to convert into cash. It has itself nothing to fear from a similar demand, as the extent of its resources enables it to meet all claims. But the existence of the provincial banks is thus threatened, and their operations are restricted, since they are only able to issue a quantity of notes duly proportioned to their capital. They submit with impatience to this salutary control. The newspapers which they have bought over, and the President, whose interest renders him their instrument, attack the bank with the greatest vehemence. They rouse the local passions and the blind democratic instinct of the country to aid their cause; and they assert that the bank directors form a permanent aristocratic body, whose influence must ultimately be felt in the Government, and must affect those principles of equality upon which society rests in America.

The contest between the bank and its opponents is only an incident in the great struggle which is going on in America between the provinces and the central power; between the spirit of democratic independence and the spirit of gradation and subordination. I do not mean that the enemies of the bank are identically the same individuals who, on other points, attack the Federal Government; but I assert that the attacks directed against the bank of the United States originate in the same propensities which militate against the Federal Government; and that the very numerous opponents of the former afford a deplorable symptom of the decreasing support of the latter.

The Union has never displayed so much weakness as in the celebrated question of the tariff. The wars of the French Revolution and of 1812 had created manufacturing establishments in the North of the Union, by cutting off all free communication between America and Europe. When peace was concluded, and the channel of intercourse reopened by which the produce of Europe was transmitted to the New World, the Americans thought fit to establish a system of import duties, for the twofold purpose of protecting their incipient manufactures and of paying off the amount of the debt contracted during the war. The Southern States, which have no manufactures to encourage, and which are exclusively agricultural, soon complained of this measure. Such were the simple facts, and I do not pretend to examine in this place whether their complaints were well founded or unjust.

As early as the year 1820, South Carolina declared, in a petition to Congress, that the tariff was "unconstitutional, oppressive, and unjust." And the States of Georgia, Virginia, North Carolina, Alabama, and Mississippi subsequently remonstrated against it with more or less vigor. But Congress, far from lending an ear to these complaints, raised the scale of tariff duties in the years 1824 and 1828, and recognized anew the principle on which it was founded. A doctrine was then proclaimed, or rather revived, in the South, which took the name of Nullification.

I have shown in the proper place that the object of the Federal Constitution was not to form a league, but to create a national government. The Americans of the United States form a sole and undivided people, in all the cases which are specified by that Constitution; and upon these points the

will of the nation is expressed, as it is in all constitutional nations, by the voice of the majority. When the majority has pronounced its decision, it is the duty of the minority to submit. Such is the sound legal doctrine, and the only one which agrees with the text of the Constitution, and the known intention of those who framed it.

The partisans of Nullification in the South maintain, on the contrary, that the intention of the Americans in uniting was not to reduce themselves to the condition of one and the same people; that they meant to constitute a league of independent States; and that each State, consequently retains its entire sovereignty, if not de facto, at least de jure; and has the right of putting its own construction upon the laws of Congress, and of suspending their execution within the limits of its own territory, if they are held to be unconstitutional and unjust.

The entire doctrine of Nullification is comprised in a sentence uttered by Vice-President Calhoun, the head of that party in the South, before the Senate of the United States, in the year 1833: "The Constitution is a compact to which the States were parties in their sovereign capacity; now, whenever a compact is entered into by parties which acknowledge no tribunal above their authority to decide in the last resort, each of them has a right to judge for itself in relation to the nature, extent, and obligations of the instrument." It is evident that a similar doctrine destroys the very basis of the Federal Constitution, and brings back all the evils of the old confederation, from which the Americans were supposed to have had a safe deliverance.

When South Carolina perceived that Congress turned a deaf ear to its remonstrances, it threatened to apply the doctrine of nullification to the federal tariff bill. Congress persisted in its former system; and at length the storm broke out. In the course of 1832 the citizens of South Carolina, named a national Convention, to consult upon the extraordinary measures which they were called upon to take; and on November 24th of the same year this Convention promulgated a law, under the form of a decree, which annulled the federal law of the tariff, forbade the levy of the imposts which that law commands, and refused to recognize the appeal which might be made to the federal courts of law. This decree was only to be put in

execution in the ensuing month of February, and it was intimated, that if Congress modified the tariff before that period, South Carolina might be induced to proceed no further with her menaces; and a vague desire was afterwards expressed of submitting the question to an extraordinary assembly of all the confederate States.

In the meantime South Carolina armed her militia, and prepared for war. But Congress, which had slighted its suppliant subjects, listened to their complaints as soon as they were found to have taken up arms. A law was passed, by which the tariff duties were to be progressively reduced for ten years, until they were brought so low as not to exceed the amount of supplies necessary to the Government. Thus Congress completely abandoned the principle of the tariff; and substituted a mere fiscal impost to a system of protective duties. The Government of the Union, in order to conceal its defeat, had recourse to an expedient which is very much in vogue with feeble governments. It yielded the point de facto, but it remained inflexible upon the principles in question; and whilst Congress was altering the tariff law, it passed another bill, by which the President was invested with extraordinary powers, enabling him to overcome by force a resistance which was then no longer to be apprehended.

But South Carolina did not consent to leave the Union in the enjoyment of these scanty trophies of success: the same national Convention which had annulled the tariff bill, met again, and accepted the proffered concession; but at the same time it declared its unabated perseverance in the doctrine of Nullification: and to prove what it said, it annulled the law investing the President with extraordinary powers, although it was very certain that the clauses of that law would never be carried into effect.

Almost all the controversies of which I have been speaking have taken place under the Presidency of General Jackson; and it cannot be denied that in the question of the tariff he has supported the claims of the Union with vigor and with skill. I am, however, of opinion that the conduct of the individual who now represents the Federal Government may be reckoned as one of the dangers which threaten its continuance.

Some persons in Europe have formed an opinion of the possible influence of General Jackson upon the affairs of his country, which appears highly extravagant to those who have seen more of the subject. We have been told that General Jackson has won sundry battles, that he is an energetic man, prone by nature and by habit to the use of force, covetous of power, and a despot by taste. All this may perhaps be true; but the inferences which have been drawn from these truths are exceedingly erroneous. It has been imagined that General Jackson is bent on establishing a dictatorship in America, on introducing a military spirit, and on giving a degree of influence to the central authority which cannot but be dangerous to provincial liberties. But in America the time for similar undertakings, and the age for men of this kind, is not yet come: if General Jackson had entertained a hope of exercising his authority in this manner, he would infallibly have forfeited his political station, and compromised his life; accordingly he has not been so imprudent as to make any such attempt.

Far from wishing to extend the federal power, the President belongs to the party which is desirous of limiting that power to the bare and precise letter of the Constitution, and which never puts a construction upon that act favorable to the Government of the Union; far from standing forth as the champion of centralization, General Jackson is the agent of all the jealousies of the States; and he was placed in the lofty station he occupies by the passions of the people which are most opposed to the central Government. It is by perpetually flattering these passions that he maintains his station and his popularity. General Jackson is the slave of the majority: he yields to its wishes, its propensities, and its demands; say rather, that he anticipates and forestalls them.

Whenever the governments of the States come into collision with that of the Union, the President is generally the first to question his own rights: he almost always outstrips the legislature; and when the extent of the federal power is controverted, he takes part, as it were, against himself; he conceals his official interests, and extinguishes his own natural inclinations. Not indeed that he is naturally weak or hostile to the Union; for when the majority decided against the claims of the partisans of nullification, he put himself at its head, asserted the doctrines which the nation held distinctly and energetically, and was the first to recommend forcible measures; but

General Jackson appears to me, if I may use the American expressions, to be a Federalist by taste, and a Republican by calculation.

General Jackson stoops to gain the favor of the majority, but when he feels that his popularity is secure, he overthrows all obstacles in the pursuit of the objects which the community approves, or of those which it does not look upon with a jealous eye. He is supported by a power with which his predecessors were unacquainted; and he tramples on his personal enemies whenever they cross his path with a facility which no former President ever enjoyed; he takes upon himself the responsibility of measures which no one before him would have ventured to attempt: he even treats the national representatives with disdain approaching to insult; he puts his veto upon the laws of Congress, and frequently neglects to reply to that powerful body. He is a favorite who sometimes treats his master roughly. The power of General Jackson perpetually increases; but that of the President declines; in his hands the Federal Government is strong, but it will pass enfeebled into the hands of his successor.

I am strangely mistaken if the Federal Government of the United States be not constantly losing strength, retiring gradually from public affairs, and narrowing its circle of action more and more. It is naturally feeble, but it now abandons even its pretensions to strength. On the other hand, I thought that I remarked a more lively sense of independence, and a more decided attachment to provincial government in the States. The Union is to subsist, but to subsist as a shadow; it is to be strong in certain cases, and weak in all others; in time of warfare, it is to be able to concentrate all the forces of the nation and all the resources of the country in its hands; and in time of peace its existence is to be scarcely perceptible: as if this alternate debility and vigor were natural or possible.

I do not foresee anything for the present which may be able to check this general impulse of public opinion; the causes in which it originated do not cease to operate with the same effect. The change will therefore go on, and it may be predicted that, unless some extraordinary event occurs, the Government of the Union will grow weaker and weaker every day.

I think, however, that the period is still remote at which the federal power will be entirely extinguished by its inability to protect itself and to maintain peace in the country. The Union is sanctioned by the manners and desires of the people; its results are palpable, its benefits visible. When it is perceived that the weakness of the Federal Government compromises the existence of the Union, I do not doubt that a reaction will take place with a view to increase its strength.

The Government of the United States is, of all the federal governments which have hitherto been established, the one which is most naturally destined to act. As long as it is only indirectly assailed by the interpretation of its laws, and as long as its substance is not seriously altered, a change of opinion, an internal crisis, or a war, may restore all the vigor which it requires. The point which I have been most anxious to put in a clear light is simply this: Many people, especially in France, imagine that a change in opinion is going on in the United States, which is favorable to a centralization of power in the hands of the President and the Congress. I hold that a contrary tendency may distinctly be observed. So far is the Federal Government from acquiring strength, and from threatening the sovereignty of the States, as it grows older, that I maintain it to be growing weaker and weaker, and that the sovereignty of the Union alone is in danger. Such are the facts which the present time discloses. The future conceals the final result of this tendency, and the events which may check, retard, or accelerate the changes I have described; but I do not affect to be able to remove the veil which hides them from our sight.

### **Of the Republican Institutions of the United States, and What Their Chances of Duration Are**

The Union is accidental—The Republican institutions have more prospect of permanence—A republic for the present the natural state of the Anglo-Americans—Reason of this—In order to destroy it, all the laws must be changed at the same time, and a great alteration take place in manners—Difficulties experienced by the Americans in creating an aristocracy.

The dismemberment of the Union, by the introduction of war into the heart of those States which are now confederate, with standing armies, a dictatorship, and a heavy taxation, might, eventually, compromise the fate of the republican institutions. But we ought not to confound the future prospects of the republic with those of the Union. The Union is an accident, which will only last as long as circumstances are favorable to its existence; but a republican form of government seems to me to be the natural state of the Americans; which nothing but the continued action of hostile causes, always acting in the same direction, could change into a monarchy. The Union exists principally in the law which formed it; one revolution, one change in public opinion, might destroy it forever; but the republic has a much deeper foundation to rest upon.

What is understood by a republican government in the United States is the slow and quiet action of society upon itself. It is a regular state of things really founded upon the enlightened will of the people. It is a conciliatory government under which resolutions are allowed time to ripen; and in which they are deliberately discussed, and executed with mature judgment. The republicans in the United States set a high value upon morality, respect religious belief, and acknowledge the existence of rights. They profess to think that a people ought to be moral, religious, and temperate, in proportion as it is free. What is called the republic in the United States, is the tranquil rule of the majority, which, after having had time to examine itself, and to give proof of its existence, is the common source of all the powers of the State. But the power of the majority is not of itself unlimited. In the moral world humanity, justice, and reason enjoy an undisputed supremacy; in the political world vested rights are treated with no less deference. The majority recognizes these two barriers; and if it now and then overstep them, it is because, like individuals, it has passions, and, like them, it is prone to do what is wrong, whilst it discerns what is right.

But the demagogues of Europe have made strange discoveries. A republic is not, according to them, the rule of the majority, as has hitherto been thought, but the rule of those who are strenuous partisans of the majority. It is not the people who preponderates in this kind of government, but those

who are best versed in the good qualities of the people. A happy distinction, which allows men to act in the name of nations without consulting them, and to claim their gratitude whilst their rights are spurned. A republican government, moreover, is the only one which claims the right of doing whatever it chooses, and despising what men have hitherto respected, from the highest moral obligations to the vulgar rules of common-sense. It had been supposed, until our time, that despotism was odious, under whatever form it appeared. But it is a discovery of modern days that there are such things as legitimate tyranny and holy injustice, provided they are exercised in the name of the people.

The ideas which the Americans have adopted respecting the republican form of government, render it easy for them to live under it, and insure its duration. If, in their country, this form be often practically bad, at least it is theoretically good; and, in the end, the people always acts in conformity to it.

It was impossible at the foundation of the States, and it would still be difficult, to establish a central administration in America. The inhabitants are dispersed over too great a space, and separated by too many natural obstacles, for one man to undertake to direct the details of their existence. America is therefore pre-eminently the country of provincial and municipal government. To this cause, which was plainly felt by all the Europeans of the New World, the Anglo-Americans added several others peculiar to themselves.

At the time of the settlement of the North American colonies, municipal liberty had already penetrated into the laws as well as the manners of the English; and the emigrants adopted it, not only as a necessary thing, but as a benefit which they knew how to appreciate. We have already seen the manner in which the colonies were founded: every province, and almost every district, was peopled separately by men who were strangers to each other, or who associated with very different purposes. The English settlers in the United States, therefore, early perceived that they were divided into a great number of small and distinct communities which belonged to no common centre; and that it was needful for each of these little communities to take care of its own affairs, since there did not appear to be any central

authority which was naturally bound and easily enabled to provide for them. Thus, the nature of the country, the manner in which the British colonies were founded, the habits of the first emigrants, in short everything, united to promote, in an extraordinary degree, municipal and provincial liberties.

In the United States, therefore, the mass of the institutions of the country is essentially republican; and in order permanently to destroy the laws which form the basis of the republic, it would be necessary to abolish all the laws at once. At the present day it would be even more difficult for a party to succeed in founding a monarchy in the United States than for a set of men to proclaim that France should henceforward be a republic. Royalty would not find a system of legislation prepared for it beforehand; and a monarchy would then exist, really surrounded by republican institutions. The monarchical principle would likewise have great difficulty in penetrating into the manners of the Americans.

In the United States, the sovereignty of the people is not an isolated doctrine bearing no relation to the prevailing manners and ideas of the people: it may, on the contrary, be regarded as the last link of a chain of opinions which binds the whole Anglo-American world. That Providence has given to every human being the degree of reason necessary to direct himself in the affairs which interest him exclusively—such is the grand maxim upon which civil and political society rests in the United States. The father of a family applies it to his children; the master to his servants; the township to its officers; the province to its townships; the State to the provinces; the Union to the States; and when extended to the nation, it becomes the doctrine of the sovereignty of the people.

Thus, in the United States, the fundamental principle of the republic is the same which governs the greater part of human actions; republican notions insinuate themselves into all the ideas, opinions, and habits of the Americans, whilst they are formerly recognized by the legislation: and before this legislation can be altered the whole community must undergo very serious changes. In the United States, even the religion of most of the citizens is republican, since it submits the truths of the other world to private judgment: as in politics the care of its temporal interests is

abandoned to the good sense of the people. Thus every man is allowed freely to take that road which he thinks will lead him to heaven; just as the law permits every citizen to have the right of choosing his government.

It is evident that nothing but a long series of events, all having the same tendency, can substitute for this combination of laws, opinions, and manners, a mass of opposite opinions, manners, and laws.

If republican principles are to perish in America, they can only yield after a laborious social process, often interrupted, and as often resumed; they will have many apparent revivals, and will not become totally extinct until an entirely new people shall have succeeded to that which now exists. Now, it must be admitted that there is no symptom or presage of the approach of such a revolution. There is nothing more striking to a person newly arrived in the United States, than the kind of tumultuous agitation in which he finds political society. The laws are incessantly changing, and at first sight it seems impossible that a people so variable in its desires should avoid adopting, within a short space of time, a completely new form of government. Such apprehensions are, however, premature; the instability which affects political institutions is of two kinds, which ought not to be confounded: the first, which modifies secondary laws, is not incompatible with a very settled state of society; the other shakes the very foundations of the Constitution, and attacks the fundamental principles of legislation; this species of instability is always followed by troubles and revolutions, and the nation which suffers under it is in a state of violent transition.

Experience shows that these two kinds of legislative instability have no necessary connection; for they have been found united or separate, according to times and circumstances. The first is common in the United States, but not the second: the Americans often change their laws, but the foundation of the Constitution is respected.

In our days the republican principle rules in America, as the monarchical principle did in France under Louis XIV. The French of that period were not only friends of the monarchy, but they thought it impossible to put anything in its place; they received it as we receive the rays of the sun and the return of the seasons. Amongst them the royal power had neither advocates nor

opponents. In like manner does the republican government exist in America, without contention or opposition; without proofs and arguments, by a tacit agreement, a sort of consensus universalis. It is, however, my opinion that by changing their administrative forms as often as they do, the inhabitants of the United States compromise the future stability of their government.

It may be apprehended that men, perpetually thwarted in their designs by the mutability of the legislation, will learn to look upon republican institutions as an inconvenient form of society; the evil resulting from the instability of the secondary enactments might then raise a doubt as to the nature of the fundamental principles of the Constitution, and indirectly bring about a revolution; but this epoch is still very remote.

It may, however, be foreseen even now, that when the Americans lose their republican institutions they will speedily arrive at a despotic government, without a long interval of limited monarchy. Montesquieu remarked, that nothing is more absolute than the authority of a prince who immediately succeeds a republic, since the powers which had fearlessly been intrusted to an elected magistrate are then transferred to a hereditary sovereign. This is true in general, but it is more peculiarly applicable to a democratic republic. In the United States, the magistrates are not elected by a particular class of citizens, but by the majority of the nation; they are the immediate representatives of the passions of the multitude; and as they are wholly dependent upon its pleasure, they excite neither hatred nor fear: hence, as I have already shown, very little care has been taken to limit their influence, and they are left in possession of a vast deal of arbitrary power. This state of things has engendered habits which would outlive itself; the American magistrate would retain his power, but he would cease to be responsible for the exercise of it; and it is impossible to say what bounds could then be set to tyranny.

Some of our European politicians expect to see an aristocracy arise in America, and they already predict the exact period at which it will be able to assume the reins of government. I have previously observed, and I repeat my assertion, that the present tendency of American society appears to me to become more and more democratic. Nevertheless, I do not assert that the

Americans will not, at some future time, restrict the circle of political rights in their country, or confiscate those rights to the advantage of a single individual; but I cannot imagine that they will ever bestow the exclusive exercise of them upon a privileged class of citizens, or, in other words, that they will ever found an aristocracy.

An aristocratic body is composed of a certain number of citizens who, without being very far removed from the mass of the people, are, nevertheless, permanently stationed above it: a body which it is easy to touch and difficult to strike; with which the people are in daily contact, but with which they can never combine. Nothing can be imagined more contrary to nature and to the secret propensities of the human heart than a subjection of this kind; and men who are left to follow their own bent will always prefer the arbitrary power of a king to the regular administration of an aristocracy. Aristocratic institutions cannot subsist without laying down the inequality of men as a fundamental principle, as a part and parcel of the legislation, affecting the condition of the human family as much as it affects that of society; but these are things so repugnant to natural equity that they can only be extorted from men by constraint.

I do not think a single people can be quoted, since human society began to exist, which has, by its own free will and by its own exertions, created an aristocracy within its own bosom. All the aristocracies of the Middle Ages were founded by military conquest; the conqueror was the noble, the vanquished became the serf. Inequality was then imposed by force; and after it had been introduced into the manners of the country it maintained its own authority, and was sanctioned by the legislation. Communities have existed which were aristocratic from their earliest origin, owing to circumstances anterior to that event, and which became more democratic in each succeeding age. Such was the destiny of the Romans, and of the barbarians after them. But a people, having taken its rise in civilization and democracy, which should gradually establish an inequality of conditions, until it arrived at inviolable privileges and exclusive castes, would be a novelty in the world; and nothing intimates that America is likely to furnish so singular an example.

## Reflection on the Causes of the Commercial Prosperity of the United States

The Americans destined by Nature to be a great maritime people—Extent of their coasts—Depth of their ports—Size of their rivers—The commercial superiority of the Anglo-Americans less attributable, however, to physical circumstances than to moral and intellectual causes—Reason of this opinion—Future destiny of the Anglo-Americans as a commercial nation—The dissolution of the Union would not check the maritime vigor of the States—Reason of this—Anglo-Americans will naturally supply the wants of the inhabitants of South America—They will become, like the English, the factors of a great portion of the world.

The coast of the United States, from the Bay of Fundy to the Sabine River in the Gulf of Mexico, is more than two thousand miles in extent. These shores form an unbroken line, and they are all subject to the same government. No nation in the world possesses vaster, deeper, or more secure ports for shipping than the Americans.

The inhabitants of the United States constitute a great civilized people, which fortune has placed in the midst of an uncultivated country at a distance of three thousand miles from the central point of civilization. America consequently stands in daily need of European trade. The Americans will, no doubt, ultimately succeed in producing or manufacturing at home most of the articles which they require; but the two continents can never be independent of each other, so numerous are the natural ties which exist between their wants, their ideas, their habits, and their manners.

The Union produces peculiar commodities which are now become necessary to us, but which cannot be cultivated, or can only be raised at an enormous expense, upon the soil of Europe. The Americans only consume a small portion of this produce, and they are willing to sell us the rest. Europe is therefore the market of America, as America is the market of Europe; and

maritime commerce is no less necessary to enable the inhabitants of the United States to transport their raw materials to the ports of Europe, than it is to enable us to supply them with our manufactured produce. The United States were therefore necessarily reduced to the alternative of increasing the business of other maritime nations to a great extent, if they had themselves declined to enter into commerce, as the Spaniards of Mexico have hitherto done; or, in the second place, of becoming one of the first trading powers of the globe.

The Anglo-Americans have always displayed a very decided taste for the sea. The Declaration of Independence broke the commercial restrictions which united them to England, and gave a fresh and powerful stimulus to their maritime genius. Ever since that time, the shipping of the Union has increased in almost the same rapid proportion as the number of its inhabitants. The Americans themselves now transport to their own shores nine-tenths of the European produce which they consume. And they also bring three-quarters of the exports of the New World to the European consumer. The ships of the United States fill the docks of Havre and of Liverpool; whilst the number of English and French vessels which are to be seen at New York is comparatively small.

Thus, not only does the American merchant face the competition of his own countrymen, but he even supports that of foreign nations in their own ports with success. This is readily explained by the fact that the vessels of the United States can cross the seas at a cheaper rate than any other vessels in the world. As long as the mercantile shipping of the United States preserves this superiority, it will not only retain what it has acquired, but it will constantly increase in prosperity.

It is difficult to say for what reason the Americans can trade at a lower rate than other nations; and one is at first led to attribute this circumstance to the physical or natural advantages which are within their reach; but this supposition is erroneous. The American vessels cost almost as much to build as our own; they are not better built, and they generally last for a shorter time. The pay of the American sailor is more considerable than the pay on board European ships; which is proved by the great number of Europeans who are to be met with in the merchant vessels of the United

States. But I am of opinion that the true cause of their superiority must not be sought for in physical advantages, but that it is wholly attributable to their moral and intellectual qualities.

The following comparison will illustrate my meaning. During the campaigns of the Revolution the French introduced a new system of tactics into the art of war, which perplexed the oldest generals, and very nearly destroyed the most ancient monarchies in Europe. They undertook (what had never before been attempted) to make shift without a number of things which had always been held to be indispensable in warfare; they required novel exertions on the part of their troops which no civilized nations had ever thought of; they achieved great actions in an incredibly short space of time; and they risked human life without hesitation to obtain the object in view. The French had less money and fewer men than their enemies; their resources were infinitely inferior; nevertheless they were constantly victorious, until their adversaries chose to imitate their example.

The Americans have introduced a similar system into their commercial speculations; and they do for cheapness what the French did for conquest. The European sailor navigates with prudence; he only sets sail when the weather is favorable; if an unforeseen accident befalls him, he puts into port; at night he furls a portion of his canvas; and when the whitening billows intimate the vicinity of land, he checks his way, and takes an observation of the sun. But the American neglects these precautions and braves these dangers. He weighs anchor in the midst of tempestuous gales; by night and by day he spreads his sheets to the wind; he repairs as he goes along such damage as his vessel may have sustained from the storm; and when he at last approaches the term of his voyage, he darts onward to the shore as if he already descried a port. The Americans are often shipwrecked, but no trader crosses the seas so rapidly. And as they perform the same distance in a shorter time, they can perform it at a cheaper rate.

The European touches several times at different ports in the course of a long voyage; he loses a good deal of precious time in making the harbor, or in waiting for a favorable wind to leave it; and he pays daily dues to be allowed to remain there. The American starts from Boston to go to purchase tea in China; he arrives at Canton, stays there a few days, and then returns.

In less than two years he has sailed as far as the entire circumference of the globe, and he has seen land but once. It is true that during a voyage of eight or ten months he has drunk brackish water and lived upon salt meat; that he has been in a continual contest with the sea, with disease, and with a tedious existence; but upon his return he can sell a pound of his tea for a half-penny less than the English merchant, and his purpose is accomplished.

I cannot better explain my meaning than by saying that the Americans affect a sort of heroism in their manner of trading. But the European merchant will always find it very difficult to imitate his American competitor, who, in adopting the system which I have just described, follows not only a calculation of his gain, but an impulse of his nature.

The inhabitants of the United States are subject to all the wants and all the desires which result from an advanced stage of civilization; but as they are not surrounded by a community admirably adapted, like that of Europe, to satisfy their wants, they are often obliged to procure for themselves the various articles which education and habit have rendered necessities. In America it sometimes happens that the same individual tills his field, builds his dwelling, contrives his tools, makes his shoes, and weaves the coarse stuff of which his dress is composed. This circumstance is prejudicial to the excellence of the work; but it powerfully contributes to awaken the intelligence of the workman. Nothing tends to materialize man, and to deprive his work of the faintest trace of mind, more than extreme division of labor. In a country like America, where men devoted to special occupations are rare, a long apprenticeship cannot be required from anyone who embraces a profession. The Americans, therefore, change their means of gaining a livelihood very readily; and they suit their occupations to the exigencies of the moment, in the manner most profitable to themselves. Men are to be met with who have successively been barristers, farmers, merchants, ministers of the gospel, and physicians. If the American be less perfect in each craft than the European, at least there is scarcely any trade with which he is utterly unacquainted. His capacity is more general, and the circle of his intelligence is enlarged.

The inhabitants of the United States are never fettered by the axioms of their profession; they escape from all the prejudices of their present station;

they are not more attached to one line of operation than to another; they are not more prone to employ an old method than a new one; they have no rooted habits, and they easily shake off the influence which the habits of other nations might exercise upon their minds from a conviction that their country is unlike any other, and that its situation is without a precedent in the world. America is a land of wonders, in which everything is in constant motion, and every movement seems an improvement. The idea of novelty is there indissolubly connected with the idea of amelioration. No natural boundary seems to be set to the efforts of man; and what is not yet done is only what he has not yet attempted to do.

This perpetual change which goes on in the United States, these frequent vicissitudes of fortune, accompanied by such unforeseen fluctuations in private and in public wealth, serve to keep the minds of the citizens in a perpetual state of feverish agitation, which admirably invigorates their exertions, and keeps them in a state of excitement above the ordinary level of mankind. The whole life of an American is passed like a game of chance, a revolutionary crisis, or a battle. As the same causes are continually in operation throughout the country, they ultimately impart an irresistible impulse to the national character. The American, taken as a chance specimen of his countrymen, must then be a man of singular warmth in his desires, enterprising, fond of adventure, and, above all, of innovation. The same bent is manifest in all that he does; he introduces it into his political laws, his religious doctrines, his theories of social economy, and his domestic occupations; he bears it with him in the depths of the backwoods, as well as in the business of the city. It is this same passion, applied to maritime commerce, which makes him the cheapest and the quickest trader in the world.

As long as the sailors of the United States retain these inspiring advantages, and the practical superiority which they derive from them, they will not only continue to supply the wants of the producers and consumers of their own country, but they will tend more and more to become, like the English, the factors of all other peoples. This prediction has already begun to be realized; we perceive that the American traders are introducing themselves as intermediate agents in the commerce of several European

nations; and America will offer a still wider field to their enterprise.

The great colonies which were founded in South America by the Spaniards and the Portuguese have since become empires. Civil war and oppression now lay waste those extensive regions. Population does not increase, and the thinly scattered inhabitants are too much absorbed in the cares of self-defense even to attempt any amelioration of their condition. Such, however, will not always be the case. Europe has succeeded by her own efforts in piercing the gloom of the Middle Ages; South America has the same Christian laws and Christian manners as we have; she contains all the germs of civilization which have grown amidst the nations of Europe or their offshoots, added to the advantages to be derived from our example: why then should she always remain uncivilized? It is clear that the question is simply one of time; at some future period, which may be more or less remote, the inhabitants of South America will constitute flourishing and enlightened nations.

But when the Spaniards and Portuguese of South America begin to feel the wants common to all civilized nations, they will still be unable to satisfy those wants for themselves; as the youngest children of civilization, they must perforce admit the superiority of their elder brethren. They will be agriculturists long before they succeed in manufactures or commerce, and they will require the mediation of strangers to exchange their produce beyond seas for those articles for which a demand will begin to be felt.

It is unquestionable that the Americans of the North will one day supply the wants of the Americans of the South. Nature has placed them in contiguity, and has furnished the former with every means of knowing and appreciating those demands, of establishing a permanent connection with those States, and of gradually filling their markets. The merchants of the United States could only forfeit these natural advantages if he were very inferior to the merchant of Europe; to whom he is, on the contrary, superior in several respects. The Americans of the United States already exercise a very considerable moral influence upon all the peoples of the New World. They are the source of intelligence, and all the nations which inhabit the same continent are already accustomed to consider them as the most enlightened, the most powerful, and the most wealthy members of the great American

family. All eyes are therefore turned towards the Union; and the States of which that body is composed are the models which the other communities try to imitate to the best of their power; it is from the United States that they borrow their political principles and their laws.

The Americans of the United States stand in precisely the same position with regard to the peoples of South America as their fathers, the English, occupy with regard to the Italians, the Spaniards, the Portuguese, and all those nations of Europe which receive their articles of daily consumption from England, because they are less advanced in civilization and trade. England is at this time the natural emporium of almost all the nations which are within its reach; the American Union will perform the same part in the other hemisphere; and every community which is founded, or which prospers in the New World, is founded and prospers to the advantage of the Anglo-Americans.

If the Union were to be dissolved, the commerce of the States which now compose it would undoubtedly be checked for a time; but this consequence would be less perceptible than is generally supposed. It is evident that, whatever may happen, the commercial States will remain united. They are all contiguous to each other; they have identically the same opinions, interests, and manners; and they are alone competent to form a very great maritime power. Even if the South of the Union were to become independent of the North, it would still require the services of those States. I have already observed that the South is not a commercial country, and nothing intimates that it is likely to become so. The Americans of the South of the United States will therefore be obliged, for a long time to come, to have recourse to strangers to export their produce, and to supply them with the commodities which are requisite to satisfy their wants. But the Northern States are undoubtedly able to act as their intermediate agents cheaper than any other merchants. They will therefore retain that employment, for cheapness is the sovereign law of commerce. National claims and national prejudices cannot resist the influence of cheapness. Nothing can be more virulent than the hatred which exists between the Americans of the United States and the English. But notwithstanding these inimical feelings, the Americans derive the greater part of their manufactured commodities from England, because England supplies them at a cheaper rate than any other

nation. Thus the increasing prosperity of America turns, notwithstanding the grudges of the Americans, to the advantage of British manufactures.

Reason shows and experience proves that no commercial prosperity can be durable if it cannot be united, in case of need, to naval force. This truth is as well understood in the United States as it can be anywhere else: the Americans are already able to make their flag respected; in a few years they will be able to make it feared. I am convinced that the dismemberment of the Union would not have the effect of diminishing the naval power of the Americans, but that it would powerfully contribute to increase it. At the present time the commercial States are connected with others which have not the same interests, and which frequently yield an unwilling consent to the increase of a maritime power by which they are only indirectly benefited. If, on the contrary, the commercial States of the Union formed one independent nation, commerce would become the foremost of their national interests; they would consequently be willing to make very great sacrifices to protect their shipping, and nothing would prevent them from pursuing their designs upon this point.

Nations, as well as men, almost always betray the most prominent features of their future destiny in their earliest years. When I contemplate the ardor with which the Anglo-Americans prosecute commercial enterprise, the advantages which befriend them, and the success of their undertakings, I cannot refrain from believing that they will one day become the first maritime power of the globe. They are born to rule the seas, as the Romans were to conquer the world.

## **Conclusion**

I have now nearly reached the close of my inquiry; hitherto, in speaking of the future destiny of the United States, I have endeavored to divide my subject into distinct portions, in order to study each of them with more attention. My present object is to embrace the whole from one single point; the remarks I shall make will be less detailed, but they will be more sure. I

shall perceive each object less distinctly, but I shall descry the principal facts with more certainty. A traveller who has just left the walls of an immense city, climbs the neighboring hill; as he goes farther off he loses sight of the men whom he has so recently quitted; their dwellings are confused in a dense mass; he can no longer distinguish the public squares, and he can scarcely trace out the great thoroughfares; but his eye has less difficulty in following the boundaries of the city, and for the first time he sees the shape of the vast whole. Such is the future destiny of the British race in North America to my eye; the details of the stupendous picture are overhung with shade, but I conceive a clear idea of the entire subject.

The territory now occupied or possessed by the United States of America forms about one-twentieth part of the habitable earth. But extensive as these confines are, it must not be supposed that the Anglo-American race will always remain within them; indeed, it has already far overstepped them.

There was once a time at which we also might have created a great French nation in the American wilds, to counterbalance the influence of the English upon the destinies of the New World. France formerly possessed a territory in North America, scarcely less extensive than the whole of Europe. The three greatest rivers of that continent then flowed within her dominions. The Indian tribes which dwelt between the mouth of the St. Lawrence and the delta of the Mississippi were unaccustomed to any other tongue but ours; and all the European settlements scattered over that immense region recalled the traditions of our country. Louisbourg, Montmorency, Duquesne, St. Louis, Vincennes, New Orleans (for such were the names they bore) are words dear to France and familiar to our ears.

But a concourse of circumstances, which it would be tedious to enumerate, have deprived us of this magnificent inheritance. Wherever the French settlers were numerically weak and partially established, they have disappeared: those who remain are collected on a small extent of country, and are now subject to other laws. The 400,000 French inhabitants of Lower Canada constitute, at the present time, the remnant of an old nation lost in the midst of a new people. A foreign population is increasing around them unceasingly and on all sides, which already penetrates amongst the ancient masters of the country, predominates in their cities and corrupts

their language. This population is identical with that of the United States; it is therefore with truth that I asserted that the British race is not confined within the frontiers of the Union, since it already extends to the northeast.

To the northwest nothing is to be met with but a few insignificant Russian settlements; but to the southwest, Mexico presents a barrier to the Anglo-Americans. Thus, the Spaniards and the Anglo-Americans are, properly speaking, the only two races which divide the possession of the New World. The limits of separation between them have been settled by a treaty; but although the conditions of that treaty are exceedingly favorable to the Anglo-Americans, I do not doubt that they will shortly infringe this arrangement. Vast provinces, extending beyond the frontiers of the Union towards Mexico, are still destitute of inhabitants. The natives of the United States will forestall the rightful occupants of these solitary regions. They will take possession of the soil, and establish social institutions, so that when the legal owner arrives at length, he will find the wilderness under cultivation, and strangers quietly settled in the midst of his inheritance.

The lands of the New World belong to the first occupant, and they are the natural reward of the swiftest pioneer. Even the countries which are already peopled will have some difficulty in securing themselves from this invasion. I have already alluded to what is taking place in the province of Texas. The inhabitants of the United States are perpetually migrating to Texas, where they purchase land; and although they conform to the laws of the country, they are gradually founding the empire of their own language and their own manners. The province of Texas is still part of the Mexican dominions, but it will soon contain no Mexicans; the same thing has occurred whenever the Anglo-Americans have come into contact with populations of a different origin.

It cannot be denied that the British race has acquired an amazing preponderance over all the other European races in the New World; and that it is very superior to them in civilization, in industry, and in power. As long as it is only surrounded by desert or thinly peopled countries, as long as it encounters no dense populations upon its route, through which it cannot work its way, it will assuredly continue to spread. The lines marked out by treaties will not stop it; but it will everywhere transgress these imaginary

barriers.

The geographical position of the British race in the New World is peculiarly favorable to its rapid increase. Above its northern frontiers the icy regions of the Pole extend; and a few degrees below its southern confines lies the burning climate of the Equator. The Anglo-Americans are, therefore, placed in the most temperate and habitable zone of the continent.

It is generally supposed that the prodigious increase of population in the United States is posterior to their Declaration of Independence. But this is an error: the population increased as rapidly under the colonial system as it does at the present day; that is to say, it doubled in about twenty-two years. But this proportion which is now applied to millions, was then applied to thousands of inhabitants; and the same fact which was scarcely noticeable a century ago, is now evident to every observer.

The British subjects in Canada, who are dependent on a king, augment and spread almost as rapidly as the British settlers of the United States, who live under a republican government. During the war of independence, which lasted eight years, the population continued to increase without intermission in the same ratio. Although powerful Indian nations allied with the English existed at that time upon the western frontiers, the emigration westward was never checked. Whilst the enemy laid waste the shores of the Atlantic, Kentucky, the western parts of Pennsylvania, and the States of Vermont and of Maine were filling with inhabitants. Nor did the unsettled state of the Constitution, which succeeded the war, prevent the increase of the population, or stop its progress across the wilds. Thus, the difference of laws, the various conditions of peace and war, of order and of anarchy, have exercised no perceptible influence upon the gradual development of the Anglo-Americans. This may be readily understood; for the fact is, that no causes are sufficiently general to exercise a simultaneous influence over the whole of so extensive a territory. One portion of the country always offers a sure retreat from the calamities which afflict another part; and however great may be the evil, the remedy which is at hand is greater still.

It must not, then, be imagined that the impulse of the British race in the New World can be arrested. The dismemberment of the Union, and the

hostilities which might ensue, the abolition of republican institutions, and the tyrannical government which might succeed it, may retard this impulse, but they cannot prevent it from ultimately fulfilling the destinies to which that race is reserved. No power upon earth can close upon the emigrants that fertile wilderness which offers resources to all industry, and a refuge from all want. Future events, of whatever nature they may be, will not deprive the Americans of their climate or of their inland seas, of their great rivers or of their exuberant soil. Nor will bad laws, revolutions, and anarchy be able to obliterate that love of prosperity and that spirit of enterprise which seem to be the distinctive characteristics of their race, or to extinguish that knowledge which guides them on their way.

Thus, in the midst of the uncertain future, one event at least is sure. At a period which may be said to be near (for we are speaking of the life of a nation), the Anglo-Americans will alone cover the immense space contained between the polar regions and the tropics, extending from the coasts of the Atlantic to the shores of the Pacific Ocean. The territory which will probably be occupied by the Anglo-Americans at some future time, may be computed to equal three-quarters of Europe in extent. The climate of the Union is upon the whole preferable to that of Europe, and its natural advantages are not less great; it is therefore evident that its population will at some future time be proportionate to our own. Europe, divided as it is between so many different nations, and torn as it has been by incessant wars and the barbarous manners of the Middle Ages, has notwithstanding attained a population of 410 inhabitants to the square league. What cause can prevent the United States from having as numerous a population in time?

Many ages must elapse before the divers offsets of the British race in America cease to present the same homogeneous characteristics: and the time cannot be foreseen at which a permanent inequality of conditions will be established in the New World. Whatever differences may arise, from peace or from war, from freedom or oppression, from prosperity or want, between the destinies of the different descendants of the great Anglo-American family, they will at least preserve an analogous social condition, and they will hold in common the customs and the opinions to which that

social condition has given birth.

In the Middle Ages, the tie of religion was sufficiently powerful to imbue all the different populations of Europe with the same civilization. The British of the New World have a thousand other reciprocal ties; and they live at a time when the tendency to equality is general amongst mankind. The Middle Ages were a period when everything was broken up; when each people, each province, each city, and each family, had a strong tendency to maintain its distinct individuality. At the present time an opposite tendency seems to prevail, and the nations seem to be advancing to unity. Our means of intellectual intercourse unite the most remote parts of the earth; and it is impossible for men to remain strangers to each other, or to be ignorant of the events which are taking place in any corner of the globe. The consequence is that there is less difference, at the present day, between the Europeans and their descendants in the New World, than there was between certain towns in the thirteenth century which were only separated by a river. If this tendency to assimilation brings foreign nations closer to each other, it must a fortiori prevent the descendants of the same people from becoming aliens to each other.

The time will therefore come when one hundred and fifty millions of men will be living in North America, equal in condition, the progeny of one race, owing their origin to the same cause, and preserving the same civilization, the same language, the same religion, the same habits, the same manners, and imbued with the same opinions, propagated under the same forms. The rest is uncertain, but this is certain; and it is a fact new to the world—a fact fraught with such portentous consequences as to baffle the efforts even of the imagination.

There are, at the present time, two great nations in the world which seem to tend towards the same end, although they started from different points: I allude to the Russians and the Americans. Both of them have grown up unnoticed; and whilst the attention of mankind was directed elsewhere, they have suddenly assumed a most prominent place amongst the nations; and the world learned their existence and their greatness at almost the same time.

All other nations seem to have nearly reached their natural limits, and only to be charged with the maintenance of their power; but these are still in the act of growth; all the others are stopped, or continue to advance with extreme difficulty; these are proceeding with ease and with celerity along a path to which the human eye can assign no term. The American struggles against the natural obstacles which oppose him; the adversaries of the Russian are men; the former combats the wilderness and savage life; the latter, civilization with all its weapons and its arts: the conquests of the one are therefore gained by the ploughshare; those of the other by the sword. The Anglo-American relies upon personal interest to accomplish his ends, and gives free scope to the unguided exertions and common-sense of the citizens; the Russian centres all the authority of society in a single arm; the principal instrument of the former is freedom; of the latter servitude. Their starting-point is different, and their courses are not the same; yet each of them seems to be marked out by the will of Heaven to sway the destinies of half the globe.

# Democracy in America, Volume 2

[Preface](#)

[First Book: Influence of Democracy on the Progress of Opinion in the United States](#)

[Second Book: Influence of Democracy on the Feelings of the Americans](#)

[Third Book: Influence of Democracy on Manners, Properly So Called](#)

[Fourth Book: Influence of Democratic Opinions and Sentiments on Political Society.](#)

## Preface

### De Tocqueville's Preface To The Second Part

THE Americans live in a democratic state of society, which has naturally suggested to them certain laws and a certain political character. This same state of society has, moreover, engendered amongst them a multitude of feelings and opinions which were unknown amongst the elder aristocratic communities of Europe: it has destroyed or modified all the relations which before existed, and established others of a novel kind. The aspect of civil society has been no less affected by these changes than that of the political world. The former subject has been treated of in the work on the Democracy of America, which I published five years ago; to examine the

latter is the object of the present book; but these two parts complete each other, and form one and the same work.

I must at once warn the reader against an error which would be extremely prejudicial to me. When he finds that I attribute so many different consequences to the principle of equality, he may thence infer that I consider that principle to be the sole cause of all that takes place in the present age: but this would be to impute to me a very narrow view. A multitude of opinions, feelings, and propensities are now in existence, which owe their origin to circumstances unconnected with or even contrary to the principle of equality. Thus if I were to select the United States as an example, I could easily prove that the nature of the country, the origin of its inhabitants, the religion of its founders, their acquired knowledge, and their former habits, have exercised, and still exercise, independently of democracy, a vast influence upon the thoughts and feelings of that people. Different causes, but no less distinct from the circumstance of the equality of conditions, might be traced in Europe, and would explain a great portion of the occurrences taking place amongst us.

I acknowledge the existence of all these different causes, and their power, but my subject does not lead me to treat of them. I have not undertaken to unfold the reason of all our inclinations and all our notions: my only object is to show in what respects the principle of equality has modified both the former and the latter.

Some readers may perhaps be astonished that—firmly persuaded as I am that the democratic revolution which we are witnessing is an irresistible fact against which it would be neither desirable nor wise to struggle—I should often have had occasion in this book to address language of such severity to those democratic communities which this revolution has brought into being. My answer is simply, that it is because I am not an adversary of democracy, that I have sought to speak of democracy in all sincerity.

Men will not accept truth at the hands of their enemies, and truth is seldom offered to them by their friends: for this reason I have spoken it. I was persuaded that many would take upon themselves to announce the new blessings which the principle of equality promises to mankind, but that few

would dare to point out from afar the dangers with which it threatens them. To those perils therefore I have turned my chief attention, and believing that I had discovered them clearly, I have not had the cowardice to leave them untold.

I trust that my readers will find in this Second Part that impartiality which seems to have been remarked in the former work. Placed as I am in the midst of the conflicting opinions between which we are divided, I have endeavored to suppress within me for a time the favorable sympathies or the adverse emotions with which each of them inspires me. If those who read this book can find a single sentence intended to flatter any of the great parties which have agitated my country, or any of those petty factions which now harass and weaken it, let such readers raise their voices to accuse me.

The subject I have sought to embrace is immense, for it includes the greater part of the feelings and opinions to which the new state of society has given birth. Such a subject is doubtless above my strength, and in treating it I have not succeeded in satisfying myself. But, if I have not been able to reach the goal which I had in view, my readers will at least do me the justice to acknowledge that I have conceived and followed up my undertaking in a spirit not unworthy of success.

A. de T. March, 1840.

# **First Book: Influence of Democracy on the Progress of Opinion in the United States**

[Chapter 1: Philosophical Method Among the Americans](#)

[Chapter 2: Of the Principal Source of Belief Among Democratic Nations](#)

[Chapter 3: Why the Americans Display More Readiness and More Taste for General Ideas Than Their Forefathers, The English](#)

[Chapter 4: Why the Americans Have Never Been so Eager as the French for General Ideas in Political Matters](#)

[Chapter 5: Of the Manner in Which Religion in the United States Avails Itself of Democratic Tendencies](#)

[Chapter 6: Of the Progress of Roman Catholicism in the United States](#)

[Chapter 7: Of the Cause of a Leaning to Pantheism Amongst Democratic Nations](#)

[Chapter 8: The Principle of Equality Suggests to the Americans the Idea of the Indefinite Perfectibility of Man](#)

[Chapter 9: The Example of the Americans Does Not Prove That a Democratic People Can Have No Aptitude and No Taste for Science, Literature, or Art](#)

[Chapter 10: Why the Americans Are More Addicted to Practical Than to Theoretical Science](#)

[Chapter 11: Of the Spirit in which the Americans Cultivate the Arts](#)

[Chapter 12: Why the Americans Raise Some Monuments so Insignificant,](#)

and Others so Important

Chapter 13: Literary Characteristics of Democratic Ages

Chapter 14: The Trade of Literature

Chapter 15: The Study of Greek and Latin Literature Peculiarly Useful in Democratic Communities

Chapter 16: The Effect of Democracy on Language

Chapter 17: Of Some of the Sources of Poetry amongst Democratic Nations

Chapter 18: Of the Inflated Style of American Writers and Orators

Chapter 19: Some Observations on the Drama Amongst Democratic Nations

Chapter 20: Characteristics of Historians in Democratic Ages

Chapter 21: Of Parliamentary Eloquence in the United States

Second Book: Influence of Democracy on the Feelings of the Americans

## **Chapter 1: Philosophical Method Among the Americans**

I THINK that in no country in the civilized world is less attention paid to philosophy than in the United States. The Americans have no philosophical school of their own; and they care but little for all the schools into which Europe is divided, the very names of which are scarcely known to them. Nevertheless it is easy to perceive that almost all the inhabitants of the United States conduct their understanding in the same manner, and govern

it by the same rules; that is to say, that without ever having taken the trouble to define the rules of a philosophical method, they are in possession of one, common to the whole people. To evade the bondage of system and habit, of family maxims, class opinions, and, in some degree, of national prejudices; to accept tradition only as a means of information, and existing facts only as a lesson used in doing otherwise, and doing better; to seek the reason of things for one's self, and in one's self alone; to tend to results without being bound to means, and to aim at the substance through the form;—such are the principal characteristics of what I shall call the philosophical method of the Americans. But if I go further, and if I seek amongst these characteristics that which predominates over and includes almost all the rest, I discover that in most of the operations of the mind, each American appeals to the individual exercise of his own understanding alone. America is therefore one of the countries in the world where philosophy is least studied, and where the precepts of Descartes are best applied. Nor is this surprising. The Americans do not read the works of Descartes, because their social condition deters them from speculative studies; but they follow his maxims because this very social condition naturally disposes their understanding to adopt them. In the midst of the continual movement which agitates a democratic community, the tie which unites one generation to another is relaxed or broken; every man readily loses the trace of the ideas of his forefathers or takes no care about them. Nor can men living in this state of society derive their belief from the opinions of the class to which they belong, for, so to speak, there are no longer any classes, or those which still exist are composed of such mobile elements, that their body can never exercise a real control over its members. As to the influence which the intelligence of one man has on that of another, it must necessarily be very limited in a country where the citizens, placed on the footing of a general similitude, are all closely seen by each other; and where, as no signs of incontestable greatness or superiority are perceived in any one of them, they are constantly brought back to their own reason as the most obvious and proximate source of truth. It is not only confidence in this or that man which is then destroyed, but the taste for trusting the ipse dixit of any man whatsoever. Everyone shuts himself up in his own breast, and affects from that point to judge the world.

The practice which obtains amongst the Americans of fixing the standard of their judgment in themselves alone, leads them to other habits of mind. As they perceive that they succeed in resolving without assistance all the little difficulties which their practical life presents, they readily conclude that everything in the world may be explained, and that nothing in it transcends the limits of the understanding. Thus they fall to denying what they cannot comprehend; which leaves them but little faith for whatever is extraordinary, and an almost insurmountable distaste for whatever is supernatural. As it is on their own testimony that they are accustomed to rely, they like to discern the object which engages their attention with extreme clearness; they therefore strip off as much as possible all that covers it, they rid themselves of whatever separates them from it, they remove whatever conceals it from sight, in order to view it more closely and in the broad light of day. This disposition of the mind soon leads them to contemn forms, which they regard as useless and inconvenient veils placed between them and the truth.

The Americans then have not required to extract their philosophical method from books; they have found it in themselves. The same thing may be remarked in what has taken place in Europe. This same method has only been established and made popular in Europe in proportion as the condition of society has become more equal, and men have grown more like each other. Let us consider for a moment the connection of the periods in which this change may be traced. In the sixteenth century the Reformers subjected some of the dogmas of the ancient faith to the scrutiny of private judgment; but they still withheld from it the discussion of all the rest. In the seventeenth century, Bacon in the natural sciences, and Descartes in the study of philosophy in the strict sense of the term, abolished recognized formulas, destroyed the empire of tradition, and overthrew the authority of the schools. The philosophers of the eighteenth century, generalizing at length the same principle, undertook to submit to the private judgment of each man all the objects of his belief.

Who does not perceive that Luther, Descartes, and Voltaire employed the same method, and that they differed only in the greater or less use which they professed should be made of it? Why did the Reformers confine themselves so closely within the circle of religious ideas? Why did

Descartes, choosing only to apply his method to certain matters, though he had made it fit to be applied to all, declare that men might judge for themselves in matters philosophical but not in matters political? How happened it that in the eighteenth century those general applications were all at once drawn from this same method, which Descartes and his predecessors had either not perceived or had rejected? To what, lastly, is the fact to be attributed, that at this period the method we are speaking of suddenly emerged from the schools, to penetrate into society and become the common standard of intelligence; and that, after it had become popular among the French, it has been ostensibly adopted or secretly followed by all the nations of Europe?

The philosophical method here designated may have been engendered in the sixteenth century—it may have been more accurately defined and more extensively applied in the seventeenth; but neither in the one nor in the other could it be commonly adopted. Political laws, the condition of society, and the habits of mind which are derived from these causes, were as yet opposed to it. It was discovered at a time when men were beginning to equalize and assimilate their conditions. It could only be generally followed in ages when those conditions had at length become nearly equal, and men nearly alike.

The philosophical method of the eighteenth century is then not only French, but it is democratic; and this explains why it was so readily admitted throughout Europe, where it has contributed so powerfully to change the face of society. It is not because the French have changed their former opinions, and altered their former manners, that they have convulsed the world; but because they were the first to generalize and bring to light a philosophical method, by the assistance of which it became easy to attack all that was old, and to open a path to all that was new.

If it be asked why, at the present day, this same method is more rigorously followed and more frequently applied by the French than by the Americans, although the principle of equality be no less complete, and of more ancient date, amongst the latter people, the fact may be attributed to two circumstances, which it is essential to have clearly understood in the first

instance.

It must never be forgotten that religion gave birth to Anglo-American society. In the United States religion is therefore commingled with all the habits of the nation and all the feelings of patriotism; whence it derives a peculiar force. To this powerful reason another of no less intensity may be added: in American religion has, as it were, laid down its own limits. Religious institutions have remained wholly distinct from political institutions, so that former laws have been easily changed whilst former belief has remained unshaken. Christianity has therefore retained a strong hold on the public mind in America; and, I would more particularly remark, that its sway is not only that of a philosophical doctrine which has been adopted upon inquiry, but of a religion which is believed without discussion. In the United States Christian sects are infinitely diversified and perpetually modified; but Christianity itself is a fact so irresistibly established, that no one undertakes either to attack or to defend it. The Americans, having admitted the principal doctrines of the Christian religion without inquiry, are obliged to accept in like manner a great number of moral truths originating in it and connected with it. Hence the activity of individual analysis is restrained within narrow limits, and many of the most important of human opinions are removed from the range of its influence.

The second circumstance to which I have alluded is the following: the social condition and the constitution of the Americans are democratic, but they have not had a democratic revolution. They arrived upon the soil they occupy in nearly the condition in which we see them at the present day; and this is of very considerable importance.

There are no revolutions which do not shake existing belief, enervate authority, and throw doubts over commonly received ideas. The effect of all revolutions is therefore, more or less, to surrender men to their own guidance, and to open to the mind of every man a void and almost unlimited range of speculation. When equality of conditions succeeds a protracted conflict between the different classes of which the elder society was composed, envy, hatred, and uncharitableness, pride, and exaggerated self-confidence are apt to seize upon the human heart, and plant their sway there for a time. This, independently of equality itself, tends powerfully to divide

men—to lead them to mistrust the judgment of others, and to seek the light of truth nowhere but in their own understandings. Everyone then attempts to be his own sufficient guide, and makes it his boast to form his own opinions on all subjects. Men are no longer bound together by ideas, but by interests; and it would seem as if human opinions were reduced to a sort of intellectual dust, scattered on every side, unable to collect, unable to cohere.

Thus, that independence of mind which equality supposes to exist, is never so great, nor ever appears so excessive, as at the time when equality is beginning to establish itself, and in the course of that painful labor by which it is established. That sort of intellectual freedom which equality may give ought, therefore, to be very carefully distinguished from the anarchy which revolution brings. Each of these two things must be severally considered, in order not to conceive exaggerated hopes or fears of the future.

I believe that the men who will live under the new forms of society will make frequent use of their private judgment; but I am far from thinking that they will often abuse it. This is attributable to a cause of more general application to all democratic countries, and which, in the long run, must needs restrain in them the independence of individual speculation within fixed, and sometimes narrow, limits. I shall proceed to point out this cause in the next chapter.

## **Chapter 2: Of the Principal Source of Belief Among Democratic Nations**

AT different periods dogmatical belief is more or less abundant. It arises in different ways, and it may change its object or its form; but under no circumstances will dogmatical belief cease to exist, or, in other words, men will never cease to entertain some implicit opinions without trying them by actual discussion. If everyone undertook to form his own opinions and to seek for truth by isolated paths struck out by himself alone, it is not to be supposed that any considerable number of men would ever unite in any common belief. But obviously without such common belief no society can

prosper—say rather no society can subsist; for without ideas held in common, there is no common action, and without common action, there may still be men, but there is no social body. In order that society should exist, and, a fortiori, that a society should prosper, it is required that all the minds of the citizens should be rallied and held together by certain predominant ideas; and this cannot be the case, unless each of them sometimes draws his opinions from the common source, and consents to accept certain matters of belief at the hands of the community.

If I now consider man in his isolated capacity, I find that dogmatical belief is not less indispensable to him in order to live alone, than it is to enable him to co-operate with his fellow-creatures. If man were forced to demonstrate to himself all the truths of which he makes daily use, his task would never end. He would exhaust his strength in preparatory exercises, without advancing beyond them. As, from the shortness of his life, he has not the time, nor, from the limits of his intelligence, the capacity, to accomplish this, he is reduced to take upon trust a number of facts and opinions which he has not had either the time or the power to verify himself, but which men of greater ability have sought out, or which the world adopts. On this groundwork he raises for himself the structure of his own thoughts; nor is he led to proceed in this manner by choice so much as he is constrained by the inflexible law of his condition. There is no philosopher of such great parts in the world, but that he believes a million of things on the faith of other people, and supposes a great many more truths than he demonstrates. This is not only necessary but desirable. A man who should undertake to inquire into everything for himself, could devote to each thing but little time and attention. His task would keep his mind in perpetual unrest, which would prevent him from penetrating to the depth of any truth, or of grappling his mind indissolubly to any conviction. His intellect would be at once independent and powerless. He must therefore make his choice from amongst the various objects of human belief, and he must adopt many opinions without discussion, in order to search the better into that smaller number which he sets apart for investigation. It is true that whoever receives an opinion on the word of another, does so far enslave his mind; but it is a salutary servitude which allows him to make a good use of freedom.

A principle of authority must then always occur, under all circumstances, in some part or other of the moral and intellectual world. Its place is variable, but a place it necessarily has. The independence of individual minds may be greater, or it may be less: unbounded it cannot be. Thus the question is, not to know whether any intellectual authority exists in the ages of democracy, but simply where it resides and by what standard it is to be measured.

I have shown in the preceding chapter how the equality of conditions leads men to entertain a sort of instinctive incredulity of the supernatural, and a very lofty and often exaggerated opinion of the human understanding. The men who live at a period of social equality are not therefore easily led to place that intellectual authority to which they bow either beyond or above humanity. They commonly seek for the sources of truth in themselves, or in those who are like themselves. This would be enough to prove that at such periods no new religion could be established, and that all schemes for such a purpose would be not only impious but absurd and irrational. It may be foreseen that a democratic people will not easily give credence to divine missions; that they will turn modern prophets to a ready jest; and they that will seek to discover the chief arbiter of their belief within, and not beyond, the limits of their kind.

When the ranks of society are unequal, and men unlike each other in condition, there are some individuals invested with all the power of superior intelligence, learning, and enlightenment, whilst the multitude is sunk in ignorance and prejudice. Men living at these aristocratic periods are therefore naturally induced to shape their opinions by the superior standard of a person or a class of persons, whilst they are averse to recognize the infallibility of the mass of the people.

The contrary takes place in ages of equality. The nearer the citizens are drawn to the common level of an equal and similar condition, the less prone does each man become to place implicit faith in a certain man or a certain class of men. But his readiness to believe the multitude increases, and opinion is more than ever mistress of the world. Not only is common opinion the only guide which private judgment retains amongst a democratic people, but amongst such a people it possesses a power infinitely beyond what it has elsewhere. At periods of equality men have no

faith in one another, by reason of their common resemblance; but this very resemblance gives them almost unbounded confidence in the judgment of the public; for it would not seem probable, as they are all endowed with equal means of judging, but that the greater truth should go with the greater number.

When the inhabitant of a democratic country compares himself individually with all those about him, he feels with pride that he is the equal of any one of them; but when he comes to survey the totality of his fellows, and to place himself in contrast to so huge a body, he is instantly overwhelmed by the sense of his own insignificance and weakness. The same equality which renders him independent of each of his fellow-citizens taken severally, exposes him alone and unprotected to the influence of the greater number. The public has therefore among a democratic people a singular power, of which aristocratic nations could never so much as conceive an idea; for it does not persuade to certain opinions, but it enforces them, and infuses them into the faculties by a sort of enormous pressure of the minds of all upon the reason of each.

In the United States the majority undertakes to supply a multitude of ready-made opinions for the use of individuals, who are thus relieved from the necessity of forming opinions of their own. Everybody there adopts great numbers of theories, on philosophy, morals, and politics, without inquiry, upon public trust; and if we look to it very narrowly, it will be perceived that religion herself holds her sway there, much less as a doctrine of revelation than as a commonly received opinion. The fact that the political laws of the Americans are such that the majority rules the community with sovereign sway, materially increases the power which that majority naturally exercises over the mind. For nothing is more customary in man than to recognize superior wisdom in the person of his oppressor. This political omnipotence of the majority in the United States doubtless augments the influence which public opinion would obtain without it over the mind of each member of the community; but the foundations of that influence do not rest upon it. They must be sought for in the principle of equality itself, not in the more or less popular institutions which men living under that condition may give themselves. The intellectual dominion of the greater number would probably be less absolute amongst a democratic

people governed by a king than in the sphere of a pure democracy, but it will always be extremely absolute; and by whatever political laws men are governed in the ages of equality, it may be foreseen that faith in public opinion will become a species of religion there, and the majority its ministering prophet.

Thus intellectual authority will be different, but it will not be diminished; and far from thinking that it will disappear, I augur that it may readily acquire too much preponderance, and confine the action of private judgment within narrower limits than are suited either to the greatness or the happiness of the human race. In the principle of equality I very clearly discern two tendencies; the one leading the mind of every man to untried thoughts, the other inclined to prohibit him from thinking at all. And I perceive how, under the dominion of certain laws, democracy would extinguish that liberty of the mind to which a democratic social condition is favorable; so that, after having broken all the bondage once imposed on it by ranks or by men, the human mind would be closely fettered to the general will of the greatest number.

If the absolute power of the majority were to be substituted by democratic nations, for all the different powers which checked or retarded overmuch the energy of individual minds, the evil would only have changed its symptoms. Men would not have found the means of independent life; they would simply have invented (no easy task) a new dress for servitude. There is—and I cannot repeat it too often—there is in this matter for profound reflection for those who look on freedom as a holy thing, and who hate not only the despot, but despotism. For myself, when I feel the hand of power lie heavy on my brow, I care but little to know who oppresses me; and I am not the more disposed to pass beneath the yoke, because it is held out to me by the arms of a million of men.

### **Chapter 3: Why the Americans Display More Readiness and More Taste for General Ideas Than Their Forefathers, The English**

THE Deity does not regard the human race collectively. He surveys at one glance and severally all the beings of whom mankind is composed, and he discerns in each man the resemblances which assimilate him to all his fellows, and the differences which distinguish him from them. God, therefore, stands in no need of general ideas; that is to say, he is never sensible of the necessity of collecting a considerable number of analogous objects under the same form for greater convenience in thinking. Such is, however, not the case with man. If the human mind were to attempt to examine and pass a judgment on all the individual cases before it, the immensity of detail would soon lead it astray and bewilder its discernment: in this strait, man has recourse to an imperfect but necessary expedient, which at once assists and demonstrates his weakness. Having superficially considered a certain number of objects, and remarked their resemblance, he assigns to them a common name, sets them apart, and proceeds onwards.

General ideas are no proof of the strength, but rather of the insufficiency of the human intellect; for there are in nature no beings exactly alike, no things precisely identical, nor any rules indiscriminately and alike applicable to several objects at once. The chief merit of general ideas is, that they enable the human mind to pass a rapid judgment on a great many objects at once; but, on the other hand, the notions they convey are never otherwise than incomplete, and they always cause the mind to lose as much in accuracy as it gains in comprehensiveness. As social bodies advance in civilization, they acquire the knowledge of new facts, and they daily lay hold almost unconsciously of some particular truths. The more truths of this kind a man apprehends, the more general ideas is he naturally led to conceive. A multitude of particular facts cannot be seen separately, without at last discovering the common tie which connects them. Several individuals lead to the perception of the species; several species to that of the genus. Hence the habit and the taste for general ideas will always be greatest amongst a people of ancient cultivation and extensive knowledge.

But there are other reasons which impel men to generalize their ideas, or which restrain them from it.

The Americans are much more addicted to the use of general ideas than the English, and entertain a much greater relish for them: this appears very singular at first sight, when it is remembered that the two nations have the same origin, that they lived for centuries under the same laws, and that they still incessantly interchange their opinions and their manners. This contrast becomes much more striking still, if we fix our eyes on our own part of the world, and compare together the two most enlightened nations which inhabit it. It would seem as if the mind of the English could only tear itself reluctantly and painfully away from the observation of particular facts, to rise from them to their causes; and that it only generalizes in spite of itself. Amongst the French, on the contrary, the taste for general ideas would seem to have grown to so ardent a passion, that it must be satisfied on every occasion. I am informed, every morning when I wake, that some general and eternal law has just been discovered, which I never heard mentioned before. There is not a mediocre scribbler who does not try his hand at discovering truths applicable to a great kingdom, and who is very ill pleased with himself if he does not succeed in compressing the human race into the compass of an article. So great a dissimilarity between two very enlightened nations surprises me. If I again turn my attention to England, and observe the events which have occurred there in the last half-century, I think I may affirm that a taste for general ideas increases in that country in proportion as its ancient constitution is weakened.

The state of civilization is therefore insufficient by itself to explain what suggests to the human mind the love of general ideas, or diverts it from them. When the conditions of men are very unequal, and inequality itself is the permanent state of society, individual men gradually become so dissimilar that each class assumes the aspect of a distinct race: only one of these classes is ever in view at the same instant; and losing sight of that general tie which binds them all within the vast bosom of mankind, the observation invariably rests not on man, but on certain men. Those who live in this aristocratic state of society never, therefore, conceive very general ideas respecting themselves, and that is enough to imbue them with an habitual distrust of such ideas, and an instinctive aversion of them.

He, on the contrary, who inhabits a democratic country, sees around him, on every hand, men differing but little from each other; he cannot turn his mind

to any one portion of mankind, without expanding and dilating his thought till it embrace the whole. All the truths which are applicable to himself, appear to him equally and similarly applicable to each of his fellow-citizens and fellow-men. Having contracted the habit of generalizing his ideas in the study which engages him most, and interests him more than others, he transfers the same habit to all his pursuits; and thus it is that the craving to discover general laws in everything, to include a great number of objects under the same formula, and to explain a mass of facts by a single cause, becomes an ardent, and sometimes an undiscerning, passion in the human mind.

Nothing shows the truth of this proposition more clearly than the opinions of the ancients respecting their slaves. The most profound and capacious minds of Rome and Greece were never able to reach the idea, at once so general and so simple, of the common likeness of men, and of the common birthright of each to freedom: they strove to prove that slavery was in the order of nature, and that it would always exist. Nay, more, everything shows that those of the ancients who had passed from the servile to the free condition, many of whom have left us excellent writings, did themselves regard servitude in no other light.

All the great writers of antiquity belonged to the aristocracy of masters, or at least they saw that aristocracy established and uncontested before their eyes. Their mind, after it had expanded itself in several directions, was barred from further progress in this one; and the advent of Jesus Christ upon earth was required to teach that all the members of the human race are by nature equal and alike.

In the ages of equality all men are independent of each other, isolated and weak. The movements of the multitude are not permanently guided by the will of any individuals; at such times humanity seems always to advance of itself. In order, therefore, to explain what is passing in the world, man is driven to seek for some great causes, which, acting in the same manner on all our fellow-creatures, thus impel them all involuntarily to pursue the same track. This again naturally leads the human mind to conceive general ideas, and superinduces a taste for them.

I have already shown in what way the equality of conditions leads every man to investigate truths for himself. It may readily be perceived that a method of this kind must insensibly beget a tendency to general ideas in the human mind. When I repudiate the traditions of rank, profession, and birth; when I escape from the authority of example, to seek out, by the single effort of my reason, the path to be followed, I am inclined to derive the motives of my opinions from human nature itself; which leads me necessarily, and almost unconsciously, to adopt a great number of very general notions.

All that I have here said explains the reasons for which the English display much less readiness and taste for the generalization of ideas than their American progeny, and still less again than their French neighbors; and likewise the reason for which the English of the present day display more of these qualities than their forefathers did. The English have long been a very enlightened and a very aristocratic nation; their enlightened condition urged them constantly to generalize, and their aristocratic habits confined them to particularize. Hence arose that philosophy, at once bold and timid, broad and narrow, which has hitherto prevailed in England, and which still obstructs and stagnates in so many minds in that country.

Independently of the causes I have pointed out in what goes before, others may be discerned less apparent, but no less efficacious, which engender amongst almost every democratic people a taste, and frequently a passion, for general ideas. An accurate distinction must be taken between ideas of this kind. Some are the result of slow, minute, and conscientious labor of the mind, and these extend the sphere of human knowledge; others spring up at once from the first rapid exercise of the wits, and beget none but very superficial and very uncertain notions. Men who live in ages of equality have a great deal of curiosity and very little leisure; their life is so practical, so confused, so excited, so active, that but little time remains to them for thought. Such men are prone to general ideas because they spare them the trouble of studying particulars; they contain, if I may so speak, a great deal in a little compass, and give, in a little time, a great return. If then, upon a brief and inattentive investigation, a common relation is thought to be detected between certain objects, inquiry is not pushed any further; and without examining in detail how far these different objects differ or agree,

they are hastily arranged under one formulary, in order to pass to another subject.

One of the distinguishing characteristics of a democratic period is the taste all men have at such times for easy success and present enjoyment. This occurs in the pursuits of the intellect as well as in all others. Most of those who live at a time of equality are full of an ambition at once aspiring and relaxed: they would fain succeed brilliantly and at once, but they would be dispensed from great efforts to obtain success. These conflicting tendencies lead straight to the research of general ideas, by aid of which they flatter themselves that they can figure very importantly at a small expense, and draw the attention of the public with very little trouble. And I know not whether they be wrong in thinking thus. For their readers are as much averse to investigating anything to the bottom as they can be themselves; and what is generally sought in the productions of the mind is easy pleasure and information without labor.

If aristocratic nations do not make sufficient use of general ideas, and frequently treat them with inconsiderate disdain, it is true, on the other hand, that a democratic people is ever ready to carry ideas of this kind to excess, and to espouse them with injudicious warmth.

#### **Chapter 4: Why the Americans Have Never Been so Eager as the French for General Ideas in Political Matters**

I OBSERVED in the last chapter, that the Americans show a less decided taste for general ideas than the French; this is more especially true in political matters. Although the Americans infuse into their legislation infinitely more general ideas than the English, and although they pay much more attention than the latter people to the adjustment of the practice of affairs to theory, no political bodies in the United States have ever shown so warm an attachment to general ideas as the Constituent Assembly and the Convention in France. At no time has the American people laid hold on ideas of this kind with the passionate energy of the French people in the

eighteenth century, or displayed the same blind confidence in the value and absolute truth of any theory. This difference between the Americans and the French originates in several causes, but principally in the following one. The Americans form a democratic people, which has always itself directed public affairs. The French are a democratic people, who, for a long time, could only speculate on the best manner of conducting them. The social condition of France led that people to conceive very general ideas on the subject of government, whilst its political constitution prevented it from correcting those ideas by experiment, and from gradually detecting their insufficiency; whereas in America the two things constantly balance and correct each other.

It may seem, at first sight, that this is very much opposed to what I have said before, that democratic nations derive their love of theory from the excitement of their active life. A more attentive examination will show that there is nothing contradictory in the proposition. Men living in democratic countries eagerly lay hold of general ideas because they have but little leisure, and because these ideas spare them the trouble of studying particulars. This is true; but it is only to be understood to apply to those matters which are not the necessary and habitual subjects of their thoughts. Mercantile men will take up very eagerly, and without any very close scrutiny, all the general ideas on philosophy, politics, science, or the arts, which may be presented to them; but for such as relate to commerce, they will not receive them without inquiry, or adopt them without reserve. The same thing applies to statesmen with regard to general ideas in politics. If, then, there be a subject upon which a democratic people is peculiarly liable to abandon itself, blindly and extravagantly, to general ideas, the best corrective that can be used will be to make that subject a part of the daily practical occupation of that people. The people will then be compelled to enter upon its details, and the details will teach them the weak points of the theory. This remedy may frequently be a painful one, but its effect is certain.

Thus it happens, that the democratic institutions which compel every citizen to take a practical part in the government, moderate that excessive taste for general theories in politics which the principle of equality suggests.

## Chapter 5: Of the Manner in Which Religion in the United States Avails Itself of Democratic Tendencies

I HAVE laid it down in a preceding chapter that men cannot do without dogmatical belief; and even that it is very much to be desired that such belief should exist amongst them. I now add, that of all the kinds of dogmatical belief the most desirable appears to me to be dogmatical belief in matters of religion; and this is a very clear inference, even from no higher consideration than the interests of this world. There is hardly any human action, however particular a character be assigned to it, which does not originate in some very general idea men have conceived of the Deity, of his relation to mankind, of the nature of their own souls, and of their duties to their fellow-creatures. Nor can anything prevent these ideas from being the common spring from which everything else emanates. Men are therefore immeasurably interested in acquiring fixed ideas of God, of the soul, and of their common duties to their Creator and to their fellow-men; for doubt on these first principles would abandon all their actions to the impulse of chance, and would condemn them to live, to a certain extent, powerless and undisciplined.

This is then the subject on which it is most important for each of us to entertain fixed ideas; and unhappily it is also the subject on which it is most difficult for each of us, left to himself, to settle his opinions by the sole force of his reason. None but minds singularly free from the ordinary anxieties of life—minds at once penetrating, subtle, and trained by thinking—can even with the assistance of much time and care, sound the depth of these most necessary truths. And, indeed, we see that these philosophers are themselves almost always enshrouded in uncertainties; that at every step the natural light which illuminates their path grows dimmer and less secure; and that, in spite of all their efforts, they have as yet only discovered a small number of conflicting notions, on which the mind of man has been tossed about for thousands of years, without either laying a firmer grasp on truth, or finding novelty even in its errors. Studies of this nature are far above the average capacity of men; and even if the majority of mankind were capable of such pursuits, it is evident that leisure to cultivate them would still be

wanting. Fixed ideas of God and human nature are indispensable to the daily practice of men's lives; but the practice of their lives prevents them from acquiring such ideas.

The difficulty appears to me to be without a parallel. Amongst the sciences there are some which are useful to the mass of mankind, and which are within its reach; others can only be approached by the few, and are not cultivated by the many, who require nothing beyond their more remote applications: but the daily practice of the science I speak of is indispensable to all, although the study of it is inaccessible to the far greater number.

General ideas respecting God and human nature are therefore the ideas above all others which it is most suitable to withdraw from the habitual action of private judgment, and in which there is most to gain and least to lose by recognizing a principle of authority. The first object and one of the principal advantages of religions, is to furnish to each of these fundamental questions a solution which is at once clear, precise, intelligible to the mass of mankind, and lasting. There are religions which are very false and very absurd; but it may be affirmed, that any religion which remains within the circle I have just traced, without aspiring to go beyond it (as many religions have attempted to do, for the purpose of enclosing on every side the free progress of the human mind), imposes a salutary restraint on the intellect; and it must be admitted that, if it do not save men in another world, such religion is at least very conducive to their happiness and their greatness in this. This is more especially true of men living in free countries. When the religion of a people is destroyed, doubt gets hold of the highest portions of the intellect, and half paralyzes all the rest of its powers. Every man accustoms himself to entertain none but confused and changing notions on the subjects most interesting to his fellow-creatures and himself. His opinions are ill-defended and easily abandoned: and, despairing of ever resolving by himself the hardest problems of the destiny of man, he ignobly submits to think no more about them. Such a condition cannot but enervate the soul, relax the springs of the will, and prepare a people for servitude. Nor does it only happen, in such a case, that they allow their freedom to be wrested from them; they frequently themselves surrender it. When there is no longer any principle of authority in religion any more than in politics, men are speedily frightened at the aspect of this unbounded dependence.

The constant agitation of all surrounding things alarms and exhausts them. As everything is at sea in the sphere of the intellect, they determine at least that the mechanism of society should be firm and fixed; and as they cannot resume their ancient belief, they assume a master.

For my own part, I doubt whether man can ever support at the same time complete religious independence and entire public freedom. And I am inclined to think, that if faith be wanting in him, he must serve; and if he be free, he must believe.

Perhaps, however, this great utility of religions is still more obvious amongst nations where equality of conditions prevails than amongst others. It must be acknowledged that equality, which brings great benefits into the world, nevertheless suggests to men (as will be shown hereafter) some very dangerous propensities. It tends to isolate them from each other, to concentrate every man's attention upon himself; and it lays open the soul to an inordinate love of material gratification. The greatest advantage of religion is to inspire diametrically contrary principles. There is no religion which does not place the object of man's desires above and beyond the treasures of earth, and which does not naturally raise his soul to regions far above those of the senses. Nor is there any which does not impose on man some sort of duties to his kind, and thus draws him at times from the contemplation of himself. This occurs in religions the most false and dangerous. Religious nations are therefore naturally strong on the very point on which democratic nations are weak; which shows of what importance it is for men to preserve their religion as their conditions become more equal.

I have neither the right nor the intention of examining the supernatural means which God employs to infuse religious belief into the heart of man. I am at this moment considering religions in a purely human point of view: my object is to inquire by what means they may most easily retain their sway in the democratic ages upon which we are entering. It has been shown that, at times of general cultivation and equality, the human mind does not consent to adopt dogmatical opinions without reluctance, and feels their necessity acutely in spiritual matters only. This proves, in the first place, that at such times religions ought, more cautiously than at any other, to confine themselves within their own precincts; for in seeking to extend their

power beyond religious matters, they incur a risk of not being believed at all. The circle within which they seek to bound the human intellect ought therefore to be carefully traced, and beyond its verge the mind should be left in entire freedom to its own guidance. Mahommed professed to derive from Heaven, and he has inserted in the Koran, not only a body of religious doctrines, but political maxims, civil and criminal laws, and theories of science. The gospel, on the contrary, only speaks of the general relations of men to God and to each other—beyond which it inculcates and imposes no point of faith. This alone, besides a thousand other reasons, would suffice to prove that the former of these religions will never long predominate in a cultivated and democratic age, whilst the latter is destined to retain its sway at these as at all other periods.

But in continuation of this branch of the subject, I find that in order for religions to maintain their authority, humanly speaking, in democratic ages, they must not only confine themselves strictly within the circle of spiritual matters: their power also depends very much on the nature of the belief they inculcate, on the external forms they assume, and on the obligations they impose. The preceding observation, that equality leads men to very general and very extensive notions, is principally to be understood as applied to the question of religion. Men living in a similar and equal condition in the world readily conceive the idea of the one God, governing every man by the same laws, and granting to every man future happiness on the same conditions. The idea of the unity of mankind constantly leads them back to the idea of the unity of the Creator; whilst, on the contrary, in a state of society where men are broken up into very unequal ranks, they are apt to devise as many deities as there are nations, castes, classes, or families, and to trace a thousand private roads to heaven.

It cannot be denied that Christianity itself has felt, to a certain extent, the influence which social and political conditions exercise on religious opinions. At the epoch at which the Christian religion appeared upon earth, Providence, by whom the world was doubtless prepared for its coming, had gathered a large portion of the human race, like an immense flock, under the sceptre of the Caesars. The men of whom this multitude was composed were distinguished by numerous differences; but they had thus much in common, that they all obeyed the same laws, and that every subject was so

weak and insignificant in relation to the imperial potentate, that all appeared equal when their condition was contrasted with his. This novel and peculiar state of mankind necessarily predisposed men to listen to the general truths which Christianity teaches, and may serve to explain the facility and rapidity with which they then penetrated into the human mind.

The counterpart of this state of things was exhibited after the destruction of the empire. The Roman world being then as it were shattered into a thousand fragments, each nation resumed its pristine individuality. An infinite scale of ranks very soon grew up in the bosom of these nations; the different races were more sharply defined, and each nation was divided by castes into several peoples. In the midst of this common effort, which seemed to be urging human society to the greatest conceivable amount of voluntary subdivision, Christianity did not lose sight of the leading general ideas which it had brought into the world. But it appeared, nevertheless, to lend itself, as much as was possible, to those new tendencies to which the fractional distribution of mankind had given birth. Men continued to worship an only God, the Creator and Preserver of all things; but every people, every city, and, so to speak, every man, thought to obtain some distinct privilege, and win the favor of an especial patron at the foot of the Throne of Grace. Unable to subdivide the Deity, they multiplied and improperly enhanced the importance of the divine agents. The homage due to saints and angels became an almost idolatrous worship amongst the majority of the Christian world; and apprehensions might be entertained for a moment lest the religion of Christ should retrograde towards the superstitions which it had subdued. It seems evident, that the more the barriers are removed which separate nation from nation amongst mankind, and citizen from citizen amongst a people, the stronger is the bent of the human mind, as if by its own impulse, towards the idea of an only and all-powerful Being, dispensing equal laws in the same manner to every man. In democratic ages, then, it is more particularly important not to allow the homage paid to secondary agents to be confounded with the worship due to the Creator alone.

Another truth is no less clear—that religions ought to assume fewer external observances in democratic periods than at any others. In speaking of philosophical method among the Americans, I have shown that nothing is

more repugnant to the human mind in an age of equality than the idea of subjection to forms. Men living at such times are impatient of figures to their eyes symbols appear to be the puerile artifice which is used to conceal or to set off truths, which should more naturally be bared to the light of open day: they are unmoved by ceremonial observances, and they are predisposed to attach a secondary importance to the details of public worship. Those whose care it is to regulate the external forms of religion in a democratic age should pay a close attention to these natural propensities of the human mind, in order not unnecessarily to run counter to them. I firmly believe in the necessity of forms, which fix the human mind in the contemplation of abstract truths, and stimulate its ardor in the pursuit of them, whilst they invigorate its powers of retaining them steadfastly. Nor do I suppose that it is possible to maintain a religion without external observances; but, on the other hand, I am persuaded that, in the ages upon which we are entering, it would be peculiarly dangerous to multiply them beyond measure; and that they ought rather to be limited to as much as is absolutely necessary to perpetuate the doctrine itself, which is the substance of religions of which the ritual is only the form. A religion which should become more minute, more peremptory, and more surcharged with small observances at a time in which men are becoming more equal, would soon find itself reduced to a band of fanatical zealots in the midst of an infidel people.

I anticipate the objection, that as all religions have general and eternal truths for their object, they cannot thus shape themselves to the shifting spirit of every age without forfeiting their claim to certainty in the eyes of mankind. To this I reply again, that the principal opinions which constitute belief, and which theologians call articles of faith, must be very carefully distinguished from the accessories connected with them. Religions are obliged to hold fast to the former, whatever be the peculiar spirit of the age; but they should take good care not to bind themselves in the same manner to the latter at a time when everything is in transition, and when the mind, accustomed to the moving pageant of human affairs, reluctantly endures the attempt to fix it to any given point. The fixity of external and secondary things can only afford a chance of duration when civil society is itself fixed; under any other circumstances I hold it to be perilous.

We shall have occasion to see that, of all the passions which originate in, or are fostered by, equality, there is one which it renders peculiarly intense, and which it infuses at the same time into the heart of every man: I mean the love of well-being. The taste for well-being is the prominent and indelible feature of democratic ages. It may be believed that a religion which should undertake to destroy so deep seated a passion, would meet its own destruction thence in the end; and if it attempted to wean men entirely from the contemplation of the good things of this world, in order to devote their faculties exclusively to the thought of another, it may be foreseen that the soul would at length escape from its grasp, to plunge into the exclusive enjoyment of present and material pleasures. The chief concern of religions is to purify, to regulate, and to restrain the excessive and exclusive taste for well-being which men feel at periods of equality; but they would err in attempting to control it completely or to eradicate it. They will not succeed in curing men of the love of riches: but they may still persuade men to enrich themselves by none but honest means.

This brings me to a final consideration, which comprises, as it were, all the others. The more the conditions of men are equalized and assimilated to each other, the more important is it for religions, whilst they carefully abstain from the daily turmoil of secular affairs, not needlessly to run counter to the ideas which generally prevail, and the permanent interests which exist in the mass of the people. For as public opinion grows to be more and more evidently the first and most irresistible of existing powers, the religious principle has no external support strong enough to enable it long to resist its attacks. This is not less true of a democratic people, ruled by a despot, than in a republic. In ages of equality, kings may often command obedience, but the majority always commands belief: to the majority, therefore, deference is to be paid in whatsoever is not contrary to the faith.

I showed in my former volumes how the American clergy stand aloof from secular affairs. This is the most obvious, but it is not the only, example of their self-restraint. In America religion is a distinct sphere, in which the priest is sovereign, but out of which he takes care never to go. Within its limits he is the master of the mind; beyond them, he leaves men to themselves, and surrenders them to the independence and instability which

belong to their nature and their age. I have seen no country in which Christianity is clothed with fewer forms, figures, and observances than in the United States; or where it presents more distinct, more simple, or more general notions to the mind. Although the Christians of America are divided into a multitude of sects, they all look upon their religion in the same light. This applies to Roman Catholicism as well as to the other forms of belief. There are no Romish priests who show less taste for the minute individual observances for extraordinary or peculiar means of salvation, or who cling more to the spirit, and less to the letter of the law, than the Roman Catholic priests of the United States. Nowhere is that doctrine of the Church, which prohibits the worship reserved to God alone from being offered to the saints, more clearly inculcated or more generally followed. Yet the Roman Catholics of America are very submissive and very sincere.

Another remark is applicable to the clergy of every communion. The American ministers of the gospel do not attempt to draw or to fix all the thoughts of man upon the life to come; they are willing to surrender a portion of his heart to the cares of the present; seeming to consider the goods of this world as important, although as secondary, objects. If they take no part themselves in productive labor, they are at least interested in its progression, and ready to applaud its results; and whilst they never cease to point to the other world as the great object of the hopes and fears of the believer, they do not forbid him honestly to court prosperity in this. Far from attempting to show that these things are distinct and contrary to one another, they study rather to find out on what point they are most nearly and closely connected.

All the American clergy know and respect the intellectual supremacy exercised by the majority; they never sustain any but necessary conflicts with it. They take no share in the altercations of parties, but they readily adopt the general opinions of their country and their age; and they allow themselves to be borne away without opposition in the current of feeling and opinion by which everything around them is carried along. They endeavor to amend their contemporaries, but they do not quit fellowship with them. Public opinion is therefore never hostile to them; it rather supports and protects them; and their belief owes its authority at the same time to the strength which is its own, and to that which they borrow from

the opinions of the majority.

Thus it is that, by respecting all democratic tendencies not absolutely contrary to herself, and by making use of several of them for her own purposes, religion sustains an advantageous struggle with that spirit of individual independence which is her most dangerous antagonist.

## **Chapter 6: Of the Progress of Roman Catholicism in the United States**

AMERICA is the most democratic country in the world, and it is at the same time (according to reports worthy of belief) the country in which the Roman Catholic religion makes most progress. At first sight this is surprising. Two things must here be accurately distinguished: equality inclines men to wish to form their own opinions; but, on the other hand, it imbues them with the taste and the idea of unity, simplicity, and impartiality in the power which governs society. Men living in democratic ages are therefore very prone to shake off all religious authority; but if they consent to subject themselves to any authority of this kind, they choose at least that it should be single and uniform. Religious powers not radiating from a common centre are naturally repugnant to their minds; and they almost as readily conceive that there should be no religion, as that there should be several. At the present time, more than in any preceding one, Roman Catholics are seen to lapse into infidelity, and Protestants to be converted to Roman Catholicism. If the Roman Catholic faith be considered within the pale of the church, it would seem to be losing ground; without that pale, to be gaining it. Nor is this circumstance difficult of explanation. The men of our days are naturally disposed to believe; but, as soon as they have any religion, they immediately find in themselves a latent propensity which urges them unconsciously towards Catholicism. Many of the doctrines and the practices of the Romish Church astonish them; but they feel a secret admiration for its discipline, and its great unity attracts them. If Catholicism could at length withdraw itself from the political animosities to which it has given rise, I have hardly any doubt but that the same spirit of the age, which

appears to be so opposed to it, would become so favorable as to admit of its great and sudden advancement. One of the most ordinary weaknesses of the human intellect is to seek to reconcile contrary principles, and to purchase peace at the expense of logic. Thus there have ever been, and will ever be, men who, after having submitted some portion of their religious belief to the principle of authority, will seek to exempt several other parts of their faith from its influence, and to keep their minds floating at random between liberty and obedience. But I am inclined to believe that the number of these thinkers will be less in democratic than in other ages; and that our posterity will tend more and more to a single division into two parts—some relinquishing Christianity entirely, and others returning to the bosom of the Church of Rome.

## Chapter 7: Of the Cause of a Leaning to Pantheism Amongst Democratic Nations

I SHALL take occasion hereafter to show under what form the preponderating taste of a democratic people for very general ideas manifests itself in politics; but I would point out, at the present stage of my work, its principal effect on philosophy. It cannot be denied that pantheism has made great progress in our age. The writings of a part of Europe bear visible marks of it: the Germans introduce it into philosophy, and the French into literature. Most of the works of imagination published in France contain some opinions or some tinge caught from pantheistical doctrines, or they disclose some tendency to such doctrines in their authors. This appears to me not only to proceed from an accidental, but from a permanent cause.

When the conditions of society are becoming more equal, and each individual man becomes more like all the rest, more weak and more insignificant, a habit grows up of ceasing to notice the citizens to consider only the people, and of overlooking individuals to think only of their kind. At such times the human mind seeks to embrace a multitude of different objects at once; and it constantly strives to succeed in connecting a variety of consequences with a single cause. The idea of unity so possesses itself of man, and is sought for by him so universally, that if he thinks he has found it, he readily yields himself up to repose in that belief. Nor does he content himself with the discovery that nothing is in the world but a creation and a Creator; still embarrassed by this primary division of things, he seeks to expand and to simplify his conception by including God and the universe in one great whole. If there be a philosophical system which teaches that all things material and immaterial, visible and invisible, which the world contains, are only to be considered as the several parts of an immense Being, which alone remains unchanged amidst the continual change and ceaseless transformation of all that constitutes it, we may readily infer that such a system, although it destroy the individuality of man—nay, rather because it destroys that individuality—will have secret charms for men living in democracies. All their habits of thought prepare them to conceive

it, and predispose them to adopt it. It naturally attracts and fixes their imagination; it fosters the pride, whilst it soothes the indolence, of their minds. Amongst the different systems by whose aid philosophy endeavors to explain the universe, I believe pantheism to be one of those most fitted to seduce the human mind in democratic ages. Against it all who abide in their attachment to the true greatness of man should struggle and combine.

## **Chapter 8: The Principle of Equality Suggests to the Americans the Idea of the Indefinite Perfectibility of Man**

EQUALITY suggests to the human mind several ideas which would not have originated from any other source, and it modifies almost all those previously entertained. I take as an example the idea of human perfectibility, because it is one of the principal notions that the intellect can conceive, and because it constitutes of itself a great philosophical theory, which is every instant to be traced by its consequences in the practice of human affairs. Although man has many points of resemblance with the brute creation, one characteristic is peculiar to himself—he improves: they are incapable of improvement. Mankind could not fail to discover this difference from its earliest period. The idea of perfectibility is therefore as old as the world; equality did not give birth to it, although it has imparted to it a novel character.

When the citizens of a community are classed according to their rank, their profession, or their birth, and when all men are constrained to follow the career which happens to open before them, everyone thinks that the utmost limits of human power are to be discerned in proximity to himself, and none seeks any longer to resist the inevitable law of his destiny. Not indeed that an aristocratic people absolutely contests man's faculty of self-improvement, but they do not hold it to be indefinite; amelioration they conceive, but not change: they imagine that the future condition of society may be better, but not essentially different; and whilst they admit that mankind has made vast strides in improvement, and may still have some to make, they assign to it beforehand certain impassable limits. Thus they do

not presume that they have arrived at the supreme good or at absolute truth (what people or what man was ever wild enough to imagine it?) but they cherish a persuasion that they have pretty nearly reached that degree of greatness and knowledge which our imperfect nature admits of; and as nothing moves about them they are willing to fancy that everything is in its fit place. Then it is that the legislator affects to lay down eternal laws; that kings and nations will raise none but imperishable monuments; and that the present generation undertakes to spare generations to come the care of regulating their destinies.

In proportion as castes disappear and the classes of society approximate—as manners, customs, and laws vary, from the tumultuous intercourse of men—as new facts arise—as new truths are brought to light—as ancient opinions are dissipated, and others take their place—the image of an ideal perfection, forever on the wing, presents itself to the human mind. Continual changes are then every instant occurring under the observation of every man: the position of some is rendered worse; and he learns but too well, that no people and no individual, how enlightened soever they may be, can lay claim to infallibility;—the condition of others is improved; whence he infers that man is endowed with an indefinite faculty of improvement. His reverses teach him that none may hope to have discovered absolute good—his success stimulates him to the never-ending pursuit of it. Thus, forever seeking—forever falling, to rise again—often disappointed, but not discouraged—he tends unceasingly towards that unmeasured greatness so indistinctly visible at the end of the long track which humanity has yet to tread. It can hardly be believed how many facts naturally flow from the philosophical theory of the indefinite perfectibility of man, or how strong an influence it exercises even on men who, living entirely for the purposes of action and not of thought, seem to conform their actions to it, without knowing anything about it. I accost an American sailor, and I inquire why the ships of his country are built so as to last but for a short time; he answers without hesitation that the art of navigation is every day making such rapid progress, that the finest vessel would become almost useless if it lasted beyond a certain number of years. In these words, which fell accidentally and on a particular subject from a man of rude attainments, I recognize the general and systematic idea upon which a great people directs

all its concerns.

Aristocratic nations are naturally too apt to narrow the scope of human perfectibility; democratic nations to expand it beyond compass.

## **Chapter 9: The Example of the Americans Does Not Prove That a Democratic People Can Have No Aptitude and No Taste for Science, Literature, or Art**

IT must be acknowledged that amongst few of the civilized nations of our time have the higher sciences made less progress than in the United States; and in few have great artists, fine poets, or celebrated writers been more rare. Many Europeans, struck by this fact, have looked upon it as a natural and inevitable result of equality; and they have supposed that if a democratic state of society and democratic institutions were ever to prevail over the whole earth, the human mind would gradually find its beacon-lights grow dim, and men would relapse into a period of darkness. To reason thus is, I think, to confound several ideas which it is important to divide and to examine separately: it is to mingle, unintentionally, what is democratic with what is only American.

The religion professed by the first emigrants, and bequeathed by them to their descendants, simple in its form of worship, austere and almost harsh in its principles, and hostile to external symbols and to ceremonial pomp, is naturally unfavorable to the fine arts, and only yields a reluctant sufferance to the pleasures of literature. The Americans are a very old and a very enlightened people, who have fallen upon a new and unbounded country, where they may extend themselves at pleasure, and which they may fertilize without difficulty. This state of things is without a parallel in the history of the world. In America, then, every one finds facilities, unknown elsewhere, for making or increasing his fortune. The spirit of gain is always on the stretch, and the human mind, constantly diverted from the pleasures of imagination and the labors of the intellect, is there swayed by no impulse but the pursuit of wealth. Not only are manufacturing and commercial

classes to be found in the United States, as they are in all other countries; but what never occurred elsewhere, the whole community is simultaneously engaged in productive industry and commerce. I am convinced that, if the Americans had been alone in the world, with the freedom and the knowledge acquired by their forefathers, and the passions which are their own, they would not have been slow to discover that progress cannot long be made in the application of the sciences without cultivating the theory of them; that all the arts are perfected by one another: and, however absorbed they might have been by the pursuit of the principal object of their desires, they would speedily have admitted, that it is necessary to turn aside from it occasionally, in order the better to attain it in the end.

The taste for the pleasures of the mind is moreover so natural to the heart of civilized man, that amongst the polite nations, which are least disposed to give themselves up to these pursuits, a certain number of citizens are always to be found who take part in them. This intellectual craving, when once felt, would very soon have been satisfied. But at the very time when the Americans were naturally inclined to require nothing of science but its special applications to the useful arts and the means of rendering life comfortable, learned and literary Europe was engaged in exploring the common sources of truth, and in improving at the same time all that can minister to the pleasures or satisfy the wants of man. At the head of the enlightened nations of the Old World the inhabitants of the United States more particularly distinguished one, to which they were closely united by a common origin and by kindred habits. Amongst this people they found distinguished men of science, artists of skill, writers of eminence, and they were enabled to enjoy the treasures of the intellect without requiring to labor in amassing them. I cannot consent to separate America from Europe, in spite of the ocean which intervenes. I consider the people of the United States as that portion of the English people which is commissioned to explore the wilds of the New World; whilst the rest of the nation, enjoying more leisure and less harassed by the drudgery of life, may devote its energies to thought, and enlarge in all directions the empire of the mind.

The position of the Americans is therefore quite exceptional, and it may be believed that no democratic people will ever be placed in a similar one. Their strictly Puritanical origin—their exclusively commercial habits—

even the country they inhabit, which seems to divert their minds from the pursuit of science, literature, and the arts—the proximity of Europe, which allows them to neglect these pursuits without relapsing into barbarism—a thousand special causes, of which I have only been able to point out the most important—have singularly concurred to fix the mind of the American upon purely practical objects. His passions, his wants, his education, and everything about him seem to unite in drawing the native of the United States earthward: his religion alone bids him turn, from time to time, a transient and distracted glance to heaven. Let us cease then to view all democratic nations under the mask of the American people, and let us attempt to survey them at length with their own proper features.

It is possible to conceive a people not subdivided into any castes or scale of ranks; in which the law, recognizing no privileges, should divide inherited property into equal shares; but which, at the same time, should be without knowledge and without freedom. Nor is this an empty hypothesis: a despot may find that it is his interest to render his subjects equal and to leave them ignorant, in order more easily to keep them slaves. Not only would a democratic people of this kind show neither aptitude nor taste for science, literature, or art, but it would probably never arrive at the possession of them. The law of descent would of itself provide for the destruction of fortunes at each succeeding generation; and new fortunes would be acquired by none. The poor man, without either knowledge or freedom, would not so much as conceive the idea of raising himself to wealth; and the rich man would allow himself to be degraded to poverty, without a notion of self-defence. Between these two members of the community complete and invincible equality would soon be established.

No one would then have time or taste to devote himself to the pursuits or pleasures of the intellect; but all men would remain paralyzed by a state of common ignorance and equal servitude. When I conceive a democratic society of this kind, I fancy myself in one of those low, close, and gloomy abodes, where the light which breaks in from without soon faints and fades away. A sudden heaviness overpowers me, and I grope through the surrounding darkness, to find the aperture which will restore me to daylight and the air.

But all this is not applicable to men already enlightened who retain their freedom, after having abolished from amongst them those peculiar and hereditary rights which perpetuated the tenure of property in the hands of certain individuals or certain bodies. When men living in a democratic state of society are enlightened, they readily discover that they are confined and fixed within no limits which constrain them to take up with their present fortune. They all therefore conceive the idea of increasing it; if they are free, they all attempt it, but all do not succeed in the same manner. The legislature, it is true, no longer grants privileges, but they are bestowed by nature. As natural inequality is very great, fortunes become unequal as soon as every man exerts all his faculties to get rich. The law of descent prevents the establishment of wealthy families; but it does not prevent the existence of wealthy individuals. It constantly brings back the members of the community to a common level, from which they as constantly escape: and the inequality of fortunes augments in proportion as knowledge is diffused and liberty increased.

A sect which arose in our time, and was celebrated for its talents and its extravagance, proposed to concentrate all property into the hands of a central power, whose function it should afterwards be to parcel it out to individuals, according to their capacity. This would have been a method of escaping from that complete and eternal equality which seems to threaten democratic society. But it would be a simpler and less dangerous remedy to grant no privilege to any, giving to all equal cultivation and equal independence, and leaving everyone to determine his own position. Natural inequality will very soon make way for itself, and wealth will spontaneously pass into the hands of the most capable.

Free and democratic communities, then, will always contain a considerable number of people enjoying opulence or competency. The wealthy will not be so closely linked to each other as the members of the former aristocratic class of society: their propensities will be different, and they will scarcely ever enjoy leisure as secure or as complete: but they will be far more numerous than those who belonged to that class of society could ever be. These persons will not be strictly confined to the cares of practical life, and they will still be able, though in different degrees, to indulge in the pursuits and pleasures of the intellect. In those pleasures they will indulge; for if it

be true that the human mind leans on one side to the narrow, the practical, and the useful, it naturally rises on the other to the infinite, the spiritual, and the beautiful. Physical wants confine it to the earth; but, as soon as the tie is loosened, it will unbend itself again.

Not only will the number of those who can take an interest in the productions of the mind be enlarged, but the taste for intellectual enjoyment will descend, step by step, even to those who, in aristocratic societies, seem to have neither time nor ability to indulge in them. When hereditary wealth, the privileges of rank, and the prerogatives of birth have ceased to be, and when every man derives his strength from himself alone, it becomes evident that the chief cause of disparity between the fortunes of men is the mind. Whatever tends to invigorate, to extend, or to adorn the mind, instantly rises to great value. The utility of knowledge becomes singularly conspicuous even to the eyes of the multitude: those who have no taste for its charms set store upon its results, and make some efforts to acquire it.

In free and enlightened democratic ages, there is nothing to separate men from each other or to retain them in their peculiar sphere; they rise or sink with extreme rapidity. All classes live in perpetual intercourse from their great proximity to each other. They communicate and intermingle every day—they imitate and envy one another: this suggests to the people many ideas, notions, and desires which it would never have entertained if the distinctions of rank had been fixed and society at rest. In such nations the servant never considers himself as an entire stranger to the pleasures and toils of his master, nor the poor man to those of the rich; the rural population assimilates itself to that of the towns, and the provinces to the capital. No one easily allows himself to be reduced to the mere material cares of life; and the humblest artisan casts at times an eager and a furtive glance into the higher regions of the intellect. People do not read with the same notions or in the same manner as they do in an aristocratic community; but the circle of readers is unceasingly expanded, till it includes all the citizens.

As soon as the multitude begins to take an interest in the labors of the mind, it finds out that to excel in some of them is a powerful method of acquiring fame, power, or wealth. The restless ambition which equality begets

instantly takes this direction as it does all others. The number of those who cultivate science, letters, and the arts, becomes immense. The intellectual world starts into prodigious activity: everyone endeavors to open for himself a path there, and to draw the eyes of the public after him. Something analogous occurs to what happens in society in the United States, politically considered. What is done is often imperfect, but the attempts are innumerable; and, although the results of individual effort are commonly very small, the total amount is always very large.

It is therefore not true to assert that men living in democratic ages are naturally indifferent to science, literature, and the arts: only it must be acknowledged that they cultivate them after their own fashion, and bring to the task their own peculiar qualifications and deficiencies.

## **Chapter 10: Why the Americans Are More Addicted to Practical Than to Theoretical Science**

IF a democratic state of society and democratic institutions not stop the career of the human mind, they incontestably guide it in one direction in preference to another. Their effects, thus circumscribed, are still exceedingly great; and I trust I may be pardoned if I pause for a moment to survey them. We had occasion, in speaking of the philosophical method of the American people, to make several remarks which must here be turned to account.

Equality begets in man the desire of judging of everything for himself: it gives him, in all things, a taste for the tangible and the real, a contempt for tradition and for forms. These general tendencies are principally discernible in the peculiar subject of this chapter. Those who cultivate the sciences amongst a democratic people are always afraid of losing their way in visionary speculation. They mistrust systems; they adhere closely to facts and the study of facts with their own senses. As they do not easily defer to the mere name of any fellow-man, they are never inclined to rest upon any man's authority; but, on the contrary, they are unremitting in their efforts to

point out the weaker points of their neighbors' opinions. Scientific precedents have very little weight with them; they are never long detained by the subtlety of the schools, nor ready to accept big words for sterling coin; they penetrate, as far as they can, into the principal parts of the subject which engages them, and they expound them in the vernacular tongue. Scientific pursuits then follow a freer and a safer course, but a less lofty one.

The mind may, as it appears to me, divide science into three parts. The first comprises the most theoretical principles, and those more abstract notions whose application is either unknown or very remote. The second is composed of those general truths which still belong to pure theory, but lead, nevertheless, by a straight and short road to practical results. Methods of application and means of execution make up the third. Each of these different portions of science may be separately cultivated, although reason and experience show that none of them can prosper long, if it be absolutely cut off from the two others.

In America the purely practical part of science is admirably understood, and careful attention is paid to the theoretical portion which is immediately requisite to application. On this head the Americans always display a clear, free, original, and inventive power of mind. But hardly anyone in the United States devotes himself to the essentially theoretical and abstract portion of human knowledge. In this respect the Americans carry to excess a tendency which is, I think, discernible, though in a less degree, amongst all democratic nations.

Nothing is more necessary to the culture of the higher sciences, or of the more elevated departments of science, than meditation; and nothing is less suited to meditation than the structure of democratic society. We do not find there, as amongst an aristocratic people, one class which clings to a state of repose because it is well off; and another which does not venture to stir because it despairs of improving its condition. Everyone is actively in motion: some in quest of power, others of gain. In the midst of this universal tumult—this incessant conflict of jarring interests—this continual stride of men after fortune—where is that calm to be found which is necessary for the deeper combinations of the intellect? How can the mind

dwell upon any single point, when everything whirls around it, and man himself is swept and beaten onwards by the heady current which rolls all things in its course? But the permanent agitation which subsists in the bosom of a peaceable and established democracy, must be distinguished from the tumultuous and revolutionary movements which almost always attend the birth and growth of democratic society. When a violent revolution occurs amongst a highly civilized people, it cannot fail to give a sudden impulse to their feelings and their opinions. This is more particularly true of democratic revolutions, which stir up all the classes of which a people is composed, and beget, at the same time, inordinate ambition in the breast of every member of the community. The French made most surprising advances in the exact sciences at the very time at which they were finishing the destruction of the remains of their former feudal society; yet this sudden fecundity is not to be attributed to democracy, but to the unexampled revolution which attended its growth. What happened at that period was a special incident, and it would be unwise to regard it as the test of a general principle.

Great revolutions are not more common amongst democratic nations than amongst others: I am even inclined to believe that they are less so. But there prevails amongst those populations a small distressing motion—a sort of incessant jostling of men—which annoys and disturbs the mind, without exciting or elevating it. Men who live in democratic communities not only seldom indulge in meditation, but they naturally entertain very little esteem for it. A democratic state of society and democratic institutions plunge the greater part of men in constant active life; and the habits of mind which are suited to an active life, are not always suited to a contemplative one. The man of action is frequently obliged to content himself with the best he can get, because he would never accomplish his purpose if he chose to carry every detail to perfection. He has perpetually occasion to rely on ideas which he has not had leisure to search to the bottom; for he is much more frequently aided by the opportunity of an idea than by its strict accuracy; and, in the long run, he risks less in making use of some false principles, than in spending his time in establishing all his principles on the basis of truth. The world is not led by long or learned demonstrations; a rapid glance at particular incidents, the daily study of the fleeting passions of the multitude, the accidents of the time, and the art of turning them to account,

decide all its affairs.

In the ages in which active life is the condition of almost everyone, men are therefore generally led to attach an excessive value to the rapid bursts and superficial conceptions of the intellect; and, on the other hand, to depreciate below their true standard its slower and deeper labors. This opinion of the public influences the judgment of the men who cultivate the sciences; they are persuaded that they may succeed in those pursuits without meditation, or deterred from such pursuits as demand it.

There are several methods of studying the sciences. Amongst a multitude of men you will find a selfish, mercantile, and trading taste for the discoveries of the mind, which must not be confounded with that disinterested passion which is kindled in the heart of the few. A desire to utilize knowledge is one thing; the pure desire to know is another. I do not doubt that in a few minds and far between, an ardent, inexhaustible love of truth springs up, self-supported, and living in ceaseless fruition without ever attaining the satisfaction which it seeks. This ardent love it is—this proud, disinterested love of what is true—which raises men to the abstract sources of truth, to draw their mother-knowledge thence. If Pascal had had nothing in view but some large gain, or even if he had been stimulated by the love of fame alone, I cannot conceive that he would ever have been able to rally all the powers of his mind, as he did, for the better discovery of the most hidden things of the Creator. When I see him, as it were, tear his soul from the midst of all the cares of life to devote it wholly to these researches, and, prematurely snapping the links which bind the frame to life, die of old age before forty, I stand amazed, and I perceive that no ordinary cause is at work to produce efforts so extraordinary.

The future will prove whether these passions, at once so rare and so productive, come into being and into growth as easily in the midst of democratic as in aristocratic communities. For myself, I confess that I am slow to believe it. In aristocratic society, the class which gives the tone to opinion, and has the supreme guidance of affairs, being permanently and hereditarily placed above the multitude, naturally conceives a lofty idea of itself and of man. It loves to invent for him noble pleasures, to carve out splendid objects for his ambition. Aristocracies often commit very

tyrannical and very inhuman actions; but they rarely entertain grovelling thoughts; and they show a kind of haughty contempt of little pleasures, even whilst they indulge in them. The effect is greatly to raise the general pitch of society. In aristocratic ages vast ideas are commonly entertained of the dignity, the power, and the greatness of man. These opinions exert their influence on those who cultivate the sciences, as well as on the rest of the community. They facilitate the natural impulse of the mind to the highest regions of thought, and they naturally prepare it to conceive a sublime—nay, almost a divine—love of truth. Men of science at such periods are consequently carried away by theory; and it even happens that they frequently conceive an inconsiderate contempt for the practical part of learning. "Archimedes," says Plutarch, "was of so lofty a spirit, that he never condescended to write any treatise on the manner of constructing all these engines of offence and defence. And as he held this science of inventing and putting together engines, and all arts generally speaking which tended to any useful end in practice, to be vile, low, and mercenary, he spent his talents and his studious hours in writing of those things only whose beauty and subtilty had in them no admixture of necessity." Such is the aristocratic aim of science; in democratic nations it cannot be the same.

The greater part of the men who constitute these nations fare extremely eager in the pursuit of actual and physical gratification. As they are always dissatisfied with the position which they occupy, and are always free to leave it, they think of nothing but the means of changing their fortune, or of increasing it. To minds thus predisposed, every new method which leads by a shorter road to wealth, every machine which spares labor, every instrument which diminishes the cost of production, every discovery which facilitates pleasures or augments them, seems to be the grandest effort of the human intellect. It is chiefly from these motives that a democratic people addicts itself to scientific pursuits—that it understands, and that it respects them. In aristocratic ages, science is more particularly called upon to furnish gratification to the mind; in democracies, to the body. You may be sure that the more a nation is democratic, enlightened, and free, the greater will be the number of these interested promoters of scientific genius, and the more will discoveries immediately applicable to productive industry confer gain, fame, and even power on their authors. For in democracies the working class takes a part in public affairs; and public honors, as well as

pecuniary remuneration, may be awarded to those who deserve them. In a community thus organized it may easily be conceived that the human mind may be led insensibly to the neglect of theory; and that it is urged, on the contrary, with unparalleled vehemence to the applications of science, or at least to that portion of theoretical science which is necessary to those who make such applications. In vain will some innate propensity raise the mind towards the loftier spheres of the intellect; interest draws it down to the middle zone. There it may develop all its energy and restless activity, there it may engender all its wonders. These very Americans, who have not discovered one of the general laws of mechanics, have introduced into navigation an engine which changes the aspect of the world.

Assuredly I do not contend that the democratic nations of our time are destined to witness the extinction of the transcendent luminaries of man's intelligence, nor even that no new lights will ever start into existence. At the age at which the world has now arrived, and amongst so many cultivated nations, perpetually excited by the fever of productive industry, the bonds which connect the different parts of science together cannot fail to strike the observation; and the taste for practical science itself, if it be enlightened, ought to lead men not to neglect theory. In the midst of such numberless attempted applications of so many experiments, repeated every day, it is almost impossible that general laws should not frequently be brought to light; so that great discoveries would be frequent, though great inventors be rare. I believe, moreover, in the high calling of scientific minds. If the democratic principle does not, on the one hand, induce men to cultivate science for its own sake, on the other it enormously increases the number of those who do cultivate it. Nor is it credible that, from amongst so great a multitude no speculative genius should from time to time arise, inflamed by the love of truth alone. Such a one, we may be sure, would dive into the deepest mysteries of nature, whatever be the spirit of his country or his age. He requires no assistance in his course—enough that he be not checked in it.

All that I mean to say is this:—permanent inequality of conditions leads men to confine themselves to the arrogant and sterile research of abstract truths; whilst the social condition and the institutions of democracy prepare them to seek the immediate and useful practical results of the sciences. This

tendency is natural and inevitable: it is curious to be acquainted with it, and it may be necessary to point it out. If those who are called upon to guide the nations of our time clearly discerned from afar off these new tendencies, which will soon be irresistible, they would understand that, possessing education and freedom, men living in democratic ages cannot fail to improve the industrial part of science; and that henceforward all the efforts of the constituted authorities ought to be directed to support the highest branches of learning, and to foster the nobler passion for science itself. In the present age the human mind must be coerced into theoretical studies; it runs of its own accord to practical applications; and, instead of perpetually referring it to the minute examination of secondary effects, it is well to divert it from them sometimes, in order to raise it up to the contemplation of primary causes. Because the civilization of ancient Rome perished in consequence of the invasion of the barbarians, we are perhaps too apt to think that civilization cannot perish in any other manner. If the light by which we are guided is ever extinguished, it will dwindle by degrees, and expire of itself. By dint of close adherence to mere applications, principles would be lost sight of; and when the principles were wholly forgotten, the methods derived from them would be ill-pursued. New methods could no longer be invented, and men would continue to apply, without intelligence, and without art, scientific processes no longer understood.

When Europeans first arrived in China, three hundred years ago, they found that almost all the arts had reached a certain degree of perfection there; and they were surprised that a people which had attained this point should not have gone beyond it. At a later period they discovered some traces of the higher branches of science which were lost. The nation was absorbed in productive industry: the greater part of its scientific processes had been preserved, but science itself no longer existed there. This served to explain the strangely motionless state in which they found the minds of this people. The Chinese, in following the track of their forefathers, had forgotten the reasons by which the latter had been guided. They still used the formula, without asking for its meaning: they retained the instrument, but they no longer possessed the art of altering or renewing it. The Chinese, then, had lost the power of change; for them to improve was impossible. They were compelled, at all times and in all points, to imitate their predecessors, lest they should stray into utter darkness, by deviating for an instant from the

path already laid down for them. The source of human knowledge was all but dry; and though the stream still ran on, it could neither swell its waters nor alter its channel. Notwithstanding this, China had subsisted peaceably for centuries. The invaders who had conquered the country assumed the manners of the inhabitants, and order prevailed there. A sort of physical prosperity was everywhere discernible: revolutions were rare, and war was, so to speak, unknown.

It is then a fallacy to flatter ourselves with the reflection that the barbarians are still far from us; for if there be some nations which allow civilization to be torn from their grasp, there are others who trample it themselves under their feet.

## **Chapter 11: Of the Spirit in which the Americans Cultivate the Arts**

IT would be to waste the time of my readers and my own if I strove to demonstrate how the general mediocrity of fortunes, the absence of superfluous wealth, the universal desire of comfort, and the constant efforts by which everyone attempts to procure it, make the taste for the useful predominate over the love of the beautiful in the heart of man. Democratic nations, amongst which all these things exist, will therefore cultivate the arts which serve to render life easy, in preference to those whose object is to adorn it. They will habitually prefer the useful to the beautiful, and they will require that the beautiful should be useful. But I propose to go further; and after having pointed out this first feature, to sketch several others.

It commonly happens that in the ages of privilege the practice of almost all the arts becomes a privilege; and that every profession is a separate walk, upon which it is not allowable for everyone to enter. Even when productive industry is free, the fixed character which belongs to aristocratic nations gradually segregates all the persons who practise the same art, till they form a distinct class, always composed of the same families, whose members are all known to each other, and amongst whom a public opinion of their own

and a species of corporate pride soon spring up. In a class or guild of this kind, each artisan has not only his fortune to make, but his reputation to preserve. He is not exclusively swayed by his own interest, or even by that of his customer, but by that of the body to which he belongs; and the interest of that body is, that each artisan should produce the best possible workmanship. In aristocratic ages, the object of the arts is therefore to manufacture as well as possible—not with the greatest despatch, or at the lowest rate.

When, on the contrary, every profession is open to all—when a multitude of persons are constantly embracing and abandoning it—and when its several members are strangers to each other, indifferent, and from their numbers hardly seen amongst themselves; the social tie is destroyed, and each workman, standing alone, endeavors simply to gain the greatest possible quantity of money at the least possible cost. The will of the customer is then his only limit. But at the same time a corresponding revolution takes place in the customer also. In countries in which riches as well as power are concentrated and retained in the hands of the few, the use of the greater part of this world's goods belongs to a small number of individuals, who are always the same. Necessity, public opinion, or moderate desires exclude all others from the enjoyment of them. As this aristocratic class remains fixed at the pinnacle of greatness on which it stands, without diminution or increase, it is always acted upon by the same wants and affected by them in the same manner. The men of whom it is composed naturally derive from their superior and hereditary position a taste for what is extremely well made and lasting. This affects the general way of thinking of the nation in relation to the arts. It often occurs, among such a people, that even the peasant will rather go without the object he covets, than procure it in a state of imperfection. In aristocracies, then, the handicraftsmen work for only a limited number of very fastidious customers: the profit they hope to make depends principally on the perfection of their workmanship.

Such is no longer the case when, all privileges being abolished, ranks are intermingled, and men are forever rising or sinking upon the ladder of society. Amongst a democratic people a number of citizens always exist whose patrimony is divided and decreasing. They have contracted, under more prosperous circumstances, certain wants, which remain after the

means of satisfying such wants are gone; and they are anxiously looking out for some surreptitious method of providing for them. On the other hand, there are always in democracies a large number of men whose fortune is upon the increase, but whose desires grow much faster than their fortunes: and who gloat upon the gifts of wealth in anticipation, long before they have means to command them. Such men are eager to find some short cut to these gratifications, already almost within their reach. From the combination of these causes the result is, that in democracies there are always a multitude of individuals whose wants are above their means, and who are very willing to take up with imperfect satisfaction rather than abandon the object of their desires.

The artisan readily understands these passions, for he himself partakes in them: in an aristocracy he would seek to sell his workmanship at a high price to the few; he now conceives that the more expeditious way of getting rich is to sell them at a low price to all. But there are only two ways of lowering the price of commodities. The first is to discover some better, shorter, and more ingenious method of producing them: the second is to manufacture a larger quantity of goods, nearly similar, but of less value. Amongst a democratic population, all the intellectual faculties of the workman are directed to these two objects: he strives to invent methods which may enable him not only to work better, but quicker and cheaper; or, if he cannot succeed in that, to diminish the intrinsic qualities of the thing he makes, without rendering it wholly unfit for the use for which it is intended. When none but the wealthy had watches, they were almost all very good ones: few are now made which are worth much, but everybody has one in his pocket. Thus the democratic principle not only tends to direct the human mind to the useful arts, but it induces the artisan to produce with greater rapidity a quantity of imperfect commodities, and the consumer to content himself with these commodities.

Not that in democracies the arts are incapable of producing very commendable works, if such be required. This may occasionally be the case, if customers appear who are ready to pay for time and trouble. In this rivalry of every kind of industry—in the midst of this immense competition and these countless experiments, some excellent workmen are formed who reach the utmost limits of their craft. But they have rarely an opportunity of

displaying what they can do; they are scrupulously sparing of their powers; they remain in a state of accomplished mediocrity, which condemns itself, and, though it be very well able to shoot beyond the mark before it, aims only at what it hits. In aristocracies, on the contrary, workmen always do all they can; and when they stop, it is because they have reached the limit of their attainments.

When I arrive in a country where I find some of the finest productions of the arts, I learn from this fact nothing of the social condition or of the political constitution of the country. But if I perceive that the productions of the arts are generally of an inferior quality, very abundant and very cheap, I am convinced that, amongst the people where this occurs, privilege is on the decline, and that ranks are beginning to intermingle, and will soon be confounded together.

The handicraftsmen of democratic ages endeavor not only to bring their useful productions within the reach of the whole community, but they strive to give to all their commodities attractive qualities which they do not in reality possess. In the confusion of all ranks everyone hopes to appear what he is not, and makes great exertions to succeed in this object. This sentiment indeed, which is but too natural to the heart of man, does not originate in the democratic principle; but that principle applies it to material objects. To mimic virtue is of every age; but the hypocrisy of luxury belongs more particularly to the ages of democracy.

To satisfy these new cravings of human vanity the arts have recourse to every species of imposture: and these devices sometimes go so far as to defeat their own purpose. Imitation diamonds are now made which may be easily mistaken for real ones; as soon as the art of fabricating false diamonds shall have reached so high a degree of perfection that they cannot be distinguished from real ones, it is probable that both one and the other will be abandoned, and become mere pebbles again.

This leads me to speak of those arts which are called the fine arts, by way of distinction. I do not believe that it is a necessary effect of a democratic social condition and of democratic institutions to diminish the number of men who cultivate the fine arts; but these causes exert a very powerful

influence on the manner in which these arts are cultivated. Many of those who had already contracted a taste for the fine arts are impoverished: on the other hand, many of those who are not yet rich begin to conceive that taste, at least by imitation; and the number of consumers increases, but opulent and fastidious consumers become more scarce. Something analogous to what I have already pointed out in the useful arts then takes place in the fine arts; the productions of artists are more numerous, but the merit of each production is diminished. No longer able to soar to what is great, they cultivate what is pretty and elegant; and appearance is more attended to than reality. In aristocracies a few great pictures are produced; in democratic countries, a vast number of insignificant ones. In the former, statues are raised of bronze; in the latter, they are modelled in plaster.

When I arrived for the first time at New York, by that part of the Atlantic Ocean which is called the Narrows, I was surprised to perceive along the shore, at some distance from the city, a considerable number of little palaces of white marble, several of which were built after the models of ancient architecture. When I went the next day to inspect more closely the building which had particularly attracted my notice, I found that its walls were of whitewashed brick, and its columns of painted wood. All the edifices which I had admired the night before were of the same kind.

The social condition and the institutions of democracy impart, moreover, certain peculiar tendencies to all the imitative arts, which it is easy to point out. They frequently withdraw them from the delineation of the soul to fix them exclusively on that of the body: and they substitute the representation of motion and sensation for that of sentiment and thought: in a word, they put the real in the place of the ideal. I doubt whether Raphael studied the minutest intricacies of the mechanism of the human body as thoroughly as the draughtsmen of our own time. He did not attach the same importance to rigorous accuracy on this point as they do, because he aspired to surpass nature. He sought to make of man something which should be superior to man, and to embellish beauty's self. David and his scholars were, on the contrary, as good anatomists as they were good painters. They wonderfully depicted the models which they had before their eyes but they rarely imagined anything beyond them: they followed nature with fidelity: whilst Raphael sought for something better than nature. They have left us an exact

portraiture of man; but he discloses in his works a glimpse of the Divinity. This remark as to the manner of treating a subject is no less applicable to the choice of it. The painters of the Middle Ages generally sought far above themselves, and away from their own time, for mighty subjects, which left to their imagination an unbounded range. Our painters frequently employ their talents in the exact imitation of the details of private life, which they have always before their eyes; and they are forever copying trivial objects, the originals of which are only too abundant in nature.

## **Chapter 12: Why the Americans Raise Some Monuments so Insignificant, and Others so Important**

I HAVE just observed, that in democratic ages monuments of the arts tend to become more numerous and less important. I now hasten to point out the exception to this rule. In a democratic community individuals are very powerless; but the State which represents them all, and contains them all in its grasp, is very powerful. Nowhere do citizens appear so insignificant as in a democratic nation; nowhere does the nation itself appear greater, or does the mind more easily take in a wide general survey of it. In democratic communities the imagination is compressed when men consider themselves; it expands indefinitely when they think of the State. Hence it is that the same men who live on a small scale in narrow dwellings, frequently aspire to gigantic splendor in the erection of their public monuments.

The Americans traced out the circuit of an immense city on the site which they intended to make their capital, but which, up to the present time, is hardly more densely peopled than Pontoise, though, according to them, it will one day contain a million of inhabitants. They have already rooted up trees for ten miles round, lest they should interfere with the future citizens of this imaginary metropolis. They have erected a magnificent palace for Congress in the centre of the city, and have given it the pompous name of the Capitol. The several States of the Union are every day planning and erecting for themselves prodigious undertakings, which would astonish the engineers of the great European nations. Thus democracy not only leads

men to a vast number of inconsiderable productions; it also leads them to raise some monuments on the largest scale: but between these two extremes there is a blank. A few scattered remains of enormous buildings can therefore teach us nothing of the social condition and the institutions of the people by whom they were raised. I may add, though the remark leads me to step out of my subject, that they do not make us better acquainted with its greatness, its civilization, and its real prosperity. Whensoever a power of any kind shall be able to make a whole people co-operate in a single undertaking, that power, with a little knowledge and a great deal of time, will succeed in obtaining something enormous from the co-operation of efforts so multiplied. But this does not lead to the conclusion that the people was very happy, very enlightened, or even very strong.

The Spaniards found the City of Mexico full of magnificent temples and vast palaces; but that did not prevent Cortes from conquering the Mexican Empire with 600 foot soldiers and sixteen horses. If the Romans had been better acquainted with the laws of hydraulics, they would not have constructed all the aqueducts which surround the ruins of their cities—they would have made a better use of their power and their wealth. If they had invented the steam-engine, perhaps they would not have extended to the extremities of their empire those long artificial roads which are called Roman roads. These things are at once the splendid memorials of their ignorance and of their greatness. A people which should leave no other vestige of its track than a few leaden pipes in the earth and a few iron rods upon its surface, might have been more the master of nature than the Romans.

### **Chapter 13: Literary Characteristics of Democratic Ages**

WHEN a traveller goes into a bookseller's shop in the United States, and examines the American books upon the shelves, the number of works appears extremely great; whilst that of known authors appears, on the contrary, to be extremely small. He will first meet with a number of elementary treatises, destined to teach the rudiments of human knowledge.

Most of these books are written in Europe; the Americans reprint them, adapting them to their own country. Next comes an enormous quantity of religious works, Bibles, sermons, edifying anecdotes, controversial divinity, and reports of charitable societies; lastly, appears the long catalogue of political pamphlets. In America, parties do not write books to combat each others' opinions, but pamphlets which are circulated for a day with incredible rapidity, and then expire. In the midst of all these obscure productions of the human brain are to be found the more remarkable works of that small number of authors, whose names are, or ought to be, known to Europeans.

Although America is perhaps in our days the civilized country in which literature is least attended to, a large number of persons are nevertheless to be found there who take an interest in the productions of the mind, and who make them, if not the study of their lives, at least the charm of their leisure hours. But England supplies these readers with the larger portion of the books which they require. Almost all important English books are republished in the United States. The literary genius of Great Britain still darts its rays into the recesses of the forests of the New World. There is hardly a pioneer's hut which does not contain a few odd volumes of Shakespeare. I remember that I read the feudal play of Henry V for the first time in a log-house.

Not only do the Americans constantly draw upon the treasures of English literature, but it may be said with truth that they find the literature of England growing on their own soil. The larger part of that small number of men in the United States who are engaged in the composition of literary works are English in substance, and still more so in form. Thus they transport into the midst of democracy the ideas and literary fashions which are current amongst the aristocratic nation they have taken for their model. They paint with colors borrowed from foreign manners; and as they hardly ever represent the country they were born in as it really is, they are seldom popular there. The citizens of the United States are themselves so convinced that it is not for them that books are published, that before they can make up their minds upon the merit of one of their authors, they generally wait till his fame has been ratified in England, just as in pictures the author of an original is held to be entitled to judge of the merit of a copy. The inhabitants

of the United States have then at present, properly speaking, no literature. The only authors whom I acknowledge as American are the journalists. They indeed are not great writers, but they speak the language of their countrymen, and make themselves heard by them. Other authors are aliens; they are to the Americans what the imitators of the Greeks and Romans were to us at the revival of learning—an object of curiosity, not of general sympathy. They amuse the mind, but they do not act upon the manners of the people.

I have already said that this state of things is very far from originating in democracy alone, and that the causes of it must be sought for in several peculiar circumstances independent of the democratic principle. If the Americans, retaining the same laws and social condition, had had a different origin, and had been transported into another country, I do not question that they would have had a literature. Even as they now are, I am convinced that they will ultimately have one; but its character will be different from that which marks the American literary productions of our time, and that character will be peculiarly its own. Nor is it impossible to trace this character beforehand.

I suppose an aristocratic people amongst whom letters are cultivated; the labors of the mind, as well as the affairs of state, are conducted by a ruling class in society. The literary as well as the political career is almost entirely confined to this class, or to those nearest to it in rank. These premises suffice to give me a key to all the rest. When a small number of the same men are engaged at the same time upon the same objects, they easily concert with one another, and agree upon certain leading rules which are to govern them each and all. If the object which attracts the attention of these men is literature, the productions of the mind will soon be subjected by them to precise canons, from which it will no longer be allowable to depart. If these men occupy a hereditary position in the country, they will be naturally inclined, not only to adopt a certain number of fixed rules for themselves, but to follow those which their forefathers laid down for their own guidance; their code will be at once strict and traditional. As they are not necessarily engrossed by the cares of daily life—as they have never been so, any more than their fathers were before them—they have learned to take an interest, for several generations back, in the labors of the mind.

They have learned to understand literature as an art, to love it in the end for its own sake, and to feel a scholar-like satisfaction in seeing men conform to its rules. Nor is this all: the men of whom I speak began and will end their lives in easy or in affluent circumstances; hence they have naturally conceived a taste for choice gratifications, and a love of refined and delicate pleasures. Nay more, a kind of indolence of mind and heart, which they frequently contract in the midst of this long and peaceful enjoyment of so much welfare, leads them to put aside, even from their pleasures, whatever might be too startling or too acute. They had rather be amused than intensely excited; they wish to be interested, but not to be carried away.

Now let us fancy a great number of literary performances executed by the men, or for the men, whom I have just described, and we shall readily conceive a style of literature in which everything will be regular and prearranged. The slightest work will be carefully touched in its least details; art and labor will be conspicuous in everything; each kind of writing will have rules of its own, from which it will not be allowed to swerve, and which distinguish it from all others. Style will be thought of almost as much importance as thought; and the form will be no less considered than the matter: the diction will be polished, measured, and uniform. The tone of the mind will be always dignified, seldom very animated; and writers will care more to perfect what they produce, than to multiply their productions. It will sometimes happen that the members of the literary class, always living amongst themselves and writing for themselves alone, will lose sight of the rest of the worlds which will infect them with a false and labored style; they will lay down minute literary rules for their exclusive use, which will insensibly lead them to deviate from common-sense, and finally to transgress the bounds of nature. By dint of striving after a mode of parlance different from the vulgar, they will arrive at a sort of aristocratic jargon, which is hardly less remote from pure language than is the coarse dialect of the people. Such are the natural perils of literature amongst aristocracies. Every aristocracy which keeps itself entirely aloof from the people becomes impotent—a fact which is as true in literature as it is in politics.

Let us now turn the picture and consider the other side of it; let us transport ourselves into the midst of a democracy, not unprepared by ancient traditions and present culture to partake in the pleasures of the mind. Ranks

are there intermingled and confounded; knowledge and power are both infinitely subdivided, and, if I may use the expression, scattered on every side. Here then is a motley multitude, whose intellectual wants are to be supplied. These new votaries of the pleasures of the mind have not all received the same education; they do not possess the same degree of culture as their fathers, nor any resemblance to them—nay, they perpetually differ from themselves, for they live in a state of incessant change of place, feelings, and fortunes. The mind of each member of the community is therefore unattached to that of his fellow-citizens by tradition or by common habits; and they have never had the power, the inclination, nor the time to concert together. It is, however, from the bosom of this heterogeneous and agitated mass that authors spring; and from the same source their profits and their fame are distributed. I can without difficulty understand that, under these circumstances, I must expect to meet in the literature of such a people with but few of those strict conventional rules which are admitted by readers and by writers in aristocratic ages. If it should happen that the men of some one period were agreed upon any such rules, that would prove nothing for the following period; for amongst democratic nations each new generation is a new people. Amongst such nations, then, literature will not easily be subjected to strict rules, and it is impossible that any such rules should ever be permanent.

In democracies it is by no means the case that all the men who cultivate literature have received a literary education; and most of those who have some tinge of belles-lettres are either engaged in politics, or in a profession which only allows them to taste occasionally and by stealth the pleasures of the mind. These pleasures, therefore, do not constitute the principal charm of their lives; but they are considered as a transient and necessary recreation amidst the serious labors of life. Such man can never acquire a sufficiently intimate knowledge of the art of literature to appreciate its more delicate beauties; and the minor shades of expression must escape them. As the time they can devote to letters is very short, they seek to make the best use of the whole of it. They prefer books which may be easily procured, quickly read, and which require no learned researches to be understood. They ask for beauties, self-proffered and easily enjoyed; above all, they must have what is unexpected and new. Accustomed to the struggle, the crosses, and the monotony of practical life, they require rapid emotions, startling passages—

truths or errors brilliant enough to rouse them up, and to plunge them at once, as if by violence, into the midst of a subject.

Why should I say more? or who does not understand what is about to follow, before I have expressed it? Taken as a whole, literature in democratic ages can never present, as it does in the periods of aristocracy, an aspect of order, regularity, science, and art; its form will, on the contrary, ordinarily be slighted, sometimes despised. Style will frequently be fantastic, incorrect, overburdened, and loose—almost always vehement and bold. Authors will aim at rapidity of execution, more than at perfection of detail. Small productions will be more common than bulky books; there will be more wit than erudition, more imagination than profundity; and literary performances will bear marks of an untutored and rude vigor of thought—frequently of great variety and singular fecundity. The object of authors will be to astonish rather than to please, and to stir the passions more than to charm the taste. Here and there, indeed, writers will doubtless occur who will choose a different track, and who will, if they are gifted with superior abilities, succeed in finding readers, in spite of their defects or their better qualities; but these exceptions will be rare, and even the authors who shall so depart from the received practice in the main subject of their works, will always relapse into it in some lesser details.

I have just depicted two extreme conditions: the transition by which a nation passes from the former to the latter is not sudden but gradual, and marked with shades of very various intensity. In the passage which conducts a lettered people from the one to the other, there is almost always a moment at which the literary genius of democratic nations has its confluence with that of aristocracies, and both seek to establish their joint sway over the human mind. Such epochs are transient, but very brilliant: they are fertile without exuberance, and animated without confusion. The French literature of the eighteenth century may serve as an example.

I should say more than I mean if I were to assert that the literature of a nation is always subordinate to its social condition and its political constitution. I am aware that, in dependently of these causes, there are several others which confer certain characteristics on literary productions; but these appear to me to be the chief. The relations which exist between

the social and political condition of a people and the genius of its authors are always very numerous: whoever knows the one is never completely ignorant of the other.

## **Chapter 14: The Trade of Literature**

DEMOCRACY not only infuses a taste for letters among the trading classes, but introduces a trading spirit into literature. In aristocracies, readers are fastidious and few in number; in democracies, they are far more numerous and far less difficult to please. The consequence is, that among aristocratic nations, no one can hope to succeed without immense exertions, and that these exertions may bestow a great deal of fame, but can never earn much money; whilst among democratic nations, a writer may flatter himself that he will obtain at a cheap rate a meagre reputation and a large fortune. For this purpose he need not be admired; it is enough that he is liked. The ever-increasing crowd of readers, and their continual craving for something new, insure the sale of books which nobody much esteems.

In democratic periods the public frequently treat authors as kings do their courtiers; they enrich, and they despise them. What more is needed by the venal souls which are born in courts, or which are worthy to live there? Democratic literature is always infested with a tribe of writers who look upon letters as a mere trade: and for some few great authors who adorn it you may reckon thousands of idea-mongers.

## **Chapter 15: The Study of Greek and Latin Literature Peculiarly Useful in Democratic Communities**

WHAT was called the People in the most democratic republics of antiquity, was very unlike what we designate by that term. In Athens, all the citizens took part in public affairs; but there were only 20,000 citizens to more than

350,000 inhabitants. All the rest were slaves, and discharged the greater part of those duties which belong at the present day to the lower or even to the middle classes. Athens, then, with her universal suffrage, was after all merely an aristocratic republic in which all the nobles had an equal right to the government. The struggle between the patricians and plebeians of Rome must be considered in the same light: it was simply an intestine feud between the elder and younger branches of the same family. All the citizens belonged, in fact, to the aristocracy, and partook of its character.

It is moreover to be remarked, that amongst the ancients books were always scarce and dear; and that very great difficulties impeded their publication and circulation. These circumstances concentrated literary tastes and habits amongst a small number of men, who formed a small literary aristocracy out of the choicer spirits of the great political aristocracy. Accordingly nothing goes to prove that literature was ever treated as a trade amongst the Greeks and Romans.

These peoples, which not only constituted aristocracies, but very polished and free nations, of course imparted to their literary productions the defects and the merits which characterize the literature of aristocratic ages. And indeed a very superficial survey of the literary remains of the ancients will suffice to convince us, that if those writers were sometimes deficient in variety, or fertility in their subjects, or in boldness, vivacity, or power of generalization in their thoughts, they always displayed exquisite care and skill in their details. Nothing in their works seems to be done hastily or at random: every line is written for the eye of the connoisseur, and is shaped after some conception of ideal beauty. No literature places those fine qualities, in which the writers of democracies are naturally deficient, in bolder relief than that of the ancients; no literature, therefore, ought to be more studied in democratic ages. This study is better suited than any other to combat the literary defects inherent in those ages; as for their more praiseworthy literary qualities, they will spring up of their own accord, without its being necessary to learn to acquire them.

It is important that this point should be clearly understood. A particular study may be useful to the literature of a people, without being appropriate to its social and political wants. If men were to persist in teaching nothing

but the literature of the dead languages in a community where everyone is habitually led to make vehement exertions to augment or to maintain his fortune, the result would be a very polished, but a very dangerous, race of citizens. For as their social and political condition would give them every day a sense of wants which their education would never teach them to supply, they would perturb the State, in the name of the Greeks and Romans, instead of enriching it by their productive industry.

It is evident that in democratic communities the interest of individuals, as well as the security of the commonwealth, demands that the education of the greater number should be scientific, commercial, and industrial, rather than literary. Greek and Latin should not be taught in all schools; but it is important that those who by their natural disposition or their fortune are destined to cultivate letters or prepared to relish them, should find schools where a complete knowledge of ancient literature may be acquired, and where the true scholar may be formed. A few excellent universities would do more towards the attainment of this object than a vast number of bad grammar schools, where superfluous matters, badly learned, stand in the way of sound instruction in necessary studies.

All who aspire to literary excellence in democratic nations, ought frequently to refresh themselves at the springs of ancient literature: there is no more wholesome course for the mind. Not that I hold the literary productions of the ancients to be irreproachable; but I think that they have some especial merits, admirably calculated to counterbalance our peculiar defects. They are a prop on the side on which we are in most danger of falling.

## **Chapter 16: The Effect of Democracy on Language**

IF the reader has rightly understood what I have already on the subject of literature in general, he will have no difficulty in comprehending that species of influence which a democratic social condition and democratic institutions may exercise over language itself, which is the chief instrument

of thought.

American authors may truly be said to live more in England than in their own country; since they constantly study the English writers, and take them every day for their models. But such is not the case with the bulk of the population, which is more immediately subjected to the peculiar causes acting upon the United States. It is not then to the written, but to the spoken language that attention must be paid, if we would detect the modifications which the idiom of an aristocratic people may undergo when it becomes the language of a democracy.

Englishmen of education, and more competent judges than I can be myself of the nicer shades of expression, have frequently assured me that the language of the educated classes in the United States is notably different from that of the educated classes in Great Britain. They complain not only that the Americans have brought into use a number of new words—the difference and the distance between the two countries might suffice to explain that much—but that these new words are more especially taken from the jargon of parties, the mechanical arts, or the language of trade. They assert, in addition to this, that old English words are often used by the Americans in new acceptations; and lastly, that the inhabitants of the United States frequently intermingle their phraseology in the strangest manner, and sometimes place words together which are always kept apart in the language of the mother-country. These remarks, which were made to me at various times by persons who appeared to be worthy of credit, led me to reflect upon the subject; and my reflections brought me, by theoretical reasoning, to the same point at which my informants had arrived by practical observation.

In aristocracies, language must naturally partake of that state of repose in which everything remains. Few new words are coined, because few new things are made; and even if new things were made, they would be designated by known words, whose meaning has been determined by tradition. If it happens that the human mind bestirs itself at length, or is roused by light breaking in from without, the novel expressions which are introduced are characterized by a degree of learning, intelligence, and philosophy, which shows that they do not originate in a democracy. After

the fall of Constantinople had turned the tide of science and literature towards the west, the French language was almost immediately invaded by a multitude of new words, which had all Greek or Latin roots. An erudite neologism then sprang up in France which was confined to the educated classes, and which produced no sensible effect, or at least a very gradual one, upon the people. All the nations of Europe successively exhibited the same change. Milton alone introduced more than six hundred words into the English language, almost all derived from the Latin, the Greek, or the Hebrew. The constant agitation which prevails in a democratic community tends unceasingly, on the contrary, to change the character of the language, as it does the aspect of affairs. In the midst of this general stir and competition of minds, a great number of new ideas are formed, old ideas are lost, or reappear, or are subdivided into an infinite variety of minor shades. The consequence is, that many words must fall into desuetude, and others must be brought into use.

Democratic nations love change for its own sake; and this is seen in their language as much as in their politics. Even when they do not need to change words, they sometimes feel a wish to transform them. The genius of a democratic people is not only shown by the great number of words they bring into use, but also by the nature of the ideas these new words represent. Amongst such a people the majority lays down the law in language as well as in everything else; its prevailing spirit is as manifest in that as in other respects. But the majority is more engaged in business than in study—in political and commercial interests than in philosophical speculation or literary pursuits. Most of the words coined or adopted for its use will therefore bear the mark of these habits; they will mainly serve to express the wants of business, the passions of party, or the details of the public administration. In these departments the language will constantly spread, whilst on the other hand it will gradually lose ground in metaphysics and theology.

As to the source from which democratic nations are wont to derive their new expressions, and the manner in which they go to work to coin them, both may easily be described. Men living in democratic countries know but little of the language which was spoken at Athens and at Rome, and they do not care to dive into the lore of antiquity to find the expression they happen

to want. If they have sometimes recourse to learned etymologies, vanity will induce them to search at the roots of the dead languages; but erudition does not naturally furnish them with its resources. The most ignorant, it sometimes happens, will use them most. The eminently democratic desire to get above their own sphere will often lead them to seek to dignify a vulgar profession by a Greek or Latin name. The lower the calling is, and the more remote from learning, the more pompous and erudite is its appellation. Thus the French rope-dancers have transformed themselves into acrobates and funambules.

In the absence of knowledge of the dead languages, democratic nations are apt to borrow words from living tongues; for their mutual intercourse becomes perpetual, and the inhabitants of different countries imitate each other the more readily as they grow more like each other every day.

But it is principally upon their own languages that democratic nations attempt to perpetrate innovations. From time to time they resume forgotten expressions in their vocabulary, which they restore to use; or they borrow from some particular class of the community a term peculiar to it, which they introduce with a figurative meaning into the language of daily life. Many expressions which originally belonged to the technical language of a profession or a party, are thus drawn into general circulation.

The most common expedient employed by democratic nations to make an innovation in language consists in giving some unwonted meaning to an expression already in use. This method is very simple, prompt, and convenient; no learning is required to use it aright, and ignorance itself rather facilitates the practice; but that practice is most dangerous to the language. When a democratic people doubles the meaning of a word in this way, they sometimes render the signification which it retains as ambiguous as that which it acquires. An author begins by a slight deflection of a known expression from its primitive meaning, and he adapts it, thus modified, as well as he can to his subject. A second writer twists the sense of the expression in another way; a third takes possession of it for another purpose; and as there is no common appeal to the sentence of a permanent tribunal which may definitely settle the signification of the word, it remains in an ambiguous condition. The consequence is that writers hardly ever

appear to dwell upon a single thought, but they always seem to point their aim at a knot of ideas, leaving the reader to judge which of them has been hit. This is a deplorable consequence of democracy. I had rather that the language should be made hideous with words imported from the Chinese, the Tartars, or the Hurons, than that the meaning of a word in our own language should become indeterminate. Harmony and uniformity are only secondary beauties in composition; many of these things are conventional, and, strictly speaking, it is possible to forego them; but without clear phraseology there is no good language.

The principle of equality necessarily introduces several other changes into language. In aristocratic ages, when each nation tends to stand aloof from all others and likes to have distinct characteristics of its own, it often happens that several peoples which have a common origin become nevertheless estranged from each other, so that, without ceasing to understand the same language, they no longer all speak it in the same manner. In these ages each nation is divided into a certain number of classes, which see but little of each other, and do not intermingle. Each of these classes contracts, and invariably retains, habits of mind peculiar to itself, and adopts by choice certain words and certain terms, which afterwards pass from generation to generation, like their estates. The same idiom then comprises a language of the poor and a language of the rich—a language of the citizen and a language of the nobility—a learned language and a vulgar one. The deeper the divisions, and the more impassable the barriers of society become, the more must this be the case. I would lay a wager, that amongst the castes of India there are amazing variations of language, and that there is almost as much difference between the language of the pariah and that of the Brahmin as there is in their dress. When, on the contrary, men, being no longer restrained by ranks, meet on terms of constant intercourse—when castes are destroyed, and the classes of society are recruited and intermixed with each other, all the words of a language are mingled. Those which are unsuitable to the greater number perish; the remainder form a common store, whence everyone chooses pretty nearly at random. Almost all the different dialects which divided the idioms of European nations are manifestly declining; there is no patois in the New World, and it is disappearing every day from the old countries.

The influence of this revolution in social conditions is as much felt in style as it is in phraseology. Not only does everyone use the same words, but a habit springs up of using them without discrimination. The rules which style had set up are almost abolished: the line ceases to be drawn between expressions which seem by their very nature vulgar, and others which appear to be refined. Persons springing from different ranks of society carry the terms and expressions they are accustomed to use with them, into whatever circumstances they may pass; thus the origin of words is lost like the origin of individuals, and there is as much confusion in language as there is in society.

I am aware that in the classification of words there are rules which do not belong to one form of society any more than to another, but which are derived from the nature of things. Some expressions and phrases are vulgar, because the ideas they are meant to express are low in themselves; others are of a higher character, because the objects they are intended to designate are naturally elevated. No intermixture of ranks will ever efface these differences. But the principle of equality cannot fail to root out whatever is merely conventional and arbitrary in the forms of thought. Perhaps the necessary classification which I pointed out in the last sentence will always be less respected by a democratic people than by any other, because amongst such a people there are no men who are permanently disposed by education, culture, and leisure to study the natural laws of language, and who cause those laws to be respected by their own observance of them.

I shall not quit this topic without touching on a feature of democratic languages, which is perhaps more characteristic of them than any other. It has already been shown that democratic nations have a taste, and sometimes a passion, for general ideas, and that this arises from their peculiar merits and defects. This liking for general ideas is displayed in democratic languages by the continual use of generic terms or abstract expressions, and by the manner in which they are employed. This is the great merit and the great imperfection of these languages. Democratic nations are passionately addicted to generic terms or abstract expressions, because these modes of speech enlarge thought, and assist the operations of the mind by enabling it to include several objects in a small compass. A French democratic writer will be apt to say *capacites* in the abstract for men of capacity, and without

particularizing the objects to which their capacity is applied: he will talk about actualites to designate in one word the things passing before his eyes at the instant; and he will comprehend under the term eventualites whatever may happen in the universe, dating from the moment at which he speaks. Democratic writers are perpetually coining words of this kind, in which they sublimate into further abstraction the abstract terms of the language. Nay, more, to render their mode of speech more succinct, they personify the subject of these abstract terms, and make it act like a real entity. Thus they would say in French, "La force des choses veut que les capacites gouvernement."

I cannot better illustrate what I mean than by my own example. I have frequently used the word "equality" in an absolute sense—nay, I have personified equality in several places; thus I have said that equality does such and such things, or refrains from doing others. It may be affirmed that the writers of the age of Louis XIV would not have used these expressions: they would never have thought of using the word "equality" without applying it to some particular object; and they would rather have renounced the term altogether than have consented to make a living personage of it.

These abstract terms which abound in democratic languages, and which are used on every occasion without attaching them to any particular fact, enlarge and obscure the thoughts they are intended to convey; they render the mode of speech more succinct, and the idea contained in it less clear. But with regard to language, democratic nations prefer obscurity to labor. I know not indeed whether this loose style has not some secret charm for those who speak and write amongst these nations. As the men who live there are frequently left to the efforts of their individual powers of mind, they are almost always a prey to doubt; and as their situation in life is forever changing, they are never held fast to any of their opinions by the certain tenure of their fortunes. Men living in democratic countries are, then, apt to entertain unsettled ideas, and they require loose expressions to convey them. As they never know whether the idea they express to-day will be appropriate to the new position they may occupy to-morrow, they naturally acquire a liking for abstract terms. An abstract term is like a box with a false bottom: you may put in it what ideas you please, and take them

out again without being observed.

Amongst all nations, generic and abstract terms form the basis of language. I do not, therefore, affect to expel these terms from democratic languages; I simply remark that men have an especial tendency, in the ages of democracy, to multiply words of this kind—to take them always by themselves in their most abstract acceptation, and to use them on all occasions, even when the nature of the discourse does not require them.

## **Chapter 17: Of Some of the Sources of Poetry amongst Democratic Nations**

VARIOUS different significations have been given to the word "poetry." It would weary my readers if I were to lead them into a discussion as to which of these definitions ought to be selected: I prefer telling them at once that which I have chosen. In my opinion, poetry is the search and the delineation of the ideal. The poet is he who, by suppressing a part of what exists, by adding some imaginary touches to the picture, and by combining certain real circumstances, but which do not in fact concurrently happen, completes and extends the work of nature. Thus the object of poetry is not to represent what is true, but to adorn it, and to present to the mind some loftier imagery. Verse, regarded as the ideal beauty of language, may be eminently poetical; but verse does not, of itself, constitute poetry.

I now proceed to inquire whether, amongst the actions, the sentiments, and the opinions of democratic nations, there are any which lead to a conception of ideal beauty, and which may for this reason be considered as natural sources of poetry. It must in the first place, be acknowledged that the taste for ideal beauty, and the pleasure derived from the expression of it, are never so intense or so diffused amongst a democratic as amongst an aristocratic people. In aristocratic nations it sometimes happens that the body goes on to act as it were spontaneously, whilst the higher faculties are bound and burdened by repose. Amongst these nations the people will very often display poetic tastes, and sometimes allow their fancy to range

beyond and above what surrounds them. But in democracies the love of physical gratification, the notion of bettering one's condition, the excitement of competition, the charm of anticipated success, are so many spurs to urge men onwards in the active professions they have embraced, without allowing them to deviate for an instant from the track. The main stress of the faculties is to this point. The imagination is not extinct; but its chief function is to devise what may be useful, and to represent what is real.

The principle of equality not only diverts men from the description of ideal beauty—it also diminishes the number of objects to be described. Aristocracy, by maintaining society in a fixed position, is favorable to the solidity and duration of positive religions, as well as to the stability of political institutions. It not only keeps the human mind within a certain sphere of belief, but it predisposes the mind to adopt one faith rather than another. An aristocratic people will always be prone to place intermediate powers between God and man. In this respect it may be said that the aristocratic element is favorable to poetry. When the universe is peopled with supernatural creatures, not palpable to the senses but discovered by the mind, the imagination ranges freely, and poets, finding a thousand subjects to delineate, also find a countless audience to take an interest in their productions. In democratic ages it sometimes happens, on the contrary, that men are as much afloat in matters of belief as they are in their laws. Scepticism then draws the imagination of poets back to earth, and confines them to the real and visible world. Even when the principle of equality does not disturb religious belief, it tends to simplify it, and to divert attention from secondary agents, to fix it principally on the Supreme Power. Aristocracy naturally leads the human mind to the contemplation of the past, and fixes it there. Democracy, on the contrary, gives men a sort of instinctive distaste for what is ancient. In this respect aristocracy is far more favorable to poetry; for things commonly grow larger and more obscure as they are more remote; and for this twofold reason they are better suited to the delineation of the ideal.

After having deprived poetry of the past, the principle of equality robs it in part of the present. Amongst aristocratic nations there are a certain number of privileged personages, whose situation is, as it were, without and above the condition of man; to these, power, wealth, fame, wit, refinement, and

distinction in all things appear peculiarly to belong. The crowd never sees them very closely, or does not watch them in minute details; and little is needed to make the description of such men poetical. On the other hand, amongst the same people, you will meet with classes so ignorant, low, and enslaved, that they are no less fit objects for poetry from the excess of their rudeness and wretchedness, than the former are from their greatness and refinement. Besides, as the different classes of which an aristocratic community is composed are widely separated, and imperfectly acquainted with each other, the imagination may always represent them with some addition to, or some subtraction from, what they really are. In democratic communities, where men are all insignificant and very much alike, each man instantly sees all his fellows when he surveys himself. The poets of democratic ages can never, therefore, take any man in particular as the subject of a piece; for an object of slender importance, which is distinctly seen on all sides, will never lend itself to an ideal conception. Thus the principle of equality, in proportion as it has established itself in the world, has dried up most of the old springs of poetry. Let us now attempt to show what new ones it may disclose.

When scepticism had depopulated heaven, and the progress of equality had reduced each individual to smaller and better known proportions, the poets, not yet aware of what they could substitute for the great themes which were departing together with the aristocracy, turned their eyes to inanimate nature. As they lost sight of gods and heroes, they set themselves to describe streams and mountains. Thence originated in the last century, that kind of poetry which has been called, by way of distinction, the descriptive. Some have thought that this sort of delineation, embellished with all the physical and inanimate objects which cover the earth, was the kind of poetry peculiar to democratic ages; but I believe this to be an error, and that it only belongs to a period of transition.

I am persuaded that in the end democracy diverts the imagination from all that is external to man, and fixes it on man alone. Democratic nations may amuse themselves for a while with considering the productions of nature; but they are only excited in reality by a survey of themselves. Here, and here alone, the true sources of poetry amongst such nations are to be found; and it may be believed that the poets who shall neglect to draw their

inspirations hence, will lose all sway over the minds which they would enchant, and will be left in the end with none but unimpassioned spectators of their transports. I have shown how the ideas of progression and of the indefinite perfectibility of the human race belong to democratic ages. Democratic nations care but little for what has been, but they are haunted by visions of what will be; in this direction their unbounded imagination grows and dilates beyond all measure. Here then is the wildest range open to the genius of poets, which allows them to remove their performances to a sufficient distance from the eye. Democracy shuts the past against the poet, but opens the future before him. As all the citizens who compose a democratic community are nearly equal and alike, the poet cannot dwell upon any one of them; but the nation itself invites the exercise of his powers. The general similitude of individuals, which renders any one of them taken separately an improper subject of poetry, allows poets to include them all in the same imagery, and to take a general survey of the people itself. Democratic nations have a clearer perception than any others of their own aspect; and an aspect so imposing is admirably fitted to the delineation of the ideal.

I readily admit that the Americans have no poets; I cannot allow that they have no poetic ideas. In Europe people talk a great deal of the wilds of America, but the Americans themselves never think about them: they are insensible to the wonders of inanimate nature, and they may be said not to perceive the mighty forests which surround them till they fall beneath the hatchet. Their eyes are fixed upon another sight: the American people views its own march across these wilds—drying swamps, turning the course of rivers, peopling solitudes, and subduing nature. This magnificent image of themselves does not meet the gaze of the Americans at intervals only; it may be said to haunt every one of them in his least as well as in his most important actions, and to be always flitting before his mind. Nothing conceivable is so petty, so insipid, so crowded with paltry interests, in one word so antipoetic, as the life of a man in the United States. But amongst the thoughts which it suggests there is always one which is full of poetry, and that is the hidden nerve which gives vigor to the frame.

In aristocratic ages each people, as well as each individual, is prone to stand separate and aloof from all others. In democratic ages, the extreme

fluctuations of men and the impatience of their desires keep them perpetually on the move; so that the inhabitants of different countries intermingle, see, listen to, and borrow from each other's stores. It is not only then the members of the same community who grow more alike; communities are themselves assimilated to one another, and the whole assemblage presents to the eye of the spectator one vast democracy, each citizen of which is a people. This displays the aspect of mankind for the first time in the broadest light. All that belongs to the existence of the human race taken as a whole, to its vicissitudes and to its future, becomes an abundant mine of poetry. The poets who lived in aristocratic ages have been eminently successful in their delineations of certain incidents in the life of a people or a man; but none of them ever ventured to include within his performances the destinies of mankind—a task which poets writing in democratic ages may attempt. At that same time at which every man, raising his eyes above his country, begins at length to discern mankind at large, the Divinity is more and more manifest to the human mind in full and entire majesty. If in democratic ages faith in positive religions be often shaken, and the belief in intermediate agents, by whatever name they are called, be overcast; on the other hand men are disposed to conceive a far broader idea of Providence itself, and its interference in human affairs assumes a new and more imposing appearance to their eyes. Looking at the human race as one great whole, they easily conceive that its destinies are regulated by the same design; and in the actions of every individual they are led to acknowledge a trace of that universal and eternal plan on which God rules our race. This consideration may be taken as another prolific source of poetry which is opened in democratic ages. Democratic poets will always appear trivial and frigid if they seek to invest gods, demons, or angels, with corporeal forms, and if they attempt to draw them down from heaven to dispute the supremacy of earth. But if they strive to connect the great events they commemorate with the general providential designs which govern the universe, and, without showing the finger of the Supreme Governor, reveal the thoughts of the Supreme Mind, their works will be admired and understood, for the imagination of their contemporaries takes this direction of its own accord.

It may be foreseen in like manner that poets living in democratic ages will prefer the delineation of passions and ideas to that of persons and

achievements. The language, the dress, and the daily actions of men in democracies are repugnant to ideal conceptions. These things are not poetical in themselves; and, if it were otherwise, they would cease to be so, because they are too familiar to all those to whom the poet would speak of them. This forces the poet constantly to search below the external surface which is palpable to the senses, in order to read the inner soul: and nothing lends itself more to the delineation of the ideal than the scrutiny of the hidden depths in the immaterial nature of man. I need not to ramble over earth and sky to discover a wondrous object woven of contrasts, of greatness and littleness infinite, of intense gloom and of amazing brightness—capable at once of exciting pity, admiration, terror, contempt. I find that object in myself. Man springs out of nothing, crosses time, and disappears forever in the bosom of God; he is seen but for a moment, staggering on the verge of the two abysses, and there he is lost. If man were wholly ignorant of himself, he would have no poetry in him; for it is impossible to describe what the mind does not conceive. If man clearly discerned his own nature, his imagination would remain idle, and would have nothing to add to the picture. But the nature of man is sufficiently disclosed for him to apprehend something of himself; and sufficiently obscure for all the rest to be plunged in thick darkness, in which he gropes forever—and forever in vain—to lay hold on some completer notion of his being.

Amongst a democratic people poetry will not be fed with legendary lays or the memorials of old traditions. The poet will not attempt to people the universe with supernatural beings in whom his readers and his own fancy have ceased to believe; nor will he present virtues and vices in the mask of frigid personification, which are better received under their own features. All these resources fail him; but Man remains, and the poet needs no more. The destinies of mankind—man himself, taken aloof from his age and his country, and standing in the presence of Nature and of God, with his passions, his doubts, his rare prosperities, and inconceivable wretchedness—will become the chief, if not the sole theme of poetry amongst these nations. Experience may confirm this assertion, if we consider the productions of the greatest poets who have appeared since the world has been turned to democracy. The authors of our age who have so admirably delineated the features of Faust, Childe Harold, Re'ne', and Jocelyn, did not seek to record the actions of an individual, but to enlarge and to throw light

on some of the obscurer recesses of the human heart. Such are the poems of democracy. The principle of equality does not then destroy all the subjects of poetry: it renders them less numerous, but more vast.

## **Chapter 18: Of the Inflated Style of American Writers and Orators**

I HAVE frequently remarked that the Americans, who generally treat of business in clear, plain language, devoid of all ornament, and so extremely simple as to be often coarse, are apt to become inflated as soon as they attempt a more poetical diction. They then vent their pomposity from one end of a harangue to the other; and to hear them lavish imagery on every occasion, one might fancy that they never spoke of anything with simplicity. The English are more rarely given to a similar failing. The cause of this may be pointed out without much difficulty. In democratic communities each citizen is habitually engaged in the contemplation of a very puny object, namely himself. If he ever raises his looks higher, he then perceives nothing but the immense form of society at large, or the still more imposing aspect of mankind. His ideas are all either extremely minute and clear, or extremely general and vague: what lies between is an open void. When he has been drawn out of his own sphere, therefore, he always expects that some amazing object will be offered to his attention; and it is on these terms alone that he consents to tear himself for an instant from the petty complicated cares which form the charm and the excitement of his life. This appears to me sufficiently to explain why men in democracies, whose concerns are in general so paltry, call upon their poets for conceptions so vast and descriptions so unlimited.

The authors, on their part, do not fail to obey a propensity of which they themselves partake; they perpetually inflate their imaginations, and expanding them beyond all bounds, they not unfrequently abandon the great in order to reach the gigantic. By these means they hope to attract the observation of the multitude, and to fix it easily upon themselves: nor are their hopes disappointed; for as the multitude seeks for nothing in poetry

but subjects of very vast dimensions, it has neither the time to measure with accuracy the proportions of all the subjects set before it, nor a taste sufficiently correct to perceive at once in what respect they are out of proportion. The author and the public at once vitiate one another.

We have just seen that amongst democratic nations, the sources of poetry are grand, but not abundant. They are soon exhausted: and poets, not finding the elements of the ideal in what is real and true, abandon them entirely and create monsters. I do not fear that the poetry of democratic nations will prove too insipid, or that it will fly too near the ground; I rather apprehend that it will be forever losing itself in the clouds, and that it will range at last to purely imaginary regions. I fear that the productions of democratic poets may often be surcharged with immense and incoherent imagery, with exaggerated descriptions and strange creations; and that the fantastic beings of their brain may sometimes make us regret the world of reality.

## **Chapter 19: Some Observations on the Drama Amongst Democratic Nations**

WHEN the revolution which subverts the social and political state of an aristocratic people begins to penetrate into literature, it generally first manifests itself in the drama, and it always remains conspicuous there. The spectator of a dramatic piece is, to a certain extent, taken by surprise by the impression it conveys. He has no time to refer to his memory, or to consult those more able to judge than himself. It does not occur to him to resist the new literary tendencies which begin to be felt by him; he yields to them before he knows what they are. Authors are very prompt in discovering which way the taste of the public is thus secretly inclined. They shape their productions accordingly; and the literature of the stage, after having served to indicate the approaching literary revolution, speedily completes its accomplishment. If you would judge beforehand of the literature of a people which is lapsing into democracy, study its dramatic productions.

The literature of the stage, moreover, even amongst aristocratic nations, constitutes the most democratic part of their literature. No kind of literary gratification is so much within the reach of the multitude as that which is derived from theatrical representations. Neither preparation nor study is required to enjoy them: they lay hold on you in the midst of your prejudices and your ignorance. When the yet untutored love of the pleasures of the mind begins to affect a class of the community, it instantly draws them to the stage. The theatres of aristocratic nations have always been filled with spectators not belonging to the aristocracy. At the theatre alone the higher ranks mix with the middle and the lower classes; there alone do the former consent to listen to the opinion of the latter, or at least to allow them to give an opinion at all. At the theatre, men of cultivation and of literary attainments have always had more difficulty than elsewhere in making their taste prevail over that of the people, and in preventing themselves from being carried away by the latter. The pit has frequently made laws for the boxes.

If it be difficult for an aristocracy to prevent the people from getting the upper hand in the theatre, it will readily be understood that the people will be supreme there when democratic principles have crept into the laws and manners—when ranks are intermixed—when minds, as well as fortunes, are brought more nearly together—and when the upper class has lost, with its hereditary wealth, its power, its precedents, and its leisure. The tastes and propensities natural to democratic nations, in respect to literature, will therefore first be discernible in the drama, and it may be foreseen that they will break out there with vehemence. In written productions, the literary canons of aristocracy will be gently, gradually, and, so to speak, legally modified; at the theatre they will be riotously overthrown.

The drama brings out most of the good qualities, and almost all the defects, inherent in democratic literature. Democratic peoples hold erudition very cheap, and care but little for what occurred at Rome and Athens; they want to hear something which concerns themselves, and the delineation of the present age is what they demand.

When the heroes and the manners of antiquity are frequently brought upon the stage, and dramatic authors faithfully observe the rules of antiquated

precedent, that is enough to warrant a conclusion that the democratic classes have not yet got the upper hand of the theatres. Racine makes a very humble apology in the preface to the "Britannicus" for having disposed of Junia amongst the Vestals, who, according to Aulus Gellius, he says, "admitted no one below six years of age nor above ten." We may be sure that he would neither have accused himself of the offence, nor defended himself from censure, if he had written for our contemporaries. A fact of this kind not only illustrates the state of literature at the time when it occurred, but also that of society itself. A democratic stage does not prove that the nation is in a state of democracy, for, as we have just seen, even in aristocracies it may happen that democratic tastes affect the drama; but when the spirit of aristocracy reigns exclusively on the stage, the fact irrefragably demonstrates that the whole of society is aristocratic; and it may be boldly inferred that the same lettered and learned class which sways the dramatic writers commands the people and governs the country.

The refined tastes and the arrogant bearing of an aristocracy will rarely fail to lead it, when it manages the stage, to make a kind of selection in human nature. Some of the conditions of society claim its chief interest; and the scenes which delineate their manners are preferred upon the stage. Certain virtues, and even certain vices, are thought more particularly to deserve to figure there; and they are applauded whilst all others are excluded. Upon the stage, as well as elsewhere, an aristocratic audience will only meet personages of quality, and share the emotions of kings. The same thing applies to style: an aristocracy is apt to impose upon dramatic authors certain modes of expression which give the key in which everything is to be delivered. By these means the stage frequently comes to delineate only one side of man, or sometimes even to represent what is not to be met with in human nature at all—to rise above nature and to go beyond it.

In democratic communities the spectators have no such partialities, and they rarely display any such antipathies: they like to see upon the stage that medley of conditions, of feelings, and of opinions, which occurs before their eyes. The drama becomes more striking, more common, and more true. Sometimes, however, those who write for the stage in democracies also transgress the bounds of human nature—but it is on a different side from their predecessors. By seeking to represent in minute detail the little

singularities of the moment and the peculiar characteristics of certain personages, they forget to portray the general features of the race.

When the democratic classes rule the stage, they introduce as much license in the manner of treating subjects as in the choice of them. As the love of the drama is, of all literary tastes, that which is most natural to democratic nations, the number of authors and of spectators, as well as of theatrical representations, is constantly increasing amongst these communities. A multitude composed of elements so different, and scattered in so many different places, cannot acknowledge the same rules or submit to the same laws. No concurrence is possible amongst judges so numerous, who know not when they may meet again; and therefore each pronounces his own sentence on the piece. If the effect of democracy is generally to question the authority of all literary rules and conventions, on the stage it abolishes them altogether, and puts in their place nothing but the whim of each author and of each public.

The drama also displays in an especial manner the truth of what I have said before in speaking more generally of style and art in democratic literature. In reading the criticisms which were occasioned by the dramatic productions of the age of Louis XIV, one is surprised to remark the great stress which the public laid on the probability of the plot, and the importance which was attached to the perfect consistency of the characters, and to their doing nothing which could not be easily explained and understood. The value which was set upon the forms of language at that period, and the paltry strife about words with which dramatic authors were assailed, are no less surprising. It would seem that the men of the age of Louis XIV attached very exaggerated importance to those details, which may be perceived in the study, but which escape attention on the stage. For, after all, the principal object of a dramatic piece is to be performed, and its chief merit is to affect the audience. But the audience and the readers in that age were the same: on quitting the theatre they called up the author for judgment to their own firesides. In democracies, dramatic pieces are listened to, but not read. Most of those who frequent the amusements of the stage do not go there to seek the pleasures of the mind, but the keen emotions of the heart. They do not expect to hear a fine literary work, but to see a play; and provided the author writes the language of his country

correctly enough to be understood, and that his characters excite curiosity and awaken sympathy, the audience are satisfied. They ask no more of fiction, and immediately return to real life. Accuracy of style is therefore less required, because the attentive observance of its rules is less perceptible on the stage. As for the probability of the plot, it is incompatible with perpetual novelty, surprise, and rapidity of invention. It is therefore neglected, and the public excuses the neglect. You may be sure that if you succeed in bringing your audience into the presence of something that affects them, they will not care by what road you brought them there; and they will never reproach you for having excited their emotions in spite of dramatic rules.

The Americans very broadly display all the different propensities which I have here described when they go to the theatres; but it must be acknowledged that as yet a very small number of them go to theatres at all. Although playgoers and plays have prodigiously increased in the United States in the last forty years, the population indulges in this kind of amusement with the greatest reserve. This is attributable to peculiar causes, which the reader is already acquainted with, and of which a few words will suffice to remind him. The Puritans who founded the American republics were not only enemies to amusements, but they professed an especial abhorrence for the stage. They considered it as an abominable pastime; and as long as their principles prevailed with undivided sway, scenic performances were wholly unknown amongst them. These opinions of the first fathers of the colony have left very deep marks on the minds of their descendants. The extreme regularity of habits and the great strictness of manners which are observable in the United States, have as yet opposed additional obstacles to the growth of dramatic art. There are no dramatic subjects in a country which has witnessed no great political catastrophes, and in which love invariably leads by a straight and easy road to matrimony. People who spend every day in the week in making money, and the Sunday in going to church, have nothing to invite the muse of Comedy.

A single fact suffices to show that the stage is not very popular in the United States. The Americans, whose laws allow of the utmost freedom and even license of language in all other respects, have nevertheless subjected their dramatic authors to a sort of censorship. Theatrical performances can

only take place by permission of the municipal authorities. This may serve to show how much communities are like individuals; they surrender themselves unscrupulously to their ruling passions, and afterwards take the greatest care not to yield too much to the vehemence of tastes which they do not possess.

No portion of literature is connected by closer or more numerous ties with the present condition of society than the drama. The drama of one period can never be suited to the following age, if in the interval an important revolution has changed the manners and the laws of the nation. The great authors of a preceding age may be read; but pieces written for a different public will not be followed. The dramatic authors of the past live only in books. The traditional taste of certain individuals, vanity, fashion, or the genius of an actor may sustain or resuscitate for a time the aristocratic drama amongst a democracy; but it will speedily fall away of itself—not overthrown, but abandoned.

## **Chapter 20: Characteristics of Historians in Democratic Ages**

HISTORIANS who write in aristocratic ages are wont to refer all occurrences to the particular will or temper of certain individuals; and they are apt to attribute the most important revolutions to very slight accidents. They trace out the smallest causes with sagacity, and frequently leave the greatest unperceived. Historians who live in democratic ages exhibit precisely opposite characteristics. Most of them attribute hardly any influence to the individual over the destiny of the race, nor to citizens over the fate of a people; but, on the other hand, they assign great general causes to all petty incidents. These contrary tendencies explain each other.

When the historian of aristocratic ages surveys the theatre of the world, he at once perceives a very small number of prominent actors, who manage the whole piece. These great personages, who occupy the front of the stage, arrest the observation, and fix it on themselves; and whilst the historian is bent on penetrating the secret motives which make them speak and act, the

rest escape his memory. The importance of the things which some men are seen to do, gives him an exaggerated estimate of the influence which one man may possess; and naturally leads him to think, that in order to explain the impulses of the multitude, it is necessary to refer them to the particular influence of some one individual.

When, on the contrary, all free citizens are independent of one another, and each of them is individually weak, no one is seen to exert a great, or still less a lasting power, over the community. At first sight, individuals appear to be absolutely devoid of any influence over it; and society would seem to advance alone by the free and voluntary concurrence of all the men who compose it. This naturally prompts the mind to search for that general reason which operates upon so many men's faculties at the same time, and turns them simultaneously in the same direction.

I am very well convinced that even amongst democratic nations, the genius, the vices, or the virtues of certain individuals retard or accelerate the natural current of a people's history: but causes of this secondary and fortuitous nature are infinitely more various, more concealed, more complex, less powerful, and consequently less easy to trace in periods of equality than in ages of aristocracy, when the task of the historian is simply to detach from the mass of general events the particular influences of one man or of a few men. In the former case the historian is soon wearied by the toil; his mind loses itself in this labyrinth; and, in his inability clearly to discern or conspicuously to point out the influence of individuals, he denies their existence. He prefers talking about the characteristics of race, the physical conformation of the country, or the genius of civilization, which abridges his own labors, and satisfies his reader far better at less cost.

M. de Lafayette says somewhere in his "Memoirs" that the exaggerated system of general causes affords surprising consolations to second-rate statesmen. I will add, that its effects are not less consolatory to second-rate historians; it can always furnish a few mighty reasons to extricate them from the most difficult part of their work, and it indulges the indolence or incapacity of their minds, whilst it confers upon them the honors of deep thinking.

For myself, I am of opinion that at all times one great portion of the events of this world are attributable to general facts, and another to special influences. These two kinds of cause are always in operation: their proportion only varies. General facts serve to explain more things in democratic than in aristocratic ages, and fewer things are then assignable to special influences. At periods of aristocracy the reverse takes place: special influences are stronger, general causes weaker—unless indeed we consider as a general cause the fact itself of the inequality of conditions, which allows some individuals to baffle the natural tendencies of all the rest. The historians who seek to describe what occurs in democratic societies are right, therefore, in assigning much to general causes, and in devoting their chief attention to discover them; but they are wrong in wholly denying the special influence of individuals, because they cannot easily trace or follow it.

The historians who live in democratic ages are not only prone to assign a great cause to every incident, but they are also given to connect incidents together, so as to deduce a system from them. In aristocratic ages, as the attention of historians is constantly drawn to individuals, the connection of events escapes them; or rather, they do not believe in any such connection. To them the clew of history seems every instant crossed and broken by the step of man. In democratic ages, on the contrary, as the historian sees much more of actions than of actors, he may easily establish some kind of sequency and methodical order amongst the former. Ancient literature, which is so rich in fine historical compositions, does not contain a single great historical system, whilst the poorest of modern literatures abound with them. It would appear that the ancient historians did not make sufficient use of those general theories which our historical writers are ever ready to carry to excess.

Those who write in democratic ages have another more dangerous tendency. When the traces of individual action upon nations are lost, it often happens that the world goes on to move, though the moving agent is no longer discoverable. As it becomes extremely difficult to discern and to analyze the reasons which, acting separately on the volition of each member of the community, concur in the end to produce movement in the old mass, men are led to believe that this movement is involuntary, and that societies

unconsciously obey some superior force ruling over them. But even when the general fact which governs the private volition of all individuals is supposed to be discovered upon the earth, the principle of human free-will is not secure. A cause sufficiently extensive to affect millions of men at once, and sufficiently strong to bend them all together in the same direction, may well seem irresistible: having seen that mankind do yield to it, the mind is close upon the inference that mankind cannot resist it.

Historians who live in democratic ages, then, not only deny that the few have any power of acting upon the destiny of a people, but they deprive the people themselves of the power of modifying their own condition, and they subject them either to an inflexible Providence, or to some blind necessity. According to them, each nation is indissolubly bound by its position, its origin, its precedents, and its character, to a certain lot which no efforts can ever change. They involve generation in generation, and thus, going back from age to age, and from necessity to necessity, up to the origin of the world, they forge a close and enormous chain, which girds and binds the human race. To their minds it is not enough to show what events have occurred: they would fain show that events could not have occurred otherwise. They take a nation arrived at a certain stage of its history, and they affirm that it could not but follow the track which brought it thither. It is easier to make such an assertion than to show by what means the nation might have adopted a better course.

In reading the historians of aristocratic ages, and especially those of antiquity, it would seem that, to be master of his lot, and to govern his fellow-creatures, man requires only to be master of himself. In perusing the historical volumes which our age has produced, it would seem that man is utterly powerless over himself and over all around him. The historians of antiquity taught how to command: those of our time teach only how to obey; in their writings the author often appears great, but humanity is always diminutive. If this doctrine of necessity, which is so attractive to those who write history in democratic ages, passes from authors to their readers, till it infects the whole mass of the community and gets possession of the public mind, it will soon paralyze the activity of modern society, and reduce Christians to the level of the Turks. I would moreover observe, that such principles are peculiarly dangerous at the period at which we are

arrived. Our contemporaries are but too prone to doubt of the human freewill, because each of them feels himself confined on every side by his own weakness; but they are still willing to acknowledge the strength and independence of men united in society. Let not this principle be lost sight of; for the great object in our time is to raise the faculties of men, not to complete their prostration.

## **Chapter 21: Of Parliamentary Eloquence in the United States**

AMONGST aristocratic nations all the members of the community are connected with and dependent upon each other; the graduated scale of different ranks acts as a tie, which keeps everyone in his proper place and the whole body in subordination. Something of the same kind always occurs in the political assemblies of these nations. Parties naturally range themselves under certain leaders, whom they obey by a sort of instinct, which is only the result of habits contracted elsewhere. They carry the manners of general society into the lesser assemblage.

In democratic countries it often happens that a great number of citizens are tending to the same point; but each one only moves thither, or at least flatters himself that he moves, of his own accord. Accustomed to regulate his doings by personal impulse alone, he does not willingly submit to dictation from without. This taste and habit of independence accompany him into the councils of the nation. If he consents to connect himself with other men in the prosecution of the same purpose, at least he chooses to remain free to contribute to the common success after his own fashion. Hence it is that in democratic countries parties are so impatient of control, and are never manageable except in moments of great public danger. Even then, the authority of leaders, which under such circumstances may be able to make men act or speak, hardly ever reaches the extent of making them keep silence.

Amongst aristocratic nations the members of political assemblies are at the same time members of the aristocracy. Each of them enjoys high

established rank in his own right, and the position which he occupies in the assembly is often less important in his eyes than that which he fills in the country. This consoles him for playing no part in the discussion of public affairs, and restrains him from too eagerly attempting to play an insignificant one.

In America, it generally happens that a Representative only becomes somebody from his position in the Assembly. He is therefore perpetually haunted by a craving to acquire importance there, and he feels a petulant desire to be constantly obtruding his opinions upon the House. His own vanity is not the only stimulant which urges him on in this course, but that of his constituents, and the continual necessity of propitiating them. Amongst aristocratic nations a member of the legislature is rarely in strict dependence upon his constituents: he is frequently to them a sort of unavoidable representative; sometimes they are themselves strictly dependent upon him; and if at length they reject him, he may easily get elected elsewhere, or, retiring from public life, he may still enjoy the pleasures of splendid idleness. In a democratic country like the United States a Representative has hardly ever a lasting hold on the minds of his constituents. However small an electoral body may be, the fluctuations of democracy are constantly changing its aspect; it must, therefore, be courted unceasingly. He is never sure of his supporters, and, if they forsake him, he is left without a resource; for his natural position is not sufficiently elevated for him to be easily known to those not close to him; and, with the complete state of independence prevailing among the people, he cannot hope that his friends or the government will send him down to be returned by an electoral body unacquainted with him. The seeds of his fortune are, therefore, sown in his own neighborhood; from that nook of earth he must start, to raise himself to the command of a people and to influence the destinies of the world. Thus it is natural that in democratic countries the members of political assemblies think more of their constituents than of their party, whilst in aristocracies they think more of their party than of their constituents.

But what ought to be said to gratify constituents is not always what ought to be said in order to serve the party to which Representatives profess to belong. The general interest of a party frequently demands that members

belonging to it should not speak on great questions which they understand imperfectly; that they should speak but little on those minor questions which impede the great ones; lastly, and for the most part, that they should not speak at all. To keep silence is the most useful service that an indifferent spokesman can render to the commonwealth. Constituents, however, do not think so. The population of a district sends a representative to take a part in the government of a country, because they entertain a very lofty notion of his merits. As men appear greater in proportion to the littleness of the objects by which they are surrounded, it may be assumed that the opinion entertained of the delegate will be so much the higher as talents are more rare among his constituents. It will therefore frequently happen that the less constituents have to expect from their representative, the more they will anticipate from him; and, however incompetent he may be, they will not fail to call upon him for signal exertions, corresponding to the rank they have conferred upon him.

Independently of his position as a legislator of the State, electors also regard their Representative as the natural patron of the constituency in the Legislature; they almost consider him as the proxy of each of his supporters, and they flatter themselves that he will not be less zealous in defense of their private interests than of those of the country. Thus electors are well assured beforehand that the Representative of their choice will be an orator; that he will speak often if he can, and that in case he is forced to refrain, he will strive at any rate to compress into his less frequent orations an inquiry into all the great questions of state, combined with a statement of all the petty grievances they have themselves to complain of; so that, though he be not able to come forward frequently, he should on each occasion prove what he is capable of doing; and that, instead of perpetually lavishing his powers, he should occasionally condense them in a small compass, so as to furnish a sort of complete and brilliant epitome of his constituents and of himself. On these terms they will vote for him at the next election. These conditions drive worthy men of humble abilities to despair, who, knowing their own powers, would never voluntarily have come forward. But thus urged on, the Representative begins to speak, to the great alarm of his friends; and rushing imprudently into the midst of the most celebrated orators, he perplexes the debate and wearies the House.

All laws which tend to make the Representative more dependent on the elector, not only affect the conduct of the legislators, as I have remarked elsewhere, but also their language. They exercise a simultaneous influence on affairs themselves, and on the manner in which affairs are discussed.

There is hardly a member of Congress who can make up his mind to go home without having despatched at least one speech to his constituents; nor who will endure any interruption until he has introduced into his harangue whatever useful suggestions may be made touching the four-and-twenty States of which the Union is composed, and especially the district which he represents. He therefore presents to the mind of his auditors a succession of great general truths (which he himself only comprehends, and expresses, confusedly), and of petty minutiae, which he is but too able to discover and to point out. The consequence is that the debates of that great assembly are frequently vague and perplexed, and that they seem rather to drag their slow length along than to advance towards a distinct object. Some such state of things will, I believe, always arise in the public assemblies of democracies.

Propitious circumstances and good laws might succeed in drawing to the legislature of a democratic people men very superior to those who are returned by the Americans to Congress; but nothing will ever prevent the men of slender abilities who sit there from obtruding themselves with complacency, and in all ways, upon the public. The evil does not appear to me to be susceptible of entire cure, because it not only originates in the tactics of that assembly, but in its constitution and in that of the country. The inhabitants of the United States seem themselves to consider the matter in this light; and they show their long experience of parliamentary life not by abstaining from making bad speeches, but by courageously submitting to hear them made. They are resigned to it, as to an evil which they know to be inevitable.

We have shown the petty side of political debates in democratic assemblies—let us now exhibit the more imposing one. The proceedings within the Parliament of England for the last one hundred and fifty years have never occasioned any great sensation out of that country; the opinions and feelings expressed by the speakers have never awakened much sympathy, even amongst the nations placed nearest to the great arena of British liberty;

whereas Europe was excited by the very first debates which took place in the small colonial assemblies of America at the time of the Revolution. This was attributable not only to particular and fortuitous circumstances, but to general and lasting causes. I can conceive nothing more admirable or more powerful than a great orator debating on great questions of state in a democratic assembly. As no particular class is ever represented there by men commissioned to defend its own interests, it is always to the whole nation, and in the name of the whole nation, that the orator speaks. This expands his thoughts, and heightens his power of language. As precedents have there but little weight—as there are no longer any privileges attached to certain property, nor any rights inherent in certain bodies or in certain individuals, the mind must have recourse to general truths derived from human nature to resolve the particular question under discussion. Hence the political debates of a democratic people, however small it may be, have a degree of breadth which frequently renders them attractive to mankind. All men are interested by them, because they treat of man, who is everywhere the same. Amongst the greatest aristocratic nations, on the contrary, the most general questions are almost always argued on some special grounds derived from the practice of a particular time, or the rights of a particular class; which interest that class alone, or at most the people amongst whom that class happens to exist. It is owing to this, as much as to the greatness of the French people, and the favorable disposition of the nations who listen to them, that the great effect which the French political debates sometimes produce in the world, must be attributed. The orators of France frequently speak to mankind, even when they are addressing their countrymen only.

# **Second Book: Influence of Democracy on the Feelings of the Americans**

[Chapter 1: Why Democratic Nations Show a More Ardent and Enduring Love of Equality than of Liberty.](#)

[Chapter 2: Of Individualism in Democratic Countries](#)

[Chapter 3: Individualism Stronger at the Close of a Democratic Revolution Than at Other Periods](#)

[Chapter 4: That the Americans Combat the Effects of Individualism by Free Institutions](#)

[Chapter 5: Of the Use Which the Americans Make of Public Associations in Civil Life](#)

[Chapter 6: Of the Relation Between Public Associations and Newspapers](#)

[Chapter 7: Connection of Civil and Political Associations](#)

[Chapter 8: The Americans Combat Individuals in by the Principle of Interest Rightly Understood](#)

[Chapter 9: That the Americans Apply the Principle of Interest Rightly Understood to Religious Matters](#)

[Chapter 10: Of the Taste for Physical Well-being in America](#)

[Chapter 11: Peculiar Effects of the Love of Physical Gratification in Democratic Ages](#)

[Chapter 12: Causes of Fanatical Enthusiasm in Some Americans](#)

Chapter 13: Causes of the Restless Spirit of the Americans in the Midst of Their Prosperity

Chapter 14: Taste for Physical Gratifications United in America to Love of Freedom and Attention to Public Affairs

Chapter 15: That Religious Belief Sometimes Turns the Thoughts of the Americans to Immaterial Pleasures

Chapter 16: That Excessive Care of Worldly Welfare May Impair that Welfare

Chapter 17: That in Times Marked by Equality of Conditions and Sceptical Opinions, it is Important to Remove to a Distance the Objects of Human Actions

Chapter 18: That Amongst the Americans All Honest Callings Are Honorable

Chapter 19: That Almost All the Americans Follow Industrial Callings

Chapter 20: That Aristocracy May Be Engendered by Manufactures

Third Book: Influence of Democracy on Manners, Properly So Called

## **Chapter 1: Why Democratic Nations Show a More Ardent and Enduring Love of Equality than of Liberty**

THE first and most intense passion which is engendered by the equality of conditions is, I need hardly say, the love of that same equality. My readers will therefore not be surprised that I speak of it before all others. Everybody has remarked that in our time, and especially in France, this passion for

equality is every day gaining ground in the human heart. It has been said a hundred times that our contemporaries are far more ardently and tenaciously attached to equality than to freedom; but as I do not find that the causes of the fact have been sufficiently analyzed, I shall endeavor to point them out.

It is possible to imagine an extreme point at which freedom and equality would meet and be confounded together. Let us suppose that all the members of the community take a part in the government, and that each one of them has an equal right to take a part in it. As none is different from his fellows, none can exercise a tyrannical power: men will be perfectly free, because they will all be entirely equal; and they will all be perfectly equal, because they will be entirely free. To this ideal state democratic nations tend. Such is the completest form that equality can assume upon earth; but there are a thousand others which, without being equally perfect, are not less cherished by those nations.

The principle of equality may be established in civil society, without prevailing in the political world. Equal rights may exist of indulging in the same pleasures, of entering the same professions, of frequenting the same places—in a word, of living in the same manner and seeking wealth by the same means, although all men do not take an equal share in the government. A kind of equality may even be established in the political world, though there should be no political freedom there. A man may be the equal of all his countrymen save one, who is the master of all without distinction, and who selects equally from among them all the agents of his power. Several other combinations might be easily imagined, by which very great equality would be united to institutions more or less free, or even to institutions wholly without freedom. Although men cannot become absolutely equal unless they be entirely free, and consequently equality, pushed to its furthest extent, may be confounded with freedom, yet there is good reason for distinguishing the one from the other. The taste which men have for liberty, and that which they feel for equality, are, in fact, two different things; and I am not afraid to add that, amongst democratic nations, they are two unequal things.

Upon close inspection, it will be seen that there is in every age some peculiar and preponderating fact with which all others are connected; this fact almost always gives birth to some pregnant idea or some ruling passion, which attracts to itself, and bears away in its course, all the feelings and opinions of the time: it is like a great stream, towards which each of the surrounding rivulets seems to flow. Freedom has appeared in the world at different times and under various forms; it has not been exclusively bound to any social condition, and it is not confined to democracies. Freedom cannot, therefore, form the distinguishing characteristic of democratic ages. The peculiar and preponderating fact which marks those ages as its own is the equality of conditions; the ruling passion of men in those periods is the love of this equality. Ask not what singular charm the men of democratic ages find in being equal, or what special reasons they may have for clinging so tenaciously to equality rather than to the other advantages which society holds out to them: equality is the distinguishing characteristic of the age they live in; that, of itself, is enough to explain that they prefer it to all the rest.

But independently of this reason there are several others, which will at all times habitually lead men to prefer equality to freedom. If a people could ever succeed in destroying, or even in diminishing, the equality which prevails in its own body, this could only be accomplished by long and laborious efforts. Its social condition must be modified, its laws abolished, its opinions superseded, its habits changed, its manners corrupted. But political liberty is more easily lost; to neglect to hold it fast is to allow it to escape. Men therefore not only cling to equality because it is dear to them; they also adhere to it because they think it will last forever.

That political freedom may compromise in its excesses the tranquillity, the property, the lives of individuals, is obvious to the narrowest and most unthinking minds. But, on the contrary, none but attentive and clear-sighted men perceive the perils with which equality threatens us, and they commonly avoid pointing them out. They know that the calamities they apprehend are remote, and flatter themselves that they will only fall upon future generations, for which the present generation takes but little thought. The evils which freedom sometimes brings with it are immediate; they are apparent to all, and all are more or less affected by them. The evils which

extreme equality may produce are slowly disclosed; they creep gradually into the social frame; they are only seen at intervals, and at the moment at which they become most violent habit already causes them to be no longer felt. The advantages which freedom brings are only shown by length of time; and it is always easy to mistake the cause in which they originate. The advantages of equality are instantaneous, and they may constantly be traced from their source. Political liberty bestows exalted pleasures, from time to time, upon a certain number of citizens. Equality every day confers a number of small enjoyments on every man. The charms of equality are every instant felt, and are within the reach of all; the noblest hearts are not insensible to them, and the most vulgar souls exult in them. The passion which equality engenders must therefore be at once strong and general. Men cannot enjoy political liberty unpurchased by some sacrifices, and they never obtain it without great exertions. But the pleasures of equality are self-proffered: each of the petty incidents of life seems to occasion them, and in order to taste them nothing is required but to live.

Democratic nations are at all times fond of equality, but there are certain epochs at which the passion they entertain for it swells to the height of fury. This occurs at the moment when the old social system, long menaced, completes its own destruction after a last intestine struggle, and when the barriers of rank are at length thrown down. At such times men pounce upon equality as their booty, and they cling to it as to some precious treasure which they fear to lose. The passion for equality penetrates on every side into men's hearts, expands there, and fills them entirely. Tell them not that by this blind surrender of themselves to an exclusive passion they risk their dearest interests: they are deaf. Show them not freedom escaping from their grasp, whilst they are looking another way: they are blind—or rather, they can discern but one sole object to be desired in the universe.

What I have said is applicable to all democratic nations: what I am about to say concerns the French alone. Amongst most modern nations, and especially amongst all those of the Continent of Europe, the taste and the idea of freedom only began to exist and to extend themselves at the time when social conditions were tending to equality, and as a consequence of that very equality. Absolute kings were the most efficient levellers of ranks amongst their subjects. Amongst these nations equality preceded freedom:

equality was therefore a fact of some standing when freedom was still a novelty: the one had already created customs, opinions, and laws belonging to it, when the other, alone and for the first time, came into actual existence. Thus the latter was still only an affair of opinion and of taste, whilst the former had already crept into the habits of the people, possessed itself of their manners, and given a particular turn to the smallest actions of their lives. Can it be wondered that the men of our own time prefer the one to the other?

I think that democratic communities have a natural taste for freedom: left to themselves, they will seek it, cherish it, and view any privation of it with regret. But for equality, their passion is ardent, insatiable, incessant, invincible: they call for equality in freedom; and if they cannot obtain that, they still call for equality in slavery. They will endure poverty, servitude, barbarism—but they will not endure aristocracy. This is true at all times, and especially true in our own. All men and all powers seeking to cope with this irresistible passion, will be overthrown and destroyed by it. In our age, freedom cannot be established without it, and despotism itself cannot reign without its support.

## **Chapter 2: Of Individualism in Democratic Countries**

I HAVE shown how it is that in ages of equality every man seeks for his opinions within himself: I am now about to show how it is that, in the same ages, all his feelings are turned towards himself alone. Individualism is a novel expression, to which a novel idea has given birth. Our fathers were only acquainted with egotism. Egotism is a passionate and exaggerated love of self, which leads a man to connect everything with his own person, and to prefer himself to everything in the world. Individualism is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellow-creatures; and to draw apart with his family and his friends; so that, after he has thus formed a little circle of his own, he willingly leaves society at large to itself. Egotism originates in blind instinct: individualism proceeds from erroneous judgment more than

from depraved feelings; it originates as much in the deficiencies of the mind as in the perversity of the heart. Egotism blights the germ of all virtue; individualism, at first, only saps the virtues of public life; but, in the long run, it attacks and destroys all others, and is at length absorbed in downright egotism. Egotism is a vice as old as the world, which does not belong to one form of society more than to another: individualism is of democratic origin, and it threatens to spread in the same ratio as the equality of conditions.

Amongst aristocratic nations, as families remain for centuries in the same condition, often on the same spot, all generations become as it were contemporaneous. A man almost always knows his forefathers, and respects them: he thinks he already sees his remote descendants, and he loves them. He willingly imposes duties on himself towards the former and the latter; and he will frequently sacrifice his personal gratifications to those who went before and to those who will come after him. Aristocratic institutions have, moreover, the effect of closely binding every man to several of his fellow-citizens. As the classes of an aristocratic people are strongly marked and permanent, each of them is regarded by its own members as a sort of lesser country, more tangible and more cherished than the country at large. As in aristocratic communities all the citizens occupy fixed positions, one above the other, the result is that each of them always sees a man above himself whose patronage is necessary to him, and below himself another man whose co-operation he may claim. Men living in aristocratic ages are therefore almost always closely attached to something placed out of their own sphere, and they are often disposed to forget themselves. It is true that in those ages the notion of human fellowship is faint, and that men seldom think of sacrificing themselves for mankind; but they often sacrifice themselves for other men. In democratic ages, on the contrary, when the duties of each individual to the race are much more clear, devoted service to any one man becomes more rare; the bond of human affection is extended, but it is relaxed.

Amongst democratic nations new families are constantly springing up, others are constantly falling away, and all that remain change their condition; the woof of time is every instant broken, and the track of generations effaced. Those who went before are soon forgotten; of those who will come after no one has any idea: the interest of man is confined to

those in close propinquity to himself. As each class approximates to other classes, and intermingles with them, its members become indifferent and as strangers to one another. Aristocracy had made a chain of all the members of the community, from the peasant to the king: democracy breaks that chain, and severs every link of it. As social conditions become more equal, the number of persons increases who, although they are neither rich enough nor powerful enough to exercise any great influence over their fellow-creatures, have nevertheless acquired or retained sufficient education and fortune to satisfy their own wants. They owe nothing to any man, they expect nothing from any man; they acquire the habit of always considering themselves as standing alone, and they are apt to imagine that their whole destiny is in their own hands. Thus not only does democracy make every man forget his ancestors, but it hides his descendants, and separates his contemporaries from him; it throws him back forever upon himself alone, and threatens in the end to confine him entirely within the solitude of his own heart.

### **Chapter 3: Individualism Stronger at the Close of a Democratic Revolution Than at Other Periods**

THE period when the construction of democratic society the ruins of an aristocracy has just been completed, is especially that at which this separation of men from one another, and the egotism resulting from it, most forcibly strike the observation. Democratic communities not only contain a large number of independent citizens, but they are constantly filled with men who, having entered but yesterday upon their independent condition, are intoxicated with their new power. They entertain a presumptuous confidence in their strength, and as they do not suppose that they can henceforward ever have occasion to claim the assistance of their fellow-creatures, they do not scruple to show that they care for nobody but themselves.

An aristocracy seldom yields without a protracted struggle, in the course of which implacable animosities are kindled between the different classes of

society. These passions survive the victory, and traces of them may be observed in the midst of the democratic confusion which ensues. Those members of the community who were at the top of the late gradations of rank cannot immediately forget their former greatness; they will long regard themselves as aliens in the midst of the newly composed society. They look upon all those whom this state of society has made their equals as oppressors, whose destiny can excite no sympathy; they have lost sight of their former equals, and feel no longer bound by a common interest to their fate: each of them, standing aloof, thinks that he is reduced to care for himself alone. Those, on the contrary, who were formerly at the foot of the social scale, and who have been brought up to the common level by a sudden revolution, cannot enjoy their newly acquired independence without secret uneasiness; and if they meet with some of their former superiors on the same footing as themselves, they stand aloof from them with an expression of triumph and of fear. It is, then, commonly at the outset of democratic society that citizens are most disposed to live apart. Democracy leads men not to draw near to their fellow-creatures; but democratic revolutions lead them to shun each other, and perpetuate in a state of equality the animosities which the state of inequality engendered. The great advantage of the Americans is that they have arrived at a state of democracy without having to endure a democratic revolution; and that they are born equal, instead of becoming so.

#### **Chapter 4: That the Americans Combat the Effects of Individualism by Free Institutions**

DESPOTISM, which is of a very timorous nature, is never more secure of continuance than when it can keep men asunder; and all its influence is commonly exerted for that purpose. No vice of the human heart is so acceptable to it as egotism: a despot easily forgives his subjects for not loving him, provided they do not love each other. He does not ask them to assist him in governing the State; it is enough that they do not aspire to govern it themselves. He stigmatizes as turbulent and unruly spirits those who would combine their exertions to promote the prosperity of the

community, and, perverting the natural meaning of words, he applauds as good citizens those who have no sympathy for any but themselves. Thus the vices which despotism engenders are precisely those which equality fosters. These two things mutually and perniciously complete and assist each other. Equality places men side by side, unconnected by any common tie; despotism raises barriers to keep them asunder; the former predisposes them not to consider their fellow-creatures, the latter makes general indifference a sort of public virtue.

Despotism then, which is at all times dangerous, is more particularly to be feared in democratic ages. It is easy to see that in those same ages men stand most in need of freedom. When the members of a community are forced to attend to public affairs, they are necessarily drawn from the circle of their own interests, and snatched at times from self-observation. As soon as a man begins to treat of public affairs in public, he begins to perceive that he is not so independent of his fellow-men as he had at first imagined, and that, in order to obtain their support, he must often lend them his co-operation.

When the public is supreme, there is no man who does not feel the value of public goodwill, or who does not endeavor to court it by drawing to himself the esteem and affection of those amongst whom he is to live. Many of the passions which congeal and keep asunder human hearts, are then obliged to retire and hide below the surface. Pride must be dissembled; disdain dares not break out; egotism fears its own self. Under a free government, as most public offices are elective, the men whose elevated minds or aspiring hopes are too closely circumscribed in private life, constantly feel that they cannot do without the population which surrounds them. Men learn at such times to think of their fellow-men from ambitious motives; and they frequently find it, in a manner, their interest to forget themselves.

I may here be met by an objection derived from electioneering intrigues, the meannesses of candidates, and the calumnies of their opponents. These are opportunities for animosity which occur the oftener the more frequent elections become. Such evils are doubtless great, but they are transient; whereas the benefits which attend them remain. The desire of being elected may lead some men for a time to violent hostility; but this same desire leads

all men in the long run mutually to support each other; and if it happens that an election accidentally severs two friends, the electoral system brings a multitude of citizens permanently together, who would always have remained unknown to each other. Freedom engenders private animosities, but despotism gives birth to general indifference.

The Americans have combated by free institutions the tendency of equality to keep men asunder, and they have subdued it. The legislators of America did not suppose that a general representation of the whole nation would suffice to ward off a disorder at once so natural to the frame of democratic society, and so fatal: they also thought that it would be well to infuse political life into each portion of the territory, in order to multiply to an infinite extent opportunities of acting in concert for all the members of the community, and to make them constantly feel their mutual dependence on each other. The plan was a wise one. The general affairs of a country only engage the attention of leading politicians, who assemble from time to time in the same places; and as they often lose sight of each other afterwards, no lasting ties are established between them. But if the object be to have the local affairs of a district conducted by the men who reside there, the same persons are always in contact, and they are, in a manner, forced to be acquainted, and to adapt themselves to one another.

It is difficult to draw a man out of his own circle to interest him in the destiny of the State, because he does not clearly understand what influence the destiny of the State can have upon his own lot. But if it be proposed to make a road cross the end of his estate, he will see at a glance that there is a connection between this small public affair and his greatest private affairs; and he will discover, without its being shown to him, the close tie which unites private to general interest. Thus, far more may be done by intrusting to the citizens the administration of minor affairs than by surrendering to them the control of important ones, towards interesting them in the public welfare, and convincing them that they constantly stand in need one of the other in order to provide for it. A brilliant achievement may win for you the favor of a people at one stroke; but to earn the love and respect of the population which surrounds you, a long succession of little services rendered and of obscure good deeds—a constant habit of kindness, and an established reputation for disinterestedness—will be required. Local

freedom, then, which leads a great number of citizens to value the affection of their neighbors and of their kindred, perpetually brings men together, and forces them to help one another, in spite of the propensities which sever them.

In the United States the more opulent citizens take great care not to stand aloof from the people; on the contrary, they constantly keep on easy terms with the lower classes: they listen to them, they speak to them every day. They know that the rich in democracies always stand in need of the poor; and that in democratic ages you attach a poor man to you more by your manner than by benefits conferred. The magnitude of such benefits, which sets off the difference of conditions, causes a secret irritation to those who reap advantage from them; but the charm of simplicity of manners is almost irresistible: their affability carries men away, and even their want of polish is not always displeasing. This truth does not take root at once in the minds of the rich. They generally resist it as long as the democratic revolution lasts, and they do not acknowledge it immediately after that revolution is accomplished. They are very ready to do good to the people, but they still choose to keep them at arm's length; they think that is sufficient, but they are mistaken. They might spend fortunes thus without warming the hearts of the population around them;—that population does not ask them for the sacrifice of their money, but of their pride.

It would seem as if every imagination in the United States were upon the stretch to invent means of increasing the wealth and satisfying the wants of the public. The best-informed inhabitants of each district constantly use their information to discover new truths which may augment the general prosperity; and if they have made any such discoveries, they eagerly surrender them to the mass of the people.

When the vices and weaknesses, frequently exhibited by those who govern in America, are closely examined, the prosperity of the people occasions— but improperly occasions—surprise. Elected magistrates do not make the American democracy flourish; it flourishes because the magistrates are elective.

It would be unjust to suppose that the patriotism and the zeal which every American displays for the welfare of his fellow-citizens are wholly insincere. Although private interest directs the greater part of human actions in the United States as well as elsewhere, it does not regulate them all. I must say that I have often seen Americans make great and real sacrifices to the public welfare; and I have remarked a hundred instances in which they hardly ever failed to lend faithful support to each other. The free institutions which the inhabitants of the United States possess, and the political rights of which they make so much use, remind every citizen, and in a thousand ways, that he lives in society. They every instant impress upon his mind the notion that it is the duty, as well as the interest of men, to make themselves useful to their fellow-creatures; and as he sees no particular ground of animosity to them, since he is never either their master or their slave, his heart readily leans to the side of kindness. Men attend to the interests of the public, first by necessity, afterwards by choice: what was intentional becomes an instinct; and by dint of working for the good of one's fellow citizens, the habit and the taste for serving them is at length acquired.

Many people in France consider equality of conditions as one evil, and political freedom as a second. When they are obliged to yield to the former, they strive at least to escape from the latter. But I contend that in order to combat the evils which equality may produce, there is only one effectual remedy—namely, political freedom.

## **Chapter 5: Of the Use Which the Americans Make of Public Associations in Civil Life**

I DO not propose to speak of those political associations—by the aid of which men endeavor to defend themselves against the despotic influence of a majority—or against the aggressions of regal power. That subject I have already treated. If each citizen did not learn, in proportion as he individually becomes more feeble, and consequently more incapable of preserving his freedom single-handed, to combine with his fellow-citizens for the purpose of defending it, it is clear that tyranny would unavoidably increase together

with equality.

Those associations only which are formed in civil life, without reference to political objects, are here adverted to. The political associations which exist in the United States are only a single feature in the midst of the immense assemblage of associations in that country. Americans of all ages, all conditions, and all dispositions, constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of a thousand other kinds—religious, moral, serious, futile, extensive, or restricted, enormous or diminutive. The Americans make associations to give entertainments, to found establishments for education, to build inns, to construct churches, to diffuse books, to send missionaries to the antipodes; and in this manner they found hospitals, prisons, and schools. If it be proposed to advance some truth, or to foster some feeling by the encouragement of a great example, they form a society. Wherever, at the head of some new undertaking, you see the government in France, or a man of rank in England, in the United States you will be sure to find an association. I met with several kinds of associations in America, of which I confess I had no previous notion; and I have often admired the extreme skill with which the inhabitants of the United States succeed in proposing a common object to the exertions of a great many men, and in getting them voluntarily to pursue it. I have since travelled over England, whence the Americans have taken some of their laws and many of their customs; and it seemed to me that the principle of association was by no means so constantly or so adroitly used in that country. The English often perform great things singly; whereas the Americans form associations for the smallest undertakings. It is evident that the former people consider association as a powerful means of action, but the latter seem to regard it as the only means they have of acting.

Thus the most democratic country on the face of the earth is that in which men have in our time carried to the highest perfection the art of pursuing in common the object of their common desires, and have applied this new science to the greatest number of purposes. Is this the result of accident? or is there in reality any necessary connection between the principle of association and that of equality? Aristocratic communities always contain, amongst a multitude of persons who by themselves are powerless, a small

number of powerful and wealthy citizens, each of whom can achieve great undertakings single-handed. In aristocratic societies men do not need to combine in order to act, because they are strongly held together. Every wealthy and powerful citizen constitutes the head of a permanent and compulsory association, composed of all those who are dependent upon him, or whom he makes subservient to the execution of his designs. Amongst democratic nations, on the contrary, all the citizens are independent and feeble; they can do hardly anything by themselves, and none of them can oblige his fellow-men to lend him their assistance. They all, therefore, fall into a state of incapacity, if they do not learn voluntarily to help each other. If men living in democratic countries had no right and no inclination to associate for political purposes, their independence would be in great jeopardy; but they might long preserve their wealth and their cultivation: whereas if they never acquired the habit of forming associations in ordinary life, civilization itself would be endangered. A people amongst which individuals should lose the power of achieving great things single-handed, without acquiring the means of producing them by united exertions, would soon relapse into barbarism.

Unhappily, the same social condition which renders associations so necessary to democratic nations, renders their formation more difficult amongst those nations than amongst all others. When several members of an aristocracy agree to combine, they easily succeed in doing so; as each of them brings great strength to the partnership, the number of its members may be very limited; and when the members of an association are limited in number, they may easily become mutually acquainted, understand each other, and establish fixed regulations. The same opportunities do not occur amongst democratic nations, where the associated members must always be very numerous for their association to have any power.

I am aware that many of my countrymen are not in the least embarrassed by this difficulty. They contend that the more enfeebled and incompetent the citizens become, the more able and active the government ought to be rendered, in order that society at large may execute what individuals can no longer accomplish. They believe this answers the whole difficulty, but I think they are mistaken. A government might perform the part of some of the largest American companies; and several States, members of the Union,

have already attempted it; but what political power could ever carry on the vast multitude of lesser undertakings which the American citizens perform every day, with the assistance of the principle of association? It is easy to foresee that the time is drawing near when man will be less and less able to produce, of himself alone, the commonest necessaries of life. The task of the governing power will therefore perpetually increase, and its very efforts will extend it every day. The more it stands in the place of associations, the more will individuals, losing the notion of combining together, require its assistance: these are causes and effects which unceasingly engender each other. Will the administration of the country ultimately assume the management of all the manufactures, which no single citizen is able to carry on? And if a time at length arrives, when, in consequence of the extreme subdivision of landed property, the soil is split into an infinite number of parcels, so that it can only be cultivated by companies of husbandmen, will it be necessary that the head of the government should leave the helm of state to follow the plough? The morals and the intelligence of a democratic people would be as much endangered as its business and manufactures, if the government ever wholly usurped the place of private companies.

Feelings and opinions are recruited, the heart is enlarged, and the human mind is developed by no other means than by the reciprocal influence of men upon each other. I have shown that these influences are almost null in democratic countries; they must therefore be artificially created, and this can only be accomplished by associations.

When the members of an aristocratic community adopt a new opinion, or conceive a new sentiment, they give it a station, as it were, beside themselves, upon the lofty platform where they stand; and opinions or sentiments so conspicuous to the eyes of the multitude are easily introduced into the minds or hearts of all around. In democratic countries the governing power alone is naturally in a condition to act in this manner; but it is easy to see that its action is always inadequate, and often dangerous. A government can no more be competent to keep alive and to renew the circulation of opinions and feelings amongst a great people, than to manage all the speculations of productive industry. No sooner does a government attempt to go beyond its political sphere and to enter upon this new track, than it exercises, even unintentionally, an insupportable tyranny; for a government

can only dictate strict rules, the opinions which it favors are rigidly enforced, and it is never easy to discriminate between its advice and its commands. Worse still will be the case if the government really believes itself interested in preventing all circulation of ideas; it will then stand motionless, and oppressed by the heaviness of voluntary torpor. Governments therefore should not be the only active powers: associations ought, in democratic nations, to stand in lieu of those powerful private individuals whom the equality of conditions has swept away.

As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance; and as soon as they have found each other out, they combine. From that moment they are no longer isolated men, but a power seen from afar, whose actions serve for an example, and whose language is listened to. The first time I heard in the United States that 100,000 men had bound themselves publicly to abstain from spirituous liquors, it appeared to me more like a joke than a serious engagement; and I did not at once perceive why these temperate citizens could not content themselves with drinking water by their own firesides. I at last understood that 300,000 Americans, alarmed by the progress of drunkenness around them, had made up their minds to patronize temperance. They acted just in the same way as a man of high rank who should dress very plainly, in order to inspire the humbler orders with a contempt of luxury. It is probable that if these 100,000 men had lived in France, each of them would singly have memorialized the government to watch the public-houses all over the kingdom.

Nothing, in my opinion, is more deserving of our attention than the intellectual and moral associations of America. The political and industrial associations of that country strike us forcibly; but the others elude our observation, or if we discover them, we understand them imperfectly, because we have hardly ever seen anything of the kind. It must, however, be acknowledged that they are as necessary to the American people as the former, and perhaps more so. In democratic countries the science of association is the mother of science; the progress of all the rest depends upon the progress it has made. Amongst the laws which rule human societies there is one which seems to be more precise and clear than all

others. If men are to remain civilized, or to become so, the art of associating together must grow and improve in the same ratio in which the equality of conditions is increased.

## Chapter 6: Of the Relation Between Public Associations and Newspapers

WHEN men are no longer united amongst themselves by firm and lasting ties, it is impossible to obtain the co-operation of any great number of them, unless you can persuade every man whose concurrence you require that this private interest obliges him voluntarily to unite his exertions to the exertions of all the rest. This can only be habitually and conveniently effected by means of a newspaper; nothing but a newspaper can drop the same thought into a thousand minds at the same moment. A newspaper is an adviser who does not require to be sought, but who comes of his own accord, and talks to you briefly every day of the common weal, without distracting you from your private affairs.

Newspapers therefore become more necessary in proportion as men become more equal, and individualism more to be feared. To suppose that they only serve to protect freedom would be to diminish their importance: they maintain civilization. I shall not deny that in democratic countries newspapers frequently lead the citizens to launch together in very ill-digested schemes; but if there were no newspapers there would be no common activity. The evil which they produce is therefore much less than that which they cure.

The effect of a newspaper is not only to suggest the same purpose to a great number of persons, but also to furnish means for executing in common the designs which they may have singly conceived. The principal citizens who inhabit an aristocratic country discern each other from afar; and if they wish to unite their forces, they move towards each other, drawing a multitude of men after them. It frequently happens, on the contrary, in democratic countries, that a great number of men who wish or who want to combine cannot accomplish it, because as they are very insignificant and lost amidst the crowd, they cannot see, and know not where to find, one another. A newspaper then takes up the notion or the feeling which had occurred simultaneously, but singly, to each of them. All are then immediately guided

towards this beacon; and these wandering minds, which had long sought each other in darkness, at length meet and 'unite.

The newspaper brought them together, and the newspaper is still necessary to keep them united. In order that an association amongst a democratic people should have any power, it must be a numerous body. The persons of whom it is composed are therefore scattered over a wide extent, and each of them is detained in the place of his domicile by the narrowness of his income, or by the small unremitting exertions by which he earns it. Means then must be found to converse every day without seeing each other, and to take steps in common without having met. Thus hardly any democratic association can do without newspapers. There is consequently a necessary connection between public associations and newspapers: newspapers make associations, and associations make newspapers; and if it has been correctly advanced that associations will increase in number as the conditions of men become more equal, it is not less certain that the number of newspapers increases in proportion to that of associations. Thus it is in America that we find at the same time the greatest number of associations and of newspapers.

This connection between the number of newspapers and that of associations leads us to the discovery of a further connection between the state of the periodical press and the form of the administration in a country; and shows that the number of newspapers must diminish or increase amongst a democratic people, in proportion as its administration is more or less centralized. For amongst democratic nations the exercise of local powers cannot be intrusted to the principal members of the community as in aristocracies. Those powers must either be abolished, or placed in the hands of very large numbers of men, who then in fact constitute an association permanently established by law for the purpose of administering the affairs of a certain extent of territory; and they require a journal, to bring to them every day, in the midst of their own minor concerns, some intelligence of the state of their public weal. The more numerous local powers are, the greater is the number of men in whom they are vested by law; and as this want is hourly felt, the more profusely do newspapers abound.

The extraordinary subdivision of administrative power has much more to do with the enormous number of American newspapers than the great political freedom of the country and the absolute liberty of the press. If all the inhabitants of the Union had the suffrage—but a suffrage which should only extend to the choice of their legislators in Congress—they would require but few newspapers, because they would only have to act together on a few very important but very rare occasions. But within the pale of the great association of the nation, lesser associations have been established by law in every country, every city, and indeed in every village, for the purposes of local administration. The laws of the country thus compel every American to co-operate every day of his life with some of his fellow-citizens for a common purpose, and each one of them requires a newspaper to inform him what all the others are doing.

I am of opinion that a democratic people, without any national representative assemblies, but with a great number of small local powers, would have in the end more newspapers than another people governed by a centralized administration and an elective legislation. What best explains to me the enormous circulation of the daily press in the United States, is that amongst the Americans I find the utmost national freedom combined with local freedom of every kind. There is a prevailing opinion in France and England that the circulation of newspapers would be indefinitely increased by removing the taxes which have been laid upon the press. This is a very exaggerated estimate of the effects of such a reform. Newspapers increase in numbers, not according to their cheapness, but according to the more or less frequent want which a great number of men may feel for intercommunication and combination.

In like manner I should attribute the increasing influence of the daily press to causes more general than those by which it is commonly explained. A newspaper can only subsist on the condition of publishing sentiments or principles common to a large number of men. A newspaper therefore always represents an association which is composed of its habitual readers. This association may be more or less defined, more or less restricted, more or less numerous; but the fact that the newspaper keeps alive, is a proof that at least the germ of such an association exists in the minds of its readers.

This leads me to a last reflection, with which I shall conclude this chapter. The more equal the conditions of men become, and the less strong men individually are, the more easily do they give way to the current of the multitude, and the more difficult is it for them to adhere by themselves to an opinion which the multitude discard. A newspaper represents an association; it may be said to address each of its readers in the name of all the others, and to exert its influence over them in proportion to their individual weakness. The power of the newspaper press must therefore increase as the social conditions of men become more equal.

## **Chapter 7: Connection of Civil and Political Associations**

THERE is only one country on the face of the earth where the citizens enjoy unlimited freedom of association for political purposes. This same country is the only one in the world where the continual exercise of the right of association has been introduced into civil life, and where all the advantages which civilization can confer are procured by means of it. In all the countries where political associations are prohibited, civil associations are rare. It is hardly probable that this is the result of accident; but the inference should rather be, that there is a natural, and perhaps a necessary, connection between these two kinds of associations. Certain men happen to have a common interest in some concern—either a commercial undertaking is to be managed, or some speculation in manufactures to be tried; they meet, they combine, and thus by degrees they become familiar with the principle of association. The greater is the multiplicity of small affairs, the more do men, even without knowing it, acquire facility in prosecuting great undertakings in common. Civil associations, therefore, facilitate political association: but, on the other hand, political association singularly strengthens and improves associations for civil purposes. In civil life every man may, strictly speaking, fancy that he can provide for his own wants; in politics, he can fancy no such thing. When a people, then, have any knowledge of public life, the notion of association, and the wish to coalesce, present themselves every day to the minds of the whole community: whatever natural repugnance may restrain men from acting in

concert, they will always be ready to combine for the sake of a party. Thus political life makes the love and practice of association more general; it imparts a desire of union, and teaches the means of combination to numbers of men who would have always lived apart.

Politics not only give birth to numerous associations, but to associations of great extent. In civil life it seldom happens that any one interest draws a very large number of men to act in concert; much skill is required to bring such an interest into existence: but in politics opportunities present themselves every day. Now it is solely in great associations that the general value of the principle of association is displayed. Citizens who are individually powerless, do not very clearly anticipate the strength which they may acquire by uniting together; it must be shown to them in order to be understood. Hence it is often easier to collect a multitude for a public purpose than a few persons; a thousand citizens do not see what interest they have in combining together—ten thousand will be perfectly aware of it. In politics men combine for great undertakings; and the use they make of the principle of association in important affairs practically teaches them that it is their interest to help each other in those of less moment. A political association draws a number of individuals at the same time out of their own circle: however they may be naturally kept asunder by age, mind, and fortune, it places them nearer together and brings them into contact. Once met, they can always meet again.

Men can embark in few civil partnerships without risking a portion of their possessions; this is the case with all manufacturing and trading companies. When men are as yet but little versed in the art of association, and are unacquainted with its principal rules, they are afraid, when first they combine in this manner, of buying their experience dear. They therefore prefer depriving themselves of a powerful instrument of success to running the risks which attend the use of it. They are, however, less reluctant to coin political associations, which appear to them to be without danger, because they adventure no money in them. But they cannot belong to these associations for any length of time without finding out how order is maintained amongst a large number of men, and by what contrivance they are made to advance, harmoniously and methodically, to the same object. Thus they learn to surrender their own will to that of all the rest, and to

make their own exertions subordinate to the common impulse—things which it is not less necessary to know in civil than in political associations. Political associations may therefore be considered as large free schools, where all the members of the community go to learn the general theory of association.

But even if political association did not directly contribute to the progress of civil association, to destroy the former would be to impair the latter. When citizens can only meet in public for certain purposes, they regard such meetings as a strange proceeding of rare occurrence, and they rarely think at all about it. When they are allowed to meet freely for all purposes, they ultimately look upon public association as the universal, or in a manner the sole means, which men can employ to accomplish the different purposes they may have in view. Every new want instantly revives the notion. The art of association then becomes, as I have said before, the mother of action, studied and applied by all.

When some kinds of associations are prohibited and others allowed, it is difficult to distinguish the former from the latter, beforehand. In this state of doubt men abstain from them altogether, and a sort of public opinion passes current which tends to cause any association whatsoever to be regarded as a bold and almost an illicit enterprise.

It is therefore chimerical to suppose that the spirit of association, when it is repressed on some one point, will nevertheless display the same vigor on all others; and that if men be allowed to prosecute certain undertakings in common, that is quite enough for them eagerly to set about them. When the members of a community are allowed and accustomed to combine for all purposes, they will combine as readily for the lesser as for the more important ones; but if they are only allowed to combine for small affairs, they will be neither inclined nor able to effect it. It is in vain that you will leave them entirely free to prosecute their business on joint-stock account: they will hardly care to avail themselves of the rights you have granted to them; and, after having exhausted your strength in vain efforts to put down prohibited associations, you will be surprised that you cannot persuade men to form the associations you encourage.

I do not say that there can be no civil associations in a country where political association is prohibited; for men can never live in society without embarking in some common undertakings: but I maintain that in such a country civil associations will always be few in number, feebly planned, unskilfully managed, that they will never form any vast designs, or that they will fail in the execution of them.

This naturally leads me to think that freedom of association in political matters is not so dangerous to public tranquillity as is supposed; and that possibly, after having agitated society for some time, it may strengthen the State in the end. In democratic countries political associations are, so to speak, the only powerful persons who aspire to rule the State. Accordingly, the governments of our time look upon associations of this kind just as sovereigns in the Middle Ages regarded the great vassals of the Crown: they entertain a sort of instinctive abhorrence of them, and they combat them on all occasions. They bear, on the contrary, a natural goodwill to civil associations, because they readily discover that, instead of directing the minds of the community to public affairs, these institutions serve to divert them from such reflections; and that, by engaging them more and more in the pursuit of objects which cannot be attained without public tranquillity, they deter them from revolutions. But these governments do not attend to the fact that political associations tend amazingly to multiply and facilitate those of a civil character, and that in avoiding a dangerous evil they deprive themselves of an efficacious remedy.

When you see the Americans freely and constantly forming associations for the purpose of promoting some political principle, of raising one man to the head of affairs, or of wresting power from another, you have some difficulty in understanding that men so independent do not constantly fall into the abuse of freedom. If, on the other hand, you survey the infinite number of trading companies which are in operation in the United States, and perceive that the Americans are on every side unceasingly engaged in the execution of important and difficult plans, which the slightest revolution would throw into confusion, you will readily comprehend why people so well employed are by no means tempted to perturb the State, nor to destroy that public tranquillity by which they all profit.

Is it enough to observe these things separately, or should we not discover the hidden tie which connects them? In their political associations, the Americans of all conditions, minds, and ages, daily acquire a general taste for association, and grow accustomed to the use of it. There they meet together in large numbers, they converse, they listen to each other, and they are mutually stimulated to all sorts of undertakings. They afterwards transfer to civil life the notions they have thus acquired, and make them subservient to a thousand purposes. Thus it is by the enjoyment of a dangerous freedom that the Americans learn the art of rendering the dangers of freedom less formidable.

If a certain moment in the existence of a nation be selected, it is easy to prove that political associations perturb the State, and paralyze productive industry; but take the whole life of a people, and it may perhaps be easy to demonstrate that freedom of association in political matters is favorable to the prosperity and even to the tranquillity of the community.

I said in the former part of this work, "The unrestrained liberty of political association cannot be entirely assimilated to the liberty of the press. The one is at the same time less necessary and more dangerous than the other. A nation may confine it within certain limits without ceasing to be mistress of itself; and it may sometimes be obliged to do so in order to maintain its own authority." And further on I added: "It cannot be denied that the unrestrained liberty of association for political purposes is the last degree of liberty which a people is fit for. If it does not throw them into anarchy, it perpetually brings them, as it were, to the verge of it." Thus I do not think that a nation is always at liberty to invest its citizens with an absolute right of association for political purposes; and I doubt whether, in any country or in any age, it be wise to set no limits to freedom of association. A certain nation, it is said, could not maintain tranquillity in the community, cause the laws to be respected, or establish a lasting government, if the right of association were not confined within narrow limits. These blessings are doubtless invaluable, and I can imagine that, to acquire or to preserve them, a nation may impose upon itself severe temporary restrictions: but still it is well that the nation should know at what price these blessings are purchased. I can understand that it may be advisable to cut off a man's arm in order to save his life; but it would be ridiculous to assert that he will be

as dexterous as he was before he lost it.

## **Chapter 8: The Americans Combat Individuals in by the Principle of Interest Rightly Understood**

WHEN the world was managed by a few rich and powerful individuals, these persons loved to entertain a lofty idea of the duties of man. They were fond of professing that it is praiseworthy to forget one's self, and that good should be done without hope of reward, as it is by the Deity himself. Such were the standard opinions of that time in morals. I doubt whether men were more virtuous in aristocratic ages than in others; but they were incessantly talking of the beauties of virtue, and its utility was only studied in secret. But since the imagination takes less lofty flights and every man's thoughts are centred in himself, moralists are alarmed by this idea of self-sacrifice, and they no longer venture to present it to the human mind. They therefore content themselves with inquiring whether the personal advantage of each member of the community does not consist in working for the good of all; and when they have hit upon some point on which private interest and public interest meet and amalgamate, they are eager to bring it into notice. Observations of this kind are gradually multiplied: what was only a single remark becomes a general principle; and it is held as a truth that man serves himself in serving his fellow-creatures, and that his private interest is to do good.

I have already shown, in several parts of this work, by what means the inhabitants of the United States almost always manage to combine their own advantage with that of their fellow-citizens: my present purpose is to point out the general rule which enables them to do so. In the United States hardly anybody talks of the beauty of virtue; but they maintain that virtue is useful, and prove it every day. The American moralists do not profess that men ought to sacrifice themselves for their fellow-creatures because it is noble to make such sacrifices; but they boldly aver that such sacrifices are as necessary to him who imposes them upon himself as to him for whose sake they are made. They have found out that in their country and their age

man is brought home to himself by an irresistible force; and losing all hope of stopping that force, they turn all their thoughts to the direction of it. They therefore do not deny that every man may follow his own interest; but they endeavor to prove that it is the interest of every man to be virtuous. I shall not here enter into the reasons they allege, which would divert me from my subject: suffice it to say that they have convinced their fellow-countrymen.

Montaigne said long ago: "Were I not to follow the straight road for its straightness, I should follow it for having found by experience that in the end it is commonly the happiest and most useful track." The doctrine of interest rightly understood is not, then, new, but amongst the Americans of our time it finds universal acceptance: it has become popular there; you may trace it at the bottom of all their actions, you will remark it in all they say. It is as often to be met with on the lips of the poor man as of the rich. In Europe the principle of interest is much grosser than it is in America, but at the same time it is less common, and especially it is less avowed; amongst us, men still constantly feign great abnegation which they no longer feel. The Americans, on the contrary, are fond of explaining almost all the actions of their lives by the principle of interest rightly understood; they show with complacency how an enlightened regard for themselves constantly prompts them to assist each other, and inclines them willingly to sacrifice a portion of their time and property to the welfare of the State. In this respect I think they frequently fail to do themselves justice; for in the United States, as well as elsewhere, people are sometimes seen to give way to those disinterested and spontaneous impulses which are natural to man; but the Americans seldom allow that they yield to emotions of this kind; they are more anxious to do honor to their philosophy than to themselves.

I might here pause, without attempting to pass a judgment on what I have described. The extreme difficulty of the subject would be my excuse, but I shall not avail myself of it; and I had rather that my readers, clearly perceiving my object, should refuse to follow me than that I should leave them in suspense. The principle of interest rightly understood is not a lofty one, but it is clear and sure. It does not aim at mighty objects, but it attains without excessive exertion all those at which it aims. As it lies within the reach of all capacities, everyone can without difficulty apprehend and retain it. By its admirable conformity to human weaknesses, it easily obtains great

dominion; nor is that dominion precarious, since the principle checks one personal interest by another, and uses, to direct the passions, the very same instrument which excites them. The principle of interest rightly understood produces no great acts of self-sacrifice, but it suggests daily small acts of self-denial. By itself it cannot suffice to make a man virtuous, but it disciplines a number of citizens in habits of regularity, temperance, moderation, foresight, self-command; and, if it does not lead men straight to virtue by the will, it gradually draws them in that direction by their habits. If the principle of interest rightly understood were to sway the whole in oral world, extraordinary virtues would doubtless be more rare; but I think that gross depravity would then also be less common. The principle of interest rightly understood perhaps prevents some men from rising far above the level of mankind; but a great number of other men, who were falling far below it, are caught and restrained by it. Observe some few individuals, they are lowered by it; survey mankind, it is raised. I am not afraid to say that the principle of interest, rightly understood, appears to me the best suited of all philosophical theories to the wants of the men of our time, and that I regard it as their chief remaining security against themselves. Towards it, therefore, the minds of the moralists of our age should turn; even should they judge it to be incomplete, it must nevertheless be adopted as necessary.

I do not think upon the whole that there is more egotism amongst us than in America; the only difference is, that there it is enlightened—here it is not. Every American will sacrifice a portion of his private interests to preserve the rest; we would fain preserve the whole, and oftentimes the whole is lost. Everybody I see about me seems bent on teaching his contemporaries, by precept and example, that what is useful is never wrong. Will nobody undertake to make them understand how what is right may be useful? No power upon earth can prevent the increasing equality of conditions from inclining the human mind to seek out what is useful, or from leading every member of the community to be wrapped up in himself. It must therefore be expected that personal interest will become more than ever the principal, if not the sole, spring of men's actions; but it remains to be seen how each man will understand his personal interest. If the members of a community, as they become more equal, become more ignorant and coarse, it is difficult to foresee to what pitch of stupid excesses their egotism may lead them; and no one can foretell into what disgrace and wretchedness they would plunge

themselves, lest they should have to sacrifice something of their own well-being to the prosperity of their fellow-creatures. I do not think that the system of interest, as it is professed in America, is, in all its parts, self-evident; but it contains a great number of truths so evident that men, if they are but educated, cannot fail to see them. Educate, then, at any rate; for the age of implicit self-sacrifice and instinctive virtues is already flitting far away from us, and the time is fast approaching when freedom, public peace, and social order itself will not be able to exist without education.

## **Chapter 9: That the Americans Apply the Principle of Interest Rightly Understood to Religious Matters**

IF the principle of interest rightly understood had nothing but the present world in view, it would be very insufficient; for there are many sacrifices which can only find their recompense in another; and whatever ingenuity may be put forth to demonstrate the utility of virtue, it will never be an easy task to make that man live aright who has no thoughts of dying. It is therefore necessary to ascertain whether the principle of interest rightly understood is easily compatible with religious belief. The philosophers who inculcate this system of morals tell men that to be happy in this life they must watch their own passions and steadily control their excess; that lasting happiness can only be secured by renouncing a thousand transient gratifications; and that a man must perpetually triumph over himself, in order to secure his own advantage. The founders of almost all religions have held the same language. The track they point out to man is the same, only that the goal is more remote; instead of placing in this world the reward of the sacrifices they impose, they transport it to another. Nevertheless I cannot believe that all those who practise virtue from religious motives are only actuated by the hope of a recompense. I have known zealous Christians who constantly forgot themselves to work with greater ardor for the happiness of their fellow-men; and I have heard them declare that all they did was only to earn the blessings of a future state. I cannot but think that they deceive themselves; I respect them too much to

believe them.

Christianity indeed teaches that a man must prefer his neighbor to himself, in order to gain eternal life; but Christianity also teaches that men ought to benefit their fellow-creatures for the love of God. A sublime expression! Man, searching by his intellect into the divine conception, and seeing that order is the purpose of God, freely combines to prosecute the great design; and whilst he sacrifices his personal interests to this consummate order of all created things, expects no other recompense than the pleasure of contemplating it. I do not believe that interest is the sole motive of religious men: but I believe that interest is the principal means which religions themselves employ to govern men, and I do not question that this way they strike into the multitude and become popular. It is not easy clearly to perceive why the principle of interest rightly understood should keep aloof from religious opinions; and it seems to me more easy to show why it should draw men to them. Let it be supposed that, in order to obtain happiness in this world, a man combats his instinct on all occasions and deliberately calculates every action of his life; that, instead of yielding blindly to the impetuosity of first desires, he has learned the art of resisting them, and that he has accustomed himself to sacrifice without an effort the pleasure of a moment to the lasting interest of his whole life. If such a man believes in the religion which he professes, it will cost him but little to submit to the restrictions it may impose. Reason herself counsels him to obey, and habit has prepared him to endure them. If he should have conceived any doubts as to the object of his hopes, still he will not easily allow himself to be stopped by them; and he will decide that it is wise to risk some of the advantages of this world, in order to preserve his rights to the great inheritance promised him in another. "To be mistaken in believing that the Christian religion is true," says Pascal, "is no great loss to anyone; but how dreadful to be mistaken in believing it to be false!"

The Americans do not affect a brutal indifference to a future state; they affect no puerile pride in despising perils which they hope to escape from. They therefore profess their religion without shame and without weakness; but there generally is, even in their zeal, something so indescribably tranquil, methodical, and deliberate, that it would seem as if the head, far more than the heart, brought them to the foot of the altar. The Americans

not only follow their religion from interest, but they often place in this world the interest which makes them follow it. In the Middle Ages the clergy spoke of nothing but a future state; they hardly cared to prove that a sincere Christian may be a happy man here below. But the American preachers are constantly referring to the earth; and it is only with great difficulty that they can divert their attention from it. To touch their congregations, they always show them how favorable religious opinions are to freedom and public tranquillity; and it is often difficult to ascertain from their discourses whether the principal object of religion is to procure eternal felicity in the other world, or prosperity in this.

## **Chapter 10: Of the Taste for Physical Well-being in America**

IN America the passion for physical well-being is not always exclusive, but it is general; and if all do not feel it in the same manner, yet it is felt by all. Carefully to satisfy all, even the least wants of the body, and to provide the little conveniences of life, is uppermost in every mind. Something of an analogous character is more and more apparent in Europe. Amongst the causes which produce these similar consequences in both hemispheres, several are so connected with my subject as to deserve notice.

When riches are hereditarily fixed in families, there are a great number of men who enjoy the comforts of life without feeling an exclusive taste for those comforts. The heart of man is not so much caught by the undisturbed possession of anything valuable as by the desire, as yet imperfectly satisfied, of possessing it, and by the incessant dread of losing it. In aristocratic communities, the wealthy, never having experienced a condition different from their own, entertain no fear of changing it; the existence of such conditions hardly occurs to them. The comforts of life are not to them the end of life, but simply a way of living; they regard them as existence itself—enjoyed, but scarcely thought of. As the natural and instinctive taste which all men feel for being well off is thus satisfied without trouble and without apprehension, their faculties are turned elsewhere, and cling to more arduous and more lofty undertakings, which excite and engross their

minds. Hence it is that, in the midst of physical gratifications, the members of an aristocracy often display a haughty contempt of these very enjoyments, and exhibit singular powers of endurance under the privation of them. All the revolutions which have ever shaken or destroyed aristocracies, have shown how easily men accustomed to superfluous luxuries can do without the necessaries of life; whereas men who have toiled to acquire a competency can hardly live after they have lost it.

If I turn my observation from the upper to the lower classes, I find analogous effects produced by opposite causes. Amongst a nation where aristocracy predominates in society, and keeps it stationary, the people in the end get as much accustomed to poverty as the rich to their opulence. The latter bestow no anxiety on their physical comforts, because they enjoy them without an effort; the former do not think of things which they despair of obtaining, and which they hardly know enough of to desire them. In communities of this kind, the imagination of the poor is driven to seek another world; the miseries of real life in close it around, but it escapes from their control, and flies to seek its pleasures far beyond. When, on the contrary, the distinctions of ranks are confounded together and privileges are destroyed—when hereditary property is subdivided, and education and freedom widely diffused, the desire of acquiring the comforts of the world haunts the imagination of the poor, and the dread of losing them that of the rich. Many scanty fortunes spring up; those who possess them have a sufficient share of physical gratifications to conceive a taste for these pleasures—not enough to satisfy it. They never procure them without exertion, and they never indulge in them without apprehension. They are therefore always straining to pursue or to retain gratifications so delightful, so imperfect, so fugitive.

If I were to inquire what passion is most natural to men who are stimulated and circumscribed by the obscurity of their birth or the mediocrity of their fortune, I could discover none more peculiarly appropriate to their condition than this love of physical prosperity. The passion for physical comforts is essentially a passion of the middle classes: with those classes it grows and spreads with them it preponderates. From them it mounts into the higher orders of society, and descends into the mass of the people. I never met in America with any citizen so poor as not to cast a glance of hope and envy

on the enjoyments of the rich, or whose imagination did not possess itself by anticipation of those good things which fate still obstinately withheld from him. On the other hand, I never perceived amongst the wealthier inhabitants of the United States that proud contempt of physical gratifications which is sometimes to be met with even in the most opulent and dissolute aristocracies. Most of these wealthy persons were once poor; they have felt the sting of want; they were long a prey to adverse fortunes; and now that the victory is won, the passions which accompanied the contest have survived it: their minds are, as it were; intoxicated by the small enjoyments which they have pursued for forty years. Not but that in the United States, as elsewhere, there are a certain number of wealthy persons who, having come into their property by inheritance, possess, without exertion, an opulence they have not earned. But even these men are not less devotedly attached to the pleasures of material life. The love of well-being is now become the predominant taste of the nation; the great current of man's passions runs in that channel, and sweeps everything along in its course.

## **Chapter 11: Peculiar Effects of the Love of Physical Gratification in Democratic Ages**

IT may be supposed, from what has just been said, that the love of physical gratifications must constantly urge the Americans to irregularities in morals, disturb the peace of families, and threaten the security of society at large. Such is not the case: the passion for physical gratifications produces in democracies effects very different from those which it occasions in aristocratic nations. It sometimes happens that, wearied with public affairs and sated with opulence, amidst the ruin of religious belief and the decline of the State, the heart of an aristocracy; may by degrees be seduced to the pursuit of sensual enjoyments only. At other times the power of the monarch or the weakness of the people, without stripping the nobility of their fortune, compels them to stand aloof from the administration of affairs, and whilst the road to mighty enterprise is closed, abandons them to the inquietude of their own desires; they then fall back heavily upon

themselves, and seek in the pleasures of the body oblivion of their former greatness. When the members of an aristocratic body are thus exclusively devoted to the pursuit of physical gratifications, they commonly concentrate in that direction all the energy which they derive from their long experience of power. Such men are not satisfied with the pursuit of comfort; they require sumptuous depravity and splendid corruption. The worship they pay the senses is a gorgeous one; and they seem to vie with each other in the art of degrading their own natures. The stronger, the more famous, and the more free an aristocracy has been, the more depraved will it then become; and however brilliant may have been the lustre of its virtues, I dare predict that they will always be surpassed by the splendor of its vices.

The taste for physical gratifications leads a democratic people into no such excesses. The love of well-being is there displayed as a tenacious, exclusive, universal passion; but its range is confined. To build enormous palaces, to conquer or to mimic nature, to ransack the world in order to gratify the passions of a man, is not thought of: but to add a few roods of land to your field, to plant an orchard, to enlarge a dwelling, to be always making life more comfortable and convenient, to avoid trouble, and to satisfy the smallest wants without effort and almost without cost. These are small objects, but the soul clings to them; it dwells upon them closely and day by day, till they at last shut out the rest of the world, and sometimes intervene between itself and heaven.

This, it may be said, can only be applicable to those members of the community who are in humble circumstances; wealthier individuals will display tastes akin to those which belonged to them in aristocratic ages. I contest the proposition: in point of physical gratifications, the most opulent members of a democracy will not display tastes very different from those of the people; whether it be that, springing from the people, they really share those tastes, or that they esteem it a duty to submit to them. In democratic society the sensuality of the public has taken a moderate and tranquil course, to which all are bound to conform: it is as difficult to depart from the common rule by one's vices as by one's virtues. Rich men who live amidst democratic nations are therefore more intent on providing for their smallest wants than for their extraordinary enjoyments; they gratify a number of petty desires, without indulging in any great irregularities of

passion: thus they are more apt to become enervated than debauched.

The especial taste which the men of democratic ages entertain for physical enjoyments is not naturally opposed to the principles of public order; nay, it often stands in need of order that it may be gratified. Nor is it adverse to regularity of morals, for good morals contribute to public tranquillity and are favorable to industry. It may even be frequently combined with a species of religious morality: men wish to be as well off as they can in this world, without foregoing their chance of another. Some physical gratifications cannot be indulged in without crime; from such they strictly abstain. The enjoyment of others is sanctioned by religion and morality; to these the heart, the imagination, and life itself are unreservedly given up; till, in snatching at these lesser gifts, men lose sight of those more precious possessions which constitute the glory and the greatness of mankind. The reproach I address to the principle of equality, is not that it leads men away in the pursuit of forbidden enjoyments, but that it absorbs them wholly in quest of those which are allowed. By these means, a kind of virtuous materialism may ultimately be established in the world, which would not corrupt, but enervate the soul, and noiselessly unbend its springs of action.

## **Chapter 12: Causes of Fanatical Enthusiasm in Some Americans**

ALTHOUGH the desire of acquiring the good things of this world is the prevailing passion of the American people, certain momentary outbreaks occur, when their souls seem suddenly to burst the bonds of matter by which they are restrained, and to soar impetuously towards heaven. In all the States of the Union, but especially in the half-peopled country of the Far West, wandering preachers may be met with who hawk about the word of God from place to place. Whole families—old men, women, and children—cross rough passes and untrodden wilds, coming from a great distance, to join a camp-meeting, where they totally forget for several days and nights, in listening to these discourses, the cares of business and even the most urgent wants of the body. Here and there, in the midst of American society,

you meet with men, full of a fanatical and almost wild enthusiasm, which hardly exists in Europe. From time to time strange sects arise, which endeavor to strike out extraordinary paths to eternal happiness. Religious insanity is very common in the United States.

Nor ought these facts to surprise us. It was not man who implanted in himself the taste for what is infinite and the love of what is immortal: those lofty instincts are not the offspring of his capricious will; their steadfast foundation is fixed in human nature, and they exist in spite of his efforts. He may cross and distort them—destroy them he cannot. The soul has wants which must be satisfied; and whatever pains be taken to divert it from itself, it soon grows weary, restless, and disquieted amidst the enjoyments of sense. If ever the faculties of the great majority of mankind were exclusively bent upon the pursuit of material objects, it might be anticipated that an amazing reaction would take place in the souls of some men. They would drift at large in the world of spirits, for fear of remaining shackled by the close bondage of the body.

It is not then wonderful if, in the midst of a community whose thoughts tend earthward, a small number of individuals are to be found who turn their looks to heaven. I should be surprised if mysticism did not soon make some advance amongst a people solely engaged in promoting its own worldly welfare. It is said that the deserts of the Thebaid were peopled by the persecutions of the emperors and the massacres of the Circus; I should rather say that it was by the luxuries of Rome and the Epicurean philosophy of Greece. If their social condition, their present circumstances, and their laws did not confine the minds of the Americans so closely to the pursuit of worldly welfare, it is probable that they would display more reserve and more experience whenever their attention is turned to things immaterial, and that they would check themselves without difficulty. But they feel imprisoned within bounds which they will apparently never be allowed to pass. As soon as they have passed these bounds, their minds know not where to fix themselves, and they often rush unrestrained beyond the range of common-sense.

## **Chapter 13: Causes of the Restless Spirit of the Americans in the Midst of Their Prosperity**

IN certain remote corners of the Old World you may still sometimes stumble upon a small district which seems to have been forgotten amidst the general tumult, and to have remained stationary whilst everything around it was in motion. The inhabitants are for the most part extremely ignorant and poor; they take no part in the business of the country, and they are frequently oppressed by the government; yet their countenances are generally placid, and their spirits light. In America I saw the freest and most enlightened men, placed in the happiest circumstances which the world affords: it seemed to me as if a cloud habitually hung upon their brow, and I thought them serious and almost sad even in their pleasures. The chief reason of this contrast is that the former do not think of the ills they endure—the latter are forever brooding over advantages they do not possess. It is strange to see with what feverish ardor the Americans pursue their own welfare; and to watch the vague dread that constantly torments them lest they should not have chosen the shortest path which may lead to it. A native of the United States clings to this world's goods as if he were certain never to die; and he is so hasty in grasping at all within his reach, that one would suppose he was constantly afraid of not living long enough to enjoy them. He clutches everything, he holds nothing fast, but soon loosens his grasp to pursue fresh gratifications.

In the United States a man builds a house to spend his latter years in it, and he sells it before the roof is on: he plants a garden, and lets it just as the trees are coming into bearing: he brings a field into tillage, and leaves other men to gather the crops: he embraces a profession, and gives it up: he settles in a place, which he soon afterwards leaves, to carry his changeable longings elsewhere. If his private affairs leave him any leisure, he instantly plunges into the vortex of politics; and if at the end of a year of unremitting labor he finds he has a few days' vacation, his eager curiosity whirls him over the vast extent of the United States, and he will travel fifteen hundred miles in a few days, to shake off his happiness. Death at length overtakes him, but it is before he is weary of his bootless chase of that complete

felicity which is forever on the wing.

At first sight there is something surprising in this strange unrest of so many happy men, restless in the midst of abundance. The spectacle itself is however as old as the world; the novelty is to see a whole people furnish an exemplification of it. Their taste for physical gratifications must be regarded as the original source of that secret inquietude which the actions of the Americans betray, and of that inconstancy of which they afford fresh examples every day. He who has set his heart exclusively upon the pursuit of worldly welfare is always in a hurry, for he has but a limited time at his disposal to reach it, to grasp it, and to enjoy it. The recollection of the brevity of life is a constant spur to him. Besides the good things which he possesses, he every instant fancies a thousand others which death will prevent him from trying if he does not try them soon. This thought fills him with anxiety, fear, and regret, and keeps his mind in ceaseless trepidation, which leads him perpetually to change his plans and his abode. If in addition to the taste for physical well-being a social condition be superadded, in which the laws and customs make no condition permanent, here is a great additional stimulant to this restlessness of temper. Men will then be seen continually to change their track, for fear of missing the shortest cut to happiness. It may readily be conceived that if men, passionately bent upon physical gratifications, desire eagerly, they are also easily discouraged: as their ultimate object is to enjoy, the means to reach that object must be prompt and easy, or the trouble of acquiring the gratification would be greater than the gratification itself. Their prevailing frame of mind then is at once ardent and relaxed, violent and enervated. Death is often less dreaded than perseverance in continuous efforts to one end.

The equality of conditions leads by a still straighter road to several of the effects which I have here described. When all the privileges of birth and fortune are abolished, when all professions are accessible to all, and a man's own energies may place him at the top of any one of them, an easy and unbounded career seems open to his ambition, and he will readily persuade himself that he is born to no vulgar destinies. But this is an erroneous notion, which is corrected by daily experience. The same equality which allows every citizen to conceive these lofty hopes, renders all the citizens

less able to realize them: it circumscribes their powers on every side, whilst it gives freer scope to their desires. Not only are they themselves powerless, but they are met at every step by immense obstacles, which they did not at first perceive. They have swept away the privileges of some of their fellow-creatures which stood in their way, but they have opened the door to universal competition: the barrier has changed its shape rather than its position. When men are nearly alike, and all follow the same track, it is very difficult for any one individual to walk quick and cleave a way through the dense throng which surrounds and presses him. This constant strife between the propensities springing from the equality of conditions and the means it supplies to satisfy them, harasses and wearies the mind.

It is possible to conceive men arrived at a degree of freedom which should completely content them; they would then enjoy their independence without anxiety and without impatience. But men will never establish any equality with which they can be contented. Whatever efforts a people may make, they will never succeed in reducing all the conditions of society to a perfect level; and even if they unhappily attained that absolute and complete depression, the inequality of minds would still remain, which, coming directly from the hand of God, will forever escape the laws of man. However democratic then the social state and the political constitution of a people may be, it is certain that every member of the community will always find out several points about him which command his own position; and we may foresee that his looks will be doggedly fixed in that direction. When inequality of conditions is the common law of society, the most marked inequalities do not strike the eye: when everything is nearly on the same level, the slightest are marked enough to hurt it. Hence the desire of equality always becomes more insatiable in proportion as equality is more complete.

Amongst democratic nations men easily attain a certain equality of conditions: they can never attain the equality they desire. It perpetually retires from before them, yet without hiding itself from their sight, and in retiring draws them on. At every foment they think they are about to grasp it; it escapes at every moment from their hold. They are near enough to see its charms, but too far off to enjoy them; and before they have fully tasted its delights they die. To these causes must be attributed that strange

melancholy which oftentimes will haunt the inhabitants of democratic countries in the midst of their abundance, and that disgust at life which sometimes seizes upon them in the midst of calm and easy circumstances. Complaints are made in France that the number of suicides increases; in America suicide is rare, but insanity is said to be more common than anywhere else. These are all different symptoms of the same disease. The Americans do not put an end to their lives, however disquieted they may be, because their religion forbids it; and amongst them materialism may be said hardly to exist, notwithstanding the general passion for physical gratification. The will resists—reason frequently gives way.

In democratic ages enjoyments are more intense than in the ages of aristocracy, and especially the number of those who partake in them is larger: but, on the other hand, it must be admitted that man's hopes and his desires are oftener blasted, the soul is more stricken and perturbed, and care itself more keen.

## **Chapter 14: Taste for Physical Gratifications United in America to Love of Freedom and Attention to Public Affairs**

WHEN a democratic state turns to absolute monarchy, the activity which was before directed to public and to private affairs is all at once centred upon the latter: the immediate consequence is, for some time, great physical prosperity; but this impulse soon slackens, and the amount of productive industry is checked. I know not if a single trading or manufacturing people can be cited, from the Tyrians down to the Florentines and the English, who were not a free people also. There is therefore a close bond and necessary relation between these two elements—freedom and productive industry. This proposition is generally true of all nations, but especially of democratic nations. I have already shown that men who live in ages of equality continually require to form associations in order to procure the things they covet; and, on the other hand, I have shown how great political freedom improves and diffuses the art of association. Freedom, in these ages, is therefore especially favorable to the production of wealth; nor is it

difficult to perceive that despotism is especially adverse to the same result. The nature of despotic power in democratic ages is not to be fierce or cruel, but minute and meddling. Despotism of this kind, though it does not trample on humanity, is directly opposed to the genius of commerce and the pursuits of industry.

Thus the men of democratic ages require to be free in order more readily to procure those physical enjoyments for which they are always longing. It sometimes happens, however, that the excessive taste they conceive for these same enjoyments abandons them to the first master who appears. The passion for worldly welfare then defeats itself, and, without perceiving it, throws the object of their desires to a greater distance.

There is, indeed, a most dangerous passage in the history of a democratic people. When the taste for physical gratifications amongst such a people has grown more rapidly than their education and their experience of free institutions, the time will come when men are carried away, and lose all self-restraint, at the sight of the new possessions they are about to lay hold upon. In their intense and exclusive anxiety to make a fortune, they lose sight of the close connection which exists between the private fortune of each of them and the prosperity of all. It is not necessary to do violence to such a people in order to strip them of the rights they enjoy; they themselves willingly loosen their hold. The discharge of political duties appears to them to be a troublesome annoyance, which diverts them from their occupations and business. If they be required to elect representatives, to support the Government by personal service, to meet on public business, they have no time—they cannot waste their precious time in useless engagements: such idle amusements are unsuited to serious men who are engaged with the more important interests of life. These people think they are following the principle of self-interest, but the idea they entertain of that principle is a very rude one; and the better to look after what they call their business, they neglect their chief business, which is to remain their own masters.

As the citizens who work do not care to attend to public business, and as the class which might devote its leisure to these duties has ceased to exist, the place of the Government is, as it were, unfilled. If at that critical moment

some able and ambitious man grasps the supreme power, he will find the road to every kind of usurpation open before him. If he does but attend for some time to the material prosperity of the country, no more will be demanded of him. Above all he must insure public tranquillity: men who are possessed by the passion of physical gratification generally find out that the turmoil of freedom disturbs their welfare, before they discover how freedom itself serves to promote it. If the slightest rumor of public commotion intrudes into the petty pleasures of private life, they are aroused and alarmed by it. The fear of anarchy perpetually haunts them, and they are always ready to fling away their freedom at the first disturbance.

I readily admit that public tranquillity is a great good; but at the same time I cannot forget that all nations have been enslaved by being kept in good order. Certainly it is not to be inferred that nations ought to despise public tranquillity; but that state ought not to content them. A nation which asks nothing of its government but the maintenance of order is already a slave at heart—the slave of its own well-being, awaiting but the hand that will bind it. By such a nation the despotism of faction is not less to be dreaded than the despotism of an individual. When the bulk of the community is engrossed by private concerns, the smallest parties need not despair of getting the upper hand in public affairs. At such times it is not rare to see upon the great stage of the world, as we see at our theatres, a multitude represented by a few players, who alone speak in the name of an absent or inattentive crowd: they alone are in action whilst all are stationary; they regulate everything by their own caprice; they change the laws, and tyrannize at will over the manners of the country; and then men wonder to see into how small a number of weak and worthless hands a great people may fall.

Hitherto the Americans have fortunately escaped all the perils which I have just pointed out; and in this respect they are really deserving of admiration. Perhaps there is no country in the world where fewer idle men are to be met with than in America, or where all who work are more eager to promote their own welfare. But if the passion of the Americans for physical gratifications is vehement, at least it is not indiscriminating; and reason, though unable to restrain it, still directs its course. An American attends to his private concerns as if he were alone in the world, and the next minute he

gives himself up to the common weal as if he had forgotten them. At one time he seems animated by the most selfish cupidity, at another by the most lively patriotism. The human heart cannot be thus divided. The inhabitants of the United States alternately display so strong and so similar a passion for their own welfare and for their freedom, that it may be supposed that these passions are united and mingled in some part of their character. And indeed the Americans believe their freedom to be the best instrument and surest safeguard of their welfare: they are attached to the one by the other. They by no means think that they are not called upon to take a part in the public weal; they believe, on the contrary, that their chief business is to secure for themselves a government which will allow them to acquire the things they covet, and which will not debar them from the peaceful enjoyment of those possessions which they have acquired.

## **Chapter 15: That Religious Belief Sometimes Turns the Thoughts of the Americans to Immaterial Pleasures**

IN the United States, on the seventh day of every week, the trading and working life of the nation seems suspended; all noises cease; a deep tranquillity, say rather the solemn calm of meditation, succeeds the turmoil of the week, and the soul resumes possession and contemplation of itself. Upon this day the marts of traffic are deserted; every member of the community, accompanied by his children, goes to church, where he listens to strange language which would seem unsuited to his ear. He is told of the countless evils caused by pride and covetousness: he is reminded of the necessity of checking his desires, of the finer pleasures which belong to virtue alone, and of the true happiness which attends it. On his return home, he does not turn to the ledgers of his calling, but he opens the book of Holy Scripture; there he meets with sublime or affecting descriptions of the greatness and goodness of the Creator, of the infinite magnificence of the handiwork of God, of the lofty destinies of man, of his duties, and of his immortal privileges. Thus it is that the American at times steals an hour from himself; and laying aside for a while the petty passions which agitate his life, and the ephemeral interests which engross it, he strays at once into

an ideal world, where all is great, eternal, and pure.

I have endeavored to point out in another part of this work the causes to which the maintenance of the political institutions of the Americans is attributable; and religion appeared to be one of the most prominent amongst them. I am now treating of the Americans in an individual capacity, and I again observe that religion is not less useful to each citizen than to the whole State. The Americans show, by their practice, that they feel the high necessity of imparting morality to democratic communities by means of religion. What they think of themselves in this respect is a truth of which every democratic nation ought to be thoroughly persuaded.

I do not doubt that the social and political constitution of a people predisposes them to adopt a certain belief and certain tastes, which afterwards flourish without difficulty amongst them; whilst the same causes may divert a people from certain opinions and propensities, without any voluntary effort, and, as it were, without any distinct consciousness, on their part. The whole art of the legislator is correctly to discern beforehand these natural inclinations of communities of men, in order to know whether they should be assisted, or whether it may not be necessary to check them. For the duties incumbent on the legislator differ at different times; the goal towards which the human race ought ever to be tending is alone stationary; the means of reaching it are perpetually to be varied.

If I had been born in an aristocratic age, in the midst of a nation where the hereditary wealth of some, and the irremediable penury of others, should equally divert men from the idea of bettering their condition, and hold the soul as it were in a state of torpor fixed on the contemplation of another world, I should then wish that it were possible for me to rouse that people to a sense of their wants; I should seek to discover more rapid and more easy means for satisfying the fresh desires which I might have awakened; and, directing the most strenuous efforts of the human mind to physical pursuits, I should endeavor to stimulate it to promote the well-being of man. If it happened that some men were immoderately incited to the pursuit of riches, and displayed an excessive liking for physical gratifications, I should not be alarmed; these peculiar symptoms would soon be absorbed in the general

aspect of the people.

The attention of the legislators of democracies is called to other cares. Give democratic nations education and freedom, and leave them alone. They will soon learn to draw from this world all the benefits which it can afford; they will improve each of the useful arts, and will day by day render life more comfortable, more convenient, and more easy. Their social condition naturally urges them in this direction; I do not fear that they will slacken their course.

But whilst man takes delight in this honest and lawful pursuit of his well-being, it is to be apprehended that he may in the end lose the use of his sublimest faculties; and that whilst he is busied in improving all around him, he may at length degrade himself. Here, and here only, does the peril lie. It should therefore be the unceasing object of the legislators of democracies, and of all the virtuous and enlightened men who live there, to raise the souls of their fellow-citizens, and keep them lifted up towards heaven. It is necessary that all who feel an interest in the future destinies of democratic society should unite, and that all should make joint and continual efforts to diffuse the love of the infinite, a sense of greatness, and a love of pleasures not of earth. If amongst the opinions of a democratic people any of those pernicious theories exist which tend to inculcate that all perishes with the body, let men by whom such theories are professed be marked as the natural foes of such a people.

The materialists are offensive to me in many respects; their doctrines I hold to be pernicious, and I am disgusted at their arrogance. If their system could be of any utility to man, it would seem to be by giving him a modest opinion of himself. But these reasoners show that it is not so; and when they think they have said enough to establish that they are brutes, they show themselves as proud as if they had demonstrated that they are gods. Materialism is, amongst all nations, a dangerous disease of the human mind; but it is more especially to be dreaded amongst a democratic people, because it readily amalgamates with that vice which is most familiar to the heart under such circumstances. Democracy encourages a taste for physical gratification: this taste, if it become excessive, soon disposes men to believe that all is matter only; and materialism, in turn, hurries them back with mad

impatience to these same delights: such is the fatal circle within which democratic nations are driven round. It were well that they should see the danger and hold back.

Most religions are only general, simple, and practical means of teaching men the doctrine of the immortality of the soul. That is the greatest benefit which a democratic people derives from its belief, and hence belief is more necessary to such a people than to all others. When therefore any religion has struck its roots deep into a democracy, beware lest you disturb them; but rather watch it carefully, as the most precious bequest of aristocratic ages. Seek not to supersede the old religious opinions of men by new ones; lest in the passage from one faith to another, the soul being left for a while stripped of all belief, the love of physical gratifications should grow upon it and fill it wholly.

The doctrine of metempsychosis is assuredly not more rational than that of materialism; nevertheless if it were absolutely necessary that a democracy should choose one of the two, I should not hesitate to decide that the community would run less risk of being brutalized by believing that the soul of man will pass into the carcass of a hog, than by believing that the soul of man is nothing at all. The belief in a supersensual and immortal principle, united for a time to matter, is so indispensable to man's greatness, that its effects are striking even when it is not united to the doctrine of future reward and punishment; and when it holds no more than that after death the divine principle contained in man is absorbed in the Deity, or transferred to animate the frame of some other creature. Men holding so imperfect a belief will still consider the body as the secondary and inferior portion of their nature, and they will despise it even whilst they yield to its influence; whereas they have a natural esteem and secret admiration for the immaterial part of man, even though they sometimes refuse to submit to its dominion. That is enough to give a lofty cast to their opinions and their tastes, and to bid them tend with no interested motive, and as it were by impulse, to pure feelings and elevated thoughts.

It is not certain that Socrates and his followers had very fixed opinions as to what would befall man hereafter; but the sole point of belief on which they were determined—that the soul has nothing in common with the body, and

survives it—was enough to give the Platonic philosophy that sublime aspiration by which it is distinguished. It is clear from the works of Plato, that many philosophical writers, his predecessors or contemporaries, professed materialism. These writers have not reached us, or have reached us in mere fragments. The same thing has happened in almost all ages; the greater part of the most famous minds in literature adhere to the doctrines of a supersensual philosophy. The instinct and the taste of the human race maintain those doctrines; they save them oftentimes in spite of men themselves, and raise the names of their defenders above the tide of time. It must not then be supposed that at any period or under any political condition, the passion for physical gratifications, and the opinions which are superinduced by that passion, can ever content a whole people. The heart of man is of a larger mould: it can at once comprise a taste for the possessions of earth and the love of those of heaven: at times it may seem to cling devotedly to the one, but it will never be long without thinking of the other.

If it be easy to see that it is more particularly important in democratic ages that spiritual opinions should prevail, it is not easy to say by what means those who govern democratic nations may make them predominate. I am no believer in the prosperity, any more than in the durability, of official philosophies; and as to state religions, I have always held, that if they be sometimes of momentary service to the interests of political power, they always, sooner or later, become fatal to the Church. Nor do I think with those who assert, that to raise religion in the eyes of the people, and to make them do honor to her spiritual doctrines, it is desirable indirectly to give her ministers a political influence which the laws deny them. I am so much alive to the almost inevitable dangers which beset religious belief whenever the clergy take part in public affairs, and I am so convinced that Christianity must be maintained at any cost in the bosom of modern democracies, that I had rather shut up the priesthood within the sanctuary than allow them to step beyond it.

What means then remain in the hands of constituted authorities to bring men back to spiritual opinions, or to hold them fast to the religion by which those opinions are suggested? My answer will do me harm in the eyes of politicians. I believe that the sole effectual means which governments can

employ in order to have the doctrine of the immortality of the soul duly respected, is ever to act as if they believed in it themselves; and I think that it is only by scrupulous conformity to religious morality in great affairs that they can hope to teach the community at large to know, to love, and to observe it in the lesser concerns of life.

## **Chapter 16: That Excessive Care of Worldly Welfare May Impair that Welfare**

THERE is a closer tie than is commonly supposed between improvement of the soul and the amelioration of that which belongs to the body. Man may leave these two things apart, and consider each of them alternately; but he cannot sever them entirely without at last losing sight of one and of the other. The beasts have the same senses as ourselves, and very nearly the same appetites. We have no sensual passions which are not common to our race and theirs, and which are not to be found, at least in the germ, in a dog as well as in a man. Whence is it then that the animals can only provide for their first and lowest wants, whereas we can infinitely vary and endlessly increase our enjoyments?

We are superior to the beasts in this, that we use our souls to find out those material benefits to which they are only led by instinct. In man, the angel teaches the brute the art of contenting its desires. It is because man is capable of rising above the things of the body, and of contemning life itself, of which the beasts have not the least notion, that he can multiply these same things of the body to a degree which inferior races are equally unable to conceive. Whatever elevates, enlarges, and expands the soul, renders it more capable of succeeding in those very undertakings which concern it not. Whatever, on the other hand, enervates or lowers it, weakens it for all purposes, the chiefest, as well as the least, and threatens to render it almost equally impotent for the one and for the other. Hence the soul must remain great and strong, though it were only to devote its strength and greatness from time to time to the service of the body. If men were ever to content themselves with material objects, it is probable that they would lose by

degrees the art of producing them; and they would enjoy them in the end, like the brutes, without discernment and without improvement.

## **Chapter 17: That in Times Marked by Equality of Conditions and Sceptical Opinions, it is Important to Remove to a Distance the Objects of Human Actions**

IN the ages of faith the final end of life is placed beyond life. The men of those ages therefore naturally, and in a manner involuntarily, accustom themselves to fix their gaze for a long course of years on some immovable object, towards which they are constantly tending; and they learn by insensible degrees to repress a multitude of petty passing desires, in order to be the better able to content that great and lasting desire which possesses them. When these same men engage in the affairs of this world, the same habits may be traced in their conduct. They are apt to set up some general and certain aim and end to their actions here below, towards which all their efforts are directed: they do not turn from day to day to chase some novel object of desire, but they have settled designs which they are never weary of pursuing. This explains why religious nations have so often achieved such lasting results: for whilst they were thinking only of the other world, they had found out the great secret of success in this. Religions give men a general habit of conducting themselves with a view to futurity: in this respect they are not less useful to happiness in this life than to felicity hereafter; and this is one of their chief political characteristics.

But in proportion as the light of faith grows dim, the range of man's sight is circumscribed, as if the end and aim of human actions appeared every day to be more within his reach. When men have once allowed themselves to think no more of what is to befall them after life, they readily lapse into that complete and brutal indifference to futurity, which is but too conformable to some propensities of mankind. As soon as they have lost the habit of placing their chief hopes upon remote events, they naturally seek to gratify without delay their smallest desires; and no sooner do they despair of living forever, than they are disposed to act as if they were to exist but for a single

day. In sceptical ages it is always therefore to be feared that men may perpetually give way to their daily casual desires; and that, wholly renouncing whatever cannot be acquired without protracted effort, they may establish nothing great, permanent, and calm.

If the social condition of a people, under these circumstances, becomes democratic, the danger which I here point out is thereby increased. When everyone is constantly striving to change his position—when an immense field for competition is thrown open to all—when wealth is amassed or dissipated in the shortest possible space of time amidst the turmoil of democracy, visions of sudden and easy fortunes—of great possessions easily won and lost—of chance, under all its forms—haunt the mind. The instability of society itself fosters the natural instability of man's desires. In the midst of these perpetual fluctuations of his lot, the present grows upon his mind, until it conceals futurity from his sight, and his looks go no further than the morrow.

In those countries in which unhappily irreligion and democracy coexist, the most important duty of philosophers and of those in power is to be always striving to place the objects of human actions far beyond man's immediate range. Circumscribed by the character of his country and his age, the moralist must learn to vindicate his principles in that position. He must constantly endeavor to show his contemporaries, that, even in the midst of the perpetual commotion around them, it is easier than they think to conceive and to execute protracted undertakings. He must teach them that, although the aspect of mankind may have changed, the methods by which men may provide for their prosperity in this world are still the same; and that amongst democratic nations, as well as elsewhere, it is only by resisting a thousand petty selfish passions of the hour that the general and unquenchable passion for happiness can be satisfied.

The task of those in power is not less clearly marked out. At all times it is important that those who govern nations should act with a view to the future: but this is even more necessary in democratic and sceptical ages than in any others. By acting thus, the leading men of democracies not only make public affairs prosperous, but they also teach private individuals, by their example, the art of managing private concerns. Above all they must

strive as much as possible to banish chance from the sphere of politics. The sudden and undeserved promotion of a courtier produces only a transient impression in an aristocratic country, because the aggregate institutions and opinions of the nation habitually compel men to advance slowly in tracks which they cannot get out of. But nothing is more pernicious than similar instances of favor exhibited to the eyes of a democratic people: they give the last impulse to the public mind in a direction where everything hurries it onwards. At times of scepticism and equality more especially, the favor of the people or of the prince, which chance may confer or chance withhold, ought never to stand in lieu of attainments or services. It is desirable that every advancement should there appear to be the result of some effort; so that no greatness should be of too easy acquirement, and that ambition should be obliged to fix its gaze long upon an object before it is gratified. Governments must apply themselves to restore to men that love of the future with which religion and the state of society no longer inspire them; and, without saying so, they must practically teach the community day by day that wealth, fame, and power are the rewards of labor—that great success stands at the utmost range of long desires, and that nothing lasting is obtained but what is obtained by toil. When men have accustomed themselves to foresee from afar what is likely to befall in the world and to feed upon hopes, they can hardly confine their minds within the precise circumference of life, and they are ready to break the boundary and cast their looks beyond. I do not doubt that, by training the members of a community to think of their future condition in this world, they would be gradually and unconsciously brought nearer to religious convictions. Thus the means which allow men, up to a certain point, to go without religion, are perhaps after all the only means we still possess for bringing mankind back by a long and roundabout path to a state of faith.

## **Chapter 18: That Amongst the Americans All Honest Callings Are Honorable**

AMONGST a democratic people, where there is no hereditary wealth, every man works to earn a living, or has worked, or is born of parents who

have worked. The notion of labor is therefore presented to the mind on every side as the necessary, natural, and honest condition of human existence. Not only is labor not dishonorable amongst such a people, but it is held in honor: the prejudice is not against it, but in its favor. In the United States a wealthy man thinks that he owes it to public opinion to devote his leisure to some kind of industrial or commercial pursuit, or to public business. He would think himself in bad repute if he employed his life solely in living. It is for the purpose of escaping this obligation to work, that so many rich Americans come to Europe, where they find some scattered remains of aristocratic society, amongst which idleness is still held in honor.

Equality of conditions not only ennobles the notion of labor in men's estimation, but it raises the notion of labor as a source of profit. In aristocracies it is not exactly labor that is despised, but labor with a view to profit. Labor is honorific in itself, when it is undertaken at the sole bidding of ambition or of virtue. Yet in aristocratic society it constantly happens that he who works for honor is not insensible to the attractions of profit. But these two desires only intermingle in the innermost depths of his soul: he carefully hides from every eye the point at which they join; he would fain conceal it from himself. In aristocratic countries there are few public officers who do not affect to serve their country without interested motives. Their salary is an incident of which they think but little, and of which they always affect not to think at all. Thus the notion of profit is kept distinct from that of labor; however they may be united in point of fact, they are not thought of together.

In democratic communities these two notions are, on the contrary, always palpably united. As the desire of well-being is universal—as fortunes are slender or fluctuating—as everyone wants either to increase his own resources, or to provide fresh ones for his progeny, men clearly see that it is profit which, if not wholly, at least partially, leads them to work. Even those who are principally actuated by the love of fame are necessarily made familiar with the thought that they are not exclusively actuated by that motive; and they discover that the desire of getting a living is mingled in their minds with the desire of making life illustrious.

As soon as, on the one hand, labor is held by the whole community to be an honorable necessity of man's condition, and, on the other, as soon as labor is always ostensibly performed, wholly or in part, for the purpose of earning remuneration, the immense interval which separated different callings in aristocratic societies disappears. If all are not alike, all at least have one feature in common. No profession exists in which men do not work for money; and the remuneration which is common to them all gives them all an air of resemblance. This serves to explain the opinions which the Americans entertain with respect to different callings. In America no one is degraded because he works, for everyone about him works also; nor is anyone humiliated by the notion of receiving pay, for the President of the United States also works for pay. He is paid for commanding, other men for obeying orders. In the United States professions are more or less laborious, more or less profitable; but they are never either high or low: every honest calling is honorable.

## **Chapter 19: That Almost All the Americans Follow Industrial Callings**

AGRICULTURE is, perhaps, of all the useful arts that which improves most slowly amongst democratic nations. Frequently, indeed, it would seem to be stationary, because other arts are making rapid strides towards perfection. On the other hand, almost all the tastes and habits which the equality of condition engenders naturally lead men to commercial and industrial occupations.

Suppose an active, enlightened, and free man, enjoying a competency, but full of desires: he is too poor to live in idleness; he is rich enough to feel himself protected from the immediate fear of want, and he thinks how he can better his condition. This man has conceived a taste for physical gratifications, which thousands of his fellow-men indulge in around him; he has himself begun to enjoy these pleasures, and he is eager to increase his means of satisfying these tastes more completely. But life is slipping away, time is urgent—to what is he to turn? The cultivation of the ground

promises an almost certain result to his exertions, but a slow one; men are not enriched by it without patience and toil. Agriculture is therefore only suited to those who have already large, superfluous wealth, or to those whose penury bids them only seek a bare subsistence. The choice of such a man as we have supposed is soon made; he sells his plot of ground, leaves his dwelling, and embarks in some hazardous but lucrative calling. Democratic communities abound in men of this kind; and in proportion as the equality of conditions becomes greater, their multitude increases. Thus democracy not only swells the number of workingmen, but it leads men to prefer one kind of labor to another; and whilst it diverts them from agriculture, it encourages their taste for commerce and manufactures.

This spirit may be observed even amongst the richest members of the community. In democratic countries, however opulent a man is supposed to be, he is almost always discontented with his fortune, because he finds that he is less rich than his father was, and he fears that his sons will be less rich than himself. Most rich men in democracies are therefore constantly haunted by the desire of obtaining wealth, and they naturally turn their attention to trade and manufactures, which appear to offer the readiest and most powerful means of success. In this respect they share the instincts of the poor, without feeling the same necessities; say rather, they feel the most imperious of all necessities, that of not sinking in the world.

In aristocracies the rich are at the same time those who govern. The attention which they unceasingly devote to important public affairs diverts them from the lesser cares which trade and manufactures demand. If the will of an individual happens, nevertheless, to turn his attention to business, the will of the body—to which he belongs will immediately debar him from pursuing it; for however men may declaim against the rule of numbers, they cannot wholly escape their sway; and even amongst those aristocratic bodies which most obstinately refuse to acknowledge the rights of the majority of the nation, a private majority is formed which governs the rest.

In democratic countries, where money does not lead those who possess it to political power, but often removes them from it, the rich do not know how to spend their leisure. They are driven into active life by the inquietude and the greatness of their desires, by the extent of their resources, and by the

taste for what is extraordinary, which is almost always felt by those who rise, by whatsoever means, above the crowd. Trade is the only road open to them. In democracies nothing is more great or more brilliant than commerce: it attracts the attention of the public, and fills the imagination of the multitude; all energetic passions are directed towards it. Neither their own prejudices, nor those of anybody else, can prevent the rich from devoting themselves to it. The wealthy members of democracies never form a body which has manners and regulations of its own; the opinions peculiar to their class do not restrain them, and the common opinions of their country urge them on. Moreover, as all the large fortunes which are to be met with in a democratic community are of commercial growth, many generations must succeed each other before their possessors can have entirely laid aside their habits of business.

Circumscribed within the narrow space which politics leave them, rich men in democracies eagerly embark in commercial enterprise: there they can extend and employ their natural advantages; and indeed it is even by the boldness and the magnitude of their industrial speculations that we may measure the slight esteem in which productive industry would have been held by them, if they had been born amidst an aristocracy.

A similar observation is likewise applicable to all men living in democracies, whether they be poor or rich. Those who live in the midst of democratic fluctuations have always before their eyes the phantom of chance; and they end by liking all undertakings in which chance plays a part. They are therefore all led to engage in commerce, not only for the sake of the profit it holds out to them, but for the love of the constant excitement occasioned by that pursuit.

The United States of America have only been emancipated for half a century [in 1840] from the state of colonial dependence in which they stood to Great Britain; the number of large fortunes there is small, and capital is still scarce. Yet no people in the world has made such rapid progress in trade and manufactures as the Americans: they constitute at the present day the second maritime nation in the world; and although their manufactures have to struggle with almost insurmountable natural impediments, they are not prevented from making great and daily advances. In the United States

the greatest undertakings and speculations are executed without difficulty, because the whole population is engaged in productive industry, and because the poorest as well as the most opulent members of the commonwealth are ready to combine their efforts for these purposes. The consequence is, that a stranger is constantly amazed by the immense public works executed by a nation which contains, so to speak, no rich men. The Americans arrived but as yesterday on the territory which they inhabit, and they have already changed the whole order of nature for their own advantage. They have joined the Hudson to the Mississippi, and made the Atlantic Ocean communicate with the Gulf of Mexico, across a continent of more than five hundred leagues in extent which separates the two seas. The longest railroads which have been constructed up to the present time are in America. But what most astonishes me in the United States, is not so much the marvellous grandeur of some undertakings, as the innumerable multitude of small ones. Almost all the farmers of the United States combine some trade with agriculture; most of them make agriculture itself a trade. It seldom happens that an American farmer settles for good upon the land which he occupies: especially in the districts of the Far West he brings land into tillage in order to sell it again, and not to farm it: he builds a farmhouse on the speculation that, as the state of the country will soon be changed by the increase of population, a good price will be gotten for it. Every year a swarm of the inhabitants of the North arrive in the Southern States, and settle in the parts where the cotton plant and the sugar-cane grow. These men cultivate the soil in order to make it produce in a few years enough to enrich them; and they already look forward to the time when they may return home to enjoy the competency thus acquired. Thus the Americans carry their business-like qualities into agriculture; and their trading passions are displayed in that as in their other pursuits.

The Americans make immense progress in productive industry, because they all devote themselves to it at once; and for this same reason they are exposed to very unexpected and formidable embarrassments. As they are all engaged in commerce, their commercial affairs are affected by such various and complex causes that it is impossible to foresee what difficulties may arise. As they are all more or less engaged in productive industry, at the least shock given to business all private fortunes are put in jeopardy at the same time, and the State is shaken. I believe that the return of these

commercial panics is an endemic disease of the, democratic nations of our age. It may be rendered less dangerous, but it cannot be cured; because it does not originate in accidental circumstances, but in the temperament of these nations.

## **Chapter 20: That Aristocracy May Be Engendered by Manufactures**

I HAVE shown that democracy is favorable to the growth of manufactures, and that it increases without limit the numbers of the manufacturing classes: we shall now see by what side road manufacturers may possibly in their turn bring men back to aristocracy. It is acknowledged that when a workman is engaged every day upon the same detail, the whole commodity is produced with greater ease, promptitude, and economy. It is likewise acknowledged that the cost of the production of manufactured goods is diminished by the extent of the establishment in which they are made, and by the amount of capital employed or of credit. These truths had long been imperfectly discerned, but in our time they have been demonstrated. They have been already applied to many very important kinds of manufactures, and the humblest will gradually be governed by them. I know of nothing in politics which deserves to fix the attention of the legislator more closely than these two new axioms of the science of manufactures.

When a workman is unceasingly and exclusively engaged in the fabrication of one thing, he ultimately does his work with singular dexterity; but at the same time he loses the general faculty of applying his mind to the direction of the work. He every day becomes more adroit and less industrious; so that it may be said of him, that in proportion as the workman improves the man is degraded. What can be expected of a man who has spent twenty years of his life in making heads for pins? and to what can that mighty human intelligence, which has so often stirred the world, be applied in him, except it be to investigate the best method of making pins' heads? When a workman has spent a considerable portion of his existence in this manner, his thoughts are forever set upon the object of his daily toil; his body has

contracted certain fixed habits, which it can never shake off: in a word, he no longer belongs to himself, but to the calling which he has chosen. It is in vain that laws and manners have been at the pains to level all barriers round such a man, and to open to him on every side a thousand different paths to fortune; a theory of manufactures more powerful than manners and laws binds him to a craft, and frequently to a spot, which he cannot leave: it assigns to him a certain place in society, beyond which he cannot go: in the midst of universal movement it has rendered him stationary.

In proportion as the principle of the division of labor is more extensively applied, the workman becomes more weak, more narrow-minded, and more dependent. The art advances, the artisan recedes. On the other hand, in proportion as it becomes more manifest that the productions of manufactures are by so much the cheaper and better as the manufacture is larger and the amount of capital employed more considerable, wealthy and educated men come forward to embark in manufactures which were heretofore abandoned to poor or ignorant handi-craftsmen. The magnitude of the efforts required, and the importance of the results to be obtained, attract them. Thus at the very time at which the science of manufactures lowers the class of workmen, it raises the class of masters.

Whereas the workman concentrates his faculties more and more upon the study of a single detail, the master surveys a more extensive whole, and the mind of the latter is enlarged in proportion as that of the former is narrowed. In a short time the one will require nothing but physical strength without intelligence; the other stands in need of science, and almost of genius, to insure success. This man resembles more and more the administrator of a vast empire—that man, a brute. The master and the workman have then here no similarity, and their differences increase every day. They are only connected as the two rings at the extremities of a long chain. Each of them fills the station which is made for him, and out of which he does not get: the one is continually, closely, and necessarily dependent upon the other, and seems as much born to obey as that other is to command. What is this but aristocracy?

As the conditions of men constituting the nation become more and more equal, the demand for manufactured commodities becomes more general

and more extensive; and the cheapness which places these objects within the reach of slender fortunes becomes a great element of success. Hence there are every day more men of great opulence and education who devote their wealth and knowledge to manufactures; and who seek, by opening large establishments, and by a strict division of labor, to meet the fresh demands which are made on all sides. Thus, in proportion as the mass of the nation turns to democracy, that particular class which is engaged in manufactures becomes more aristocratic. Men grow more alike in the one—more different in the other; and inequality increases in the less numerous class in the same ratio in which it decreases in the community. Hence it would appear, on searching to the bottom, that aristocracy should naturally spring out of the bosom of democracy.

But this kind of aristocracy by no means resembles those kinds which preceded it. It will be observed at once, that as it applies exclusively to manufactures and to some manufacturing callings, it is a monstrous exception in the general aspect of society. The small aristocratic societies which are formed by some manufacturers in the midst of the immense democracy of our age, contain, like the great aristocratic societies of former ages, some men who are very opulent, and a multitude who are wretchedly poor. The poor have few means of escaping from their condition and becoming rich; but the rich are constantly becoming poor, or they give up business when they have realized a fortune. Thus the elements of which the class of the poor is composed are fixed; but the elements of which the class of the rich is composed are not so. To say the truth, though there are rich men, the class of rich men does not exist; for these rich individuals have no feelings or purposes in common, no mutual traditions or mutual hopes; there are therefore members, but no body.

Not only are the rich not compactly united amongst themselves, but there is no real bond between them and the poor. Their relative position is not a permanent one; they are constantly drawn together or separated by their interests. The workman is generally dependent on the master, but not on any particular master; these two men meet in the factory, but know not each other elsewhere; and whilst they come into contact on one point, they stand very wide apart on all others. The manufacturer asks nothing of the workman but his labor; the workman expects nothing from him but his

wages. The one contracts no obligation to protect, nor the other to defend; and they are not permanently connected either by habit or by duty. The aristocracy created by business rarely settles in the midst of the manufacturing population which it directs; the object is not to govern that population, but to use it. An aristocracy thus constituted can have no great hold upon those whom it employs; and even if it succeed in retaining them at one moment, they escape the next; it knows not how to will, and it cannot act. The territorial aristocracy of former ages was either bound by law, or thought itself bound by usage, to come to the relief of its serving-men, and to succor their distresses. But the manufacturing aristocracy of our age first impoverishes and debases the men who serve it, and then abandons them to be supported by the charity of the public. This is a natural consequence of what has been said before. Between the workmen and the master there are frequent relations, but no real partnership.

I am of opinion, upon the whole, that the manufacturing aristocracy which is growing up under our eyes is one of the harshest which ever existed in the world; but at the same time it is one of the most confined and least dangerous. Nevertheless the friends of democracy should keep their eyes anxiously fixed in this direction; for if ever a permanent inequality of conditions and aristocracy again penetrate into the world, it may be predicted that this is the channel by which they will enter.

# **Third Book: Influence of Democracy on Manners, Properly So Called**

[Chapter 1: That Manners Are Softened as Social Conditions Become More Equal](#)

[Chapter 2: That Democracy Renders the Habitual Intercourse of the Americans Simple and Easy.](#)

[Chapter 3: Why the Americans Show so Little Sensitiveness in Their Own Country, and Are so Sensitive in Europe](#)

[Chapter 4: Consequences of the Three Preceding Chapters](#)

[Chapter 5: How Democracy Affects the Relation of Masters and Servants](#)

[Chapter 6: That Democratic Institutions and Manners Tend to Raise Rents and Shorten the Terms of Leases](#)

[Chapter 7: Influence of Democracy on Wages](#)

[Chapter 8: Influence of Democracy on Kindred](#)

[Chapter 9: Education of Young Women in the United States](#)

[Chapter 10: The Young Woman in the Character of a Wife](#)

[Chapter 11: That the Equality of Conditions Contributes to the Maintenance of Good Morals in America](#)

[Chapter 12: How the Americans Understand the Equality of the Sexes](#)

[Chapter 13: That the Principle of Equality Naturally Divides the Americans into a Number of Small Private Circles](#)

Chapter 14: Some Reflections on American Manners

Chapter 15: Of the Gravity of the Americans, and Why it Does Not Prevent Them from Often Committing Inconsiderate Actions

Chapter 16: Why the National Vanity of the Americans is More Restless and Captious than That of the English

Chapter 17: That the Aspect of Society in the United States is at Once Excited and Monotonous

Chapter 18: Of Honor in the United States and in Democratic Communities

Chapter 19: Why So Many Ambitious Men and So Little Lofty Ambition are to be Found in the United States

Chapter 20: The Trade of Place-Hunting in Certain Democratic Countries

Chapter 21: Why Great Revolutions Will Become More Rare

Chapter 22: Why Democratic Nations Are Naturally Desirous of Peace, and Democratic Armies of War

Chapter 23: Which is the Most Warlike and Most Revolutionary Class in Democratic Armies?

Chapter 24: Causes which Render Democratic Armies Weaker Than Other Armies at the Outset of a Campaign, and More Formidable in Protracted Warfare

Chapter 25: Of Discipline in Democratic Armies

Chapter 26: Some Considerations on War in Democratic Communities

Fourth Book: Influence of Democratic Opinions and Sentiments on Political Society

## **Chapter 1: That Manners Are Softened as Social Conditions Become More Equal**

WE perceive that for several ages social conditions have tended to equality, and we discover that in the course of the same period the manners of society have been softened. Are these two things merely contemporaneous, or does any secret link exist between them, so that the one cannot go on without making the other advance? Several causes may concur to render the manners of a people less rude; but, of all these causes, the most powerful appears to me to be the equality of conditions. Equality of conditions and growing civility in manners are, then, in my eyes, not only contemporaneous occurrences, but correlative facts. When the fabulists seek to interest us in the actions of beasts, they invest them with human notions and passions; the poets who sing of spirits and angels do the same; there is no wretchedness so deep, nor any happiness so pure, as to fill the human mind and touch the heart, unless we are ourselves held up to our own eyes under other features.

This is strictly applicable to the subject upon which we are at present engaged. When all men are irrevocably marshalled in an aristocratic community, according to their professions, their property, and their birth, the members of each class, considering themselves as children of the same family, cherish a constant and lively sympathy towards each other, which can never be felt in an equal degree by the citizens of a democracy. But the same feeling does not exist between the several classes towards each other. Amongst an aristocratic people each caste has its own opinions, feelings, rights, manners, and modes of living. Thus the men of whom each caste is composed do not resemble the mass of their fellow-citizens; they do not think or feel in the same manner, and they scarcely believe that they belong to the same human race. They cannot, therefore, thoroughly understand what others feel, nor judge of others by themselves. Yet they are sometimes

eager to lend each other mutual aid; but this is not contrary to my previous observation. These aristocratic institutions, which made the beings of one and the same race so different, nevertheless bound them to each other by close political ties. Although the serf had no natural interest in the fate of nobles, he did not the less think himself obliged to devote his person to the service of that noble who happened to be his lord; and although the noble held himself to be of a different nature from that of his serfs, he nevertheless held that his duty and his honor constrained him to defend, at the risk of his own life, those who dwelt upon his domains.

It is evident that these mutual obligations did not originate in the law of nature, but in the law of society; and that the claim of social duty was more stringent than that of mere humanity. These services were not supposed to be due from man to man, but to the vassal or to the lord. Feudal institutions awakened a lively sympathy for the sufferings of certain men, but none at all for the miseries of mankind. They infused generosity rather than mildness into the manners of the time, and although they prompted men to great acts of self-devotion, they engendered no real sympathies; for real sympathies can only exist between those who are alike; and in aristocratic ages men acknowledge none but the members of their own caste to be like themselves.

When the chroniclers of the Middle Ages, who all belonged to the aristocracy by birth or education, relate the tragical end of a noble, their grief flows apace; whereas they tell you at a breath, and without wincing, of massacres and tortures inflicted on the common sort of people. Not that these writers felt habitual hatred or systematic disdain for the people; war between the several classes of the community was not yet declared. They were impelled by an instinct rather than by a passion; as they had formed no clear notion of a poor man's sufferings, they cared but little for his fate. The same feelings animated the lower orders whenever the feudal tie was broken. The same ages which witnessed so many heroic acts of self-devotion on the part of vassals for their lords, were stained with atrocious barbarities, exercised from time to time by the lower classes on the higher. It must not be supposed that this mutual insensibility arose solely from the absence of public order and education; for traces of it are to be found in the following centuries, which became tranquil and enlightened whilst they

remained aristocratic. In 1675 the lower classes in Brittany revolted at the imposition of a new tax. These disturbances were put down with unexampled atrocity. Observe the language in which Madame de Sevigne, a witness of these horrors, relates them to her daughter:—

"Aux Rochers, 30 Octobre, 1675.

"Mon Dieu, ma fille, que votre lettre d'Aix est plaisante! Au moins relisez vos lettres avant que de les envoyer; laissez-vous surprendre a leur agrement, et consolez-vous par ce plaisir de la peine que vous avez d'en tant ecrire. Vous avez donc baise toute la Provence? il n'y aurait pas satisfaction a baiser toute la Bretagne, a moins qu'on n'aimat a sentir le vin. . . Voulez-vous savoir des nouvelles de Rennes? On a fait une taxe de cent mille ecus sur le bourgeois; et si on ne trouve point cette somme dans vingt-quatre heures, elle sera doublee et exigible par les soldats. On a chasse et banni toute une grand rue, et defendu de les recueillir sous peine de la vie; de sorte qu'on voyait tous ces miserables, vieillards, femmes accouchees, enfans, errer en pleurs au sortir de cette ville sans savoir ou aller. On roua avant-hier un violon, qui avait commence la danse et la pillerie du papier timbre; il a ete ecartele apres sa mort, et ses quatre quartiers exposes aux quatre coins de la ville. On a pris soixante bourgeois, et on commence demain les punitions. Cette province est un bel exemple pour les autres, et surtout de respecter les gouverneurs et les gouvernantes, et de ne point jeter de pierres dans leur jardin.

"Madame de Tarente etait hier dans ces bois par un temps enchante: il n'est question ni de chambre ni de collation; elle entre par la barriere et s'en retourne de meme..."

In another letter she adds:—

"Vous me parlez bien plaisamment de nos miseres; nous ne sommes plus si roues; un en huit jours, pour entretenir la justice. Il est vrai que la penderie me parait maintenant un rafraichissement. J'ai une tout autre idee de la justice, depuis que je suis en ce pays. Vos galeriens me paraissent une

societe d'honnetes gens qui se sont retires du monde pour mener une vie douce."

It would be a mistake to suppose that Madame de Sevigne, who wrote these lines, was a selfish or cruel person; she was passionately attached to her children, and very ready to sympathize in the sorrows of her friends; nay, her letters show that she treated her vassals and servants with kindness and indulgence. But Madame de Sevigne had no clear notion of suffering in anyone who was not a person of quality.

In our time the harshest man writing to the most in sensible person of his acquaintance would not venture wantonly to indulge in the cruel jocularities which I have quoted; and even if his own manners allowed him to do so, the manners of society at large would forbid it. Whence does this arise? Have we more sensibility than our forefathers? I know not that we have; but I am sure that our insensibility is extended to a far greater range of objects. When all the ranks of a community are nearly equal, as all men think and feel in nearly the same manner, each of them may judge in a moment of the sensations of all the others; he casts a rapid glance upon himself, and that is enough. There is no wretchedness into which he cannot readily enter, and a secret instinct reveals to him its extent. It signifies not that strangers or foes be the sufferers; imagination puts him in their place; something like a personal feeling is mingled with his pity, and makes himself suffer whilst the body of his fellow-creature is in torture. In democratic ages men rarely sacrifice themselves for one another; but they display general compassion for the members of the human race. They inflict no useless ills; and they are happy to relieve the griefs of others, when they can do so without much hurting themselves; they are not disinterested, but they are humane.

Although the Americans have, in a manner, reduced egotism to a social and philosophical theory, they are nevertheless extremely open to compassion. In no country is criminal justice administered with more mildness than in the United States. Whilst the English seem disposed carefully to retain the bloody traces of the dark ages in their penal legislation, the Americans have almost expunged capital punishment from their codes. North America is, I think, the only one country upon earth in which the life of no one citizen

has been taken for a political offence in the course of the last fifty years. The circumstance which conclusively shows that this singular mildness of the Americans arises chiefly from their social condition, is the manner in which they treat their slaves. Perhaps there is not, upon the whole, a single European colony in the New World in which the physical condition of the blacks is less severe than in the United States; yet the slaves still endure horrid sufferings there, and are constantly exposed to barbarous punishments. It is easy to perceive that the lot of these unhappy beings inspires their masters with but little compassion, and that they look upon slavery, not only as an institution which is profitable to them, but as an evil which does not affect them. Thus the same man who is full of humanity towards his fellow-creatures when they are at the same time his equals, becomes insensible to their afflictions as soon as that equality ceases. His mildness should therefore be attributed to the equality of conditions, rather than to civilization and education.

What I have here remarked of individuals is, to a certain extent, applicable to nations. When each nation has its distinct opinions, belief, laws, and customs, it looks upon itself as the whole of mankind, and is moved by no sorrows but its own. Should war break out between two nations animated by this feeling, it is sure to be waged with great cruelty. At the time of their highest culture, the Romans slaughtered the generals of their enemies, after having dragged them in triumph behind a car; and they flung their prisoners to the beasts of the Circus for the amusement of the people. Cicero, who declaimed so vehemently at the notion of crucifying a Roman citizen, had not a word to say against these horrible abuses of victory. It is evident that in his eyes a barbarian did not belong to the same human race as a Roman. On the contrary, in proportion as nations become more like each other, they become reciprocally more compassionate, and the law of nations is mitigated.

## **Chapter 2: That Democracy Renders the Habitual Intercourse of the Americans Simple and Easy**

DEMOCRACY does not attach men strongly to each other; but it places their habitual intercourse upon an easier footing. If two Englishmen chance to meet at the Antipodes, where they are surrounded by strangers whose language and manners are almost unknown to them, they will first stare at each other with much curiosity and a kind of secret uneasiness; they will then turn away, or, if one accosts the other, they will take care only to converse with a constrained and absent air upon very unimportant subjects. Yet there is no enmity between these men; they have never seen each other before, and each believes the other to be a respectable person. Why then should they stand so cautiously apart? We must go back to England to learn the reason.

When it is birth alone, independent of wealth, which classes men in society, everyone knows exactly what his own position is upon the social scale; he does not seek to rise, he does not fear to sink. In a community thus organized, men of different castes communicate very little with each other; but if accident brings them together, they are ready to converse without hoping or fearing to lose their own position. Their intercourse is not upon a footing of equality, but it is not constrained. When moneyed aristocracy succeeds to aristocracy of birth, the case is altered. The privileges of some are still extremely great, but the possibility of acquiring those privileges is open to all: whence it follows that those who possess them are constantly haunted by the apprehension of losing them, or of other men's sharing them; those who do not yet enjoy them long to possess them at any cost, or, if they fail to appear at least to possess them—which is not impossible. As the social importance of men is no longer ostensibly and permanently fixed by blood, and is infinitely varied by wealth, ranks still exist, but it is not easy clearly to distinguish at a glance those who respectively belong to them. Secret hostilities then arise in the community; one set of men endeavor by innumerable artifices to penetrate, or to appear to penetrate, amongst those who are above them; another set are constantly in arms against these usurpers of their rights; or rather the same individual does both at once, and whilst he seeks to raise himself into a higher circle, he is always on the defensive against the intrusion of those below him.

Such is the condition of England at the present time; and I am of opinion that the peculiarity before adverted to is principally to be attributed to this

cause. As aristocratic pride is still extremely great amongst the English, and as the limits of aristocracy are ill-defined, everybody lives in constant dread lest advantage should be taken of his familiarity. Unable to judge at once of the social position of those he meets, an Englishman prudently avoids all contact with them. Men are afraid lest some slight service rendered should draw them into an unsuitable acquaintance; they dread civilities, and they avoid the obtrusive gratitude of a stranger quite as much as his hatred. Many people attribute these singular anti-social propensities, and the reserved and taciturn bearing of the English, to purely physical causes. I may admit that there is something of it in their race, but much more of it is attributable to their social condition, as is proved by the contrast of the Americans.

In America, where the privileges of birth never existed, and where riches confer no peculiar rights on their possessors, men unacquainted with each other are very ready to frequent the same places, and find neither peril nor advantage in the free interchange of their thoughts. If they meet by accident, they neither seek nor avoid intercourse; their manner is therefore natural, frank, and open: it is easy to see that they hardly expect or apprehend anything from each other, and that they do not care to display, any more than to conceal, their position in the world. If their demeanor is often cold and serious, it is never haughty or constrained; and if they do not converse, it is because they are not in a humor to talk, not because they think it their interest to be silent. In a foreign country two Americans are at once friends, simply because they are Americans. They are repulsed by no prejudice; they are attracted by their common country. For two Englishmen the same blood is not enough; they must be brought together by the same rank. The Americans remark this unsociable mood of the English as much as the French do, and they are not less astonished by it. Yet the Americans are connected with England by their origin, their religion, their language, and partially by their manners; they only differ in their social condition. It may therefore be inferred that the reserve of the English proceeds from the constitution of their country much more than from that of its inhabitants.

### **Chapter 3: Why the Americans Show so Little Sensitiveness in Their Own Country, and Are so Sensitive in Europe**

THE temper of the Americans is vindictive, like that of all serious and reflecting nations. They hardly ever forget an offence, but it is not easy to offend them; and their resentment is as slow to kindle as it is to abate. In aristocratic communities where a small number of persons manage everything, the outward intercourse of men is subject to settled conventional rules. Everyone then thinks he knows exactly what marks of respect or of condescension he ought to display, and none are presumed to be ignorant of the science of etiquette. These usages of the first class in society afterwards serve as a model to all the others; besides which each of the latter lays down a code of its own, to which all its members are bound to conform. Thus the rules of politeness form a complex system of legislation, which it is difficult to be perfectly master of, but from which it is dangerous for anyone to deviate; so that men are constantly exposed involuntarily to inflict or to receive bitter affronts. But as the distinctions of rank are obliterated, as men differing in education and in birth meet and mingle in the same places of resort, it is almost impossible to agree upon the rules of good breeding. As its laws are uncertain, to disobey them is not a crime, even in the eyes of those who know what they are; men attach more importance to intentions than to forms, and they grow less civil, but at the same time less quarrelsome. There are many little attentions which an American does not care about; he thinks they are not due to him, or he presumes that they are not known to be due: he therefore either does not perceive a rudeness or he forgives it; his manners become less courteous, and his character more plain and masculine.

The mutual indulgence which the Americans display, and the manly confidence with which they treat each other, also result from another deeper and more general cause, which I have already adverted to in the preceding chapter. In the United States the distinctions of rank in civil society are slight, in political society they are null; an American, therefore, does not think himself bound to pay particular attentions to any of his fellow-citizens, nor does he require such attentions from them towards himself. As he does not see that it is his interest eagerly to seek the company of any of his countrymen, he is slow to fancy that his own company is declined: despising no one on account of his station, he does not imagine that anyone

can despise him for that cause; and until he has clearly perceived an insult, he does not suppose that an affront was intended. The social condition of the Americans naturally accustoms them not to take offence in small matters; and, on the other hand, the democratic freedom which they enjoy transfuses this same mildness of temper into the character of the nation. The political institutions of the United States constantly bring citizens of all ranks into contact, and compel them to pursue great undertakings in concert. People thus engaged have scarcely time to attend to the details of etiquette, and they are besides too strongly interested in living harmoniously for them to stick at such things. They therefore soon acquire a habit of considering the feelings and opinions of those whom they meet more than their manners, and they do not allow themselves to be annoyed by trifles.

I have often remarked in the United States that it is not easy to make a man understand that his presence may be dispensed with; hints will not always suffice to shake him off. I contradict an American at every word he says, to show him that his conversation bores me; he instantly labors with fresh pertinacity to convince me; I preserve a dogged silence, and he thinks I am meditating deeply on the truths which he is uttering; at last I rush from his company, and he supposes that some urgent business hurries me elsewhere. This man will never understand that he wearies me to extinction unless I tell him so: and the only way to get rid of him is to make him my enemy for life.

It appears surprising at first sight that the same man transported to Europe suddenly becomes so sensitive and captious, that I often find it as difficult to avoid offending him here as it was to put him out of countenance. These two opposite effects proceed from the same cause. Democratic institutions generally give men a lofty notion of their country and of themselves. An American leaves his country with a heart swollen with pride; on arriving in Europe he at once finds out that we are not so engrossed by the United States and the great people which inhabits them as he had supposed, and this begins to annoy him. He has been informed that the conditions of society are not equal in our part of the globe, and he observes that among the nations of Europe the traces of rank are not wholly obliterated; that wealth and birth still retain some indeterminate privileges, which force

themselves upon his notice whilst they elude definition. He is therefore profoundly ignorant of the place which he ought to occupy in this half-ruined scale of classes, which are sufficiently distinct to hate and despise each other, yet sufficiently alike for him to be always confounding them. He is afraid of ranging himself too high—still more is he afraid of being ranged too low; this twofold peril keeps his mind constantly on the stretch, and embarrasses all he says and does. He learns from tradition that in Europe ceremonial observances were infinitely varied according to different ranks; this recollection of former times completes his perplexity, and he is the more afraid of not obtaining those marks of respect which are due to him, as he does not exactly know in what they consist. He is like a man surrounded by traps: society is not a recreation for him, but a serious toil: he weighs your least actions, interrogates your looks, and scrutinizes all you say, lest there should be some hidden allusion to affront him. I doubt whether there was ever a provincial man of quality so punctilious in breeding as he is: he endeavors to attend to the slightest rules of etiquette, and does not allow one of them to be waived towards himself: he is full of scruples and at the same time of pretensions; he wishes to do enough, but fears to do too much; and as he does not very well know the limits of the one or of the other, he keeps up a haughty and embarrassed air of reserve.

But this is not all: here is yet another double of the human heart. An American is forever talking of the admirable equality which prevails in the United States; aloud he makes it the boast of his country, but in secret he deplores it for himself; and he aspires to show that, for his part, he is an exception to the general state of things which he vaunts. There is hardly an American to be met with who does not claim some remote kindred with the first founders of the colonies; and as for the scions of the noble families of England, America seemed to me to be covered with them. When an opulent American arrives in Europe, his first care is to surround himself with all the luxuries of wealth: he is so afraid of being taken for the plain citizen of a democracy, that he adopts a hundred distorted ways of bringing some new instance of his wealth before you every day. His house will be in the most fashionable part of the town: he will always be surrounded by a host of servants. I have heard an American complain, that in the best houses of Paris the society was rather mixed; the taste which prevails there was not pure enough for him; and he ventured to hint that, in his opinion, there was

a want of elegance of manner; he could not accustom himself to see wit concealed under such unpretending forms.

These contrasts ought not to surprise us. If the vestiges of former aristocratic distinctions were not so completely effaced in the United States, the Americans would be less simple and less tolerant in their own country—they would require less, and be less fond of borrowed manners in ours.

## **Chapter 4: Consequences of the Three Preceding Chapters**

WHEN men feel a natural compassion for their mutual sufferings—when they are brought together by easy and frequent intercourse, and no sensitive feelings keep them asunder—it may readily be supposed that they will lend assistance to one another whenever it is needed. When an American asks for the co-operation of his fellow-citizens it is seldom refused, and I have often seen it afforded spontaneously and with great goodwill. If an accident happens on the highway, everybody hastens to help the sufferer; if some great and sudden calamity be falls a family, the purses of a thousand strangers are at once willingly opened, and small but numerous donations pour in to relieve their distress. It often happens amongst the most civilized nations of the globe, that a poor wretch is as friendless in the midst of a crowd as the savage in his wilds: this is hardly ever the case in the United States. The Americans, who are always cold and often coarse in their manners, seldom show insensibility; and if they do not proffer services eagerly, yet they do not refuse to render them.

All this is not in contradiction to what I have said before on the subject of individualism. The two things are so far from combating each other, that I can see how they agree. Equality of conditions, whilst it makes men feel their independence, shows them their own weakness: they are free, but exposed to a thousand accidents; and experience soon teaches them that, although they do not habitually require the assistance of others, a time almost always comes when they cannot do without it. We constantly see in Europe that men of the same profession are ever ready to assist each other;

they are all exposed to the same ills, and that is enough to teach them to seek mutual preservatives, however hardhearted and selfish they may otherwise be. When one of them falls into danger, from which the others may save him by a slight transient sacrifice or a sudden effort, they do not fail to make the attempt. Not that they are deeply interested in his fate; for if, by chance, their exertions are unavailing, they immediately forget the object of them, and return to their own business; but a sort of tacit and almost involuntary agreement has been passed between them, by which each one owes to the others a temporary support which he may claim for himself in turn. Extend to a people the remark here applied to a class, and you will understand my meaning. A similar covenant exists in fact between all the citizens of a democracy: they all feel themselves subject to the same weakness and the same dangers; and their interest, as well as their sympathy, makes it a rule with them to lend each other mutual assistance when required. The more equal social conditions become, the more do men display this reciprocal disposition to oblige each other. In democracies no great benefits are conferred, but good offices are constantly rendered: a man seldom displays self-devotion, but all men are ready to be of service to one another.

## **Chapter 5: How Democracy Affects the Relation of Masters and Servants**

AN American who had travelled for a long time in Europe once said to me, "The English treat their servants with a stiffness and imperiousness of manner which surprise us; but on the other hand the French sometimes treat their attendants with a degree of familiarity or of politeness which we cannot conceive. It looks as if they were afraid to give orders: the posture of the superior and the inferior is ill-maintained." The remark was a just one, and I have often made it myself. I have always considered England as the country in the world where, in our time, the bond of domestic service is drawn most tightly, and France as the country where it is most relaxed. Nowhere have I seen masters stand so high or so low as in these two countries. Between these two extremes the Americans are to be placed.

Such is the fact as it appears upon the surface of things: to discover the causes of that fact, it is necessary to search the matter thoroughly.

No communities have ever yet existed in which social conditions have been so equal that there were neither rich nor poor, and consequently neither masters nor servants. Democracy does not prevent the existence of these two classes, but it changes their dispositions and modifies their mutual relations. Amongst aristocratic nations servants form a distinct class, not more variously composed than that of masters. A settled order is soon established; in the former as well as in the latter class a scale is formed, with numerous distinctions or marked gradations of rank, and generations succeed each other thus without any change of position. These two communities are superposed one above the other, always distinct, but regulated by analogous principles. This aristocratic constitution does not exert a less powerful influence on the notions and manners of servants than on those of masters; and, although the effects are different, the same cause may easily be traced. Both classes constitute small communities in the heart of the nation, and certain permanent notions of right and wrong are ultimately engendered amongst them. The different acts of human life are viewed by one particular and unchanging light. In the society of servants, as in that of masters, men exercise a great influence over each other: they acknowledge settled rules, and in the absence of law they are guided by a sort of public opinion: their habits are settled, and their conduct is placed under a certain control.

These men, whose destiny is to obey, certainly do not understand fame, virtue, honesty, and honor in the same manner as their masters; but they have a pride, a virtue, and an honesty pertaining to their condition; and they have a notion, if I may use the expression, of a sort of servile honor. Because a class is mean, it must not be supposed that all who belong to it are mean-hearted; to think so would be a great mistake. However lowly it may be, he who is foremost there, and who has no notion of quitting it, occupies an aristocratic position which inspires him with lofty feelings, pride, and self-respect, that fit him for the higher virtues and actions above the common. Amongst aristocratic nations it was by no means rare to find men of noble and vigorous minds in the service of the great, who felt not the servitude they bore, and who submitted to the will of their masters

without any fear of their displeasure. But this was hardly ever the case amongst the inferior ranks of domestic servants. It may be imagined that he who occupies the lowest stage of the order of menials stands very low indeed. The French created a word on purpose to designate the servants of the aristocracy—they called them lackeys. This word "lackey" served as the strongest expression, when all others were exhausted, to designate human meanness. Under the old French monarchy, to denote by a single expression a low-spirited contemptible fellow, it was usual to say that he had the "soul of a lackey"; the term was enough to convey all that was intended.

The permanent inequality of conditions not only gives servants certain peculiar virtues and vices, but it places them in a peculiar relation with respect to their masters. Amongst aristocratic nations the poor man is familiarized from his childhood with the notion of being commanded: to whichever side he turns his eyes the graduated structure of society and the aspect of obedience meet his view. Hence in those countries the master readily obtains prompt, complete, respectful, and easy obedience from his servants, because they revere in him not only their master but the class of masters. He weighs down their will by the whole weight of the aristocracy. He orders their actions—to a certain extent he even directs their thoughts. In aristocracies the master often exercises, even without being aware of it, an amazing sway over the opinions, the habits, and the manners of those who obey him, and his influence extends even further than his authority.

In aristocratic communities there are not only hereditary families of servants as well as of masters, but the same families of servants adhere for several generations to the same families of masters (like two parallel lines which neither meet nor separate); and this considerably modifies the mutual relations of these two classes of persons. Thus, although in aristocratic society the master and servant have no natural resemblance—although, on the contrary, they are placed at an immense distance on the scale of human beings by their fortune, education, and opinions—yet time ultimately binds them together. They are connected by a long series of common reminiscences, and however different they may be, they grow alike; whilst in democracies, where they are naturally almost alike, they always remain strangers to each other. Amongst an aristocratic people the master gets to look upon his servants as an inferior and secondary part of himself, and he

often takes an interest in their lot by a last stretch of egotism.

Servants, on their part, are not averse to regard themselves in the same light; and they sometimes identify themselves with the person of the master, so that they become an appendage to him in their own eyes as well as in his. In aristocracies a servant fills a subordinate position which he cannot get out of; above him is another man, holding a superior rank which he cannot lose. On one side are obscurity, poverty, obedience for life; on the other, and also for life, fame, wealth, and command. The two conditions are always distinct and always in propinquity; the tie that connects them is as lasting as they are themselves. In this predicament the servant ultimately detaches his notion of interest from his own person; he deserts himself, as it were, or rather he transports himself into the character of his master, and thus assumes an imaginary personality. He complacently invests himself with the wealth of those who command him; he shares their fame, exalts himself by their rank, and feeds his mind with borrowed greatness, to which he attaches more importance than those who fully and really possess it. There is something touching, and at the same time ridiculous, in this strange confusion of two different states of being. These passions of masters, when they pass into the souls of menials, assume the natural dimensions of the place they occupy—they are contracted and lowered. What was pride in the former becomes puerile vanity and paltry ostentation in the latter. The servants of a great man are commonly most punctilious as to the marks of respect due to him, and they attach more importance to his slightest privileges than he does himself. In France a few of these old servants of the aristocracy are still to be met with here and there; they have survived their race, which will soon disappear with them altogether. In the United States I never saw anyone at all like them. The Americans are not only unacquainted with the kind of man, but it is hardly possible to make them understand that such ever existed. It is scarcely less difficult for them to conceive it, than for us to form a correct notion of what a slave was amongst the Romans, or a serf in the Middle Ages. All these men were in fact, though in different degrees, results of the same cause: they are all retiring from our sight, and disappearing in the obscurity of the past, together with the social condition to which they owed their origin.

Equality of conditions turns servants and masters into new beings, and places them in new relative positions. When social conditions are nearly equal, men are constantly changing their situations in life: there is still a class of menials and a class of masters, but these classes are not always composed of the same individuals, still less of the same families; and those who command are not more secure of perpetuity than those who obey. As servants do not form a separate people, they have no habits, prejudices, or manners peculiar to themselves; they are not remarkable for any particular turn of mind or moods of feeling. They know no vices or virtues of their condition, but they partake of the education, the opinions, the feelings, the virtues, and the vices of their contemporaries; and they are honest men or scoundrels in the same way as their masters are. The conditions of servants are not less equal than those of masters. As no marked ranks or fixed subordination are to be found amongst them, they will not display either the meanness or the greatness which characterizes the aristocracy of menials as well as all other aristocracies. I never saw a man in the United States who reminded me of that class of confidential servants of which we still retain a reminiscence in Europe, neither did I ever meet with such a thing as a lackey: all traces of the one and of the other have disappeared.

In democracies servants are not only equal amongst themselves, but it may be said that they are in some sort the equals of their masters. This requires explanation in order to be rightly understood. At any moment a servant may become a master, and he aspires to rise to that condition: the servant is therefore not a different man from the master. Why then has the former a right to command, and what compels the latter to obey?—the free and temporary consent of both their wills. Neither of them is by nature inferior to the other; they only become so for a time by covenant. Within the terms of this covenant, the one is a servant, the other a master; beyond it they are two citizens of the commonwealth—two men. I beg the reader particularly to observe that this is not only the notion which servants themselves entertain of their own condition; domestic service is looked upon by masters in the same light; and the precise limits of authority and obedience are as clearly settled in the mind of the one as in that of the other.

When the greater part of the community have long attained a condition nearly alike, and when equality is an old and acknowledged fact, the public

mind, which is never affected by exceptions, assigns certain general limits to the value of man, above or below which no man can long remain placed. It is in vain that wealth and poverty, authority and obedience, accidentally interpose great distances between two men; public opinion, founded upon the usual order of things, draws them to a common level, and creates a species of imaginary equality between them, in spite of the real inequality of their conditions. This all-powerful opinion penetrates at length even into the hearts of those whose interest might arm them to resist it; it affects their judgment whilst it subdues their will. In their inmost convictions the master and the servant no longer perceive any deep-seated difference between them, and they neither hope nor fear to meet with any such at any time. They are therefore neither subject to disdain nor to anger, and they discern in each other neither humility nor pride. The master holds the contract of service to be the only source of his power, and the servant regards it as the only cause of his obedience. They do not quarrel about their reciprocal situations, but each knows his own and keeps it.

In the French army the common soldier is taken from nearly the same classes as the officer, and may hold the same commissions; out of the ranks he considers himself entirely equal to his military superiors, and in point of fact he is so; but when under arms he does not hesitate to obey, and his obedience is not the less prompt, precise, and ready, for being voluntary and defined. This example may give a notion of what takes place between masters and servants in democratic communities.

It would be preposterous to suppose that those warm and deep-seated affections, which are sometimes kindled in the domestic service of aristocracy, will ever spring up between these two men, or that they will exhibit strong instances of self-sacrifice. In aristocracies masters and servants live apart, and frequently their only intercourse is through a third person; yet they commonly stand firmly by one another. In democratic countries the master and the servant are close together; they are in daily personal contact, but their minds do not intermingle; they have common occupations, hardly ever common interests. Amongst such a people the servant always considers himself as a sojourner in the dwelling of his masters. He knew nothing of their forefathers—he will see nothing of their descendants—he has nothing lasting to expect from their hand. Why then

should he confound his life with theirs, and whence should so strange a surrender of himself proceed? The reciprocal position of the two men is changed—their mutual relations must be so too.

I would fain illustrate all these reflections by the example of the Americans; but for this purpose the distinctions of persons and places must be accurately traced. In the South of the Union, slavery exists; all that I have just said is consequently inapplicable there. In the North, the majority of servants are either freedmen or the children of freedmen; these persons occupy a contested position in the public estimation; by the laws they are brought up to the level of their masters—by the manners of the country they are obstinately detrued from it. They do not themselves clearly know their proper place, and they are almost always either insolent or craven. But in the Northern States, especially in New England, there are a certain number of whites, who agree, for wages, to yield a temporary obedience to the will of their fellow-citizens. I have heard that these servants commonly perform the duties of their situation with punctuality and intelligence; and that without thinking themselves naturally inferior to the person who orders them, they submit without reluctance to obey him. They appear to me to carry into service some of those manly habits which independence and equality engender. Having once selected a hard way of life, they do not seek to escape from it by indirect means; and they have sufficient respect for themselves, not to refuse to their master that obedience which they have freely promised. On their part, masters require nothing of their servants but the faithful and rigorous performance of the covenant: they do not ask for marks of respect, they do not claim their love or devoted attachment; it is enough that, as servants, they are exact and honest. It would not then be true to assert that, in democratic society, the relation of servants and masters is disorganized: it is organized on another footing; the rule is different, but there is a rule.

It is not my purpose to inquire whether the new state of things which I have just described is inferior to that which preceded it, or simply different. Enough for me that it is fixed and determined: for what is most important to meet with among men is not any given ordering, but order. But what shall I say of those sad and troubled times at which equality is established in the midst of the tumult of revolution—when democracy, after having been

introduced into the state of society, still struggles with difficulty against the prejudices and manners of the country? The laws, and partially public opinion, already declare that no natural or permanent inferiority exists between the servant and the master. But this new belief has not yet reached the innermost convictions of the latter, or rather his heart rejects it; in the secret persuasion of his mind the master thinks that he belongs to a peculiar and superior race; he dares not say so, but he shudders whilst he allows himself to be dragged to the same level. His authority over his servants becomes timid and at the same time harsh: he has already ceased to entertain for them the feelings of patronizing kindness which long uncontested power always engenders, and he is surprised that, being changed himself, his servant changes also. He wants his attendants to form regular and permanent habits, in a condition of domestic service which is only temporary: he requires that they should appear contented with and proud of a servile condition, which they will one day shake off—that they should sacrifice themselves to a man who can neither protect nor ruin them—and in short that they should contract an indissoluble engagement to a being like themselves, and one who will last no longer than they will.

Amongst aristocratic nations it often happens that the condition of domestic service does not degrade the character of those who enter upon it, because they neither know nor imagine any other; and the amazing inequality which is manifest between them and their master appears to be the necessary and unavoidable consequence of some hidden law of Providence. In democracies the condition of domestic service does not degrade the character of those who enter upon it, because it is freely chosen, and adopted for a time only; because it is not stigmatized by public opinion, and creates no permanent inequality between the servant and the master. But whilst the transition from one social condition to another is going on, there is almost always a time when men's minds fluctuate between the aristocratic notion of subjection and the democratic notion of obedience. Obedience then loses its moral importance in the eyes of him who obeys; he no longer considers it as a species of divine obligation, and he does not yet view it under its purely human aspect; it has to him no character of sanctity or of justice, and he submits to it as to a degrading but profitable condition.. At that moment a confused and imperfect phantom of equality haunts the minds of servants; they do not at once perceive whether the equality to

which they are entitled is to be found within or without the pale of domestic service; and they rebel in their hearts against a subordination to which they have subjected themselves, and from which they derive actual profit. They consent to serve, and they blush to obey; they like the advantages of service, but not the master; or rather, they are not sure that they ought not themselves to be masters, and they are inclined to consider him who orders them as an unjust usurper of their own rights. Then it is that the dwelling of every citizen offers a spectacle somewhat analogous to the gloomy aspect of political society. A secret and intestine warfare is going on there between powers, ever rivals and suspicious of one another: the master is ill-natured and weak, the servant ill-natured and intractable; the one constantly attempts to evade by unfair restrictions his obligation to protect and to remunerate—the other his obligation to obey. The reins of domestic government dangle between them, to be snatched at by one or the other. The lines which divide authority from oppression, liberty from license, and right from might, are to their eyes so jumbled together and confused, that no one knows exactly what he is, or what he may be, or what he ought to be. Such a condition is not democracy, but revolution.

## **Chapter 6: That Democratic Institutions and Manners Tend to Raise Rents and Shorten the Terms of Leases**

WHAT has been said of servants and masters is applicable, to a certain extent, to landowners and farming tenants; but this subject deserves to be considered by itself. In America there are, properly speaking, no tenant farmers; every man owns the ground he tills. It must be admitted that democratic laws tend greatly to increase the number of landowners, and to diminish that of farming tenants. Yet what takes place in the United States is much less attributable to the institutions of the country than to the country itself. In America land is cheap, and anyone may easily become a landowner; its returns are small, and its produce cannot well be divided between a landowner and a farmer. America therefore stands alone in this as well as in many other respects, and it would be a mistake to take it as an

example.

I believe that in democratic as well as in aristocratic countries there will be landowners and tenants, but the connection existing between them will be of a different kind. In aristocracies the hire of a farm is paid to the landlord, not only in rent, but in respect, regard, and duty; in democracies the whole is paid in cash. When estates are divided and passed from hand to hand, and the permanent connection which existed between families and the soil is dissolved, the landowner and the tenant are only casually brought into contact. They meet for a moment to settle the conditions of the agreement, and then lose sight of each other; they are two strangers brought together by a common interest, and who keenly talk over a matter of business, the sole object of which is to make money.

In proportion as property is subdivided and wealth distributed over the country, the community is filled with people whose former opulence is declining, and with others whose fortunes are of recent growth and whose wants increase more rapidly than their resources. For all such persons the smallest pecuniary profit is a matter of importance, and none of them feel disposed to waive any of their claims, or to lose any portion of their income. As ranks are intermingled, and as very large as well as very scanty fortunes become more rare, every day brings the social condition of the landowner nearer to that of the farmer; the one has not naturally any uncontested superiority over the other; between two men who are equal, and not at ease in their circumstances, the contract of hire is exclusively an affair of money. A man whose estate extends over a whole district, and who owns a hundred farms, is well aware of the importance of gaining at the same time the affections of some thousands of men; this object appears to call for his exertions, and to attain it he will readily make considerable sacrifices. But he who owns a hundred acres is insensible to similar considerations, and he cares but little to win the private regard of his tenant.

An aristocracy does not expire like a man in a single day; the aristocratic principle is slowly undermined in men's opinion, before it is attacked in their laws. Long before open war is declared against it, the tie which had hitherto united the higher classes to the lower may be seen to be gradually relaxed. Indifference and contempt are betrayed by one class, jealousy and

hatred by the others; the intercourse between rich and poor becomes less frequent and less kind, and rents are raised. This is not the consequence of a democratic revolution, but its certain harbinger; for an aristocracy which has lost the affections of the people, once and forever, is like a tree dead at the root, which is the more easily torn up by the winds the higher its branches have spread.

In the course of the last fifty years the rents of farms have amazingly increased, not only in France but throughout the greater part of Europe. The remarkable improvements which have taken place in agriculture and manufactures within the same period do not suffice in my opinion to explain this fact; recourse must be had to another cause more powerful and more concealed. I believe that cause is to be found in the democratic institutions which several European nations have adopted, and in the democratic passions which more or less agitate all the rest. I have frequently heard great English landowners congratulate themselves that, at the present day, they derive a much larger income from their estates than their fathers did. They have perhaps good reasons to be glad; but most assuredly they know not what they are glad of. They think they are making a clear gain, when it is in reality only an exchange; their influence is what they are parting with for cash; and what they gain in money will ere long be lost in power.

There is yet another sign by which it is easy to know that a great democratic revolution is going on or approaching. In the Middle Ages almost all lands were leased for lives, or for very long terms; the domestic economy of that period shows that leases for ninety-nine years were more frequent than leases for twelve years are now. Men then believed that families were immortal; men's conditions seemed settled forever, and the whole of society appeared to be so fixed, that it was not supposed that anything would ever be stirred or shaken in its structure. In ages of equality, the human mind takes a different bent; the prevailing notion is that nothing abides, and man is haunted by the thought of mutability. Under this impression the landowner and the tenant himself are instinctively averse to protracted terms of obligation; they are afraid of being tied up tomorrow by the contract which benefits them today. They have vague anticipations of some sudden and unforeseen change in their conditions; they mistrust themselves;

they fear lest their taste should change, and lest they should lament that they cannot rid themselves of what they coveted; nor are such fears unfounded, for in democratic ages that which is most fluctuating amidst the fluctuation of all around is the heart of man.

## **Chapter 7: Influence of Democracy on Wages**

MOST of the remarks which I have already made in speaking of servants and masters, may be applied to masters and workmen. As the gradations of the social scale come to be less observed, whilst the great sink the humble rise, and as poverty as well as opulence ceases to be hereditary, the distance both in reality and in opinion, which heretofore separated the workman from the master, is lessened every day. The workman conceives a more lofty opinion of his rights, of his future, of himself; he is filled with new ambition and with new desires, he is harassed by new wants. Every instant he views with longing eyes the profits of his employer; and in order to share them, he strives to dispose of his labor at a higher rate, and he generally succeeds at length in the attempt. In democratic countries, as well as elsewhere, most of the branches of productive industry are carried on at a small cost, by men little removed by their wealth or education above the level of those whom they employ. These manufacturing speculators are extremely numerous; their interests differ; they cannot therefore easily concert or combine their exertions. On the other hand the workmen have almost always some sure resources, which enable them to refuse to work when they cannot get what they conceive to be the fair price of their labor. In the constant struggle for wages which is going on between these two classes, their strength is divided, and success alternates from one to the other. It is even probable that in the end the interest of the working class must prevail; for the high wages which they have already obtained make them every day less dependent on their masters; and as they grow more independent, they have greater facilities for obtaining a further increase of wages.

I shall take for example that branch of productive industry which is still at the present day the most generally followed in France, and in almost all the countries of the world—I mean the cultivation of the soil. In France most of those who labor for hire in agriculture, are themselves owners of certain plots of ground, which just enable them to subsist without working for anyone else. When these laborers come to offer their services to a neighboring landowner or farmer, if he refuses them a certain rate of wages, they retire to their own small property and await another opportunity.

I think that, upon the whole, it may be asserted that a slow and gradual rise of wages is one of the general laws of democratic communities. In proportion as social conditions become more equal, wages rise; and as wages are higher, social conditions become more equal. But a great and gloomy exception occurs in our own time. I have shown in a preceding chapter that aristocracy, expelled from political society, has taken refuge in certain departments of productive industry, and has established its sway there under another form; this powerfully affects the rate of wages. As a large capital is required to embark in the great manufacturing speculations to which I allude, the number of persons who enter upon them is exceedingly limited: as their number is small, they can easily concert together, and fix the rate of wages as they please. Their workmen on the contrary are exceedingly numerous, and the number of them is always increasing; for, from time to time, an extraordinary run of business takes place, during which wages are inordinately high, and they attract the surrounding population to the factories. But, when once men have embraced that line of life, we have already seen that they cannot quit it again, because they soon contract habits of body and mind which unfit them for any other sort of toil. These men have generally but little education and industry, with but few resources; they stand therefore almost at the mercy of the master. When competition, or other fortuitous circumstances, lessen his profits, he can reduce the wages of his workmen almost at pleasure, and make from them what he loses by the chances of business. Should the workmen strike, the master, who is a rich man, can very well wait without being ruined until necessity brings them back to him; but they must work day by day or they die, for their only property is in their hands. They have long been impoverished by oppression, and the poorer they become the more easily may they be oppressed: they can never escape from this fatal

circle of cause and consequence. It is not then surprising that wages, after having sometimes suddenly risen, are permanently lowered in this branch of industry; whereas in other callings the price of labor, which generally increases but little, is nevertheless constantly augmented.

This state of dependence and wretchedness, in which a part of the manufacturing population of our time lives, forms an exception to the general rule, contrary to the state of all the rest of the community; but, for this very reason, no circumstance is more important or more deserving of the especial consideration of the legislator; for when the whole of society is in motion, it is difficult to keep any one class stationary; and when the greater number of men are opening new paths to fortune, it is no less difficult to make the few support in peace their wants and their desires.

## **Chapter 8: Influence of Democracy on Kindred**

I HAVE just examined the changes which the equality of conditions produces in the mutual relations of the several members of the community amongst democratic nations, and amongst the Americans in particular. I would now go deeper, and inquire into the closer ties of kindred: my object here is not to seek for new truths, but to show in what manner facts already known are connected with my subject.

It has been universally remarked, that in our time the several members of a family stand upon an entirely new footing towards each other; that the distance which formerly separated a father from his sons has been lessened; and that paternal authority, if not destroyed, is at least impaired. Something analogous to this, but even more striking, may be observed in the United States. In America the family, in the Roman and aristocratic signification of the word, does not exist. All that remains of it are a few vestiges in the first years of childhood, when the father exercises, without opposition, that absolute domestic authority, which the feebleness of his children renders necessary, and which their interest, as well as his own incontestable superiority, warrants. But as soon as the young American approaches

manhood, the ties of filial obedience are relaxed day by day: master of his thoughts, he is soon master of his conduct. In America there is, strictly speaking, no adolescence: at the close of boyhood the man appears, and begins to trace out his own path. It would be an error to suppose that this is preceded by a domestic struggle, in which the son has obtained by a sort of moral violence the liberty that his father refused him. The same habits, the same principles which impel the one to assert his independence, predispose the other to consider the use of that independence as an incontestable right. The former does not exhibit any of those rancorous or irregular passions which disturb men long after they have shaken off an established authority; the latter feels none of that bitter and angry regret which is apt to survive a bygone power. The father foresees the limits of his authority long beforehand, and when the time arrives he surrenders it without a struggle: the son looks forward to the exact period at which he will be his own master; and he enters upon his freedom without precipitation and without effort, as a possession which is his own and which no one seeks to wrest from him.

It may perhaps not be without utility to show how these changes which take place in family relations, are closely connected with the social and political revolution which is approaching its consummation under our own observation. There are certain great social principles, which a people either introduces everywhere, or tolerates nowhere. In countries which are aristocratically constituted with all the gradations of rank, the government never makes a direct appeal to the mass of the governed: as men are united together, it is enough to lead the foremost, the rest will follow. This is equally applicable to the family, as to all aristocracies which have a head. Amongst aristocratic nations, social institutions recognize, in truth, no one in the family but the father; children are received by society at his hands; society governs him, he governs them. Thus the parent has not only a natural right, but he acquires a political right, to command them: he is the author and the support of his family; but he is also its constituted ruler. In democracies, where the government picks out every individual singly from the mass, to make him subservient to the general laws of the community, no such intermediate person is required: a father is there, in the eye of the law, only a member of the community, older and richer than his sons.

When most of the conditions of life are extremely unequal, and the inequality of these conditions is permanent, the notion of a superior grows upon the imaginations of men: if the law invested him with no privileges, custom and public opinion would concede them. When, on the contrary, men differ but little from each other, and do not always remain in dissimilar conditions of life, the general notion of a superior becomes weaker and less distinct: it is vain for legislation to strive to place him who obeys very much beneath him who commands; the manners of the time bring the two men nearer to one another, and draw them daily towards the same level. Although the legislation of an aristocratic people should grant no peculiar privileges to the heads of families, I shall not be the less convinced that their power is more respected and more extensive than in a democracy; for I know that, whatsoever the laws may be, superiors always appear higher and inferiors lower in aristocracies than amongst democratic nations.

When men live more for the remembrance of what has been than for the care of what is, and when they are more given to attend to what their ancestors thought than to think themselves, the father is the natural and necessary tie between the past and the present—the link by which the ends of these two chains are connected. In aristocracies, then, the father is not only the civil head of the family, but the oracle of its traditions, the expounder of its customs, the arbiter of its manners. He is listened to with deference, he is addressed with respect, and the love which is felt for him is always tempered with fear. When the condition of society becomes democratic, and men adopt as their general principle that it is good and lawful to judge of all things for one's self, using former points of belief not as a rule of faith but simply as a means of information, the power which the opinions of a father exercise over those of his sons diminishes as well as his legal power.

Perhaps the subdivision of estates which democracy brings with it contributes more than anything else to change the relations existing between a father and his children. When the property of the father of a family is scanty, his son and himself constantly live in the same place, and share the same occupations: habit and necessity bring them together, and force them to hold constant communication: the inevitable consequence is a sort of familiar intimacy, which renders authority less absolute, and which

can ill be reconciled with the external forms of respect. Now in democratic countries the class of those who are possessed of small fortunes is precisely that which gives strength to the notions, and a particular direction to the manners, of the community. That class makes its opinions preponderate as universally as its will, and even those who are most inclined to resist its commands are carried away in the end by its example. I have known eager opponents of democracy who allowed their children to address them with perfect colloquial equality.

Thus, at the same time that the power of aristocracy is declining, the austere, the conventional, and the legal part of parental authority vanishes, and a species of equality prevails around the domestic hearth. I know not, upon the whole, whether society loses by the change, but I am inclined to believe that man individually is a gainer by it. I think that, in proportion as manners and laws become more democratic, the relation of father and son becomes more intimate and more affectionate; rules and authority are less talked of; confidence and tenderness are oftentimes increased, and it would seem that the natural bond is drawn closer in proportion as the social bond is loosened. In a democratic family the father exercises no other power than that with which men love to invest the affection and the experience of age; his orders would perhaps be disobeyed, but his advice is for the most part authoritative. Though he be not hedged in with ceremonial respect, his sons at least accost him with confidence; no settled form of speech is appropriated to the mode of addressing him, but they speak to him constantly, and are ready to consult him day by day; the master and the constituted ruler have vanished—the father remains. Nothing more is needed, in order to judge of the difference between the two states of society in this respect, than to peruse the family correspondence of aristocratic ages. The style is always correct, ceremonious, stiff, and so cold that the natural warmth of the heart can hardly be felt in the language. The language, on the contrary, addressed by a son to his father in democratic countries is always marked by mingled freedom, familiarity and affection, which at once show that new relations have sprung up in the bosom of the family.

A similar revolution takes place in the mutual relations of children. In aristocratic families, as well as in aristocratic society, every place is marked

out beforehand. Not only does the father occupy a separate rank, in which he enjoys extensive privileges, but even the children are not equal amongst themselves. The age and sex of each irrevocably determine his rank, and secure to him certain privileges: most of these distinctions are abolished or diminished by democracy. In aristocratic families the eldest son, inheriting the greater part of the property, and almost all the rights of the family, becomes the chief, and, to a certain extent, the master, of his brothers. Greatness and power are for him—for them, mediocrity and dependence. Nevertheless it would be wrong to suppose that, amongst aristocratic nations, the privileges of the eldest son are advantageous to himself alone, or that they excite nothing but envy and hatred in those around him. The eldest son commonly endeavors to procure wealth and power for his brothers, because the general splendor of the house is reflected back on him who represents it; the younger sons seek to back the elder brother in all his undertakings, because the greatness and power of the head of the family better enable him to provide for all its branches. The different members of an aristocratic family are therefore very closely bound together; their interests are connected, their minds agree, but their hearts are seldom in harmony.

Democracy also binds brothers to each other, but by very different means. Under democratic laws all the children are perfectly equal, and consequently independent; nothing brings them forcibly together, but nothing keeps them apart; and as they have the same origin, as they are trained under the same roof, as they are treated with the same care, and as no peculiar privilege distinguishes or divides them, the affectionate and youthful intimacy of early years easily springs up between them. Scarcely any opportunities occur to break the tie thus formed at the outset of life; for their brotherhood brings them daily together, without embarrassing them. It is not, then, by interest, but by common associations and by the free sympathy of opinion and of taste, that democracy unites brothers to each other. It divides their inheritance, but it allows their hearts and minds to mingle together. Such is the charm of these democratic manners, that even the partisans of aristocracy are caught by it; and after having experienced it for some time, they are by no means tempted to revert to the respectful and frigid observances of aristocratic families. They would be glad to retain the domestic habits of democracy, if they might throw off its social conditions

and its laws; but these elements are indissolubly united, and it is impossible to enjoy the former without enduring the latter.

The remarks I have made on filial love and fraternal affection are applicable to all the passions which emanate spontaneously from human nature itself. If a certain mode of thought or feeling is the result of some peculiar condition of life, when that condition is altered nothing whatever remains of the thought or feeling. Thus a law may bind two members of the community very closely to one another; but that law being abolished, they stand asunder. Nothing was more strict than the tie which united the vassal to the lord under the feudal system; at the present day the two men know not each other; the fear, the gratitude, and the affection which formerly connected them have vanished, and not a vestige of the tie remains. Such, however, is not the case with those feelings which are natural to mankind. Whenever a law attempts to tutor these feelings in any particular manner, it seldom fails to weaken them; by attempting to add to their intensity, it robs them of some of their elements, for they are never stronger than when left to themselves.

Democracy, which destroys or obscures almost all the old conventional rules of society, and which prevents men from readily assenting to new ones, entirely effaces most of the feelings to which these conventional rules have given rise; but it only modifies some others, and frequently imparts to them a degree of energy and sweetness unknown before. Perhaps it is not impossible to condense into a single proposition the whole meaning of this chapter, and of several others that preceded it. Democracy loosens social ties, but it draws the ties of nature more tight; it brings kindred more closely together, whilst it places the various members of the community more widely apart.

## **Chapter 9: Education of Young Women in the United States**

NO free communities ever existed without morals; and, as I observed in the former part of this work, morals are the work of woman. Consequently,

whatever affects the condition of women, their habits and their opinions, has great political importance in my eyes. Amongst almost all Protestant nations young women are far more free mistresses of their own actions than they are in Catholic countries. This independence is still greater in Protestant countries, like England, which have retained or acquired the right of self-government; the spirit of freedom is then infused into the domestic circle by political habits and by religious opinions. In the United States the doctrines of Protestantism are combined with great political freedom and a most democratic state of society; and nowhere are young women surrendered so early or so completely to their own guidance. Long before an American girl arrives at the age of marriage, her emancipation from maternal control begins; she has scarcely ceased to be a child when she already thinks for herself, speaks with freedom, and acts on her own impulse. The great scene of the world is constantly open to her view; far from seeking concealment, it is every day disclosed to her more completely, and she is taught to survey it with a firm and calm gaze. Thus the vices and dangers of society are early revealed to her; as she sees them clearly, she views them without illusions, and braves them without fear; for she is full of reliance on her own strength, and her reliance seems to be shared by all who are about her. An American girl scarcely ever displays that virginal bloom in the midst of young desires, or that innocent and ingenuous grace which usually attends the European woman in the transition from girlhood to youth. It is rarely that an American woman at any age displays childish timidity or ignorance. Like the young women of Europe, she seeks to please, but she knows precisely the cost of pleasing. If she does not abandon herself to evil, at least she knows that it exists; and she is remarkable rather for purity of manners than for chastity of mind. I have been frequently surprised, and almost frightened, at the singular address and happy boldness with which young women in America contrive to manage their thoughts and their language amidst all the difficulties of stimulating conversation; a philosopher would have stumbled at every step along the narrow path which they trod without accidents and without effort. It is easy indeed to perceive that, even amidst the independence of early youth, an American woman is always mistress of herself; she indulges in all permitted pleasures, without yielding herself up to any of the; and her reason never allows the reins of self-guidance to drop, though it often seems to hold them

loosely.

In France, where remnants of every age are still so strangely mingled in the opinions and tastes of the people, women commonly receive a reserved, retired, and almost cloistral education, as they did in aristocratic times; and then they are suddenly abandoned, without a guide and without assistance, in the midst of all the irregularities inseparable from democratic society. The Americans are more consistent. They have found out that in a democracy the independence of individuals cannot fail to be very great, youth premature, tastes ill-restrained, customs fleeting, public opinion often unsettled and powerless, paternal authority weak, and marital authority contested. Under these circumstances, believing that they had little chance of repressing in woman the most vehement passions of the human heart, they held that the surer way was to teach her the art of combating those passions for herself. As they could not prevent her virtue from being exposed to frequent danger, they determined that she should know how best to defend it; and more reliance was placed on the free vigor of her will than on safeguards which have been shaken or overthrown. Instead, then, of inculcating mistrust of herself, they constantly seek to enhance their confidence in her own strength of character. As it is neither possible nor desirable to keep a young woman in perpetual or complete ignorance, they hasten to give her a precocious knowledge on all subjects. Far from hiding the corruptions of the world from her, they prefer that she should see them at once and train herself to shun them; and they hold it of more importance to protect her conduct than to be overscrupulous of her innocence.

Although the Americans are a very religious people, they do not rely on religion alone to defend the virtue of woman; they seek to arm her reason also. In this they have followed the same method as in several other respects; they first make the most vigorous efforts to bring individual independence to exercise a proper control over itself, and they do not call in the aid of religion until they have reached the utmost limits of human strength. I am aware that an education of this kind is not without danger; I am sensible that it tends to invigorate the judgment at the expense of the imagination, and to make cold and virtuous women instead of affectionate wives and agreeable companions to man. Society may be more tranquil and better regulated, but domestic life has often fewer charms. These, however,

are secondary evils, which may be braved for the sake of higher interests. At the stage at which we are now arrived the time for choosing is no longer within our control; a democratic education is indispensable to protect women from the dangers with which democratic institutions and manners surround them.

## **Chapter 10: The Young Woman in the Character of a Wife**

IN America the independence of woman is irrecoverably lost in the bonds of matrimony: if an unmarried woman is less constrained there than elsewhere, a wife is subjected to stricter obligations. The former makes her father's house an abode of freedom and of pleasure; the latter lives in the home of her husband as if it were a cloister. Yet these two different conditions of life are perhaps not so contrary as may be supposed, and it is natural that the American women should pass through the one to arrive at the other.

Religious peoples and trading nations entertain peculiarly serious notions of marriage: the former consider the regularity of woman's life as the best pledge and most certain sign of the purity of her morals; the latter regard it as the highest security for the order and prosperity of the household. The Americans are at the same time a puritanical people and a commercial nation: their religious opinions, as well as their trading habits, consequently lead them to require much abnegation on the part of woman, and a constant sacrifice of her pleasures to her duties which is seldom demanded of her in Europe. Thus in the United States the inexorable opinion of the public carefully circumscribes woman within the narrow circle of domestic interests and duties, and forbids her to step beyond it.

Upon her entrance into the world a young American woman finds these notions firmly established; she sees the rules which are derived from them; she is not slow to perceive that she cannot depart for an instant from the established usages of her contemporaries, without putting in jeopardy her peace of mind, her honor, nay even her social existence; and she finds the

energy required for such an act of submission in the firmness of her understanding and in the virile habits which her education has given her. It may be said that she has learned by the use of her independence to surrender it without a struggle and without a murmur when the time comes for making the sacrifice. But no American woman falls into the toils of matrimony as into a snare held out to her simplicity and ignorance. She has been taught beforehand what is expected of her, and voluntarily and freely does she enter upon this engagement. She supports her new condition with courage, because she chose it. As in America paternal discipline is very relaxed and the conjugal tie very strict, a young woman does not contract the latter without considerable circumspection and apprehension. Precocious marriages are rare. Thus American women do not marry until their understandings are exercised and ripened; whereas in other countries most women generally only begin to exercise and to ripen their understandings after marriage.

I by no means suppose, however, that the great change which takes place in all the habits of women in the United States, as soon as they are married, ought solely to be attributed to the constraint of public opinion: it is frequently imposed upon themselves by the sole effort of their own will. When the time for choosing a husband is arrived, that cold and stern reasoning power which has been educated and invigorated by the free observation of the world, teaches an American woman that a spirit of levity and independence in the bonds of marriage is a constant subject of annoyance, not of pleasure; it tells her that the amusements of the girl cannot become the recreations of the wife, and that the sources of a married woman's happiness are in the home of her husband. As she clearly discerns beforehand the only road which can lead to domestic happiness, she enters upon it at once, and follows it to the end without seeking to turn back.

The same strength of purpose which the young wives of America display, in bending themselves at once and without repining to the austere duties of their new condition, is no less manifest in all the great trials of their lives. In no country in the world are private fortunes more precarious than in the United States. It is not uncommon for the same man, in the course of his life, to rise and sink again through all the grades which lead from opulence to poverty. American women support these vicissitudes with calm and

unquenchable energy: it would seem that their desires contract, as easily as they expand, with their fortunes.

The greater part of the adventurers who migrate every year to people the western wilds, belong, as I observed in the former part of this work, to the old Anglo-American race of the Northern States. Many of these men, who rush so boldly onwards in pursuit of wealth, were already in the enjoyment of a competency in their own part of the country. They take their wives along with them, and make them share the countless perils and privations which always attend the commencement of these expeditions. I have often met, even on the verge of the wilderness, with young women, who after having been brought up amidst all the comforts of the large towns of New England, had passed, almost without any intermediate stage, from the wealthy abode of their parents to a comfortless hovel in a forest. Fever, solitude, and a tedious life had not broken the springs of their courage. Their features were impaired and faded, but their looks were firm: they appeared to be at once sad and resolute. I do not doubt that these young American women had amassed, in the education of their early years, that inward strength which they displayed under these circumstances. The early culture of the girl may still therefore be traced, in the United States, under the aspect of marriage: her part is changed, her habits are different, but her character is the same.

## **Chapter 11: That the Equality of Conditions Contributes to the Maintenance of Good Morals in America**

SOME philosophers and historians have said, or have hinted, that the strictness of female morality was increased or diminished simply by the distance of a country from the equator. This solution of the difficulty was an easy one; and nothing was required but a globe and a pair of compasses to settle in an instant one of the most difficult problems in the condition of mankind. But I am not aware that this principle of the materialists is supported by facts. The same nations have been chaste or dissolute at different periods of their history; the strictness or the laxity of their morals

depended therefore on some variable cause, not only on the natural qualities of their country, which were invariable. I do not deny that in certain climates the passions which are occasioned by the mutual attraction of the sexes are peculiarly intense; but I am of opinion that this natural intensity may always be excited or restrained by the condition of society and by political institutions.

Although the travellers who have visited North America differ on a great number of points, they all agree in remarking that morals are far more strict there than elsewhere. It is evident that on this point the Americans are very superior to their progenitors the English. A superficial glance at the two nations will establish the fact. In England, as in all other countries of Europe, public malice is constantly attacking the frailties of women. Philosophers and statesmen are heard to deplore that morals are not sufficiently strict, and the literary productions of the country constantly lead one to suppose so. In America all books, novels not excepted, suppose women to be chaste, and no one thinks of relating affairs of gallantry. No doubt this great regularity of American morals originates partly in the country, in the race of the people, and in their religion: but all these causes, which operate elsewhere, do not suffice to account for it; recourse must be had to some special reason. This reason appears to me to be the principle of equality and the institutions derived from it. Equality of conditions does not of itself engender regularity of morals, but it unquestionably facilitates and increases it.

Amongst aristocratic nations birth and fortune frequently make two such different beings of man and woman, that they can never be united to each other. Their passions draw them together, but the condition of society, and the notions suggested by it, prevent them from contracting a permanent and ostensible tie. The necessary consequence is a great number of transient and clandestine connections. Nature secretly avenges herself for the constraint imposed upon her by the laws of man. This is not so much the case when the equality of conditions has swept away all the imaginary, or the real, barriers which separated man from woman. No girl then believes that she cannot become the wife of the man who loves her; and this renders all breaches of morality before marriage very uncommon: for, whatever be the credulity of the passions, a woman will hardly be able to persuade herself

that she is beloved, when her lover is perfectly free to marry her and does not.

The same cause operates, though more indirectly, on married life. Nothing better serves to justify an illicit passion, either to the minds of those who have conceived it or to the world which looks on, than compulsory or accidental marriages. In a country in which a woman is always free to exercise her power of choosing, and in which education has prepared her to choose rightly, public opinion is inexorable to her faults. The rigor of the Americans arises in part from this cause. They consider marriages as a covenant which is often onerous, but every condition of which the parties are strictly bound to fulfil, because they knew all those conditions beforehand, and were perfectly free not to have contracted them.

The very circumstances which render matrimonial fidelity more obligatory also render it more easy. In aristocratic countries the object of marriage is rather to unite property than persons; hence the husband is sometimes at school and the wife at nurse when they are betrothed. It cannot be wondered at if the conjugal tie which holds the fortunes of the pair united allows their hearts to rove; this is the natural result of the nature of the contract. When, on the contrary, a man always chooses a wife for himself, without any external coercion or even guidance, it is generally a conformity of tastes and opinions which brings a man and a woman together, and this same conformity keeps and fixes them in close habits of intimacy.

Our forefathers had conceived a very strange notion on the subject of marriage: as they had remarked that the small number of love-matches which occurred in their time almost always turned out ill, they resolutely inferred that it was exceedingly dangerous to listen to the dictates of the heart on the subject. Accident appeared to them to be a better guide than choice. Yet it was not very difficult to perceive that the examples which they witnessed did in fact prove nothing at all. For in the first place, if democratic nations leave a woman at liberty to choose her husband, they take care to give her mind sufficient knowledge, and her will sufficient strength, to make so important a choice: whereas the young women who, amongst aristocratic nations, furtively elope from the authority of their parents to throw themselves of their own accord into the arms of men whom

they have had neither time to know, nor ability to judge of, are totally without those securities. It is not surprising that they make a bad use of their freedom of action the first time they avail themselves of it; nor that they fall into such cruel mistakes, when, not having received a democratic education, they choose to marry in conformity to democratic customs. But this is not all. When a man and woman are bent upon marriage in spite of the differences of an aristocratic state of society, the difficulties to be overcome are enormous. Having broken or relaxed the bonds of filial obedience, they have then to emancipate themselves by a final effort from the sway of custom and the tyranny of opinion; and when at length they have succeeded in this arduous task, they stand estranged from their natural friends and kinsmen: the prejudice they have crossed separates them from all, and places them in a situation which soon breaks their courage and sours their hearts. If, then, a couple married in this manner are first unhappy and afterwards criminal, it ought not to be attributed to the freedom of their choice, but rather to their living in a community in which this freedom of choice is not admitted.

Moreover it should not be forgotten that the same effort which makes a man violently shake off a prevailing error, commonly impels him beyond the bounds of reason; that, to dare to declare war, in however just a cause, against the opinion of one's age and country, a violent and adventurous spirit is required, and that men of this character seldom arrive at happiness or virtue, whatever be the path they follow. And this, it may be observed by the way, is the reason why in the most necessary and righteous revolutions, it is so rare to meet with virtuous or moderate revolutionary characters. There is then no just ground for surprise if a man, who in an age of aristocracy chooses to consult nothing but his own opinion and his own taste in the choice of a wife, soon finds that infractions of morality and domestic wretchedness invade his household: but when this same line of action is in the natural and ordinary course of things, when it is sanctioned by parental authority and backed by public opinion, it cannot be doubted that the internal peace of families will be increased by it, and conjugal fidelity more rigidly observed.

Almost all men in democracies are engaged in public or professional life; and on the other hand the limited extent of common incomes obliges a wife

to confine herself to the house, in order to watch in person and very closely over the details of domestic economy. All these distinct and compulsory occupations are so many natural barriers, which, by keeping the two sexes asunder, render the solicitations of the one less frequent and less ardent—the resistance of the other more easy.

Not indeed that the equality of conditions can ever succeed in making men chaste, but it may impart a less dangerous character to their breaches of morality. As no one has then either sufficient time or opportunity to assail a virtue armed in self-defence, there will be at the same time a great number of courtesans and a great number of virtuous women. This state of things causes lamentable cases of individual hardship, but it does not prevent the body of society from being strong and alert: it does not destroy family ties, or enervate the morals of the nation. Society is endangered not by the great profligacy of a few, but by laxity of morals amongst all. In the eyes of a legislator, prostitution is less to be dreaded than intrigue.

The tumultuous and constantly harassed life which equality makes men lead, not only distracts them from the passion of love, by denying them time to indulge in it, but it diverts them from it by another more secret but more certain road. All men who live in democratic ages more or less contract the ways of thinking of the manufacturing and trading classes; their minds take a serious, deliberate, and positive turn; they are apt to relinquish the ideal, in order to pursue some visible and proximate object, which appears to be the natural and necessary aim of their desires. Thus the principle of equality does not destroy the imagination, but lowers its flight to the level of the earth. No men are less addicted to reverie than the citizens of a democracy; and few of them are ever known to give way to those idle and solitary meditations which commonly precede and produce the great emotions of the heart. It is true they attach great importance to procuring for themselves that sort of deep, regular, and quiet affection which constitutes the charm and safeguard of life, but they are not apt to run after those violent and capricious sources of excitement which disturb and abridge it.

I am aware that all this is only applicable in its full extent to America, and cannot at present be extended to Europe. In the course of the last half-century, whilst laws and customs have impelled several European nations

with unexampled force towards democracy, we have not had occasion to observe that the relations of man and woman have become more orderly or more chaste. In some places the very reverse may be detected: some classes are more strict—the general morality of the people appears to be more lax. I do not hesitate to make the remark, for I am as little disposed to flatter my contemporaries as to malign them. This fact must distress, but it ought not to surprise us. The propitious influence which a democratic state of society may exercise upon orderly habits, is one of those tendencies which can only be discovered after a time. If the equality of conditions is favorable to purity of morals, the social commotion by which conditions are rendered equal is adverse to it. In the last fifty years, during which France has been undergoing this transformation, that country has rarely had freedom, always disturbance. Amidst this universal confusion of notions and this general stir of opinions—amidst this incoherent mixture of the just and unjust, of truth and falsehood, of right and might—public virtue has become doubtful, and private morality wavering. But all revolutions, whatever may have been their object or their agents, have at first produced similar consequences; even those which have in the end drawn the bonds of morality more tightly began by loosening them. The violations of morality which the French frequently witness do not appear to me to have a permanent character; and this is already betokened by some curious signs of the times.

Nothing is more wretchedly corrupt than an aristocracy which retains its wealth when it has lost its power, and which still enjoys a vast deal of leisure after it is reduced to mere vulgar pastimes. The energetic passions and great conceptions which animated it heretofore, leave it then; and nothing remains to it but a host of petty consuming vices, which cling about it like worms upon a carcass. No one denies that the French aristocracy of the last century was extremely dissolute; whereas established habits and ancient belief still preserved some respect for morality amongst the other classes of society. Nor will it be contested that at the present day the remnants of that same aristocracy exhibit a certain severity of morals; whilst laxity of morals appears to have spread amongst the middle and lower ranks. So that the same families which were most profligate fifty years ago are nowadays the most exemplary, and democracy seems only to have strengthened the morality of the aristocratic classes. The French Revolution, by dividing the fortunes of the nobility, by forcing them to

attend assiduously to their affairs and to their families, by making them live under the same roof with their children, and in short by giving a more rational and serious turn to their minds, has imparted to them, almost without their being aware of it, a reverence for religious belief, a love of order, of tranquil pleasures, of domestic endearments, and of comfort; whereas the rest of the nation, which had naturally these same tastes, was carried away into excesses by the effort which was required to overthrow the laws and political habits of the country. The old French aristocracy has undergone the consequences of the Revolution, but it neither felt the revolutionary passions nor shared in the anarchical excitement which produced that crisis; it may easily be conceived that this aristocracy feels the salutary influence of the Revolution in its manners, before those who achieve it. It may therefore be said, though at first it seems paradoxical, that, at the present day, the most anti-democratic classes of the nation principally exhibit the kind of morality which may reasonably be anticipated from democracy. I cannot but think that when we shall have obtained all the effects of this democratic Revolution, after having got rid of the tumult it has caused, the observations which are now only applicable to the few will gradually become true of the whole community.

## **Chapter 12: How the Americans Understand the Equality of the Sexes**

I HAVE shown how democracy destroys or modifies the different inequalities which originate in society; but is this all? or does it not ultimately affect that great inequality of man and woman which has seemed, up to the present day, to be eternally based in human nature? I believe that the social changes which bring nearer to the same level the father and son, the master and servant, and superiors and inferiors generally speaking, will raise woman and make her more and more the equal of man. But here, more than ever, I feel the necessity of making myself clearly understood; for there is no subject on which the coarse and lawless fancies of our age have taken a freer range.

There are people in Europe who, confounding together the different characteristics of the sexes, would make of man and woman beings not only equal but alike. They would give to both the same functions, impose on both the same duties, and grant to both the same rights; they would mix them in all things—their occupations, their pleasures, their business. It may readily be conceived, that by thus attempting to make one sex equal to the other, both are degraded; and from so preposterous a medley of the works of nature nothing could ever result but weak men and disorderly women.

It is not thus that the Americans understand that species of democratic equality which may be established between the sexes. They admit, that as nature has appointed such wide differences between the physical and moral constitution of man and woman, her manifest design was to give a distinct employment to their various faculties; and they hold that improvement does not consist in making beings so dissimilar do pretty nearly the same things, but in getting each of them to fulfil their respective tasks in the best possible manner. The Americans have applied to the sexes the great principle of political economy which governs the manufactures of our age, by carefully dividing the duties of man from those of woman, in order that the great work of society may be the better carried on.

In no country has such constant care been taken as in America to trace two clearly distinct lines of action for the two sexes, and to make them keep pace one with the other, but in two pathways which are always different. American women never manage the outward concerns of the family, or conduct a business, or take a part in political life; nor are they, on the other hand, ever compelled to perform the rough labor of the fields, or to make any of those laborious exertions which demand the exertion of physical strength. No families are so poor as to form an exception to this rule. If on the one hand an American woman cannot escape from the quiet circle of domestic employments, on the other hand she is never forced to go beyond it. Hence it is that the women of America, who often exhibit a masculine strength of understanding and a manly energy, generally preserve great delicacy of personal appearance and always retain the manners of women, although they sometimes show that they have the hearts and minds of men.

Nor have the Americans ever supposed that one consequence of democratic principles is the subversion of marital power, of the confusion of the natural authorities in families. They hold that every association must have a head in order to accomplish its object, and that the natural head of the conjugal association is man. They do not therefore deny him the right of directing his partner; and they maintain, that in the smaller association of husband and wife, as well as in the great social community, the object of democracy is to regulate and legalize the powers which are necessary, not to subvert all power. This opinion is not peculiar to one sex, and contested by the other: I never observed that the women of America consider conjugal authority as a fortunate usurpation of their rights, nor that they thought themselves degraded by submitting to it. It appeared to me, on the contrary, that they attach a sort of pride to the voluntary surrender of their own will, and make it their boast to bend themselves to the yoke, not to shake it off. Such at least is the feeling expressed by the most virtuous of their sex; the others are silent; and in the United States it is not the practice for a guilty wife to clamor for the rights of women, whilst she is trampling on her holiest duties.

It has often been remarked that in Europe a certain degree of contempt lurks even in the flattery which men lavish upon women: although a European frequently affects to be the slave of woman, it may be seen that he never sincerely thinks her his equal. In the United States men seldom compliment women, but they daily show how much they esteem them. They constantly display an entire confidence in the understanding of a wife, and a profound respect for her freedom; they have decided that her mind is just as fitted as that of a man to discover the plain truth, and her heart as firm to embrace it; and they have never sought to place her virtue, any more than his, under the shelter of prejudice, ignorance, and fear. It would seem that in Europe, where man so easily submits to the despotic sway of women, they are nevertheless curtailed of some of the greatest qualities of the human species, and considered as seductive but imperfect beings; and (what may well provoke astonishment) women ultimately look upon themselves in the same light, and almost consider it as a privilege that they are entitled to show themselves futile, feeble, and timid. The women of America claim no such privileges.

Again, it may be said that in our morals we have reserved strange immunities to man; so that there is, as it were, one virtue for his use, and another for the guidance of his partner; and that, according to the opinion of the public, the very same act may be punished alternately as a crime or only as a fault. The Americans know not this iniquitous division of duties and rights; amongst them the seducer is as much dishonored as his victim. It is true that the Americans rarely lavish upon women those eager attentions which are commonly paid them in Europe; but their conduct to women always implies that they suppose them to be virtuous and refined; and such is the respect entertained for the moral freedom of the sex, that in the presence of a woman the most guarded language is used, lest her ear should be offended by an expression. In America a young unmarried woman may, alone and without fear, undertake a long journey.

The legislators of the United States, who have mitigated almost all the penalties of criminal law, still make rape a capital offence, and no crime is visited with more inexorable severity by public opinion. This may be accounted for; as the Americans can conceive nothing more precious than a woman's honor, and nothing which ought so much to be respected as her independence, they hold that no punishment is too severe for the man who deprives her of them against her will. In France, where the same offence is visited with far milder penalties, it is frequently difficult to get a verdict from a jury against the prisoner. Is this a consequence of contempt of decency or contempt of women? I cannot but believe that it is a contempt of one and of the other.

Thus the Americans do not think that man and woman have either the duty or the right to perform the same offices, but they show an equal regard for both their respective parts; and though their lot is different, they consider both of them as beings of equal value. They do not give to the courage of woman the same form or the same direction as to that of man; but they never doubt her courage: and if they hold that man and his partner ought not always to exercise their intellect and understanding in the same manner, they at least believe the understanding of the one to be as sound as that of the other, and her intellect to be as clear. Thus, then, whilst they have allowed the social inferiority of woman to subsist, they have done all they could to raise her morally and intellectually to the level of man; and in this

respect they appear to me to have excellently understood the true principle of democratic improvement. As for myself, I do not hesitate to avow that, although the women of the United States are confined within the narrow circle of domestic life, and their situation is in some respects one of extreme dependence, I have nowhere seen woman occupying a loftier position; and if I were asked, now that I am drawing to the close of this work, in which I have spoken of so many important things done by the Americans, to what the singular prosperity and growing strength of that people ought mainly to be attributed, I should reply—to the superiority of their women.

### **Chapter 13: That the Principle of Equality Naturally Divides the Americans into a Number of Small Private Circles**

IT may probably be supposed that the final consequence and necessary effect of democratic institutions is to confound together all the members of the community in private as well as in public life, and to compel them all to live in common; but this would be to ascribe a very coarse and oppressive form to the equality which originates in democracy. No state of society or laws can render men so much alike, but that education, fortune, and tastes will interpose some differences between them; and, though different men may sometimes find it their interest to combine for the same purposes, they will never make it their pleasure. They will therefore always tend to evade the provisions of legislation, whatever they may be; and departing in some one respect from the circle within which they were to be bounded, they will set up, close by the great political community, small private circles, united together by the similitude of their conditions, habits, and manners.

In the United States the citizens have no sort of pre-eminence over each other; they owe each other no mutual obedience or respect; they all meet for the administration of justice, for the government of the State, and in general to treat of the affairs which concern their common welfare; but I never heard that attempts have been made to bring them all to follow the same diversions, or to amuse themselves promiscuously in the same places of recreation. The Americans, who mingle so readily in their political

assemblies and courts of justice, are wont on the contrary carefully to separate into small distinct circles, in order to indulge by themselves in the enjoyments of private life. Each of them is willing to acknowledge all his fellow-citizens as his equals, but he will only receive a very limited number of them amongst his friends or his guests. This appears to me to be very natural. In proportion as the circle of public society is extended, it may be anticipated that the sphere of private intercourse will be contracted; far from supposing that the members of modern society will ultimately live in common, I am afraid that they may end by forming nothing but small coteries.

Amongst aristocratic nations the different classes are like vast chambers, out of which it is impossible to get, into which it is impossible to enter. These classes have no communication with each other, but within their pale men necessarily live in daily contact; even though they would not naturally suit, the general conformity of a similar condition brings them nearer together. But when neither law nor custom professes to establish frequent and habitual relations between certain men, their intercourse originates in the accidental analogy of opinions and tastes; hence private society is infinitely varied. In democracies, where few members of the community never differ much from each other, and naturally stand in such propinquity that they may all at any time be confounded in one general mass, numerous artificial and arbitrary distinctions spring up, by means of which every man hopes to keep himself aloof, lest he should be carried away in the crowd against his will. This can never fail to be the case; for human institutions may be changed, but not man: whatever may be the general endeavor of a community to render its members equal and alike, the personal pride of individuals will always seek to rise above the line, and to form somewhere an inequality to their own advantage.

In aristocracies men are separated from each other by lofty stationary barriers; in democracies they are divided by a number of small and almost invisible threads, which are constantly broken or moved from place to place. Thus, whatever may be the progress of equality, in democratic nations a great number of small private communities will always be formed within the general pale of political society; but none of them will bear any

resemblance in its manners to the highest class in aristocracies.

## **Chapter 14: Some Reflections on American Manners**

NOTHING seems at first sight less important than the outward form of human actions, yet there is nothing upon which men set more store: they grow used to everything except to living in a society which has not their own manners. The influence of the social and political state of a country upon manners is therefore deserving of serious examination. Manners are, generally, the product of the very basis of the character of a people, but they are also sometimes the result of an arbitrary convention between certain men; thus they are at once natural and acquired. When certain men perceive that they are the foremost persons in society, without contestation and without effort—when they are constantly engaged on large objects, leaving the more minute details to others—and when they live in the enjoyment of wealth which they did not amass and which they do not fear to lose, it may be supposed that they feel a kind of haughty disdain of the petty interests and practical cares of life, and that their thoughts assume a natural greatness, which their language and their manners denote. In democratic countries manners are generally devoid of dignity, because private life is there extremely petty in its character; and they are frequently low, because the mind has few opportunities of rising above the engrossing cares of domestic interests. True dignity in manners consists in always taking one's proper station, neither too high nor too low; and this is as much within the reach of a peasant as of a prince. In democracies all stations appear doubtful; hence it is that the manners of democracies, though often full of arrogance, are commonly wanting in dignity, and, moreover, they are never either well disciplined or accomplished.

The men who live in democracies are too fluctuating for a certain number of them ever to succeed in laying down a code of good breeding, and in forcing people to follow it. Every man therefore behaves after his own fashion, and there is always a certain incoherence in the manners of such times, because they are moulded upon the feelings and notions of each

individual, rather than upon an ideal model proposed for general imitation. This, however, is much more perceptible at the time when an aristocracy has just been overthrown than after it has long been destroyed. New political institutions and new social elements then bring to the same places of resort, and frequently compel to live in common, men whose education and habits are still amazingly dissimilar, and this renders the motley composition of society peculiarly visible. The existence of a former strict code of good breeding is still remembered, but what it contained or where it is to be found is already forgotten. Men have lost the common law of manners, and they have not yet made up their minds to do without it; but everyone endeavors to make to himself some sort of arbitrary and variable rule, from the remnant of former usages; so that manners have neither the regularity and the dignity which they often display amongst aristocratic nations, nor the simplicity and freedom which they sometimes assume in democracies; they are at once constrained and without constraint.

This, however, is not the normal state of things. When the equality of conditions is long established and complete, as all men entertain nearly the same notions and do nearly the same things, they do not require to agree or to copy from one another in order to speak or act in the same manner: their manners are constantly characterized by a number of lesser diversities, but not by any great differences. They are never perfectly alike, because they do not copy from the same pattern; they are never very unlike, because their social condition is the same. At first sight a traveller would observe that the manners of all the Americans are exactly similar; it is only upon close examination that the peculiarities in which they differ may be detected.

The English make game of the manners of the Americans; but it is singular that most of the writers who have drawn these ludicrous delineations belonged themselves to the middle classes in England, to whom the same delineations are exceedingly applicable: so that these pitiless censors for the most part furnish an example of the very thing they blame in the United States; they do not perceive that they are deriding themselves, to the great amusement of the aristocracy of their own country.

Nothing is more prejudicial to democracy than its outward forms of behavior: many men would willingly endure its vices, who cannot support

its manners. I cannot, however, admit that there is nothing commendable in the manners of a democratic people. Amongst aristocratic nations, all who live within reach of the first class in society commonly strain to be like it, which gives rise to ridiculous and insipid imitations. As a democratic people does not possess any models of high breeding, at least it escapes the daily necessity of seeing wretched copies of them. In democracies manners are never so refined as amongst aristocratic nations, but on the other hand they are never so coarse. Neither the coarse oaths of the populace, nor the elegant and choice expressions of the nobility are to be heard there: the manners of such a people are often vulgar, but they are neither brutal nor mean. I have already observed that in democracies no such thing as a regular code of good breeding can be laid down; this has some inconveniences and some advantages. In aristocracies the rules of propriety impose the same demeanor on everyone; they make all the members of the same class appear alike, in spite of their private inclinations; they adorn and they conceal the natural man. Amongst a democratic people manners are neither so tutored nor so uniform, but they are frequently more sincere. They form, as it were, a light and loosely woven veil, through which the real feelings and private opinions of each individual are easily discernible. The form and the substance of human actions often, therefore, stand in closer relation; and if the great picture of human life be less embellished, it is more true. Thus it may be said, in one sense, that the effect of democracy is not exactly to give men any particular manners, but to prevent them from having manners at all.

The feelings, the passions, the virtues, and the vices of an aristocracy may sometimes reappear in a democracy, but not its manners; they are lost, and vanish forever, as soon as the democratic revolution is completed. It would seem that nothing is more lasting than the manners of an aristocratic class, for they are preserved by that class for some time after it has lost its wealth and its power—nor so fleeting, for no sooner have they disappeared than not a trace of them is to be found; and it is scarcely possible to say what they have been as soon as they have ceased to be. A change in the state of society works this miracle, and a few generations suffice to consummate it. The principal characteristics of aristocracy are handed down by history after an aristocracy is destroyed, but the light and exquisite touches of manners are effaced from men's memories almost immediately after its fall. Men can

no longer conceive what these manners were when they have ceased to witness them; they are gone, and their departure was unseen, unfelt; for in order to feel that refined enjoyment which is derived from choice and distinguished manners, habit +and education must have prepared the heart, and the taste for them is lost almost as easily as the practice of them. Thus not only a democratic people cannot have aristocratic manners, but they neither comprehend nor desire them; and as they never have thought of them, it is to their minds as if such things had never been. Too much importance should not be attached to this loss, but it may well be regretted.

I am aware that it has not unfrequently happened that the same men have had very high-bred manners and very low-born feelings: the interior of courts has sufficiently shown what imposing externals may conceal the meanest hearts. But though the manners of aristocracy did not constitute virtue, they sometimes embellish virtue itself. It was no ordinary sight to see a numerous and powerful class of men, whose every outward action seemed constantly to be dictated by a natural elevation of thought and feeling, by delicacy and regularity of taste, and by urbanity of manners. Those manners threw a pleasing illusory charm over human nature; and though the picture was often a false one, it could not be viewed without a noble satisfaction.

## **Chapter 15: Of the Gravity of the Americans, and Why it Does Not Prevent Them from Often Committing Inconsiderate Actions**

MEN who live in democratic countries do not value the simple, turbulent, or coarse diversions in which the people indulge in aristocratic communities: such diversions are thought by them to be puerile or insipid. Nor have they a greater inclination for the intellectual and refined amusements of the aristocratic classes. They want something productive and substantial in their pleasures; they want to mix actual fruition with their joy. In aristocratic communities the people readily give themselves up to bursts of tumultuous and boisterous gayety, which shake off at once the

recollection of their privations: the natives of democracies are not fond of being thus violently broken in upon, and they never lose sight of their own selves without regret. They prefer to these frivolous delights those more serious and silent amusements which are like business, and which do not drive business wholly from their minds. An American, instead of going in a leisure hour to dance merrily at some place of public resort, as the fellows of his calling continue to do throughout the greater part of Europe, shuts himself up at home to drink. He thus enjoys two pleasures; he can go on thinking of his business, and he can get drunk decently by his own fireside.

I thought that the English constituted the most serious nation on the face of the earth, but I have since seen the Americans and have changed my opinion. I do not mean to say that temperament has not a great deal to do with the character of the inhabitants of the United States, but I think that their political institutions are a still more influential cause. I believe the seriousness of the Americans arises partly from their pride. In democratic countries even poor men entertain a lofty notion of their personal importance: they look upon themselves with complacency, and are apt to suppose that others are looking at them, too. With this disposition they watch their language and their actions with care, and do not lay themselves open so as to betray their deficiencies; to preserve their dignity they think it necessary to retain their gravity.

But I detect another more deep-seated and powerful cause which instinctively produces amongst the Americans this astonishing gravity. Under a despotism communities give way at times to bursts of vehement joy; but they are generally gloomy and moody, because they are afraid. Under absolute monarchies tempered by the customs and manners of the country, their spirits are often cheerful and even, because as they have some freedom and a good deal of security, they are exempted from the most important cares of life; but all free peoples are serious, because their minds are habitually absorbed by the contemplation of some dangerous or difficult purpose. This is more especially the case amongst those free nations which form democratic communities. Then there are in all classes a very large number of men constantly occupied with the serious affairs of the government; and those whose thoughts are not engaged in the direction of the commonwealth are wholly engrossed by the acquisition of a private

fortune. Amongst such a people a serious demeanor ceases to be peculiar to certain men, and becomes a habit of the nation.

We are told of small democracies in the days of antiquity, in which the citizens met upon the public places with garlands of roses, and spent almost all their time in dancing and theatrical amusements. I do not believe in such republics any more than in that of Plato; or, if the things we read of really happened, I do not hesitate to affirm that these supposed democracies were composed of very different elements from ours, and that they had nothing in common with the latter except their name. But it must not be supposed that, in the midst of all their toils, the people who live in democracies think themselves to be pitied; the contrary is remarked to be the case. No men are fonder of their own condition. Life would have no relish for them if they were delivered from the anxieties which harass them, and they show more attachment to their cares than aristocratic nations to their pleasures.

I am next led to inquire how it is that these same democratic nations, which are so serious, sometimes act in so inconsiderate a manner. The Americans, who almost always preserve a staid demeanor and a frigid air, nevertheless frequently allow themselves to be borne away, far beyond the bounds of reason, by a sudden passion or a hasty opinion, and they sometimes gravely commit strange absurdities. This contrast ought not to surprise us. There is one sort of ignorance which originates in extreme publicity. In despotic States men know not how to act, because they are told nothing; in democratic nations they often act at random, because nothing is to be left untold. The former do not know—the latter forget; and the chief features of each picture are lost to them in a bewilderment of details.

It is astonishing what imprudent language a public man may sometimes use in free countries, and especially in democratic States, without being compromised; whereas in absolute monarchies a few words dropped by accident are enough to unmask him forever, and ruin him without hope of redemption. This is explained by what goes before. When a man speaks in the midst of a great crowd, many of his words are not heard, or are forthwith obliterated from the memories of those who hear them; but amidst the silence of a mute and motionless throng the slightest whisper strikes the

ear.

In democracies men are never stationary; a thousand chances waft them to and fro, and their life is always the sport of unforeseen or (so to speak) extemporaneous circumstances. Thus they are often obliged to do things which they have imperfectly learned, to say things they imperfectly understand, and to devote themselves to work for which they are unprepared by long apprenticeship. In aristocracies every man has one sole object which he unceasingly pursues, but amongst democratic nations the existence of man is more complex; the same mind will almost always embrace several objects at the same time, and these objects are frequently wholly foreign to each other: as it cannot know them all well, the mind is readily satisfied with imperfect notions of each.

When the inhabitant of democracies is not urged by his wants, he is so at least by his desires; for of all the possessions which he sees around him, none are wholly beyond his reach. He therefore does everything in a hurry, he is always satisfied with "pretty well," and never pauses more than an instant to consider what he has been doing. His curiosity is at once insatiable and cheaply satisfied; for he cares more to know a great deal quickly than to know anything well: he has no time and but little taste to search things to the bottom.

Thus then democratic peoples are grave, because their social and political condition constantly leads them to engage in serious occupations; and they act inconsiderately, because they give but little time and attention to each of these occupations. The habit of inattention must be considered as the greatest bane of the democratic character.

## **Chapter 16: Why the National Vanity of the Americans is More Restless and Captious than That of the English**

ALL free nations are vainglorious, but national pride is displayed by all in the same manner. The Americans in their intercourse with strangers appear

impatient of the smallest censure and insatiable of praise. The most slender eulogium is acceptable to them; the most exalted seldom contents them; they unceasingly harass you to extort praise, and if you resist their entreaties they fall to praising themselves. It would seem as if, doubting their own merit, they wished to have it constantly exhibited before their eyes. Their vanity is not only greedy, but restless and jealous; it will grant nothing, whilst it demands everything, but is ready to beg and to quarrel at the same time. If I say to an American that the country he lives in is a fine one, "Ay," he replies, "there is not its fellow in the world." If I applaud the freedom which its inhabitants enjoy, he answers, "Freedom is a fine thing, but few nations are worthy to enjoy it." If I remark the purity of morals which distinguishes the United States, "I can imagine," says he, "that a stranger, who has been struck by the corruption of all other nations, is astonished at the difference." At length I leave him to the contemplation of himself; but he returns to the charge, and does not desist till he has got me to repeat all I had just been saying. It is impossible to conceive a more troublesome or more garrulous patriotism; it wearies even those who are disposed to respect it.

Such is not the case with the English. An Englishman calmly enjoys the real or imaginary advantages which in his opinion his country possesses. If he grants nothing to other nations, neither does he solicit anything for his own. The censure of foreigners does not affect him, and their praise hardly flatters him; his position with regard to the rest of the world is one of disdainful and ignorant reserve: his pride requires no sustenance, it nourishes itself. It is remarkable that two nations, so recently sprung from the same stock, should be so opposite to one another in their manner of feeling and conversing.

In aristocratic countries the great possess immense privileges, upon which their pride rests, without seeking to rely upon the lesser advantages which accrue to them. As these privileges came to them by inheritance, they regard them in some sort as a portion of themselves, or at least as a natural right inherent in their own persons. They therefore entertain a calm sense of their superiority; they do not dream of vaunting privileges which everyone perceives and no one contests, and these things are not sufficiently new to them to be made topics of conversation. They stand unmoved in their

solitary greatness, well assured that they are seen of all the world without any effort to show themselves off, and that no one will attempt to drive them from that position. When an aristocracy carries on the public affairs, its national pride naturally assumes this reserved, indifferent, and haughty form, which is imitated by all the other classes of the nation.

When, on the contrary, social conditions differ but little, the slightest privileges are of some importance; as every man sees around himself a million of people enjoying precisely similar or analogous advantages, his pride becomes craving and jealous, he clings to mere trifles, and doggedly defends them. In democracies, as the conditions of life are very fluctuating, men have almost always recently acquired the advantages which they possess; the consequence is that they feel extreme pleasure in exhibiting them, to show others and convince themselves that they really enjoy them. As at any instant these same advantages may be lost, their possessors are constantly on the alert, and make a point of showing that they still retain them. Men living in democracies love their country just as they love themselves, and they transfer the habits of their private vanity to their vanity as a nation. The restless and insatiable vanity of a democratic people originates so entirely in the equality and precariousness of social conditions, that the members of the haughtiest nobility display the very same passion in those lesser portions of their existence in which there is anything fluctuating or contested. An aristocratic class always differs greatly from the other classes of the nation, by the extent and perpetuity of its privileges; but it often happens that the only differences between the members who belong to it consist in small transient advantages, which may any day be lost or acquired.

The members of a powerful aristocracy, collected in a capital or a court, have been known to contest with virulence those frivolous privileges which depend on the caprice of fashion or the will of their master. These persons then displayed towards each other precisely the same puerile jealousies which animate the men of democracies, the same eagerness to snatch the smallest advantages which their equals contested, and the same desire to parade ostentatiously those of which they were in possession. If national pride ever entered into the minds of courtiers, I do not question that they would display it in the same manner as the members of a democratic

community.

## **Chapter 17: That the Aspect of Society in the United States is at Once Excited and Monotonous**

IT would seem that nothing can be more adapted to stimulate and to feed curiosity than the aspect of the United States. Fortunes, opinions, and laws are there in ceaseless variation: it is as if immutable nature herself were mutable, such are the changes worked upon her by the hand of man. Yet in the end the sight of this excited community becomes monotonous, and after having watched the moving pageant for a time the spectator is tired of it. Amongst aristocratic nations every man is pretty nearly stationary in his own sphere; but men are astonishingly unlike each other—their passions, their notions, their habits, and their tastes are essentially different: nothing changes, but everything differs. In democracies, on the contrary, all men are alike and do things pretty nearly alike. It is true that they are subject to great and frequent vicissitudes; but as the same events of good or adverse fortune are continually recurring, the name of the actors only is changed, the piece is always the same. The aspect of American society is animated, because men and things are always changing; but it is monotonous, because all these changes are alike.

Men living in democratic ages have many passions, but most of their passions either end in the love of riches or proceed from it. The cause of this is, not that their souls are narrower, but that the importance of money is really greater at such times. When all the members of a community are independent of or indifferent to each other, the co-operation of each of them can only be obtained by paying for it: this infinitely multiplies the purposes to which wealth may be applied, and increases its value. When the reverence which belonged to what is old has vanished, birth, condition, and profession no longer distinguish men, or scarcely distinguish them at all: hardly anything but money remains to create strongly marked differences between them, and to raise some of them above the common level. The distinction originating in wealth is increased by the disappearance and

diminution of all other distinctions. Amongst aristocratic nations money only reaches to a few points on the vast circle of man's desires—in democracies it seems to lead to all. The love of wealth is therefore to be traced, either as a principal or an accessory motive, at the bottom of all that the Americans do: this gives to all their passions a sort of family likeness, and soon renders the survey of them exceedingly wearisome. This perpetual recurrence of the same passion is monotonous; the peculiar methods by which this passion seeks its own gratification are no less so.

In an orderly and constituted democracy like the United States, where men cannot enrich themselves by war, by public office, or by political confiscation, the love of wealth mainly drives them into business and manufactures. Although these pursuits often bring about great commotions and disasters, they cannot prosper without strictly regular habits and a long routine of petty uniform acts. The stronger the passion is, the more regular are these habits, and the more uniform are these acts. It may be said that it is the vehemence of their desires which makes the Americans so methodical; it perturbs their minds, but it disciplines their lives.

The remark I here apply to America may indeed be addressed to almost all our contemporaries. Variety is disappearing from the human race; the same ways of acting, thinking, and feeling are to be met with all over the world. This is not only because nations work more upon each other, and are more faithful in their mutual imitation; but as the men of each country relinquish more and more the peculiar opinions and feelings of a caste, a profession, or a family, they simultaneously arrive at something nearer to the constitution of man, which is everywhere the same. Thus they become more alike, even without having imitated each other. Like travellers scattered about some large wood, which is intersected by paths converging to one point, if all of them keep their eyes fixed upon that point and advance towards it, they insensibly draw nearer together—though they seek not, though they see not, though they know not each other; and they will be surprised at length to find themselves all collected on the same spot. All the nations which take, not any particular man, but man himself, as the object of their researches and their imitations, are tending in the end to a similar state of society, like these travellers converging to the central plot of the forest.

## Chapter 18: Of Honor in the United States and in Democratic Communities

IT would seem that men employ two very distinct methods in the public estimation of the actions of their fellowmen; at one time they judge them by those simple notions of right and wrong which are diffused all over the world; at another they refer their decision to a few very special notions which belong exclusively to some particular age and country. It often happens that these two rules differ; they sometimes conflict: but they are never either entirely identified or entirely annulled by one another. Honor, at the periods of its greatest power, sways the will more than the belief of men; and even whilst they yield without hesitation and without a murmur to its dictates, they feel notwithstanding, by a dim but mighty instinct, the existence of a more general, more ancient, and more holy law, which they sometimes disobey although they cease not to acknowledge it. Some actions have been held to be at the same time virtuous and dishonorable—a refusal to fight a duel is a case in point.

I think these peculiarities may be otherwise explained than by the mere caprices of certain individuals and nations, as has hitherto been the customary mode of reasoning on the subject. Mankind is subject to general and lasting wants that have engendered moral laws, to the neglect of which men have ever and in all places attached the notion of censure and shame: to infringe them was "to do ill"—"to do well" was to conform to them. Within the bosom of this vast association of the human race, lesser associations have been formed which are called nations; and amidst these nations further subdivisions have assumed the names of classes or castes. Each of these associations forms, as it were, a separate species of the human race; and though it has no essential difference from the mass of mankind, to a certain extent it stands apart and has certain wants peculiar to itself. To these special wants must be attributed the modifications which affect in various degrees and in different countries the mode of considering human actions, and the estimate which ought to be formed of them. It is the general and permanent interest of mankind that men should not kill each other: but it may happen to be the peculiar and temporary interest of a people or a

class to justify, or even to honor, homicide.

Honor is simply that peculiar rule, founded upon a peculiar state of society, by the application of which a people or a class allot praise or blame. Nothing is more unproductive to the mind than an abstract idea; I therefore hasten to call in the aid of facts and examples to illustrate my meaning.

I select the most extraordinary kind of honor which was ever known in the world, and that which we are best acquainted with, viz., aristocratic honor springing out of feudal society. I shall explain it by means of the principle already laid down, and I shall explain the principle by means of the illustration. I am not here led to inquire when and how the aristocracy of the Middle Ages came into existence, why it was so deeply severed from the remainder of the nation, or what founded and consolidated its power. I take its existence as an established fact, and I am endeavoring to account for the peculiar view which it took of the greater part of human actions. The first thing that strikes me is, that in the feudal world actions were not always praised or blamed with reference to their intrinsic worth, but that they were sometimes appreciated exclusively with reference to the person who was the actor or the object of them, which is repugnant to the general conscience of mankind. Thus some of the actions which were indifferent on the part of a man in humble life, dishonored a noble; others changed their whole character according as the person aggrieved by them belonged or did not belong to the aristocracy. When these different notions first arose, the nobility formed a distinct body amidst the people, which it commanded from the inaccessible heights where it was ensconced. To maintain this peculiar position, which constituted its strength, it not only required political privileges, but it required a standard of right and wrong for its own especial use. That some particular virtue or vice belonged to the nobility rather than to the humble classes—that certain actions were guiltless when they affected the villain, which were criminal when they touched the noble—these were often arbitrary matters; but that honor or shame should be attached to a man's actions according to his condition, was a result of the internal constitution of an aristocratic community. This has been actually the case in all the countries which have had an aristocracy; as long as a trace of the principle remains, these peculiarities will still exist; to debauch a woman of color scarcely injures the reputation of an American—to marry

her dishonors him.

In some cases feudal honor enjoined revenge, and stigmatized the forgiveness of insults; in others it imperiously commanded men to conquer their own passions, and imposed forgetfulness of self. It did not make humanity or kindness its law, but it extolled generosity; it set more store on liberality than on benevolence; it allowed men to enrich themselves by gambling or by war, but not by labor; it preferred great crimes to small earnings; cupidity was less distasteful to it than avarice; violence it often sanctioned, but cunning and treachery it invariably reprobated as contemptible. These fantastical notions did not proceed exclusively from the caprices of those who entertained them. A class which has succeeded in placing itself at the head of and above all others, and which makes perpetual exertions to maintain this lofty position, must especially honor those virtues which are conspicuous for their dignity and splendor, and which may be easily combined with pride and the love of power. Such men would not hesitate to invert the natural order of the conscience in order to give those virtues precedence before all others. It may even be conceived that some of the more bold and brilliant vices would readily be set above the quiet, unpretending virtues. The very existence of such a class in society renders these things unavoidable.

The nobles of the Middle Ages placed military courage foremost amongst virtues, and in lieu of many of them. This was again a peculiar opinion which arose necessarily from the peculiarity of the state of society. Feudal aristocracy existed by war and for war; its power had been founded by arms, and by arms that power was maintained; it therefore required nothing more than military courage, and that quality was naturally exalted above all others; whatever denoted it, even at the expense of reason and humanity, was therefore approved and frequently enjoined by the manners of the time. Such was the main principle; the caprice of man was only to be traced in minuter details. That a man should regard a tap on the cheek as an unbearable insult, and should be obliged to kill in single combat the person who struck him thus lightly, is an arbitrary rule; but that a noble could not tranquilly receive an insult, and was dishonored if he allowed himself to take a blow without fighting, were direct consequences of the fundamental

principles and the wants of military aristocracy.

Thus it was true to a certain extent to assert that the laws of honor were capricious; but these caprices of honor were always confined within certain necessary limits. The peculiar rule, which was called honor by our forefathers, is so far from being an arbitrary law in my eyes, that I would readily engage to ascribe its most incoherent and fantastical injunctions to a small number of fixed and invariable wants inherent in feudal society.

If I were to trace the notion of feudal honor into the domain of politics, I should not find it more difficult to explain its dictates. The state of society and the political institutions of the Middle Ages were such, that the supreme power of the nation never governed the community directly. That power did not exist in the eyes of the people: every man looked up to a certain individual whom he was bound to obey; by that intermediate personage he was connected with all the others. Thus in feudal society the whole system of the commonwealth rested upon the sentiment of fidelity to the person of the lord: to destroy that sentiment was to open the sluices of anarchy. Fidelity to a political superior was, moreover, a sentiment of which all the members of the aristocracy had constant opportunities of estimating the importance; for every one of them was a vassal as well as a lord, and had to command as well as to obey. To remain faithful to the lord, to sacrifice one's self for him if called upon, to share his good or evil fortunes, to stand by him in his undertakings whatever they might be—such were the first injunctions of feudal honor in relation to the political institutions of those times. The treachery of a vassal was branded with extraordinary severity by public opinion, and a name of peculiar infamy was invented for the offence which was called "felony."

On the contrary, few traces are to be found in the Middle Ages of the passion which constituted the life of the nations of antiquity—I mean patriotism; the word itself is not of very ancient date in the language. Feudal institutions concealed the country at large from men's sight, and rendered the love of it less necessary. The nation was forgotten in the passions which attached men to persons. Hence it was no part of the strict law of feudal honor to remain faithful to one's country. Not indeed that the love of their country did not exist in the hearts of our forefathers; but it

constituted a dim and feeble instinct, which has grown more clear and strong in proportion as aristocratic classes have been abolished, and the supreme power of the nation centralized. This may be clearly seen from the contrary judgments which European nations have passed upon the various events of their histories, according to the generations by which such judgments have been formed. The circumstance which most dishonored the Constable de Bourbon in the eyes of his contemporaries was that he bore arms against his king: that which most dishonors him in our eyes, is that he made war against his country; we brand him as deeply as our forefathers did, but for different reasons.

I have chosen the honor of feudal times by way of illustration of my meaning, because its characteristics are more distinctly marked and more familiar to us than those of any other period; but I might have taken an example elsewhere, and I should have reached the same conclusion by a different road. Although we are less perfectly acquainted with the Romans than with our own ancestors, yet we know that certain peculiar notions of glory and disgrace obtained amongst them, which were not solely derived from the general principles of right and wrong. Many human actions were judged differently, according as they affected a Roman citizen or a stranger, a freeman or a slave; certain vices were blazoned abroad, certain virtues were extolled above all others. "In that age," says Plutarch in the life of Coriolanus, "martial prowess was more honored and prized in Rome than all the other virtues, insomuch that it was called *virtus*, the name of virtue itself, by applying the name of the kind to this particular species; so that virtue in Latin was as much as to say *valor*." Can anyone fail to recognize the peculiar want of that singular community which was formed for the conquest of the world?

Any nation would furnish us with similar grounds of observation; for, as I have already remarked, whenever men collect together as a distinct community, the notion of honor instantly grows up amongst them; that is to say, a system of opinions peculiar to themselves as to what is blamable or commendable; and these peculiar rules always originate in the special habits and special interests of the community. This is applicable to a certain extent to democratic communities as well as to others, as we shall now proceed to prove by the example of the Americans. Some loose notions of

the old aristocratic honor of Europe are still to be found scattered amongst the opinions of the Americans; but these traditional opinions are few in number, they have but little root in the country, and but little power. They are like a religion which has still some temples left standing, though men have ceased to believe in it. But amidst these half-obliterated notions of exotic honor, some new opinions have sprung up, which constitute what may be termed in our days American honor. I have shown how the Americans are constantly driven to engage in commerce and industry. Their origin, their social condition, their political institutions, and even the spot they inhabit, urge them irresistibly in this direction. Their present condition is then that of an almost exclusively manufacturing and commercial association, placed in the midst of a new and boundless country, which their principal object is to explore for purposes of profit. This is the characteristic which most peculiarly distinguishes the American people from all others at the present time. All those quiet virtues which tend to give a regular movement to the community, and to encourage business, will therefore be held in peculiar honor by that people, and to neglect those virtues will be to incur public contempt. All the more turbulent virtues, which often dazzle, but more frequently disturb society, will on the contrary occupy a subordinate rank in the estimation of this same people: they may be neglected without forfeiting the esteem of the community—to acquire them would perhaps be to run a risk of losing it.

The Americans make a no less arbitrary classification of men's vices. There are certain propensities which appear censurable to the general reason and the universal conscience of mankind, but which happen to agree with the peculiar and temporary wants of the American community: these propensities are lightly reprov'd, sometimes even encouraged; for instance, the love of wealth and the secondary propensities connected with it may be more particularly cited. To clear, to till, and to transform the vast uninhabited continent which is his domain, the American requires the daily support of an energetic passion; that passion can only be the love of wealth; the passion for wealth is therefore not reprobated in America, and provided it does not go beyond the bounds assigned to it for public security, it is held in honor. The American lauds as a noble and praiseworthy ambition what our own forefathers in the Middle Ages stigmatized as servile cupidity, just as he treats as a blind and barbarous frenzy that ardor of conquest and

martial temper which bore them to battle. In the United States fortunes are lost and regained without difficulty; the country is boundless, and its resources inexhaustible. The people have all the wants and cravings of a growing creature; and whatever be their efforts, they are always surrounded by more than they can appropriate. It is not the ruin of a few individuals which may be soon repaired, but the inactivity and sloth of the community at large which would be fatal to such a people. Boldness of enterprise is the foremost cause of its rapid progress, its strength, and its greatness. Commercial business is there like a vast lottery, by which a small number of men continually lose, but the State is always a gainer; such a people ought therefore to encourage and do honor to boldness in commercial speculations. But any bold speculation risks the fortune of the speculator and of all those who put their trust in him. The Americans, who make a virtue of commercial temerity, have no right in any case to brand with disgrace those who practise it. Hence arises the strange indulgence which is shown to bankrupts in the United States; their honor does not suffer by such an accident. In this respect the Americans differ, not only from the nations of Europe, but from all the commercial nations of our time, and accordingly they resemble none of them in their position or their wants.

In America all those vices which tend to impair the purity of morals, and to destroy the conjugal tie, are treated with a degree of severity which is unknown in the rest of the world. At first sight this seems strangely at variance with the tolerance shown there on other subjects, and one is surprised to meet with a morality so relaxed and so austere amongst the selfsame people. But these things are less incoherent than they seem to be. Public opinion in the United States very gently represses that love of wealth which promotes the commercial greatness and the prosperity of the nation, and it especially condemns that laxity of morals which diverts the human mind from the pursuit of well-being, and disturbs the internal order of domestic life which is so necessary to success in business. To earn the esteem of their countrymen, the Americans are therefore constrained to adapt themselves to orderly habits—and it may be said in this sense that they make it a matter of honor to live chastely.

On one point American honor accords with the notions of honor acknowledged in Europe; it places courage as the highest virtue, and treats

it as the greatest of life's moral necessities of man; but the notion of courage itself assumes a different aspect. In the United States martial valor is but little prized; the courage which is best known and most esteemed is that which emboldens men to brave the dangers of the ocean, in order to arrive earlier in port—to support the privations of the wilderness without complaint, and solitude more cruel than privations—the courage which renders them almost insensible to the loss of a fortune laboriously acquired, and instantly prompts to fresh exertions to make another. Courage of this kind is peculiarly necessary to the maintenance and prosperity of the American communities, and it is held by them in peculiar honor and estimation; to betray a want of it is to incur certain disgrace.

I have yet another characteristic point which may serve to place the idea of this chapter in stronger relief. In a democratic society like that of the United States, where fortunes are scanty and insecure, everybody works, and work opens a way to everything: this has changed the point of honor quite round, and has turned it against idleness. I have sometimes met in America with young men of wealth, personally disinclined to all laborious exertion, but who had been compelled to embrace a profession. Their disposition and their fortune allowed them to remain without employment; public opinion forbade it, too imperiously to be disobeyed. In the European countries, on the contrary, where aristocracy is still struggling with the flood which overwhelms it, I have often seen men, constantly spurred on by their wants and desires, remain in idleness, in order not to lose the esteem of their equals; and I have known them submit to ennui and privations rather than to work. No one can fail to perceive that these opposite obligations are two different rules of conduct, both nevertheless originating in the notion of honor.

What our forefathers designated as honor absolutely was in reality only one of its forms; they gave a generic name to what was only a species. Honor therefore is to be found in democratic as well as in aristocratic ages, but it will not be difficult to show that it assumes a different aspect in the former. Not only are its injunctions different, but we shall shortly see that they are less numerous, less precise, and that its dictates are less rigorously obeyed. The position of a caste is always much more peculiar than that of a people. Nothing is so much out of the way of the world as a small community

invariably composed of the same families (as was for instance the aristocracy of the Middle Ages), whose object is to concentrate and to retain, exclusively and hereditarily, education, wealth, and power amongst its own members. But the more out of the way the position of a community happens to be, the more numerous are its special wants, and the more extensive are its notions of honor corresponding to those wants. The rules of honor will therefore always be less numerous amongst a people not divided into castes than amongst any other. If ever any nations are constituted in which it may even be difficult to find any peculiar classes of society, the notion of honor will be confined to a small number of precepts, which will be more and more in accordance with the moral laws adopted by the mass of mankind. Thus the laws of honor will be less peculiar and less multifarious amongst a democratic people than in an aristocracy. They will also be more obscure; and this is a necessary consequence of what goes before; for as the distinguishing marks of honor are less numerous and less peculiar, it must often be difficult to distinguish them. To this, other reasons may be added. Amongst the aristocratic nations of the Middle Ages, generation succeeded generation in vain; each family was like a never-dying, ever-stationary man, and the state of opinions was hardly more changeable than that of conditions. Everyone then had always the same objects before his eyes, which he contemplated from the same point; his eyes gradually detected the smallest details, and his discernment could not fail to become in the end clear and accurate. Thus not only had the men of feudal times very extraordinary opinions in matters of honor, but each of those opinions was present to their minds under a clear and precise form.

This can never be the case in America, where all men are in constant motion; and where society, transformed daily by its own operations, changes its opinions together with its wants. In such a country men have glimpses of the rules of honor, but they have seldom time to fix attention upon them.

But even if society were motionless, it would still be difficult to determine the meaning which ought to be attached to the word "honor." In the Middle Ages, as each class had its own honor, the same opinion was never received at the same time by a large number of men; and this rendered it possible to give it a determined and accurate form, which was the more easy, as all

those by whom it was received, having a perfectly identical and most peculiar position, were naturally disposed to agree upon the points of a law which was made for themselves alone. Thus the code of honor became a complete and detailed system, in which everything was anticipated and provided for beforehand, and a fixed and always palpable standard was applied to human actions. Amongst a democratic nation, like the Americans, in which ranks are identified, and the whole of society forms one single mass, composed of elements which are all analogous though not entirely similar, it is impossible ever to agree beforehand on what shall or shall not be allowed by the laws of honor. Amongst that people, indeed, some national wants do exist which give rise to opinions common to the whole nation on points of honor; but these opinions never occur at the same time, in the same manner, or with the same intensity to the minds of the whole community; the law of honor exists, but it has no organs to promulgate it.

The confusion is far greater still in a democratic country like France, where the different classes of which the former fabric of society was composed, being brought together but not yet mingled, import day by day into each other's circles various and sometimes conflicting notions of honor—where every man, at his own will and pleasure, forsakes one portion of his forefathers' creed, and retains another; so that, amidst so many arbitrary measures, no common rule can ever be established, and it is almost impossible to predict which actions will be held in honor and which will be thought disgraceful. Such times are wretched, but they are of short duration.

As honor, amongst democratic nations, is imperfectly defined, its influence is of course less powerful; for it is difficult to apply with certainty and firmness a law which is not distinctly known. Public opinion, the natural and supreme interpreter of the laws of honor, not clearly discerning to which side censure or approval ought to lean, can only pronounce a hesitating judgment. Sometimes the opinion of the public may contradict itself; more frequently it does not act, and lets things pass.

The weakness of the sense of honor in democracies also arises from several other causes. In aristocratic countries, the same notions of honor are always entertained by only a few persons, always limited in number, often

separated from the rest of their fellow-citizens. Honor is easily mingled and identified in their minds with the idea of all that distinguishes their own position; it appears to them as the chief characteristic of their own rank; they apply its different rules with all the warmth of personal interest, and they feel (if I may use the expression) a passion for complying with its dictates. This truth is extremely obvious in the old black-letter lawbooks on the subject of "trial by battel." The nobles, in their disputes, were bound to use the lance and sword; whereas the villains used only sticks amongst themselves, "inasmuch as," to use the words of the old books, "villains have no honor." This did not mean, as it may be imagined at the present day, that these people were contemptible; but simply that their actions were not to be judged by the same rules which were applied to the actions of the aristocracy.

It is surprising, at first sight, that when the sense of honor is most predominant, its injunctions are usually most strange; so that the further it is removed from common reason the better it is obeyed; whence it has sometimes been inferred that the laws of honor were strengthened by their own extravagance. The two things indeed originate from the same source, but the one is not derived from the other. Honor becomes fantastical in proportion to the peculiarity of the wants which it denotes, and the paucity of the men by whom those wants are felt; and it is because it denotes wants of this kind that its influence is great. Thus the notion of honor is not the stronger for being fantastical, but it is fantastical and strong from the selfsame cause.

Further, amongst aristocratic nations each rank is different, but all ranks are fixed; every man occupies a place in his own sphere which he cannot relinquish, and he lives there amidst other men who are bound by the same ties. Amongst these nations no man can either hope or fear to escape being seen; no man is placed so low but that he has a stage of his own, and none can avoid censure or applause by his obscurity. In democratic States on the contrary, where all the members of the community are mingled in the same crowd and in constant agitation, public opinion has no hold on men; they disappear at every instant, and elude its power. Consequently the dictates of honor will be there less imperious and less stringent; for honor acts solely for the public eye—differing in this respect from mere virtue, which lives

upon itself contented with its own approval.

If the reader has distinctly apprehended all that goes before, he will understand that there is a close and necessary relation between the inequality of social conditions and what has here been styled honor—a relation which, if I am not mistaken, had not before been clearly pointed out. I shall therefore make one more attempt to illustrate it satisfactorily. Suppose a nation stands apart from the rest of mankind: independently of certain general wants inherent in the human race, it will also have wants and interests peculiar to itself: certain opinions of censure or approbation forthwith arise in the community, which are peculiar to itself, and which are styled honor by the members of that community. Now suppose that in this same nation a caste arises, which, in its turn, stands apart from all the other classes, and contracts certain peculiar wants, which give rise in their turn to special opinions. The honor of this caste, composed of a medley of the peculiar notions of the nation, and the still more peculiar notions of the caste, will be as remote as it is possible to conceive from the simple and general opinions of men.

Having reached this extreme point of the argument, I now return. When ranks are commingled and privileges abolished, the men of whom a nation is composed being once more equal and alike, their interests and wants become identical, and all the peculiar notions which each caste styled honor successively disappear: the notion of honor no longer proceeds from any other source than the wants peculiar to the nation at large, and it denotes the individual character of that nation to the world. Lastly, if it be allowable to suppose that all the races of mankind should be commingled, and that all the peoples of earth should ultimately come to have the same interests, the same wants, undistinguished from each other by any characteristic peculiarities, no conventional value whatever would then be attached to men's actions; they would all be regarded by all in the same light; the general necessities of mankind, revealed by conscience to every man, would become the common standard. The simple and general notions of right and wrong only would then be recognized in the world, to which, by a natural and necessary tie, the idea of censure or approbation would be attached. Thus, to comprise all my meaning in a single proposition, the dissimilarities and inequalities of men gave rise to the notion of honor; that

notion is weakened in proportion as these differences are obliterated, and with them it would disappear.

## **Chapter 19: Why So Many Ambitious Men and So Little Lofty Ambition are to be Found in the United States**

THE first thing which strikes a traveller in the United States is the innumerable multitude of those who seek to throw off their original condition; and the second is the rarity of lofty ambition to be observed in the midst of the universally ambitious stir of society. No Americans are devoid of a yearning desire to rise; but hardly any appear to entertain hopes of great magnitude, or to drive at very lofty aims. All are constantly seeking to acquire property, power, and reputation—few contemplate these things upon a great scale; and this is the more surprising, as nothing is to be discerned in the manners or laws of America to limit desire, or to prevent it from spreading its impulses in every direction. It seems difficult to attribute this singular state of things to the equality of social conditions; for at the instant when that same equality was established in France, the flight of ambition became unbounded. Nevertheless, I think that the principal cause which may be assigned to this fact is to be found in the social condition and democratic manners of the Americans.

All revolutions enlarge the ambition of men: this proposition is more peculiarly true of those revolutions which overthrow an aristocracy. When the former barriers which kept back the multitude from fame and power are suddenly thrown down, a violent and universal rise takes place towards that eminence so long coveted and at length to be enjoyed. In this first burst of triumph nothing seems impossible to anyone: not only are desires boundless, but the power of satisfying them seems almost boundless, too. Amidst the general and sudden renewal of laws and customs, in this vast confusion of all men and all ordinances, the various members of the community rise and sink again with excessive rapidity; and power passes so quickly from hand to hand that none need despair of catching it in turn. It must be recollected, moreover, that the people who destroy an aristocracy

have lived under its laws; they have witnessed its splendor, and they have unconsciously imbibed the feelings and notions which it entertained. Thus at the moment when an aristocracy is dissolved, its spirit still pervades the mass of the community, and its tendencies are retained long after it has been defeated. Ambition is therefore always extremely great as long as a democratic revolution lasts, and it will remain so for some time after the revolution is consummated. The reminiscence of the extraordinary events which men have witnessed is not obliterated from their memory in a day. The passions which a revolution has roused do not disappear at its close. A sense of instability remains in the midst of re-established order: a notion of easy success survives the strange vicissitudes which gave it birth; desires still remain extremely enlarged, when the means of satisfying them are diminished day by day. The taste for large fortunes subsists, though large fortunes are rare: and on every side we trace the ravages of inordinate and hapless ambition kindled in hearts which they consume in secret and in vain.

At length, however, the last vestiges of the struggle are effaced; the remains of aristocracy completely disappear; the great events by which its fall was attended are forgotten; peace succeeds to war, and the sway of order is restored in the new realm; desires are again adapted to the means by which they may be fulfilled; the wants, the opinions, and the feelings of men cohere once more; the level of the community is permanently determined, and democratic society established. A democratic nation, arrived at this permanent and regular state of things, will present a very different spectacle from that which we have just described; and we may readily conclude that, if ambition becomes great whilst the conditions of society are growing equal, it loses that quality when they have grown so. As wealth is subdivided and knowledge diffused, no one is entirely destitute of education or of property; the privileges and disqualifications of caste being abolished, and men having shattered the bonds which held them fixed, the notion of advancement suggests itself to every mind, the desire to rise swells in every heart, and all men want to mount above their station: ambition is the universal feeling.

But if the equality of conditions gives some resources to all the members of the community, it also prevents any of them from having resources of great

extent, which necessarily circumscribes their desires within somewhat narrow limits. Thus amongst democratic nations ambition is ardent and continual, but its aim is not habitually lofty; and life is generally spent in eagerly coveting small objects which are within reach. What chiefly diverts the men of democracies from lofty ambition is not the scantiness of their fortunes, but the vehemence of the exertions they daily make to improve them. They strain their faculties to the utmost to achieve paltry results, and this cannot fail speedily to limit their discernment and to circumscribe their powers. They might be much poorer and still be greater. The small number of opulent citizens who are to be found amidst a democracy do not constitute an exception to this rule. A man who raises himself by degrees to wealth and power, contracts, in the course of this protracted labor, habits of prudence and restraint which he cannot afterwards shake off. A man cannot enlarge his mind as he would his house. The same observation is applicable to the sons of such a man; they are born, it is true, in a lofty position, but their parents were humble; they have grown up amidst feelings and notions which they cannot afterwards easily get rid of; and it may be presumed that they will inherit the propensities of their father as well as his wealth. It may happen, on the contrary, that the poorest scion of a powerful aristocracy may display vast ambition, because the traditional opinions of his race and the general spirit of his order still buoy him up for some time above his fortune.

Another thing which prevents the men of democratic periods from easily indulging in the pursuit of lofty objects, is the lapse of time which they foresee must take place before they can be ready to approach them. "It is a great advantage," says Pascal, "to be a man of quality, since it brings one man as forward at eighteen or twenty as another man would be at fifty, which is a clear gain of thirty years." Those thirty years are commonly wanting to the ambitious characters of democracies. The principle of equality, which allows every man to arrive at everything, prevents all men from rapid advancement.

In a democratic society, as well as elsewhere, there are only a certain number of great fortunes to be made; and as the paths which lead to them are indiscriminately open to all, the progress of all must necessarily be slackened. As the candidates appear to be nearly alike, and as it is difficult

to make a selection without infringing the principle of equality, which is the supreme law of democratic societies, the first idea which suggests itself is to make them all advance at the same rate and submit to the same probation. Thus in proportion as men become more alike, and the principle of equality is more peaceably and deeply infused into the institutions and manners of the country, the rules of advancement become more inflexible, advancement itself slower, the difficulty of arriving quickly at a certain height far greater. From hatred of privilege and from the embarrassment of choosing, all men are at last constrained, whatever may be their standard, to pass the same ordeal; all are indiscriminately subjected to a multitude of petty preliminary exercises, in which their youth is wasted and their imagination quenched, so that they despair of ever fully attaining what is held out to them; and when at length they are in a condition to perform any extraordinary acts, the taste for such things has forsaken them.

In China, where the equality of conditions is exceedingly great and very ancient, no man passes from one public office to another without undergoing a probationary trial. This probation occurs afresh at every stage of his career; and the notion is now so rooted in the manners of the people that I remember to have read a Chinese novel, in which the hero, after numberless crosses, succeeds at length in touching the heart of his mistress by taking honors. A lofty ambition breathes with difficulty in such an atmosphere.

The remark I apply to politics extends to everything; equality everywhere produces the same effects; where the laws of a country do not regulate and retard the advancement of men by positive enactment, competition attains the same end. In a well-established democratic community great and rapid elevation is therefore rare; it forms an exception to the common rule; and it is the singularity of such occurrences that makes men forget how rarely they happen. Men living in democracies ultimately discover these things; they find out at last that the laws of their country open a boundless field of action before them, but that no one can hope to hasten across it. Between them and the final object of their desires, they perceive a multitude of small intermediate impediments which must be slowly surmounted: this prospect wearies and discourages their ambition at once. They therefore give up hopes so doubtful and remote to search nearer to themselves for less lofty

and more easy enjoyments. Their horizon is not bounded by the laws but narrowed by themselves.

I have remarked that lofty ambitions are more rare in the ages of democracy than in times of aristocracy: I may add that when, in spite of these natural obstacles, they do spring into existence, their character is different. In aristocracies the career of ambition is often wide, but its boundaries are determined. In democracies ambition commonly ranges in a narrower field, but if once it gets beyond that, hardly any limits can be assigned to it. As men are individually weak—as they live asunder, and in constant motion—as precedents are of little authority and laws but of short duration, resistance to novelty is languid, and the fabric of society never appears perfectly erect or firmly consolidated. So that, when once an ambitious man has the power in his grasp, there is nothing he may not dare; and when it is gone from him, he meditates the overthrow of the State to regain it. This gives to great political ambition a character of revolutionary violence, which it seldom exhibits to an equal degree in aristocratic communities. The common aspect of democratic nations will present a great number of small and very rational objects of ambition, from amongst which a few ill-controlled desires of a larger growth will at intervals break out: but no such a thing as ambition conceived and contrived on a vast scale is to be met with there.

I have shown elsewhere by what secret influence the principle of equality makes the passion for physical gratifications and the exclusive love of the present predominate in the human heart: these different propensities mingle with the sentiment of ambition, and tinge it, as it were, with their hues. I believe that ambitious men in democracies are less engrossed than any others with the interests and the judgment of posterity; the present moment alone engages and absorbs them. They are more apt to complete a number of undertakings with rapidity than to raise lasting monuments of their achievements; and they care much more for success than for fame. What they most ask of men is obedience—what they most covet is empire. Their manners have in almost all cases remained below the height of their station; the consequence is that they frequently carry very low tastes into their extraordinary fortunes, and that they seem to have acquired the supreme power only to minister to their coarse or paltry pleasures.

I think that in our time it is very necessary to cleanse, to regulate, and to adapt the feeling of ambition, but that it would be extremely dangerous to seek to impoverish and to repress it overmuch. We should attempt to lay down certain extreme limits, which it should never be allowed to outstep; but its range within those established limits should not be too much checked. I confess that I apprehend much less for democratic society from the boldness than from the mediocrity of desires. What appears to me most to be dreaded is that, in the midst of the small incessant occupations of private life, ambition should lose its vigor and its greatness—that the passions of man should abate, but at the same time be lowered, so that the march of society should every day become more tranquil and less aspiring. I think then that the leaders of modern society would be wrong to seek to lull the community by a state of too uniform and too peaceful happiness; and that it is well to expose it from time to time to matters of difficulty and danger, in order to raise ambition and to give it a field of action. Moralists are constantly complaining that the ruling vice of the present time is pride. This is true in one sense, for indeed no one thinks that he is not better than his neighbor, or consents to obey his superior: but it is extremely false in another; for the same man who cannot endure subordination or equality, has so contemptible an opinion of himself that he thinks he is only born to indulge in vulgar pleasures. He willingly takes up with low desires, without daring to embark in lofty enterprises, of which he scarcely dreams. Thus, far from thinking that humility ought to be preached to our contemporaries, I would have endeavors made to give them a more enlarged idea of themselves and of their kind. Humility is unwholesome to them; what they want is, in my opinion, pride. I would willingly exchange several of our small virtues for this one vice.

## **Chapter 20: The Trade of Place-Hunting in Certain Democratic Countries**

IN the United States as soon as a man has acquired some education and pecuniary resources, he either endeavors to get rich by commerce or industry, or he buys land in the bush and turns pioneer. All that he asks of

the State is not to be disturbed in his toil, and to be secure of his earnings. Amongst the greater part of European nations, when a man begins to feel his strength and to extend his desires, the first thing that occurs to him is to get some public employment. These opposite effects, originating in the same cause, deserve our passing notice.

When public employments are few in number, ill-paid and precarious, whilst the different lines of business are numerous and lucrative, it is to business, and not to official duties, that the new and eager desires engendered by the principle of equality turn from every side. But if, whilst the ranks of society are becoming more equal, the education of the people remains incomplete, or their spirit the reverse of bold—if commerce and industry, checked in their growth, afford only slow and arduous means of making a fortune—the various members of the community, despairing of ameliorating their own condition, rush to the head of the State and demand its assistance. To relieve their own necessities at the cost of the public treasury, appears to them to be the easiest and most open, if not the only, way they have to rise above a condition which no longer contents them; place-hunting becomes the most generally followed of all trades. This must especially be the case, in those great centralized monarchies in which the number of paid offices is immense, and the tenure of them tolerably secure, so that no one despairs of obtaining a place, and of enjoying it as undisturbedly as a hereditary fortune.

I shall not remark that the universal and inordinate desire for place is a great social evil; that it destroys the spirit of independence in the citizen, and diffuses a venal and servile humor throughout the frame of society; that it stifles the manlier virtues: nor shall I be at the pains to demonstrate that this kind of traffic only creates an unproductive activity, which agitates the country without adding to its resources: all these things are obvious. But I would observe, that a government which encourages this tendency risks its own tranquillity, and places its very existence in great jeopardy. I am aware that at a time like our own, when the love and respect which formerly clung to authority are seen gradually to decline, it may appear necessary to those in power to lay a closer hold on every man by his own interest, and it may seem convenient to use his own passions to keep him in order and in silence; but this cannot be so long, and what may appear to be a source of

strength for a certain time will assuredly become in the end a great cause of embarrassment and weakness.

Amongst democratic nations, as well as elsewhere, the number of official appointments has in the end some limits; but amongst those nations, the number of aspirants is unlimited; it perpetually increases, with a gradual and irresistible rise in proportion as social conditions become more equal, and is only checked by the limits of the population. Thus, when public employments afford the only outlet for ambition, the government necessarily meets with a permanent opposition at last; for it is tasked to satisfy with limited means unlimited desires. It is very certain that of all people in the world the most difficult to restrain and to manage are a people of solicitants. Whatever endeavors are made by rulers, such a people can never be contented; and it is always to be apprehended that they will ultimately overturn the constitution of the country, and change the aspect of the State, for the sole purpose of making a clearance of places. The sovereigns of the present age, who strive to fix upon themselves alone all those novel desires which are aroused by equality, and to satisfy them, will repent in the end, if I am not mistaken, that they ever embarked in this policy: they will one day discover that they have hazarded their own power, by making it so necessary; and that the more safe and honest course would have been to teach their subjects the art of providing for themselves.

## **Chapter 21: Why Great Revolutions Will Become More Rare**

A PEOPLE which has existed for centuries under a system of castes and classes can only arrive at a democratic state of society by passing through a long series of more or less critical transformations, accomplished by violent efforts, and after numerous vicissitudes; in the course of which, property, opinions, and power are rapidly transferred from one hand to another. Even after this great revolution is consummated, the revolutionary habits engendered by it may long be traced, and it will be followed by deep commotion. As all this takes place at the very time at which social conditions are becoming more equal, it is inferred that some concealed

relation and secret tie exist between the principle of equality itself and revolution, insomuch that the one cannot exist without giving rise to the other.

On this point reasoning may seem to lead to the same result as experience. Amongst a people whose ranks are nearly equal, no ostensible bond connects men together, or keeps them settled in their station. None of them have either a permanent right or power to command—none are forced by their condition to obey; but every man, finding himself possessed of some education and some resources, may choose his own path and proceed apart from all his fellow-men. The same causes which make the members of the community independent of each other, continually impel them to new and restless desires, and constantly spur them onwards. It therefore seems natural that, in a democratic community, men, things, and opinions should be forever changing their form and place, and that democratic ages should be times of rapid and incessant transformation.

But is this really the case? does the equality of social conditions habitually and permanently lead men to revolution? does that state of society contain some perturbing principle which prevents the community from ever subsiding into calm, and disposes the citizens to alter incessantly their laws, their principles, and their manners? I do not believe it; and as the subject is important, I beg for the reader's close attention. Almost all the revolutions which have changed the aspect of nations have been made to consolidate or to destroy social inequality. Remove the secondary causes which have produced the great convulsions of the world, and you will almost always find the principle of inequality at the bottom. Either the poor have attempted to plunder the rich, or the rich to enslave the poor. If then a state of society can ever be founded in which every man shall have something to keep, and little to take from others, much will have been done for the peace of the world. I am aware that amongst a great democratic people there will always be some members of the community in great poverty, and others in great opulence; but the poor, instead of forming the immense majority of the nation, as is always the case in aristocratic communities, are comparatively few in number, and the laws do not bind them together by the ties of irremediable and hereditary penury. The wealthy, on their side, are scarce and powerless; they have no privileges which attract public

observation; even their wealth, as it is no longer incorporated and bound up with the soil, is impalpable, and as it were invisible. As there is no longer a race of poor men, so there is no longer a race of rich men; the latter spring up daily from the multitude, and relapse into it again. Hence they do not form a distinct class, which may be easily marked out and plundered; and, moreover, as they are connected with the mass of their fellow-citizens by a thousand secret ties, the people cannot assail them without inflicting an injury upon itself. Between these two extremes of democratic communities stand an innumerable multitude of men almost alike, who, without being exactly either rich or poor, are possessed of sufficient property to desire the maintenance of order, yet not enough to excite envy. Such men are the natural enemies of violent commotions: their stillness keeps all beneath them and above them still, and secures the balance of the fabric of society. Not indeed that even these men are contented with what they have gotten, or that they feel a natural abhorrence for a revolution in which they might share the spoil without sharing the calamity.; on the contrary, they desire, with unexampled ardor, to get rich, but the difficulty is to know from whom riches can be taken. The same state of society which constantly prompts desires, restrains these desires within necessary limits: it gives men more liberty of changing and less interest in change.

Not only are the men of democracies not naturally desirous of revolutions, but they are afraid of them. All revolutions more or less threaten the tenure of property: but most of those who live in democratic countries are possessed of property—not only are they possessed of property, but they live in the condition of men who set the greatest store upon their property. If we attentively consider each of the classes of which society is composed, it is easy to see that the passions engendered by property are keenest and most tenacious amongst the middle classes. The poor often care but little for what they possess, because they suffer much more from the want of what they have not, than they enjoy the little they have. The rich have many other passions besides that of riches to satisfy; and, besides, the long and arduous enjoyment of a great fortune sometimes makes them in the end insensible to its charms. But the men who have a competency, alike removed from opulence and from penury, attach an enormous value to their possessions. As they are still almost within the reach of poverty, they see its privations near at hand, and dread them; between poverty and themselves there is

nothing but a scanty fortune, upon which they immediately fix their apprehensions and their hopes. Every day increases the interest they take in it, by the constant cares which it occasions; and they are the more attached to it by their continual exertions to increase the amount. The notion of surrendering the smallest part of it is insupportable to them, and they consider its total loss as the worst of misfortunes. Now these eager and apprehensive men of small property constitute the class which is constantly increased by the equality of conditions. Hence, in democratic communities, the majority of the people do not clearly see what they have to gain by a revolution, but they continually and in a thousand ways feel that they might lose by one.

I have shown in another part of this work that the equality of conditions naturally urges men to embark in commercial and industrial pursuits, and that it tends to increase and to distribute real property: I have also pointed out the means by which it inspires every man with an eager and constant desire to increase his welfare. Nothing is more opposed to revolutionary passions than these things. It may happen that the final result of a revolution is favorable to commerce and manufactures; but its first consequence will almost always be the ruin of manufactures and mercantile men, because it must always change at once the general principles of consumption, and temporarily upset the existing proportion between supply and demand. I know of nothing more opposite to revolutionary manners than commercial manners. Commerce is naturally adverse to all the violent passions; it loves to temporize, takes delight in compromise, and studiously avoids irritation. It is patient, insinuating, flexible, and never has recourse to extreme measures until obliged by the most absolute necessity. Commerce renders men independent of each other, gives them a lofty notion of their personal importance, leads them to seek to conduct their own affairs, and teaches how to conduct them well; it therefore prepares men for freedom, but preserves them from revolutions. In a revolution the owners of personal property have more to fear than all others; for on the one hand their property is often easy to seize, and on the other it may totally disappear at any moment—a subject of alarm to which the owners of real property are less exposed, since, although they may lose the income of their estates, they may hope to preserve the land itself through the greatest vicissitudes. Hence the former are much more alarmed at the symptoms of revolutionary

commotion than the latter. Thus nations are less disposed to make revolutions in proportion as personal property is augmented and distributed amongst them, and as the number of those possessing it increases. Moreover, whatever profession men may embrace, and whatever species of property they may possess, one characteristic is common to them all. No one is fully contented with his present fortune—all are perpetually striving in a thousand ways to improve it. Consider any one of them at any period of his life, and he will be found engaged with some new project for the purpose of increasing what he has; talk not to him of the interests and the rights of mankind: this small domestic concern absorbs for the time all his thoughts, and inclines him to defer political excitement to some other season. This not only prevents men from making revolutions, but deters men from desiring them. Violent political passions have but little hold on those who have devoted all their faculties to the pursuit of their well-being. The ardor which they display in small matters calms their zeal for momentous undertakings.

From time to time indeed, enterprising and ambitious men will arise in democratic communities, whose unbounded aspirations cannot be contented by following the beaten track. Such men like revolutions and hail their approach; but they have great difficulty in bringing them about, unless unwonted events come to their assistance. No man can struggle with advantage against the spirit of his age and country; and, however powerful he may be supposed to be, he will find it difficult to make his contemporaries share in feelings and opinions which are repugnant to all their feelings and desires.

It is a mistake to believe that, when once the equality of conditions has become the old and uncontested state of society, and has imparted its characteristics to the manners of a nation, men will easily allow themselves to be thrust into perilous risks by an imprudent leader or a bold innovator. Not indeed that they will resist him openly, by well-contrived schemes, or even by a premeditated plan of resistance. They will not struggle energetically against him, sometimes they will even applaud him—but they do not follow him. To his vehemence they secretly oppose their inertia; to his revolutionary tendencies their conservative interests; their homely tastes to his adventurous passions; their good sense to the flights of his genius; to

his poetry their prose. With immense exertion he raises them for an instant, but they speedily escape from him, and fall back, as it were, by their own weight. He strains himself to rouse the indifferent and distracted multitude, and finds at last that he is reduced to impotence, not because he is conquered, but because he is alone.

I do not assert that men living in democratic communities are naturally stationary; I think, on the contrary, that a perpetual stir prevails in the bosom of those societies, and that rest is unknown there; but I think that men bestir themselves within certain limits beyond which they hardly ever go. They are forever varying, altering, and restoring secondary matters; but they carefully abstain from touching what is fundamental. They love change, but they dread revolutions. Although the Americans are constantly modifying or abrogating some of their laws, they by no means display revolutionary passions. It may be easily seen, from the promptitude with which they check and calm themselves when public excitement begins to grow alarming, and at the very moment when passions seem most roused, that they dread a revolution as the worst of misfortunes, and that every one of them is inwardly resolved to make great sacrifices to avoid such a catastrophe. In no country in the world is the love of property more active and more anxious than in the United States; nowhere does the majority display less inclination for those principles which threaten to alter, in whatever manner, the laws of property. I have often remarked that theories which are of a revolutionary nature, since they cannot be put in practice without a complete and sometimes a sudden change in the state of property and persons, are much less favorably viewed in the United States than in the great monarchical countries of Europe: if some men profess them, the bulk of the people reject them with instinctive abhorrence. I do not hesitate to say that most of the maxims commonly called democratic in France would be proscribed by the democracy of the United States. This may easily be understood: in America men have the opinions and passions of democracy, in Europe we have still the passions and opinions of revolution. If ever America undergoes great revolutions, they will be brought about by the presence of the black race on the soil of the United States—that is to say, they will owe their origin, not to the equality, but to the inequality, of conditions.

When social conditions are equal, every man is apt to live apart, centred in himself and forgetful of the public. If the rulers of democratic nations were either to neglect to correct this fatal tendency, or to encourage it from a notion that it weans men from political passions and thus wards off revolutions, they might eventually produce the evil they seek to avoid, and a time might come when the inordinate passions of a few men, aided by the unintelligent selfishness or the pusillanimity of the greater number, would ultimately compel society to pass through strange vicissitudes. In democratic communities revolutions are seldom desired except by a minority; but a minority may sometimes effect them. I do not assert that democratic nations are secure from revolutions; I merely say that the state of society in those nations does not lead to revolutions, but rather wards them off. A democratic people left to itself will not easily embark in great hazards; it is only led to revolutions unawares; it may sometimes undergo them, but it does not make them; and I will add that, when such a people has been allowed to acquire sufficient knowledge and experience, it will not suffer them to be made. I am well aware that in this respect public institutions may themselves do much; they may encourage or repress the tendencies which originate in the state of society. I therefore do not maintain, I repeat, that a people is secure from revolutions simply because conditions are equal in the community; but I think that, whatever the institutions of such a people may be, great revolutions will always be far less violent and less frequent than is supposed; and I can easily discern a state of polity, which, when combined with the principle of equality, would render society more stationary than it has ever been in our western part of the world.

The observations I have here made on events may also be applied in part to opinions. Two things are surprising in the United States—the mutability of the greater part of human actions, and the singular stability of certain principles. Men are in constant motion; the mind of man appears almost unmoved. When once an opinion has spread over the country and struck root there, it would seem that no power on earth is strong enough to eradicate it. In the United States, general principles in religion, philosophy, morality, and even politics, do not vary, or at least are only modified by a hidden and often an imperceptible process: even the grossest prejudices are obliterated with incredible slowness, amidst the continual friction of men

and things.

I hear it said that it is in the nature and the habits of democracies to be constantly changing their opinions and feelings. This may be true of small democratic nations, like those of the ancient world, in which the whole community could be assembled in a public place and then excited at will by an orator. But I saw nothing of the kind amongst the great democratic people which dwells upon the opposite shores of the Atlantic Ocean. What struck me in the United States was the difficulty in shaking the majority in an opinion once conceived, or of drawing it off from a leader once adopted. Neither speaking nor writing can accomplish it; nothing but experience will avail, and even experience must be repeated. This is surprising at first sight, but a more attentive investigation explains the fact. I do not think that it is as easy as is supposed to uproot the prejudices of a democratic people—to change its belief—to supersede principles once established, by new principles in religion, politics, and morals—in a word, to make great and frequent changes in men's minds. Not that the human mind is there at rest—it is in constant agitation; but it is engaged in infinitely varying the consequences of known principles, and in seeking for new consequences, rather than in seeking for new principles. Its motion is one of rapid circumvolution, rather than of straightforward impulse by rapid and direct effort; it extends its orbit by small continual and hasty movements, but it does not suddenly alter its position.

Men who are equal in rights, in education, in fortune, or, to comprise all in one word, in their social condition, have necessarily wants, habits, and tastes which are hardly dissimilar. As they look at objects under the same aspect, their minds naturally tend to analogous conclusions; and, though each of them may deviate from his contemporaries and from opinions of his own, they will involuntarily and unconsciously concur in a certain number of received opinions. The more attentively I consider the effects of equality upon the mind, the more am I persuaded that the intellectual anarchy which we witness about us is not, as many men suppose, the natural state of democratic nations. I think it is rather to be regarded as an accident peculiar to their youth, and that it only breaks out at that period of transition when men have already snapped the former ties which bound them together, but are still amazingly different in origin, education, and manners; so that,

having retained opinions, propensities and tastes of great diversity, nothing any longer prevents men from avowing them openly. The leading opinions of men become similar in proportion as their conditions assimilate; such appears to me to be the general and permanent law—the rest is casual and transient.

I believe that it will rarely happen to any man amongst a democratic community, suddenly to frame a system of notions very remote from that which his contemporaries have adopted; and if some such innovator appeared, I apprehend that he would have great difficulty in finding listeners, still more in finding believers. When the conditions of men are almost equal, they do not easily allow themselves to be persuaded by each other. As they all live in close intercourse, as they have learned the same things together, and as they lead the same life, they are not naturally disposed to take one of themselves for a guide, and to follow him implicitly. Men seldom take the opinion of their equal, or of a man like themselves, upon trust. Not only is confidence in the superior attainments of certain individuals weakened amongst democratic nations, as I have elsewhere remarked, but the general notion of the intellectual superiority which any man whatsoever may acquire in relation to the rest of the community is soon overshadowed. As men grow more like each other, the doctrine of the equality of the intellect gradually infuses itself into their opinions; and it becomes more difficult for any innovator to acquire or to exert much influence over the minds of a people. In such communities sudden intellectual revolutions will therefore be rare; for, if we read aright the history of the world, we shall find that great and rapid changes in human opinions have been produced far less by the force of reasoning than by the authority of a name. Observe, too, that as the men who live in democratic societies are not connected with each other by any tie, each of them must be convinced individually; whilst in aristocratic society it is enough to convince a few—the rest follow. If Luther had lived in an age of equality, and had not had princes and potentates for his audience, he would perhaps have found it more difficult to change the aspect of Europe. Not indeed that the men of democracies are naturally strongly persuaded of the certainty of their opinions, or are unwavering in belief; they frequently entertain doubts which no one, in their eyes, can remove. It sometimes happens at such times that the human mind would willingly change its position; but as

nothing urges or guides it forwards, it oscillates to and fro without progressive motion.

Even when the reliance of a democratic people has been won, it is still no easy matter to gain their attention. It is extremely difficult to obtain a hearing from men living in democracies, unless it be to speak to them of themselves. They do not attend to the things said to them, because they are always fully engrossed with the things they are doing. For indeed few men are idle in democratic nations; life is passed in the midst of noise and excitement, and men are so engaged in acting that little remains to them for thinking. I would especially remark that they are not only employed, but that they are passionately devoted to their employments. They are always in action, and each of their actions absorbs their faculties: the zeal which they display in business puts out the enthusiasm they might otherwise entertain for ideas. I think that it is extremely difficult to excite the enthusiasm of a democratic people for any theory which has not a palpable, direct, and immediate connection with the daily occupations of life: therefore they will not easily forsake their old opinions; for it is enthusiasm which flings the minds of men out of the beaten track, and effects the great revolutions of the intellect as well as the great revolutions of the political world. Thus democratic nations have neither time nor taste to go in search of novel opinions. Even when those they possess become doubtful, they still retain them, because it would take too much time and inquiry to change them—they retain them, not as certain, but as established.

There are yet other and more cogent reasons which prevent any great change from being easily effected in the principles of a democratic people. I have already adverted to them at the commencement of this part of my work. If the influence of individuals is weak and hardly perceptible amongst such a people, the power exercised by the mass upon the mind of each individual is extremely great—I have already shown for what reasons. I would now observe that it is wrong to suppose that this depends solely upon the form of government, and that the majority would lose its intellectual supremacy if it were to lose its political power. In aristocracies men have often much greatness and strength of their own: when they find themselves at variance with the greater number of their fellow-countrymen, they withdraw to their own circle, where they support and console

themselves. Such is not the case in a democratic country; there public favor seems as necessary as the air we breathe, and to live at variance with the multitude is, as it were, not to live. The multitude requires no laws to coerce those who think not like itself: public disapprobation is enough; a sense of their loneliness and impotence overtakes them and drives them to despair.

Whenever social conditions are equal, public opinion presses with enormous weight upon the mind of each individual; it surrounds, directs, and oppresses him; and this arises from the very constitution of society, much more than from its political laws. As men grow more alike, each man feels himself weaker in regard to all the rest; as he discerns nothing by which he is considerably raised above them, or distinguished from them, he mistrusts himself as soon as they assail him. Not only does he' mistrust his strength, but he even doubts of his right; and he is very near acknowledging that he is in the wrong, when the greater number of his countrymen assert that he is so. The majority do not need to constrain him—they convince him. In whatever way then the powers of a democratic community may be organized and balanced, it will always be extremely difficult to believe what the bulk of the people reject, or to profess what they condemn.

This circumstance is extraordinarily favorable to the stability of opinions. When an opinion has taken root amongst a democratic people, and established itself in the minds of the bulk of the community, it afterwards subsists by itself and is maintained without effort, because no one attacks it. Those who at first rejected it as false, ultimately receive it as the general impression; and those who still dispute it in their hearts, conceal their dissent; they are careful not to engage in a dangerous and useless conflict. It is true, that when the majority of a democratic people change their opinions, they may suddenly and arbitrarily effect strange revolutions in men's minds; but their opinions do not change without much difficulty, and it is almost as difficult to show that they are changed.

Time, events, or the unaided individual action of the mind, will sometimes undermine or destroy an opinion, without any outward sign of the change. It has not been openly assailed, no conspiracy has been formed to make war on it, but its followers one by one noiselessly secede—day by day a few of them abandon it, until at last it is only professed by a minority. In this state

it will still continue to prevail. As its enemies remain mute, or only interchange their thoughts by stealth, they are themselves unaware for a long period that a great revolution has actually been effected; and in this state of uncertainty they take no steps—they observe each other and are silent. The majority have ceased to believe what they believed before; but they still affect to believe, and this empty phantom of public opinion is strong enough to chill innovators, and to keep them silent and at a respectful distance. We live at a time which has witnessed the most rapid changes of opinion in the minds of men; nevertheless it may be that the leading opinions of society will ere long be more settled than they have been for several centuries in our history: that time is not yet come, but it may perhaps be approaching. As I examine more closely the natural wants and tendencies of democratic nations, I grow persuaded that if ever social equality is generally and permanently established in the world, great intellectual and political revolutions will become more difficult and less frequent than is supposed. Because the men of democracies appear always excited, uncertain, eager, changeable in their wills and in their positions, it is imagined that they are suddenly to abrogate their laws, to adopt new opinions, and to assume new manners. But if the principle of equality predisposes men to change, it also suggests to them certain interests and tastes which cannot be satisfied without a settled order of things; equality urges them on, but at the same time it holds them back; it spurs them, but fastens them to earth;—it kindles their desires, but limits their powers. This, however, is not perceived at first; the passions which tend to sever the citizens of a democracy are obvious enough; but the hidden force which restrains and unites them is not discernible at a glance.

Amidst the ruins which surround me, shall I dare to say that revolutions are not what I most fear for coming generations? If men continue to shut themselves more closely within the narrow circle of domestic interests and to live upon that kind of excitement, it is to be apprehended that they may ultimately become inaccessible to those great and powerful public emotions which perturb nations—but which enlarge them and recruit them. When property becomes so fluctuating, and the love of property so restless and so ardent, I cannot but fear that men may arrive at such a state as to regard every new theory as a peril, every innovation as an irksome toil, every social improvement as a stepping-stone to revolution, and so refuse to move

altogether for fear of being moved too far. I dread, and I confess it, lest they should at last so entirely give way to a cowardly love of present enjoyment, as to lose sight of the interests of their future selves and of those of their descendants; and to prefer to glide along the easy current of life, rather than to make, when it is necessary, a strong and sudden effort to a higher purpose. It is believed by some that modern society will be ever changing its aspect; for myself, I fear that it will ultimately be too invariably fixed in the same institutions, the same prejudices, the same manners, so that mankind will be stopped and circumscribed; that the mind will swing backwards and forwards forever, without begetting fresh ideas; that man will waste his strength in bootless and solitary trifling; and, though in continual motion, that humanity will cease to advance.

## **Chapter 22: Why Democratic Nations Are Naturally Desirous of Peace, and Democratic Armies of War**

THE same interests, the same fears, the same passions which deter democratic nations from revolutions, deter them also from war; the spirit of military glory and the spirit of revolution are weakened at the same time and by the same causes. The ever-increasing numbers of men of property—lovers of peace, the growth of personal wealth which war so rapidly consumes, the mildness of manners, the gentleness of heart, those tendencies to pity which are engendered by the equality of conditions, that coolness of understanding which renders men comparatively insensible to the violent and poetical excitement of arms—all these causes concur to quench the military spirit. I think it may be admitted as a general and constant rule, that, amongst civilized nations, the warlike passions will become more rare and less intense in proportion as social conditions shall be more equal. War is nevertheless an occurrence to which all nations are subject, democratic nations as well as others. Whatever taste they may have for peace, they must hold themselves in readiness to repel aggression, or in other words they must have an army.

Fortune, which has conferred so many peculiar benefits upon the inhabitants of the United States, has placed them in the midst of a wilderness, where they have, so to speak, no neighbors: a few thousand soldiers are sufficient for their wants; but this is peculiar to America, not to democracy. The equality of conditions, and the manners as well as the institutions resulting from it, do not exempt a democratic people from the necessity of standing armies, and their armies always exercise a powerful influence over their fate. It is therefore of singular importance to inquire what are the natural propensities of the men of whom these armies are composed.

Amongst aristocratic nations, especially amongst those in which birth is the only source of rank, the same inequality exists in the army as in the nation; the officer is noble, the soldier is a serf; the one is naturally called upon to command, the other to obey. In aristocratic armies, the private soldier's ambition is therefore circumscribed within very narrow limits. Nor has the ambition of the officer an unlimited range. An aristocratic body not only forms a part of the scale of ranks in the nation, but it contains a scale of ranks within itself: the members of whom it is composed are placed one above another, in a particular and unvarying manner. Thus one man is born to the command of a regiment, another to that of a company; when once they have reached the utmost object of their hopes, they stop of their own accord, and remain contented with their lot. There is, besides, a strong cause, which, in aristocracies, weakens the officer's desire of promotion. Amongst aristocratic nations, an officer, independently of his rank in the army, also occupies an elevated rank in society; the former is almost always in his eyes only an appendage to the latter. A nobleman who embraces the profession of arms follows it less from motives of ambition than from a sense of the duties imposed on him by his birth. He enters the army in order to find an honorable employment for the idle years of his youth, and to be able to bring back to his home and his peers some honorable recollections of military life; but his principal object is not to obtain by that profession either property, distinction, or power, for he possesses these advantages in his own right, and enjoys them without leaving his home.

In democratic armies all the soldiers may become officers, which makes the desire of promotion general, and immeasurably extends the bounds of

military ambition. The officer, on his part, sees nothing which naturally and necessarily stops him at one grade more than at another; and each grade has immense importance in his eyes, because his rank in society almost always depends on his rank in the army. Amongst democratic nations it often happens that an officer has no property but his pay, and no distinction but that of military honors: consequently as often as his duties change, his fortune changes, and he becomes, as it were, a new man. What was only an appendage to his position in aristocratic armies, has thus become the main point, the basis of his whole condition. Under the old French monarchy officers were always called by their titles of nobility; they are now always called by the title of their military rank. This little change in the forms of language suffices to show that a great revolution has taken place in the constitution of society and in that of the army. In democratic armies the desire of advancement is almost universal: it is ardent, tenacious, perpetual; it is strengthened by all other desires, and only extinguished with life itself. But it is easy to see, that of all armies in the world, those in which advancement must be slowest in time of peace are the armies of democratic countries. As the number of commissions is naturally limited, whilst the number of competitors is almost unlimited, and as the strict law of equality is over all alike, none can make rapid progress—many can make no progress at all. Thus the desire of advancement is greater, and the opportunities of advancement fewer, there than elsewhere. All the ambitious spirits of a democratic army are consequently ardently desirous of war, because war makes vacancies, and warrants the violation of that law of seniority which is the sole privilege natural to democracy.

We thus arrive at this singular consequence, that of all armies those most ardently desirous of war are democratic armies, and of all nations those most fond of peace are democratic nations: and, what makes these facts still more extraordinary, is that these contrary effects are produced at the same time by the principle of equality.

All the members of the community, being alike, constantly harbor the wish, and discover the possibility, of changing their condition and improving their welfare: this makes them fond of peace, which is favorable to industry, and allows every man to pursue his own little undertakings to their completion. On the other hand, this same equality makes soldiers dream of fields of

battle, by increasing the value of military honors in the eyes of those who follow the profession of arms, and by rendering those honors accessible to all. In either case the inquietude of the heart is the same, the taste for enjoyment as insatiable, the ambition of success as great—the means of gratifying it are alone different.

These opposite tendencies of the nation and the army expose democratic communities to great dangers. When a military spirit forsakes a people, the profession of arms immediately ceases to be held in honor, and military men fall to the lowest rank of the public servants: they are little esteemed, and no longer understood. The reverse of what takes place in aristocratic ages then occurs; the men who enter the army are no longer those of the highest, but of the lowest rank. Military ambition is only indulged in when no other is possible. Hence arises a circle of cause and consequence from which it is difficult to escape: the best part of the nation shuns the military profession because that profession is not honored, and the profession is not honored because the best part of the nation has ceased to follow it. It is then no matter of surprise that democratic armies are often restless, ill-tempered, and dissatisfied with their lot, although their physical condition is commonly far better, and their discipline less strict than in other countries. The soldier feels that he occupies an inferior position, and his wounded pride either stimulates his taste for hostilities which would render his services necessary, or gives him a turn for revolutions, during which he may hope to win by force of arms the political influence and personal importance now denied him. The composition of democratic armies makes this last-mentioned danger much to be feared. In democratic communities almost every man has some property to preserve; but democratic armies are generally led by men without property, most of whom have little to lose in civil broils. The bulk of the nation is naturally much more afraid of revolutions than in the ages of aristocracy, but the leaders of the army much less so.

Moreover, as amongst democratic nations (to repeat what I have just remarked) the wealthiest, the best educated, and the most able men seldom adopt the military profession, the army, taken collectively, eventually forms a small nation by itself, where the mind is less enlarged, and habits are more rude than in the nation at large. Now, this small uncivilized nation has arms

in its possession, and alone knows how to use them: for, indeed, the pacific temper of the community increases the danger to which a democratic people is exposed from the military and turbulent spirit of the army. Nothing is so dangerous as an army amidst an unwarlike nation; the excessive love of the whole community for quiet continually puts its constitution at the mercy of the soldiery.

It may therefore be asserted, generally speaking, that if democratic nations are naturally prone to peace from their interests and their propensities, they are constantly drawn to war and revolutions by their armies. Military revolutions, which are scarcely ever to be apprehended in aristocracies, are always to be dreaded amongst democratic nations. These perils must be reckoned amongst the most formidable which beset their future fate, and the attention of statesmen should be sedulously applied to find a remedy for the evil.

When a nation perceives that it is inwardly affected by the restless ambition of its army, the first thought which occurs is to give this inconvenient ambition an object by going to war. I speak no ill of war: war almost always enlarges the mind of a people, and raises their character. In some cases it is the only check to the excessive growth of certain propensities which naturally spring out of the equality of conditions, and it must be considered as a necessary corrective to certain inveterate diseases to which democratic communities are liable. War has great advantages, but we must not flatter ourselves that it can diminish the danger I have just pointed out. That peril is only suspended by it, to return more fiercely when the war is over; for armies are much more impatient of peace after having tasted military exploits. War could only be a remedy for a people which should always be athirst for military glory. I foresee that all the military rulers who may rise up in great democratic nations, will find it easier to conquer with their armies, than to make their armies live at peace after conquest. There are two things which a democratic people will always find very difficult—to begin a war, and to end it.

Again, if war has some peculiar advantages for democratic nations, on the other hand it exposes them to certain dangers which aristocracies have no cause to dread to an equal extent. I shall only point out two of these.

Although war gratifies the army, it embarrasses and often exasperates that countless multitude of men whose minor passions every day require peace in order to be satisfied. Thus there is some risk of its causing, under another form, the disturbance it is intended to prevent. No protracted war can fail to endanger the freedom of a democratic country. Not indeed that after every victory it is to be apprehended that the victorious generals will possess themselves by force of the supreme power, after the manner of Sylla and Caesar: the danger is of another kind. War does not always give over democratic communities to military government, but it must invariably and immeasurably increase the powers of civil government; it must almost compulsorily concentrate the direction of all men and the management of all things in the hands of the administration. If it lead not to despotism by sudden violence, it prepares men for it more gently by their habits. All those who seek to destroy the liberties of a democratic nation ought to know that war is the surest and the shortest means to accomplish it. This is the first axiom of the science.

One remedy, which appears to be obvious when the ambition of soldiers and officers becomes the subject of alarm, is to augment the number of commissions to be distributed by increasing the army. This affords temporary relief, but it plunges the country into deeper difficulties at some future period. To increase the army may produce a lasting effect in an aristocratic community, because military ambition is there confined to one class of men, and the ambition of each individual stops, as it were, at a certain limit; so that it may be possible to satisfy all who feel its influence. But nothing is gained by increasing the army amongst a democratic people, because the number of aspirants always rises in exactly the same ratio as the army itself. Those whose claims have been satisfied by the creation of new commissions are instantly succeeded by a fresh multitude beyond all power of satisfaction; and even those who were but now satisfied soon begin to crave more advancement; for the same excitement prevails in the ranks of the army as in the civil classes of democratic society, and what men want is not to reach a certain grade, but to have constant promotion. Though these wants may not be very vast, they are perpetually recurring. Thus a democratic nation, by augmenting its army, only allays for a time the ambition of the military profession, which soon becomes even more formidable, because the number of those who feel it is increased. I am of

opinion that a restless and turbulent spirit is an evil inherent in the very constitution of democratic armies, and beyond hope of cure. The legislators of democracies must not expect to devise any military organization capable by its influence of calming and restraining the military profession: their efforts would exhaust their powers, before the object is attained.

The remedy for the vices of the army is not to be found in the army itself, but in the country. Democratic nations are naturally afraid of disturbance and of despotism; the object is to turn these natural instincts into well-digested, deliberate, and lasting tastes. When men have at last learned to make a peaceful and profitable use of freedom, and have felt its blessings—when they have conceived a manly love of order, and have freely submitted themselves to discipline—these same men, if they follow the profession of arms, bring into it, unconsciously and almost against their will, these same habits and manners. The general spirit of the nation being infused into the spirit peculiar to the army, tempers the opinions and desires engendered by military life, or represses them by the mighty force of public opinion. Teach but the citizens to be educated, orderly, firm, and free, the soldiers will be disciplined and obedient. Any law which, in repressing the turbulent spirit of the army, should tend to diminish the spirit of freedom in the nation, and to overshadow the notion of law and right, would defeat its object: it would do much more to favor, than to defeat, the establishment of military tyranny.

After all, and in spite of all precautions, a large army amidst a democratic people will always be a source of great danger; the most effectual means of diminishing that danger would be to reduce the army, but this is a remedy which all nations have it not in their power to use.

### **Chapter 23: Which is the Most Warlike and Most Revolutionary Class in Democratic Armies?**

IT is a part of the essence of a democratic army to be very numerous in proportion to the people to which it belongs, as I shall hereafter show. On the other hand, men living in democratic times seldom choose a military

life. Democratic nations are therefore soon led to give up the system of voluntary recruiting for that of compulsory enlistment. The necessity of their social condition compels them to resort to the latter means, and it may easily be foreseen that they will all eventually adopt it. When military service is compulsory, the burden is indiscriminately and equally borne by the whole community. This is another necessary consequence of the social condition of these nations, and of their notions. The government may do almost whatever it pleases, provided it appeals to the whole community at once: it is the unequal distribution of the weight, not the weight itself, which commonly occasions resistance. But as military service is common to all the citizens, the evident consequence is that each of them remains but for a few years on active duty. Thus it is in the nature of things that the soldier in democracies only passes through the army, whilst among most aristocratic nations the military profession is one which the soldier adopts, or which is imposed upon him, for life.

This has important consequences. Amongst the soldiers of a democratic army, some acquire a taste for military life, but the majority, being enlisted against their will, and ever ready to go back to their homes, do not consider themselves as seriously engaged in the military profession, and are always thinking of quitting it. Such men do not contract the wants, and only half partake in the passions, which that mode of life engenders. They adapt themselves to their military duties, but their minds are still attached to the interests and the duties which engaged them in civil life. They do not therefore imbibe the spirit of the army—or rather, they infuse the spirit of the community at large into the army, and retain it there. Amongst democratic nations the private soldiers remain most like civilians: upon them the habits of the nation have the firmest hold, and public opinion most influence. It is by the instrumentality of the private soldiers especially that it may be possible to infuse into a democratic army the love of freedom and the respect of rights, if these principles have once been successfully inculcated on the people at large. The reverse happens amongst aristocratic nations, where the soldiery have eventually nothing in common with their fellow-citizens, and where they live amongst them as strangers, and often as enemies. In aristocratic armies the officers are the conservative element, because the officers alone have retained a strict connection with civil society, and never forego their purpose of resuming their place in it sooner

or later: in democratic armies the private soldiers stand in this position, and from the same cause.

It often happens, on the contrary, that in these same democratic armies the officers contract tastes and wants wholly distinct from those of the nation—a fact which may be thus accounted for. Amongst democratic nations, the man who becomes an officer severs all the ties which bound him to civil life; he leaves it forever; he has no interest to resume it. His true country is the army, since he owes all he has to the rank he has attained in it; he therefore follows the fortunes of the army, rises or sinks with it, and henceforward directs all his hopes to that quarter only. As the wants of an officer are distinct from those of the country, he may perhaps ardently desire war or labor to bring about a revolution at the very moment when the nation is most desirous of stability and peace. There are, nevertheless, some causes which allay this restless and warlike spirit. Though ambition is universal and continual amongst democratic nations, we have seen that it is seldom great. A man who, being born in the lower classes of the community, has risen from the ranks to be an officer, has already taken a prodigious step. He has gained a footing in a sphere above that which he filled in civil life, and he has acquired rights which most democratic nations will ever consider as inalienable. He is willing to pause after so great an effort, and to enjoy what he has won. The fear of risking what he has already obtained damps the desire of acquiring what he has not got. Having conquered the first and greatest impediment which opposed his advancement, he resigns himself with less impatience to the slowness of his progress. His ambition will be more and more cooled in proportion as the increasing distinction of his rank teaches him that he has more to put in jeopardy. If I am not mistaken, the least warlike, and also the least revolutionary part, of a democratic army, will always be its chief commanders.

But the remarks I have just made on officers and soldiers are not applicable to a numerous class which in all armies fills the intermediate space between them—I mean the class of non-commissioned officers. This class of non-commissioned officers which have never acted a part in history until the present century, is henceforward destined, I think, to play one of some importance. Like the officers, non-commissioned officers have broken, in

their minds, all the ties which bound them to civil life; like the former, they devote themselves permanently to the service, and perhaps make it even more exclusively the object of all their desires: but non-commissioned officers are men who have not yet reached a firm and lofty post at which they may pause and breathe more freely, ere they can attain further promotion. By the very nature of his duties, which is invariable, a non-commissioned officer is doomed to lead an obscure, confined, comfortless, and precarious existence; as yet he sees nothing of military life but its dangers; he knows nothing but its privations and its discipline—more difficult to support than dangers: he suffers the more from his present miseries, from knowing that the constitution of society and of the army allow him to rise above them; he may, indeed, at any time obtain his commission, and enter at once upon command, honors, independence, rights, and enjoyments. Not only does this object of his hopes appear to him of immense importance, but he is never sure of reaching it till it is actually his own; the grade he fills is by no means irrevocable; he is always entirely abandoned to the arbitrary pleasure of his commanding officer, for this is imperiously required by the necessity of discipline: a slight fault, a whim, may always deprive him in an instant of the fruits of many years of toil and endeavor; until he has reached the grade to which he aspires he has accomplished nothing; not till he reaches that grade does his career seem to begin. A desperate ambition cannot fail to be kindled in a man thus incessantly goaded on by his youth, his wants, his passions, the spirit of his age, his hopes, and his fears. Non-commissioned officers are therefore bent on war—on war always, and at any cost; but if war be denied them, then they desire revolutions to suspend the authority of established regulations, and to enable them, aided by the general confusion and the political passions of the time, to get rid of their superior officers and to take their places. Nor is it impossible for them to bring about such a crisis, because their common origin and habits give them much influence over the soldiers, however different may be their passions and their desires.

It would be an error to suppose that these various characteristics of officers, non-commissioned officers, and men, belong to any particular time or country; they will always occur at all times, and amongst all democratic nations. In every democratic army the non-commissioned officers will be the worst representatives of the pacific and orderly spirit of the country, and

the private soldiers will be the best. The latter will carry with them into military life the strength or weakness of the manners of the nation; they will display a faithful reflection of the community: if that community is ignorant and weak, they will allow themselves to be drawn by their leaders into disturbances, either unconsciously or against their will; if it is enlightened and energetic, the community will itself keep them within the bounds of order.

## **Chapter 24: Causes which Render Democratic Armies Weaker Than Other Armies at the Outset of a Campaign, and More Formidable in Protracted Warfare**

ANY army is in danger of being conquered at the outset of a campaign, after a long peace; any army which has long been engaged in warfare has strong chances of victory: this truth is peculiarly applicable to democratic armies. In aristocracies the military profession, being a privileged career, is held in honor even in time of peace. Men of great talents, great attainments, and great ambition embrace it; the army is in all respects on a level with the nation, and frequently above it. We have seen, on the contrary, that amongst a democratic people the choicer minds of the nation are gradually drawn away from the military profession, to seek by other paths distinction, power, and especially wealth. After a long peace—and in democratic ages the periods of peace are long—the army is always inferior to the country itself. In this state it is called into active service; and until war has altered it, there is danger for the country as well as for the army.

I have shown that in democratic armies, and in time of peace, the rule of seniority is the supreme and inflexible law of advancement. This is not only a consequence, as I have before observed, of the constitution of these armies, but of the constitution of the people, and it will always occur. Again, as amongst these nations the officer derives his position in the country solely from his position in the army, and as he draws all the distinction and the competency he enjoys from the same source, he does not retire from his profession, or is not super-annuated, till towards the extreme

close of life. The consequence of these two causes is, that when a democratic people goes to war after a long interval of peace all the leading officers of the army are old men. I speak not only of the generals, but of the non-commissioned officers, who have most of them been stationary, or have only advanced step by step. It may be remarked with surprise, that in a democratic army after a long peace all the soldiers are mere boys, and all the superior officers in declining years; so that the former are wanting in experience, the latter in vigor. This is a strong element of defeat, for the first condition of successful generalship is youth: I should not have ventured to say so if the greatest captain of modern times had not made the observation.

These two causes do not act in the same manner upon aristocratic armies: as men are promoted in them by right of birth much more than by right of seniority, there are in all ranks a certain number of young men, who bring to their profession all the early vigor of body and mind. Again, as the men who seek for military honors amongst an aristocratic people, enjoy a settled position in civil society, they seldom continue in the army until old age overtakes them. After having devoted the most vigorous years of youth to the career of arms, they voluntarily retire, and spend at home the remainder of their maturer years.

A long peace not only fills democratic armies with elderly officers, but it also gives to all the officers habits both of body and mind which render them unfit for actual service. The man who has long lived amidst the calm and lukewarm atmosphere of democratic manners can at first ill adapt himself to the harder toils and sterner duties of warfare; and if he has not absolutely lost the taste for arms, at least he has assumed a mode of life which unfits him for conquest.

Amongst aristocratic nations, the ease of civil life exercises less influence on the manners of the army, because amongst those nations the aristocracy commands the army: and an aristocracy, however plunged in luxurious pleasures, has always many other passions besides that of its own well-being, and to satisfy those passions more thoroughly its well-being will be readily sacrificed.

I have shown that in democratic armies, in time of peace, promotion is extremely slow. The officers at first support this state of things with impatience, they grow excited, restless, exasperated, but in the end most of them make up their minds to it. Those who have the largest share of ambition and of resources quit the army; others, adapting their tastes and their desires to their scanty fortunes, ultimately look upon the military profession in a civil point of view. The quality they value most in it is the competency and security which attend it: their whole notion of the future rests upon the certainty of this little provision, and all they require is peaceably to enjoy it. Thus not only does a long peace fill an army with old men, but it frequently imparts the views of old men to those who are still in the prime of life.

I have also shown that amongst democratic nations in time of peace the military profession is held in little honor and indifferently followed. This want of public favor is a heavy discouragement to the army; it weighs down the minds of the troops, and when war breaks out at last, they cannot immediately resume their spring and vigor. No similar cause of moral weakness occurs in aristocratic armies: there the officers are never lowered either in their own eyes or in those of their countrymen, because, independently of their military greatness, they are personally great. But even if the influence of peace operated on the two kinds of armies in the same manner, the results would still be different. When the officers of an aristocratic army have lost their warlike spirit and the desire of raising themselves by service, they still retain a certain respect for the honor of their class, and an old habit of being foremost to set an example. But when the officers of a democratic army have no longer the love of war and the ambition of arms, nothing whatever remains to them.

I am therefore of opinion that, when a democratic people engages in a war after a long peace, it incurs much more risk of defeat than any other nation; but it ought not easily to be cast down by its reverses, for the chances of success for such an army are increased by the duration of the war. When a war has at length, by its long continuance, roused the whole community from their peaceful occupations and ruined their minor undertakings, the same passions which made them attach so much importance to the maintenance of peace will be turned to arms. War, after it has destroyed all

modes of speculation, becomes itself the great and sole speculation, to which all the ardent and ambitious desires which equality engenders are exclusively directed. Hence it is that the selfsame democratic nations which are so reluctant to engage in hostilities, sometimes perform prodigious achievements when once they have taken the field. As the war attracts more and more of public attention, and is seen to create high reputations and great fortunes in a short space of time, the choicest spirits of the nation enter the military profession: all the enterprising, proud, and martial minds, no longer of the aristocracy solely, but of the whole country, are drawn in this direction. As the number of competitors for military honors is immense, and war drives every man to his proper level, great generals are always sure to spring up. A long war produces upon a democratic army the same effects that a revolution produces upon a people; it breaks through regulations, and allows extraordinary men to rise above the common level. Those officers whose bodies and minds have grown old in peace, are removed, or superannuated, or they die. In their stead a host of young men are pressing on, whose frames are already hardened, whose desires are extended and inflamed by active service. They are bent on advancement at all hazards, and perpetual advancement; they are followed by others with the same passions and desires, and after these are others yet unlimited by aught but the size of the army. The principle of equality opens the door of ambition to all, and death provides chances for ambition. Death is constantly thinning the ranks, making vacancies, closing and opening the career of arms.

There is moreover a secret connection between the military character and the character of democracies, which war brings to light. The men of democracies are naturally passionately eager to acquire what they covet, and to enjoy it on easy conditions. They for the most part worship chance, and are much less afraid of death than of difficulty. This is the spirit which they bring to commerce and manufactures; and this same spirit, carried with them to the field of battle, induces them willingly to expose their lives in order to secure in a moment the rewards of victory. No kind of greatness is more pleasing to the imagination of a democratic people than military greatness—a greatness of vivid and sudden lustre, obtained without toil, by nothing but the risk of life. Thus, whilst the interests and the tastes of the members of a democratic community divert them from war, their habits of mind fit them for carrying on war well; they soon make good soldiers, when

they are roused from their business and their enjoyments. If peace is peculiarly hurtful to democratic armies, war secures to them advantages which no other armies ever possess; and these advantages, however little felt at first, cannot fail in the end to give them the victory. An aristocratic nation, which in a contest with a democratic people does not succeed in ruining the latter at the outset of the war, always runs a great risk of being conquered by it.

## **Chapter 25: Of Discipline in Democratic Armies**

IT is a very general opinion, especially in aristocratic countries, that the great social equality which prevails in democracies ultimately renders the private soldier independent of the officer, and thus destroys the bond of discipline. This is a mistake, for there are two kinds of discipline, which it is important not to confound. When the officer is noble and the soldier a serf—one rich, the other poor—the former educated and strong, the latter ignorant and weak—the strictest bond of obedience may easily be established between the two men. The soldier is broken in to military discipline, as it were, before he enters the army; or rather, military discipline is nothing but an enhancement of social servitude. In aristocratic armies the soldier will soon become insensible to everything but the orders of his superior officers; he acts without reflection, triumphs without enthusiasm, and dies without complaint: in this state he is no longer a man, but he is still a most formidable animal trained for war.

A democratic people must despair of ever obtaining from soldiers that blind, minute, submissive, and invariable obedience which an aristocratic people may impose on them without difficulty. The state of society does not prepare them for it, and the nation might be in danger of losing its natural advantages if it sought artificially to acquire advantages of this particular kind. Amongst democratic communities, military discipline ought not to attempt to annihilate the free spring of the faculties; all that can be done by discipline is to direct it; the obedience thus inculcated is less exact, but it is more eager and more intelligent. It has its root in the will of him who

obeys: it rests not only on his instinct, but on his reason; and consequently it will often spontaneously become more strict as danger requires it. The discipline of an aristocratic army is apt to be relaxed in war, because that discipline is founded upon habits, and war disturbs those habits. The discipline of a democratic army on the contrary is strengthened in sight of the enemy, because every soldier then clearly perceives that he must be silent and obedient in order to conquer.

The nations which have performed the greatest warlike achievements knew no other discipline than that which I speak of. Amongst the ancients none were admitted into the armies but freemen and citizens, who differed but little from one another, and were accustomed to treat each other as equals. In this respect it may be said that the armies of antiquity were democratic, although they came out of the bosom of aristocracy; the consequence was that in those armies a sort of fraternal familiarity prevailed between the officers and the men. Plutarch's lives of great commanders furnish convincing instances of the fact: the soldiers were in the constant habit of freely addressing their general, and the general listened to and answered whatever the soldiers had to say: they were kept in order by language and by example, far more than by constraint or punishment; the general was as much their companion as their chief. I know not whether the soldiers of Greece and Rome ever carried the minutiae of military discipline to the same degree of perfection as the Russians have done; but this did not prevent Alexander from conquering Asia—and Rome, the world.

## **Chapter 26: Some Considerations on War in Democratic Communities**

WHEN the principle of equality is in growth, not only amongst a single nation, but amongst several neighboring nations at the same time, as is now the case in Europe, the inhabitants of these different countries, notwithstanding the dissimilarity of language, of customs, and of laws, nevertheless resemble each other in their equal dread of war and their common love of peace. It is in vain that ambition or anger puts arms in the

hands of princes; they are appeased in spite of themselves by a species of general apathy and good-will, which makes the sword drop from their grasp, and wars become more rare. As the spread of equality, taking place in several countries at once, simultaneously impels their various inhabitants to follow manufactures and commerce, not only do their tastes grow alike, but their interests are so mixed and entangled with one another that no nation can inflict evils on other nations without those evils falling back upon itself; and all nations ultimately regard war as a calamity, almost as severe to the conqueror as to the conquered. Thus, on the one hand, it is extremely difficult in democratic ages to draw nations into hostilities; but on the other hand, it is almost impossible that any two of them should go to war without embroiling the rest. The interests of all are so interlaced, their opinions and their wants so much alike, that none can remain quiet when the others stir. Wars therefore become more rare, but when they break out they spread over a larger field. Neighboring democratic nations not only become alike in some respects, but they eventually grow to resemble each other in almost all. This similitude of nations has consequences of great importance in relation to war.

If I inquire why it is that the Helvetic Confederacy made the greatest and most powerful nations of Europe tremble in the fifteenth century, whilst at the present day the power of that country is exactly proportioned to its population, I perceive that the Swiss are become like all the surrounding communities, and those surrounding communities like the Swiss: so that as numerical strength now forms the only difference between them, victory necessarily attends the largest army. Thus one of the consequences of the democratic revolution which is going on in Europe is to make numerical strength preponderate on all fields of battle, and to constrain all small nations to incorporate themselves with large States, or at least to adopt the policy of the latter. As numbers are the determining cause of victory, each people ought of course to strive by all the means in its power to bring the greatest possible number of men into the field. When it was possible to enlist a kind of troops superior to all others, such as the Swiss infantry or the French horse of the sixteenth century, it was not thought necessary to raise very large armies; but the case is altered when one soldier is as efficient as another.

The same cause which begets this new want also supplies means of satisfying it; for, as I have already observed, when men are all alike, they are all weak, and the supreme power of the State is naturally much stronger amongst democratic nations than elsewhere. Hence, whilst these nations are desirous of enrolling the whole male population in the ranks of the army, they have the power of effecting this object: the consequence is, that in democratic ages armies seem to grow larger in proportion as the love of war declines. In the same ages, too, the manner of carrying on war is likewise altered by the same causes. Machiavelli observes in "The Prince," "that it is much more difficult to subdue a people which has a prince and his barons for its leaders, than a nation which is commanded by a prince and his slaves." To avoid offence, let us read public functionaries for slaves, and this important truth will be strictly applicable to our own time.

A great aristocratic people cannot either conquer its neighbors, or be conquered by them, without great difficulty. It cannot conquer them, because all its forces can never be collected and held together for a considerable period: it cannot be conquered, because an enemy meets at every step small centres of resistance by which invasion is arrested. War against an aristocracy may be compared to war in a mountainous country; the defeated party has constant opportunities of rallying its forces to make a stand in a new position. Exactly the reverse occurs amongst democratic nations: they easily bring their whole disposable force into the field, and when the nation is wealthy and populous it soon becomes victorious; but if ever it is conquered, and its territory invaded, it has few resources at command; and if the enemy takes the capital, the nation is lost. This may very well be explained: as each member of the community is individually isolated and extremely powerless, no one of the whole body can either defend himself or present a rallying point to others. Nothing is strong in a democratic country except the State; as the military strength of the State is destroyed by the destruction of the army, and its civil power paralyzed by the capture of the chief city, all that remains is only a multitude without strength or government, unable to resist the organized power by which it is assailed. I am aware that this danger may be lessened by the creation of provincial liberties, and consequently of provincial powers, but this remedy will always be insufficient. For after such a catastrophe, not only is the population unable to carry on hostilities, but it may be apprehended that

they will not be inclined to attempt it.

In accordance with the law of nations adopted in civilized countries, the object of wars is not to seize the property of private individuals, but simply to get possession of political power. The destruction of private property is only occasionally resorted to for the purpose of attaining the latter object. When an aristocratic country is invaded after the defeat of its army, the nobles, although they are at the same time the wealthiest members of the community, will continue to defend themselves individually rather than submit; for if the conqueror remained master of the country, he would deprive them of their political power, to which they cling even more closely than to their property. They therefore prefer fighting to subjection, which is to them the greatest of all misfortunes; and they readily carry the people along with them because the people has long been used to follow and obey them, and besides has but little to risk in the war. Amongst a nation in which equality of conditions prevails, each citizen, on the contrary, has but slender share of political power, and often has no share at all; on the other hand, all are independent, and all have something to lose; so that they are much less afraid of being conquered, and much more afraid of war, than an aristocratic people. It will always be extremely difficult to decide a democratic population to take up arms, when hostilities have reached its own territory. Hence the necessity of giving to such a people the rights and the political character which may impart to every citizen some of those interests that cause the nobles to act for the public welfare in aristocratic countries.

It should never be forgotten by the princes and other leaders of democratic nations, that nothing but the passion and the habit of freedom can maintain an advantageous contest with the passion and the habit of physical well-being. I can conceive nothing better prepared for subjection, in case of defeat, than a democratic people without free institutions.

Formerly it was customary to take the field with a small body of troops, to fight in small engagements, and to make long, regular sieges: modern tactics consist in fighting decisive battles, and, as soon as a line of march is open before the army, in rushing upon the capital city, in order to terminate the war at a single blow. Napoleon, it is said, was the inventor of this new

system; but the invention of such a system did not depend on any individual man, whoever he might be. The mode in which Napoleon carried on war was suggested to him by the state of society in his time; that mode was successful, because it was eminently adapted to that state of society, and because he was the first to employ it. Napoleon was the first commander who marched at the head of an army from capital to capital, but the road was opened for him by the ruin of feudal society. It may fairly be believed that, if that extraordinary man had been born three hundred years ago, he would not have derived the same results from his method of warfare, or, rather, that he would have had a different method.

I shall add but a few words on civil wars, for fear of exhausting the patience of the reader. Most of the remarks which I have made respecting foreign wars are applicable a' fortiori to civil wars. Men living in democracies are not naturally prone to the military character; they sometimes assume it, when they have been dragged by compulsion to the field; but to rise in a body and voluntarily to expose themselves to the horrors of war, and especially of civil war, is a course which the men of democracies are not apt to adopt. None but the most adventurous members of the community consent to run into such risks; the bulk of the population remains motionless. But even if the population were inclined to act, considerable obstacles would stand in their way; for they can resort to no old and well-established influence which they are willing to obey—no well-known leaders to rally the discontented, as well as to discipline and to lead them—no political powers subordinate to the supreme power of the nation, which afford an effectual support to the resistance directed against the government. In democratic countries the moral power of the majority is immense, and the physical resources which it has at its command are out of all proportion to the physical resources which may be combined against it. Therefore the party which occupies the seat of the majority, which speaks in its name and wields its power, triumphs instantaneously and irresistibly over all private resistance; it does not even give such opposition time to exist, but nips it in the bud. Those who in such nations seek to effect a revolution by force of arms have no other resource than suddenly to seize upon the whole engine of government as it stands, which can better be done by a single blow than by a war; for as soon as there is a regular war, the party which represents the State is always certain to conquer. The only case

in which a civil war could arise is, if the army should divide itself into two factions, the one raising the standard of rebellion, the other remaining true to its allegiance. An army constitutes a small community, very closely united together, endowed with great powers of vitality, and able to supply its own wants for some time. Such a war might be bloody, but it could not be long; for either the rebellious army would gain over the government by the sole display of its resources, or by its first victory, and then the war would be over; or the struggle would take place, and then that portion of the army which should not be supported by the organized powers of the State would speedily either disband itself or be destroyed. It may therefore be admitted as a general truth, that in ages of equality civil wars will become much less frequent and less protracted.

# **Fourth Book: Influence of Democratic Opinions and Sentiments on Political Society**

[Chapter 1: Influence of Democratic Opinions and Sentiments on Political Society](#)

[Chapter 2: That the Notions of Democratic Nations on Government Are Naturally Favorable to the Concentration of Power](#)

[Chapter 3: That the Sentiments of Democratic Nations Accord With Their Opinions in Leading Them to Concentrate Political Power](#)

[Chapter 4: Of Certain Peculiar and Accidental Causes Which Either Lead a People to Complete Centralization of Government, or Which Divert Them from It](#)

[Chapter 5: That Amongst the European Nations of Our Time the Power of Governments is Increasing, Although the Persons Who Govern Are Less Stable](#)

[Chapter 6: What Sort of Despotism Democratic Nations Have to Fear](#)

[Chapter 7: Continuation of the Preceding Chapters](#)

[Chapter 8: General Survey of the Subject](#)

[Appendix A](#)

[Appendix B](#)

[Appendix C](#)

[Appendix D](#)

[Appendix E](#)

[Appendix F](#)

[Appendix G](#)

[Appendix H](#)

[Appendix I](#)

[Appendix K](#)

[Appendix L](#)

[Appendix M](#)

[Appendix N](#)

[Appendix O](#)

[Appendix P](#)

[Appendix Q](#)

[Appendix R](#)

[Appendix S](#)

[Appendix T](#)

[Appendix U](#)

[Appendix V](#)

[Appendix W](#)

[Appendix X](#)

[Appendix Y](#)

[Appendix Z](#)

## **Chapter 1: Influence of Democratic Opinions and Sentiments on Political Society**

SHOULD imperfectly fulfil the purpose of this book, if, having shown what opinions and sentiments are suggested by the principle of equality, I did not point out, ere I conclude, the general influence which these same opinions and sentiments may exercise upon the government of human societies. To succeed in this object I shall frequently have to retrace my steps; but I trust the reader will not refuse to follow me through paths already known to him, which may lead to some new truth.

The principle of equality, which makes men independent of each other, gives them a habit and a taste for following, in their private actions, no other guide but their own will. This complete independence, which they constantly enjoy towards their equals and in the intercourse of private life, tends to make them look upon all authority with a jealous eye, and speedily suggests to them the notion and the love of political freedom. Men living at such times have a natural bias to free institutions. Take any one of them at a venture, and search if you can his most deep-seated instincts; you will find that of all governments he will soonest conceive and most highly value that government, whose head he has himself elected, and whose administration he may control. Of all the political effects produced by the equality of conditions, this love of independence is the first to strike the observing, and to alarm the timid; nor can it be said that their alarm is wholly misplaced, for anarchy has a more formidable aspect in democratic countries than elsewhere. As the citizens have no direct influence on each other, as soon as the supreme power of the nation fails, which kept them all in their several stations, it would seem that disorder must instantly reach its utmost pitch, and that, every man drawing aside in a different direction, the fabric of society must at once crumble away.

I am, however, persuaded that anarchy is not the principal evil which democratic ages have to fear, but the least. For the principle of equality begets two tendencies; the one leads men straight to independence, and may

suddenly drive them into anarchy; the other conducts them by a longer, more secret, but more certain road, to servitude. Nations readily discern the former tendency, and are prepared to resist it; they are led away by the latter, without perceiving its drift; hence it is peculiarly important to point it out. For myself, I am so far from urging as a reproach to the principle of equality that it renders men untractable, that this very circumstance principally calls forth my approbation. I admire to see how it deposits in the mind and heart of man the dim conception and instinctive love of political independence, thus preparing the remedy for the evil which it engenders; it is on this very account that I am attached to it.

## **Chapter 2: That the Notions of Democratic Nations on Government Are Naturally Favorable to the Concentration of Power**

THE notion of secondary powers, placed between the sovereign and his subjects, occurred naturally to the imagination of aristocratic nations, because those communities contained individuals or families raised above the common level, and apparently destined to command by their birth, their education, and their wealth. This same notion is naturally wanting in the minds of men in democratic ages, for converse reasons: it can only be introduced artificially, it can only be kept there with difficulty; whereas they conceive, as it were, without thinking upon the subject, the notion of a sole and central power which governs the whole community by its direct influence. Moreover in politics, as well as in philosophy and in religion, the intellect of democratic nations is peculiarly open to simple and general notions. Complicated systems are repugnant to it, and it's favorite conception is that of a great nation composed of citizens all resembling the same pattern, and all governed by a single power.

The very next notion to that of a sole and central power, which presents itself to the minds of men in the ages of equality, is the notion of uniformity of legislation. As every man sees that he differs but little from those about him, he cannot understand why a rule which is applicable to one man

should not be equally applicable to all others. Hence the slightest privileges are repugnant to his reason; the faintest dissimilarities in the political institutions of the same people offend him, and uniformity of legislation appears to him to be the first condition of good government. I find, on the contrary, that this same notion of a uniform rule, equally binding on all the members of the community, was almost unknown to the human mind in aristocratic ages; it was either never entertained, or it was rejected. These contrary tendencies of opinion ultimately turn on either side to such blind instincts and such ungovernable habits that they still direct the actions of men, in spite of particular exceptions. Notwithstanding the immense variety of conditions in the Middle Ages, a certain number of persons existed at that period in precisely similar circumstances; but this did not prevent the laws then in force from assigning to each of them distinct duties and different rights. On the contrary, at the present time all the powers of government are exerted to impose the same customs and the same laws on populations which have as yet but few points of resemblance. As the conditions of men become equal amongst a people, individuals seem of less importance, and society of greater dimensions; or rather, every citizen, being assimilated to all the rest, is lost in the crowd, and nothing stands conspicuous but the great and imposing image of the people at large. This naturally gives the men of democratic periods a lofty opinion of the privileges of society, and a very humble notion of the rights of individuals; they are ready to admit that the interests of the former are everything, and those of the latter nothing. They are willing to acknowledge that the power which represents the community has far more information and wisdom than any of the members of that community; and that it is the duty, as well as the right, of that power to guide as well as govern each private citizen.

If we closely scrutinize our contemporaries, and penetrate to the root of their political opinions, we shall detect some of the notions which I have just pointed out, and we shall perhaps be surprised to find so much accordance between men who are so often at variance. The Americans hold, that in every State the supreme power ought to emanate from the people; but when once that power is constituted, they can conceive, as it were, no limits to it, and they are ready to admit that it has the right to do whatever it pleases. They have not the slightest notion of peculiar privileges granted to cities, families, or persons: their minds appear never to have foreseen that it

might be possible not to apply with strict uniformity the same laws to every part, and to all the inhabitants. These same opinions are more and more diffused in Europe; they even insinuate themselves amongst those nations which most vehemently reject the principle of the sovereignty of the people. Such nations assign a different origin to the supreme power, but they ascribe to that power the same characteristics. Amongst them all, the idea of intermediate powers is weakened and obliterated: the idea of rights inherent in certain individuals is rapidly disappearing from the minds of men; the idea of the omnipotence and sole authority of society at large rises to fill its place. These ideas take root and spread in proportion as social conditions become more equal, and men more alike; they are engendered by equality, and in turn they hasten the progress of equality.

In France, where the revolution of which I am speaking has gone further than in any other European country, these opinions have got complete hold of the public mind. If we listen attentively to the language of the various parties in France, we shall find that there is not one which has not adopted them. Most of these parties censure the conduct of the government, but they all hold that the government ought perpetually to act and interfere in everything that is done. Even those which are most at variance are nevertheless agreed upon this head. The unity, the ubiquity, the omnipotence of the supreme power, and the uniformity of its rules, constitute the principal characteristics of all the political systems which have been put forward in our age. They recur even in the wildest visions of political regeneration: the human mind pursues them in its dreams. If these notions spontaneously arise in the minds of private individuals, they suggest themselves still more forcibly to the minds of princes. Whilst the ancient fabric of European society is altered and dissolved, sovereigns acquire new conceptions of their opportunities and their duties; they learn for the first time that the central power which they represent may and ought to administer by its own agency, and on a uniform plan, all the concerns of the whole community. This opinion, which, I will venture to say, was never conceived before our time by the monarchs of Europe, now sinks deeply into the minds of kings, and abides there amidst all the agitation of more unsettled thoughts.

Our contemporaries are therefore much less divided than is commonly supposed; they are constantly disputing as to the hands in which supremacy is to be vested, but they readily agree upon the duties and the rights of that supremacy. The notion they all form of government is that of a sole, simple, providential, and creative power. All secondary opinions in politics are unsettled; this one remains fixed, invariable, and consistent. It is adopted by statesmen and political philosophers; it is eagerly laid hold of by the multitude; those who govern and those who are governed agree to pursue it with equal ardor: it is the foremost notion of their minds, it seems inborn. It originates therefore in no caprice of the human intellect, but it is a necessary condition of the present state of mankind.

### **Chapter 3: That the Sentiments of Democratic Nations Accord With Their Opinions in Leading Them to Concentrate Political Power**

IF it be true that, in ages of equality, men readily adopt the notion of a great central power, it cannot be doubted on the other hand that their habits and sentiments predispose them to recognize such a power and to give it their support. This may be demonstrated in a few words, as the greater part of the reasons, to which the fact may be attributed, have been previously stated. As the men who inhabit democratic countries have no superiors, no inferiors, and no habitual or necessary partners in their undertakings, they readily fall back upon themselves and consider themselves as beings apart. I had occasion to point this out at considerable length in treating of individualism. Hence such men can never, without an effort, tear themselves from their private affairs to engage in public business; their natural bias leads them to abandon the latter to the sole visible and permanent representative of the interests of the community, that is to say, to the State. Not only are they naturally wanting in a taste for public business, but they have frequently no time to attend to it. Private life is so busy in democratic periods, so excited, so full of wishes and of work, that hardly any energy or leisure remains to each individual for public life. I am the last man to contend that these propensities are unconquerable, since my chief

object in writing this book has been to combat them. I only maintain that at the present day a secret power is fostering them in the human heart, and that if they are not checked they will wholly overgrow it.

I have also had occasion to show how the increasing love of well-being, and the fluctuating character of property, cause democratic nations to dread all violent disturbance. The love of public tranquillity is frequently the only passion which these nations retain, and it becomes more active and powerful amongst them in proportion as all other passions droop and die. This naturally disposes the members of the community constantly to give or to surrender additional rights to the central power, which alone seems to be interested in defending them by the same means float it uses to defend itself. As in ages of equality no man is compelled to lend his assistance to his fellow-men, and none has any right to expect much support from them, everyone is at once independent and powerless. These two conditions, which must never be either separately considered or confounded together, inspire the citizen of a democratic country with very contrary propensities. His independence fills him with self-reliance and pride amongst his equals; his debility makes him feel from time to time the want of some outward assistance, which he cannot expect from any of them, because they are all impotent and unsympathizing. In this predicament he naturally turns his eyes to that imposing power which alone rises above the level of universal depression. Of that power his wants and especially his desires continually remind him, until he ultimately views it as the sole and necessary support of his own weakness. This may more completely explain what frequently takes place in democratic countries, where the very men who are so impatient of superiors patiently submit to a master, exhibiting at once their pride and their servility.

The hatred which men bear to privilege increases in proportion as privileges become more scarce and less considerable, so that democratic passions would seem to burn most fiercely at the very time when they have least fuel. I have already given the reason of this phenomenon. When all conditions are unequal, no inequality is so great as to offend the eye; whereas the slightest dissimilarity is odious in the midst of general uniformity: the more complete is this uniformity, the more insupportable does the sight of such a difference become. Hence it is natural that the love

of equality should constantly increase together with equality itself, and that it should grow by what it feeds upon. This never-dying, ever-kindling hatred, which sets a democratic people against the smallest privileges, is peculiarly favorable to the gradual concentration of all political rights in the hands of the representative of the State alone. The sovereign, being necessarily and incontestably above all the citizens, excites not their envy, and each of them thinks that he strips his equals of the prerogative which he concedes to the crown. The man of a democratic age is extremely reluctant to obey his neighbor who is his equal; he refuses to acknowledge in such a person ability superior to his own; he mistrusts his justice, and is jealous of his power; he fears and he contemns him; and he loves continually to remind him of the common dependence in which both of them stand to the same master. Every central power which follows its natural tendencies courts and encourages the principle of equality; for equality singularly facilitates, extends, and secures the influence of a central power.

In like manner it may be said that every central government worships uniformity: uniformity relieves it from inquiry into an infinite number of small details which must be attended to if rules were to be adapted to men, instead of indiscriminately subjecting men to rules: thus the government likes what the citizens like, and naturally hates what they hate. These common sentiments, which, in democratic nations, constantly unite the sovereign and every member of the community in one and the same conviction, establish a secret and lasting sympathy between them. The faults of the government are pardoned for the sake of its tastes; public confidence is only reluctantly withdrawn in the midst even of its excesses and its errors, and it is restored at the first call. Democratic nations often hate those in whose hands the central power is vested; but they always love that power itself.

Thus, by two separate paths, I have reached the same conclusion. I have shown that the principle of equality suggests to men the notion of a sole, uniform, and strong government: I have now shown that the principle of equality imparts to them a taste for it. To governments of this kind the nations of our age are therefore tending. They are drawn thither by the natural inclination of mind and heart; and in order to reach that result, it is enough that they do not check themselves in their course. I am of opinion,

that, in the democratic ages which are opening upon us, individual independence and local liberties will ever be the produce of artificial contrivance; that centralization will be the natural form of government.

#### **Chapter 4: Of Certain Peculiar and Accidental Causes Which Either Lead a People to Complete Centralization of Government, or Which Divert Them from It**

IF all democratic nations are instinctively led to the centralization of government, they tend to this result in an unequal manner. This depends on the particular circumstances which may promote or prevent the natural consequences of that state of society—circumstances which are exceedingly numerous; but I shall only advert to a few of them. Amongst men who have lived free long before they became equal, the tendencies derived from free institutions combat, to a certain extent, the propensities superinduced by the principle of equality; and although the central power may increase its privileges amongst such a people, the private members of such a community will never entirely forfeit their independence. But when the equality of conditions grows up amongst a people which has never known, or has long ceased to know, what freedom is (and such is the case upon the Continent of Europe), as the former habits of the nation are suddenly combined, by some sort of natural attraction, with the novel habits and principles engendered by the state of society, all powers seem spontaneously to rush to the centre. These powers accumulate there with astonishing rapidity, and the State instantly attains the utmost limits of its strength, whilst private persons allow themselves to sink as suddenly to the lowest degree of weakness.

The English who emigrated three hundred years ago to found a democratic commonwealth on the shores of the New World, had all learned to take a part in public affairs in their mother-country; they were conversant with trial by jury; they were accustomed to liberty of speech and of the press—to personal freedom, to the notion of rights and the practice of asserting them. They carried with them to America these free institutions and manly

customs, and these institutions preserved them against the encroachments of the State. Thus amongst the Americans it is freedom which is old—equality is of comparatively modern date. The reverse is occurring in Europe, where equality, introduced by absolute power and under the rule of kings, was already infused into the habits of nations long before freedom had entered into their conceptions.

I have said that amongst democratic nations the notion of government naturally presents itself to the mind under the form of a sole and central power, and that the notion of intermediate powers is not familiar to them. This is peculiarly applicable to the democratic nations which have witnessed the triumph of the principle of equality by means of a violent revolution. As the classes which managed local affairs have been suddenly swept away by the storm, and as the confused mass which remains has as yet neither the organization nor the habits which fit it to assume the administration of these same affairs, the State alone seems capable of taking upon itself all the details of government, and centralization becomes, as it were, the unavoidable state of the country. Napoleon deserves neither praise nor censure for having centred in his own hands almost all the administrative power of France; for, after the abrupt disappearance of the nobility and the higher rank of the middle classes, these powers devolved on him of course: it would have been almost as difficult for him to reject as to assume them. But no necessity of this kind has ever been felt by the Americans, who, having passed through no revolution, and having governed themselves from the first, never had to call upon the State to act for a time as their guardian. Thus the progress of centralization amongst a democratic people depends not only on the progress of equality, but on the manner in which this equality has been established.

At the commencement of a great democratic revolution, when hostilities have but just broken out between the different classes of society, the people endeavors to centralize the public administration in the hands of the government, in order to wrest the management of local affairs from the aristocracy. Towards the close of such a revolution, on the contrary, it is usually the conquered aristocracy that endeavors to make over the management of all affairs to the State, because such an aristocracy dreads the tyranny of a people which has become its equal, and not unfrequently its

master. Thus it is not always the same class of the community which strives to increase the prerogative of the government; but as long as the democratic revolution lasts there is always one class in the nation, powerful in numbers or in wealth, which is induced, by peculiar passions or interests, to centralize the public administration, independently of that hatred of being governed by one's neighbor, which is a general and permanent feeling amongst democratic nations. It may be remarked, that at the present day the lower orders in England are striving with all their might to destroy local independence, and to transfer the administration from all points of the circumference to the centre; whereas the higher classes are endeavoring to retain this administration within its ancient boundaries. I venture to predict that a time will come when the very reverse will happen.

These observations explain why the supreme power is always stronger, and private individuals weaker, amongst a democratic people which has passed through a long and arduous struggle to reach a state of equality than amongst a democratic community in which the citizens have been equal from the first. The example of the Americans completely demonstrates the fact. The inhabitants of the United States were never divided by any privileges; they have never known the mutual relation of master and inferior, and as they neither dread nor hate each other, they have never known the necessity of calling in the supreme power to manage their affairs. The lot of the Americans is singular: they have derived from the aristocracy of England the notion of private rights and the taste for local freedom; and they have been able to retain both the one and the other, because they have had no aristocracy to combat.

If at all times education enables men to defend their independence, this is most especially true in democratic ages. When all men are alike, it is easy to found a sole and all-powerful government, by the aid of mere instinct. But men require much intelligence, knowledge, and art to organize and to maintain secondary powers under similar circumstances, and to create amidst the independence and individual weakness of the citizens such free associations as may be in a condition to struggle against tyranny without destroying public order.

Hence the concentration of power and the subjection of individuals will increase amongst democratic nations, not only in the same proportion as their equality, but in the same proportion as their ignorance. It is true, that in ages of imperfect civilization the government is frequently as wanting in the knowledge required to impose a despotism upon the people as the people are wanting in the knowledge required to shake it off; but the effect is not the same on both sides. However rude a democratic people may be, the central power which rules it is never completely devoid of cultivation, because it readily draws to its own uses what little cultivation is to be found in the country, and, if necessary, may seek assistance elsewhere. Hence, amongst a nation which is ignorant as well as democratic, an amazing difference cannot fail speedily to arise between the intellectual capacity of the ruler and that of each of his subjects. This completes the easy concentration of all power in his hands: the administrative function of the State is perpetually extended, because the State alone is competent to administer the affairs of the country. Aristocratic nations, however unenlightened they may be, never afford the same spectacle, because in them instruction is nearly equally diffused between the monarch and the leading members of the community.

The pacha who now rules in Egypt found the population of that country composed of men exceedingly ignorant and equal, and he has borrowed the science and ability of Europe to govern that people. As the personal attainments of the sovereign are thus combined with the ignorance and democratic weakness of his subjects, the utmost centralization has been established without impediment, and the pacha has made the country his manufactory, and the inhabitants his workmen.

I think that extreme centralization of government ultimately enervates society, and thus after a length of time weakens the government itself; but I do not deny that a centralized social power may be able to execute great undertakings with facility in a given time and on a particular point. This is more especially true of war, in which success depends much more on the means of transferring all the resources of a nation to one single point, than on the extent of those resources. Hence it is chiefly in war that nations desire and frequently require to increase the powers of the central government. All men of military genius are fond of centralization, which

increases their strength; and all men of centralizing genius are fond of war, which compels nations to combine all their powers in the hands of the government. Thus the democratic tendency which leads men unceasingly to multiply the privileges of the State, and to circumscribe the rights of private persons, is much more rapid and constant amongst those democratic nations which are exposed by their position to great and frequent wars, than amongst all others.

I have shown how the dread of disturbance and the love of well-being insensibly lead democratic nations to increase the functions of central government, as the only power which appears to be intrinsically sufficiently strong, enlightened, and secure, to protect them from anarchy. I would now add, that all the particular circumstances which tend to make the state of a democratic community agitated and precarious, enhance this general propensity, and lead private persons more and more to sacrifice their rights to their tranquillity. A people is therefore never so disposed to increase the functions of central government as at the close of a long and bloody revolution, which, after having wrested property from the hands of its former possessors, has shaken all belief, and filled the nation with fierce hatreds, conflicting interests, and contending factions. The love of public tranquillity becomes at such times an indiscriminating passion, and the members of the community are apt to conceive a most inordinate devotion to order.

I have already examined several of the incidents which may concur to promote the centralization of power, but the principal cause still remains to be noticed. The foremost of the incidental causes which may draw the management of all affairs into the hands of the ruler in democratic countries, is the origin of that ruler himself, and his own propensities. Men who live in the ages of equality are naturally fond of central power, and are willing to extend its privileges; but if it happens that this same power faithfully represents their own interests, and exactly copies their own inclinations, the confidence they place in it knows no bounds, and they think that whatever they bestow upon it is bestowed upon themselves.

The attraction of administrative powers to the centre will always be less easy and less rapid under the reign of kings who are still in some way

connected with the old aristocratic order, than under new princes, the children of their own achievements, whose birth, prejudices, propensities, and habits appear to bind them indissolubly to the cause of equality. I do not mean that princes of aristocratic origin who live in democratic ages do not attempt to centralize; I believe they apply themselves to that object as diligently as any others. For them, the sole advantages of equality lie in that direction; but their opportunities are less great, because the community, instead of volunteering compliance with their desires, frequently obeys them with reluctance. In democratic communities the rule is that centralization must increase in proportion as the sovereign is less aristocratic. When an ancient race of kings stands at the head of an aristocracy, as the natural prejudices of the sovereign perfectly accord with the natural prejudices of the nobility, the vices inherent in aristocratic communities have a free course, and meet with no corrective. The reverse is the case when the scion of a feudal stock is placed at the head of a democratic people. The sovereign is constantly led, by his education, his habits, and his associations, to adopt sentiments suggested by the inequality of conditions, and the people tend as constantly, by their social condition, to those manners which are engendered by equality. At such times it often happens that the citizens seek to control the central power far less as a tyrannical than as an aristocratical power, and that they persist in the firm defence of their independence, not only because they would remain free, but especially because they are determined to remain equal. A revolution which overthrows an ancient regal family, in order to place men of more recent growth at the head of a democratic people, may temporarily weaken the central power; but however anarchical such a revolution may appear at first, we need not hesitate to predict that its final and certain consequence will be to extend and to secure the prerogatives of that power. The foremost or indeed the sole condition which is required in order to succeed in centralizing the supreme power in a democratic community, is to love equality, or to get men to believe you love it. Thus the science of despotism, which was once so complex, is simplified, and reduced as it were to a single principle.

## **Chapter 5: That Amongst the European Nations of Our Time the Power of Governments is Increasing, Although the Persons**

## Who Govern Are Less Stable

ON reflecting upon what has already been said, the reader will be startled and alarmed to find that in Europe everything seems to conduce to the indefinite extension of the prerogatives of government, and to render all that enjoyed the rights of private independence more weak, more subordinate, and more precarious. The democratic nations of Europe have all the general and permanent tendencies which urge the Americans to the centralization of government, and they are moreover exposed to a number of secondary and incidental causes with which the Americans are unacquainted. It would seem as if every step they make towards equality brings them nearer to despotism. And indeed if we do but cast our looks around, we shall be convinced that such is the fact. During the aristocratic ages which preceded the present time, the sovereigns of Europe had been deprived of or had relinquished, many of the rights inherent in their power. Not a hundred years ago, amongst the greater part of European nations, numerous private persons and corporations were sufficiently independent to administer justice, to raise and maintain troops, to levy taxes, and frequently even to make or interpret the law. The State has everywhere resumed to itself alone these natural attributes of sovereign power; in all matters of government the State tolerates no intermediate agent between itself and the people, and in general business it directs the people by its own immediate influence. I am far from blaming this concentration of power, I simply point it out.

At the same period a great number of secondary powers existed in Europe, which represented local interests and administered local affairs. Most of these local authorities have already disappeared; all are speedily tending to disappear, or to fall into the most complete dependence. From one end of Europe to the other the privileges of the nobility, the liberties of cities, and the powers of provincial bodies, are either destroyed or upon the verge of destruction. Europe has endured, in the course of the last half-century, many revolutions and counter-revolutions which have agitated it in opposite directions: but all these perturbations resemble each other in one respect—they have all shaken or destroyed the secondary powers of government. The

local privileges which the French did not abolish in the countries they conquered, have finally succumbed to the policy of the princes who conquered the French. Those princes rejected all the innovations of the French Revolution except centralization: that is the only principle they consented to receive from such a source. My object is to remark, that all these various rights, which have been successively wrested, in our time, from classes, corporations, and individuals, have not served to raise new secondary powers on a more democratic basis, but have uniformly been concentrated in the hands of the sovereign. Everywhere the State acquires more and more direct control over the humblest members of the community, and a more exclusive power of governing each of them in his smallest concerns. Almost all the charitable establishments of Europe were formerly in the hands of private persons or of corporations; they are now almost all dependent on the supreme government, and in many countries are actually administered by that power. The State almost exclusively undertakes to supply bread to the hungry, assistance and shelter to the sick, work to the idle, and to act as the sole reliever of all kinds of misery. Education, as well as charity, is become in most countries at the present day a national concern. The State receives, and often takes, the child from the arms of the mother, to hand it over to official agents: the State undertakes to train the heart and to instruct the mind of each generation. Uniformity prevails in the courses of public instruction as in everything else; diversity, as well as freedom, is disappearing day by day. Nor do I hesitate to affirm, that amongst almost all the Christian nations of our days, Catholic as well as Protestant, religion is in danger of falling into the hands of the government. Not that rulers are over-jealous of the right of settling points of doctrine, but they get more and more hold upon the will of those by whom doctrines are expounded; they deprive the clergy of their property, and pay them by salaries; they divert to their own use the influence of the priesthood, they make them their own ministers—often their own servants—and by this alliance with religion they reach the inner depths of the soul of man.

But this is as yet only one side of the picture. The authority of government has not only spread, as we have just seen, throughout the sphere of all existing powers, till that sphere can no longer contain it, but it goes further, and invades the domain heretofore reserved to private independence. A

multitude of actions, which were formerly entirely beyond the control of the public administration, have been subjected to that control in our time, and the number of them is constantly increasing. Amongst aristocratic nations the supreme government usually contented itself with managing and superintending the community in whatever directly and ostensibly concerned the national honor; but in all other respects the people were left to work out their own free will. Amongst these nations the government often seemed to forget that there is a point at which the faults and the sufferings of private persons involve the general prosperity, and that to prevent the ruin of a private individual must sometimes be a matter of public importance. The democratic nations of our time lean to the opposite extreme. It is evident that most of our rulers will not content themselves with governing the people collectively: it would seem as if they thought themselves responsible for the actions and private condition of their subjects—as if they had undertaken to guide and to instruct each of them in the various incidents of life, and to secure their happiness quite independently of their own consent. On the other hand private individuals grow more and more apt to look upon the supreme power in the same light; they invoke its assistance in all their necessities, and they fix their eyes upon the administration as their mentor or their guide.

I assert that there is no country in Europe in which the public administration has not become, not only more centralized, but more inquisitive and more minute: it everywhere interferes in private concerns more than it did; it regulates more undertakings, and undertakings of a lesser kind; and it gains a firmer footing every day about, above, and around all private persons, to assist, to advise, and to coerce them. Formerly a sovereign lived upon the income of his lands, or the revenue of his taxes; this is no longer the case now that his wants have increased as well as his power. Under the same circumstances which formerly compelled a prince to put on a new tax, he now has recourse to a loan. Thus the State gradually becomes the debtor of most of the wealthier members of the community, and centralizes the largest amounts of capital in its own hands. Small capital is drawn into its keeping by another method. As men are intermingled and conditions become more equal, the poor have more resources, more education, and more desires; they conceive the notion of bettering their condition, and this teaches them to save. These savings are daily producing an infinite number of small

capitals, the slow and gradual produce of labor, which are always increasing. But the greater part of this money would be unproductive if it remained scattered in the hands of its owners. This circumstance has given rise to a philanthropic institution, which will soon become, if I am not mistaken, one of our most important political institutions. Some charitable persons conceived the notion of collecting the savings of the poor and placing them out at interest. In some countries these benevolent associations are still completely distinct from the State; but in almost all they manifestly tend to identify themselves with the government; and in some of them the government has superseded them, taking upon itself the enormous task of centralizing in one place, and putting out at interest on its own responsibility, the daily savings of many millions of the working classes. Thus the State draws to itself the wealth of the rich by loans, and has the poor man's mite at its disposal in the savings banks. The wealth of the country is perpetually flowing around the government and passing through its hands; the accumulation increases in the same proportion as the equality of conditions; for in a democratic country the State alone inspires private individuals with confidence, because the State alone appears to be endowed with strength and durability. Thus the sovereign does not confine himself to the management of the public treasury; he interferes in private money matters; he is the superior, and often the master, of all the members of the community; and, in addition to this, he assumes the part of their steward and paymaster.

The central power not only fulfils of itself the whole of the duties formerly discharged by various authorities—extending those duties, and surpassing those authorities—but it performs them with more alertness, strength, and independence than it displayed before. All the governments of Europe have in our time singularly improved the science of administration: they do more things, and they do everything with more order, more celerity, and at less expense; they seem to be constantly enriched by all the experience of which they have stripped private persons. From day to day the princes of Europe hold their subordinate officers under stricter control, and they invent new methods for guiding them more closely, and inspecting them with less trouble. Not content with managing everything by their agents, they undertake to manage the conduct of their agents in everything; so that the public administration not only depends upon one and the same power, but it

is more and more confined to one spot and concentrated in the same hands. The government centralizes its agency whilst it increases its prerogative—hence a twofold increase of strength.

In examining the ancient constitution of the judicial power, amongst most European nations, two things strike the mind—the independence of that power, and the extent of its functions. Not only did the courts of justice decide almost all differences between private persons, but in very in any cases they acted as arbiters between private persons and the State. I do not here allude to the political and administrative offices which courts of judicature had in some countries usurped, but the judicial office common to them all. In most of the countries of Europe, there were, and there still are, many private rights, connected for the most part with the general right of property, which stood under the protection of the courts of justice, and which the State could not violate without their sanction. It was this semi-political power which mainly distinguished the European courts of judicature from all others; for all nations have had judges, but all have not invested their judges with the same privileges. Upon examining what is now occurring amongst the democratic nations of Europe which are called free, as well as amongst the others, it will be observed that new and more dependent courts are everywhere springing up by the side of the old ones, for the express purpose of deciding, by an extraordinary jurisdiction, such litigated matters as may arise between the government and private persons. The elder judicial power retains its independence, but its jurisdiction is narrowed; and there is a growing tendency to reduce it to be exclusively the arbiter between private interests. The number of these special courts of justice is continually increasing, and their functions increase likewise. Thus the government is more and more absolved from the necessity of subjecting its policy and its rights to the sanction of another power. As judges cannot be dispensed with, at least the State is to select them, and always to hold them under its control; so that, between the government and private individuals, they place the effigy of justice rather than justice itself. The State is not satisfied with drawing all concerns to itself, but it acquires an ever-increasing power of deciding on them all without restriction and without appeal.

There exists amongst the modern nations of Europe one great cause, independent of all those which have already been pointed out, which perpetually contributes to extend the agency or to strengthen the prerogative of the supreme power, though it has not been sufficiently attended to: I mean the growth of manufactures, which is fostered by the progress of social equality. Manufactures generally collect a multitude of men on the same spot, amongst whom new and complex relations spring up. These men are exposed by their calling to great and sudden alternations of plenty and want, during which public tranquillity is endangered. It may also happen that these employments sacrifice the health, and even the life, of those who gain by them, or of those who live by them. Thus the manufacturing classes require more regulation, superintendence, and restraint than the other classes of society, and it is natural that the powers of government should increase in the same proportion as those classes.

This is a truth of general application; what follows more especially concerns the nations of Europe. In the centuries which preceded that in which we live, the aristocracy was in possession of the soil, and was competent to defend it: landed property was therefore surrounded by ample securities, and its possessors enjoyed great independence. This gave rise to laws and customs which have been perpetuated, notwithstanding the subdivision of lands and the ruin of the nobility; and, at the present time, landowners and agriculturists are still those amongst the community who must easily escape from the control of the supreme power. In these same aristocratic ages, in which all the sources of our history are to be traced, personal property was of small importance, and those who possessed it were despised and weak: the manufacturing class formed an exception in the midst of those aristocratic communities; as it had no certain patronage, it was not outwardly protected, and was often unable to protect itself. Hence a habit sprung up of considering manufacturing property as something of a peculiar nature, not entitled to the same deference, and not worthy of the same securities as property in general; and manufacturers were looked upon as a small class in the bulk of the people, whose independence was of small importance, and who might with propriety be abandoned to the disciplinary passions of princes. On glancing over the codes of the middle ages, one is surprised to see, in those periods of personal independence, with what incessant royal regulations manufactures were hampered, even in their

smallest details: on this point centralization was as active and as minute as it can ever be. Since that time a great revolution has taken place in the world; manufacturing property, which was then only in the germ, has spread till it covers Europe: the manufacturing class has been multiplied and enriched by the remnants of all other ranks; it has grown and is still perpetually growing in number, in importance, in wealth. Almost all those who do not belong to it are connected with it at least on some one point; after having been an exception in society, it threatens to become the chief, if not the only, class; nevertheless the notions and political precedents engendered by it of old still cling about it. These notions and these precedents remain unchanged, because they are old, and also because they happen to be in perfect accordance with the new notions and general habits of our contemporaries. Manufacturing property then does not extend its rights in the same ratio as its importance. The manufacturing classes do not become less dependent, whilst they become more numerous; but, on the contrary, it would seem as if despotism lurked within them, and naturally grew with their growth. As a nation becomes more engaged in manufactures, the want of roads, canals, harbors, and other works of a semi-public nature, which facilitate the acquisition of wealth, is more strongly felt; and as a nation becomes more democratic, private individuals are less able, and the State more able, to execute works of such magnitude. I do not hesitate to assert that the manifest tendency of all governments at the present time is to take upon themselves alone the execution of these undertakings; by which means they daily hold in closer dependence the population which they govern.

On the other hand, in proportion as the power of a State increases, and its necessities are augmented, the State consumption of manufactured produce is always growing larger, and these commodities are generally made in the arsenals or establishments of the government. Thus, in every kingdom, the ruler becomes the principal manufacturer; he collects and retains in his service a vast number of engineers, architects, mechanics, and handicraftsmen. Not only is he the principal manufacturer, but he tends more and more to become the chief, or rather the master of all other manufacturers. As private persons become more powerless by becoming more equal, they can effect nothing in manufactures without combination; but the government naturally seeks to place these combinations under its

own control.

It must be admitted that these collective beings, which are called combinations, are stronger and more formidable than a private individual can ever be, and that they have less of the responsibility of their own actions; whence it seems reasonable that they should not be allowed to retain so great an independence of the supreme government as might be conceded to a private individual.

Rulers are the more apt to follow this line of policy, as their own inclinations invite them to it. Amongst democratic nations it is only by association that the resistance of the people to the government can ever display itself: hence the latter always looks with ill-favor on those associations which are not in its own power; and it is well worthy of remark, that amongst democratic nations, the people themselves often entertain a secret feeling of fear and jealousy against these very associations, which prevents the citizens from defending the institutions of which they stand so much in need. The power and the duration of these small private bodies, in the midst of the weakness and instability of the whole community, astonish and alarm the people; and the free use which each association makes of its natural powers is almost regarded as a dangerous privilege. All the associations which spring up in our age are, moreover, new corporate powers, whose rights have not been sanctioned by time; they come into existence at a time when the notion of private rights is weak, and when the power of government is unbounded; hence it is not surprising that they lose their freedom at their birth. Amongst all European nations there are some kinds of associations which cannot be formed until the State has examined their by-laws, and authorized their existence. In several others, attempts are made to extend this rule to all associations; the consequences of such a policy, if it were successful, may easily be foreseen. If once the sovereign had a general right of authorizing associations of all kinds upon certain conditions, he would not be long without claiming the right of superintending and managing them, in order to prevent them from departing from the rules laid down by himself. In this manner, the State, after having reduced all who are desirous of forming associations into dependence, would proceed to reduce into the same condition all who belong to associations already formed—that is to say, almost all the men

who are now in existence. Governments thus appropriate to themselves, and convert to their own purposes, the greater part of this new power which manufacturing interests have in our time brought into the world.

Manufactures govern us—they govern manufactures.

I attach so much importance to all that I have just been saying, that I am tormented by the fear of having impaired my meaning in seeking to render it more clear. If the reader thinks that the examples I have adduced to support my observations are insufficient or ill-chosen—if he imagines that I have anywhere exaggerated the encroachments of the supreme power, and, on the other hand, that I have underrated the extent of the sphere which still remains open to the exertions of individual independence, I entreat him to lay down the book for a moment, and to turn his mind to reflect for himself upon the subjects I have attempted to explain. Let him attentively examine what is taking place in France and in other countries—let him inquire of those about him—let him search himself, and I am much mistaken if he does not arrive, without my guidance, and by other paths, at the point to which I have sought to lead him. He will perceive that for the last half-century, centralization has everywhere been growing up in a thousand different ways. Wars, revolutions, conquests, have served to promote it: all men have labored to increase it. In the course of the same period, during which men have succeeded each other with singular rapidity at the head of affairs, their notions, interests, and passions have been infinitely diversified; but all have by some means or other sought to centralize. This instinctive centralization has been the only settled point amidst the extreme mutability of their lives and of their thoughts.

If the reader, after having investigated these details of human affairs, will seek to survey the wide prospect as a whole, he will be struck by the result. On the one hand the most settled dynasties shaken or overthrown—the people everywhere escaping by violence from the sway of their laws—abolishing or limiting the authority of their rulers or their princes—the nations, which are not in open revolution, restless at least, and excited—all of them animated by the same spirit of revolt: and on the other hand, at this very period of anarchy, and amongst these untractable nations, the incessant increase of the prerogative of the supreme government, becoming more centralized, more adventurous, more absolute, more extensive—the people

perpetually falling under the control of the public administration—led insensibly to surrender to it some further portion of their individual independence, till the very men, who from time to time upset a throne and trample on a race of kings, bend more and more obsequiously to the slightest dictate of a clerk. Thus two contrary revolutions appear in our days to be going on; the one continually weakening the supreme power, the other as continually strengthening it: at no other period in our history has it appeared so weak or so strong.

But upon a more attentive examination of the state of the world, it appears that these two revolutions are intimately connected together, that they originate in the same source, and that after having followed a separate course, they lead men at last to the same result. I may venture once more to repeat what I have already said or implied in several parts of this book: great care must be taken not to confound the principle of equality itself with the revolution which finally establishes that principle in the social condition and the laws of a nation: here lies the reason of almost all the phenomena which occasion our astonishment. All the old political powers of Europe, the greatest as well as the least, were founded in ages of aristocracy, and they more or less represented or defended the principles of inequality and of privilege. To make the novel wants and interests, which the growing principle of equality introduced, preponderate in government, our contemporaries had to overturn or to coerce the established powers. This led them to make revolutions, and breathed into many of them, that fierce love of disturbance and independence, which all revolutions, whatever be their object, always engender. I do not believe that there is a single country in Europe in which the progress of equality has not been preceded or followed by some violent changes in the state of property and persons; and almost all these changes have been attended with much anarchy and license, because they have been made by the least civilized portion of the nation against that which is most civilized. Hence proceeded the two-fold contrary tendencies which I have just pointed out. As long as the democratic revolution was glowing with heat, the men who were bent upon the destruction of old aristocratic powers hostile to that revolution, displayed a strong spirit of independence; but as the victory or the principle of equality became more complete, they gradually surrendered themselves to the propensities natural to that condition of equality, and they strengthened and

centralized their governments. They had sought to be free in order to make themselves equal; but in proportion as equality was more established by the aid of freedom, freedom itself was thereby rendered of more difficult attainment.

These two states of a nation have sometimes been contemporaneous: the last generation in France showed how a people might organize a stupendous tyranny in the community, at the very time when they were baffling the authority of the nobility and braving the power of all kings—at once teaching the world the way to win freedom, and the way to lose it. In our days men see that constituted powers are dilapidated on every side—they see all ancient authority gasping away, all ancient barriers tottering to their fall, and the judgment of the wisest is troubled at the sight: they attend only to the amazing revolution which is taking place before their eyes, and they imagine that mankind is about to fall into perpetual anarchy: if they looked to the final consequences of this revolution, their fears would perhaps assume a different shape. For myself, I confess that I put no trust in the spirit of freedom which appears to animate my contemporaries. I see well enough that the nations of this age are turbulent, but I do not clearly perceive that they are liberal; and I fear lest, at the close of those perturbations which rock the base of thrones, the domination of sovereigns may prove more powerful than it ever was before.

## **Chapter 6: What Sort of Despotism Democratic Nations Have to Fear**

I HAD remarked during my stay in the United States, that democratic state of society, similar to that of the Americans, might offer singular facilities for the establishment of despotism; and I perceived, upon my return to Europe, how much use had already been made by most of our rulers, of the notions, the sentiments, and the wants engendered by this same social condition, for the purpose of extending the circle of their power. This led me to think that the nations of Christendom would perhaps eventually undergo some sort of oppression like that which hung over several of the

nations of the ancient world. A more accurate examination of the subject, and five years of further meditations, have not diminished my apprehensions, but they have changed the object of them. No sovereign ever lived in former ages so absolute or so powerful as to undertake to administer by his own agency, and without the assistance of intermediate powers, all the parts of a great empire: none ever attempted to subject all his subjects indiscriminately to strict uniformity of regulation, and personally to tutor and direct every member of the community. The notion of such an undertaking never occurred to the human mind; and if any man had conceived it, the want of information, the imperfection of the administrative system, and above all, the natural obstacles caused by the inequality of conditions, would speedily have checked the execution of so vast a design. When the Roman emperors were at the height of their power, the different nations of the empire still preserved manners and customs of great diversity; although they were subject to the same monarch, most of the provinces were separately administered; they abounded in powerful and active municipalities; and although the whole government of the empire was centred in the hands of the emperor alone, and he always remained, upon occasions, the supreme arbiter in all matters, yet the details of social life and private occupations lay for the most part beyond his control. The emperors possessed, it is true, an immense and unchecked power, which allowed them to gratify all their whimsical tastes, and to employ for that purpose the whole strength of the State. They frequently abused that power arbitrarily to deprive their subjects of property or of life: their tyranny was extremely onerous to the few, but it did not reach the greater number; it was fixed to some few main objects, and neglected the rest; it was violent, but its range was limited.

But it would seem that if despotism were to be established amongst the democratic nations of our days, it might assume a different character; it would be more extensive and more mild; it would degrade men without tormenting them. I do not question, that in an age of instruction and equality like our own, sovereigns might more easily succeed in collecting all political power into their own hands, and might interfere more habitually and decidedly within the circle of private interests, than any sovereign of antiquity could ever do. But this same principle of equality which facilitates despotism, tempers its rigor. We have seen how the manners of society

become more humane and gentle in proportion as men become more equal and alike. When no member of the community has much power or much wealth, tyranny is, as it were, without opportunities and a field of action. As all fortunes are scanty, the passions of men are naturally circumscribed—their imagination limited, their pleasures simple. This universal moderation moderates the sovereign himself, and checks within certain limits the inordinate extent of his desires.

Independently of these reasons drawn from the nature of the state of society itself, I might add many others arising from causes beyond my subject; but I shall keep within the limits I have laid down to myself. Democratic governments may become violent and even cruel at certain periods of extreme effervescence or of great danger: but these crises will be rare and brief. When I consider the petty passions of our contemporaries, the mildness of their manners, the extent of their education, the purity of their religion, the gentleness of their morality, their regular and industrious habits, and the restraint which they almost all observe in their vices no less than in their virtues, I have no fear that they will meet with tyrants in their rulers, but rather guardians. I think then that the species of oppression by which democratic nations are menaced is unlike anything which ever before existed in the world: our contemporaries will find no prototype of it in their memories. I am trying myself to choose an expression which will accurately convey the whole of the idea I have formed of it, but in vain; the old words "despotism" and "tyranny" are inappropriate the thing itself is new; and since I cannot name it, I must attempt to define it.

I seek to trace the novel features under which despotism may appear in the world. The first thing that strikes the observation is an innumerable multitude of men all equal and alike, incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest—his children and his private friends constitute to him the whole of mankind; as for the rest of his fellow-citizens, he is close to them, but he sees them not—he touches them, but he feels them not; he exists but in himself and for himself alone; and if his kindred still remain to him, he may be said at any rate to have lost his country. Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratifications, and to watch

over their fate. That power is absolute, minute, regular, provident, and mild. It would be like the authority of a parent, if, like that authority, its object was to prepare men for manhood; but it seeks on the contrary to keep them in perpetual childhood: it is well content that the people should rejoice, provided they think of nothing but rejoicing. For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of that happiness: it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property, and subdivides their inheritances—what remains, but to spare them all the care of thinking and all the trouble of living? Thus it every day renders the exercise of the free agency of man less useful and less frequent; it circumscribes the will within a narrower range, and gradually robs a man of all the uses of himself. The principle of equality has prepared men for these things: it has predisposed men to endure them, and oftentimes to look on them as benefits.

After having thus successively taken each member of the community in its powerful grasp, and fashioned them at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. The will of man is not shattered, but softened, bent, and guided: men are seldom forced by it to act, but they are constantly restrained from acting: such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to be nothing better than a flock of timid and industrious animals, of which the government is the shepherd.

I have always thought that servitude of the regular, quiet, and gentle kind which I have just described, might be combined more easily than is commonly believed with some of the outward forms of freedom; and that it might even establish itself under the wing of the sovereignty of the people. Our contemporaries are constantly excited by two conflicting passions; they want to be led, and they wish to remain free: as they cannot destroy either one or the other of these contrary propensities, they strive to satisfy them

both at once. They devise a sole, tutelary, and all-powerful form of government, but elected by the people. They combine the principle of centralization and that of popular sovereignty; this gives them a respite; they console themselves for being in tutelage by the reflection that they have chosen their own guardians. Every man allows himself to be put in leading-strings, because he sees that it is not a person or a class of persons, but the people at large that holds the end of his chain. By this system the people shake off their state of dependence just long enough to select their master, and then relapse into it again. A great many persons at the present day are quite contented with this sort of compromise between administrative despotism and the sovereignty of the people; and they think they have done enough for the protection of individual freedom when they have surrendered it to the power of the nation at large. This does not satisfy me: the nature of him I am to obey signifies less to me than the fact of extorted obedience.

I do not however deny that a constitution of this kind appears to me to be infinitely preferable to one, which, after having concentrated all the powers of government, should vest them in the hands of an irresponsible person or body of persons. Of all the forms which democratic despotism could assume, the latter would assuredly be the worst. When the sovereign is elective, or narrowly watched by a legislature which is really elective and independent, the oppression which he exercises over individuals is sometimes greater, but it is always less degrading; because every man, when he is oppressed and disarmed, may still imagine, that whilst he yields obedience it is to himself he yields it, and that it is to one of his own inclinations that all the rest give way. In like manner I can understand that when the sovereign represents the nation, and is dependent upon the people, the rights and the power of which every citizen is deprived, not only serve the head of the State, but the State itself; and that private persons derive some return from the sacrifice of their independence which they have made to the public. To create a representation of the people in every centralized country is, therefore, to diminish the evil which extreme centralization may produce, but not to get rid of it. I admit that by this means room is left for the intervention of individuals in the more important affairs; but it is not the less suppressed in the smaller and more private ones. It must not be forgotten that it is especially dangerous to enslave men in the minor details

of life. For my own part, I should be inclined to think freedom less necessary in great things than in little ones, if it were possible to be secure of the one without possessing the other. Subjection in minor affairs breaks out every day, and is felt by the whole community indiscriminately. It does not drive men to resistance, but it crosses them at every turn, till they are led to surrender the exercise of their will. Thus their spirit is gradually broken and their character enervated; whereas that obedience, which is exacted on a few important but rare occasions, only exhibits servitude at certain intervals, and throws the burden of it upon a small number of men. It is in vain to summon a people, which has been rendered so dependent on the central power, to choose from time to time the representatives of that power; this rare and brief exercise of their free choice, however important it may be, will not prevent them from gradually losing the faculties of thinking, feeling, and acting for themselves, and thus gradually falling below the level of humanity. I add that they will soon become incapable of exercising the great and only privilege which remains to them. The democratic nations which have introduced freedom into their political constitution, at the very time when they were augmenting the despotism of their administrative constitution, have been led into strange paradoxes. To manage those minor affairs in which good sense is all that is wanted—the people are held to be unequal to the task, but when the government of the country is at stake, the people are invested with immense powers; they are alternately made the playthings of their ruler, and his masters—more than kings, and less than men. After having exhausted all the different modes of election, without finding one to suit their purpose, they are still amazed, and still bent on seeking further; as if the evil they remark did not originate in the constitution of the country far more than in that of the electoral body. It is, indeed, difficult to conceive how men who have entirely given up the habit of self-government should succeed in making a proper choice of those by whom they are to be governed; and no one will ever believe that a liberal, wise, and energetic government can spring from the suffrages of a subservient people. A constitution, which should be republican in its head and ultra-monarchical in all its other parts, has ever appeared to me to be a short-lived monster. The vices of rulers and the ineptitude of the people would speedily bring about its ruin; and the nation, weary of its representatives and of itself, would create freer institutions, or soon return

to stretch itself at the feet of a single master.

## **Chapter 7: Continuation of the Preceding Chapters**

I BELIEVE that it is easier to establish an absolute and despotic government amongst a people in which the conditions of society are equal, than amongst any other; and I think that if such a government were once established amongst such a people, it would not only oppress men, but would eventually strip each of them of several of the highest qualities of humanity. Despotism therefore appears to me peculiarly to be dreaded in democratic ages. I should have loved freedom, I believe, at all times, but in the time in which we live I am ready to worship it. On the other hand, I am persuaded that all who shall attempt, in the ages upon which we are entering, to base freedom upon aristocratic privilege, will fail—that all who shall attempt to draw and to retain authority within a single class, will fail. At the present day no ruler is skilful or strong enough to found a despotism, by re-establishing permanent distinctions of rank amongst his subjects: no legislator is wise or powerful enough to preserve free institutions, if he does not take equality for his first principle and his watchword. All those of our contemporaries who would establish or secure the independence and the dignity of their fellow-men, must show themselves the friends of equality; and the only worthy means of showing themselves as such, is to be so: upon this depends the success of their holy enterprise. Thus the question is not how to reconstruct aristocratic society, but how to make liberty proceed out of that democratic state of society in which God has placed us.

These two truths appear to me simple, clear, and fertile in consequences; and they naturally lead me to consider what kind of free government can be established amongst a people in which social conditions are equal.

It results from the very constitution of democratic nations and from their necessities, that the power of government amongst them must be more uniform, more centralized, more extensive, more searching, and more efficient than in other countries. Society at large is naturally stronger and

more active, individuals more subordinate and weak; the former does more, the latter less; and this is inevitably the case. It is not therefore to be expected that the range of private independence will ever be as extensive in democratic as in aristocratic countries—nor is this to be desired; for, amongst aristocratic nations, the mass is often sacrificed to the individual, and the prosperity of the greater number to the greatness of the few. It is both necessary and desirable that the government of a democratic people should be active and powerful: and our object should not be to render it weak or indolent, but solely to prevent it from abusing its aptitude and its strength.

The circumstance which most contributed to secure the independence of private persons in aristocratic ages, was, that the supreme power did not affect to take upon itself alone the government and administration of the community; those functions were necessarily partially left to the members of the aristocracy: so that as the supreme power was always divided, it never weighed with its whole weight and in the same manner on each individual. Not only did the government not perform everything by its immediate agency; but as most of the agents who discharged its duties derived their power not from the State, but from the circumstance of their birth, they were not perpetually under its control. The government could not make or unmake them in an instant, at pleasure, nor bend them in strict uniformity to its slightest caprice—this was an additional guarantee of private independence. I readily admit that recourse cannot be had to the same means at the present time: but I discover certain democratic expedients which may be substituted for them. Instead of vesting in the government alone all the administrative powers of which corporations and nobles have been deprived, a portion of them may be entrusted to secondary public bodies, temporarily composed of private citizens: thus the liberty of private persons will be more secure, and their equality will not be diminished.

The Americans, who care less for words than the French, still designate by the name of "county" the largest of their administrative districts: but the duties of the count or lord-lieutenant are in part performed by a provincial assembly. At a period of equality like our own it would be unjust and unreasonable to institute hereditary officers; but there is nothing to prevent

us from substituting elective public officers to a certain extent. Election is a democratic expedient which insures the independence of the public officer in relation to the government, as much and even more than hereditary rank can insure it amongst aristocratic nations. Aristocratic countries abound in wealthy and influential persons who are competent to provide for themselves, and who cannot be easily or secretly oppressed: such persons restrain a government within general habits of moderation and reserve. I am very well aware that democratic countries contain no such persons naturally; but something analogous to them may be created by artificial means. I firmly believe that an aristocracy cannot again be founded in the world; but I think that private citizens, by combining together, may constitute bodies of great wealth, influence, and strength, corresponding to the persons of an aristocracy. By this means many of the greatest political advantages of aristocracy would be obtained without its injustice or its dangers. An association for political, commercial, or manufacturing purposes, or even for those of science and literature, is a powerful and enlightened member of free community, which cannot be disposed of at pleasure, or oppressed without remonstrance; and which, by defending its own rights against the encroachments of the government, saves the common liberties of the country.

In periods of aristocracy every man is always bound so closely to many of his fellow-citizens, that he cannot be assailed without their coming to his assistance. In ages of equality every man naturally stands alone; he has no hereditary friends whose co-operation he may demand—no class upon whose sympathy he may rely: he is easily got rid of, and he is trampled on with impunity. At the present time, an oppressed member of the community has therefore only one method of self-defence—he may appeal to the whole nation; and if the whole nation is deaf to his complaint, he may appeal to mankind: the only means he has of making this appeal is by the press. Thus the liberty of the press is infinitely more valuable amongst democratic nations than amongst all others; it is the only cure for the evils which equality may produce. Equality sets men apart and weakens them; but the press places a powerful weapon within every man's reach, which the weakest and loneliest of them all may use. Equality deprives a man of the support of his connections; but the press enables him to summon all his fellow-countrymen and all his fellow-men to his assistance. Printing has

accelerated the progress of equality, and it is also one of its best correctives.

I think that men living in aristocracies may, strictly speaking, do without the liberty of the press: but such is not the case with those who live in democratic countries. To protect their personal independence I trust not to great political assemblies, to parliamentary privilege, or to the assertion of popular sovereignty. All these things may, to a certain extent, be reconciled with personal servitude—but that servitude cannot be complete if the press is free: the press is the chiefest democratic instrument of freedom.

Something analogous may be said of the judicial power. It is a part of the essence of judicial power to attend to private interests, and to fix itself with predilection on minute objects submitted to its observation; another essential quality of judicial power is never to volunteer its assistance to the oppressed, but always to be at the disposal of the humblest of those who solicit it; their complaint, however feeble they may themselves be, will force itself upon the ear of justice and claim redress, for this is inherent in the very constitution of the courts of justice. A power of this kind is therefore peculiarly adapted to the wants of freedom, at a time when the eye and finger of the government are constantly intruding into the minutest details of human actions, and when private persons are at once too weak to protect themselves, and too much isolated for them to reckon upon the assistance of their fellows. The strength of the courts of law has ever been the greatest security which can be offered to personal independence; but this is more especially the case in democratic ages: private rights and interests are in constant danger, if the judicial power does not grow more extensive and more strong to keep pace with the growing equality of conditions.

Equality awakens in men several propensities extremely dangerous to freedom, to which the attention of the legislator ought constantly to be directed. I shall only remind the reader of the most important amongst them. Men living in democratic ages do not readily comprehend the utility of forms: they feel an instinctive contempt for them—I have elsewhere shown for what reasons. Forms excite their contempt and often their hatred; as they commonly aspire to none but easy and present gratifications, they rush onwards to the object of their desires, and the slightest delay

exasperates them. This same temper, carried with them into political life, renders them hostile to forms, which perpetually retard or arrest them in some of their projects. Yet this objection which the men of democracies make to forms is the very thing which renders forms so useful to freedom; for their chief merit is to serve as a barrier between the strong and the weak, the ruler and the people, to retard the one, and give the other time to look about him. Forms become more necessary in proportion as the government becomes more active and more powerful, whilst private persons are becoming more indolent and more feeble. Thus democratic nations naturally stand more in need of forms than other nations, and they naturally respect them less. This deserves most serious attention. Nothing is more pitiful than the arrogant disdain of most of our contemporaries for questions of form; for the smallest questions of form have acquired in our time an importance which they never had before: many of the greatest interests of mankind depend upon them. I think that if the statesmen of aristocratic ages could sometimes contemn forms with impunity, and frequently rise above them, the statesmen to whom the government of nations is now confided ought to treat the very least among them with respect, and not neglect them without imperious necessity. In aristocracies the observance of forms was superstitious; amongst us they ought to be kept with a deliberate and enlightened deference.

Another tendency, which is extremely natural to democratic nations and extremely dangerous, is that which leads them to despise and undervalue the rights of private persons. The attachment which men feel to a right, and the respect which they display for it, is generally proportioned to its importance, or to the length of time during which they have enjoyed it. The rights of private persons amongst democratic nations are commonly of small importance, of recent growth, and extremely precarious—the consequence is that they are often sacrificed without regret, and almost always violated without remorse. But it happens that at the same period and amongst the same nations in which men conceive a natural contempt for the rights of private persons, the rights of society at large are naturally extended and consolidated: in other words, men become less attached to private rights at the very time at which it would be most necessary to retain and to defend what little remains of them. It is therefore most especially in the present democratic ages, that the true friends of the liberty and the greatness

of man ought constantly to be on the alert to prevent the power of government from lightly sacrificing the private rights of individuals to the general execution of its designs. At such times no citizen is so obscure that it is not very dangerous to allow him to be oppressed—no private rights are so unimportant that they can be surrendered with impunity to the caprices of a government. The reason is plain:—if the private right of an individual is violated at a time when the human mind is fully impressed with the importance and the sanctity of such rights, the injury done is confined to the individual whose right is infringed; but to violate such a right, at the present day, is deeply to corrupt the manners of the nation and to put the whole community in jeopardy, because the very notion of this kind of right constantly tends amongst us to be impaired and lost.

There are certain habits, certain notions, and certain vices which are peculiar to a state of revolution, and which a protracted revolution cannot fail to engender and to propagate, whatever be, in other respects, its character, its purpose, and the scene on which it takes place. When any nation has, within a short space of time, repeatedly varied its rulers, its opinions, and its laws, the men of whom it is composed eventually contract a taste for change, and grow accustomed to see all changes effected by sudden violence. Thus they naturally conceive a contempt for forms which daily prove ineffectual; and they do not support without impatience the dominion of rules which they have so often seen infringed. As the ordinary notions of equity and morality no longer suffice to explain and justify all the innovations daily begotten by a revolution, the principle of public utility is called in, the doctrine of political necessity is conjured up, and men accustom themselves to sacrifice private interests without scruple, and to trample on the rights of individuals in order more speedily to accomplish any public purpose.

These habits and notions, which I shall call revolutionary, because all revolutions produce them, occur in aristocracies just as much as amongst democratic nations; but amongst the former they are often less powerful and always less lasting, because there they meet with habits, notions, defects, and impediments, which counteract them: they consequently disappear as soon as the revolution is terminated, and the nation reverts to its former political courses. This is not always the case in democratic countries, in

which it is ever to be feared that revolutionary tendencies, becoming more gentle and more regular, without entirely disappearing from society, will be gradually transformed into habits of subjection to the administrative authority of the government. I know of no countries in which revolutions are more dangerous than in democratic countries; because, independently of the accidental and transient evils which must always attend them, they may always create some evils which are permanent and unending. I believe that there are such things as justifiable resistance and legitimate rebellion: I do not therefore assert, as an absolute proposition, that the men of democratic ages ought never to make revolutions; but I think that they have especial reason to hesitate before they embark in them, and that it is far better to endure many grievances in their present condition than to have recourse to so perilous a remedy.

I shall conclude by one general idea, which comprises not only all the particular ideas which have been expressed in the present chapter, but also most of those which it is the object of this book to treat of. In the ages of aristocracy which preceded our own, there were private persons of great power, and a social authority of extreme weakness. The outline of society itself was not easily discernible, and constantly confounded with the different powers by which the community was ruled. The principal efforts of the men of those times were required to strengthen, aggrandize, and secure the supreme power; and on the other hand, to circumscribe individual independence within narrower limits, and to subject private interests to the interests of the public. Other perils and other cares await the men of our age. Amongst the greater part of modern nations, the government, whatever may be its origin, its constitution, or its name, has become almost omnipotent, and private persons are falling, more and more, into the lowest stage of weakness and dependence. In olden society everything was different; unity and uniformity were nowhere to be met with. In modern society everything threatens to become so much alike, that the peculiar characteristics of each individual will soon be entirely lost in the general aspect of the world. Our forefathers were ever prone to make an improper use of the notion, that private rights ought to be respected; and we are naturally prone on the other hand to exaggerate the idea that the interest of a private individual ought always to bend to the interest of the many. The political world is metamorphosed: new remedies must henceforth be sought

for new disorders. To lay down extensive, but distinct and settled limits, to the action of the government; to confer certain rights on private persons, and to secure to them the undisputed enjoyment of those rights; to enable individual man to maintain whatever independence, strength, and original power he still possesses; to raise him by the side of society at large, and uphold him in that position—these appear to me the main objects of legislators in the ages upon which we are now entering. It would seem as if the rulers of our time sought only to use men in order to make things great; I wish that they would try a little more to make great men; that they would set less value on the work, and more upon the workman; that they would never forget that a nation cannot long remain strong when every man belonging to it is individually weak, and that no form or combination of social polity has yet been devised, to make an energetic people out of a community of pusillanimous and enfeebled citizens.

I trace amongst our contemporaries two contrary notions which are equally injurious. One set of men can perceive nothing in the principle of equality but the anarchical tendencies which it engenders: they dread their own free agency—they fear themselves. Other thinkers, less numerous but more enlightened, take a different view: besides that track which starts from the principle of equality to terminate in anarchy, they have at last discovered the road which seems to lead men to inevitable servitude. They shape their souls beforehand to this necessary condition; and, despairing of remaining free, they already do obeisance in their hearts to the master who is soon to appear. The former abandon freedom, because they think it dangerous; the latter, because they hold it to be impossible. If I had entertained the latter conviction, I should not have written this book, but I should have confined myself to deploring in secret the destiny of mankind. I have sought to point out the dangers to which the principle of equality exposes the independence of man, because I firmly believe that these dangers are the most formidable, as well as the least foreseen, of all those which futurity holds in store: but I do not think that they are insurmountable. The men who live in the democratic ages upon which we are entering have naturally a taste for independence: they are naturally impatient of regulation, and they are wearied by the permanence even of the condition they themselves prefer. They are fond of power; but they are prone to despise and hate those who wield it, and they easily elude its grasp by their own mobility and

insignificance. These propensities will always manifest themselves, because they originate in the groundwork of society, which will undergo no change: for a long time they will prevent the establishment of any despotism, and they will furnish fresh weapons to each succeeding generation which shall struggle in favor of the liberty of mankind. Let us then look forward to the future with that salutary fear which makes men keep watch and ward for freedom, not with that faint and idle terror which depresses and enervates the heart.

## **Chapter 8: General Survey of the Subject**

BEFORE I close forever the theme that has detained me so long, I would fain take a parting survey of all the various characteristics of modern society, and appreciate at last the general influence to be exercised by the principle of equality upon the fate of mankind; but I am stopped by the difficulty of the task, and in presence of so great an object my sight is troubled, and my reason fails. The society of the modern world which I have sought to delineate, and which I seek to judge, has but just come into existence. Time has not yet shaped it into perfect form: the great revolution by which it has been created is not yet over: and amidst the occurrences of our time, it is almost impossible to discern what will pass away with the revolution itself, and what will survive its close. The world which is rising into existence is still half encumbered by the remains of the world which is waning into decay; and amidst the vast perplexity of human affairs, none can say how much of ancient institutions and former manners will remain, or how much will completely disappear. Although the revolution which is taking place in the social condition, the laws, the opinions, and the feelings of men, is still very far from being terminated, yet its results already admit of no comparison with anything that the world has ever before witnessed. I go back from age to age up to the remotest antiquity; but I find no parallel to what is occurring before my eyes: as the past has ceased to throw its light upon the future, the mind of man wanders in obscurity.

Nevertheless, in the midst of a prospect so wide, so novel and so confused, some of the more prominent characteristics may already be discerned and pointed out. The good things and the evils of life are more equally distributed in the world: great wealth tends to disappear, the number of small fortunes to increase; desires and gratifications are multiplied, but extraordinary prosperity and irremediable penury are alike unknown. The sentiment of ambition is universal, but the scope of ambition is seldom vast. Each individual stands apart in solitary weakness; but society at large is active, provident, and powerful: the performances of private persons are insignificant, those of the State immense. There is little energy of character; but manners are mild, and laws humane. If there be few instances of exalted heroism or of virtues of the highest, brightest, and purest temper, men's habits are regular, violence is rare, and cruelty almost unknown. Human existence becomes longer, and property more secure: life is not adorned with brilliant trophies, but it is extremely easy and tranquil. Few pleasures are either very refined or very coarse; and highly polished manners are as uncommon as great brutality of tastes. Neither men of great learning, nor extremely ignorant communities, are to be met with; genius becomes more rare, information more diffused. The human mind is impelled by the small efforts of all mankind combined together, \$not by the strenuous activity of certain men. There is less perfection, but more abundance, in all the productions of the arts. The ties of race, of rank, and of country are relaxed the great bond of humanity is strengthened. If I endeavor to find out the most general and the most prominent of all these different characteristics, I shall have occasion to perceive, that what is taking place in men's fortunes manifests itself under a thousand other forms. Almost all extremes are softened or blunted: all that was most prominent is superseded by some mean term, at once less lofty and less low, less brilliant and less obscure, than what before existed in the world.

When I survey this countless multitude of beings, shaped in each other's likeness, amidst whom nothing rises and nothing falls, the sight of such universal uniformity saddens and chills me, and I am tempted to regret that state of society which has ceased to be. When the world was full of men of great importance and extreme insignificance, of great wealth and extreme poverty, of great learning and extreme ignorance, I turned aside from the latter to fix my observation on the former alone, who gratified my

sympathies. But I admit that this gratification arose from my own weakness: it is because I am unable to see at once all that is around me, that I am allowed thus to select and separate the objects of my predilection from among so many others. Such is not the case with that almighty and eternal Being whose gaze necessarily includes the whole of created things, and who surveys distinctly, though at once, mankind and man. We may naturally believe that it is not the singular prosperity of the few, but the greater well-being of all, which is most pleasing in the sight of the Creator and Preserver of men. What appears to me to be man's decline, is to His eye advancement; what afflicts me is acceptable to Him. A state of equality is perhaps less elevated, but it is more just; and its justice constitutes its greatness and its beauty. I would strive then to raise myself to this point of the divine contemplation, and thence to view and to judge the concerns of men.

No man, upon the earth, can as yet affirm absolutely and generally, that the new state of the world is better than its former one; but it is already easy to perceive that this state is different. Some vices and some virtues were so inherent in the constitution of an aristocratic nation, and are so opposite to the character of a modern people, that they can never be infused into it; some good tendencies and some bad propensities which were unknown to the former, are natural to the latter; some ideas suggest themselves spontaneously to the imagination of the one, which are utterly repugnant to the mind of the other. They are like two distinct orders of human beings, each of which has its own merits and defects, its own advantages and its own evils. Care must therefore be taken not to judge the state of society, which is now coming into existence, by notions derived from a state of society which no longer exists; for as these states of society are exceedingly different in their structure, they cannot be submitted to a just or fair comparison. It would be scarcely more reasonable to require of our own contemporaries the peculiar virtues which originated in the social condition of their forefathers, since that social condition is itself fallen, and has drawn into one promiscuous ruin the good and evil which belonged to it.

But as yet these things are imperfectly understood. I find that a great number of my contemporaries undertake to make a certain selection from amongst the institutions, the opinions, and the ideas which originated in the

aristocratic constitution of society as it was: a portion of these elements they would willingly relinquish, but they would keep the remainder and transplant them into their new world. I apprehend that such men are wasting their time and their strength in virtuous but unprofitable efforts. The object is not to retain the peculiar advantages which the inequality of conditions bestows upon mankind, but to secure the new benefits which equality may supply. We have not to seek to make ourselves like our progenitors, but to strive to work out that species of greatness and happiness which is our own. For myself, who now look back from this extreme limit of my task, and discover from afar, but at once, the various objects which have attracted my more attentive investigation upon my way, I am full of apprehensions and of hopes. I perceive mighty dangers which it is possible to ward off—mighty evils which may be avoided or alleviated; and I cling with a firmer hold to the belief, that for democratic nations to be virtuous and prosperous they require but to will it. I am aware that many of my contemporaries maintain that nations are never their own masters here below, and that they necessarily obey some insurmountable and unintelligent power, arising from anterior events, from their race, or from the soil and climate of their country. Such principles are false and cowardly; such principles can never produce aught but feeble men and pusillanimous nations. Providence has not created mankind entirely independent or entirely free. It is true that around every man a fatal circle is traced, beyond which he cannot pass; but within the wide verge of that circle he is powerful and free: as it is with man, so with communities. The nations of our time cannot prevent the conditions of men from becoming equal; but it depends upon themselves whether the principle of equality is to lead them to servitude or freedom, to knowledge or barbarism, to prosperity or to wretchedness.

## **Appendix A**

For information concerning all the countries of the West which have not been visited by Europeans, consult the account of two expeditions undertaken at the expense of Congress by Major Long. This traveller particularly mentions, on the subject of the great American desert, that a

line may be drawn nearly parallel to the 20th degree of longitude a (meridian of Washington), beginning from the Red River and ending at the River Platte. From this imaginary line to the Rocky Mountains, which bound the valley of the Mississippi on the west, lie immense plains, which are almost entirely covered with sand, incapable of cultivation, or scattered over with masses of granite. In summer, these plains are quite destitute of water, and nothing is to be seen on them but herds of buffaloes and wild horses. Some hordes of Indians are also found there, but in no great numbers. Major Long was told that in travelling northwards from the River Platte you find the same desert lying constantly on the left; but he was unable to ascertain the truth of this report. However worthy of confidence may be the narrative of Major Long, it must be remembered that he only passed through the country of which he speaks, without deviating widely from the line which he had traced out for his journey.

## **Appendix B**

South America, in the region between the tropics, produces an incredible profusion of climbing plants, of which the flora of the Antilles alone presents us with forty different species. Among the most graceful of these shrubs is the passion-flower, which, according to Descourtiz, grows with such luxuriance in the Antilles, as to climb trees by means of the tendrils with which it is provided, and form moving flowers of rich and elegant festoons, decorated with blue and purple flowers, and fragrant with perfume. The *Mimosa scandens* (*Acacia a grandes gousses*) is a creeper of enormous and rapid growth, which climbs from tree to tree, and sometimes covers more than half a league.

## **Appendix C**

The languages which are spoken by the Indians of America, from the Pole to Cape Horn, are said to be all formed upon the same model, and subject to the same grammatical rules; whence it may fairly be concluded that all the Indian nations sprang from the same stock. Each tribe of the American continent speaks a different dialect; but the number of languages, properly so called, is very small, a fact which tends to prove that the nations of the New World had not a very remote origin. Moreover, the languages of America have a great degree of regularity, from which it seems probable that the tribes which employ them had not undergone any great revolutions, or been incorporated voluntarily or by constraint, with foreign nations. For it is generally the union of several languages into one which produces grammatical irregularities. It is not long since the American languages, especially those of the North, first attracted the serious attention of philologists, when the discovery was made that this idiom of a barbarous people was the product of a complicated system of ideas and very learned combinations. These languages were found to be very rich, and great pains had been taken at their formation to render them agreeable to the ear. The grammatical system of the Americans differs from all others in several points, but especially in the following:—

Some nations of Europe, amongst others the Germans, have the power of combining at pleasure different expressions, and thus giving a complex sense to certain words. The Indians have given a most surprising extension to this power, so as to arrive at the means of connecting a great number of ideas with a single term. This will be easily understood with the help of an example quoted by Mr. Duponceau, in the "Memoirs of the Philosophical Society of America": A Delaware woman playing with a cat or a young dog, says this writer, is heard to pronounce the word kuligatschis, which is thus composed: k is the sign of the second person, and signifies "thou " or "thy "; uli is a part of the word wulit, which signifies "beautiful," "pretty"; gat is another fragment, of the word wichgat, which means "paw"; and, lastly, schis is a diminutive giving the idea of smallness. Thus in one word the Indian woman has expressed "Thy pretty little paw." Take another example of the felicity with which the savages of America have composed their words. A young man of Delaware is called pilape. This word is formed from pilsit, "chaste," "innocent"; and lenape, "man"; viz., "man in his purity and innocence." This facility of combining words is most remarkable in the

strange formation of their verbs. The most complex action is often expressed by a single verb, which serves to convey all the shades of an idea by the modification of its construction. Those who may wish to examine more in detail this subject, which I have only glanced at superficially, should read:—

1. The correspondence of Mr. Duponceau and the Rev. Mr. Hecwelder relative to the Indian languages, which is to be found in the first volume of the "Memoirs of the Philosophical Society of America," published at Philadelphia, 1819, by Abraham Small; vol. i. p. 356-464.
2. The "Grammar of the Delaware or Lenape Language," by Geiberger, and the preface of Mr. Duponceau. All these are in the same collection, vol. iii.
3. An excellent account of these works, which is at the end of the sixth volume of the American Encyclopedia.

## **Appendix D**

See in Charlevoix, vol. i. p. 235, the history of the first war which the French inhabitants of Canada carried on, in 1610, against the Iroquois. The latter, armed with bows and arrows, offered a desperate resistance to the French and their allies. Charlevoix is not a great painter, yet he exhibits clearly enough, in this narrative, the contrast between the European manners and those of savages, as well as the different way in which the two races of men understood the sense of honor. When the French, says he, seized upon the beaver-skins which covered the Indians who had fallen, the Hurons, their allies, were greatly offended at this proceeding; but without hesitation they set to work in their usual manner, inflicting horrid cruelties upon the prisoners, and devouring one of those who had been killed, which made the Frenchmen shudder. The barbarians prided themselves upon a scrupulousness which they were surprised at not finding in our nation, and could not understand that there was less to reprehend in the stripping of dead bodies than in the devouring of their flesh like wild beasts.

Charlevoix, in another place (vol. i. p. 230), thus describes the first torture of which Champlain was an eyewitness, and the return of the Hurons into their own village. Having proceeded about eight leagues, says he, our allies halted; and having singled out 'one of their captives, they reproached him with all the cruelties which he had practised upon the warriors of their nation who had fallen into his hands, and told him that he might expect to be treated in like manner; adding, that if he had any spirit he would prove it by singing. He immediately chanted forth his death-song, and then his war-song, and all the songs he knew, "but in a very mournful strain," says Champlain, who was not then aware that all savage music has a melancholy character. The tortures which succeeded, accompanied by all the horrors which we shall mention hereafter, terrified the French, who made every effort to put a stop to them, but in vain. The following night, one of the Hurons having dreamt that they were pursued, the retreat was changed to a real flight, and the savages never stopped until they were out of the reach of danger. The moment they perceived the cabins of their own village, they cut themselves long sticks, to which they fastened the scalps which had fallen to their share, and carried them in triumph. At this sight, the women swam to the canoes, where they received the bloody scalps from the hands of their husbands, and tied them round their necks. The warriors offered one of these horrible trophies to Champlain; they also presented him with some bows and arrows—the only spoils of the Iroquois which they had ventured to seize—entreating him to show them to the King of France. Champlain lived a whole winter quite alone among these barbarians, without being under any alarm for his person or property.

## Appendix E

Although the Puritanical strictness which presided over the establishment of the English colonies in America is now much relaxed, remarkable traces of it are still found in their habits and their laws. In 1792, at the very time when the anti-Christian republic of France began its ephemeral existence, the legislative body of Massachusetts promulgated the following law, to compel the citizens to observe the Sabbath. We give the preamble and the

principal articles of this law, which is worthy of the reader's attention:

"Whereas," says the legislator, "the observation of the Sunday is an affair of public interest; inasmuch as it produces a necessary suspension of labor, leads men to reflect upon the duties of life, and the errors to which human nature is liable, and provides for the public and private worship of God, the creator and governor of the universe, and for the performance of such acts of charity as are the ornament and comfort of Christian societies:—Whereas irreligious or light-minded persons, forgetting the duties which the Sabbath imposes, and the benefits which these duties confer on society, are known to profane its sanctity, by following their pleasures or their affairs; this way of acting being contrary to their own interest as Christians, and calculated to annoy those who do not follow their example; being also of great injury to society at large, by spreading a taste for dissipation and dissolute manners; Be it enacted and ordained by the Governor, Council, and Representatives convened in General Court of Assembly, that all and every person and persons shall on that day carefully apply themselves to the duties of religion and piety, that no tradesman or labourer shall exercise his ordinary calling, and that no game or recreation shall be used on the Lord's Day, upon pain of forfeiting ten shillings.

"That no one shall travel on that day, or any part thereof, under pain of forfeiting twenty shillings; that no vessel shall leave a harbour of the colony; that no persons shall keep outside the meeting-house during the time of public worship, or profane the time by playing or talking, on penalty of five shillings.

"Public-houses shall not entertain any other than strangers or lodgers, under penalty of five shillings for every person found drinking and abiding therein.

"Any person in health, who, without sufficient reason, shall omit to worship God in public during three months, shall be condemned to a fine of ten shillings.

"Any person guilty of misbehaviour in a place of public worship, shall be fined from five to forty shillings.

"These laws are to be enforced by the tything-men of each township, who have authority to visit public-houses on the Sunday. The innkeeper who shall refuse them admittance, shall be fined forty shillings for such offence.

"The tything-men are to stop travellers, and require of them their reason for being on the road on Sunday; anyone refusing to answer, shall be sentenced to pay a fine not exceeding five pounds sterling. If the reason given by the traveller be not deemed by the tything-man sufficient, he may bring the traveller before the justice of the peace of the district." (Law of March 8, 1792; General Laws of Massachusetts, vol. i. p. 410.)

On March 11, 1797, a new law increased the amount of fines, half of which was to be given to the informer. (Same collection, vol. ii. p. 525.) On February 16, 1816, a new law confirmed these same measures. (Same collection, vol. ii. p. 405.) Similar enactments exist in the laws of the State of New York, revised in 1827 and 1828. (See Revised Statutes, Part I. chapter 20, p. 675.) In these it is declared that no one is allowed on the Sabbath to sport, to fish, to play at games, or to frequent houses where liquor is sold. No one can travel, except in case of necessity.

And this is not the only trace which the religious strictness and austere manners of the first emigrants have left behind them in the American laws. In the Revised Statutes of the State of New York, vol. i. p. 662, is the following clause:—

"Whoever shall win or lose in the space of twenty-four hours, by gaming or betting, the sum of twenty-five dollars, shall be found guilty of a misdemeanour, and upon conviction shall be condemned to pay a fine equal to at least five times the value of the sum lost or won; which shall be paid to the inspector of the poor of the township. He that loses twenty-five dollars or more may bring an action to recover them; and if he neglects to do so the inspector of the poor may prosecute the winner, and oblige him to pay into the poor's box both the sum he has gained and three times as much besides."

The laws we quote from are of recent date; but they are unintelligible without going back to the very origin of the colonies. I have no doubt that

in our days the penal part of these laws is very rarely applied. Laws preserve their inflexibility, long after the manners of a nation have yielded to the influence of time. It is still true, however, that nothing strikes a foreigner on his arrival in America more forcibly than the regard paid to the Sabbath. There is one, in particular, of the large American cities, in which all social movements begin to be suspended even on Saturday evening. You traverse its streets at the hour at which you expect men in the middle of life to be engaged in business, and young people in pleasure; and you meet with solitude and silence. Not only have all ceased to work, but they appear to have ceased to exist. Neither the movements of industry are heard, nor the accents of joy, nor even the confused murmur which arises from the midst of a great city. Chains are hung across the streets in the neighborhood of the churches; the half-closed shutters of the houses scarcely admit a ray of sun into the dwellings of the citizens. Now and then you perceive a solitary individual who glides silently along the deserted streets and lanes. Next day, at early dawn, the rolling of carriages, the noise of hammers, the cries of the population, begin to make themselves heard again. The city is awake. An eager crowd hastens towards the resort of commerce and industry; everything around you bespeaks motion, bustle, hurry. A feverish activity succeeds to the lethargic stupor of yesterday; you might almost suppose that they had but one day to acquire wealth and to enjoy it.

## **Appendix F**

It is unnecessary for me to say, that in the chapter which has just been read, I have not had the intention of giving a history of America. My only object was to enable the reader to appreciate the influence which the opinions and manners of the first emigrants had exercised upon the fate of the different colonies, and of the Union in general. I have therefore confined myself to the quotation of a few detached fragments. I do not know whether I am deceived, but it appears to me that, by pursuing the path which I have merely pointed out, it would be easy to present such pictures of the American republics as would not be unworthy the attention of the public, and could not fail to suggest to the statesman matter for reflection. Not

being able to devote myself to this labor, I am anxious to render it easy to others; and, for this purpose, I subjoin a short catalogue and analysis of the works which seem to me the most important to consult.

At the head of the general documents which it would be advantageous to examine I place the work entitled "An Historical Collection of State Papers, and other authentic Documents, intended as Materials for a History of the United States of America," by Ebenezer Hazard. The first volume of this compilation, which was printed at Philadelphia in 1792, contains a literal copy of all the charters granted by the Crown of England to the emigrants, as well as the principal acts of the colonial governments, during the commencement of their existence. Amongst other authentic documents, we here find a great many relating to the affairs of New England and Virginia during this period. The second volume is almost entirely devoted to the acts of the Confederation of 1643. This federal compact, which was entered into by the colonies of New England with the view of resisting the Indians, was the first instance of union afforded by the Anglo-Americans. There were besides many other confederations of the same nature, before the famous one of 1776, which brought about the independence of the colonies.

Each colony has, besides, its own historic monuments, some of which are extremely curious; beginning with Virginia, the State which was first peopled. The earliest historian of Virginia was its founder, Captain John Smith. Captain Smith has left us an octavo volume, entitled "The generall Historie of Virginia and New England, by Captain John Smith, sometymes Governor in those Countryes, and Admirall of New England " printed at London in 1627. The work is adorned with curious maps and engravings of the time when it appeared; the narrative extends from the year 1584 to 1626. Smith's work is highly and deservedly esteemed. The author was one of the most celebrated adventurers of a period of remarkable adventure; his book breathes that ardor for discovery, that spirit of enterprise, which characterized the men of his time, when the manners of chivalry were united to zeal for commerce, and made subservient to the acquisition of wealth. But Captain Smith is most remarkable for uniting to the virtues which characterized his contemporaries several qualities to which they were generally strangers; his style is simple and concise, his narratives bear the stamp of truth, and his descriptions are free from false ornament. This

author throws most valuable light upon the state and condition of the Indians at the time when North America was first discovered.

The second historian to consult is Beverley, who commences his narrative with the year 1585, and ends it with 1700. The first part of his book contains historical documents, properly so called, relative to the infancy of the colony. The second affords a most curious picture of the state of the Indians at this remote period. The third conveys very clear ideas concerning the manners, social conditions, laws, and political customs of the Virginians in the author's lifetime. Beverley was a native of Virginia, which occasions him to say at the beginning of his book, that he entreats his readers not to exercise their critical severity upon it, since, having been born in the Indies, he does not aspire to purity of language. Notwithstanding this colonial modesty, the author shows throughout his book the impatience with which he endures the supremacy of the mother-country. In this work of Beverley are also found numerous traces of that spirit of civil liberty which animated the English colonies of America at the time when he wrote. He also shows the dissensions which existed among them, and retarded their independence. Beverley detests his Catholic neighbors of Maryland even more than he hates the English government: his style is simple, his narrative interesting, and apparently trustworthy.

I saw in America another work which ought to be consulted, entitled "The History of Virginia," by William Stith. This book affords some curious details, but I thought it long and diffuse.

The most ancient as well as the best document to be consulted on the history of Carolina, is a work in small quarto, entitled "The History of Carolina," by John Lawson, printed at London in 1718. This work contains, in the first part, a journey of discovery in the west of Carolina; the account of which, given in the form of a journal, is in general confused and superficial; but it contains a verb striking description of the mortality caused among the savages of that time both by the smallpox and the immoderate use of brandy; with a curious picture of the corruption of manners prevalent amongst them, which was increased by the presence of Europeans. The second part of Lawson's book is taken up with a description of the physical condition of Carolina, and its productions. In the third part,

the author gives an interesting account of the manners, customs, and government of the Indians at that period. There is a good deal of talent and originality in this part of the work. Lawson concludes his history with a copy of the charter granted to the Carolinas in the reign of Charles II. The general tone of this work is light, and often licentious, forming a perfect contrast to the solemn style of the works published at the same period in New England. Lawson's history is extremely scarce in America, and cannot be procured in Europe. There is, however, a copy of it in the Royal Library at Paris.

From the southern extremity of the United States, I pass at once to the northern limit; as the intermediate space was not peopled till a later period. I must first point out a very curious compilation, entitled "Collection of the Massachusetts Historical Society," printed for the first time at Boston in 1792, and reprinted in 1806. The collection of which I speak, and which is continued to the present day, contains a great number of very valuable documents relating to the history of the different States in New England. Among them are letters which have never been published, and authentic pieces which had been buried in provincial archives. The whole work of Gookin, concerning the Indians, is inserted there.

I have mentioned several times in the chapter to which this note relates, the work of Nathaniel Norton entitled "New England's Memorial"; sufficiently, perhaps, to prove that it deserves the attention of those who would be conversant with the history of New England. This book is in octavo, and was reprinted at Boston in 1826.

The most valuable and important authority which exists upon the history of New England, is the work of the Rev. Cotton Mather, entitled "Magnalia Christi Americana, or the Ecclesiastical History of New England, 1620-1698, 2 vols. 8vo, reprinted at Hartford, United States, in 1820." The author divided his work into seven books. The first presents the history of the events which prepared and brought about the establishment of New England. The second contains the lives of the first governors and chief magistrates who presided over the country. The third is devoted to the lives and labors of the evangelical ministers who, during the same period, had the care of souls. In the fourth the author relates the institution and progress of

the University of Cambridge (Massachusetts). In the fifth he describes the principles and the discipline of the Church of New England. The sixth is taken up in retracing certain facts, which, in the opinion of Mather, prove the merciful interposition of Providence in behalf of the inhabitants of New England. Lastly, in the seventh, the author gives an account of the heresies and the troubles to which the Church of New England was exposed. Cotton Mather was an evangelical minister who was born at Boston, and passed his life there. His narratives are distinguished by the same ardor and religious zeal which led to the foundation of the colonies of New England. Traces of bad taste sometimes occur in his manner of writing; but he interests, because he is full of enthusiasm. He is often intolerant, still oftener credulous, but he never betrays an intention to deceive. Sometimes his book contains fine passages, and true and profound reflections, such as the following:—"Before the arrival of the Puritans," says he (vol. i. chap. iv.), "there were more than a few attempts of the English to people and improve the parts of New England which were to the northward of New Plymouth; but the designs of those attempts being aimed no higher than the advancement of some worldly interests, a constant series of disasters has confounded them, until there was a plantation erected upon the nobler designs of Christianity: and that plantation though it has had more adversaries than perhaps any one upon earth, yet, having obtained help from God, it continues to this day." Mather occasionally relieves the austerity of his descriptions with images full of tender feeling: after having spoken of an English lady whose religious ardor had brought her to America with her husband, and who soon after sank under the fatigues and privations of exile, he adds, "As for her virtuous husband, Isaac Johnson, He tryed To live without her, liked it not, and dyed."

Mather's work gives an admirable picture of the time and country which he describes. In his account of the motives which led the Puritans to seek an asylum beyond seas, he says:—

"The God of Heaven served, as it were, a summons upon the spirits of his people in the English nation, stirring up the spirits of thousands which never saw the faces of each other, with a most unanimous inclination to leave all the pleasant accommodations of their native country, and go over a terrible ocean, into a more terrible desert, for the pure enjoyment of all his

ordinances. It is now reasonable that, before we pass any further, the reasons of his undertaking should be more exactly made known unto posterity, especially unto the posterity of those that were the undertakers, lest they come at length to forget and neglect the true interest of New England. Wherefore I shall now transcribe some of them from a manuscript, wherein they were then tendered unto consideration:

### General Considerations for the Plantation of New England

"First, It will be a service unto the Church of great consequence, to carry the Gospel unto those parts of the world, and raise a bulwark against the kingdom of Antichrist, which the Jesuits labour to rear up in all parts of the world.

"Secondly, All other Churches of Europe have been brought under desolations; and it may be feared that the like judgments are coming upon us; and who knows but God hath provided this place to be a refuge for many whom he means to save out of the general destruction?

"Thirdly, The land grows weary of her inhabitants, insomuch that man, which is the most precious of all creatures, is here more vile and base than the earth he treads upon; children, neighbours, and friends, especially the poor, are counted the greatest burdens, which, if things were right, would be the chiefest of earthly blessings.

"Fourthly, We are grown to that intemperance in all excess of riot, as no mean estate almost will suffice a man to keep sail with his equals, and he that fails in it must live in scorn and contempt: hence it comes to pass, that all arts and trades are carried in that deceitful manner and unrighteous course, as it is almost impossible for a good upright man to maintain his constant charge and live comfortably in them.

"Fifthly, The schools of learning and religion are so corrupted, as (besides the unsupportable charge of education) most children, even the best, wittiest, and of the fairest hopes, are perverted, corrupted, and utterly overthrown by the multitude of evil examples and licentious behaviours in

these seminaries.

"Sixthly, The whole earth is the Lord's garden, and he hath given it to the sons of Adam, to be tilled and improved by them: why, then, should we stand starving here for places of habitation, and in the meantime suffer whole countries, as profitable for the use of man, to lie waste without any improvement?"

"Seventhly, What can be a better or nobler work, and more worthy of a Christian, than to erect and support a reformed particular Church in its infancy, and unite our forces with such a company of faithful people, as by timely assistance may grow stronger and prosper; but for want of it, may be put to great hazards, if not be wholly ruined?"

"Eighthly, If any such as are known to be godly, and live in wealth and prosperity here, shall forsake all this to join with this reformed Church, and with it run the hazard of an hard and mean condition, it will be an example of great use, both for the removing of scandal and to give more life unto the faith of God's people in their prayers for the plantation, and also to encourage others to join the more willingly in it."

Further on, when he declares the principles of the Church of New England with respect to morals, Mather inveighs with violence against the custom of drinking healths at table, which he denounces as a pagan and abominable practice. He proscribes with the same rigor all ornaments for the hair used by the female sex, as well as their custom of having the arms and neck uncovered. In another part of his work he relates several instances of witchcraft which had alarmed New England. It is plain that the visible action of the devil in the affairs of this world appeared to him an incontestable and evident fact.

This work of Cotton Mather displays, in many places, the spirit of civil liberty and political independence which characterized the times in which he lived. Their principles respecting government are discoverable at every page. Thus, for instance, the inhabitants of Massachusetts, in the year 1630, ten years after the foundation of Plymouth, are found to have devoted £400 sterling to the establishment of the University of Cambridge. In passing

from the general documents relative to the history of New England to those which describe the several States comprised within its limits, I ought first to notice *The History of the Colony of Massachusetts*," by Hutchinson, Lieutenant-Governor of the Massachusetts Province, 2 vols. 8vo. The history of Hutchinson, which I have several times quoted in flee chapter to which this note relates, commences in the year 1628, and ends in 1750. Throughout the work there is a striking air of truth and the greatest simplicity of style: it is full of minute details. The best history to consult concerning Connecticut is that of Benjamin Trumbull, entitled "*A Complete History of Connecticut, Civil and Ecclesiastical*," 1630-1764, 2 vols. 8vo, printed in 1818 at New Haven. This history contains a clear and calm account of all the events which happened in Connecticut during the period given in the title. The author drew from the best sources, and his narrative bears the stamp of truth. All that he says of the early days of Connecticut is extremely curious. See especially the Constitution of 1639, vol. i. ch. vi. p. 100; and also the Penal Laws of Connecticut, vol. i. ch. vii. p. 123.

"*The History of New Hampshire*," by Jeremy Belknap, is a work held in merited estimation. It was printed at Boston in 1792, in 2 vols. 8vo. The third chapter of the first volume is particularly worthy of attention for the valuable details it affords on the political and religious principles of the Puritans, on the causes of their emigration, and on their laws. The following curious quotation is given from a sermon delivered in 1663:—"It concerneth New England always to remember that they are a plantation religious, not a plantation of trade. The profession of the purity of doctrine, worship, and discipline, is written upon her forehead. Let merchants, and such as are increasing cent. per cent., remember this, that worldly gain was not the end and design of the people of New England, but religion. And if any man among us make religion as twelve, and the world as thirteen, such an one hath not the spirit of a true New Englishman." The reader of Belknap will find in his work more general ideas, and more strength of thought, than are to be met with in the American historians even to the present day.

Among the Central States which deserve our attention for their remote origin, New York and Pennsylvania are the foremost. The best history we have of the former is entitled "*A History of New York*," by William Smith,

printed at London in 1757. Smith gives us important details of the wars between the French and English in America. His is the best account of the famous confederation of the Iroquois.

With respect to Pennsylvania, I cannot do better than point out the work of Proud, entitled "The History of Pennsylvania, from the original Institution and Settlement of that Province, under the first Proprietor and Governor, William Penn, in 1681, till after the year 1742," by Robert Proud, 2 vols. 8vo, printed at Philadelphia in 1797. This work is deserving of the especial attention of the reader; it contains a mass of curious documents concerning Penn, the doctrine of the Quakers, and the character, manners, and customs of the first inhabitants of Pennsylvania. I need not add that among the most important documents relating to this State are the works of Penn himself, and those of Franklin.

## Appendix G

We read in Jefferson's "Memoirs" as follows:—

At the time of the first settlement of the English in Virginia, when land was to be had for little or nothing, some provident persons having obtained large grants of it, and being desirous of maintaining the splendor of their families, entailed their property upon their descendants. The transmission of these estates from generation to generation, to men who bore the same name, had the effect of raising up a distinct class of families, who, possessing by law the privilege of perpetuating their wealth, formed by these means a sort of patrician order, distinguished by the grandeur and luxury of their establishments. From this order it was that the King usually chose his councillors of state."

In the United States, the principal clauses of the English law respecting descent have been universally rejected. The first rule that we follow, says Mr. Kent, touching inheritance, is the following:—If a man dies intestate, his property goes to his heirs in a direct line. If he has but one heir or

heiress, he or she succeeds to the whole. If there are several heirs of the same degree, they divide the inheritance equally amongst them, without distinction of sex. This rule was prescribed for the first time in the State of New York by a statute of February 23, 1786. (See Revised Statutes, vol. iii. Appendix, p. 48.) It has since then been adopted in the Revised Statutes of the same State. At the present day this law holds good throughout the whole of the United States, with the exception of the State of Vermont, where the male heir inherits a double portion. (Kent's "Commentaries," vol. iv. p. 370.) Mr. Kent, in the same work, vol. iv. p. 1-22, gives a historical account of American legislation on the subject of entail: by this we learn that, previous to the Revolution, the colonies followed the English law of entail. Estates tail were abolished in Virginia in 1776, on a motion of Mr. Jefferson. They were suppressed in New York in 1786, and have since been abolished in North Carolina, Kentucky, Tennessee, Georgia, and Missouri. In Vermont, Indiana, Illinois, South Carolina, and Louisiana, entail was never introduced. Those States which thought proper to preserve the English law of entail, modified it in such a way as to deprive it of its most aristocratic tendencies. "Our general principles on the subject of government," says Mr. Kent, "tend to favor the free circulation of property."

It cannot fail to strike the French reader who studies the law of inheritance, that on the questions the French legislation is infinitely more democratic even than the American. The American law makes an equal division of the father's property, but only in the case of his will not being known; "for every man," says the law, "in the State of New York (Revised Statutes, vol. iii. Appendix, p. 51), has entire liberty, power, and authority, to dispose of his property by will, to leave it entire, or divided in favor of any persons he chooses as his heirs, provided he do not leave it to a political body or any corporation." The French law obliges the testator to divide his property equally, or nearly so, among his heirs. Most of the American republics still admit of entails, under certain restrictions; but the French law prohibits entail in all cases. If the social condition of the Americans is more democratic than that of the French, the laws of the latter are the most democratic of the two. This may be explained more easily than at first appears to be the case. In France, democracy is still occupied in the work of destruction; in America, it reigns quietly over the ruins it has made.

## Appendix H

### Summary of the Qualifications of Voters in the United States as They Existed in 1832

All the States agree in granting the right of voting at the age of twenty-one. In all of them it is necessary to have resided for a certain time in the district where the vote is given. This period varies from three months to two years.

As to the qualification: in the State of Massachusetts it is necessary to have an income of £3 or a capital of £60.

In Rhode Island, a man must possess landed property to the amount of \$133.

In Connecticut, he must have a property which gives an income of \$17. A year of service in the militia also gives the elective privilege.

In New Jersey, an elector must have a property of £50 a year.

In South Carolina and Maryland, the elector must possess fifty acres of land.

In Tennessee, he must possess some property.

In the States of Mississippi, Ohio, Georgia, Virginia, Pennsylvania, Delaware, New York, the only necessary qualification for voting is that of paying the taxes; and in most of the States, to serve in the militia is equivalent to the payment of taxes.

In Maine and New Hampshire any man can vote who is not on the pauper list.

Lastly, in the States of Missouri, Alabama, Illinois, Louisiana, Indiana, Kentucky, and Vermont, the conditions of voting have no reference to the property of the elector.

I believe there is no other State besides that of North Carolina in which different conditions are applied to the voting for the Senate and the electing the House of Representatives. The electors of the former, in this case, should possess in property fifty acres of land; to vote for the latter, nothing more is required than to pay taxes.

## **Appendix I**

The small number of custom-house officers employed in the United States, compared with the extent of the coast, renders smuggling very easy; notwithstanding which, it is less practised than elsewhere, because everybody endeavors to repress it. In America there is no police for the prevention of fires, and such accidents are more frequent than in Europe; but in general they are more speedily extinguished, because the surrounding population is prompt in lending assistance.

## **Appendix K**

It is incorrect to assert that centralization was produced by the French Revolution; the revolution brought it to perfection, but did not create it. The mania for centralization and government regulations dates from the time when jurists began to take a share in the government, in the time of Philippe-le-Bel; ever since which period they have been on the increase. In the year 1775, M. de Malesherbes, speaking in the name of the Cour des Aides, said to Louis XIV:—

". . . Every corporation and every community of citizens retained the right of administering its own affairs; a right which not only forms part of the primitive constitution of the kingdom, but has a still higher origin; for it is the right of nature, and of reason. Nevertheless, your subjects, Sire, have been deprived of it; and we cannot refrain from saying that in this respect your government has fallen into puerile extremes. From the time when powerful ministers made it a political principle to prevent the convocation of a national assembly, one consequence has succeeded another, until the deliberations of the inhabitants of a village are declared null when they have not been authorized by the Intendant. Of course, if the community has an expensive undertaking to carry through, it must remain under the control of the sub-delegate of the Intendant, and, consequently, follow the plan he proposes, employ his favorite workmen, pay them according to his pleasure; and if an action at law is deemed necessary, the Intendant's permission must be obtained. The cause must be pleaded before this first tribunal, previous to its being carried into a public court; and if the opinion of the Intendant is opposed to that of the inhabitants, or if their adversary enjoys his favor, the community is deprived of the power of defending its rights. Such are the means, Sire, which have been exerted to extinguish the municipal spirit in France; and to stifle, if possible, the opinions of the citizens. The nation may be said to lie under an interdict, and to be in wardship under guardians." What could be said more to the purpose at the present day, when the Revolution has achieved what are called its victories in centralization?

In 1789, Jefferson wrote from Paris to one of his friends:—"There is no country where the mania for over-governing has taken deeper root than in France, or been the source of greater mischief." (Letter to Madison, August 28, 1789.) The fact is, that for several centuries past the central power of France has done everything it could to extend central administration; it has acknowledged no other limits than its own strength. The central power to which the Revolution gave birth made more rapid advances than any of its predecessors, because it was stronger and wiser than they had been; Louis XIV committed the welfare of such communities to the caprice of an intendant; Napoleon left them to that of the Minister. The same principle governed both, though its consequences were more or less remote.

## Appendix L

The immutability of the constitution of France is a necessary consequence of the laws of that country. To begin with the most important of all the laws, that which decides the order of succession to the throne; what can be more immutable in its principle than a political order founded upon the natural succession of father to son? In 1814, Louis XVIII had established the perpetual law of hereditary succession in favor of his own family. The individuals who regulated the consequences of the Revolution of 1830 followed his example; they merely established the perpetuity of the law in favor of another family. In this respect they imitated the Chancellor Meaupou, who, when he erected the new Parliament upon the ruins of the old, took care to declare in the same ordinance that the rights of the new magistrates should be as inalienable as those of their predecessors had been. The laws of 1830, like those of 1814, point out no way of changing the constitution: and it is evident that the ordinary means of legislation are insufficient for this purpose. As the King, the Peers, and the Deputies, all derive their authority from the constitution, these three powers united cannot alter a law by virtue of which alone they govern. Out of the pale of the constitution they are nothing: where, when, could they take their stand to effect a change in its provisions? The alternative is clear: either their efforts are powerless against the charter, which continues to exist in spite of them, in which case they only reign in the name of the charter; or they succeed in changing the charter, and then, the law by which they existed being annulled, they themselves cease to exist. By destroying the charter, they destroy themselves. This is much more evident in the laws of 1830 than in those of 1814. In 1814, the royal prerogative took its stand above and beyond the constitution; but in 1830, it was avowedly created by, and dependent on, the constitution. A part, therefore, of the French constitution is immutable, because it is united to the destiny of a family; and the body of the constitution is equally immutable, because there appear to be no legal means of changing it. These remarks are not applicable to England. That country having no written constitution, who can assert when its constitution is changed?

## Appendix M

The most esteemed authors who have written upon the English Constitution agree with each other in establishing the omnipotence of the Parliament. Delolme says: "It is a fundamental principle with the English lawyers, that Parliament can do everything except making a woman a man, or a man a woman." Blackstone expresses himself more in detail, if not more energetically, than Delolme, in the following terms:—"The power and jurisdiction of Parliament, says Sir Edward Coke (4 Inst. 36), is so transcendent and absolute that it cannot be confined, either for causes or persons, within any bounds." And of this High Court, he adds, may be truly said, "Si antiquitatem spectes, est vetustissinza; si dignitatem, est honoratissima; si jurisdictionem, est capacissima." It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations; ecclesiastical or temporal; civil, military, maritime, or criminal; this being the place where that absolute despotic power which must, in all governments, reside somewhere, is intrusted by the constitution of these kingdoms. All mischiefs and grievances, operations and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal. It can regulate or new-model the succession to the Crown; as was done in the reign of Henry VIII and William III. It can alter the established religion of the land; as was done in a variety of instances in the reigns of King Henry VIII and his three children. It can change and create afresh even the constitution of the kingdom, and of parliaments themselves; as was done by the Act of Union and the several statutes for triennial and septennial elections. It can, in short, do everything that is not naturally impossible to be done; and, therefore some have not scrupled to call its power, by a figure rather too bold, the omnipotence of Parliament."

## Appendix N

There is no question upon which the American constitutions agree more fully than upon that of political jurisdiction. All the constitutions which take cognizance of this matter, give to the House of Delegates the exclusive right of impeachment; excepting only the constitution of North Carolina, which grants the same privilege to grand juries. (Article 23.) Almost all the constitutions give the exclusive right of pronouncing sentence to the Senate, or to the Assembly which occupies its place.

The only punishments which the political tribunals can inflict are removal, or the interdiction of public functions for the future. There is no other constitution but that of Virginia (p. 152), which enables them to inflict every kind of punishment. The crimes which are subject to political jurisdiction are, in the federal constitution (Section 4, Art. i); in that of Indiana (Art. 3, paragraphs 23 and 24); of New York (Art. 5); of Delaware (Art. 5), high treason, bribery, and other high crimes or offences. In the Constitution of Massachusetts (Chap. 1, Section 2); that of North Carolina (Art. 23); of Virginia (p. 252), misconduct and maladministration. In the constitution of New Hampshire (p. 105), corruption, intrigue, and maladministration. In Vermont (Chap. 2, Art. 24), maladministration. In South Carolina (Art. 5); Kentucky (Art. 5); Tennessee (Art. 4); Ohio (Art. 1, 23, 24); Louisiana (Art. 5); Mississippi (Art. 5); Alabama AFT (Art. 6); Pennsylvania (Art. 4), crimes committed in the non-performance of official duties. In the States of Illinois, Georgia, 5 Maine, and Connecticut, no particular offences are specified.

## **Appendix O**

It is true that the powers of Europe may carry on maritime wars with the Union; but there is always greater facility and less danger in supporting a man time than a continental war. Maritime warfare only requires one species of effort. A commercial people which consents to furnish its government with the necessary funds, is sure to possess a fleet. And it is far

easier to induce a nation to part with its money, almost unconsciously, than to reconcile it to sacrifices of men and personal efforts. Moreover, defeat by sea rarely compromises the existence or independence of the people which endures it. As for continental wars, it is evident that the nations of Europe cannot be formidable in this way to the American Union. It would be very difficult to transport and maintain in America more than 25,000 soldiers; an army which may be considered to represent a nation of about 2,000,000 of men. The most populous nation of Europe contending in this way against the Union, is in the position of a nation of 2,000,000 of inhabitants at war with one of 12,000,000. Add to this, that America has all its resources within reach, whilst the European is at 4,000 miles distance from his; and that the immensity of the American continent would of itself present an insurmountable obstacle to its conquest.

## **Appendix P**

The first American journal appeared in April, 1704, and was published at Boston. See "Collection of the Historical Society of Massachusetts," vol. vi. p. 66. It would be a mistake to suppose that the periodical press has always been entirely free in the American colonies: an attempt was made to establish something analogous to a censorship and preliminary security. Consult the Legislative Documents of Massachusetts of January 14, 1722. The Committee appointed by the General Assembly (the legislative body of the province) for the purpose of examining into circumstances connected with a paper entitled "The New England Courier," expresses its opinion that" the tendency of the said journal is to turn religion into derision and bring it into contempt; that it mentions the sacred writers in a profane and irreligious manner; that it puts malicious interpretations upon the conduct of the ministers of the Gospel; and that the Government of his Majesty is insulted, and the peace and tranquillity of the province disturbed by the said journal. The Committee is consequently of opinion that the printer and publisher, James Franklin, should be forbidden to print and publish the said journal or any other work 'in future, without having previously submitted it to the Secretary of the province; and that the justices of the peace for the

county of Suffolk should be commissioned to require bail of the said James Franklin for his good conduct during the ensuing year." The suggestion of the Committee was adopted and passed into a law, but the effect of it was null, for the journal eluded the prohibition by putting the name of Benjamin Franklin instead of James Franklin at the bottom of its columns, and this manoeuvre was supported by public opinion.

## Appendix Q

The Federal Constitution has introduced the jury into the tribunals of the Union in the same way as the States had introduced it into their own several courts; but as it has not established any fixed rules for the choice of jurors, the federal courts select them from the ordinary jury list which each State makes for itself. The laws of the States must therefore be examined for the theory of the formation of juries. See Story's "Commentaries on the Constitution," B. iii. chap. 38, p. 654-659; Sergeant's "Constitutional Law," p. 165. See also the Federal Laws of the years 1789, 1800, and 1802, upon the subject. For the purpose of thoroughly understanding the American principles with respect to the formation of juries, I examined laws of States at a distance from one another, and the following observations were the result of my inquiries. In America, all the citizens who exercise the elective franchise have the right of serving upon a jury. The great State of New York, however, has made a slight difference between the two privileges, but in a spirit quite contrary to that of the laws of France; for in the State of New York there are fewer persons eligible as jurymen than there are electors. It may be said in general that the right of forming part of a jury, like the right of electing representatives, is open to all the citizens: the exercise of this right, however, is not put indiscriminately into any hands. Every year a body of municipal or county magistrates—called "selectmen" in New England, "supervisors" in New York, "trustees" in Ohio, and "sheriffs of the parish" in Louisiana—choose for each county a certain number of citizens who have the right of serving as jurymen, and who are supposed to be capable of exercising their functions. These magistrates, being themselves elective, excite no distrust; their powers, like those of

most republican magistrates, are very extensive and very arbitrary, and they frequently make use of them to remove unworthy or incompetent jurymen. The names of the jurymen thus chosen are transmitted to the County Court; and the jury who have to decide any affair are drawn by lot from the whole list of names. The Americans have contrived in every way to make the common people eligible to the jury, and to render the service as little onerous as possible. The sessions are held in the chief town of every county, and the jury are indemnified for their attendance either by the State or the parties concerned. They receive in general a dollar per day, besides their travelling expenses. In America, the being placed upon the jury is looked upon as a burden, but it is a burden which is very supportable. See Brevard's "Digest of the Public Statute Law of South Carolina," vol. i. pp. 446 and 454, vol. ii. pp. 218 and 338; "The General Laws of Massachusetts, revised and published by authority of the Legislature," vol. ii. pp. 187 and 331; "The Revised Statutes of the State of New York," vol. ii. pp. 411, 643, 717, 720; "The Statute Law of the State of Tennessee," vol. i. p. 209; "Acts of the State of Ohio," pp. 95 and 210; and "Digeste general des Actes de la Legislature de la Louisiane."

## Appendix R

If we attentively examine the constitution of the jury as introduced into civil proceedings in England, we shall readily perceive that the jurors are under the immediate control of the judge. It is true that the verdict of the jury, in civil as well as in criminal cases, comprises the question of fact and the question of right in the same reply; thus—a house is claimed by Peter as having been purchased by him: this is the fact to be decided. The defendant puts in a plea of incompetency on the part of the vendor: this is the legal question to be resolved. But the jury do not enjoy the same character of infallibility in civil cases, according to the practice of the English courts, as they do in criminal cases. The judge may refuse to receive the verdict; and even after the first trial has taken place, a second or new trial may be awarded by the Court. See Blackstone's "Commentaries," book iii. ch. 24.

## Appendix S

I find in my travelling journal a passage which may serve to convey a more complete notion of the trials to which the women of America, who consent to follow their husbands into the wilds, are often subjected. This description has nothing to recommend it to the reader but its strict accuracy:

". . . From time to time we come to fresh clearings; all these places are alike; I shall describe the one at which we have halted tonight, for it will serve to remind me of all the others.

"The bell which the pioneers hang round the necks of their cattle, in order to find them again in the woods, announced our approach to a clearing, when we were yet a long way off; and we soon afterwards heard the stroke of the hatchet, hewing down the trees of the forest. As we came nearer, traces of destruction marked the presence of civilized man; the road was strewn with shattered boughs; trunks of trees, half consumed by fire, or cleft by the wedge, were still standing in the track we were following. We continued to proceed till we reached a wood in which all the trees seemed to have been suddenly struck dead; in the height of summer their boughs were as leafless as in winter; and upon closer examination we found that a deep circle had been cut round the bark, which, by stopping the circulation of the sap, soon kills the tree. We were informed that this is commonly the first thing a pioneer does; as he cannot in the first year cut down all the trees which cover his new parcel of land, he sows Indian corn under their branches, and puts the trees to death in order to prevent them from injuring his crop. Beyond this field, at present imperfectly traced out, we suddenly came upon the cabin of its owner, situated in the centre of a plot of ground more carefully cultivated than the rest, but where man was still waging unequal warfare with the forest; there the trees were cut down, but their roots were not removed, and the trunks still encumbered the ground which they so recently shaded. Around these dry blocks, wheat, suckers of trees, and plants of every kind, grow and intertwine in all the luxuriance of wild, untutored nature. Amidst this vigorous and various vegetation stands the house of the pioneer, or, as they call it, the log house. Like the ground about

it, this rustic dwelling bore marks of recent and hasty labor; its length seemed not to exceed thirty feet, its height fifteen; the walls as well as the roof were formed of rough trunks of trees, between which a little moss and clay had been inserted to keep out the cold and rain.

"As night was coming on, we determined to ask the master of the log house for a lodging. At the sound of our footsteps, the children who were playing amongst the scattered branches sprang up and ran towards the house, as if they were frightened at the sight of man; whilst two large dogs, almost wild, with ears erect and outstretched nose, came growling out of their hut, to cover the retreat of their young masters. The pioneer himself made his appearance at the door of his dwelling; he looked at us with a rapid and inquisitive glance, made a sign to the dogs to go into the house, and set them the example, without betraying either curiosity or apprehension at our arrival.

"We entered the log house: the inside is quite unlike that of the cottages of the peasantry of Europe: it contains more than is superfluous, less than is necessary. A single window with a muslin blind; on a hearth of trodden clay an immense fire, which lights the whole structure; above the hearth a good rifle, a deer's skin, and plumes of eagles' feathers; on the right hand of the chimney a map of the United States, raised and shaken by the wind through the crannies in the wall; near the map, upon a shelf formed of a roughly hewn plank, a few volumes of books—a Bible, the six first books of Milton, and two of Shakespeare's plays; along the wall, trunks instead of closets; in the centre of the room a rude table, with legs of green wood, and with the bark still upon them, looking as if they grew out of the ground on which they stood; but on this table a teapot of British ware, silver spoons, cracked teacups, and some newspapers.

"The master of this dwelling has the strong angular features and lank limbs peculiar to the native of New England. It is evident that this man was not born in the solitude in which we have met with him: his physical constitution suffices to show that his earlier years were spent in the midst of civilized society, and that he belongs to that restless, calculating, and adventurous race of men, who do with the utmost coolness things only to be accounted for by the ardor of the passions, and who endure the life of

savages for a time, in order to conquer and civilize the backwoods.

"When the pioneer perceived that we were crossing his threshold, he came to meet us and shake hands, as is their custom; but his face was quite unmoved; he opened the conversation by inquiring what was going on in the world; and when his curiosity was satisfied, he held his peace, as if he were tired by the noise and importunity of mankind. When we questioned him in our turn, he gave us all the information we required; he then attended sedulously, but without eagerness, to our personal wants. Whilst he was engaged in providing thus kindly for us, how came it that in spite of ourselves we felt our gratitude die upon our lips? It is that our host whilst he performs the duties of hospitality, seems to be obeying an irksome necessity of his condition: he treats it as a duty imposed upon him by his situation, not as a pleasure. By the side of the hearth sits a woman with a baby on her lap: she nods to us without disturbing herself. Like the pioneer, this woman is in the prime of life; her appearance would seem superior to her condition, and her apparel even betrays a lingering taste for dress; but her delicate limbs appear shrunken, her features are drawn in, her eye is mild and melancholy; her whole physiognomy bears marks of a degree of religious resignation, a deep quiet of all passions, and some sort of natural and tranquil firmness, ready to meet all the ills of life, without fearing and without braving them. Her children cluster about her, full of health, turbulence, and energy: they are true children of the wilderness; their mother watches them from time to time with mingled melancholy and joy: to look at their strength and her languor, one might imagine that the life she has given them has exhausted her own, and still she regrets not what they have cost her. The house inhabited by these emigrants has no internal partition or loft. In the one chamber of which it consists, the whole family is gathered for the night. The dwelling is itself a little world—an ark of civilization amidst an ocean of foliage: a hundred steps beyond it the primeval forest spreads its shades, and solitude resumes its sway."

## **Appendix T**

It is not the equality of conditions which makes men immoral and irreligious; but when men, being equal, are at the same time immoral and irreligious, the effects of immorality and irreligion easily manifest themselves outwardly, because men have but little influence upon each other, and no class exists which can undertake to keep society in order. Equality of conditions never engenders profligacy of morals, but it sometimes allows that profligacy to show itself.

## Appendix U

Setting aside all those who do not think at all, and those who dare not say what they think, the immense majority of the Americans will still be found to appear satisfied with the political institutions by which they are governed; and, I believe, really to be so. I look upon this state of public opinion as an indication, but not as a demonstration, of the absolute excellence of American laws. The pride of a nation, the gratification of certain ruling passions by the law, a concourse of circumstances, defects which escape notice, and more than all the rest, the influence of a majority which shuts the mouth of all cavillers, may long perpetuate the delusions of a people as well as those of a man. Look at England throughout the eighteenth century. No nation was ever more prodigal of self-applause, no people was ever more self-satisfied; then every part of its constitution was right—everything, even to its most obvious defects, was irreproachable: at the present day a vast number of Englishmen seem to have nothing better to do than to prove that this constitution was faulty in many respects. Which was right?—the English people of the last century, or the English people of the present day?

The same thing has occurred in France. It is certain that during the reign of Louis XIV the great bulk of the nation was devotedly attached to the form of government which, at that time, governed the community. But it is a vast error to suppose that there was anything degraded in the character of the French of that age. There might be some sort of servitude in France at that time, but assuredly there was no servile spirit among the people. The

writers of that age felt a species of genuine enthusiasm in extolling the power of their king; and there was no peasant so obscure in his hovel as not to take a pride in the glory of his sovereign, and to die cheerfully with the cry " Vive le Roi!" upon his lips. These very same forms of loyalty are now odious to the French people. Which are wrong?—the French of the age of Louis XIV, or their descendants of the present day?

Our judgment of the laws of a people must not then be founded exclusively upon its inclinations, since those inclinations change from age to age; but upon more elevated principles and a more general experience. The love which a people may show for its law proves only this:—that we should not be in too great a hurry to change them.

## Appendix V

In the chapter to which this note relates I have pointed out one source of danger: I am now about to point out another kind of peril, more rare indeed, but far more formidable if it were ever to make its appearance. If the love of physical gratification and the taste for well-being, which are naturally suggested to men by a state of equality, were to get entire possession of the mind of a democratic people, and to fill it completely, the manners of the nation would become so totally opposed to military tastes, that perhaps even the army would eventually acquire a love of peace, in spite of the peculiar interest which leads it to desire war. Living in the midst of a state of general relaxation, the troops would ultimately think it better to rise without efforts, by the slow but commodious advancement of a peace establishment, than to purchase more rapid promotion at the cost of all the toils and privations of the field. With these feelings, they would take up arms without enthusiasm, and use them without energy; they would allow themselves to be led to meet the foe, instead of marching to attack him. It must not be supposed that this pacific state of the army would render it adverse to revolutions; for revolutions, and especially military revolutions, which are generally very rapid, are attended indeed with great dangers, but not with protracted toil; they gratify ambition at less cost than war; life only

is at stake, and the men of democracies care less for their lives than for their comforts. Nothing is more dangerous for the freedom and the tranquillity of a people than an army afraid of war, because, as such an army no longer seeks to maintain its importance and its influence on the field of battle, it seeks to assert them elsewhere. Thus it might happen that the men of whom a democratic army consists should lose the interests of citizens without acquiring the virtues of soldiers; and that the army should cease to be fit for war without ceasing to be turbulent. I shall here repeat what I have said in the text: the remedy for these dangers is not to be found in the army, but in the country: a democratic people which has preserved the manliness of its character will never be at a loss for military prowess in its soldiers.

## **Appendix W**

Men connect the greatness of their idea of unity with means, God with ends: hence this idea of greatness, as men conceive it, leads us into infinite littleness. To compel all men to follow the same course towards the same object is a human notion;—to introduce infinite variety of action, but so combined that all these acts lead by a multitude of different courses to the accomplishment of one great design, is a conception of the Deity. The human idea of unity is almost always barren; the divine idea pregnant with abundant results. Men think they manifest their greatness by simplifying the means they use; but it is the purpose of God which is simple—his means are infinitely varied.

## **Appendix X**

A democratic people is not only led by its own tastes to centralize its government, but the passions of all the men by whom it is governed constantly urge it in the same direction. It may easily be foreseen that almost all the able and ambitious members of a democratic community will

labor without ceasing to extend the powers of government, because they all hope at some time or other to wield those powers. It is a waste of time to attempt to prove to them that extreme centralization may be injurious to the State, since they are centralizing for their own benefit. Amongst the public men of democracies there are hardly any but men of great disinterestedness or extreme mediocrity who seek to oppose the centralization of government: the former are scarce, the latter powerless.

## **Appendix Y**

I have often asked myself what would happen if, amidst the relaxation of democratic manners, and as a consequence of the restless spirit of the army, a military government were ever to be founded amongst any of the nations of the present age. I think that even such a government would not differ very much from the outline I have drawn in the chapter to which this note belongs, and that it would retain none of the fierce characteristics of a military oligarchy. I am persuaded that, in such a case, a sort of fusion—would take place between the habits of official men and those of the military service. The administration would assume something of a military character, and the army some of the usages of the civil administration. The result would be a regular, clear, exact, and absolute system of government; the people would become the reflection of the army, and the community be drilled like a garrison.

## **Appendix Z**

It cannot be absolutely or generally affirmed that the greatest danger of the present age is license or tyranny, anarchy or despotism. Both are equally to be feared; and the one may as easily proceed as the other from the selfsame cause, namely, that "general apathy," which is the consequence of what I have termed "individualism": it is because this apathy exists, that the

executive government, having mustered a few troops, is able to commit acts of oppression one day, and the next day a party, which has mustered some thirty men in its ranks, can also commit acts of oppression. Neither one nor the other can found anything to last; and the causes which enable them to succeed easily, prevent them from succeeding long: they rise because nothing opposes them, and they sink because nothing supports them. The proper object therefore of our most strenuous resistance, is far less either anarchy or despotism than the apathy which may almost indifferently beget either the one or the other.

**copyright 2002, Western Standard Publishing  
([www.originalsources.com](http://www.originalsources.com))**

Unauthorized duplication and distribution is prohibited.

This volume is part of OriginalSources.com which contains over 300,000 documents. You can check out this incredible collection at  
**[www.originalsources.com](http://www.originalsources.com).**

# THE FEDERALIST PAPERS

## Table Of Contents

[NUMBER 1](#)

[NUMBER 2](#)

[NUMBER 3](#)

[NUMBER 4](#)

[NUMBER 5](#)

[NUMBER 6](#)

[NUMBER 7](#)

[NUMBER 8](#)

[NUMBER 9](#)

[NUMBER 10](#)

[NUMBER 11](#)

[NUMBER 12](#)

[NUMBER 13](#)

[NUMBER 14](#)

[NUMBER 15](#)

[NUMBER 16](#)

[NUMBER 17](#)

[NUMBER 18](#)

[NUMBER 19](#)

[NUMBER 20](#)

[NUMBER 21](#)

[NUMBER 22](#)

[NUMBER 23](#)

[NUMBER 24](#)

[NUMBER 25](#)

[NUMBER 26](#)

[NUMBER 27](#)

[NUMBER 28](#)

[NUMBER 29](#)

[NUMBER 30](#)

[NUMBER 31](#)

[NUMBER 32](#)  
[NUMBER 33](#)  
[NUMBER 34](#)  
[NUMBER 35](#)  
[NUMBER 36](#)  
[NUMBER 37](#)  
[NUMBER 38](#)  
[NUMBER 39](#)  
[NUMBER 40](#)  
[NUMBER 41](#)  
[NUMBER 42](#)  
[NUMBER 43](#)  
[NUMBER 44](#)  
[NUMBER 45](#)  
[NUMBER 46](#)  
[NUMBER 47](#)  
[NUMBER 48](#)  
[NUMBER 49](#)  
[NUMBER 50](#)  
[NUMBER 51](#)  
[NUMBER 52](#)  
[NUMBER 53](#)  
[NUMBER 54](#)  
[NUMBER 55](#)  
[NUMBER 56](#)  
[NUMBER 57](#)  
[NUMBER 58](#)  
[NUMBER 59](#)  
[NUMBER 60](#)  
[NUMBER 61](#)  
[NUMBER 62](#)  
[NUMBER 63](#)  
[NUMBER 64](#)  
[NUMBER 65](#)  
[NUMBER 66](#)  
[NUMBER 67](#)  
[NUMBER 68](#)

[NUMBER 69](#)

[NUMBER 70](#)

[NUMBER 71](#)

[NUMBER 72](#)

[NUMBER 73](#)

[NUMBER 74](#)

[NUMBER 75](#)

[NUMBER 76](#)

[NUMBER 77](#)

[NUMBER 78](#)

[NUMBER 79](#)

[NUMBER 80](#)

[NUMBER 81](#)

[NUMBER 82](#)

[NUMBER 83](#)

[NUMBER 84](#)

[NUMBER 85](#)

# THE FEDERALIST PAPERS

THE FEDERALIST

A COLLECTION OF ESSAYS, WRITTEN IN FAVOUR OF THE  
NEW CONSTITUTION,  
AS AGREED UPON BY THE FEDERAL CONVENTION,  
SEPTEMBER 17, 1787.

[By James Madison, Alexander Hamilton, and John Jay]

Preface

PREFACE TO THE 1788 EDITION

The Federalist Papers, Preface, p.85

It is supposed that a collection of the papers which have made their appearance in the Gazettes of this City, under the Title of the FEDERALIST, may not be without effect in assisting the public judgement on the momentous question of the Constitution for the United States, now under the consideration of the people of America. A desire to throw full light upon so interesting a subject has led, in a great measure unavoidably, to a more copious discussion than was at first intended. And the undertaking not being yet completed, it is judged adviseable to divide the collection into two volumes, of which the ensuing Numbers constitute the first. The Second Volume will follow as speedily as the Editor can get it ready for publication.

The Federalist Papers, Preface, p.85

The particular circumstances under which these papers have been written have rendered it impracticable to avoid violations of method and repetitions of ideas which cannot but displease a critical reader. The latter defect has even been intentionally indulged, in order the better to impress particular arguments which were most material to the general scope of the reasoning. Respect for public opinion, not anxiety for the literary character of the performance, dictates this remark. The great wish is, that it may promote the cause of truth, and lead to a right judgment of the true interests of the community.

New York, March 17, 1788

Number 1: Introduction

# NUMBER 1

## INTRODUCTION

[Alexander Hamilton]

AFTER an unequivocal experience of the inefficacy of the subsisting federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences nothing less than the existence of the UNION the safety and welfare of the parts of which it is composed, the fate of an empire in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.

This idea will add the inducements of philanthropy to those of patriotism, to heighten the solicitude which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiased by considerations not connected with the public good. But this is a thing more ardently to be wished than seriously to be expected. The plan offered to our deliberations affects too many particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions, and prejudices little favorable to the discovery of truth.

Among the most formidable of the obstacles which the new Constitution will have to encounter may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument, and consequence of the choices they

hold under the State establishments; and the perverted ambition of another class of men, who will either hope to aggrandize themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views. Candor will oblige us to admit that even such men may be actuated by upright intentions; and it cannot be doubted that much of the opposition which has made its appearance, or may hereafter make its appearance, will spring from sources, blameless at least if not respectable the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes which serve to give a false bias to the judgment, that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those who are ever so thoroughly persuaded of their being in the right in any controversy. And a further reason for caution, in this respect, might be drawn from the reflection that we are not always sure that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives not more laudable than these, are apt to operate as well upon those who support as those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more ill-judged than that intolerant spirit which has at all times characterized political parties. For in politics, as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet, however just these sentiments will be allowed to be, we have already sufficient indications that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of

their declamations and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatized as the offspring of a temper fond of despotic power and hostile to the principles of liberty. An over-scrupulous jealousy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be represented as mere pretense and artifice, the stale bait for popularity at the expense of public good. It will be forgotten, on the one hand, that jealousy is the usual concomitant of violent love, and that the noble enthusiasm of liberty is too apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten that the vigor of government is essential to the security of liberty; that, in the contemplation of a sound and well-informed judgment, their interests can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people than under the forbidding appearance of zeal for the firmness and efficiency of government. History will teach us that the former has been found a much more certain road to the introduction of despotism than the latter, and that of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people, commencing demagogues and ending tyrants.

In the course of the preceding observations, I have had an eye, my fellow-citizens, to putting you upon your guard against all attempts, from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare by any impressions other than those which may result from the evidence of truth. You will, no doubt, at the same time have collected from the general scope of them that they proceed from a source not unfriendly to the new Constitution. Yes, my countrymen, I own to you that after having given it an attentive consideration, I am clearly of opinion it is your interest to adopt it. I am convinced that this is the safest course for your liberty, your dignity, and your happiness. I affect not reserves which I do not feel. I will not amuse you with an appearance of deliberation when I have decided. I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. I shall not, however, multiply professions on this head. My motives must remain in the depository of my own breast. My arguments will be open to all and may be judged of by all. They shall at

least be offered in a spirit which will not disgrace the cause of truth.

I propose, in a series of papers, to discuss the following interesting particulars:—The utility of the UNION to your political prosperity—The insufficiency of the present Confederation to preserve that Union—The necessity of a government at least equally energetic with the one proposed, to the attainment of this object—The conformity of the proposed Constitution to the true principles of republican government—Its analogy to your own State constitution—and lastly, The additional security which its adoption will afford the preservation of that species of government, to liberty, and to property.

In the progress of this discussion I shall endeavor to give a satisfactory answer to all the objections which shall have made their appearance, that may seem to have any claim to your attention.

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every State, and one which, it may be imagined, has no adversaries, But the fact is that we already hear it whispered in the private circles of those who oppose the new Constitution, that the thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole. [1](#) This doctrine will, in all probability, be gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident to those who are able to take an enlarged view of the subject than the alternative of an adoption of the new Constitution or a dismemberment of the Union. It will therefore be of use to begin by examining the advantages of that Union, the certain evils, and the probable dangers, to which every State will be exposed from its dissolution. This shall accordingly constitute the subject of my next address.

PUBLIUS [Hamilton]

Number 2: Concerning Dangers from Foreign Force and Influence

# NUMBER 2

## CONCERNING DANGERS FROM FOREIGN FORCE AND INFLUENCE

[John Jay]

WHEN the people of America reflect that they are now called upon to decide a question, which in its consequences must prove one of the most important that ever engaged their attention, the propriety of their taking a very comprehensive, as well as a very serious, view of it will be evident.

Nothing is more certain than the indispensable necessity of government; and it is equally undeniable that whenever and however it is instituted, the people must cede to it some of their natural rights, in order to vest it with requisite powers. It is well worthy of consideration, therefore, whether it would conduce more to the interest of the people of America that they should, to all general purposes, be one nation, under one federal government, than that they should divide themselves into separate confederacies and give to the head of each the same kind of powers which they are advised to place in one national government.

It has until lately been a received and uncontradicted opinion that the prosperity of the people of America depended on their continuing firmly united, and the wishes, prayers, and efforts of our best and wisest citizens have been constantly directed to that object. But politicians now appear who insist that this opinion is erroneous, and that instead of looking for safety and happiness in union, we ought to seek it in a division of the States into distinct confederacies or sovereignties. However extraordinary this new doctrine may appear, it nevertheless has its advocates; and certain characters who were much opposed to it formerly are at present of the number. Whatever may be the arguments or inducements which have wrought this change in the sentiments and declarations of these gentlemen, it certainly would not be wise in the people at large to adopt these new political tenets without being fully convinced that they are founded in truth and sound policy.

It has often given me pleasure to observe that independent America was not composed of detached and distant territories, but that one connected, fertile, widespreading country was the portion of our western sons of liberty. Providence has in a particular manner blessed it with a variety of soils and productions and watered it with innumerable streams for the delight and accommodation of its inhabitants. A succession of navigable waters forms a kind of chain round its borders, as if to bind it together; while the most noble rivers in the world, running at convenient distances, present them with highways for the easy communication of friendly aids and the mutual transportation and exchange of their various commodities.

With equal pleasure I have as often taken notice that Providence has been pleased to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.

This country and this people seem to have been made for each other, and it appears as if it was the design of Providence that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest ties, should never be split into a number of unsocial, jealous, and alien sovereignties.

Similar sentiments have hitherto prevailed among all orders and denominations of men among us. To all general purposes we have uniformly been one people; each individual citizen everywhere enjoying the same national rights, privileges, and protection. As a nation we have made peace and war; as a nation we have vanquished our common enemies; as a nation we have formed alliances, and made treaties, and entered into various compacts and conventions with foreign states.

A strong sense of the value and blessings of union induced the people, at a very early period, to institute a federal government to preserve and perpetuate it. They formed it almost as soon as they had a political existence; nay, at a time when their habitations were in flames, when many

of their citizens were bleeding, and when the progress of hostility and desolation left little room for those calm and mature inquiries and reflections which must ever precede the formation of a wise and well-balanced government for a free people. It is not to be wondered at that a government instituted in times so inauspicious should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer.

This intelligent people perceived and regretted these defects. Still continuing no less attached to union than enamored of liberty, they observed the danger which immediately threatened the former and more remotely the latter; and being persuaded that ample security for both could only be found in a national government more wisely framed, they, as with one voice, convened the late convention at Philadelphia to take that important subject under consideration.

This convention, composed of men who possessed the confidence of the people, and many of whom had become highly distinguished by their patriotism, virtue, and wisdom, in times which tried the minds and hearts of men, undertook the arduous task. In the mild season of peace, with minds unoccupied by other subjects, they passed many months in cool, uninterrupted, and daily consultation; and finally, without having been awed by power, or influenced by any passions except love for their country, they presented and recommended to the people the plan produced by their joint and very unanimous councils.

Admit, for so is the fact, that this plan is only recommended, not imposed, yet let it be remembered that it is neither recommended to blind approbation, nor to blind reprobation; but to that sedate and candid consideration which the magnitude and importance of the subject demand, and which it certainly ought to receive. But, as has been already remarked, it is more to be wished than expected that it may be so considered and examined. Experience on a former occasion teaches us not to be too sanguine in such hopes. It is not yet forgotten that well-grounded apprehensions of imminent danger induced the people of America to form the memorable Congress of 1774. That body recommended certain measures to their constituents, and the event proved their wisdom; yet it is

fresh in our memories how soon the press began to teem with pamphlets and weekly papers against those very measures. Not only many of the officers of government, who obeyed the dictates of personal interest, but others, from a mistaken estimate of consequences, from the undue influence of ancient attachments or whose ambition aimed at objects which did not correspond with the public good, were indefatigable in their endeavors to persuade the people to reject the advice of that patriotic Congress. Many, indeed, were deceived and deluded, but the great majority of the people reasoned and decided judiciously; and happy they are in reflecting that they did so.

They considered that the Congress was composed of many wise and experienced men. That, being convened from different parts of the country, they brought with them and communicated to each other a variety of useful information. That, in the course of the time they passed together in inquiring into and discussing the true interests of their country, they must have acquired very accurate knowledge on that head. That they were individually interested in the public liberty and prosperity, and therefore that it was not less their inclination than their duty to recommend only such measures as, after the most mature deliberation, they really thought prudent and advisable.

These and similar considerations then induced the people to rely greatly on the judgment and integrity of the Congress; and they took their advice notwithstanding the various arts and endeavors used to deter, and dissuade them from it. But if the people at large had reason to confide in the men of that Congress, few of whom had been fully tried or generally known, still greater reason have they now to respect the judgment and advice of the convention, for it is well known that some of the most distinguished members of that Congress, who have been since tried and justly approved for patriotism and abilities, and who have grown old in acquiring political information, were also members of this convention, and carried into it their accumulated knowledge and experience.

It is worthy of remark that not only the first, but every succeeding Congress, as well as the late convention, have invariably joined with the people in thinking that the prosperity of America depended on its Union. To

preserve and perpetuate it was the great object of the people in forming that convention, and it is also the great object of the plan which the convention has advised them to adopt. With what propriety, therefore, or for what good purposes, are attempts at this particular period made by some men to depreciate the importance of the Union? Or why is it suggested that three or four confederacies would be better than one? I am persuaded in my own mind that the people have always thought right on this subject, and that their universal and uniform attachment to the cause of the Union rests on great and weighty reasons, which I shall endeavor to develop and explain in some ensuing papers. They who promote the idea of substituting a number of distinct confederacies in the room of the plan of the convention seem clearly to foresee that the rejection of it would put the continuance of the Union in the utmost jeopardy. That certainly would be the case, and I sincerely wish that it may be as clearly foreseen by every good citizen that whenever the dissolution of the Union arrives, America will have reason to exclaim, in the words of the poet:

FAREWELL! A LONG FAREWELL TO ALL MY GREATNESS. [2](#)

PUBLIUS [Jay]

Number 3: The Same Subject Continued (Dangers from Foreign Force and Influence)

# NUMBER 3

THE SAME SUBJECT CONTINUED

[John Jay]

IT IS not a new observation that the people of any country (if, like the Americans, intelligent and well-informed) seldom adopt and steadily persevere for many years in an erroneous opinion respecting their interests. That consideration naturally tends to create great respect for the high opinion which the people of America have so long and uniformly entertained of the importance of their continuing firmly united under one federal government, vested with sufficient powers for all general and national purposes.

The more attentively I consider and investigate the reasons which appear to have given birth to this opinion, the more I become convinced that they are cogent and conclusive.

Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first. The safety of the people doubtless has relation to a great variety of circumstances and considerations, and consequently affords great latitude to those who wish to define it precisely and comprehensively.

At present I mean only to consider it as it respects security for the preservation of peace and tranquillity, as well as against dangers from foreign arms and influence, as from dangers of the like kind arising from domestic causes. As the former of these comes first in order, it is proper it should be the first discussed. Let us therefore proceed to examine whether the people are not right in their opinion that a cordial Union, under an efficient national government, affords them the best security that can be devised against hostilities from abroad.

The number of wars which have happened or will happen in the world will always be found to be in proportion to the number and weight of the causes, whether real or pretended, which provoke or invite them. If this remark be

just, it becomes useful to inquire whether so many just causes of war are likely to be given by united America as by disunited America; for if it should turn out that united America will probably give the fewest, then it will follow that in this respect the Union tends most to preserve the people in a state of peace with other nations.

The just causes of war, for the most part, arise either from violations of treaties or from direct violence. America has already formed treaties with no less than six foreign nations, and all of them, except Prussia, are maritime, and therefore able to annoy and injure us. She has also extensive commerce with Portugal, Spain, and Britain, and, with respect to the two latter, has, in addition, the circumstance of neighborhood to attend to.

It is of high importance to the peace of America that she observe the laws of nations towards all these powers, and to me it appears evident that this will be more perfectly and punctually done by one national government than it could be either by thirteen separate States or by three or four distinct confederacies. For this opinion various reasons may be assigned.

When once an efficient national government is established, the best men in the country will not only consent to serve, but also will generally be appointed to manage it; for, although town or country, or other contracted influence, may place men in State assemblies, or senates, or courts of justice, or executive departments, yet more general and extensive reputation for talents and other qualifications will be necessary to recommend men to offices under the national government—especially as it will have the widest field for choice, and never experience that want of proper persons which is not uncommon in some of the States. Hence, it will result that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical, and judicious than those of individual States, and consequently more satisfactory with respect to other nations, as well as more safe with respect to us.

Under the national government, treaties and articles of treaties, as well as the laws of nations, will always be expounded in one sense and executed in the same manner—whereas adjudications on the same points and questions in thirteen States, or in three or four confederacies, will not always accord

or be consistent; and that, as well from the variety of independent courts and judges appointed by different and independent governments as from the different local laws and interests which may affect and influence them. The wisdom of the convention in committing such questions to the jurisdiction and judgment of courts appointed by and responsible only to one national government cannot be too much commended.

The prospect of present loss or advantage may often tempt the governing party in one or two States to swerve from good faith and justice; but those temptations, not reaching the other States, and consequently having little or no influence on the national government, the temptation will be fruitless, and good faith and justice be preserved. The case of the treaty of peace with Britain adds great weight to this reasoning.

If even the governing party in a State should be disposed to resist such temptations, yet, as such temptations may, and commonly do, result from circumstances peculiar to the State, and may affect a great number of the inhabitants, the governing party may not always be able, if willing, to prevent the injustice meditated, or to punish the aggressors. But the national government, not being affected by those local circumstances, will neither be induced to commit the wrong themselves, nor want power or inclination to prevent or punish its commission by others.

So far, therefore, as either designed or accidental violations of treaties and of the laws of nations afford just causes of war, they are less to be apprehended under one general government than under several lesser ones, and in that respect the former most favors the safety of the people.

As to those just causes of war which proceed from direct and unlawful violence, it appears equally clear to me that one good national government affords vastly more security against dangers of that sort than can be derived from any other quarter.

Such violences are more frequently occasioned by the passions and interests of a part than of the whole, of one or two States than of the Union. Not a single Indian war has yet been produced by aggressions of the present federal government, feeble as it is; but there are several instances of Indian

hostilities having been provoked by the improper conduct of individual States, who, either unable or unwilling to restrain or punish offenses, have given occasion to the slaughter of many innocent inhabitants.

The neighborhood of Spanish and British territories, bordering on some States and not on others, naturally confines the causes of quarrel more immediately to the borderers. The bordering States, if any, will be those who, under the impulse of sudden irritation, and a quick sense of apparent interest or injury, will be most likely, by direct violence, to excite war with those nations; and nothing can so effectually obviate that danger as a national government, whose wisdom and prudence will not be diminished by the passions which actuate the parties immediately interested.

But not only fewer just causes of war will be given by the national government, but it will also be more in their power to accommodate and settle them amicably. They will be more temperate and cool, and in that respect, as well as in others, will be more in capacity to act with circumspection than the offending State. The pride of states, as well as of men, naturally disposes them to justify all their actions, and opposes their acknowledging, correcting, or repairing their errors and offenses. The national government, in such cases, will not be affected by this pride, but will proceed with moderation and candor to consider and decide on the means most proper to extricate them from the difficulties which threaten them.

Besides, it is well known that acknowledgements, explanations, and compensations are often accepted as satisfactory from a strong united nation, which would be rejected as unsatisfactory if offered by a State or confederacy of little consideration or power.

In the year 1685, the state of Genoa having offended Louis XIV, endeavored to appease him. He demanded that they should send their Doge, or chief magistrate, accompanied by four of their senators, to France, to ask his pardon and receive his terms. They were obliged to submit to it for the sake of peace. Would he on any occasion either have demanded or have received the like humiliation from Spain, or Britain, or any other powerful

nation?

PUBLIUS [Jay]

Number 4: The Same Subject Continued (Dangers from Foreign Force and Influence)

# NUMBER 4

THE SAME SUBJECT CONTINUED

[John Jay]

MY LAST paper assigned several reasons why the safety of the people would be best secured by union against the danger it may be exposed to by just causes of war given to other nations; and those reasons show that such causes would not only be more rarely given, but would also be more easily accommodated by a national government than either by the State governments or the proposed little confederacies.

But the safety of the people of America against dangers from foreign force depends not only on their forbearing to give just causes of war to other nations, but also on their placing and continuing themselves in such a situation as not to invite hostility or insult; for it need not be observed that there are pretended as well as just causes of war.

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, that absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people. But, independent of these inducements to war, which are most prevalent in absolute monarchies, but which well deserve our attention, there are others which affect nations as often as kings; and some of them will on examination be found to grow out of our relative situation and circumstances.

With France and with Britain we are rivals in the fisheries, and can supply their markets cheaper than they can themselves, notwithstanding any efforts to prevent it by bounties on their own or duties on foreign fish.

With them and with most other European nations we are rivals in navigation and the carrying trade; and we shall deceive ourselves if we suppose that any of them will rejoice to see it flourish; for, as our carrying trade cannot increase without in some degree diminishing theirs, it is more their interest, and will be more their policy, to restrain than to promote it.

In the trade to China and India, we interfere with more than one nation, inasmuch as it enables us to partake in advantages which they had in a manner monopolized, and as we thereby supply ourselves with commodities which we used to purchase from them.

The extension of our own commerce in our own vessels cannot give pleasure to any nations who possess territories on or near this continent, because the cheapness and excellence of our productions, added to the circumstance of vicinity, and the enterprise and address of our merchants and navigators, will give us a greater share in the advantages which those territories afford than consists with the wishes or policy of their respective sovereigns.

Spain thinks it convenient to shut the Mississippi against us on the one side, and Britain excludes us from the Saint Lawrence on the other; nor will either of them permit the other waters which are between them and us to become the means of mutual intercourse and traffic.

From these and such like considerations, which might, if consistent with prudence, be more amplified and detailed, it is easy to see that jealousies and uneasiness may gradually slide into the minds and cabinets of other nations, and that we are not to expect that they should regard our advancement in union, in power and consequence by land and by sea, with an eye of indifference and composure.

The people of America are aware that inducements to war may arise out of these circumstances, as well as from others not so obvious at present, and that whenever such inducements may find fit time and opportunity for operation, pretenses to color and justify them will not be wanting. Wisely, therefore, do they consider union and a good national government as necessary to put and keep them in such a situation as, instead of inviting

war, will tend to repress and discourage it. That situation consists in the best possible state of defense, and necessarily depends on the government, the arms, and the resources of the country.

As the safety of the whole is the interest of the whole, and cannot be provided for without government, either one or more or many, let us inquire whether one good government is not, relative to the object in question, more competent than any other given number whatever.

One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. In the formation of treaties, it will regard the interest of the whole, and the particular interests of the parts as connected with that of the whole. It can apply the resources and power of the whole to the defense of any particular part, and that more easily and expeditiously than State governments or separate confederacies can possibly do, for want of concert and unity of system. It can place the militia under one plan of discipline, and, by putting their officers in a proper line of subordination to the Chief Magistrate, will, in a manner, consolidate them into one corps, and thereby render them more efficient than if divided into thirteen or into three or four distinct independent bodies.

What would the militia of Britain be if the English militia obeyed the government of England, if the Scotch militia obeyed the government of Scotland, and if the Welsh militia obeyed the government of Wales! Suppose an invasion; would those three governments (if they agreed at all) be able, with all their respective forces, to operate against the enemy so effectually as the single government of Great Britain would?

We have heard much of the fleets of Britain, and the time may come, if we are wise, when the fleets of America may engage attention. But if one national government had not so regulated the navigation of Britain as to make it a nursery for seamen—if one national government had not called forth all the national means and materials for forming fleets, their prowess and their thunder would never have been celebrated. Let England have its

navigation and fleet—let Scotland have its navigation and fleet—let Wales have its navigation and fleet—let Ireland have its navigation and fleet—let those four of the constituent parts of the British Empire be under four independent governments, and it is easy to perceive how soon they would each dwindle into comparative insignificance.

Apply these facts to our own case. Leave America divided into thirteen or, if you please, into three or four independent governments—what armies could they raise and pay—what fleets could they ever hope to have? If one was attacked, would the others fly to its succor and spend their blood and money in its defense? Would there be no danger of their being flattered into neutrality by specious promises, or seduced by a too great fondness for peace to decline hazarding their tranquillity and present safety for the sake of neighbors, of whom perhaps they have been jealous, and whose importance they are content to see diminished. Although such conduct would not be wise, it would, nevertheless, be natural. The history of the states of Greece, and of other countries, abounds with such instances, and it is not improbable that what has so often happened would, under similar circumstances, happen again.

But admit that they might be willing to help the invaded State or confederacy. How, and when, and in what proportion shall aids of men and money be afforded? Who shall command the allied armies, and from which of them shall he receive his orders? Who shall settle the terms of peace, and in case of disputes what umpire shall decide between them and compel acquiescence? Various difficulties and inconveniences would be inseparable from such a situation; whereas one government, watching over the general and common interests and combining and directing the powers and resources of the whole, would be free from all these embarrassments and conduce far more to the safety of the people.

But whatever may be our situation, whether firmly united under one national government, or split into a number of confederacies, certain it is that foreign nations will know and view it exactly as it is; and they will act towards us accordingly. If they see that our national government is efficient and well administered, our trade prudently regulated, our militia properly organized and disciplined, our resources and finances discreetly managed,

our credit re-established, our people free, contented, and united, they will be much more disposed to cultivate our friendship than provoke our resentment. If, on the other hand, they find us either destitute of an effectual government (each State doing right or wrong, as to its rulers may seem convenient), or split into three or four independent and probably discordant republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off against each other by the three, what a poor, pitiful figure will America make in their eyes! How liable would she become not only to their contempt, but to their outrage; and how soon would dear-bought experience proclaim that when a people or family so divide, it never fails to be against themselves.

PUBLIUS [Jay]

Number 5: The Same Subject Continued (Dangers from Foreign Force and Influence)

# NUMBER 5

## THE SAME SUBJECT CONTINUED

[John Jay]

QUEEN Anne, in her letter of the 1st July, 1706, to the Scotch Parliament, makes some observations on the importance of the Union then forming between England and Scotland, which merit our attention. I shall present the public with one or two extracts from it: An entire and perfect union will be the solid foundation of lasting peace: It will secure your religion, liberty, and property; remove the animosities amongst yourselves, and the jealousies and differences betwixt our two kingdoms. It must increase your strength, riches, and trade; and by this union the whole island, being joined in affection and free from all apprehensions of different interests, will be enabled to resist all its enemies. We most earnestly recommend to you calmness and unanimity in this great and weighty affair, that the union may be brought to a happy conclusion, being the only effectual way to secure our present and future happiness, and disappoint the designs of our and your enemies, who will doubtless, on this occasion, use their utmost endeavors to prevent or delay this union.

It was remarked in the preceding paper that weakness and divisions at home would invite dangers from abroad; and that nothing would tend more to secure us from them than union, strength, and good government within ourselves. This subject is copious and cannot easily be exhausted.

The history of Great Britain is the one with which we are in general the best acquainted, and it gives us many useful lessons. We may profit by their experience without paying the price which it cost them. Although it seems obvious to common sense that the people of such an island should be but one nation, yet we find that they were for ages divided into three, and that those three were almost constantly embroiled in quarrels and wars with one another. Notwithstanding their true interest with respect to the continental nations was really the same, yet by the arts and policy and practices of those nations, their mutual jealousies were perpetually kept inflamed, and for a long series of years they were far more inconvenient and troublesome than

they were useful and assisting to each other.

Should the people of America divide themselves into three or four nations, would not the same thing happen? Would not similar jealousies arise, and be in like manner cherished? Instead of their being joined in affection and free from all apprehension of different interests, envy and jealousy would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of all America, would be the only objects of their policy and pursuits. Hence, like most other bordering nations, they would always be either involved in disputes and war, or live in the constant apprehension of them.

The most sanguine advocates for three or four confederacies cannot reasonably suppose that they would long remain exactly on an equal footing in point of strength, even if it was possible to form them so at first; but, admitting that to be practicable, yet what human contrivance can secure the continuance of such equality? Independent of those local circumstances which tend to beget and increase power in one part and to impede its progress in another, we must advert to the effects of that superior policy and good management which would probably distinguish the government of one above the rest, and by which their relative equality in strength and consideration would be destroyed. For it cannot be presumed that the same degree of sound policy, prudence, and foresight would uniformly be observed by each of these confederacies for a long succession of years.

Whenever, and from whatever causes, it might happen, and happen it would, that any one of these nations or confederacies should rise on the scale of political importance much above the degree of her neighbors, that moment would those neighbors behold her with envy and with fear. Both those passions would lead them to countenance, if not to promote, whatever might promise to diminish her importance; and would also restrain them from measures calculated to advance or even to secure her prosperity. Much time would not be necessary to enable her to discern these unfriendly dispositions. She would soon begin, not only to lose confidence in her neighbors, but also to feel a disposition equally unfavorable to them. Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed than by invidious jealousies and uncandid

imputations, whether expressed or implied.

The North is generally the region of strength, and many local circumstances render it probable that the most Northern of the proposed confederacies would, at a period not very distant, be unquestionably more formidable than any of the others. No sooner would this become evident than the Northern Hive would excite the same ideas and sensations in the more southern parts of America which it formerly did in the southern parts of Europe. Nor does it appear to be a rash conjecture that its young swarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbors.

They who well consider the history of similar divisions and confederacies will find abundant reason to apprehend that those in contemplation would in no other sense be neighbors than as they would be borderers; that they would neither love nor trust one another, but on the contrary would be a prey to discord, jealousy, and mutual injuries; in short, that they would place us exactly in the situations in which some nations doubtless wish to see us, viz., formidable only to each other.

From these considerations it appears that those persons are greatly mistaken who suppose that alliances offensive and defensive might be formed between these confederacies, and would produce that combination and union of wills, of arms, and of resources, which would be necessary to put and keep them in a formidable state of defense against foreign enemies.

When did the independent states into which Britain and Spain were formerly divided combine in such alliance, or unite their forces against a foreign enemy? The proposed confederacies will be distinct nations. Each of them would have its commerce with foreigners to regulate by distinct treaties; and as their productions and commodities are different and proper for different markets, so would those treaties be essentially different. Different commercial concerns must create different interests, and of course different degrees of political attachment to and connection with different foreign nations. Hence it might and probably would happen that the foreign nation with whom the Southern confederacy might be at war would be the one with whom the Northern confederacy would be the most desirous of

preserving peace and friendship. An alliance so contrary to their immediate interest would not therefore be easy to form, nor, if formed, would it be observed and fulfilled with perfect good faith.

Nay, it is far more probable that in America, as in Europe, neighboring nations, acting under the impulse of opposite interests and unfriendly passions, would frequently be found taking different sides. Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another than from distant nations, and therefore that each of them should be more desirous to guard against the others by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves. And here let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart. How many conquests did the Romans and others make in the characters of allies, and what innovations did they under the same character introduce into the governments of those whom they pretended to protect.

Let candid men judge, then, whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.

PUBLIUS [Jay]

Number 6: Concerning Dangers from War Between the States

# NUMBER 6

## CONCERNING DANGERS FROM WAR BETWEEN THE STATES

[Alexander Hamilton]

THE three last numbers of this paper have been dedicated to an enumeration of the dangers to which we should be exposed, in a state of disunion, from the arms and arts of foreign nations. I shall now proceed to delineate dangers of a different and, perhaps, still more alarming kind—those which will in all probability flow from dissensions between the States themselves and from domestic factions and convulsions. These have been already in some instances slightly anticipated; but they deserve a more particular and more full investigation.

A man must be far gone in Utopian speculations who can seriously doubt that if these States should either be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contests as an argument against their existence would be to forget that men are ambitious, vindictive, and rapacious. To look for a continuation of harmony between a number of independent, unconnected sovereignties situated in the same neighborhood would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages.

The causes of hostility among nations are innumerable. There are some which have a general and almost constant operation upon the collective bodies of society. Of this description are the love of power or the desire of pre-eminence and dominion—the jealousy of power, or the desire of equality and safety. There are others which have a more circumscribed though an equally operative influence within their spheres. Such are the rivalships and competitions of commerce between commercial nations. And there are others, not less numerous than either of the former, which take their origin entirely in private passions; in the attachments, enmities, interests, hopes, and fears of leading individuals in the communities of

which they are members. Men of this class, whether the favorites of a king or of a people, have in too many instances abused the confidence they possessed; and assuming the pretext of some public motive, have not scrupled to sacrifice the national tranquillity to personal advantage or personal gratification.

The celebrated Pericles, in compliance with the resentment of a prostitute, [3](#) at the expense of much of the blood and treasure of his countrymen, attacked, vanquished, and destroyed the city of the Samnians. The same man, stimulated by private pique against the Megarensians, [4](#) another nation of Greece, or to avoid a prosecution with which he was threatened as an accomplice in a supposed theft of the statuary of Phidias, [5](#) or to get rid of the accusations prepared to be brought against him for dissipating the funds of the state in the purchase of popularity, [6](#) or from a combination of all these causes, was the primitive author of that famous and fatal war, distinguished in the Grecian annals by the name of the Peloponnesian war; which, after various vicissitudes, intermissions, and renewals, terminated in the ruin of the Athenian commonwealth.

The ambitious cardinal, who was prime minister to Henry VIII, permitting his vanity to aspire to the triple crown, [7](#) entertained hopes of succeeding in the acquisition of that splendid prize by the influence of the Emperor Charles V. To secure the favor and interest of this enterprising and powerful monarch, he precipitated England into a war with France, contrary to the plainest dictates of policy, and at the hazard of the safety and independence, as well of the kingdom over which he presided by his counsels as of Europe in general. For if there ever was a sovereign who bid fair to realize the project of universal monarchy, it was the Emperor Charles V, of whose intrigues Wolsey was at once the instrument and the dupe.

The influence which the bigotry of one female, [8](#) the petulancies of another, [9](#) and the cabals of a third, [10](#) had in the contemporary policy, ferments, and pacifications of a considerable part of Europe, are topics that have been too often descanted upon not to be generally known.

To multiply examples of the agency of personal considerations in the production of great national events, either foreign or domestic, according to

their direction, would be an unnecessary waste of time. Those who have but a superficial acquaintance with the sources from which they are to be drawn will themselves recollect a variety of instances; and those who have a tolerable knowledge of human nature will not stand in need of such lights to form their opinion either of the reality or extent of that agency. Perhaps, however, a reference, tending to illustrate the general principle, may with propriety be made to a case which has lately happened among ourselves. If Shays had not been a desperate debtor, it is much to be doubted whether Massachusetts would have been plunged into a civil war.

But notwithstanding the concurring testimony of experience, in this particular, there are still to be found visionary or designing men, who stand ready to advocate the paradox of perpetual peace between the States, though dismembered and alienated from each other. The genius of republics (say they) is pacific; the spirit of commerce has a tendency to soften the manners of men, and to extinguish those inflammable humors which have so often kindled into wars. Commercial republics, like ours, will never be disposed to waste themselves in ruinous contentions with each other. They will be governed by mutual interest, and will cultivate a spirit of mutual amity and concord.

Is it not (we may ask these projectors in politics) the true interest of all nations to cultivate the same benevolent and philosophic spirit? If this be their true interest, have they in fact pursued it? Has it not, on the contrary, invariably been found that momentary passions, and immediate interests, have a more active and imperious control over human conduct than general or remote considerations of policy, utility, or justice? Have republics in practice been less addicted to war than monarchies? Are not the former administered by men as well as the latter? Are there not aversions, predilections, rivalships, and desires of unjust acquisitions that affect nations as well as kings? Are not popular assemblies frequently subject to the impulses of rage, resentment, jealousy, avarice, and of other irregular and violent propensities? Is it not well known that their determinations are often governed by a few individuals in whom they place confidence, and are, of course, liable to be tainted by the passions and views of those individuals? Has commerce hitherto done any thing more than change the objects of war? Is not the love of wealth as domineering and enterprising a

passion as that of power or glory? Have there not been as many wars founded upon commercial motives since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce, in many instances, administered new incentives to the appetite, both for the one and for the other? Let experience, the least fallible guide of human opinions, be appealed to for an answer to these inquiries.

Sparta, Athens, Rome, and Carthage were all republics; two of them, Athens and Carthage, of the commercial kind. Yet were they as often engaged in wars, offensive and defensive, as the neighboring monarchies of the same times. Sparta was little better than a well-regulated camp; and Rome was never sated of carnage and conquest.

Carthage, though a commercial republic, was the aggressor in the very war that ended in her destruction. Hannibal had carried her arms into the heart of Italy and to the gates of Rome, before Scipio, in turn, gave him an overthrow in the territories of Carthage and made a conquest of the commonwealth.

Venice, in later times, figured more than once in wars of ambition, till, becoming an object to the other Italian states, Pope Julius the Second found means to accomplish that formidable league, [11](#) which gave a deadly blow to the power and pride of this haughty republic.

The provinces of Holland, till they were overwhelmed in debts and taxes, took a leading and conspicuous part in the wars of Europe. They had furious contests with England for the dominion of the sea, and were among the most persevering and most implacable of the opponents of Louis XIV.

In the government of Britain the representatives of the people compose one branch of the national legislature. Commerce has been for ages the predominant pursuit of that country. Few nations, nevertheless, have been more frequently engaged in war; and the wars in which that kingdom has been engaged have, in numerous instances, proceeded from the people.

There have been, if I may so express it, almost as many popular as royal wars. The cries of the nation and the importunities of their representatives have, upon various occasions, dragged their monarchs into war, or continued them in it, contrary to their inclinations, and sometimes contrary to the real interests of the state. In that memorable struggle for superiority between the rival houses of Austria and Bourbon, which so long kept Europe in a flame, it is well known that the antipathies of the English against the French, seconding the ambition, or rather the avarice, of a favorite leader, [12](#) protracted the war beyond the limits marked out by sound policy, and for a considerable time in opposition to the views of the court.

The wars of these two last-mentioned nations have in a great measure grown out of commercial considerations—the desire of supplanting and the fear of being supplanted, either in particular branches of traffic or in the general advantages of trade and navigation, and sometimes even the more culpable desire of sharing in the commerce of other nations without their consent.

The last war but two between Britain and Spain sprang from the attempts of the English merchants to prosecute an illicit trade with the Spanish main. These unjustifiable practices on their part produced severity on the part of the Spaniards towards the subjects of Great Britain which were not more justifiable, because they exceeded the bounds of a just retaliation and were chargeable with inhumanity and cruelty. Many of the English who were taken on the Spanish coast were sent to dig in the mines of Potosi; and by the usual progress of a spirit of resentment, the innocent were, after a while, confounded with the guilty in indiscriminate punishment. The complaints of the merchants kindled a violent flame throughout the nation, which soon after broke out in the House of Commons, and was communicated from that body to the ministry. Letters of reprisal were granted, and a war ensued, which in its consequences overthrew all the alliances that but twenty years before had been formed with sanguine expectations of the most beneficial fruits.

From this summary of what has taken place in other countries, whose situations have borne the nearest resemblance to our own, what reason can

we have to confide in those reveries which would seduce us into an expectation of peace and cordiality between the members of the present confederacy, in a state of separation? Have we not already seen enough of the fallacy and extravagance of those idle theories which have amused us with promises of an exemption from the imperfections, the weaknesses, and the evils incident to society in every shape? Is it not time to awake from the deceitful dream of a golden age and to adopt as a practical maxim for the direction of our political conduct that we, as well as the other inhabitants of the globe, are yet remote from the happy empire of perfect wisdom and perfect virtue?

Let the point of extreme depression to which our national dignity and credit have sunk, let the inconveniences felt everywhere from a lax and ill administration of government, let the revolt of a part of the State of North Carolina, the late menacing disturbances in Pennsylvania, and the actual insurrections and rebellions in Massachusetts, declare!

So far is the general sense of mankind from corresponding with the tenets of those who endeavor to lull asleep our apprehensions of discord and hostility between the States, in the event of disunion, that it has from long observation of the progress of society become a sort of axiom in politics that vicinity, or nearness of situation, constitutes nations natural enemies. An intelligent writer expresses himself on this subject to this effect: NEIGHBORING NATIONS [says he] are naturally ENEMIES of each other, unless their common weakness forces them to league in a CONFEDERATE REPUBLIC, and their constitution prevents the differences that neighborhood occasions, extinguishing that secret jealousy which disposes all states to aggrandize themselves at the expense of their neighbors. [13](#) This passage, at the same time, points out the EVIL and suggests the REMEDY. [14](#)

PUBLIUS [Hamilton]

Number 7: The Subject Continued and Particular Causes Enumerated

# NUMBER 7

## THE SUBJECT CONTINUED AND PARTICULAR CAUSES ENUMERATED

[Alexander Hamilton]

IT IS sometimes asked, with an air of seeming triumph, what inducements could the States have, if disunited, to make war upon each other? It would be a full answer to this question to say—precisely the same inducements which have, at different times, deluged in blood all the nations in the world. But, unfortunately for us, the question admits of a more particular answer. There are causes of differences within our immediate contemplation, of the tendency of which, even under the restraints of a federal constitution, we have had sufficient experience to enable us to form a judgment of what might be expected if those restraints were removed.

Territorial disputes have at all times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of wars that have desolated the earth have sprung from this origin, This cause would exist among us in full force. We have a vast tract of unsettled territory within the boundaries of the United States. There still are discordant and undecided claims between several of them, and the dissolution of the Union would lay a foundation for similar claims between them all. It is well known that they have heretofore had serious and animated discussions concerning the right to the lands which were ungranted at the time of the Revolution, and which usually went under the name of crown lands. The States within the limits of whose colonial governments they were comprised have claimed them as their property, the others have contended that the rights of the crown in this article devolved upon the Union; especially as to all that part of the Western territory which, either by actual possession, or through the submission of the Indian proprietors, was subjected to the jurisdiction of the king of Great Britain, till it was relinquished in the treaty of peace. This, it has been said, was at all events an acquisition to the Confederacy by compact with a foreign power. It has been the prudent policy of Congress to appease this controversy, by prevailing upon the States to make cessions to the United States for the

benefit of the whole. This has been so far accomplished as, under a continuation of the Union, to afford a decided prospect of an amicable termination of the dispute. A dismemberment of the Confederacy, however, would revive this dispute, and would create others on the same subject. At present a large part of the vacant Western territory is, by cession at least, if not by any anterior right, the common property of the Union. If that were at an end, the States which have made cessions on a principle of federal compromise, would be apt, when the motive of the grant had ceased, to reclaim the lands as a reversion. The other States would no doubt insist on a proportion by right of representation. Their argument would be that a grant once made could not be revoked; and that the justice of their participating in territory acquired or secured by the joint efforts of the Confederacy remained undiminished. If, contrary to probability, it should be admitted by all the States that each had a right to a share of this common stock, there would still be a difficulty to be surmounted as to a proper rule of apportionment. Different principles would be sent up by different States for this purpose; and as they would affect the opposite interests of the parties, they might not easily be susceptible of a pacific adjustment.

In the wide field of Western territory, therefore, we perceive an ample theater for hostile pretensions, without any umpire or common judge to interpose between the contending parties. To reason from the past to the future, we shall have good ground to apprehend that the sword would sometimes be appealed to as the arbiter of their differences. The circumstances of the dispute between Connecticut and Pennsylvania, respecting the lands at Wyoming, admonish us not to be sanguine in expecting an easy accommodation of such differences. The Articles of Confederation obliged the parties to submit the matter to the decision of a federal court. The submission was made, and the court decided in favor of Pennsylvania. But Connecticut gave strong indications of dissatisfaction with that determination; nor did she appear to be entirely resigned to it, till, by negotiation and management, something like an equivalent was found for the loss she supposed herself to have sustained. Nothing here said is intended to convey the slightest censure on the conduct of that State. She no doubt sincerely believed herself to have been injured by the decision; and States, like individuals, acquiesce with great reluctance in determinations to

their disadvantage.

Those who had an opportunity of seeing the inside of the transactions which attended the progress of the controversy between this State and the district of Vermont can vouch the opposition we experienced, as well from States not interested as from those which were interested in the claim, and can attest the danger to which the peace of the Confederacy might have been exposed, had this State attempted to assert its rights by force. Two motives preponderated in that opposition: one, a jealousy entertained of our future power; and the other, the interest of certain individuals of influence in the neighboring States, who had obtained grants of land under the actual government of that district. Even the States which brought forward claims in contradiction to ours seemed more solicitous to dismember this State, than to establish their own pretensions. These were New Hampshire, Massachusetts, and Connecticut. New Jersey and Rhode Island upon all occasions discovered a warm zeal for the independence of Vermont; and Maryland, until alarmed by the appearance of a connection between Canada and that place, entered deeply into the same views. These, being small States, saw with an unfriendly eye the perspective of our growing greatness. In a review of these transactions we may trace some of the causes which would be likely to embroil the States with each other, if it should be their unpropitious destiny to become disunited.

Competitions of commerce would be another fruitful source of contention. The States less favorably circumstanced would be desirous of escaping from the disadvantages of local situation, and of sharing in the advantages of their more fortunate neighbors. Each State, or separate confederacy, would pursue a system of commercial policy peculiar to itself. This would occasion distinctions, preferences, and exclusions, which would beget discontent. The habits of intercourse, on the basis of equal privileges, to which we have been accustomed since the earliest settlement of the country would give a keener edge to those causes of discontent than they would naturally have independent of this circumstance. We should be ready to denominate injuries those things which were in reality the justifiable acts of independent sovereignties consulting a distinct interest. The spirit of enterprise, which characterizes the commercial part of America, has left no occasion of displaying itself unimproved. It is not at all probable that this

unbridled spirit would pay much respect to those regulations of trade by which particular States might endeavor to secure exclusive benefits to their own citizens. The infractions of these regulations, on one side, the efforts to prevent and repel them, on the other, would naturally lead to outrages, and these to reprisals and wars.

The opportunities which some States would have of rendering other tributary to them by commercial regulations would be impatiently submitted to by the tributary States. The relative situation of New York, Connecticut, and New Jersey would afford an example of this kind. New York, from the necessities of revenue, must lay duties on her importations. A great part of these duties must be paid by the inhabitants of the two other States in the capacity of consumers of what we import. New York would neither be willing nor able to forgo this advantage. Her citizens would not consent that a duty paid by them should be remitted in favor of the citizens of her neighbors; nor would it be practicable, if there were not this impediment in the way, to distinguish the customers in our own markets. Would Connecticut and New Jersey long submit to be taxed by New York for her exclusive benefit? Should we be long permitted to remain in the quiet and undisturbed enjoyment of a metropolis, from the possession of which we derived an advantage so odious to our neighbors, and, in their opinion, so oppressive? Should we be able to preserve it against the incumbent weight of Connecticut on the one side, and the co-operating pressure of New Jersey on the other? These are questions that temerity alone will answer in the affirmative.

The public debt of the Union would be a further cause of collision between the separate States or confederacies. The apportionment, in the first instance, and the progressive extinguishment afterwards, would be alike productive of ill humor and animosity. How would it be possible to agree upon a rule of apportionment satisfactory to all? There is scarcely any that can be proposed which is entirely free from real objections. These, as usual, would be exaggerated by the adverse interests of the parties. There are even dissimilar views among the States as to the general principle of discharging the public debt. Some of them, either less impressed with the importance of national credit, or because their citizens have little, if any, immediate interest in the question, feel an indifference, if not a repugnance, to the

payment of the domestic debt at any rate. These would be inclined to magnify the difficulties of a distribution. Others of them, a numerous body of whose citizens are creditors to the public beyond the proportion of the State in the total amount of the national debt, would be strenuous for some equitable and effective provision. The procrastinations of the former would excite the resentments of the latter. The settlement of a rule would, in the meantime, be postponed by real differences of opinion and affected delays. The citizens of the States interested would clamor; foreign powers would urge for the satisfaction of their just demands, and the peace of the States would be hazarded to the double contingency of external invasion in internal contention.

Suppose the difficulties of agreeing upon a rule surmounted and the apportionment made. Still there is great room to suppose that the rule agreed upon would, upon experiment, be found to bear harder upon some States than upon others. Those which were sufferers by it would naturally seek for a mitigation of the burden. The others would as naturally be disinclined to a revision, which was likely to end in an increase of their own incumbrances. Their refusal would be too plausible a pretext to the complaining States to withhold their contributions, not to be embraced with avidity; and the noncompliance of these States with their engagements would be a ground of bitter dissension and altercation. If even the rule adopted should in practice justify the equality of its principle, still delinquencies in payment on the part of some of the States would result from a diversity of other causes—the real deficiency of resources; the mismanagement of their finances; accidental disorders in the administration of the government; and, in addition to the rest, the reluctance with which men commonly part with money for purposes that have outlived the exigencies which produced them and interfere with the supply of immediate wants. Delinquencies, from whatever causes, would be productive of complaints, recriminations, and quarrels. There is, perhaps, nothing more likely to disturb the tranquillity of nations than their being bound to mutual contributions for any common object that does not yield an equal and coincident benefit. For it is an observation, as true as it is trite, that there is nothing men differ so readily about as the payment of money.

Laws in violation of private contracts, as they amount to aggressions on the rights of those States whose citizens are injured by them, may be considered as another probable source of hostility. We are not authorized to expect that a more liberal or more equitable spirit would preside over the legislations of the individual States hereafter, if unrestrained by any additional checks, than we have heretofore seen in too many instances disgracing their several codes. We have observed the disposition to retaliation excited in Connecticut, in consequence of the enormities perpetrated by the legislature of Rhode Island; and we reasonably infer that, in similar cases under other circumstances, a war, not of parchment, but of the sword, would chastise such atrocious breaches of moral obligation and social justice.

The probability of incompatible alliances between the different States, or confederacies, and different foreign nations, and the effects of this situation upon the peace of the whole, have been sufficiently unfolded in some preceding papers. From the view they have exhibited of this part of the subject, this conclusion is to be drawn, that America, if not connected at all, or only by the feeble tie of a simple league, offensive and defensive, would, by the operation of such jarring alliances, be gradually entangled in all the pernicious labyrinths of European politics and wars; and by the destructive contentions of the parts into which she was divided, would be likely to become a prey to the artifices and machinations of powers equally the enemies of them all. Divide et impera [15](#) must be the motto of every nation that either hates or fears us.

PUBLIUS [Hamilton]

Number 8: The Effects of Internal War in Producing Standing Armies and Other Institutions Unfriendly to Liberty

# NUMBER 8

## THE EFFECTS OF INTERNAL WAR IN PRODUCING STANDING ARMIES AND OTHER INSTITUTIONS UNFRIENDLY TO LIBERTY

[Alexander Hamilton]

ASSUMING it therefore as an established truth that the several States, in case of disunion, or such combinations of them as might happen to be formed out of the wreck of the general Confederacy, would be subject to those vicissitudes of peace and war, of friendship and enmity with each other, which have fallen to the lot of all neighboring nations not united under one government, let us enter into a concise detail of some of the consequences that would attend such a situation.

War between the States, in the first period of their separate existence, would be accompanied with much greater distresses than it commonly is in those countries where regular military establishments have long obtained. The disciplined armies always kept on foot on the continent of Europe, though they bear a malignant aspect to liberty and economy, have, notwithstanding, been productive of the signal advantage of rendering sudden conquests impracticable, and of preventing that rapid desolation which used to mark the progress of war prior to their introduction. The art of fortification has contributed to the same ends. The nations of Europe are encircled with chains of fortified places, which mutually obstruct invasion. Campaigns are wasted in reducing two or three frontier garrisons to gain admittance into an enemy's country. Similar impediments occur at every step to exhaust the strength and delay the progress of an invader. Formerly an invading army would penetrate into the heart of a neighboring country almost as soon as intelligence of its approach could be received; but now a comparatively small force of disciplined troops, acting on the defensive, with the aid of posts, is able to impede, and finally to frustrate, the enterprises of one much more considerable. The history of war in that quarter of the globe is no longer a history of nations subdued and empires overturned, but of towns taken and retaken, of battles that decide nothing, of retreats more beneficial

than victories, of much effort and little acquisition.

In this country the scene would be altogether reversed. The jealousy of military establishments would postpone them as long as possible. The want of fortifications, leaving the frontiers of one State open to another, would facilitate inroads. The populous States would, with little difficulty, overrun their less populous neighbors. Conquests would be as easy to be made as difficult to be retained. War, therefore, would be desultory and predatory. PLUNDER and devastation ever march in the train of irregulars. The calamities of individuals would make the principal figure in the events which would characterize our military exploits.

This picture is not too highly wrought; though, I confess, it would not long remain a just one, safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free.

The institutions chiefly alluded to are STANDING ARMIES and the correspondent appendages of military establishments. Standing armies, it is said, are not provided against in the new Constitution; and it is thence inferred that they may exist under it. This inference, from the very form of the proposition, is, at best, problematical and uncertain. [16](#) But standing armies, it may be replied, must inevitably result from a dissolution of the Confederacy. Frequent war and constant apprehension, which require a state of as constant preparation, will infallibly produce them. The weaker States, or confederacies, would first have recourse to them to put themselves upon an equality with their more potent neighbors. They would endeavor to supply the inferiority of population and resources by a more regular and effective system of defense, by disciplined troops, and by fortifications. They would, at the same time, be necessitated to strengthen the executive arm of government, in doing which their constitutions would acquire a progressive direction towards monarchy. It is of the nature of war to

increase the executive at the expense of the legislative authority.

The expedients which have been mentioned would soon give the States, or confederacies, that made use of them a superiority over their neighbors. Small states, or states of less natural strength, under vigorous governments, and with the assistance of disciplined armies, have often triumphed over large states, or states of greater natural strength, which have been destitute of these advantages. Neither the pride nor the safety of the more important States, or confederacies, would permit them long to submit to this mortifying and adventitious superiority. They would quickly resort to means similar to those by which it had been effected, to reinstate themselves in their lost pre-eminence. Thus we should, in a little time, see established in every part of this country the same engines of despotism which have been the scourge of the old world. This, at least, would be the natural course of things; and our reasonings will be the more likely to be just in proportion as they are accommodated to this standard.

These are not vague inferences drawn from supposed or speculative defects in a Constitution, the whole power of which is lodged in the hands of a people, or their representatives and delegates, but they are solid conclusions, drawn from the natural and necessary progress of human affairs.

It may, perhaps, be asked, by way of objection to this, why did not standing armies spring up out of the contentions which so often distracted the ancient republics of Greece? Different answers, equally satisfactory, may be given to this question. The industrious habits of the people of the present day, absorbed in the pursuits of gain and devoted to the improvements of agriculture and commerce, are incompatible with the condition of a nation of soldiers, which was the true condition of the people of those republics. The means of revenue, which have been so greatly multiplied by the increase of gold and silver and of the arts of industry, and the science of finance, which is the offspring of modern times, concurring with the habits of nations, have produced an entire revolution in the system of war, and have rendered disciplined armies, distinct from the body of the citizens, the inseparable companion of frequent hostility.

There is a wide difference, also, between military establishments in a country seldom exposed by its situation to internal invasions, and in one which is often subject to them and always apprehensive of them. The rulers of the former can have no good pretext, if they are even so inclined, to keep on foot armies so numerous as must of necessity be maintained in the latter. These armies being, in the first case, rarely if at all called into activity for interior defense, the people are in no danger of being broken to military subordination. The laws are not accustomed to relaxation in favor of military exigencies; the civil state remains in full vigor, neither corrupted, nor confounded with the principles or propensities of the other state. The smallness of the army renders the natural strength of the community an overmatch for it; and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery; they view them with a spirit of jealous acquiescence in a necessary evil and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

In a country in the predicament last described, the contrary of all this happens. The perpetual menacings of danger oblige the government to be always prepared to repel it; its armies must be numerous enough for instant defense. The continual necessity for their services enhances the importance of the soldier, and proportionably degrades the condition of the citizen. The military state becomes elevated above the civil. The inhabitants of territories, often the theater of war, are unavoidably subjected to frequent infringements of their rights, which serve to weaken their sense of those rights; and by degrees the people are brought to consider the soldiery not only as their protectors but as their superiors. The transition from this disposition to that of considering them masters is neither remote nor difficult; but it is very difficult to prevail upon a people under such impressions to make a bold or effectual resistance to usurpations supported by the military power.

The kingdom of Great Britain falls within the first description. An insular situation, and a powerful marine, guarding it in a great measure against the possibility of foreign invasion, supersede the necessity of a numerous army within the kingdom. A sufficient force to make head against a sudden descent, till the militia could have time to rally and embody, is all that has been deemed requisite. No motive of national policy has demanded, nor would public opinion have tolerated, a larger number of troops upon its domestic establishment. There has been, for a long time past, little room for the operation of the other causes, which have been enumerated as the consequences of internal war. This peculiar felicity of situation has, in a great degree, contributed to preserve the liberty which that country to this day enjoys, in spite of the prevalent venality and corruption. If, on the contrary, Britain had been situated on the continent, and had been compelled, as she would have been, by that situation, to make her military establishments at home coextensive with those of the other great powers of Europe, she, like them, would in all probability be, at this day, a victim to the absolute power of a single man. 'Tis possible, though not easy, that the people of that island may be enslaved from other causes; but it cannot be by the prowess of an army so inconsiderable as that which has been usually kept up within the kingdom.

If we are wise enough to preserve the Union we may for ages enjoy an advantage similar to that of an insulated situation. Europe is at a great distance from us. Her colonies in our vicinity will be likely to continue too much disproportioned in strength to be able to give us any dangerous annoyance. Extensive military establishments cannot, in this position, be necessary to our security. But if we should be disunited, and the integral parts should either remain separated, or, which is most probable, should be thrown together into two or three confederacies, we should be, in a short course of time, in the predicament of the continental powers of Europe; liberties would be a prey to the means of defending ourselves against the ambition and jealousy of each other.

This is an idea not superficial nor futile, but solid and weighty. It deserves the most serious and mature consideration of every prudent and honest man of whatever party. If such men will make a firm and solemn pause, and meditate dispassionately on the importance of this interesting idea; if they

will contemplate it in all its attitudes, and trace it to all its consequences, they will not hesitate to part with trivial objections to a Constitution, the rejection of which would in all probability put a final period to the Union. The airy phantoms that flit before the distempered imaginations of some of its adversaries would quickly give place to the more substantial prospects of dangers, real, certain, and formidable.

PUBLIUS [Hamilton]

Number 9: The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection

# NUMBER 9

## THE UTILITY OF THE UNION AS A SAFEGUARD AGAINST DOMESTIC FACTION AND INSURRECTION

[Alexander Hamilton]

A FIRM Union will be of the utmost moment to the peace and liberty of the States as a barrier against domestic faction and insurrection. It is impossible to read the history of the petty republics of Greece and Italy without feeling sensations of horror and disgust at the distractions with which they were continually agitated, and at the rapid succession of revolutions by which they were kept in a state of perpetual vibration between the extremes of tyranny and anarchy. If they exhibit occasional calms, these only serve as short-lived contrasts to the furious storms that are to succeed. If now and then intervals of felicity open themselves to view, we behold them with a mixture of regret, arising from the reflection that the pleasing scenes before us are soon to be overwhelmed by the tempestuous waves of sedition and party rage. If momentary rays of glory break forth from the gloom, while they dazzle us with a transient and fleeting brilliancy, they at the same time admonish us to lament that the vices of government should pervert the direction and tarnish the luster of those bright talents and exalted endowments for which the favored soils that produced them have been so justly celebrated.

From the disorders that disfigure the annals of those republics the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty. They have decried all free government as inconsistent with the order of society, and have indulged themselves in malicious exultation over its friends and partisans. Happily for mankind, stupendous fabrics reared on the basis of liberty, which have flourished for ages, have, in a few glorious instances, refuted their gloomy sophisms. And, I trust, America will be the broad and solid foundation of other edifices, not less magnificent, which will be equally permanent monuments of their errors.

But it is not to be denied that the portraits they have sketched of republican government were too just copies of the originals from which they were taken. If it had been found impracticable to have devised models of a more perfect structure, the enlightened friends to liberty would have been obliged to abandon the cause of that species of government as indefensible. The science of politics, however, like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided. To this catalogue of circumstances that tend to the amelioration of popular systems of civil government, I shall venture, however novel it may appear to some, to add one more, on a principle which has been made the foundation of an objection to the new Constitution; I mean the ENLARGEMENT of the ORBIT within which such systems are to revolve, either in respect to the dimensions of a single State, or to the consolidation of several smaller States into one great Confederacy. The latter is that which immediately concerns the object under consideration. It will, however, be of use to examine the principle in its application to a single State, which shall be attended to in another place.

The utility of a Confederacy, as well to suppress faction and to guard the internal tranquillity of States as to increase their external force and security, is in reality not a new idea. It has been practiced upon in different countries and ages, and has received the sanction of the most applauded writers on the subjects of politics. The opponents of the PLAN proposed have, with great assiduity, cited and circulated the observations of Montesquieu on the necessity of a contracted territory for a republican government. [17](#) But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, nor to have adverted to the consequences of the principle to which they subscribe with such ready

acquiescence.

When Montesquieu recommends a small extent for republics, the standards he had in view were of dimensions far short of the limits of almost every one of these States. Neither Virginia, Massachusetts, Pennsylvania, New York, North Carolina, nor Georgia can by any means be compared with the models from which he reasoned and to which the terms of his description apply. If we therefore take his ideas on this point as the criterion of truth, we shall be driven to the alternative either of taking refuge at once in the arms of monarchy, or of splitting ourselves into an infinity of little, jealous, clashing, tumultuous commonwealths, the wretched nurseries of unceasing discord and the miserable objects of universal pity or contempt. Some of the writers who have come forward on the other side of the question seem to have been aware of the dilemma; and have even been bold enough to hint at the division of the larger States as a desirable thing. Such an infatuated policy, such a desperate expedient, might, by the multiplication of petty offices, answer the views of men who possess not qualifications to extend their influence beyond the narrow circles of personal intrigue, but it could never promote the greatness or happiness of the people of America.

Referring the examination of the principle itself to another place, as has been already mentioned, it will be sufficient to remark here that, in the sense of the author who has been most emphatically quoted upon the occasion, it would only dictate a reduction of the SIZE of the more considerable MEMBERS of the Union, but would not militate against their being all comprehended in one confederate government. And this is the true question, in the discussion of which we are at present interested.

So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States that he explicitly treats of a CONFEDERATE REPUBLIC as the expedient for extending the sphere of popular government and reconciling the advantages of monarchy with those of republicanism.

It is very probable (says he<sup>18</sup>) that mankind would have been obliged at length to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution that has all the internal advantages

of a republican, together with the external force of a monarchical, government. I mean a CONFEDERATE REPUBLIC.

This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

A republic of this kind, able to withstand an external force, may support itself without any internal corruptions. The form of this society prevents all manner of inconveniences.

If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and overpower him before he could be settled in his usurpation.

Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies.

I have thought it proper to quote at length these interesting passages, because they contain a luminous abridgment of the principal arguments in favor of the Union, and must effectually remove the false impressions which a misapplication of other parts of the world was calculated to produce. They have, at the same time, an intimate connection with the more immediate design of this paper, which is to illustrate the tendency of the

Union to repress domestic faction and insurrection.

A distinction, more subtle than accurate, has been raised between a confederacy and a consolidation of the States. The essential characteristic of the first is said to be the restriction of its authority to the members in their collective capacities, without reaching to the individuals of whom they are composed. It is contended that the national council ought to have no concern with any object of internal administration. An exact equality of suffrage between the members has also been insisted upon as a leading feature of a confederate government. These positions are, in the main, arbitrary; they are supported neither by principle nor precedent. It has indeed happened that governments of this kind have generally operated in the manner which the distinction, taken notice of, supposes to be inherent in their nature; but there have been in most of them extensive exceptions to the practice, which serve to prove, as far as example will go, that there is no absolute rule on the subject. And it will be clearly shown, in the course of this investigation, that as far as the principle contended for has prevailed, it has been the cause of incurable disorder and imbecility in the government.

The definition of a confederate republic seems simply to be an assemblage of societies, or an association of two or more states into one state. The extent, modifications, and objects of the federal authority are mere matters of discretion. So long as the separate organization of the members be not abolished; so long as it exists, by a constitutional necessity, for local purposes; though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy. The proposed Constitution, so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty, by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power. This fully corresponds, in every rational import of the terms, with the idea of a federal government.

In the Lycian confederacy, which consisted of twenty-three CITIES, or republics, the largest were entitled to three votes in the COMMON COUNCIL, those of the middle class to two, and the smallest to one. The COMMON COUNCIL had the appointment of all the judges and

magistrates of the respective CITIES. This was certainly the most delicate species of interference in their internal administration; for if there be any thing that seems exclusively appropriated to the local jurisdictions, it is the appointment of their own officers. Yet Montesquieu, speaking of this association, says: Were I to give a model of an excellent Confederate Republic, it would be that of Lycia. Thus we perceive that the distinctions insisted upon were not within the contemplation of this enlightened civilian; and we shall be led to conclude that they are the novel refinements of an erroneous theory.

PUBLIUS [Hamilton]

Number 10: The Same Subject Continued (Domestic Faction and Insurrection)

# NUMBER 10

THE SAME SUBJECT CONTINUED

[James Madison]

AMONG the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils have, in truth, been the mortal diseases under which popular governments have everywhere perished, as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements and alarm for private rights which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and

injustice with which a factious spirit has tainted our public administration.

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities that where no substantial occasion presents itself the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or in other words, the most powerful

faction must be expected to prevail. Shall domestic manufacturers be encouraged, and in what degree, by restrictions on foreign manufacturers? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

The inference to which we are brought is that the causes of faction cannot be removed and that relief is only to be sought in the means of controlling its effects.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens and

greater sphere of country over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the republic may be the representatives must be raised to a certain number in order to guard against the cabals of a few; and that however large it may be they must be limited to a certain number in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center on men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little

acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears that the same advantage which a republic has over a democracy in controlling the effects of faction is enjoyed by a large over a small republic—is enjoyed by the Union over the States composing it. Does this advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union increase this security? Does

it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here again the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government, And according to the degree of pleasure and pride we feel in being republicans ought to be our zeal in cherishing the spirit and supporting the character of federalists.

PUBLIUS [Madison]

Number 11: The Utility of the Union in Respect to Commerce and a Navy

# NUMBER 11

## THE UTILITY OF THE UNION IN RESPECT TO COMMERCE AND A NAVY

[Alexander Hamilton]

THE importance of the Union, in a commercial light, is one of those points about which there is least room to entertain a difference of opinion, and which has, in fact, commanded the most general assent of men who have any acquaintance with the subject. This applies as well to our intercourse with foreign countries as with each other.

There are appearances to authorize a supposition that the adventurous spirit, which distinguishes the commercial character of America, has already excited uneasy sensations in several of the maritime powers of Europe. They seem to be apprehensive of our too great interference in that carrying trade, which is the support of their navigation and the foundation of their naval strength. Those of them which have colonies in America look forward to what this country is capable of becoming with painful solicitude. They foresee the dangers that may threaten their American dominions from the neighborhood of States, which have all the dispositions and would possess all the means requisite to the creation of a powerful marine. Impressions of this kind will naturally indicate the policy of fostering divisions among us and of depriving us, as far as possible, of an ACTIVE COMMERCE in our own bottoms. This would answer the threefold purpose of preventing our interference in their navigation, of monopolizing the profits of our trade, and of clipping the wings by which we might soar to a dangerous greatness. Did not prudence forbid the detail, it would not be difficult to trace, by facts, the workings of this policy to the cabinets of ministers.

If we continue united, we may counteract a policy so unfriendly to our prosperity in a variety of ways. By prohibitory regulations, extending at the same time throughout the States, we may oblige foreign countries to bid against each other for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance to any manufacturing nation of the markets of three millions of people—increasing

in rapid progression, for the most part exclusively addicted to agriculture, and likely from local circumstances to remain in this disposition; and the immense difference there would be to the trade and navigation of such a nation, between a direct communication in its own ships and an indirect conveyance of its products and returns, to and from America, in the ships of another country. Suppose, for instance, we had a government in America capable of excluding Great Britain (with whom we have at present no treaty of commerce) from all our ports; what would be the probable operation of this step upon her politics? Would it not enable us to negotiate, with the fairest prospect of success, for commercial privileges of the most valuable and extensive kind in the dominions of that kingdom? When these questions have been asked upon other occasions, they have received a plausible, but not a solid or satisfactory answer. It has been said that prohibitions on our part would produce no change in the system of Britain, because she could prosecute her trade with us through the medium of the Dutch, who would be her immediate customers and paymasters for those articles which were wanted for the supply of our markets. But would not her navigation be materially injured by the loss of the important advantage of being her own carrier in that trade? Would not the principal part of its profits be intercepted by the Dutch as a compensation for their agency and risk? Would not the mere circumstance of freight occasion a considerable deduction? Would not so circuitous an intercourse facilitate the competitions of other nations, by enhancing the price of British commodities in our markets and by transferring to other hands the management of this interesting branch of the British commerce?

A mature consideration of the objects suggested by these questions will justify a belief that the real disadvantages to Great Britain from such a state of things, conspiring with the prepossessions of a great part of the nation in favor of the American trade and with the importunities of the West India islands, would produce a relaxation in her present system and would let us into the enjoyment of privileges in the markets of those islands and elsewhere, from which our trade would derive the most substantial benefits. Such a point gained from the British government, and which could not be expected without an equivalent in exemptions and immunities in our markets, would be likely to have a correspondent effect on the conduct of other nations, who would not be inclined to see themselves altogether

supplanted in our trade.

A further resource for influencing the conduct of European nations towards us, in this respect, would arise from the establishment of a federal navy. There can be no doubt that the continuance of the Union under an efficient government would put it in our power, at a period not very distant, to create a navy which, if it could not vie with those of the great maritime powers, would at least be of respectable weight if thrown into the scale of either of two contending parties. This would be more particularly the case in relation to operations in the West Indies. A few ships of the line, sent opportunely to the reinforcement of either side, would often be sufficient to decide the fate of a campaign on the event of which interests of the greatest magnitude were suspended. Our position is in this respect a very commanding one. And if to this consideration we add that of the usefulness of supplies from this country, in the prosecution of military operations in the West Indies, it will readily be perceived that a situation so favorable would enable us to bargain with great advantage for commercial privileges. A price would be set not only upon our friendship, but upon our neutrality. By a steady adherence to the Union, we may hope, ere long, to become the arbiter of Europe in America, and to be able to incline the balance of European competitions in this part of the world as our interest may dictate.

But in the reverse of this eligible situation, we shall discover that the rivalships of the parts would make them checks upon each other and would frustrate all the tempting advantages which nature has kindly placed within our reach. In a state so insignificant our commerce would be a prey to the wanton intermeddlings of all nations at war with each other, who, having nothing to fear from us, would with little scruple or remorse supply their wants by depredations on our property as often as it fell in their way. The rights of neutrality will only be respected when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.

Under a vigorous national government, the natural strength and resources of the country, directed to a common interest, would baffle all the combinations of European jealousy to restrain our growth. This situation would even take away the motive to such combinations by inducing an

impracticability of success. An active commerce, an extensive navigation, a flourishing marine would then be the inevitable offspring of moral and physical necessity. We might defy the little arts of little politicians to control or vary the irresistible and unchangeable course of nature.

But in a state of disunion, these combinations might exist and might operate with success. It would be in the power of the maritime nations, availing themselves of our universal impotence, to prescribe the conditions of our political existence; and as they have a common interest in being our carriers, and still more in preventing our being theirs, they would in all probability combine to embarrass our navigation in such a manner as would in effect destroy it and confine us to a *PASSIVE COMMERCE*. We should thus be compelled to content ourselves with the first price of our commodities and to see the profits of our trade snatched from us to enrich our enemies and persecutors. That unequalled spirit of enterprise, which signalizes the genius of the American merchants and navigators and which is in itself an inexhaustible mine of national wealth, would be stifled and lost, and poverty and disgrace would overspread a country which with wisdom might make herself the admiration and envy of the world.

There are rights of great moment to the trade of America which are rights of the Union—I allude to the fisheries, to the navigation of the lakes, and to that of the Mississippi. The dissolution of the Confederacy would give room for delicate questions concerning the future existence of these rights, which the interest of more powerful partners would hardly fail to solve to our disadvantage. The disposition of Spain with regard to the Mississippi needs no comment. France and Britain are concerned with us in the fisheries, and view them as of the utmost moment to their navigation. They, of course, would hardly remain long indifferent to that decided mastery of which experience has shown us to be possessed in this valuable branch of traffic and by which we are able to undersell those nations in their own markets. What more natural than that they should be disposed to exclude from the lists such dangerous competitors?

This branch of trade ought not to be considered as a partial benefit. All the navigating States may, in different degrees, advantageously participate in it, and under circumstances of a greater extension of mercantile capital would

not be unlikely to do it. As a nursery of seamen, it now is, or, when time shall have more nearly assimilated the principles of navigation in the several States, will become a universal resource. To the establishment of a navy it must be indispensable.

To this great national object, a NAVY, union will contribute in various ways. Every institution will grow and flourish in proportion to the quantity and extent of the means concentrated towards its formation and support. A navy of the United States, as it would embrace the resources of all, is an object far less remote than a navy of any single State or partial confederacy, which would only embrace the resources of a part. It happens, indeed, that different portions of confederated America possess each some peculiar advantage for this essential establishment. The more southern States furnish in greater abundance certain kinds of naval stores—tar, pitch, and turpentine. Their wood for the construction of ships is also of a more solid and lasting texture. The difference in the duration of the ships of which the navy might be composed, if chiefly constructed of Southern wood, would be of signal importance, either in the view of naval strength or of national economy. Some of the Southern and of the Middle States yield a greater plenty of iron, and of better quality. Seamen must chiefly be drawn from the Northern hive. The necessity of naval protection to external or maritime commerce, and the conduciveness of that species of commerce to the prosperity of a navy, are points too manifest to require a particular elucidation. They, by a kind of reaction, mutually beneficial, promote each other.

An unrestrained intercourse between the States themselves will advance the trade of each by an interchange of their respective productions, not only for the supply of reciprocal wants at home, but for exportation to foreign markets. The veins of commerce in every part will be replenished and will acquire additional motion and vigor from a free circulation of the commodities of every part. Commercial enterprise will have much greater scope from the diversity in the productions of different States. When the staple of one fails from a bad harvest or unproductive crop, it can call to its aid the staple of another. The variety, not less than the value, of products for exportation contributes to the activity of foreign commerce. It can be conducted upon much better terms with a large number of materials of a

given value than with a small number of materials of the same value, arising from the competitions of trade and from the fluctuations of markets. Particular articles may be in great demand at certain periods and unsaleable at others; but if there be a variety of articles, it can scarcely happen that they should all be at one time in the latter predicament, and on this account the operations of the merchant would be less liable to any considerable obstruction or stagnation. The speculative trader will at once perceive the force of these observations, and will acknowledge that the aggregate balance of the commerce of the United States would bid fair to be much more favorable than that of the thirteen States without union or with partial unions.

It may perhaps be replied to this that whether the States are united or disunited there would still be an intimate intercourse between them which would answer the same ends; but this intercourse would be fettered, interrupted, and narrowed by a multiplicity of causes, which in the course of these papers have been amply detailed. A unity of commercial, as well as political, interests can only result from a unity of government.

There are other points of view in which this subject might be placed, of a striking and animating kind. But they would lead us too far into the regions of futurity, and would involve topics not proper for a newspaper discussion. I shall briefly observe that our situation invites and our interests prompt us to aim at an ascendant in the system of American affairs. The world may politically, as well as geographically, be divided into four parts, each having a distinct set of interests. Unhappily for the other three, Europe, by her arms and by her negotiations, by force and by fraud, has in different degrees extended her dominion over them all. Africa, Asia, and America have successively felt her domination. The superiority she has long maintained has tempted her to plume herself as the mistress of the world, and to consider the rest of mankind as created for her benefit. Men admired as profound philosophers have in direct terms attributed to her inhabitants a physical superiority and have gravely asserted that all animals, and with them the human species, degenerate in America—that even dogs cease to bark after having breathed awhile in our atmosphere. [19](#) Facts have too long supported these arrogant pretensions of the European. [20](#) It belongs to us to vindicate the honor of the human race, and to teach that assuming brother

moderation. Union will enable us to do it. Disunion will add another victim to his triumphs. Let Americans disdain to be the instruments of European greatness! Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system superior to the control of all transatlantic force or influence and able to dictate the terms of the connection between the old and the new world!

PUBLIUS [Hamilton]

Number 12: The Utility of the Union in Respect to Revenue

# NUMBER 12

## THE UTILITY OF THE UNION IN RESPECT TO REVENUE

[Alexander Hamilton]

THE effects of Union upon the commercial prosperity of the States have been sufficiently delineated. Its tendency to promote the interests of revenue will be the subject of our present inquiry.

The prosperity of commerce is now perceived and acknowledged by all enlightened statesmen to be the most useful as well as the most productive source of national wealth, and has accordingly become a primary object of their political cares. By multiplying the means of gratification, by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, it serves to vivify and invigorate all the channels of industry and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic, and the industrious manufacturer—all orders of men look forward with eager expectation and growing alacrity to this pleasing reward of their toils. The often-agitated question between agriculture and commerce has from indubitable experience received a decision which has silenced the rivalry that once subsisted between them, and has proved, to the entire satisfaction of their friends, that their interests are intimately blended and interwoven. It has been found in various countries that in proportion as commerce has flourished land has risen in value. And how could it have happened otherwise? Could that which procures a freer vent for the products of the earth, which furnishes new incitements to the cultivators of land, which is the most powerful instrument in increasing the quantity of money in a state—could that, in fine, which is the faithful handmaid of labor and industry in every shape fail to augment the value of that article, which is the prolific parent of far the greatest part of the objects upon which they are exerted? It is astonishing that so simple a truth should ever have an adversary; and it is one among a multitude of proofs how apt a spirit of ill-formed jealousy, or of too great abstraction and refinement, is to lead men astray from the plainest

paths of reason and conviction.

The ability of a country to pay taxes must always be proportioned in a great degree to the quantity of money in circulation and to the celerity with which it circulates. Commerce, contributing to both these objects, must of necessity render the payment of taxes easier and facilitate the requisite supplies to the treasury. The hereditary dominions of the Emperor of Germany contain a great extent of fertile, cultivated, and populous territory, a large proportion of which is situated in mild and luxuriant climates. In some parts of this territory are to be found the best gold and silver mines in Europe. And yet from the want of the fostering influence of commerce that monarch can boast but slender revenues. He has several times been compelled to owe obligations to the pecuniary succors of other nations for the preservation of his essential interests, and is unable, upon the strength of his own resources, to sustain a long or continued war.

But it is not in this aspect of the subject alone that Union will be seen to conduce to the purposes of revenue. There are other points of view in which its influence will appear more immediate and decisive. It is evident from the state of the country, from the habits of the people, from the experience we have had on the point itself that it is impracticable to raise any very considerable sums by direct taxation. Tax laws have in vain been multiplied; new methods to enforce the collection have in vain been tried; the public expectation has been uniformly disappointed, and the treasuries of the States have remained empty. The popular system of administration inherent in the nature of popular government, coinciding with the real scarcity of money incident to a languid and mutilated state of trade, has hitherto defeated every experiment for extensive collections, and has at length taught the different legislatures the folly of attempting them.

No person acquainted with what happens in other countries will be surprised at this circumstance. In so opulent a nation as that of Britain, where direct taxes from superior wealth must be much more tolerable, and from the vigor of the government, much more practicable than in America, far the greatest part of the national revenue is derived from taxes of the indirect kind, from imposts and from excises. Duties on imported articles

form a large branch of this latter description.

In America it is evident that we must a long time depend for the means of revenue chiefly on such duties. In most parts of it excises must be confined within a narrow compass. The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws. The pockets of the farmers, on the other hand, will reluctantly yield but scanty supplies in the unwelcome shape of impositions on their houses and lands; and personal property is too precarious and invisible a fund to be laid hold of in any other way than by the imperceptible agency of taxes on consumption.

If these remarks have any foundation, that state of things which will best enable us to improve and extend so valuable a resource must be the best adapted to our political welfare. And it cannot admit of a serious doubt that this state of things must rest on the basis of a general Union. As far as this would be conducive to the interests of commerce, so far it must tend to the extension of the revenue to be drawn from that source. As far as it would contribute to rendering regulations for the collection of the duties more simple and efficacious, so far it must serve to answer the purposes of making the same rate of duties more productive and of putting it into the power of the government to increase the rate without prejudice to trade.

The relative situation of these States; the number of rivers with which they are intersected and of bays that wash their shores; the facility of communication in every direction; the affinity of language and manners; the familiar habits of intercourse—all these are circumstances that would conspire to render an illicit trade between them a matter of little difficulty and would insure frequent evasions of the commercial regulations of each other. The separate States, or confederacies, would be necessitated by mutual jealousy to avoid the temptations to that kind of trade by the lowness of their duties. The temper of our governments for a long time to come would not permit those rigorous precautions by which the European nations guard the avenues into their respective countries, as well by land as by water; and which, even there, are found insufficient obstacles to the adventurous stratagems of avarice.

In France there is an army of patrols (as they are called) constantly employed to secure her fiscal regulations against the inroads of the dealers in contraband. Mr. Neckar computes the number of these patrols at upwards of twenty thousand. [21](#) This proves the immense difficulty in preventing that species of traffic where there is an inland communication and shows in a strong light the disadvantages with which the collection of duties in this country would be encumbered, if by disunion the States should be placed in a situation with respect to each other resembling that of France with respect to her neighbors. The arbitrary and vexatious powers with which the patrols are necessarily armed would be intolerable in a free country.

If, on the contrary, there be but one government pervading all the States, there will be, as to the principal part of our commerce, but ONE SIDE to guard—the ATLANTIC COAST. Vessels arriving directly from foreign countries, laden with valuable cargoes, would rarely choose to hazard themselves to the complicated and critical perils which would attend attempts to unlade prior to their coming into port. They would have to dread both the dangers of the coast and of detection, as well after as before their arrival at the places of their final destination. An ordinary degree of vigilance would be competent to the prevention of any material infractions upon the rights of the revenue. A few armed vessels, judiciously stationed at the entrances of our ports, might at small expense be made useful sentinels of the laws. And the government having the same interests to provide against violations everywhere, the co-operation of its measures in each State would have a powerful tendency to render them effectual. Here also we should preserve, by Union, an advantage which nature holds out to us and which would be relinquished by separation. The United States lie at a great distance from Europe and at a considerable distance from all other places with which they would have extensive connections of foreign trade. The passage from them to us, in a few hours or in a single night, as between the coasts of France and Britain, and of other neighboring nations, would be impracticable. This is a prodigious security against a direct contraband with foreign countries; but a circuitous contraband to one State through the medium of another would be both easy and safe. The difference between a direct importation from abroad, and an indirect importation through the channel of a neighboring State, in small parcels according to time and opportunity, with the additional facilities of inland communication, must be

palpable to every man of discernment.

It is therefore evident that one national government would be able at much less expense to extend the duties on imports beyond comparison, further than would be practicable to the States separately, or to any partial confederacies. Hitherto, I believe, it may safely be asserted that these duties have not upon an average exceeded in any State three percent. In France they are estimated at about fifteen percent, and in Britain the proportion is still greater. There seems to be nothing to hinder their being increased in this country to at least treble their present amount. The single article of ardent spirits under federal regulation might be made to furnish a considerable revenue. Upon a ratio to the importation into this State, the whole quantity imported into the United States may at a low computation be estimated at four millions of gallons, which, at a shilling per gallon, would produce two hundred thousand pounds. That article would well bear this rate of duty; and if it should tend to diminish the consumption of it, such an effect would be equally favorable to the agriculture, to the economy, to the morals, and to the health of the society. There is, perhaps, nothing so much a subject of national extravagance as this very article.

What will be the consequence if we are not able to avail ourselves of the resource in question in its full extent? A nation cannot long exist without revenue. Destitute of this essential support, it must resign its independence and sink into the degraded condition of a province. This is an extremity to which no government will of choice accede. Revenue, therefore, must be had at all events. In this country if the principal part be not drawn from commerce, it must fall with oppressive weight upon land. It has been already intimated that excises in their true signification are too little in unison with the feelings of the people to admit of great use being made of that mode of taxation; nor, indeed, in the States where almost the sole employment is agriculture are the objects proper for excise sufficiently numerous to permit very ample collections in that way. Personal estate (as has been before remarked), from the difficulty of tracing it, cannot be subjected to large contributions by any other means than by taxes on consumption. In populous cities it may be enough the subject of conjecture to occasion the oppression of individuals, without much aggregate benefit to the State; but beyond these circles it must, in a great measure, escape the

eye and the hand of the tax-gatherer. As the necessities of the State, nevertheless, must be satisfied in some mode or other, the defect of other resources must throw the principal weight of the public burdens on the possessors of land. And as on the other hand the wants of the government can never obtain an adequate supply, unless all the sources of revenue are open to its demands, the finances of the community, under such embarrassments, cannot be put into a situation consistent with its respectability or its security. Thus we shall not even have the consolations of a full treasury to atone for the oppression of that valuable class of the citizens who are employed in the cultivation of the soil. But public and private distress will keep pace with each other in gloomy concert and unite in deploring the infatuation of those counsels which led to disunion.

PUBLIUS [Hamilton]

Number 13: The Same Subject Continued with a View to Economy

# NUMBER 13

THE SAME SUBJECT CONTINUED  
WITH A VIEW TO ECONOMY

[Alexander Hamilton]

AS CONNECTED with the subject of revenue, we may with propriety consider that of economy. The money saved from one object may be usefully applied to another, and there will be so much the less to be drawn from the pockets of the people. If the States are united under one government, there will be but one national civil list to support; if they are divided into several confederacies, there will be as many different national civil lists to be provided for—and each of them, as to the principal departments, coextensive with that which would be necessary for a government of the whole. The entire separation of the States into thirteen unconnected sovereignties is a project too extravagant and too replete with danger to have many advocates. The ideas of men who speculate upon the dismemberment of the empire seem generally turned towards three confederacies—one consisting of the four Northern, another of the four Middle, and a third of the five Southern States. There is little probability that there would be a greater number. According to this distribution each confederacy would comprise an extent of territory larger than that of the kingdom of Great Britain. No well-informed man will suppose that the affairs of such a confederacy can be properly regulated by a government less comprehensive in its origins or institutions than that which has been proposed by the convention. When the dimensions of a State attain to a certain magnitude, it requires the same energy of government and the same forms of administration which are requisite in one of much greater extent. This idea admits not of precise demonstration, because there is no rule by which we can measure the momentum of civil power necessary to the government of any given number of individuals; but when we consider that the island of Britain, nearly commensurate with each of the supposed confederacies, contains about eight millions of people, and when we reflect upon the degree of authority required to direct the passions of so large a society to the public good, we shall see no reason to doubt that the like portion of power would be sufficient to perform the same task in a society

far more numerous. Civil power, properly organized and exerted, is capable of diffusing its force to a very great extent, and can in a manner reproduce itself in every part of a great empire by a judicious arrangement of subordinate institutions.

The supposition that each confederacy into which the States would be likely to be divided would require a government not less comprehensive than the one proposed will be strengthened by another supposition, more probable than that which presents us with three confederacies as the alternative to a general Union. If we attend carefully to geographical and commercial considerations, in conjunction with the habits and prejudices of the different States, we shall be led to conclude that in case of disunion they will most naturally league themselves under two governments. The four Eastern States, from all the causes that form the links of national sympathy and connection, may with certainty be expected to unite. New York, situated as she is, would never be unwise enough to oppose a feeble and unsupported flank to the weight of that confederacy. There are other obvious reasons that would facilitate her accession to it. New Jersey is too small a State to think of being a frontier in opposition to this still more powerful combination; nor do there appear to be any obstacles to her admission into it. Even Pennsylvania would have strong inducements to join the Northern league. An active foreign commerce, on the basis of her own navigation, is her true policy, and coincides with the opinions and dispositions of her citizens. The more Southern States, from various circumstances, may not think themselves much interested in the encouragement of navigation. They may prefer a system which would give unlimited scope to all nations to be the carriers as well as the purchasers of their commodities. Pennsylvania may not choose to confound her interests in a connection so adverse to her policy. As she must at all events be a frontier, she may deem it most consistent with her safety to have her exposed side turned towards the weaker power of the Southern, rather than towards the stronger power of the Northern, Confederacy. This would give her the fairest chance to avoid being the Flanders of America. Whatever may be the determination of Pennsylvania, if the Northern Confederacy includes New Jersey, there is no likelihood of more than one confederacy to the south of that State.

Nothing can be more evident than that the thirteen States will be able to support a national government better than one half, or one third, or any number less than the whole. This reflection must have great weight in obviating that objection to the proposed plan, which is founded on the principle of expense; an objection, however, which, when we come to take a nearer view of it, will appear in every light to stand on mistaken ground.

If, in addition to the consideration of a plurality of civil lists, we take into view the number of persons who must necessarily be employed to guard the inland communication between the different confederacies against illicit trade, and who in time will infallibly spring up out of the necessities of revenue; and if we also take into view the military establishments which it has been shown would unavoidably result from the jealousies and conflicts of the several nations into which the States would be divided, we shall clearly discover that a separation would be not less injurious to the economy than to the tranquillity, commerce, revenue, and liberty of every part.

PUBLIUS [Hamilton]

Number 14: An Objection Drawn from the Extent of Country Answered

# NUMBER 14

## AN OBJECTION DRAWN FROM THE EXTENT OF COUNTRY ANSWERED

[James Madison]

WE HAVE seen the necessity of the Union as our bulwark against foreign danger, as the conservator of peace among ourselves, as the guardian of our commerce and other common interests, as the only substitute for those military establishments which have subverted the liberties of the old world, and as the proper antidote for the diseases of faction, which have proved fatal to other popular governments, and of which alarming symptoms have been betrayed by our own. All that remains within this branch of our inquiries is to take notice of an objection that may be drawn from the great extent of country which the Union embraces. A few observations on this subject will be the more proper as it is perceived that the adversaries of the new Constitution are availing themselves of a prevailing prejudice with regard to the practicable sphere of republican administration, in order to supply by imaginary difficulties the want of those solid objections which they endeavor in vain to find.

The error which limits republican government to a narrow district has been unfolded and refuted in preceding papers. I remark here only that it seems to owe its rise and prevalence chiefly to the confounding of a republic with a democracy, and applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasion. It is that in a democracy the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy, consequently, must be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute or limited monarchy, they have endeavored to heighten the advantages, or palliate the evils of those forms, by placing in comparison with them the

vices and defects of the republican and by citing as specimens of the latter the turbulent democracies of ancient Greece and modern Italy. Under the confusion of names, it has been an easy task to transfer to a republic observations applicable to a democracy only; and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived, as most of the popular governments of antiquity were of the democratic species; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular and founded, at the same time, wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which the will of the largest political body may be concentrated and its force directed to any object which the public good requires, America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy in the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point which will just permit the most remote citizens to assemble as often as their public functions demand, and will include no greater number than can join in those functions, so the natural limit of a republic is that distance from the center which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs. Can it be said that the limits of the United States exceed this distance? It will not be said by those who recollect that the Atlantic coast is the longest side of the Union, that during the term of thirteen years the representatives of the States have been almost continually assembled, and that the members from the most distant States are not chargeable with greater intermissions of attendance than those from the States in the neighborhood of Congress.

That we may form a juster estimate with regard to this interesting subject, let us resort to the actual dimensions of the Union. The limits, as fixed by the treaty of peace, are: on the east the Atlantic, on the south the latitude of thirty-one degrees, on the west the Mississippi, and on the north an irregular

line running in some instances beyond the forty-fifth degree, in others falling as low as the forty-second. The southern shore of Lake Erie lies below that latitude. Computing the distance between the thirty-first and forty-fifth degrees, it amounts to nine hundred and seventy-three common miles; computing it from thirty-one to forty-two degrees, to seven hundred, sixty-four miles and a half. Taking the mean for the distance, the amount will be eight hundred, sixty-eight miles and three fourths. The mean distance from the Atlantic to the Mississippi does not probably exceed seven hundred and fifty miles. On a comparison of this extent with that of several countries in Europe, the practicability of rendering our system commensurate to it appears to be demonstrable. It is not a great deal larger than Germany, where a diet representing the whole empire is continually assembled; or than Poland before the late dismemberment, where another national diet was the depositary of the supreme power. Passing by France and Spain, we find that in Great Britain, inferior as it may be in size, the representatives of the northern extremity of the island have as far to travel to the national council as will be required of those of the most remote parts of the Union.

Favorable as this view of the subject may be, some observations remain which will place it in a light still more satisfactory.

In the first place it is to be remembered that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all those other objects which can be separately provided for, will retain their due authority and activity. Were it proposed by the plan of the convention to abolish the governments of the particular States, its adversaries would have some ground for their objection; though it would not be difficult to show that if they were abolished the general government would be compelled by the principle of self-preservation to reinstate them in their proper jurisdiction.

A second observation to be made is that the immediate object of the federal Constitution is to secure the union of the thirteen primitive States, which we

know to be practicable; and to add to them such other States as may arise in their own bosoms, or in their neighborhoods, which we cannot doubt to be equally practicable. The arrangements that may be necessary for those angles and fractions of our territory which lie on our north-western frontier must be left to those whom further discoveries and experience will render more equal to the task.

Let it be remarked, in the third place, that the intercourse throughout the Union will be facilitated by new improvements. Roads will everywhere be shortened and kept in better order; accommodations for travelers will be multiplied and meliorated; an interior navigation on our eastern side will be opened throughout, or nearly throughout, the whole extent of the thirteen States. The communication between the Western and Atlantic districts, and between different parts of each, will be rendered more and more easy by those numerous canals with which the beneficence of nature has intersected our country, and which art finds it so little difficult to connect and complete.

A fourth and still more important consideration is that as almost every State will on one side or other be a frontier, and will thus find, in a regard to its safety, an inducement to make some sacrifices for the sake of the general protection; so the States which lie at the greatest distance from the heart of the Union, and which, of course, may partake least of the ordinary circulation of its benefits, will be at the same time immediately contiguous to foreign nations, and will consequently stand, on particular occasions, in greatest need of its strength and resources. It may be inconvenient for Georgia, or the States forming our western or north-eastern borders, to send their representatives to the seat of government; but they would find it more so to struggle alone against an invading enemy, or even to support alone the whole expense of those precautions which may be dictated by the neighborhood of continual danger. If they should derive less benefit, therefore, from the Union in some respects than the less distant States, they will derive greater benefit from it in other respects, and thus the proper equilibrium will be maintained throughout.

I submit to you, my fellow-citizens, these considerations, in full confidence that the good sense which has so often marked your decisions will allow them their due weight and effect; and that you will never suffer difficulties,

however formidable in appearance or however fashionable the error on which they may be founded, to drive you into the gloomy and perilous scene into which the advocates for disunion would conduct you. Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many cords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow-citizens of one great, respectable, and flourishing empire. Hearken not to the voice which petulantly tells you that the form of government recommended for your adoption is a novelty in the political world; that it has never yet had a place in the theories of the wildest projectors; that it rashly attempts what it is impossible to accomplish. No, my countrymen, shut your ears against this unhallowed language. Shut your hearts against the poison which it conveys; the kindred blood which flows in the veins of American citizens, the mingled blood which they have shed in defense of their sacred rights, consecrate their Union and excite horror at the idea of their becoming aliens, rivals, enemies. And if novelties are to be shunned, believe me, the most alarming of all novelties, the most wild of all projects, the most rash of all attempts, is that of rending us in pieces in order to preserve our liberties and promote our happiness. But why is the experiment of an extended republic to be rejected merely because it may comprise what is new? Is it not the glory of the people of America that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness. Had no important step been taken by the leaders of the Revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might at this moment have been numbered among the melancholy victims of misguided councils, must at best have been laboring under the weight of some of those forms which have crushed the liberties of the rest of mankind. Happily for America, happily we trust for the whole human race, they pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human

society. They reared the fabrics of governments which have no model on the face of the globe. They formed the design of a great Confederacy, which it is incumbent on their successors to improve and perpetuate. If their works betray imperfections, we wonder at the fewness of them. If they erred most in the structure of the Union, this was the work most difficult to be executed; this is the work which has been new modeled by the act of your convention, and it is that act on which you are now to deliberate and to decide.

PUBLIUS [Madison]

Number 15: Concerning the Defects of the Present Confederation in Relation to the Principle of Legislation for the States in their Collective Capacities

# NUMBER 15

## CONCERNING THE DEFECTS OF THE PRESENT CONFEDERATION IN RELATION TO THE PRINCIPLE OF LEGISLATION FOR THE STATES IN THEIR COLLECTIVE CAPACITIES

[Alexander Hamilton]

IN THE course of the preceding papers I have endeavored, my fellow-citizens, to place before you in a clear and convincing light the importance of Union to your political safety and happiness. I have unfolded to you a complication of dangers to which you would be exposed, should you permit that sacred knot which binds the people of America together to be severed or dissolved by ambition or by avarice, by jealousy or by misrepresentation. In the sequel of the inquiry through which I propose to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the road over which you will still have to pass should in some places appear to you tedious or irksome, you will recollect that you are in quest of information on a subject the most momentous which can engage the attention of a free people, that the field through which you have to travel is in itself spacious, and that the difficulties of the journey have been unnecessarily increased by the mazes with which sophistry has beset the way. It will be my aim to remove the obstacles to your progress in as compendious a manner as it can be done, without sacrificing utility to dispatch.

In pursuance of the plan which I have laid down for the discussion of the subject, the point next in order to be examined is the insufficiency of the present Confederation to the preservation of the Union. It may perhaps be asked what need there is of reasoning or proof to illustrate a position which is not either controverted or doubted, to which the understandings and feelings of all classes of men assent, and which in substance is admitted by the opponents as well as by the friends of the new Constitution. It must in truth be acknowledged that, however these may differ in other respects, they in general appear to harmonize in this sentiment at least: that there are material imperfections in our national system and that something is

necessary to be done to rescue us from impending anarchy. The facts that support this opinion are no longer objects of speculation. They have forced themselves upon the sensibility of the people at large, and have at length extorted from those, whose mistaken policy has had the principal share in precipitating the extremity at which we are arrived, a reluctant confession of the reality of those defects in the scheme of our federal government which have been long pointed out and regretted by the intelligent friends of the Union.

We may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely anything that can wound the pride or degrade the character of an independent nation which we do not experience. Are there engagements to the performance of which we are held by every tie respectable among men? These are the subjects of constant and unblushing violation. Do we owe debts to foreigners and to our own citizens contracted in a time of imminent peril for the preservation of our political existence? These remain without any proper or satisfactory provision for their discharge. Have we valuable territories and important posts in the possession of a foreign power which, by express stipulations, ought long since to have been surrendered? These are still retained to the prejudice of our interests, not less than of our rights. Are we in a condition to resent or to repel the aggression? We have neither troops, nor treasury, nor government. [22](#) Are we even in a condition to remonstrate with dignity? The just imputations on our own faith in respect to the same treaty ought first to be removed. Are we entitled by nature and compact to a free participation in the navigation of the Mississippi? Spain excludes us from it. Is public credit an indispensable resource in time of public danger? We seem to have abandoned its cause as desperate and irretrievable. Is commerce of importance to national wealth? Ours is at the lowest point of declension. Is respectability in the eyes of foreign powers a safeguard against foreign encroachments? The imbecility of our government even forbids them to treat with us. Our ambassadors abroad are the mere pageants of mimic sovereignty. Is a violent and unnatural decrease in the value of land a symptom of national distress? The price of improved land in most parts of the country is much lower than can be accounted for by the quantity of waste land at market, and can only be fully explained by that want of private and public confidence, which are so alarmingly prevalent

among all ranks and which have a direct tendency to depreciate property of every kind. Is private credit the friend and patron of industry? That most useful kind which relates to borrowing and lending is reduced within the narrowest limits, and this still more from an opinion of insecurity than from a scarcity of money. To shorten an enumeration of particulars which can afford neither pleasure nor instruction, it may in general be demanded, what indication is there of national disorder, poverty, and insignificance that could befall a community so peculiarly blessed with natural advantages as we are, which does not form a part of the dark catalogue of our public misfortunes?

This is the melancholy situation to which we have been brought by those very maxims and counsels which would now deter us from adopting the proposed Constitution; and which, not content with having conducted us to the brink of a precipice, seem resolved to plunge us into the abyss that awaits us below. Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquillity, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.

It is true, as has been before observed, that facts too stubborn to be resisted have produced a species of general assent to the abstract proposition that there exist material defects in our national system; but the usefulness of the concession on the part of the old adversaries of federal measures is destroyed by a strenuous opposition to a remedy upon the only principles that can give it a chance of success. While they admit that the government of the United States is destitute of energy, they contend against conferring upon it those powers which are requisite to supply that energy. They seem still to aim at things repugnant and irreconcilable; at an augmentation of federal authority without a diminution of State authority; at sovereignty in the Union and complete independence in the members. They still, in fine, seem to cherish with blind devotion the political monster of an imperium in imperio. This renders a full display of the principal defects of the Confederation necessary in order to show that the evils we experience do not proceed from minute or partial imperfections, but from fundamental errors in the structure of the building, which cannot be amended otherwise

than by an alteration in the first principles and main pillars of the fabric.

The great and radical vice in the construction of the existing Confederation is in the principle of LEGISLATION for STATES or GOVERNMENTS, in their CORPORATE or COLLECTIVE CAPACITIES, and as contradistinguished from the INDIVIDUALS of whom they consist. Though this principle does not run through all the powers delegated to the Union, yet it pervades and governs those on which the efficacy of the rest depends. Except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have no authority to raise either by regulations extending to the individual citizens of America. The consequence of this is that though in theory their resolutions concerning those objects are laws constitutionally binding on the members of the Union, yet in practice they are mere recommendations which the States observe or disregard at their option.

It is a singular instance of the capriciousness of the human mind that after all the admonitions we have had from experience on this head, there should still be found men who object to the new Constitution for deviating from a principle which has been found the bane of the old and which is in itself evidently incompatible with the idea of GOVERNMENT: a principle, in short, which, if it is to be executed at all, must substitute the violent and sanguinary agency of the sword to the mild influence of the magistracy.

There is nothing absurd or impracticable in the idea of a league or alliance between independent nations for certain defined purposes precisely stated in a treaty regulating all the details of time, place, circumstance, and quantity, leaving nothing to future discretion, and depending for its execution on the good faith of the parties. Compacts of this kind exist among all civilized nations, subject to the usual vicissitudes of peace and war, of observance and nonobservance, as the interests or passions of the contracting powers dictate. In the early part of the present century there was an epidemical rage in Europe for this species of compacts, from which the politicians of the times fondly hoped for benefits which were never realized. With a view to establishing the equilibrium of power and the peace of that part of the world, all the resources of negotiations were exhausted, and triple and quadruple alliances were formed; but they were scarcely formed before they

were broken, giving an instructive but afflicting lesson to mankind how little dependence is to be placed on treaties which have no other sanction than the obligations of good faith, and which oppose general considerations of peace and justice to the impulse of any immediate interest or passion.

If the particular States in this country are disposed to stand in a similar relation to each other, and to drop the project of a general DISCRETIONARY SUPER INTENDENCE, the scheme would indeed be pernicious and would entail upon us all the mischiefs which have been enumerated under the first head; but it would have the merit of being, at least, consistent and practicable. Abandoning all views towards a confederate government, this would bring us to a simple alliance offensive and defensive; and would place us in a situation to be alternate friends and enemies of each other, as our mutual jealousies and rivalships, nourished by the intrigues of foreign nations, should prescribe to us.

But if we are unwilling to be placed in this perilous situation; if we still will adhere to the design of a national government, or, which is the same thing, of a superintending power under the direction of a common council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the Union to the persons of the citizens—the only proper objects of government.

Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways: by the agency of the courts and ministers of justice, or by military force; by the COERCION of the magistracy, or by the COERCION of arms. The first kind can evidently apply only to men; the last kind must of necessity be employed against bodies politic, or communities, or States. It is evident that there is no process of a court by which the observance of the laws can in the last resort be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into

execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war; and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

There was a time when we were told that breaches by the States of the regulations of the federal authority were not to be expected; that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the Union. This language, at the present day, would appear as wild as a great part of what we now hear from the same quarter will be thought, when we shall have received further lessons from that best oracle of wisdom, experience. It at all times betrayed an ignorance of the true springs by which human conduct is actuated, and belied the original inducements to the establishment of civil power. Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice without constraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence when the infamy of a bad action is to be divided among a number than when it is to fall singly upon one. A spirit of faction, which is apt to mingle its poison in the deliberations of all bodies of men, will often hurry the persons of whom they are composed into improprieties and excesses for which they would blush in a private capacity.

In addition to all this, there is in the nature of sovereign power an impatience of control that disposes those who are invested with the exercise of it to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, there will be found a kind of eccentric tendency in the subordinate or inferior orbs by the operation of which there will be a perpetual effort in each to fly off from the common center. This tendency is not difficult to be accounted for. It has its origin in the love of

power. Power controlled or abridged is almost always the rival and enemy of that power by which it is controlled or abridged. This simple proposition will teach us how little reason there is to expect that the persons intrusted with the administration of the affairs of the particular members of a confederacy will at all times be ready with perfect good humor and an unbiased regard to the public weal to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of man.

If, therefore, the measures of the Confederacy cannot be executed without the intervention of the particular administrations, there will be little prospect of their being executed at all. The rulers of the respective members, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the conformity of the thing proposed or required to their immediate interests or aims; the momentary conveniences or inconveniences that would attend its adoption. All this will be done; and in a spirit of interested and suspicious scrutiny, without that knowledge of national circumstances and reasons of state, which is essential to a right judgment, and with that strong predilection in favor of local objects, which can hardly fail to mislead the decision. The same process must be repeated in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part. Those who have been conversant in the proceedings of popular assemblies; who have seen how difficult it often is, when there is no exterior pressure of circumstances, to bring them to harmonious resolutions on important points, will readily conceive how impossible it must be to induce a number of such assemblies, deliberating at a distance from each other, at different times and under different impressions, long to co-operate in the same views and pursuits.

In our case the concurrence of thirteen distinct sovereign wills is requisite under the Confederation to the complete execution of every important measure that proceeds from the Union. It has happened as was to have been foreseen. The measures of the Union have not been executed; and the delinquencies of the States have step by step matured themselves to an

extreme, which has, at length, arrested all the wheels of the national government and brought them to an awful stand. Congress at this time scarcely possesses the means of keeping up the forms of administration, till the States can have time to agree upon a more substantial substitute for the present shadow of a federal government. Things did not come to this desperate extremity at once. The causes which have been specified produced at first only unequal and disproportionate degrees of compliance with the requisitions of the Union. The greater deficiencies of some States furnished the pretext of example and the temptation of interest to the complying, or to the least delinquent States. Why should we do more in proportion than those who are embarked with us in the same political voyage? Why should we consent to bear more than our proper share of the common burden? There were suggestions which human selfishness could not withstand, and which even speculative men, who looked forward to remote consequences, could not without hesitation combat. Each State yielding to the persuasive voice of immediate interest or convenience has successively withdrawn its support, till the frail and tottering edifice seems ready to fall upon our heads and to crush us beneath its ruins.

PUBLIUS [Hamilton]

Number 16: The Same Subject Continued in Relation to the Same Principle

# NUMBER 16

THE SAME SUBJECT CONTINUED  
IN RELATION TO THE SAME PRINCIPLE

[Alexander Hamilton]

THE tendency of the principle of legislation for States, or communities, in their political capacities, as it has been exemplified by the experiment we have made of it, is equally attested by the events which have befallen all other governments of the confederate kind of which we have any account in exact proportion to its prevalence in those systems. The confirmations of this fact will be worthy of a distinct and particular examination. I shall content myself with barely observing here that of all the confederacies of antiquity which history has handed down to us, the Lycian and Achaean leagues, as far as there remain vestiges of them, appear to have been most free from the fetters of that mistaken principle, and were accordingly those which have best deserved and have most liberally received the applauding suffrages of political writers.

This exceptionable principle may as truly as emphatically be styled the parent of anarchy: It has been seen that delinquencies in the members of the Union are its natural and necessary offspring; and that whenever they happen, the only constitutional remedy is force, and the immediate effect of the use of it, civil war.

It remains to inquire how far so odious an engine of government in its application to us would even be capable of answering its end. If there should not be a large army constantly at the disposal of the national government it would either not be able to employ force at all, or, when this could be done, it would amount to a war between different parts of the Confederacy concerning the infractions of a league in which the strongest combination would be most likely to prevail, whether it consisted of those who supported or of those who resisted the general authority. It would rarely happen that the delinquency to be redressed would be confined to a single member, and if there were more than one who had neglected their duty, similarity of situation would induce them to unite for common

defense. Independent of this motive of sympathy, if a large and influential State should happen to be the aggressing member, it would commonly have weight enough with its neighbors to win over some of them as associates to its cause. Specious arguments of danger to the general liberty could easily be contrived; plausible excuses for the deficiencies of the party could without difficulty be invented to alarm the apprehensions, inflame the passions, and conciliate the good will even of those States which were not chargeable with any violation or omission of duty. This would be the more likely to take place, as the delinquencies of the larger members might be expected sometimes to proceed from an ambitious premeditation in their rulers, with a view to getting rid of all external control upon their designs of personal aggrandizement; the better to effect which it is presumable they would tamper beforehand with leading individuals in the adjacent States. If associates could not be found at home, recourse would be had to the aid of foreign powers, who would seldom be disinclined to encouraging the dissensions of a Confederacy from the firm union of which they had so much to fear. When the sword is once drawn, the passions of men observe no bounds of moderation. The suggestions of wounded pride, the instigations of irritated resentment, would be apt to carry the States against which the arms of the Union were exerted to any extremes necessary to avenge the affront or to avoid the disgrace of submission. The first war of this kind would probably terminate in a dissolution of the Union.

This may be considered as the violent death of the Confederacy. Its more natural death is what we now seem to be on the point of experiencing, if the federal system be not speedily renovated in a more substantial form. It is not probable, considering the genius of this country, that the complying States would often be inclined to support the authority of the Union by engaging in a war against the noncomplying States. They would always be more ready to pursue the milder course of putting themselves upon an equal footing with the delinquent members by an imitation of their example. And the guilt of all would thus become the security of all. Our past experience has exhibited the operation of this spirit in its full light. There would, in fact, be an insuperable difficulty in ascertaining when force could with propriety be employed. In the article of pecuniary contribution, which would be the most usual source of delinquency, it would often be impossible to decide whether it had proceeded from disinclination or

inability. The pretense of the latter would always be at hand. And the case must be very flagrant in which its fallacy could be detected with sufficient certainty to justify the harsh expedient of compulsion. It is easy to see that this problem alone, as often as it should occur, would open a wide field to the majority that happened to prevail in the national council for the exercise of factious views, of partiality, and of oppression.

It seems to require no pains to prove that the States ought not to prefer a national Constitution which could only be kept in motion by the instrumentality of a large army continually on foot to execute the ordinary requisitions or decrees of the government. And yet this is the plain alternative involved by those who wish to deny it the power of extending its operations to individuals. Such a scheme, if practicable at all, would instantly degenerate into a military despotism; but it will be found in every light impracticable. The resources of the Union would not be equal to the maintenance of an army considerable enough to confine the larger States within the limits of their duty; nor would the means ever be furnished of forming such an army in the first instance. Whoever considers the populousness and strength of several of these States singly at the present juncture, and looks forward to what they will become even at the distance of half a century, will at once dismiss as idle and visionary any scheme which aims at regulating their movements by laws to operate upon them in their collective capacities and to be executed by a coercion applicable to them in the same capacities. A project of this kind is little less romantic the monster-taming spirit, attributed to the fabulous heroes and demigods of antiquity.

Even in those confederacies which have been composed of members smaller than many of our counties, the principle of legislation for sovereign States supported by military coercion has never been found effectual. It has rarely been attempted to be employed, but against the weaker members; and in most instances attempts to coerce the refractory and disobedient have been the signals of bloody wars, in which one half of the Confederacy has displayed its banners against the other half.

The result of these observations to an intelligent mind must be clearly this, that if it be possible at any rate to construct a federal government capable of

regulating the common concerns and preserving the general tranquillity, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed Constitution. It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations, but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice. The government of the Union, like that of each State, must be able to address itself immediately to the hopes and fears of individuals; and to attract to its support those passions which have the strongest influence upon the human heart. It must, in short, possess all the means, and have a right to resort to all the methods, of executing the powers with which it is intrusted, that are possessed and exercised by the governments of the particular States.

To this reasoning it may perhaps be objected that if any State should be disaffected to the authority of the Union it could at any time obstruct the execution of its laws, and bring the matter to the same issue of force, with the necessity of which the opposite scheme is reproached.

The plausibility of this objection will vanish the moment we advert to the essential difference between a mere NONCOMPLIANCE and a DIRECT and ACTIVE RESISTANCE. If the interposition of the State legislatures be necessary to give effect to a measure of the Union, they have only NOT TO ACT, or TO ACT EVASIVELY, and the measure is defeated. This neglect of duty may be disguised under affected but unsubstantial provisions so as not to appear, and of course not to excite any alarm in the people for the safety of the Constitution. The State leaders may even make a merit of their surreptitious invasions of it on the ground of some temporary convenience, exemption, or advantage.

But if the execution of the laws of the national government should not require the intervention of the State legislatures, if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of an unconstitutional power. No omissions nor evasions would answer the end. They would be obliged to act, and in such a manner as

would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a constitution in any degree competent to its own defense, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature, but the concurrence of the courts of justice and of the body of the people. If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional, and void. If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the Constitution, would throw their weight into the national scale and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with levity or rashness, because they could seldom be made without danger to the authors, unless in cases of a tyrannical exercise of the federal authority.

If opposition to the national government should arise from the disorderly conduct of refractory or seditious individuals, it could be overcome by the same means which are daily employed against the same evil under the State governments. The magistracy, being equally the ministers of the law of the land from whatever source it might emanate, would doubtless be as ready to guard the national as the local regulations from the inroads of private licentiousness. As to those partial commotions and insurrections which sometimes disquiet society from the intrigues of an inconsiderable faction, or from sudden or occasional ill humors that do not infect the great body of the community, the general government could command more extensive resources for the suppression of disturbances of that kind than would be in the power of any single member. And as to those mortal feuds which in certain conjunctures spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent given by the government or from the contagion of some violent popular paroxysm, they do not fall within any ordinary rules of calculation. When they happen, they commonly amount to revolutions and dismemberments of empire. No form of government can always either avoid or control them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a

government because it could not perform impossibilities.

PUBLIUS [Hamilton]

Number 17: The Subject Continued and Illustrated By Examples to Show the Tendency of Federal Governments Rather to Anarchy Among the Members Than Tyranny in the Head

# NUMBER 17

THE SUBJECT CONTINUED AND ILLUSTRATED  
BY EXAMPLES TO SHOW THE TENDENCY  
OF FEDERAL GOVERNMENTS RATHER TO ANARCHY  
AMONG THE MEMBERS THAN TYRANNY IN THE HEAD

[Alexander Hamilton]

AN OBJECTION of a nature different from that which has been stated and answered in my last address may perhaps be likewise urged against the principle of legislation for the individual citizens of America. It may be said that it would tend to render the government of the Union too powerful, and to enable it to absorb those residuary authorities, which it might be judged proper to leave with the States for local purposes. Allowing the utmost latitude to the love of power which any reasonable man can require, I confess I am at a loss to discover what temptation the persons intrusted with the administration of the general government could ever feel to divest the States of the authorities of that description. The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought in the first instance to be lodged in the national depository. The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the federal councils to usurp the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government.

But let it be admitted, for argument's sake, that mere wantonness and lust of domination would be sufficient to beget that disposition; still it may be safely affirmed that the sense of the constituent body of the national

representatives, or, in other words, the people of the several States, would control the indulgence of so extravagant an appetite. It will always be far more easy for the State governments to encroach upon the national authorities than for the national government to encroach upon the State authorities. The proof of this proposition turns upon the greater degree of influence which the State governments, if they administer their affairs with uprightness and prudence, will generally possess over the people; a circumstance which at the same time teaches us that there is an inherent and intrinsic weakness in all federal constitutions; and that too much pains cannot be taken in their organization to give them all the force which is compatible with the principles of liberty.

The superiority of influence in favor of the particular governments would result partly from the diffusive construction of the national government, but chiefly from the nature of the objects to which the attention of the State administrations would be directed.

It is a known fact in human nature that its affections are commonly weak in proportion to the distance or diffusiveness of the object. Upon the same principle that a man is more attached to his family than to his neighborhood, to his neighborhood than to the community at large, the people of each State would be apt to feel a stronger bias towards their local governments than towards the government of the Union; unless the force of that principle should be destroyed by a much better administration of the latter.

This strong propensity of the human heart would find powerful auxiliaries in the objects of State regulation.

The variety of more minute interests, which will necessarily fall under the superintendence of the local administrations and which will form so many rivulets of influence, running through every part of the society, cannot be particularized without involving a detail too tedious and uninteresting to compensate for the instruction it might afford.

There is one transcendent advantage belonging to the province of the State governments, which alone suffices to place the matter in a clear and

satisfactory light—I mean the ordinary administration of criminal and civil justice. This, of all others, is the most powerful, most universal, and most attractive source of popular obedience and attachment. It is this which, being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake, contributes more than any other circumstance to impressing upon the minds of the people affection, esteem, and reverence towards the government. This great cement of society, which will diffuse itself almost wholly through the channels of the particular governments, independent of all other causes of influence, would insure them so decided an empire over their respective citizens as to render them at all times a complete counterpoise, and, not unfrequently, dangerous rivals to the power of the Union.

The operations of the national government, on the other hand, falling less immediately under the observation of the mass of the citizens, the benefits derived from it will chiefly be perceived and attended to by speculative men. Relating to more general interests, they will be less apt to come home to the feelings of the people; and, in proportion, less likely to inspire an habitual sense of obligation and an active sentiment of attachment.

The reasoning on this head has been abundantly exemplified by the experience of all federal constitutions with which we are acquainted, and of all others which have borne the least analogy to them.

Though the ancient feudal systems were not, strictly speaking, confederacies, yet they partook of the nature of that species of association, There was a common head, chieftain, or sovereign, whose authority extended over the whole nation; and a number of subordinate vassals, or feudatories, who had large portions of land allotted to them, and numerous trains of inferior vassals or retainers, who occupied and cultivated that land upon the tenure of fealty or obedience to the persons of whom they held it.

Each principal vassal was a kind of sovereign within his particular demesnes. The consequences of this situation were a continual opposition to the authority of the sovereign and frequent wars between the great barons or chief feudatories themselves. The power of the head of the nation was

commonly too weak either to preserve the public peace or to protect the people against the oppressions of their immediate lords. This period of European affairs is emphatically styled by historians the times of feudal anarchy.

When the sovereign happened to be a man of vigorous and warlike temper and of superior abilities, he would acquire a personal weight and influence, which answered for the time the purposes of a more regular authority. But in general the power of the barons triumphed over that of the prince; and in many instances his dominion was entirely thrown off, and the great fiefs were erected into independent principalities or states. In those instances in which the monarch finally prevailed over his vassals, his success was chiefly owing to the tyranny of those vassals over their dependents. The barons, or nobles, equally the enemies of the sovereign and the oppressors of the common people, were dreaded and detested by both; till mutual danger and mutual interest effected a union between them fatal to the power of the aristocracy. Had the nobles, by a conduct of clemency and justice, preserved the fidelity and devotion of their retainers and followers, the contests between them and the prince must almost always have ended in their favor and in the abridgment or subversion of the royal authority.

This is not an assertion founded merely in speculation or conjecture. Among other illustrations of its truth which might be cited, Scotland will furnish a cogent example. The spirit of clanship which was at an early day introduced into that kingdom, uniting the nobles and their dependents by ties equivalent to those of kindred, rendered the aristocracy a constant overmatch for the power of the monarch, till the incorporation with England subdued its fierce and ungovernable spirit and reduced it within those rules of subordination which a more rational and more energetic system of civil polity had previously established in the latter kingdom.

The separate governments in a confederacy may aptly be compared with the feudal baronies; with this advantage in their favor: that from the reasons already explained they will generally possess the confidence and good will of the people, and with so important a support will be able effectually to oppose all encroachments of the national government. It will be well if they are not able to counteract its legitimate and necessary authority. The points

of similitude consist in the rivalry of power applicable to both; and in the CONCENTRATION of large portions of the strength of the community into particular DEPOSITORIES, in one case at the disposal of individuals, in the other case at the disposal of political bodies.

A concise review of the events that have attended confederate governments will further illustrate this important doctrine; an inattention to which has been the great source of our political mistakes and has given our jealousy a direction to the wrong side. This review shall form the subject of some ensuing papers.

PUBLIUS [Hamilton]

Number 18: The Subject Continued with Further Examples

# NUMBER 18

THE SUBJECT CONTINUED  
WITH FURTHER EXAMPLES

[James Madison]

AMONG the confederacies of antiquity the most considerable was that of the Grecian republics, associated under the Amphictyonic council. From the best accounts transmitted of this celebrated institution it bore a very instructive analogy to the present Confederation of the American States.

The members retained the character of independent and sovereign states and had equal votes in the federal council. This council had a general authority to propose and resolve whatever it judged necessary for the common welfare of Greece; to declare and carry on war; to decide in the last resort all controversies between the members; to fine the aggressing party; to employ the whole force of the Confederacy against the disobedient; to admit new members. The Amphictyons were the guardians of religion and of the immense riches belonging to the temple of Delphos, where they had the right of jurisdiction in controversies between the inhabitants and those who came to consult the oracle. As a further provision for the efficacy of the federal powers, they took an oath mutually to defend and protect the united cities, to punish the violators of this oath, and to inflict vengeance on sacrilegious despoilers of the temple.

In theory and upon paper, this apparatus of powers seems amply sufficient for all general purposes. In several material instances they exceed the powers enumerated in the Articles of Confederation. The Amphictyons had in their hands the superstition of the times, one of the principal engines by which government was then maintained; they had a declared authority to use coercion against refractory cities, and were bound by oath to exert this authority on the necessary occasions.

Very different, nevertheless, was the experiment from the theory. The powers, like those of the present Congress, were administered by deputies appointed wholly by the cities in their political capacities; and exercised

over them in the same capacities. Hence the weakness, the disorders, and finally the destruction of the confederacy. The more powerful members, instead of being kept in awe and subordination, tyrannized successively over all the rest. Athens, as we learn from Desmosthenes, was the arbiter of Greece seventy-three years. The Lacedaemonians next governed it twenty-nine years; at a subsequent period, after the battle of Leuctra, the Thebans had their turn of domination.

It happened but too often, according to Plutarch, that the deputies of the strongest cities awed and corrupted those of the weaker; and that judgment went in favor of the most powerful party.

Even in the midst of defensive and dangerous wars with Persia and Macedon, the members never acted in concert, and were, more or fewer of them, eternally the dupes or the hirelings of the common enemy. The intervals of foreign war were filled up by domestic vicissitudes, convulsions, and carnage.

After the conclusion of the war with Xerxes, it appears that the Lacedaemonians required that a number of the cities should be turned out of the confederacy for the unfaithful part they had acted. The Athenians, finding that the Lacedaemonians would lose fewer partisans by such a measure than themselves and would become masters of the public deliberations, vigorously opposed and defeated the attempt. This piece of history proves at once the inefficiency of the union, the ambition and jealousy of its most powerful members, and the dependent and degraded condition of the rest. The smaller members, though entitled by the theory of their system to revolve in equal pride and majesty around the common center, had become, in fact, satellites of the orbs of primary magnitude.

Had the Greeks, says the Abbe Milot, been as wise as they were courageous, they would have been admonished by experience of the necessity of closer union, and would have availed themselves of the peace which followed their success against the Persian arms to establish such a reformation. [23](#) Instead of this obvious policy, Athens and Sparta, inflated with the victories and the glory they had acquired, became first rivals and then enemies; and did each other infinitely more mischief than they had

suffered from Xerxes. Their mutual jealousies, fears, hatreds, and injuries ended in the celebrated Peloponnesian war, which itself ended in the ruin and slavery of the Athenians who had begun it.

As a weak government when not at war is ever agitated by internal dissensions, so these never fail to bring on fresh calamities from abroad. The Phocians having plowed up some consecrated ground belonging to the temple of Apollo, the Amphictyonic council, according to the superstition of the age, imposed a fine on the sacrilegious offenders. The Phocians, being abetted by Athens and Sparta, refused to submit to the decree. The Thebans, with others of the cities, undertook to maintain the authority of the Amphictyons and to avenge the violated god. The latter, being the weaker party, invited the assistance of Philip of Macedon, who had secretly fostered the contest. Philip gladly seized the opportunity of executing the designs he had long planned against the liberties of Greece. By his intrigues and bribes he won over to his interests the popular leaders of several cities; by their influence and votes, gained admission into the Amphictyonic council; and by his arts and his arms, made himself master of the confederacy.

Such were the consequences of the fallacious principle on which this interesting establishment was founded. Had Greece, says a judicious observer on her fate, been united by a stricter confederation and persevered in her union she would never have worn the chains of Macedon; and might have proved a barrier to the vast projects of Rome.

The Achaean league, as it is called, was another society of Grecian republics which supplies us with valuable instruction.

The Union here was far more intimate, and its organization much wiser than in the preceding instance. It will accordingly appear that though not exempt from a similar catastrophe, it by no means equally deserved it.

The cities composing this league retained their municipal jurisdiction, appointed their own officers, and enjoyed a perfect equality. The senate, in which they were represented, had the sole and exclusive right of peace and war; of sending and receiving ambassadors; of entering into treaties and alliances; of appointing a chief magistrate or praetor, as he was called, who

commanded their armies and who, with the advice and consent often of the senators, not only administered the government in the recess of the senate, but had a great share in its deliberations, when assembled. According to the primitive constitution, there were two praetors associated in the administration; but on trial a single one was preferred.

It appears that the cities had all the same laws and customs, the same weights and measures, and the same money. But how far this effect proceeded from the authority of the federal council is left in uncertainty. It is said only that the cities were in a manner compelled to receive the same laws and usages. When Lacedaemon was brought into the league by Philopoemen, it was attended with an abolition of the institutions and laws of Lycurgus, and an adoption of those of the Achaeans. The Amphictyonic confederacies, of which she had been a member, left her in the full exercise of her government and her legislation. This circumstance alone proves a very material difference in the genius of the two systems.

It is much to be regretted that such imperfect monuments remain of this curious political fabric. Could its interior structure and regular operation be ascertained, it is probable that more light would be thrown by it on the science of federal government than by any of the like experiments with which we are acquainted.

One important fact seems to be witnessed by all the historians who take notice of Achaean affairs. It is that as well after the renovation of the league by Aratus as before its dissolution by the arts of Macedon, there was infinitely more of moderation and justice in the administration of its government, and less of violence and sedition in the people, than were to be found in any of the cities exercising singly all the prerogatives of sovereignty. The Abbe Mably, in his observations on Greece, says that the popular government, which was so tempestuous elsewhere, caused no disorders in the members of the Achaean republic, because it was there tempered by the general authority and laws of the confederacy.

We are not to conclude too hastily, however, that faction did not, in a certain degree, agitate the particular cities; much less that a due subordination and harmony reigned in the general system. The contrary is sufficiently

displayed in the vicissitudes and fate of the republic.

Whilst the Amphictyonic confederacy remained, that of the Achaeans, which comprehended the less important cities only, made little figure on the theater of Greece. When the former became a victim to Macedon, the latter was spared by the policy of Philip and Alexander. Under the successors of these princes, however, a different policy prevailed. The arts of division were practiced among the Achaeans; each city was seduced into a separate interest; the union was dissolved. Some of the cities fell under the tyranny of Macedonian garrisons, others under that of usurpers springing out of their own confusions. Shame and oppression ere long awakened their love of liberty. A few cities reunited. Their example was followed by others as opportunities were found of cutting off their tyrants. The league soon embraced almost the whole Peloponnesus. Macedon saw its progress, but was hindered by internal dissensions from stopping it. All Greece caught the enthusiasm and seemed ready to unite in one confederacy, when the jealousy and envy in Sparta and Athens of the rising glory of the Achaeans threw a fatal damp on the enterprise. The dread of the Macedonian power induced the league to court the alliance of the kings of Egypt and Syria, who, as successors of Alexander, were rivals of the king of Macedon. This policy was defeated by Cleomenes, King of Sparta, who was led by his ambition to make an unprovoked attack on his neighbors, the Achaeans, and who, as an enemy to Macedon, had interest enough with the Egyptian and Syrian princes to effect a breach of their engagements with the league. The Achaeans were now reduced to the dilemma of submitting to Cleomenes, or of supplicating the aid of Macedon, its former oppressor. The latter expedient was adopted. The contests of the Greeks always afforded a pleasing opportunity to that powerful neighbor of intermeddling in their affairs. A Macedonian army quickly appeared. Cleomenes was vanquished. The Achaeans soon experienced, as often happens, that a victorious and powerful ally is but another name for a master. All that their most abject compliances could obtain from him was a toleration of the exercise of their laws. Philip, who was now on the throne of Macedon, soon provoked by his tyrannies fresh combinations among the Greeks. The Achaeans, though weakened by internal dissensions and by the revolt of Messene, one of its members, being joined by the Aetolians and Athenians, erected the standard of opposition. Finding themselves, though thus supported, unequal to the

undertaking, they once more had recourse to the dangerous expedient of introducing the succor of foreign arms. The Romans, to whom the invitation was made, eagerly embraced it. Philip was conquered; Macedon subdued. A new crisis ensued to the league. Dissensions broke out among its members. These the Romans fostered. Callicrates and other popular leaders became mercenary instruments for inveigling their countrymen. The more effectually to nourish discord and disorder the Romans had, to the astonishment of those who confided in their sincerity, already proclaimed universal liberty [24](#) throughout Greece. With the same insidious views, they now seduced the members from the league by representing to their pride the violation it committed on their sovereignty. By these arts this union, the last hope of Greece, the last hope of ancient liberty, was torn into pieces; and such imbecility and distraction introduced, that the arms of Rome found little difficulty in completing the ruin which their arts had commenced. The Achaeans were cut to pieces, and Achaia loaded with chains, under which it is groaning at this hour.

I have thought it not superfluous to give the outlines of this important portion of history, both because it teaches more than one lesson and because, as a supplement to the outlines of the Achaean constitution, it emphatically illustrates the tendency of federal bodies rather to anarchy among the members than to tyranny in the head.

PUBLIUS [Madison]

Number 19: The Subject Continued with Further Examples

# NUMBER 19

## THE SUBJECT CONTINUED WITH FURTHER EXAMPLES

[James Madison]

THE examples of ancient confederacies cited in my last paper have not exhausted the source of experimental instruction on this subject. There are existing institutions founded on a similar principle which merit particular consideration. The first which presents itself is the Germanic body.

In the early ages of Christianity, Germany was occupied by seven distinct nations, who had no common chief. The Franks, one of the number, having conquered the Gauls, established the kingdom which has taken its name from them. In the ninth century Charlemagne, its warlike monarch, carried his victorious arms in every direction; and Germany became a part of his vast dominions. On the dismemberment which took place under his sons this part was erected into a separate and independent empire. Charlemagne and his immediate descendants possessed the reality, as well as the ensigns and dignity of imperial power. But the principal vassals, whose fiefs had become hereditary, and who composed the national diets which Charlemagne had not abolished, gradually threw off the yoke and advanced to sovereign jurisdiction and independence. The force of imperial sovereignty was insufficient to restrain such powerful dependents, or to preserve the unity and tranquillity of the empire. The most furious private wars, accompanied with every species of calamity, were carried on between the different princes and states. The imperial authority, unable to maintain the public order, declined by degrees till it was almost extinct in the anarchy, which agitated the long interval between the death of the last emperor of the Suabian and the accession of the first emperor of the Austrian lines. In the eleventh century the emperors enjoyed lull sovereignty; in the fifteenth they had little more than the symbols and decorations of power.

Out of this feudal system, which has itself many of the important features of a confederacy, has grown the federal system which constitutes the

Germanic empire. Its powers are vested in a diet representing the component members of the confederacy; in the emperor, who is the executive magistrate, with a negative on the decrees of the diet; and in the imperial chamber and the aulic council, two judiciary tribunals having supreme jurisdiction in controversies which concern the empire, or which happen among its members.

The diet possesses the general power of legislating for the empire; of making war and peace; contracting alliances; assessing quotas of troops and money; constructing fortresses; regulating coin; admitting new members; and subjecting disobedient members to the ban of the empire, by which the party is degraded from his sovereign rights and his possessions forfeited. The members of the confederacy are expressly restricted from entering into compacts prejudicial to the empire; from imposing tolls and duties on their mutual intercourse, without the consent of the emperor and diet; from altering the value of money; from doing injustice to one another; or from affording assistance or retreat to disturbers of the public peace. And the ban is denounced against such as shall violate any of these restrictions. The members of the diet, as such, are subject in all cases to be judged by the emperor and diet, and in their private capacities by the aulic council and imperial chamber.

The prerogatives of the emperor are numerous. The most important of them are: his exclusive right to make propositions to the diet; to negative its resolutions; to name ambassadors; to confer dignities and titles; to fill vacant electorates; to found universities; to grant privileges not injurious to the states of the empire; to receive and apply the public revenues; and generally to watch over the public safety. In certain cases the electors form a council to him. In quality of emperor, he possesses no territory within the empire, nor receives any revenue for his support, But his revenue and dominions, in other qualities, constitute him one of the most powerful princes in Europe.

From such a parade of constitutional powers in the representatives and head of this Confederacy, the natural supposition would be that it must form an exception to the general character which belongs to its kindred systems. Nothing would be farther from the reality. The fundamental principle on

which it rests, that the empire is a community of sovereigns, that the diet is a representation of sovereigns, and that the laws are addressed to sovereigns, renders the empire a nerveless body, incapable of regulating its own members, insecure against external dangers, and agitated with unceasing fermentations in its own bowels.

The history of Germany is a history of wars between the emperor and the princes and states; of wars among the princes and states themselves; of the licentiousness of the strong and the oppression of the weak; of foreign intrusions and foreign intrigues; of requisitions of men and money disregarded, or partially complied with; of attempts to enforce them, altogether abortive, or attended with slaughter and desolation, involving the innocent with the guilty; of general imbecility, confusion, and misery.

In the sixteenth century, the emperor, with one part of the empire on his side, was seen engaged against the other princes and states. In one of the conflicts, the emperor himself was put to flight, and very near being made prisoner by the elector of Saxony. The late king of Prussia was more than once pitted against his imperial sovereign, and commonly proved an overmatch for him. Controversies and wars among the members themselves have been so common that the German annals are crowded with the bloody pages which describe them. Previous to the peace of Westphalia, Germany was desolated by a war of thirty years, in which the emperor, with one half of the empire, was on one side, and Sweden, with the other half, on the opposite side. Peace was at length negotiated and dictated by foreign powers; and the articles of it, to which foreign powers are parties, made a fundamental part of the Germanic constitution.

If the nation happens, on any emergency, to be more united by the necessity of self-defense, its situation is still deplorable. Military preparations must be preceded by so many tedious discussions, arising from the jealousies, pride, separate views, and clashing pretensions of sovereign bodies, that before the diet can settle the arrangements, the enemy are in the field; and before the federal troops are ready to take it, are retiring into winter quarters.

The small body of national troops, which has been judged necessary in time of peace, is defectively kept up, badly paid, infected with local prejudices, and supported by irregular and disproportionate contributions to the treasury.

The impossibility of maintaining order and dispensing justice among these sovereign subjects produced the experiment of dividing the empire into nine or ten circles or districts; of giving them an interior organization; and of charging them with the military execution of the laws against delinquent and contumacious members. This experiment has only served to demonstrate more fully the radical vice of the constitution. Each circle is the miniature picture of the deformities of this political monster. They either fail to execute their commissions, or they do it with all the devastation and carnage of civil war. Sometimes whole circles are defaulters; and then they increase the mischief which they were instituted to remedy.

We may form some judgment of this scheme of military coercion from a sample given by Thuanus. In Donawerth, a free and imperial city of the circle of Suabia, the Abbe de St. Croix enjoyed certain immunities which had been reserved to him. In the exercise of these, on some public occasion, outrages were committed on him by the people of the city. The consequence was that the city was put under the ban of the empire, and the Duke of Bavaria, though director of another circle, obtained an appointment to enforce it. He soon appeared before the city with a corps of ten thousand troops, and finding it a fit occasion, as he had secretly intended from the beginning, to revive an antiquated claim on the pretext that his ancestors had suffered the place to be dismembered from his territory, [25](#) he took possession of it in his own name, disarmed and punished the inhabitants, and re-annexed the city to his domains. [26](#)

It may be asked, perhaps, what has so long kept this disjointed machine from falling entirely to pieces? The answer is obvious: The weakness of most of the members, who are unwilling to expose themselves to the mercy of foreign powers; the weakness of most of the principal members, compared with the formidable powers all around them; the vast weight and influence which the emperor derives from his separate and hereditary dominions; and the interest he feels in preserving a system with which his

family pride is connected, and which constitutes him the first prince in Europe. These causes support a feeble and precarious Union, whilst the repellent quality incident to the nature of sovereignty, and which time continually strengthens, prevents any reform whatever founded on a proper consolidation. Nor is it to be imagined, if this obstacle could be surmounted, that the neighboring powers would suffer a revolution to take place, which would give to the empire the force and pre-eminence to which it is entitled. Foreign nations have long considered themselves as interested in the changes made by events in this constitution, and have on various occasions betrayed their policy of perpetuating its anarchy and weakness.

If more direct examples were wanting, Poland, as a government over local sovereigns, might not improperly be taken notice of. Nor could any proof more striking be given of the calamities flowing from such institutions. Equally unfit for self-government and self-defense, it has long been at the mercy of its powerful neighbors, who have lately had the mercy to disburden it of one third of its people and territories.

The connection among the Swiss cantons scarcely amounts to a confederacy, though it is sometimes cited as an instance of the stability of such institutions.

They have no common treasury; no common troops even in war; no common coin; no common judicatory; nor any other common mark of sovereignty.

They are kept together by the peculiarity of their topographical position; by their individual weakness and insignificance; by the fear of powerful neighbors, to one of which they were formerly subject; by the few sources of contention among a people of such simple and homogeneous manners; by their joint interest in their dependent possessions; by the mutual aid they stand in need of for suppressing insurrections and rebellions, an aid expressly stipulated and often required and afforded; and by the necessity of some regular and permanent provision for accommodating disputes among the cantons. The provision is that the parties at variance shall each choose four judges out of the neutral cantons, who, in case of disagreement, choose an umpire. This tribunal, under an oath of impartiality, pronounces

definitive sentence, which all the cantons are bound to enforce. The competency of this regulation may be estimated by a clause in their treaty of 1683 with Victor Amadeus of Savoy, in which he obliges himself to interpose as mediator in disputes between the cantons, and to employ force, if necessary, against the contumacious party.

So far as the peculiarity of their case will admit of comparison with that of the United States, it serves to confirm the principle intended to be established. Whatever efficacy the union may have had in ordinary cases, it appears that the moment a cause of difference sprang up capable of trying its strength it failed. The controversies on the subject of religion, which in three instances have kindled violent and bloody contests, may be said, in fact, to have severed the league. The Protestant and Catholic cantons have since had their separate diets, where all the most important concerns are adjusted, and which have left the general diet little other business than to take care of the common bailages.

That separation had another consequence which merits attention. It produced opposite alliances with foreign powers: of Berne, as the head of the Protestant association, with the United Provinces; and of Luzerne, as the head of the Catholic association, with France.

PUBLIUS [Madison]

Number 20: The Subject Continued with Further Examples

# NUMBER 20

THE SUBJECT CONTINUED  
WITH FURTHER EXAMPLES  
[James Madison]

THE United Netherlands are a confederacy of republics, or rather of aristocracies of a very remarkable texture, yet confirming all the lessons derived from those which we have already reviewed.

The union is composed of seven coequal and sovereign states, and each state or province is a composition of equal and independent cities. In all important cases, not only the provinces but the cities must be unanimous.

The sovereignty of the union is represented by the States-General, consisting usually of about fifty deputies appointed by the provinces. They hold their seats, some for life, some for six, three, and one years; from two provinces they continue in appointment during pleasure.

The States-General have authority to enter into treaties and alliances; to make war and peace; to raise armies and equip fleets; to ascertain quotas and demand contributions. In all these cases, however, unanimity and the sanction of their constituents are requisite. They have authority to appoint and receive ambassadors; to execute treaties and alliances already formed; to provide for the collection of duties on imports and exports; to regulate the mint with a saving to the provincial rights; to govern as sovereigns the dependent territories. The provinces are restrained, unless with the general consent, from entering into foreign treaties; from establishing imposts injurious to others, or charging their neighbors with higher duties than their own subjects. A council of state, a chamber of accounts, with five colleges of admiralty, aid and fortify the federal administration.

The executive magistrate of the Union is the stadtholder, who is now an hereditary prince. His principal weight and influence in the republic are derived from his independent title; from his great patrimonial estates; from his family connections with some of the chief potentates of Europe; and,

more than all, perhaps, from his being stadtholder in the several provinces, as well as for the Union; in which provincial quality he has the appointment of town magistrates under certain regulations, executes provincial decrees, presides when he pleases in the provincial tribunals, and has throughout the power of pardon.

As stadtholder of the Union, he has, however, considerable prerogatives.

In his political capacity he has authority to settle disputes between the provinces, when other methods fail; to assist at the deliberations of the States-General and at their particular conferences; to give audiences to foreign ambassadors and to keep agents for his particular affairs at foreign courts.

In his military capacity he commands the federal troops, provides for garrisons, and in general regulates military affairs; disposes of all appointments, from colonels to ensigns, and of the governments and posts of fortified towns.

In his marine capacity he is admiral-general and superintends and directs every thing relative to naval forces and other naval affairs; presides in the admiralties in person or by proxy; appoints lieutenant-admirals and other officers; and establishes councils of war, whose sentences are not executed till he approves them.

His revenue, exclusive of his private income, amounts to 300,000 florins. The standing army which he commands consists of about 40,000 men.

Such is the nature of the celebrated Belgic confederacy, as delineated on parchment. What are the characters which practice has stamped upon it?

Imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war.

It was long ago remarked by Grotius that nothing but the hatred of his countrymen to the house of Austria kept them from being ruined by the

vices of their constitution. [27](#)

The Union of Utrecht, says another respectable writer, reposes an authority in the States-General seemingly sufficient to secure harmony, but the jealousy in each province renders the practice very different from the theory.

The same instrument, says another, obliges each province to levy certain contributions; but this article never could, and probably never will, be executed; because the inland provinces, who have little commerce, cannot pay an equal quota.

In matters of contribution it is the practice to waive the articles of the constitution. The danger of delay obliges the consenting provinces to furnish their quotas, without waiting for the others; and then to obtain reimbursement from the others by deputations, which are frequent, or otherwise, as they can. The great wealth and influence of the province of Holland enable her to effect both these purposes.

It has more than once happened that the deficiencies have been ultimately to be collected at the point of the bayonet, a thing practicable, though dreadful, in a confederacy where one of the members exceeds in force all the rest, and where several of them are too small to meditate resistance; but utterly impracticable in one composed of members, several of which are equal to each other in strength and resources and equal singly to a vigorous and persevering defense.

Foreign ministers, says Sir William Temple, who was himself a foreign minister, elude matters taken ad referendum by tampering with the provinces and cities. [28](#) In 1726 the treaty of Hanover was delayed by these means a whole year. Instances of a like nature are numerous and notorious.

In critical emergencies the States-General are often compelled to overleap their constitutional bounds. In 1688 they concluded a treaty of themselves at the risk of their heads. The treaty of Westphalia in 1648, by which their independence was formally and finally recognized, was concluded without the consent of Zealand. Even as recently as the last treaty of peace with

Great Britain, the constitutional principle of unanimity was departed from. A weak constitution must necessarily terminate in dissolution for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must depend on the contingencies of the moment. Tyranny has perhaps oftener grown out of the assumptions of power called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities.

Notwithstanding the calamities produced by the stadtholdership, it has been supposed that without his influence in the individual provinces, the causes of anarchy manifest in the confederacy would long ago have dissolved it.

Under such a government, says the Abbe Mably, the Union could never have subsisted, if the provinces had not a spring within themselves capable of quickening their tardiness, and compelling them to the same way of thinking. This spring is the stadtholder. It is remarked by Sir William Temple that in the intermissions of the stadtholdership, Holland, by her riches and her authority, which drew the others into a sort of dependence, supplied the place.

These are not the only circumstances which have controlled the tendency to anarchy and dissolution. The surrounding powers impose an absolute necessity of union to a certain degree, at the same time that they nourish by their intrigues the constitutional vices which keep the republic in some degree always at their mercy.

The true patriots have long bewailed the fatal tendency of these vices, and have made no less than four regular experiments by extraordinary assemblies, convened for the special purpose to apply a remedy. As many times has their laudable zeal found it impossible to unite the public councils in reforming the known, the acknowledged, the fatal evils of the existing constitution. Let us pause, my fellow-citizens, for one moment over this melancholy and monitory lesson of history; and with the tear that drops for the calamities brought on mankind by their adverse opinions and selfish passions, let our gratitude mingle an ejaculation to Heaven for the propitious concord which has distinguished the consultations for our

political happiness.

The design was also conceived of establishing a general tax to be administered by the federal authority. This also had its adversaries and failed.

This unhappy people seem to be now suffering from popular convulsions, from dissensions among the states, and from the actual invasion of foreign arms, the crisis of their destiny. All nations have their eyes fixed on the awful spectacle. The first wish prompted by humanity is that this severe trial may issue in such a revolution of their government as will establish their union and render it the parent of tranquillity, freedom, and happiness.

The next, that the asylum under which, we trust, the enjoyment of these blessings will speedily be secured in this country may receive and console them for the catastrophe of their own.

I make no apology for having dwelt so long on the contemplation of these federal precedents. Experience is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred. The important truth, which it unequivocally pronounces in the present case, is that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals, as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity, by substituting violence in place of the mild and salutary coercion of the magistracy.

PUBLIUS [Madison]

Number 21: Further Defects of the Present Constitution

# NUMBER 21

## FURTHER DEFECTS OF THE PRESENT CONSTITUTION

[Alexander Hamilton]

HAVING in the three last numbers taken a summary review of the principal circumstances and events which depict the genius and fate of other confederate governments, I shall now proceed in the enumeration of the most important of those defects which have hitherto disappointed our hopes from the system established among ourselves. To form a safe and satisfactory judgment of the proper remedy, it is absolutely necessary that we should be well acquainted with the extent and malignity of the disease.

The next most palpable defect of the existing Confederation is the total want of a SANCTION to its laws. The United States as now composed have no power to exact obedience, or punish disobedience to their resolutions, either by pecuniary mulcts, by a suspension or divestiture of privileges, or by any other constitutional means. There is no express delegation of authority to them to use force against delinquent members; and if such a right should be ascribed to the federal head, as resulting from the nature of the social compact between the States, it must be by inference and construction in the face of that part of the second article by which it is declared that each State shall retain every power, jurisdiction, and right, not expressly delegated to the United States in Congress assembled. The want of such a right involves, no doubt, a striking absurdity; but we are reduced to the dilemma either of supposing that deficiency, preposterous as it may seem, or of contravening or explaining away a provision, which has been of late a repeated theme of the eulogies of those who oppose the new Constitution; and the omission of which in that plan has been the subject of much plausible animadversion and severe criticism. If we are unwilling to impair the force of this applauded provision, we shall be obliged to conclude that the United States afford the extraordinary spectacle of a government destitute even of the shadow of constitutional power to enforce the execution of its own laws. It will appear from the specimens which have been cited that the American Confederacy, in this particular, stands

discriminated from every other institution of a similar kind, and exhibits a new and unexampled phenomenon in the political world.

The want of a mutual guaranty of the State governments is another capital imperfection in the federal plan. There is nothing of this kind declared in the articles that compose it; and to imply a tacit guaranty from considerations of utility would be a still more flagrant departure from the clause which has been mentioned, than to imply a tacit power of coercion from the like considerations. The want of a guaranty, though it might in its consequences endanger the Union, does not so immediately attack its existence as the want of a constitutional sanction to its laws.

Without a guaranty the assistance to be derived from the Union in repelling those domestic dangers which may sometimes threaten the existence of the State constitutions must be renounced. Usurpation may rear its crest in each State and trample upon the liberties of the people, while the national government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law, while no succor could constitutionally be afforded by the Union to the friends and supporters of the government. The tempestuous situation from which Massachusetts has scarcely emerged evinces that dangers of this kind are not merely speculative. Who can determine what might have been the issue of her late convulsions if the malcontents had been headed by a Caesar or by a Cromwell? Who can predict what effect a despotism established in Massachusetts would have upon the liberties of New Hampshire or Rhode Island, of Connecticut or New York?

The inordinate pride of State importance has suggested to some minds an objection to the principle of a guaranty in the federal government, as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from union, and can only flow from a misapprehension of the nature of the provision itself. It could be no impediment to reforms of the State constitutions by a majesty of the people in a legal and peaceable mode. This right would remain undiminished. The guaranty could only operate against changes to be effected by violence.

Towards the preventions of calamities of this kind, too many checks cannot be provided. The peace of society and the stability of government depend absolutely on the efficacy of the precautions adopted on this head. Where the whole power of the government is in the hands of the people, there is the less pretense for the use of violent remedies in partial or occasional distempers of the State. The natural cure for an ill administration in a popular or representative constitution is a change of men. A guaranty by the national authority would be as much leveled against the usurpations of rulers as against the ferments and outrages of faction and sedition in the community.

The principle of regulating the contributions of the States to the common treasury by QUOTAS is another fundamental error in the Confederation. Its repugnancy to an adequate supply of the national exigencies has been already pointed out, and has sufficiently appeared from the trial which has been made of it. I speak of it now solely with a view to equality among the States. Those who have been accustomed to contemplate the circumstances which produce and constitute national wealth must be satisfied that there is no common standard or barometer by which the degrees of it can be ascertained. Neither the value of lands, nor the numbers of the people, which have been successively proposed as the rule of State contributions, has any pretension to being a just representative. If we compare the wealth of the United Netherlands with that of Russia or Germany, or even of France, and if we at the same time compare the total value of the lands and the aggregate population of the contracted territory of that republic with the total value of the lands and the aggregate population of the immense regions of either of those kingdoms, we shall at once discover that there is no comparison between the proportion of either of these two objects and that of the relative wealth of those nations. If the like parallel were to be run between several of the American States, it would furnish a like result. Let Virginia be contrasted with North Carolina, pennsylvania with Connecticut, or Maryland with New Jersey, and we shall be convinced that the respective abilities of those States in relation to revenue bear little or no analogy to their comparative stock in lands or to their comparative population. The position may be equally illustrated by a similar process between the counties of the same State. No man acquainted with the State of New York will doubt that the active wealth of Rings County bears a much greater

proportion to that of Montgomery than it would appear to do if we should take either the total value of the lands or the total number of the people as a criterion!

The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens, the degree of information they possess, the state of commerce, of arts, of industry—these circumstances and many more, too complex, minute, or adventitious to admit of a particular specification, occasion differences hardly conceivable in the relative opulence and riches of different countries. The consequence clearly is that there can be no common measure of national wealth, and, of course, no general or stationary rule by which the ability of a state to pay taxes can be determined. The attempt, therefore, to regulate the contributions of the members of a confederacy by any such rule cannot fail to be productive of glaring inequality and extreme oppression.

This inequality would of itself be sufficient in America to work the eventual destruction of the Union, if any mode of enforcing a compliance with its requisitions could be devised. The suffering States would not long consent to remain associated upon a principle which distributed the public burdens with so unequal a hand, and which was calculated to impoverish and oppress the citizens of some States, while those of others would scarcely be conscious of the small proportion of the weight they were required to sustain. This, however, is an evil inseparable from the principle of quotas and requisitions.

There is no method of steering clear of this inconvenience, but by authorizing the national government to raise its own revenues in its own way. Imposts, excises, and, in general, all duties upon articles of consumption, may be compared to a fluid, which will in time find its level with the means of paying them. The amount to be contributed by each citizen will in a degree be at his own option, and can be regulated by an attention to his resources. The rich may be extravagant, the poor can be frugal; and private oppression may always be avoided by a judicious selection of objects proper for such impositions. If inequalities should arise in some States from duties on particular objects, these will in all probability

be counterbalanced by proportional inequalities in other States, from the duties on other objects. In the course of time and things, an equilibrium, as far as it is attainable in so complicated a subject, will be established everywhere. Or, if inequalities should still exist, they would neither be so great in their degree, so uniform in their operation, nor so odious in their appearance, as those which would necessarily spring from quotas upon any scale that can possibly be devised.

It is a signal advantage of taxes on articles of consumption that they contain in their own nature a security against excess. They prescribe their own limit, which cannot be exceeded without defeating the end proposed—that is, an extension of the revenue. When applied to this object, the saying is as just as it is witty that, in political arithmetic, two and two do not always make four. If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds. This forms a complete barrier against any material oppression of the citizens by taxes of this class, and is itself a natural limitation of the power of imposing them.

Impositions of this kind usually fall under the denomination of indirect taxes, and must for a long time constitute the chief part of the revenue raised in this country. Those of the direct kind, which principally relate to land and buildings, may admit of a rule of apportionment. Either the value of land, or the number of the people, may serve as a standard. The state of agriculture and the populousness of a country are considered as having a near relation with each other. And, as a rule, for the purpose intended, numbers, in the view of simplicity and certainty, are entitled to a preference. In every country it is an herculean task to obtain a valuation of the land; in a country imperfectly settled and progressive in improvement, the difficulties are increased almost to impracticability. The expense of an accurate valuation is, in all situations, a formidable objection. In a branch of taxation where no limits to the discretion of the government are to be found in the nature of the thing, the establishment of a fixed rule, not incompatible with the end, may be attended with fewer inconveniences than to leave that discretion altogether at large.

PUBLIUS [Hamilton]

Number 22: The Same Subject Continued and Concluded (Defects of the Articles of Confederation)

# NUMBER 22

THE SAME SUBJECT CONTINUED  
AND CONCLUDED

[Alexander Hamilton]

IN ADDITION to the defects already enumerated in the existing federal system, there are others of not less importance which concur in rendering it altogether unfit for the administration of the affairs of the Union.

The want of a power to regulate commerce is by all parties allowed to be of the number. The utility of such a power has been anticipated under the first head of our inquiries; and for this reason, as well as from the universal conviction entertained upon the subject, little need be added in this place. It is indeed evident, on the most superficial view, that there is no object, either as it respects the interest of trade or finance, that more strongly demands a federal superintendence. The want of it has already operated as a bar to the formation of beneficial treaties with foreign powers, and has given occasions of dissatisfaction between the States. No nation acquainted with the nature of our political association would be unwise enough to enter into stipulations with the United States, conceding on their part privileges of importance, while they were apprised that the engagements on the part of the Union might at any moment be violated by its members, and while they found from experience that they might enjoy every advantage they desired in our markets without granting us any return but such as their momentary convenience might suggest. It is not, therefore, to be wondered at that Mr. Jenkinson in ushering into the House of Commons a bill for regulating the temporary intercourse between the two countries should preface its introduction by a declaration that similar provisions in former bills had been found to answer every purpose to the commerce of Great Britain, and that it would be prudent to persist in the plan until it should appear whether the American government was likely or not to acquire greater consistency. [29](#)

Several States have endeavored by separate prohibitions, restrictions, and exclusions to influence the conduct of that kingdom in this particular, but the want of concert, arising from the want of a general authority and from

clashing and dissimilar views in the States, has hitherto frustrated every experiment of the kind, and will continue to do so as long as the same obstacles to a uniformity of measures continue to exist.

The interfering and unneighborly regulations of some States, contrary to the true spirit of the Union, have, in different instances, given just cause of umbrage and complaint to others, and it is to be feared that examples of this nature, if not restrained by a national control, would be multiplied and extended till they became not less serious sources of animosity and discord than injurious impediments to the intercourse between the different parts of the Confederacy. The commerce of the German empire [30](#) is in continual trammels from the multiplicity of the duties which the several princes and states exact upon the merchandises passing through their territories, by means of which the fine streams and navigable rivers with which Germany is so happily watered are rendered almost useless. Though the genius of the people of this country might never permit this description to be strictly applicable to us, yet we may reasonably expect from the gradual conflicts of State regulations that the citizens of each would at length come to be considered and treated by the others in no better light than that of foreigners and aliens.

The power of raising armies by the most obvious construction of the articles of the Confederation is merely a power of making requisitions upon the States for quotas of men. This practice in the course of the late war was found replete with obstructions to a vigorous and to an economical system of defense. It gave birth to a competition between the States which created a kind of auction for men. In order to furnish the quotas required of them, they outbid each other till bounties grew to an enormous and insupportable size. The hope of a still further increase afforded an inducement to those who were disposed to serve to procrastinate their enlistment, and disinclined them from engaging for any considerable periods. Hence, slow and scanty levies of men, in the most critical emergencies of our affairs; short enlistments at an unparalleled expense; continual fluctuations in the troops, ruinous to their discipline and subjecting the public safety frequently to the perilous crisis of a disbanded army. Hence, also, those oppressive expedients for raising men which were upon several occasions practiced, and which nothing but the enthusiasm of liberty would have induced the

people to endure.

This method of raising troops is not more unfriendly to economy and vigor than it is to an equal distribution of the burden. The States near the seat of war, influenced by motives of self-preservation, made efforts to furnish their quotas, which even exceeded their abilities; while those at a distance from danger were for the most part as remiss as the others were diligent in their exertions. The immediate pressure of this inequality was not in this case, as in that of the contributions of money, alleviated by the hope of a final liquidation. The States which did not pay their proportions of money might at least be charged with their deficiencies; but no account could be formed of the deficiencies in the supplies of men. We shall not, however, see much reason to regret the want of this hope, when we how little prospect there is, that the most delinquent States will ever be able to make compensation for their pecuniary failures. The system of quotas and requisitions, whether it be applied to men or money, is in every view a system of imbecility in the Union, and of inequality and injustice among the members.

The right of equal suffrage among the States is another exceptionable part of the Confederation. Every idea of proportion and every rule of fair representation conspire to condemn a principle, which gives to Rhode Island an equal weight in the scale of power with Massachusetts, or Connecticut, or New York; and to Delaware an equal voice in the national deliberations with Pennsylvania, or Virginia, or North Carolina. Its operation contradicts that fundamental maxim of republican government, which requires that the sense of the majority should prevail. Sophistry may reply that sovereigns are equal, and that a majority of the votes of the States will be a majority of confederated America. But this kind of logical legerdemain will never counteract the plain suggestions of justice and common sense. It may happen that this majority of States is a small minority of the people of America; [31](#) and two thirds of the people of America could not long be persuaded upon the credit of artificial distinctions and syllogistic subtleties to submit their interests to the management and disposal of one third. The larger States would after a while revolt from the idea of receiving the law from the smaller. To acquiesce in such a privation of their due importance in the political scale would be not

merely to be insensible to the love of power, but even to sacrifice the desire of equality. It is neither rational to expect the first, nor just to require the last. The smaller States, considering how peculiarly their safety and welfare depend on union, ought readily to renounce a pretension which, if not relinquished, would prove fatal to its duration.

It may be objected to this that not seven but nine States, or two thirds of the whole number, must consent to the most important resolutions; and it may be thence inferred that nine States would always comprehend a majority of the Union. But this does not obviate the impropriety of an equal vote between States of the most unequal dimensions and populousness; nor is the inference accurate in point of fact; for we can enumerate nine States which contain less than a majority of the people; [32](#) and it is constitutionally possible that these nine may give the vote. Besides, there are matters of considerable moment determinable by a bare majority; and there are others, concerning which doubts have been entertained, which, if interpreted in favor of the sufficiency of a vote of seven States, would extend its operation to interests of the first magnitude. In addition to this it is to be observed that there is a probability of an increase in the number of States, and no provision for a proportional augmentation of the ratio of votes.

But this is not all: what at first sight may seem a remedy, is in reality a poison. To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser number. Congress, from the non-attendance of a few States, have been frequently in the situation of a Polish diet, where a single veto has been sufficient to put a stop to all their movements. A sixtieth part of the Union, which is about the proportion of Delaware and Rhode Island, has several times been able to oppose an entire bar to its operations. This is one of those refinements which, in practice, has an effect the reverse of what is expected from it in theory. The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority. In

those emergencies of a nation in which the goodness or badness, the weakness or strength, of its government is of the greatest importance, there is commonly a necessity for action. The public business must in some way or other go forward. If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority in order that something may be done must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings. Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good. And yet, in such a system it is even happy when such compromises can take place: for upon some occasions things will not admit of accommodation; and then the measures of government must be injuriously suspended, or fatally defeated. It is often, by the impracticability of obtaining the concurrence of the necessary number of voters, kept in a state of inaction. Its situation must always savor of weakness, sometimes border upon anarchy.

It is not difficult to discover that a principle of this kind gives greater scope to foreign corruption, as well as to domestic faction, than that which permits the sense of the majority to decide; though the contrary of this has been presumed. The mistake has proceeded from not attending with due care to the mischiefs that may be occasioned by obstructing the progress of government at certain critical seasons. When the concurrence of a large number is required by the Constitution to the doing of any national act, we are apt to rest satisfied that all is safe, because nothing improper will be likely to be done; but we forget how much good may be prevented, and how much ill may be produced, by the power of hindering that which is necessary from being done, and of keeping affairs in the same unfavorable posture in which they may happen to stand at particular periods.

Suppose, for instance, we were engaged in a war in conjunction with one foreign nation against another. Suppose the necessity of our situation demanded peace, and the interest or ambition of our ally led him to seek the prosecution of the war, with views that might justify us in making separate terms. In such a state of things, this ally of ours would evidently find it much easier by his bribes and intrigues to tie up the hands of government from making peace, where two thirds of all the votes were requisite to that

object, than where a simple majority would suffice. In the first case, he would have to corrupt a smaller number; in the last, a greater number. Upon the same principle, it would be much easier for a foreign power with which we were at war to perplex our councils and embarrass our exertions. And, in a commercial view, we may be subjected to similar inconveniences. A nation, with which we might have a treaty of commerce, could with much greater facility prevent our forming a connection with her competitor in trade, though such a connection should be ever so beneficial to ourselves.

Evils of this description ought not to be regarded as imaginary. One of the weak sides of republics, among their numerous advantages, is that they afford too easy an inlet to foreign corruption. An hereditary monarch, though often disposed to sacrifice his subjects to his ambition, has so great a personal interest in the government and in the external glory of the nation, that it is not easy for a foreign power to give him an equivalent for what he would sacrifice by treachery to the state. The world has accordingly been witness to few examples of this species of royal prostitution, though there have been abundant specimens of every other kind.

In republics, persons elevated from the mass of the community by the suffrages of their fellow-citizens to stations of great pre-eminence and power may find compensations for betraying their trust, which, to any but minds actuated by superior virtue may appear to exceed the proportion of interest they have in the common stock, and to overbalance the obligations of duty. Hence it is that history furnishes us with so many mortifying examples of the prevalency of foreign corruption in republican governments. How much this contributed to the ruin of the ancient commonwealths has been already disclosed. It is well known that the deputies of the United Provinces have, in various instances, been purchased by the emissaries of the neighboring kingdoms. The Earl of Chesterfield (if my memory serves me right), in a letter to his court, intimates that his success in an important negotiation must depend on his obtaining a major's commission for one of those deputies. [33](#) And in Sweden the parties were alternately bought by France and England in so barefaced and notorious a manner that it excited universal disgust in the nation, and was a principal cause that the most limited monarch in Europe, in a single day, without tumult, violence, or opposition, became one of the most absolute and

uncontrolled. [34](#)

A circumstance which crowns the defects of the Confederation remains yet to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be ascertained by judicial determinations. To produce uniformity in these determinations, they ought to be submitted, in the last resort, to one SUPREME TRIBUNAL. And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. If there is in each State a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. There are endless diversities in the opinions of men. We often see not only different courts but the judges of the same court differing from each other. To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last resort a uniform rule of civil justice.

This is the more necessary where the frame of the government is so compounded that the laws of the whole are in danger of being contravened by the laws of the parts. In this case, if the particular tribunals are invested with a right of ultimate jurisdiction, besides the contradictions to be expected from difference of opinion there will be much to fear from the bias of local views and prejudices and from the interference of local regulations. As often as such an interference was to happen, there would be reason to apprehend that the provisions of the particular laws might be preferred to those of the general laws; from the deference with which men in office naturally look up to that authority to which they owe their official existence.

The treaties of the United States under the present Constitution are liable to the infractions of thirteen different legislatures, and as many different courts of final jurisdiction, acting under the authority of those legislatures. The faith, the reputation, the peace of the whole Union are thus continually at

the mercy of the prejudices, the passions, and the interests of every member of which it is composed. Is it possible that foreign nations can either respect or confide in such a government? Is it possible that the people of America will longer consent to trust their honor, their happiness, their safety, on so precarious a foundation?

In this review of the Confederation, I have confined myself to the exhibition of its most material defects; passing over those imperfections in its details by which even a considerable part of the power intended to be conferred upon it has been in a great measure rendered abortive. It must be by this time evident to all men of reflection, who are either free from erroneous prepossessions, or can divest themselves of them, that it is a system so radically vicious and unsound as to admit not of amendment but by an entire change in its leading features and characters.

The organization of Congress is itself utterly improper for the exercise of those powers which are necessary to be deposited in the Union. A single assembly may be a proper receptacle of those slender, or rather fettered, authorities, which have been heretofore delegated to the federal head; but it would be inconsistent with all the principles of good government to intrust it with those additional powers which even the moderate and more rational adversaries of the proposed Constitution admit ought to reside in the United States. If that plan should not be adopted, and if the necessity of Union should be able to withstand the ambitious aims of those men who may indulge magnificent schemes of personal aggrandizement from its dissolution, the probability would be that we should run into the project of conferring supplementary powers upon Congress as they are now constituted. And either the machine, from the intrinsic feebleness of its structure, will moulder into pieces, in spite of our ill-judged efforts to prop it; or, by successive augmentations of its force and energy, as necessity might prompt, we shall finally accumulate in a single body all the most important prerogatives of sovereignty, and thus entail upon our posterity one of the most execrable forms of government that human infatuation ever contrived. Thus we should create in reality that very tyranny which the adversaries of the new Constitution either are, or affect to be, solicitous to avert.

It has not a little contributed to the infirmities of the existing federal system that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers, and has in some instances given birth to the enormous doctrine of a right of legislative repeal. Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.

PUBLIUS [Hamilton]

Number 23: The Necessity of a Government At Least Equally Energetic With the One Proposed

# NUMBER 23

## THE NECESSITY OF A GOVERNMENT AT LEAST EQUALLY ENERGETIC WITH THE ONE PROPOSED [Alexander Hamilton]

THE necessity of a Constitution, at least equally energetic with the one proposed, to the preservation of the Union is the point at the examination of which we are now arrived.

This inquiry will naturally divide itself into three branches—the objects to be provided for by a federal government, the quantity of power necessary to the accomplishment of those objects, the persons upon whom that power ought to operate. Its distribution and organization will more properly claim our attention under the succeeding head.

The principal purposes to be answered by union are these the common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries.

The authorities essential to the common defense are these: to raise armies; to build and equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support. These powers ought to exist without limitation, because it is impossible to foresee or to define the extent and variety of national exigencies, and the correspondent extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense.

This is one of those truths which to a correct and unprejudiced mind carries its own evidence along with it, and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal; the means ought to be proportioned to the end; the persons from whose agency the attainment of any end is expected ought to possess the means by which it is to be attained.

Whether there ought to be a federal government intrusted with the care of the common defense is a question in the first instance open to discussion; but the moment it is decided in the affirmative, it will follow that that government ought to be clothed with all the powers requisite to complete execution of its trust. And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence that there can be no limitation of that authority which is to provide for the defense and protection of the community in any matter essential to its efficacy—that is, in any matter essential to the formation, direction, or support of the  
NATIONAL FORCES.

Defective as the present Confederation has been proved to be, this principle appears to have been fully recognized by the framers of it; though they have not made proper or adequate provision for its exercise. Congress have an unlimited discretion to make requisitions of men and money; to govern the army and navy; to direct their operations. As their requisitions are made constitutionally binding upon the States, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was that the United States should command whatever resources were by them judged requisite to the common defense and general welfare.

It was presumed that a sense of their true interests, and a regard to the dictates of good faith, would be found sufficient pledges for the punctual performance of the duty of the members to the federal head.

The experiment has, however, demonstrated that this expectation was ill-founded and illusory; and the observations made under the last head will, I imagine, have sufficed to convince the impartial and discerning that there is an absolute necessity for an entire change in the first principles of the

system; that if we are in earnest about giving the Union energy and duration we must abandon the vain project of legislating upon the States in their collective capacities; we must extend the laws of the federal government to the individual citizens of America; we must discard the fallacious scheme of quotas and requisitions as equally impracticable and unjust. The result from all this is that the Union ought to be invested with full power to levy troops; to build and equip fleets; and to raise the revenues which will be required for the formation and support of an army and navy in the customary and ordinary modes practiced in other governments.

If the circumstances of our country are such as to demand a compound instead of a simple, a confederate instead of a sole, government, the essential point which will remain to be adjusted will be to discriminate the OBJECTS, as far as it can be done, which shall appertain to the different provinces or departments of power; allowing to each the most ample authority for fulfilling the objects committed to its charge. Shall the Union be constituted the guardian of the common safety? Are fleets and armies and revenues necessary to this purpose? The government of the Union must be empowered to pass all laws, and to make all regulations which have relation to them. The same must be the case in respect to commerce, and to every other matter to which its jurisdiction is permitted to extend. Is the administration of justice between the citizens of the same State the proper department of the local governments? These must possess all the authorities which are connected with this object, and with every other that may be allotted to their particular cognizance and direction. Not to confer in each case a degree of power commensurate to the end would be to violate the most obvious rules of prudence and propriety, and improvidently to trust the great interests of the nation to hands which are disabled from managing them with vigor and success.

Who so likely to make suitable provisions for the public defense as that body to which the guardianship of the public safety is confided; which, as the center of information, will best understand the extent and urgency of the dangers that threaten; as the representative of the WHOLE, will feel itself most deeply interested in the preservation of every part; which, from the responsibility implied in the duty assigned to it, will be most sensibly impressed with the necessity of proper exertions; and which, by the

extension of its authority throughout the States, can alone establish uniformity and concert in the plans and measures by which the common safety is to be secured? Is there not a manifest inconsistency in devolving upon the federal government the care of the general defense and leaving in the State governments the effective powers by which it is to be provided for? Is not a want of co-operation the infallible consequence of such a system? And will not weakness, disorder, an undue distribution of the burdens and calamities of war, an unnecessary and intolerable increase of expense, be its natural and inevitable concomitants? Have we not had unequivocal experience of its effects in the course of the revolution which we have just achieved?

Every view we may take of the subject, as candid inquirers after truth, will serve to convince us that it is both unwise and dangerous to deny the federal government an unconfined authority in respect to all those objects which are intrusted to its management. It will indeed deserve the most vigilant and careful attention of the people to see that it be modeled in such a manner as to admit of its being safely vested with the requisite powers. If any plan which has been, or may be, offered to our consideration should not, upon a dispassionate inspection, be found to answer this description, it ought to be rejected. A government, the constitution of which renders it unfit to be trusted with all the powers which a free people ought to delegate to any government, would be an unsafe and improper depository of the NATIONAL INTERESTS. Wherever THESE can with propriety be confided, the coincident powers may safely accompany them. This is the true result of all just reasoning upon the subject. And the adversaries of the plan promulgated by the convention would have given a better impression of their candor if they had confined themselves to showing that the internal structure of the proposed government was such as to render it unworthy of the confidence of the people. They ought not to have wandered into inflammatory declamations and unmeaning cavils about the extent of the powers. The POWERS are not too extensive for the OBJECTS of federal administration, or, in other words, for the management of our NATIONAL INTERESTS; nor can any satisfactory argument be framed to show that they are chargeable with such an excess. If it be true, as has been insinuated by some of the writers on the other side, that the difficulty arises from the nature of the thing, and that the extent of the country will not permit us to

form a government in which such ample powers can safely be reposed, it would prove that we ought to contract our views, and resort to the expedient of separate confederacies, which will move within more practicable spheres. For the absurdity must continually stare us in the face of confiding to a government the direction of the most essential national interests, without daring to trust to it the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative.

I trust, however, that the impracticability of one general system cannot be shown. I am greatly mistaken if anything of weight has yet been advanced of this tendency; and I flatter myself that the observations which have been made in the course of these papers have served to place the reverse of that position in as clear a light as any matter still in the womb of time and experience is susceptible of. This, at all events, must be evident, that the very difficulty itself, drawn from the extent of the country, is the strongest argument in favor of an energetic government; for any other can certainly never preserve the Union of so large an empire. If we embrace the tenets of those who oppose the adoption of the proposed Constitution as the standard of our political creed we cannot fail to verify the gloomy doctrines which predict the impracticability of a national system pervading the entire limits of the present Confederacy.

PUBLIUS [Hamilton]

Number 24: The Subject Continued with an Answer to an Objection Concerning Standing Armies

# NUMBER 24

THE SUBJECT CONTINUED WITH AN ANSWER  
TO AN OBJECTION CONCERNING STANDING ARMIES  
[Alexander Hamilton]

TO THE powers proposed to be conferred upon the federal government, in respect to the creation and direction of the national forces, I have met with but one specific objection, which, if I understand it rightly, is this—that proper provision has not been made against the existence of standing armies in time of peace; an objection which I shall now endeavor to show rests on weak and unsubstantial foundations.

It has indeed been brought forward in the most vague and general form, supported only by bold assertions without the appearance of argument; without even the sanction of theoretical opinions; in contradiction to the practice of other free nations, and to the general sense of America, as expressed in most of the existing constitutions. The propriety of this remark will appear the moment it is recollected that the objection under consideration turns upon a supposed necessity of restraining the LEGISLATIVE authority of the nation in the article of military establishments; a principle unheard of, except in one or two of our State constitutions, and rejected in all the rest.

A stranger to our politics, who was to read our newspapers at the present juncture without having previously inspected the plan reported by the convention, would be naturally led to one of two conclusions: either that it contained a positive injunction and standing armies should be kept up in time of peace; or that it vested in the EXECUTIVE the whole power of levying troops without subjecting his discretion, in any shape, to the control of the legislature.

If he came afterwards to peruse the plan itself, he would be surprised to discover that neither the one nor the other was the case; that the whole power of raising armies was lodged in the legislature, not in the executive; that this legislature was to be a popular body, consisting of the

representatives of the people periodically elected; and that instead of the provision he had supposed in favor of standing armies, there was to be found in respect to this object an important qualification even of the legislative discretion in that clause which forbids the appropriation of money for the support of an army for any longer period than two years—a precaution which upon a nearer view of it will appear to be a great and real security against military establishments without evident necessity.

Disappointed in his first surmise, the person I have supposed would be apt to pursue his conjectures a little further. He would naturally say to himself, it is impossible that all this vehement and pathetic declamation can be without some colorable pretext. It must needs be that this people, so jealous of their liberties, have, in all the preceding models of the constitutions which they have established, inserted the most precise and rigid precautions on this point, the omission of which in the new plan has given birth to all this apprehension and clamor.

If under this impression he proceeded to pass in review the several State constitutions, how great would be his disappointment to find that two only of them [35](#) contained an interdiction of standing armies in time of peace; that the other eleven had either observed a profound silence on the subject, or had in express terms admitted the right of the legislature to authorize their existence.

Still, however, he would be persuaded that there must be some plausible foundation for the cry raised on this head. He would never be able to imagine, while any source of information remained unexplored, that it was nothing more than an experiment upon the public credulity, dictated either by a deliberate intention to deceive, or by the overflowings of a zeal too intemperate to be ingenuous. It would probably occur to him that he would be likely to find the precautions he was in search of in the primitive compact between the States. Here, at length, he would expect to meet with a solution of the enigma. No doubt he would observe to himself the existing Confederation must contain the most explicit provision against military establishments in time of peace; and a departure from this model in a favorite point has occasioned the discontent which appears to influence

these political champions.

If he should now apply himself to a careful and critical survey of the articles of Confederation, his astonishment would not only be increased, but would acquire a mixture of indignation at the unexpected discovery that these articles, instead of containing the prohibition he looked for, and though they had with a jealous circumspection restricted the authority of the State legislatures in this particular, had not imposed a single restraint on that of the United States. If he happened to be a man of quick sensibility, or ardent temper, he could now no longer refrain from pronouncing these clamors to be the dishonest artifices of a sinister and unprincipled opposition to a plan which ought at least to receive a fair and candid examination from all sincere lovers of their country! How else, he would say, could the authors of them have been tempted to vent such loud censures upon that plan about a point in which it seems to have conformed itself to the general sense of America as declared in its different forms of government, and in which it has even superadded a new and powerful guard unknown to any of them? If, on the contrary, he happened to be a man of calm and dispassionate feelings, he would indulge a sigh for the frailty of human nature, and would lament that in a matter so interesting to the happiness of millions the true merits of the question should be perplexed and obscured by expedients so unfriendly to an impartial and right determination. Even such a man could hardly forbear remarking that a conduct of this kind has too much the appearance of an intention to mislead the people by alarming their passions, rather than to convince them by arguments addressed to their understandings.

But however little this objection may be countenanced, even by precedents among ourselves, it may be satisfactory to take a nearer view of its intrinsic merits. From a close examination it will appear that restraints upon the discretion of the legislature in respect to military establishments would be improper to be imposed, and if imposed, from the necessities of society, would be unlikely to be observed.

Though a wide ocean separates the United States from Europe, yet there are various considerations that warn us against an excess of confidence or security. On one side of us, and stretching far into our rear, are growing

settlements subject to the dominion of Britain. On the other side, and extending to meet the British settlements, are colonies and establishments subject to the dominion of Spain. This situation and the vicinity of the West India Islands, belonging to these two powers, create between them, in respect to their American possessions and in relation to us, a common interest. The savage tribes on our Western frontier ought to be regarded as our natural enemies, their natural allies, because they have most to fear from us, and most to hope from them. The improvements in the art of navigation have, as to the facility of communication, rendered distant nations, in a great measure, neighbors, Britain and Spain are among the principal maritime powers of Europe. A future concert of views between these nations ought not to be regarded as improbable. The increasing remoteness of consanguinity is every day diminishing the force of the family compact between France and Spain. And politicians have ever with great reason considered the ties of blood as feeble and precarious links of political connection. These circumstances combined admonish us not to be too sanguine in considering ourselves as entirely out of the reach of danger.

Previous to the Revolution, and ever since the peace, there has been a constant necessity for keeping small garrisons on our Western frontier. No person can doubt that these will continue to be indispensable, if it should only be against the ravages and depredations of the Indians. These garrisons must either be furnished by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. And if they could be prevailed upon or compelled to do it, the increased expense of a frequent rotation of service, and the loss of labor and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burdensome and injurious to the public as ruinous to private citizens. The latter resource of permanent corps in the pay of the government amounts to a standing army in time of peace; a small one, indeed, but not the less real for being small. Here is a simple view of the subject that shows us at once the impropriety of a constitutional interdiction of such establishments, and the necessity of leaving the matter to the

discretion and prudence of the legislature.

In proportion to our increase in strength, it is probable, nay, it may be said certain, that Britain and Spain would augment their military establishments in our neighborhood. If we should not be willing to be exposed in a naked and defenseless condition to their insults and encroachments, we should find it expedient to increase our frontier garrisons in some ratio to the force by which our Western settlements might be annoyed. There are, and will be, particular posts, the possession of which will include the command of large districts of territory, and facilitate future invasions of the remainder. It may be added that some of those posts will be keys to the trade with the Indian nations. Can any man think it would be wise to leave such posts in a situation to be at any instant seized by one or the other of two neighboring and formidable powers? To act this part would be to desert all the usual maxims of prudence and policy.

If we mean to be a commercial people, or even to be secure on our Atlantic side, we must endeavor, as soon as possible, to have a navy. To this purpose there must be dockyards and arsenals; and for the defense of these, fortifications, and probably garrisons. When a nation has become so powerful by sea that it can protect its dockyards by its fleets, this supersedes the necessity of garrisons for that purpose; but where naval establishments are in their infancy, moderate garrisons will, in all likelihood, be found an indispensable security against descents for the destruction of the arsenals and dockyards, and sometimes of the fleet itself.

PUBLIUS [Hamilton]

Number 25: The Subject Continued with the Same View

# NUMBER 25

THE SUBJECT CONTINUED

WITH THE SAME VIEW

[Alexander Hamilton]

IT MAY perhaps be urged that the objects enumerated in the preceding number ought to be provided for by the State governments, under the direction of the Union. But this would be in reality an inversion of the primary principle of our political association, as it would in practice transfer the care of the common defense from the federal head to the individual members: a project oppressive to some States, dangerous to all, and baneful to the Confederacy.

The territories of Britain, Spain, and of the Indian nations in our neighborhood do not border on particular States, but encircle the Union from Maine to Georgia. The danger, though in different degrees, is therefore common. And the means of guarding against it ought in like manner to be the objects of common councils, and of a common treasury. It happens that some States, from local situation, are more directly exposed. New York is of this class. Upon the plan of separate provisions, New York would have to sustain the whole weight of the establishments requisite to her immediate safety, and to the mediate or ultimate protection of her neighbors. This would neither be equitable as it respected New York, nor safe as it respected the other States. Various inconveniences would attend such a system. The States, to whose lot it might fall to support the necessary establishments, would be as little able as willing for a considerable time to come to bear the burden of competent provisions. The security of all would thus be subjected to the parsimony, improvidence, or inability of a part. If the resources of such part becoming more abundant and extensive, its provisions should be proportionally enlarged, the other States would quickly take the alarm at seeing the whole military force of the Union in the hands of two or three of its members, and those probably amongst the most powerful. They would each choose to have some counterpoise, and pretenses could easily be contrived. In this situation, military establishments, nourished by mutual jealousy, would be apt to swell beyond their natural or proper size; and

being at the separate disposal of the members, they would be engines for the abridgment or demolition of the national authority.

Reasons have been already given to induce a supposition that the State governments will too naturally be prone to a rivalry with that of the Union, the foundation of which will be the love of power; and that in any contest between the federal head and one of its members, the people will be most apt to unite with their local government. If, in addition to this immense advantage, the ambition of the members should be stimulated by the separate and independent possession of military forces, it would afford too strong a temptation and too great facility to them to make enterprises upon, and finally to subvert, the constitutional authority of the Union. On the other hand, the liberty of the people would be less safe in this state of things than in that which left the national forces in the hands of the national government. As far as an army may be considered as a dangerous weapon of power, it had better be in those hands of which the people are most likely to be jealous than in those of which they are least likely to be jealous. For it is a truth, which the experience of all ages has attested, that the people are commonly most in danger when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

The framers of the existing Confederation, fully aware of the dangers to the Union from the separate possession of military forces by the States, have in express terms prohibited them from having either ships or troops, unless with the consent of Congress. The truth is, that the existence of a federal government and military establishments under State authority are not less at variance with each other than a due supply of the federal treasury and the system of quotas and requisitions.

There are other lights besides those already presented in which the impropriety of restraints on the discretion of the national legislature will be equally manifest. The design of the objection which has been mentioned is to preclude standing armies in time of peace, though we have never been informed how far it is desired the prohibition should extend: whether to raising armies as well as to keeping them up in a season of tranquillity or not. If it be confined to the latter it will have no precise signification, and it will be ineffectual for the purpose intended. When armies are once raised

what shall be denominated keeping them up, contrary to the sense of the Constitution? What time shall be requisite to ascertain the violation? Shall it be a week, a month, or a year? Or shall we say they may be continued as long as the danger which occasioned their being raised continues? This would be to admit that they might be kept up in time of peace, against threatening or impending danger, which would be at once to deviate from the literal meaning of the prohibition and to introduce an extensive latitude of construction. Who shall judge of the continuance of the danger? This must undoubtedly be submitted to the national government, and the matter would then be brought to this issue, that the national government to provide against apprehended danger might in the first instance raise troops, and might afterwards keep them on foot as long as they supposed the peace or safety of the community was in any degree of jeopardy. It is easy to perceive that a discretion so latitudinary as this would afford ample room for eluding the force of the provision.

The supposed utility of a provision of this kind must be founded upon a supposed probability, or at least possibility, of a combination between the executive and legislative in some scheme of usurpation. Should this at any time happen, how easy would it be to fabricate pretenses of approaching danger? Indian hostilities, instigated by Spain or Britain, would always be at hand. Provocations to produce the desired appearances might even be given to some foreign power, and appeased again by timely concessions. If we can reasonably presume such a combination to have been formed, and that the enterprise is warranted by a sufficient prospect of success, the army, when once raised from whatever cause, or on whatever pretext, may be applied to the execution of the project.

If, to obviate this consequence, it should be resolved to extend the prohibition to the raising of armies in time of peace, the United States would then exhibit the most extraordinary spectacle which the world has yet seen—that of a nation incapacitated by its Constitution to prepare for defense before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the State. We must receive the blow before we could even prepare to return it. All that

kind of policy by which nations anticipate distant danger and meet the gathering storm must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them by our weakness to seize the naked and defenseless prey, because we are afraid that rulers, created by our choice, dependent on our will, might endanger that liberty by an abuse of the means necessary to its preservation.

Here I expect we shall be told that the militia of the country is its natural bulwark, and would be at all times equal to the national defense. This doctrine, in substance, had like to have lost us our independence. It cost millions to the United States that might have been saved. The facts which from our own experience forbid a reliance of this kind are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position. The American militia, in the course of the late war, have, by their valor on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

All violent policy, contrary to the natural and experienced course of human affairs, defeats itself. Pennsylvania at this instant affords an example of the truth of this remark. The Bill of Rights of that State declares that standing armies are dangerous to liberty, and ought not to be kept up in time of peace. Pennsylvania, nevertheless, in a time of profound peace, from the existence of partial disorders in one or two of her counties, has resolved to raise a body of troops; and in all probability will keep them up as long as there is any appearance of danger to the public peace. The conduct of Massachusetts affords a lesson on the same subject, though on different ground. That State (without waiting for the sanction of Congress, as the articles of the Confederation require) was compelled to raise troops to quell a domestic insurrection, and still keeps a corps in pay to prevent a revival of the spirit of revolt. The particular constitution of Massachusetts opposed no

obstacle to the measure; but the instance is still of use to instruct us that cases are likely to occur under our government, as well as under those of other nations, which will sometimes render a military force in time of peace essential to the security of the society, and that it is therefore improper in this respect to control the legislative discretion. It also teaches us, in its application to the United States, how little the rights of a feeble government are likely to be respected, even by its own constituents. And it teaches us, in addition to the rest, how unequal parchment provisions are to a struggle with public necessity.

It was a fundamental maxim of the Lacedaemonian commonwealth that the post of admiral should not be conferred twice on the same person. The Peloponnesian confederates, having suffered a severe defeat at sea from the Athenians, demanded Lysander, who had before served with success in that capacity, to command the combined fleets. The Lacedaemonians, to gratify their allies and yet preserve the semblance of an adherence to their ancient institutions, had recourse to the flimsy subterfuge of investing Lysander with the real power of admiral under the nominal title of vice-admiral. This instance is selected from among a multitude that might be cited to confirm the truth already advanced and illustrated by domestic examples; which is, that nations pay little regard to rules and maxims calculated in their very nature to run counter to the necessities of society. Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

PUBLIUS [Hamilton]

Number 26: The Subject Continued with the Same View

# NUMBER 26

THE SUBJECT CONTINUED

WITH THE SAME VIEW

[Alexander Hamilton]

IT WAS a thing hardly to be expected that in a popular revolution the minds of men should stop at that happy mean which marks the salutary boundary between POWER and PRIVILEGE, and combines the energy of government with the security of private rights. A failure in this delicate and important point is the great source of the inconveniences we experience, and if we are not cautious to avoid a repetition of the error in our future attempts to rectify and ameliorate our system we may travel from one chimerical project to another; we may try change after change; but we shall never be likely to make any material change for the better.

The idea of restraining the legislative authority in the means of providing for the national defense is one of those refinements which owe their origin to a zeal for liberty more ardent than enlightened. We have seen, however, that it has not had thus far an extensive prevalency; that even in this country, where it made its first appearance, Pennsylvania and North Carolina are the only two States by which it has been in any degree patronized; and that all the others have refused to give it the least countenance; wisely judging that confidence must be placed somewhere; that the necessity of doing it is implied in the very act of delegating power; and that it is better to hazard the abuse of that confidence than to embarrass the government and endanger the public safety by impolitic restrictions on the legislative authority. The opponents of the proposed Constitution combat, in this respect, the general decision of America; and instead of being taught by experience the propriety of correcting any extremes into which we may have heretofore run, they appear disposed to conduct us into others still more dangerous and more extravagant. As if the tone of government had been found too high, or too rigid, the doctrines they teach are calculated to induce us to depress or to relax it by expedients which, upon other occasions, have been condemned or forborne. It may be affirmed without the imputation of invective that if the principles they

indicate on various points could so far obtain as to become the popular creed, they would utterly unfit the people of this country for any species of government whatever. But a danger of this kind is not to be apprehended.

The citizens of America have too much discernment to be argued into anarchy. And I am much mistaken if experience has not wrought a deep and solemn conviction in the public mind that greater energy of government is essential to the welfare and prosperity of the community.

It may not be amiss in this place concisely to remark the origin and progress of the idea, which aims at the exclusion of military establishments in time of peace. Though in speculative minds it may rise from a contemplation of the nature and tendency of such institutions, fortified by the events that have happened in other ages and countries, yet as a national sentiment it must be traced to those habits of thinking which we derive from the nation from whom the inhabitants of these States have in general sprung.

In England, for a long time after the Norman Conquest, the authority of the monarch was almost unlimited. Inroads were gradually made upon the prerogative in favor of liberty, first by the barons and afterwards by the people, till the greatest part of its most formidable pretensions became extinct. But it was not till the revolution in 1688, which elevated the Prince of Orange to the throne of Great Britain, that English liberty was completely triumphant. As incident to the undefined power of making war an acknowledged prerogative of the crown, Charles II had, by his own authority, kept on foot in time of peace a body of 5,000 regular troops. And this number James II increased to 30,000, which were paid out of his civil list. At the revolution, to abolish the exercise of so dangerous an authority, it became an article of the Bill of Rights then framed that the raising or keeping a standing army within the kingdom in time of peace, unless with the consent of Parliament, was against law.

In that kingdom, when the pulse of liberty was at its highest pitch, no security against the danger of standing armies was thought requisite, beyond a prohibition of their being raised or kept up by the mere authority of the executive magistrate. The patriots who effected that memorable revolution were too temperate, too well-informed, to think of any restraint on the legislative discretion. They were aware that a certain number of

troops for guards and garrisons were indispensable; that no precise bounds could be set to the national exigencies; that a power equal to every possible contingency must exist somewhere in the government: and that when they referred the exercise of that power to the judgment of the legislature, they had arrived at the ultimate point of precaution which was reconcilable with the safety of the community.

From the same source, the people of America may be said to have derived an hereditary impression of danger to liberty from standing armies in time of peace. The circumstances of a revolution quickened the public sensibility on every point connected with the security of popular rights, and in some instances raised the warmth of our zeal beyond the degree which consisted with the due temperature of the body politic. The attempts of two of the States to restrict the authority of the legislature in the article of military establishments are of the number of these instances. The principles which had taught us to be jealous of the power of an hereditary monarch were by an injudicious excess extended to the representatives of the people in their popular assemblies. Even in some of the States, where this error was not adopted, we find unnecessary declarations that standing armies ought not to be kept up in time of peace WITHOUT THE CONSENT OF THE LEGISLATURE. I call them unnecessary, because the reason which had introduced a similar provision into the English Bill of Rights is not applicable to any of the State constitutions. The power of raising armies at all under those constitutions can by no construction be deemed to reside anywhere else than in the legislatures themselves; and it was superfluous, if not absurd, to declare that a matter should not be done without the consent of a body, which alone had the power of doing it. Accordingly, in some of those constitutions, and among others, in that of the State of New York, which has been justly celebrated both in Europe and America as one of the best of the forms of government established in this country, there is a total silence upon the subject.

It is remarkable that even in the two States which seem to have meditated an interdiction of military establishments in time of peace, the mode of expression made use of is rather monitory than prohibitory. It is not said that standing armies shall not be kept up, but that they ought not to be kept up, in time of peace. This ambiguity of terms appears to have been the

result of a conflict between jealousy and conviction; between the desire of excluding such establishments at all events and the persuasion that an absolute exclusion would be unwise and unsafe.

Can it be doubted that such a provision, whenever the situation of public affairs was understood to require a departure from it, would be interpreted by the legislature into a mere admonition, and would be made to yield to the necessities or supposed necessities of the State? Let the fact already mentioned with respect to Pennsylvania decide. What then (it may be asked) is the use of such a provision, if it cease to operate the moment there is an inclination to disregard it?

Let us examine whether there be any comparison in point of efficacy between the provision alluded to and that which is contained in the new Constitution for restraining the appropriations of money for military purposes to the period of two years. The former, by aiming at too much, is calculated to effect nothing; the latter, by steering clear of an imprudent extreme, and by being perfectly compatible with a proper provision for the exigencies of the nation, will have a salutary and powerful operation.

The legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents. They are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence. As the spirit of party in different degrees must be expected to infect all political bodies, there will be, no doubt, persons in the national legislature willing enough to arraign the measures and criminate the views of the majority. The provision for the support of a military force will always be a favorable topic for declamation. As often as the question comes forward, the public attention will be roused and attracted to the subject by the party in opposition; and if the majority should be really disposed to exceed the proper limits, the community will be warned of the danger, and will have an opportunity of taking measures to guard against it. Independent of parties in the national legislature itself, as often as the period of discussion arrived, the State

legislatures, who will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if anything improper appears, to sound the alarm to the people, and not only to be the VOICE, but, if necessary, the ARM of their discontent.

Schemes to subvert the liberties of a great community require time to mature them for execution. An army, so large as seriously to menace those liberties, could only be formed by progressive augmentations; which would suppose not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time. Is it probable that such a combination would exist at all? Is it probable that it would be persevered in, and transmitted along through all the successive variations in a representative body, which biennial elections would naturally produce in both houses? Is it presumable that every man the instant he took his seat in the national Senate or House of Representatives would commence a traitor to his constituents and to his country? Can it be supposed that there would not be found one man discerning enough to detect so atrocious a conspiracy, or bold or honest enough to apprise his constituents of their danger? If such presumptions can fairly be made, there ought to be at once an end of all delegated authority. The people should resolve to recall all the powers they have heretofore parted with out of their own hands, and to divide themselves into as many States as there are countries in order that they may be able to manage their own concerns in person.

If such suppositions could even be reasonably made, still the concealment of the design for any duration would be impracticable. It would be announced by the very circumstance of augmenting the army to so great an extent in time of profound peace. What colorable reason could be assigned in a country so situated for such vast augmentations of the military force? It is impossible that the people could be long deceived; and the destruction of the project and of the projectors would quickly follow the discovery.

It has been said that the provision which limits the appropriation of money for the support of an army to the period of two years would be unavailing, because the executive, when once possessed of a force large enough to awe

the people into submission, would find resources in that very force sufficient to enable him to dispense with supplies from the acts of legislature. But the question again recurs, upon what pretense could he be put in possession of a force of that magnitude in time of peace? If we suppose it to have been created in consequence of some domestic insurrection or foreign war, then it becomes a case not within the principle of the objection; for this is leveled against the power of keeping up troops in time of peace. Few persons will be so visionary as seriously to contend that military forces ought not to be raised to quell a rebellion or resist an invasion; and if the defense of the community under such circumstances should make it necessary to have an army so numerous as to hazard its liberty, this is one of those calamities for which there is neither preventative nor cure. It cannot be provided against by any possible form of government; it might even result from a simple league offensive and defensive, if it should ever be necessary for the confederates or allies to form an army for the common defense.

But it is an evil infinitely less likely to attend us in a united than in a disunited state; nay, it may be safely asserted that it is an evil altogether unlikely to attend us in the former situation. It is not easy to conceive a possibility that dangers so formidable can assail the whole Union as to demand a force considerable enough to place our liberties in the least jeopardy, especially if we take into our view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary. But in a state of disunion (as has been fully shown in another place), the contrary of this supposition would become not only probable, but almost unavoidable.

PUBLIUS [Hamilton]

Number 27: The Subject Continued with the Same View

# NUMBER 27

THE SUBJECT CONTINUED

WITH THE SAME VIEW

[Alexander Hamilton]

IT HAS been urged in different shapes that a Constitution of the kind proposed by the convention cannot operate without the aid of a military force to execute its laws. This, however, like most other things that have been alleged on that side, rests on mere general assertion, unsupported by any precise or intelligible designation of the reasons upon which it is founded. As far as I have been able to divine the latent meaning of the objectors, it seems to originate in a presupposition that the people will be disinclined to the exercise of federal authority in any matter of an internal nature. Waiving any exception that might be taken to the inaccuracy or inexplicitness of the distinction between internal and external, let us inquire what ground there is to presuppose that disinclination in the people. Unless we presume at the same time that the powers of the general government will be worse administered than those of the State governments, there seems to be no room for the presumption of ill will, disaffection, or opposition in the people. I believe it may be laid down as a general rule that their confidence in and obedience to a government will commonly be proportioned to the goodness or badness of its administration. It must be admitted that there are exceptions to this rule; but these exceptions depend so entirely on accidental causes that they cannot be considered as having any relation to the intrinsic merits or demerits of a constitution. These can only be judged by the general principles and maxims.

Various reasons have been suggested in the course of those papers to induce a probability that the general government will be better administered than the particular governments: the principal of which are that the extension of the spheres of election will present a greater option, or latitude of choice, to the people; that through the medium of the State legislatures—who are select bodies of men and who are to appoint the members of the national Senate—there is reason to expect that this branch will generally be composed with peculiar care and judgment; that these circumstances

promise greater knowledge and more comprehensive information in the national councils. [36](#) And that on account of the extent of the country from which those, to whose direction they will be committed, will be drawn, they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill humors, or temporary prejudices and propensities, which in smaller societies frequently contaminate the public deliberations, beget injustice and oppression of a part of the community, and engender schemes which, though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction, and disgust. Several additional reasons of considerable force to fortify that probability will occur when we come to survey with a more critical eye the interior structure of the edifice which we are invited to erect. It will be sufficient here to remark that until satisfactory reasons can be assigned to justify an opinion that the federal government is likely to be administered in such a manner as to render it odious or contemptible to the people, there can be no reasonable foundation for the supposition that the laws of the Union will meet with any greater obstruction from them, or will stand in need of any other methods to enforce their execution, than the laws of the particular members.

The hope of impunity is a strong incitement to sedition; the dread of punishment, a proportionately strong discouragement to it. Will not the government of the Union, which, if possessed of a due degree of power, can call to its aid the collective resources of the whole Confederacy, be more likely to repress the former sentiment and to inspire the latter, than that of a single State, which can only command the resources within itself? A turbulent faction in a State may easily suppose itself able to contend with the friends to the government in that State; but it can hardly be so infatuated as to imagine itself a match for the combined efforts of the Union. If this reflection be just, there is less danger of resistance from irregular combinations of individuals to the authority of the Confederacy than to that of a single member.

I will, in this place, hazard an observation which will not be the less just because to some it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exercise of government, the more the citizens are accustomed to meet with it in the common occurrences of their political life, the more it is familiarized to

their sight and to their feelings, the further it enters into those objects which touch the most sensible chords and put in motion the most active springs of the human heart, the greater will be the probability that it will conciliate the respect and attachment of the community. Man is very much a creature of habit. A thing that rarely strikes his senses will generally have but a transient influence upon his mind. A government continually at a distance and out of sight can hardly be expected to interest the sensations of the people. The inference is that the authority of the Union and the affections of the citizens towards it will be strengthened, rather than weakened, by its extension to what are called matters of internal concern; and that it will have less occasion to recur to force, in proportion to the familiarity and comprehensiveness of its agency. The more it circulates through those channels and currents in which the passions of mankind naturally flow, the less it will require the aid of the violent and perilous expedients of compulsion.

One thing at all events must be evident, that a government like that proposed would bid much fairer to avoid the necessity of using force than the species of league contended for by most of its opponents; the authority of which should only operate upon the States in their political or collective capacities. It has been shown that in such a Confederacy there can be no sanction for the laws but force; that frequent delinquencies in the members are the natural offspring of the very frame of the government; and that as often as these happen, they can only be redressed, if at all, by war and violence.

The plan reported by the convention, by extending the authority of the federal head to the individual citizens of the several States, will enable the government to employ the ordinary magistracy of each in the execution of its laws. It is easy to perceive that this will tend to destroy, in the common apprehension, all distinction between the sources from which they might proceed; and will give the federal government the same advantage for securing a due obedience to its authority which is enjoyed by the government of each State, in addition to the influence on public opinion which will result from the important consideration of its having power to call to its assistance and support the resources of the whole Union. It merits particular attention in this place, that the laws of the Confederacy as to the

enumerated and legitimate objects of its jurisdiction will become the SUPREME LAW of the land; to the observance of which all officers, legislative, executive, and judicial in each State will be bound by the sanctity of an oath. Thus the legislatures, courts, and magistrates, of the respective members will be incorporated into the operations of the national government as far as its just and constitutional authority extends; and will be rendered auxiliary to the enforcement of its laws. [37](#) Any man who will pursue by his own reflections the consequences of this situation will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the Union, if its powers are administered with a common share of prudence. If we will arbitrarily suppose the contrary, we may deduce any inferences we please from the supposition; for it is certainly possible, by an injudicious exercise of the authorities of the best government that ever was, or ever can be instituted, to provoke and precipitate the people into the wildest excesses. But though the adversaries of the proposed Constitution should presume that the national rulers would be insensible to the motives of public good, or to the obligations of duty, I would still ask them how the interests of ambition, or the views of encroachment, can be promoted by such conduct?

PUBLIUS [Hamilton]

Number 28: The Same Subject Concluded

# NUMBER 28

## THE SAME SUBJECT CONCLUDED

[Alexander Hamilton]

THAT there may happen cases in which the national government may be necessitated to resort to force cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes exist in all societies, however constituted; that seditions and insurrections are, unhappily, maladies as inseparable from the body politic as tumors and eruptions from the natural body; that the idea of governing at all times by the simple force of law (which we have been told is the only admissible principle of republican government) has no place but in the reveries of those political doctors whose sagacity disdains the admonitions of experimental instruction.

Should such emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed must be proportioned to the extent of the mischief. If it should be a slight commotion in a small part of a State, the militia of the residue would be adequate to its suppression; and the natural presumption is that they would be ready to do their duty. An insurrection, whatever may be its immediate cause, eventually endangers all government. Regard to the public peace, if not to the rights of the Union, would engage the citizens to whom the contagion had not communicated itself to oppose the insurgents; and if the general government should be found in practice conducive to the prosperity and felicity of the people, it were irrational to believe that they would be disinclined to its support.

If, on the contrary, the insurrection should pervade a whole State, or a principal part of it, the employment of a different kind of force might become unavoidable. It appears that Massachusetts found it necessary to raise troops for suppressing the disorders within that State; that Pennsylvania, from the mere apprehension of commotions among a part of her citizens, has thought proper to have recourse to the same measure. Suppose the State of New York had been inclined to re-establish her lost

jurisdiction over the inhabitants of Vermont, could she have hoped for success in such an enterprise from the efforts of the militia alone? Would she not have been compelled to raise and to maintain a more regular force for the execution of her design? If it must then be admitted that the necessity of recurring to a force different from the militia, in cases of this extraordinary nature, is applicable to the State governments themselves, why should the possibility that the national government might be under a like necessity, in similar extremities, be made an objection to its existence? Is it not surprising that men who declare an attachment to the Union in the abstract should urge as an objection to the proposed Constitution what applies with tenfold weight to the plan for which they contend; and what, as far as it has any foundation in truth, is an inevitable consequence of civil society upon an enlarged scale? Who would not prefer that possibility to the unceasing agitations and frequent revolutions which are the continual scourges of petty republics?

Let us pursue this examination in another light. Suppose, in lieu of one general system, two, or three, or even four Confederacies were to be formed, would not the same difficulty oppose itself to the operations of either of these Confederacies? Would not each of them be exposed to the same casualties; and when these happened, be obliged to have recourse to the same expedients for upholding its authority which are objected to in a government for all the States? Would the militia in this supposition be more ready or more able to support the federal authority than in the case of a general union? All candid and intelligent men must, upon due consideration, acknowledge that the principle of the objection is equally applicable to either of the two cases; and that whether we have one government for all the States, or different governments for different parcels of them, or as many unconnected governments as there are States, there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed

government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society. [38](#)

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers may be exerted with infinitely better prospect of success than against those of the rulers of an individual State. In a single State, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense. The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements, and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny. But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will

it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one State, the distant States would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase. When will the time arrive that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their State governments, to take measures for their own defense, with all the celerity, regularity, and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and

reasoning.

PUBLIUS [Hamilton]

Number 29: Concerning the Militia

# NUMBER 29

## CONCERNING THE MILITIA

[Alexander Hamilton]

THE power of regulating the militia and of commanding its services in times of insurrection and invasion are natural incidents to the duties of superintending the common defense, and of watching over the internal peace of the Confederacy.

It requires no skill in the science of war to discern that uniformity in the organization and discipline of the militia would be attended with the most beneficial effects, whenever they were called into service for the public defense. It would enable them to discharge the duties of the camp and of the field with mutual intelligence and concert—an advantage of peculiar moment in the operations of an army; and it would fit them much sooner to acquire the degree of proficiency in military functions which would be essential to their usefulness. This desirable uniformity can only be accomplished by confiding the regulation of the militia to the direction of the national authority. It is, therefore, with the most evident propriety that the plan of the convention proposes to empower the Union to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Of the different grounds which have been taken in opposition to this plan there is none that was so little to have been expected, or is so untenable in itself, as the one from which this particular provision has been attacked. If a well-regulated militia be the most natural defense of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian of the national security. If standing armies are dangerous to liberty, an efficacious power over the militia in the same body ought, as far as possible, to take away the inducement and the pretext to such unfriendly institutions. If the federal government can command the aid of the militia in those emergencies which call for the military arm in

support of the civil magistrate, it can the better dispense with the employment of a different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary will be a more certain method of preventing its existence than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the Union, it has been remarked that there is nowhere any provision in the proposed Constitution for requiring the aid of the POSSE COMITATUS to assist the magistrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary. There is a striking incoherence in the objections which have appeared, and sometimes even from the same quarter, not much calculated to inspire a very favorable opinion of the sincerity or fair dealing of their authors. The same persons who tell us in one breath that the powers of the federal government will be despotic and unlimited inform us in the next that it has not authority sufficient even to call out the POSSE COMITATUS. The latter, fortunately, is as much short of the truth as the former exceeds it. It would be as absurd to doubt that a right to pass all laws necessary and proper to execute its declared powers would include that of requiring the assistance of the citizens to the officers who may be intrusted with the execution of those laws as it would be to believe that a right to enact laws necessary and proper for the imposition and collection of taxes would involve that of varying the rules of descent and of the alienation of landed property, or of abolishing the trial by jury in cases relating to it. It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of color, it will follow that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary? What shall we think of the motives which could induce men of sense to reason in this extraordinary manner? How shall we prevent a conflict between charity and conviction?

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself in the hands of the federal

government. It is observed that select corps may be formed, composed of the young and the ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the Constitution ratified and were I to deliver my sentiments to a member of the federal legislature on the subject of a militia establishment, I should hold to him, in the substance, the following discourse:

The project of disciplining all the militia of the United States is as futile as it would be injurious if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, nor a week nor even a month, that will suffice for the attainment of it. To oblige the great body of the yeomanry and of the other classes of the citizens to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well-regulated militia, would be a real grievance to the people and a serious public inconvenience and loss. It would form an annual deduction from the productive labor of the country to an amount which, calculating upon the present numbers of the people, would not fall far short of a million pounds. To attempt a thing which would abridge the mass of labor and industry to so considerable an extent would be unwise: and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate size, upon such principles as will really fit it for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of

well-trained militia ready to take the field whenever the defense of the State shall require it. This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist.

Thus differently from the adversaries of the proposed Constitution should I reason on the same subject, deducing arguments of safety from the very sources which they represent as fraught with danger and perdition. But how the national legislature may reason on the point is a thing which neither they nor I can foresee.

There is something so far-fetched and so extravagant in the idea of danger to liberty from the militia that one is at a loss whether to treat it with gravity or with raillery; whether to consider it as a mere trial of skill, like the paradoxes of rhetoricians; as a disingenuous artifice to instil prejudices at any price; or as the serious offspring of political fanaticism. Where in the name of common sense are our fears to end if we may not trust our sons, our brothers, our neighbors, our fellow-citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen and who participate with them in the same feelings, sentiments, habits, and interests? What reasonable cause of apprehension can be inferred from a power in the Union to prescribe regulations for the militia and to command its services when necessary, while the particular States are to have the sole and exclusive apportionment of the officers? If it were possible seriously to indulge a jealousy of the militia upon any conceivable establishment under the federal government, the circumstance of the officers being in the appointment of the States ought at once to extinguish it. There can be no doubt that this circumstance will always secure to them a preponderating influence over the militia.

In reading many of the publications against the Constitution, a man is apt to imagine that he is perusing some ill-written tale or romance, which, instead

of natural and agreeable images, exhibits to the mind nothing but frightful and distorted shapes—

Gorgons, Hydras, and Chimeras dire ;  
discoloring and disfiguring whatever it represents, and transforming everything it touches into a monster.

A sample of this is to be observed in the exaggerated and improbable suggestions which have taken place respecting the power of calling for the services of the militia. That of New Hampshire is to be marched to Georgia, of Georgia to New Hampshire, of New York to Kentucky, and of Kentucky to Lake Champlain. Nay, the debts due to the French and the Dutch are to be paid in militiamen instead of Louis d'ors and ducats. At one moment there is to be a large army to lay prostrate the liberties of the people; at another moment the militia of Virginia are to be dragged from their homes five or six hundred miles to tame the republican contumacy of Massachusetts; and that of Massachusetts is to be transported an equal distance to subdue the refractory haughtiness of the aristocratic Virginians. Do the persons who rave at this rate imagine that their art or their eloquence can impose any conceits or absurdities upon the people of America for infallible truths?

If there should be an army to be made use of as the engine of despotism, what need of the militia? If there should be no army, whither would the militia, irritated at being required to undertake a distant and distressing expedition for the purpose of riveting the chains of slavery upon a part of their countrymen, direct their course, but to the seat of the tyrants, who had meditated so foolish as well as so wicked a project to crush them in their imagined intrenchments of power, and to make them an example of the just vengeance of an abused and incensed people? Is this the way in which usurpers stride to dominion over a numerous and enlightened nation? Do they begin by exciting the detestation of the very instruments of their intended usurpations? Do they usually commence their career by wanton and disgusting acts of power, calculated to answer no end, but to draw upon themselves universal hatred and execration? Are suppositions of this sort the sober admonitions of discerning patriots to a discerning people? Or are they the inflammatory ravings of chagrined incendiaries or distempered enthusiasts? If we were even to suppose the national rulers actuated by the

most ungovernable ambition, it is impossible to believe that they would employ such preposterous means to accomplish their designs.

In times of insurrection, or invasion, it would be natural and proper that the militia of a neighboring State should be marched into another, to resist a common enemy, or to guard the republic against the violence of faction or sedition. This was frequently the case in respect to the first object in the course of the late war; and this mutual succor is, indeed, a principal end of our political association. If the power of affording it be placed under the direction of the Union, there will be no danger of a supine and listless inattention to the dangers of a neighbor till its near approach had superadded the incitements of self-preservation to the too feeble impulses of duty and sympathy.

PUBLIUS [Hamilton]  
Number 30: Concerning Taxation

# NUMBER 30

## CONCERNING TAXATION

[Alexander Hamilton]

IT HAS been already observed that the federal government ought to possess the power of providing for the support of the national forces; in which proposition was intended to be included the expense of raising troops, of building and equipping fleets, and all other expenses in any wise connected with military arrangements and operations. But these are not the only objects to which the jurisdiction of the Union in respect to revenue must necessarily be empowered to extend. It must embrace a provision for the support of the national civil list; for the payment of the national debts contracted, or that may be contracted; and in general, for all those matters which will call for disbursements out of the national treasury. The conclusion is that there must be interwoven in the frame of the government a general power of taxation, in one shape or another.

Money is, with propriety, considered as the vital principle of the body politic; as that which sustains its life and motion and enables it to perform its most essential functions, A complete power, therefore, to procure a regular and adequate supply of revenue, as far as the resources of the community will permit, may be regarded as an indispensable ingredient in every constitution. From a deficiency in this particular, one of two evils must ensue: either the people must be subjected to continual plunder, as a substitute for a more eligible mode of supplying the public wants, or the government must sink into a fatal atrophy, and, in a short course of time, perish.

In the Ottoman or Turkish empire the sovereign, though in other respects absolute master of the lives and fortunes of his subjects, has no right to impose a new tax. The consequence is that he permits the bashaws or governors of provinces to pillage the people at discretion, and, in turn, squeezes out of them the sums of which he stands in need to satisfy his own exigencies and those of the state. In America, from a like cause, the government of the Union has gradually dwindled into a state of decay,

approaching nearly to annihilation. Who can doubt that the happiness of the people in both countries would be promoted by competent authorities in the proper hands to provide the revenues which the necessities of the public might require?

The present Confederation, feeble as it is, intended to repose in the United States an unlimited power of providing for the pecuniary wants of the Union. But proceeding upon an erroneous principle, it has been done in such a manner as entirely to have frustrated the intention. Congress, by the articles which compose that compact (as has already been stated), are authorized to ascertain and call for any sums of money necessary in their judgment to the service of the United States; and their requisitions, if conformable to the rule of apportionment, are in every constitutional sense obligatory upon the States. These have no right to question the propriety of the demand; no discretion beyond that of devising the ways and means of furnishing the sums demanded. But though this be strictly and truly the case; though the assumption of such a right would be an infringement of the articles of Union; though it may seldom or never have been avowedly claimed, yet in practice it has been constantly exercised and would continue to be so, as long as the revenues of the Confederacy should remain dependent on the intermediate agency of its members. What the consequences of this system have been is within the knowledge of every man the least conversant in our public affairs, and has been abundantly unfolded in different parts of these inquiries. It is this which affords ample cause of mortification to ourselves, and of triumph to our enemies.

What remedy can there be for this situation, but in a change of the system which has produced it—in a change of the fallacious and delusive system of quotas and requisitions? What substitute can there be imagined for this ignis fatuus in finance, but that of permitting the national government to raise its own revenues by the ordinary methods of taxation authorized in every well-ordered constitution of civil government? Ingenious men may declaim with plausibility on any subject; but no human ingenuity can point out any other expedient to rescue us from the inconveniences and embarrassments naturally resulting from the defective supplies of the public treasury.

The more intelligent adversaries of the new Constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call internal and external taxation. The former they would reserve to the State governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the federal head. This distinction, however, would violate that fundamental maxim of good sense and sound policy, which dictates that every POWER ought to be proportionate to its OBJECT; and would still leave the general government in a kind of tutelage to the State governments, inconsistent with every idea of vigor or efficiency. Who can pretend that commercial imposts are, or would be, alone equal to the present and future exigencies of the Union? Taking into the account the existing debt, foreign and domestic, upon any plan of extinguishment which a man moderately impressed with the importance of public justice and public credit could approve, in addition to the establishments which all parties will acknowledge to be necessary, we could not reasonably flatter ourselves that this resource alone, upon the most improved scale, would even suffice for its present necessities. Its future necessities admit not of calculation or limitation; and upon the principle more than once adverted to the power of making provision for them as they arise ought to be equally unconfined. I believe it may be regarded as a position warranted by the history of mankind that, in the usual progress of things, the necessities of a nation, in every stage of its existence, will be found at least equal to its resources.

To say that deficiencies may be provided for by requisitions upon the States is on the one hand to acknowledge that this system cannot be depended upon, and on the other hand to depend upon it for everything beyond a certain limit. Those who have carefully attended to its vices and deformities as they have been exhibited by experience or delineated in the course of these papers must feel an invincible repugnancy to trusting the national interests in any degree to its operation. Its inevitable tendency, whenever it is brought into activity, must be to enfeeble the Union, and sow the seeds of discord and contention between the federal head and its members and between the members themselves. Can it be expected that the deficiencies would be better supplied in this mode than the total wants of the Union have heretofore been supplied in the same mode? It ought to be recollected

that if less will be required from the States, they will have proportionably less means to answer the demand. If the opinions of those who contend for the distinction which has been mentioned were to be received as evidence of truth, one would be led to conclude that there was some known point in the economy of national affairs at which it would be safe to stop and say: Thus far the ends of public happiness will be promoted by supplying the wants of government, and all beyond this is unworthy of our care or anxiety. How is it possible that a government half supplied and always necessitous can fulfil the purposes of its institution, can provide for the security, advance the prosperity, or support the reputation of the commonwealth? How can it ever possess either energy or stability, dignity or credit, confidence at home or respectability abroad? How can its administration be anything else than a succession of expedients temporizing, impotent, disgraceful? How will it be able to avoid a frequent sacrifice of its engagements to immediate necessity? How can it undertake or execute any liberal or enlarged plans of public good?

Let us attend to what would be the effects of this situation in the very first war in which we should happen to be engaged. We will presume, for argument's sake, that the revenue arising from the impost duties answers the purposes of a provision for the public debt and of a peace establishment for the Union. Thus circumstanced, a war breaks out. What would be the probable conduct of the government in such an emergency? Taught by experience that proper dependence could not be placed on the success of requisitions, unable by its own authority to lay hold of fresh resources, and urged by considerations of national danger, would it not be driven to the expedient of diverting the funds already appropriated from their proper objects to the defense of the State? It is not easy to see how a step of this kind could be avoided; and if it should be taken, it is evident that it would prove the destruction of public credit at the very moment that it was becoming essential to the public safety. To imagine that at such a crisis credit might be dispensed with would be the extreme of infatuation. In the modern system of war, nations the most wealthy are obliged to have recourse to large loans. A country so little opulent as ours must feel this necessity in a much stronger degree. But who would lend to a government that prefaced its overtures for borrowing by an act which demonstrated that no reliance could be placed on the steadiness of its measures for paying?

The loans it might be able to procure would be as limited in their extent as burdensome in their conditions. They would be made upon the same principles that usurers commonly lend to bankrupt and fraudulent debtors— with a sparing hand and at enormous premiums.

It may perhaps be imagined that from the scantiness of the resources of the country the necessity of diverting the established funds in the case supposed would exist, though the national government should possess an unrestrained power of taxation. But two considerations will serve to quiet all apprehension on this head: one is that we are sure the resources of the community, in their full extent, will be brought into activity for the benefit of the Union; the other is that whatever deficiencies there may be can without difficulty be supplied by loans.

The power of creating new funds upon new objects of taxation by its own authority would enable the national government to borrow as far as its necessities might require. Foreigners, as well as the citizens of America, could then reasonably repose confidence in its engagements; but to depend upon a government that must itself depend upon thirteen other governments for the means of fulfilling its contracts, when once its situation is clearly understood, would require a degree of credulity not often to be met with in the pecuniary transactions of mankind, and little reconcilable with the usual sharp-sightedness of avarice.

Reflections of this kind may have trifling weight with men who hope to see realized in America the halcyon scenes of the poetic or fabulous age; but to those who believe we are likely to experience a common portion of the vicissitudes and calamities which have fallen to the lot of other nations, they must appear entitled to serious attention. Such men must behold the actual situation of their country with painful solicitude, and deprecate the evils which ambition or revenge might, with too much facility, inflict upon it.

PUBLIUS [Hamilton]

Number 31: The Same Subject Continued (Taxation)

# NUMBER 31

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

IN DISQUISITIONS of every kind there are certain primary truths, or first principles, upon which all subsequent reasonings must depend. These contain an internal evidence which, antecedent to all reflection or combination, commands the assent of the mind. Where it produces not this effect, it must proceed either from some disorder in the organs of perception, or from the influence of some strong interest, or passion, or prejudice. Of this nature are the maxims in geometry that the whole is greater than its parts; that things equal to the same are equal to one another; that two straight lines cannot enclose a space; and that all right angles are equal to each other. Of the same nature are these other maxims in ethics and politics, that there cannot be an effect without a cause; that the means ought to be proportioned to the end; that every power ought to be commensurate with its object; that there ought to be no limitation of a power destined to effect a purpose which is itself incapable of limitation. And there are other truths in the two latter sciences which, if they cannot pretend to rank in the class of axioms, are yet such direct inferences from them, and so obvious in themselves, and so agreeable to the natural and unsophisticated dictates of common sense that they challenge the assent of a sound and unbiased mind with a degree of force and conviction almost equally irresistible.

The objects of geometrical inquiry are so entirely abstracted from those pursuits which stir up and put in motion the unruly passions of the human heart that mankind, without difficulty, adopt not only the more simple theorems of the science, but even those abstruse paradoxes which, however they may appear susceptible of demonstration, are at variance with the natural conceptions which the mind, without the aid of philosophy, would be led to entertain upon the subject. The INFINITE DIVISIBILITY of matter, or, in other words, the INFINITE divisibility of a FINITE thing, extending even to the minutest atom, is a point agreed among geometers, though not less incomprehensible to common sense than any of those mysteries in religion against which the batteries of infidelity have

been so industriously leveled.

But in the sciences of morals and politics, men are found far less tractable. To a certain degree it is right and useful that this should be the case. Caution and investigation are a necessary armor against error and imposition. But this untractableness may be carried too far, and may degenerate into obstinacy, perverseness, or disingenuity. Though it cannot be pretended that the principles of moral and political knowledge have, in general, the same degree of certainty with those of the mathematics, yet they have much better claims in this respect than to judge from the conduct of men in particular situations we should be disposed to allow them. The obscurity is much oftener in the passions and prejudices of the reasoner than in the subject. Men, upon too many occasions, do not give their own understandings fair play; but, yielding to some untoward bias, they entangle themselves in words and confound themselves in subtleties.

How else could it happen (if we admit the objectors to be sincere in their opposition) that positions so clear as those which manifest the necessity of a general power of taxation in the government of the Union should have to encounter any adversaries among men of discernment? Though these positions have been elsewhere fully stated, they will perhaps not be improperly recapitulated in this place as introductory to an examination of what may have been offered by way of objection to them. They are in substance as follows:

A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible, free from every other control but a regard to the public good and to the sense of the people.

As the duties of superintending the national defense and of securing the public peace against foreign or domestic violence involve a provision for casualties and dangers to which no possible limits can be assigned, the power of making that provision ought to know no other bounds than the exigencies of the nation and the resources of the community.

As revenue is the essential engine by which the means of answering the national exigencies must be procured, the power of procuring that article in its full extent must necessarily be comprehended in that of providing for those exigencies.

As theory and practice conspire to prove that the power of procuring revenue is unavailing when exercised over the States in their collective capacities, the federal government must of necessity be invested with an unqualified power of taxation in the ordinary modes.

Did not experience evince the contrary, it would be natural to conclude that the propriety of a general power of taxation in the national government might safely be permitted to rest on the evidence of these propositions, unassisted by any additional arguments or illustrations. But we find, in fact, that the antagonists of the proposed Constitution, so far from acquiescing in their justness or truth, seem to make their principal and most zealous effort against this part of the plan. It may therefore be satisfactory to analyze the arguments with which they combat it.

Those of them which have been most labored with that view seem in substance to amount to this: It is not true, because the exigencies of the Union may not be susceptible of limitation, that its power of laying taxes ought to be unconfined. Revenue is as requisite to the purposes of the local administrations as to those of the Union; and the former are at least of equal importance with the latter to the happiness of the people. It is, therefore, as necessary that the State governments should be able to command the means of supplying their wants, as that the national government should possess the like faculty in respect to the wants of the Union. But an indefinite power of taxation in the latter might, and probably would in time, deprive the former of the means of providing for their own necessities; and would subject them entirely to the mercy of the national legislature. As the laws of the Union are to become the supreme law of the land, as it is to have power to pass all laws that may be NECESSARY for carrying into execution the authorities with which it is proposed to vest it, the national government might at any time abolish the taxes imposed for State objects upon the pretense of an interference with its own. It might allege a necessity of doing this in order to give efficacy to the national revenues. And thus all the resources of

taxation might by degrees become the subjects of federal monopoly to the entire exclusion and destruction of the State governments.

This mode of reasoning appears sometimes to turn upon the supposition of usurpation in the national government; at other times it seems to be designed only as a deduction from the constitutional operation of its intended powers. It is only in the latter light that it can be admitted to have any pretensions to fairness. The moment we launch into conjectures about the usurpations of the federal government, we get into an unfathomable abyss and fairly put ourselves out of the reach of all reasoning. Imagination may range at pleasure till it gets bewildered amidst the labyrinths of an enchanted castle, and knows not on which side to turn to escape from the apparitions which itself has raised. Whatever may be the limits or modifications of the powers of the Union, it is easy to imagine an endless train of possible dangers; and by indulging an excess of jealousy and timidity, we may bring ourselves to a state of absolute skepticism and irresolution. I repeat here what I have observed in substance in another place, that all observations founded upon the danger of usurpation ought to be referred to the composition and structure of the government, not to the nature or extent of its powers. The State governments by their original constitutions are invested with complete sovereignty. In what does our security consist against usurpations from that quarter? Doubtless in the manner of their formation, and in a due dependence of those who are to administer them upon the people. If the proposed construction of the federal government be found, upon an impartial examination of it, to be such as to afford to a proper extent the same species of security, all apprehensions on the score of usurpation ought to be discarded.

It should not be forgotten that a disposition in the State governments to encroach upon the rights of the Union is quite as probable as a disposition in the Union to encroach upon the rights of the State governments. What side would be likely to prevail in such a conflict must depend on the means which the contending parties could employ towards insuring success. As in republics strength is always on the side of the people, and as there are weighty reasons to induce a belief that the State governments will commonly possess most influence over them, the natural conclusion is that such contests will be most apt to end to the disadvantage of the Union; and

that there is greater probability of encroachments by the members upon the federal head than by the federal head upon the members. But it is evident that all conjectures of this kind must be extremely vague and fallible: and that it is by far the safest course to lay them altogether aside and to confine our attention wholly to the nature and extent of the powers as they are delineated in the Constitution. Everything beyond this must be left to the prudence and firmness of the people; who, as they will hold the scales in their own hands, it is to be hoped will always take care to preserve the constitutional equilibrium between the general and the State governments. Upon this ground, which is evidently the true one, it will not be difficult to obviate the objections which have been made to an indefinite power of taxation in the United States.

PUBLIUS [Hamilton]

Number 32: The Same Subject Continued (Taxation)

# NUMBER 32

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

ALTHOUGH I am of opinion that there would be no real danger of the consequences which seem to be apprehended to the State governments from a power in the Union to control them in the levies of money, because I am persuaded that the sense of the people, the extreme hazard of provoking the resentments of the State governments, and a conviction of the utility and necessity of local administrations for local purposes, would be a complete barrier against the oppressive use of such a power; yet I am willing here to allow, in its full extent, the justness of the reasoning which requires that the individual States should possess an independent and uncontrollable authority to raise their own revenues for the supply of their own wants. And making this concession, I affirm that (with the sole exception of duties on imports and exports) they would, under the plan of the convention, retain that authority in the most absolute and unqualified sense; and that an attempt on the part of the national government to abridge them in the exercise of it would be a violent assumption of power, unwarranted by any article or clause of its Constitution.

An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, exclusively delegated to the United States. This exclusive delegation, or rather this alienation, of State sovereignty would only exist in three cases: where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union, and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant. I use these terms to distinguish this last case from another which might appear to

resemble it, but which would, in fact, be essentially different; I mean where the exercise of a concurrent jurisdiction might be productive of occasional interferences in the policy of any branch of administration, but would not imply any direct contradiction or repugnancy in point of constitutional authority. These three cases of exclusive jurisdiction in the federal government may be exemplified by the following instances: The last clause but one in the eighth section of the first article provides expressly that Congress shall exercise exclusive legislation over the district to be appropriated as the seat of government. This answers to the first case. The first clause of the same section empowers Congress to lay and collect taxes, duties, imposts, and excises ; and the second clause of the tenth section of the same article declares that no State shall without the consent of Congress lay any imposts or duties on imports or exports, except for the purpose of executing its inspection laws. Hence would result an exclusive power in the Union to lay duties on imports and exports, with the particular exception mentioned; but this power is abridged by another clause, which declares that no tax or duty shall be laid on articles exported from any State; in consequence of which qualification it now only extends to the duties on imports. This answers to the second case. The third will be found in that clause which declares that Congress shall have power to establish a UNIFORM RULE of naturalization throughout the United States, This must necessarily be exclusive; because if each State had the power to prescribe a DISTINCT RULE, there could not be a UNIFORM RULE.

A case which may perhaps be thought to resemble the latter, but which is in fact widely different, affects the question immediately under consideration. I mean the power of imposing taxes on all articles other than exports and imports. This, I contend, is manifestly a concurrent and coequal authority in the United States and in the individual States. There is plainly no expression in the granting clause which makes that power exclusive in the Union. There is no independent clause or sentence which prohibits the States from exercising it. So far is this from being the case that a plain and conclusive argument to the contrary is to be deducible from the restraint laid upon the States in relation to duties on imports and exports. This restriction implies an admission that if it were not inserted the States would possess the power it excludes; and it implies a further admission that as to all other taxes, the authority of the States remains undiminished. In any other view it would be

both unnecessary and dangerous; it would be unnecessary, because if the grant to the Union of the power of laying such duties implied the exclusion of the States, or even their subordination in this particular there could be no need of such a restriction; it would be dangerous, because the introduction of it leads directly to the conclusion which has been mentioned, and which, if the reasoning of the objectors be just, could not have been intended; I mean that the States, in all cases to which the restriction did not apply, would have a concurrent power of taxation with the Union. The restriction in question amounts to what lawyers call a NEGATIVE PREGNANT—that is, a negation of one thing, and an affirmance of another; a negation of the authority of the States to impose taxes on imports and exports, and an affirmance of their authority to impose them on all other articles. It would be mere sophistry to argue that it was meant to exclude them absolutely from the imposition of taxes of the former kind, and to leave them at liberty to lay others subject to the control of the national legislature. The restraining or prohibitory clause only says, that they shall not, without the consent of Congress, lay such duties; and if we are to understand this in the sense last mentioned, the Constitution would then be made to introduce a formal provision for the sake of a very absurd conclusion; which is, that the States, with the consent of the national legislature, might tax imports and exports; and that they might tax every other article, unless controlled by the same body. If this was the intention, why was it not left in the first instance, to what is alleged to be the natural operation of the original clause, conferring a general power of taxation upon the Union? It is evident that this could not have been the intention, and that it will not bear a construction of the kind.

As to a supposition of repugnancy between the power of taxation in the States and in the Union, it cannot be supported in that sense which would be requisite to work an exclusion of the States. It is, indeed, possible that a tax might be laid on a particular article by a State which might render it inexpedient that a further tax should be laid on the same article by the Union; but it would not imply a constitutional inability to impose a further tax. The quantity of the imposition, the expediency or inexpediency of an increase on either side, would be mutually questions of prudence; but there would be involved no direct contradiction of power. The particular policy of the national and of the State systems of finance might now and then not

exactly coincide, and might require reciprocal forbearances. It is not, however, a mere possibility of inconvenience in the exercise of powers, but an immediate constitutional repugnancy that can by implication alienate and extinguish a pre-existing right of sovereignty.

The necessity of a concurrent jurisdiction in certain cases results from the division of the sovereign power; and the rule that all authorities, of which the States are not explicitly divested in favor of the Union, remain with them in full vigor is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument which contains the articles of the proposed Constitution. We there find that, notwithstanding the affirmative grants of general authorities, there has been the most pointed care in those cases where it was deemed improper that the like authorities should reside in the States to insert negative clauses prohibiting the exercise of them by the States. The tenth section of the first article consists altogether of such provisions. This circumstance is a clear indication of the sense of the convention, and furnishes a rule of interpretation out of the body of the act, which justifies the position I have advanced and refutes every hypothesis to the contrary.

PUBLIUS [Hamilton]

Number 33: The Same Subject Continued (Taxation)

# NUMBER 33

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

THE residue of the argument against the provisions of the Constitution in respect to taxation is ingrafted upon the following clauses. The last clause of the eighth section of the first article authorizes the national legislature to make all laws which shall be necessary and proper for carrying into execution the powers by that Constitution vested in the government of the United States, or in any department or officer thereof ; and the second clause of the sixth article declares that the Constitution and the laws of the United States made in pursuance thereof and the treaties made by their authority shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding.

These two clauses have been the source of much virulent invective and petulant declamation against the proposed Constitution. They have been held up to the people in all the exaggerated colors of misrepresentation as the pernicious engines by which their local governments were to be destroyed and their liberties exterminated; as the hideous monster whose devouring jaws would spare neither sex nor age, nor high nor low, nor sacred nor profane; and yet, strange as it may appear, after all this clamor, to those who may not have happened to contemplate them in the same light, it may be affirmed with perfect confidence that the constitutional operation of the intended government would be precisely the same if these clauses were entirely obliterated as if they were repeated in every article. They are only declaratory of a truth which would have resulted by necessary and unavoidable implication from the very act of constituting a federal government and vesting it with certain specified powers. This is so clear a proposition that moderation itself can scarcely listen to the railings which have been so copiously vented against this part of the plan without emotions that disturb its equanimity.

What is a power but the ability or faculty of doing a thing? What is the ability to do a thing but the power of employing the means necessary to its

execution? What is a LEGISLATIVE power but a power of making LAWS? What are the means to execute a LEGISLATIVE power but LAWS? What is the power of laying and collecting taxes but a legislative power, or a power of making laws to lay and collect taxes? What are the proper means of executing such a power but necessary and proper laws?

This simple train of inquiry furnishes us at once with a test of the true nature of the clause complained of. It conducts us to this palpable truth that a power to lay and collect taxes must be a power to pass all laws necessary and proper for the execution of that power; and what does the unfortunate and calumniated provision in question do more than declare the same truth, to wit, that the national legislature to whom the power of laying and collecting taxes had been previously given might, in the execution of that power, pass all laws necessary and proper to carry it into effect? I have applied these observations thus particularly to the power of taxation, because it is the immediate subject under consideration and because it is the most important of the authorities proposed to be conferred upon the Union. But the same process will lead to the same result in relation to all other powers declared in the Constitution. And it is expressly to execute these powers that the sweeping clause, as it has been affectedly called, authorizes the national legislature to pass all necessary and proper laws. If there be anything exceptionable, it must be sought for in the specific powers upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless.

But SUSPICION may ask, Why then was it introduced? The answer is that it could only have been done for greater caution, and to guard against all cavilling refinements in those who might hereafter feel a disposition to curtail and evade the legitimate authorities of the Union. The Convention probably foresaw what it has been a principal aim of these papers to inculcate, that the danger which most threatens our political welfare is that the State governments will finally sap the foundations of the Union; and might therefore think it necessary, in so cardinal a point, to leave nothing to construction. Whatever may have been the inducement to it, the wisdom of the precaution is evident from the cry which has been raised against it; as that very cry betrays a disposition to question the great and essential truth

which it is manifestly the object of that provision to declare.

But it may be again asked, Who is to judge of the necessity and propriety of the laws to be passed for executing the powers of the Union? I answer first that this question arises as well and as fully upon the simple grant of those powers as upon the declaratory clause; and I answer in the second place that the national government, like every other, must judge, in the first instance, of the proper exercise of its powers, and its constituents in the last. If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify. The propriety of a law, in a constitutional light, must always be determined by the nature of the powers upon which it is founded. Suppose, by some forced constructions of its authority (which, indeed, cannot easily be imagined), the federal legislature should attempt to vary the law of descent in any State, would it not be evident that in making such an attempt it had exceeded its jurisdiction and infringed upon that of the State? Suppose, again, that upon the pretense of an interference with its revenues, it should undertake to abrogate a land tax imposed by the authority of a State; would it not be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax, which its Constitution plainly supposes to exist in the State governments? If there ever should be a doubt on this head, the credit of it will be entirely due to those reasoners who, in the imprudent zeal of their animosity to the plan of the convention, have labored to envelop it in a cloud calculated to obscure the plainest and simplest truths.

But it is said that the laws of the Union are to be the supreme law of the land. What inference can be drawn from this, or what would they amount to, if they were not to be supreme? It is evident they would amount to nothing. A LAW, by the very meaning of the term, includes supremacy. It is a rule which those to whom it is prescribed are bound to observe. This results from every political association. If individuals enter into a state of society, the laws of that society must be the supreme regulator of their conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers

intrusted to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed. It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government, which is only another word for POLITICAL POWER AND SUPREMACY. But it will not follow from this doctrine that acts of the larger society which are not pursuant to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. Hence we perceive that the clause which declares the supremacy of the laws of the Union, like the one we have just before considered, only declares a truth which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation that it expressly confines this supremacy to laws made pursuant to the Constitution; which I mention merely as an instance of caution in the convention; since that limitation would have been to be understood, though it had not been expressed.

Though a law, therefore, for laying a tax for the use of the United States would be supreme in its nature and could not legally be opposed or controlled, yet a law for abrogating or preventing the collection of a tax laid by the authority of a State (unless upon imports and exports) would not be the supreme law of the land, but a usurpation of power not granted by the Constitution. As far as an improper accumulation of taxes on the same object might tend to render the collection difficult or precarious, this would be a mutual inconvenience, not arising from a superiority or defect of power on either side, but from an injudicious exercise of power by one or the other in a manner equally disadvantageous to both. It is to be hoped and presumed, however, that mutual interest would dictate a concert in this respect which would avoid any material inconvenience. The inference from the whole is that the individual States would, under the proposed Constitution, retain an independent and uncontrollable authority to raise revenue to any extent of which they may stand in need, by every kind of taxation, except duties on imports and exports. It will be shown in the next paper that this concurrent jurisdiction in the article of taxation was the only admissible substitute for an entire subordination, in respect to this branch of power, of the State authority to that of the Union.

PUBLIUS [Hamilton]  
Number 34: The Same Subject Continued (Taxation)

# NUMBER 34

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

I FLATTER myself it has been clearly shown in my last number that the particular States, under the proposed Constitution, would have COEQUAL authority with the Union in the article of revenue, except as to duties on imports. As this leaves open to the States far the greatest part of the resources of the community, there can be no color for the assertion that they would not possess means as abundant as could be desired for the supply of their own wants, independent of all external control. That the field is sufficiently wide will more fully appear when we come to develop the inconsiderable share of the public expenses for which it will fall to the lot of the State governments to provide.

To argue upon abstract principles that this co-ordinate authority cannot exist would be to set up theory and supposition against fact and reality. However proper such reasonings might be to show that a thing ought not to exist, they are wholly to be rejected when they are made use of to prove that it does not exist contrary to the evidence of the fact itself. It is well known that in the Roman republic the legislative authority in the last resort resided for ages in two different political bodies—not as branches of the same legislature, but as distinct and independent legislatures, in each of which an opposite interest prevailed: in one, the patrician; in the other, the plebeian. Many arguments might have been adduced to prove the unfitness of two such seemingly contradictory authorities, each having power to annul or repeal the acts of the other. But a man would have been regarded as frantic who should have attempted at Rome to disprove their existence. It will readily be understood that I allude to the COMITIA CENTURIATA and COMITIA TRIBUTA. The former, in which the people voted by centuries, was so arranged as to give a superiority to the patrician interest; in the latter, in which numbers prevailed, the plebeian interest had an entire predominancy. And yet these two legislatures coexisted for ages, and the Roman republic attained to the pinnacle of human greatness.

In the case particularly under consideration, there is no such contradiction as appears in the example cited; there is no power on either side to annul the acts of the other. And in practice there is little reason to apprehend any inconvenience; because in a short course of time the wants of the States will naturally reduce themselves within a very narrow compass; and in the interim, the United States will in all probability find it convenient to abstain wholly from those objects to which the particular States would be inclined to resort.

To form a more precise judgment of the true merits of this question it will be well to advert to the proportion between the objects that will require a federal provision in respect to revenue, and those which will require a State provision. We shall discover that the former are altogether unlimited and that the latter are circumscribed within very moderate bounds. In pursuing this inquiry, we must bear in mind that we are not to confine our view to the present period, but to look forward to remote futurity. Constitutions of civil government are not to be framed upon a calculation of existing exigencies, but upon a combination of these with the probable exigencies of ages, according to the natural and tried course of human affairs. Nothing, therefore, can be more fallacious than to infer the extent of any power proper to be lodged in the national government from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for future contingencies as they may happen; and as these are illimitable in their nature, so it is impossible safely to limit that capacity. It is true, perhaps, that a computation might be made with sufficient accuracy to answer the purpose of the quantity of revenue requisite to discharge the subsisting engagements of the Union, and to maintain those establishments which, for some time to come, would suffice in time of peace. But would it be wise, or would it not rather be the extreme of folly to stop at this point, and to leave the government intrusted with the care of the national defense in a state of absolute incapacity to provide for the protection of the community against future invasions of the public peace by foreign war or domestic convulsions? If we must be obliged to exceed this point, where can we stop, short of an indefinite power of providing for emergencies as they may arise? Though it be easy to assert in general terms the possibility of forming a rational judgment of a due provision against probable dangers, yet we may safely challenge those who make the assertion to bring forward

their data, and may affirm that they would be found as vague and uncertain as any that could be produced to establish the probable duration of the world. Observations confined to the mere prospects of internal attacks can deserve no weight; though even these will admit of no satisfactory calculation: but if we mean to be a commercial people, it must form a part of our policy to be able one day to defend that commerce. The support of a navy and of naval wars would involve contingencies that must baffle all the efforts of political arithmetic.

Admitting that we ought to try the novel and absurd experiment in politics of tying up the hands of government from offensive war founded upon reasons of state, yet certainly we ought not to disable it from guarding the community against the ambition or enmity of other nations. A cloud has been for some time hanging over the European world. If it should break forth into a storm, who can insure us that in its progress a part of its fury would not be spent upon us? No reasonable man would hastily pronounce that we are entirely out of its reach. Or if the combustible materials that now seem to be collecting should be dissipated without coming to maturity, or if a flame should be kindled without extending to us, what security can we have that our tranquillity will long remain undisturbed from some other cause or from some other quarter? Let us recollect that peace or war will not always be left to our option; that however moderate or unambitious we may be, we cannot count upon the moderation, or hope to extinguish the ambition of others. Who could have imagined at the conclusion of the last war that France and Britain, wearied and exhausted as they both were, would so soon have looked with so hostile an aspect upon each other? To judge from the history of mankind, we shall be compelled to conclude that the fiery and destructive passions of war reign in the human breast with much more powerful sway than the mild and beneficent sentiments of peace; and that to model our political systems upon speculations of lasting tranquillity would be to calculate on the weaker springs of the human character.

What are the chief sources of expense in every government? What has occasioned that enormous accumulation of debts with which several of the European nations are oppressed? The answer plainly is, wars and rebellions; the support of those institutions which are necessary to guard the body

politic against these two most mortal diseases of society. The expenses arising from those institutions which are relative to the mere domestic police of a state, to the support of its legislative, executive, and judiciary departments, with their different appendages, and to the encouragement of agriculture and manufactures (which will comprehend almost all the subjects of state expenditures) are insignificant in comparison with those which relate to the national defense.

In the kingdom of Great Britain, where all the ostentatious apparatus of monarchy is to be provided for, not above a fifteenth part of the annual income of the nation is appropriated to the class of expenses last mentioned; the other fourteen fifteenths are absorbed in the payment of the interest of debts contracted for carrying on the wars in which that country has been engaged, and in the maintenance of fleets and armies. If, on the one hand, it should be observed that the expenses incurred in the prosecution of the ambitious enterprises and vainglorious pursuits of a monarchy are not a proper standard by which to judge of those which might be necessary in a republic, it ought, on the other hand, to be remarked that there should be as great a disproportion between the profusion and extravagance of a wealthy kingdom in its domestic administration, and the frugality and economy which in that particular become the modest simplicity of republican government. If we balance a proper deduction from one side against that which it is supposed ought to be made from the other, the proportion may still be considered as holding good.

But let us take a view of the large debt which we have ourselves contracted in a single war, and let us only calculate on a common share of the events which disturb the peace of nations, and we shall instantly perceive, without the aid of any elaborate illustration, that there must always be an immense disproportion between the objects of federal and state expenditure. It is true that several of the States, separately, are encumbered with considerable debts, which are an excrescence of the late war. But this cannot happen again, if the proposed system be adopted; and when these debts are discharged, the only call for revenue of any consequence which the State governments will continue to experience will be for the mere support of their respective civil lists; to which, if we add all contingencies, the total

amount in every State ought not to exceed two hundred thousand pounds.

If it cannot be denied to be a just principle that in framing a constitution of government for a nation we ought, in those provisions which are designed to be permanent, to calculate, not on temporary, but on permanent causes of expense; our attention would be directed to a provision in favor of the State governments for an annual sum of about 200,000 pounds; while the exigencies of the Union could be susceptible of no limits, even in imagination. In this view of the subject, by what logic can it be maintained that the local governments ought to command, in perpetuity, an exclusive source of revenue for any sum beyond the extent of 200,000 pounds? To extend its power further, in exclusion of the authority of the Union, would be to take the resources of the community out of those hands which stood in need of them for the public welfare in order to put them into other hands which could have no just or proper occasion for them.

Suppose, then, the convention had been inclined to proceed upon the principle of a repartition of the objects of revenue between the Union and its members in proportion to their comparative necessities; what particular fund could have been selected for the use of the States that would not either have been too much or too little—too little for their present, too much for their future wants? As to the line of separation between external and internal taxes, this would leave to the States, at a rough computation, the command of two thirds of the resources of the community to defray from a tenth to a twentieth part of its expenses; and to the Union, one third of the resources of the community to defray from nine tenths to nineteen twentieths of its expenses. If we desert this boundary and content ourselves with leaving to the States an exclusive power of taxing houses and lands, there would still be a great disproportion between the means and the end; the possession of one third of the resources of the community to supply, at most, one tenth of its wants. If any fund could have been selected and appropriated, equal to and not greater than the object, it would have been inadequate to the discharge of the existing debts of the particular States, and would have left them dependent on the Union for a provision for this purpose.

The preceding train of observations will justify the position which has been elsewhere laid down that A CONCURRENT JURISDICTION in the article of taxation was the only admissible substitute for an entire subordination, in respect to this branch of power, of State authority to that of the Union. Any separation of the objects of revenue that could have been fallen upon would have amounted to a sacrifice of the great INTERESTS of the Union to the POWER of the individual States. The convention thought the concurrent jurisdiction preferable to that subordination; and it is evident that it has at least the merit of reconciling an indefinite constitutional power of taxation in the federal government with an adequate and independent power in the States to provide for their own necessities. There remain a few other lights in which this important subject of taxation will claim a further consideration.

PUBLIUS [Hamilton]

Number 35: The Same Subject Continued (Taxation)

# NUMBER 35

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

BEFORE we proceed to examine any other objections to an indefinite power of taxation in the Union, I shall make one general remark; which is that if the jurisdiction of the national government in the article of revenue should be restricted to particular objects, it would naturally occasion an undue proportion of the public burdens to fall upon those objects. Two evils would spring from this source: the oppression of particular branches of industry; and an unequal distribution of the taxes, as well among the several States as among the citizens of the same State.

Suppose, as has been contended for, the federal power of taxation were to be confined to duties on imports, it is evident that the government, for want of being able to command other resources, would frequently be tempted to extend these duties to an injurious excess. There are persons who imagine that it can never be the case; since the higher they are, the more it is alleged they will tend to discourage an extravagant consumption to produce a favorable balance of trade and to promote domestic manufactures. But all extremes are pernicious in various ways. Exorbitant duties on imported articles would serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself: they tend to render other classes of the community tributary in an improper degree to the manufacturing classes, to whom they give a premature monopoly of the markets; they sometimes force industry out of its more natural channels into others in which it flows with less advantage; and in the last place, they oppress the merchant, who is often obliged to pay them himself without any retribution from the consumer. When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think that a division of the duty, between the seller and the buyer, more often happens than is commonly imagined. It is not always possible to raise the price of a commodity in exact proportion to

every additional imposition laid upon it. The merchant especially, in a country of small commercial capital, is often under a necessity of keeping prices down in order to make a more expeditious sale.

The maxim that the consumer is the payer is so much oftener true than the reverse of the proposition, that it is far more equitable that the duties on imports should go into a common stock than that they should redound to the exclusive benefit of the importing States. But it is not so generally true as to render it equitable that those duties should form the only national fund. When they are paid by the merchant they operate as an additional tax upon the importing State, whose citizens pay their proportion of them in the character of consumers. In this view they are productive of inequality among the States; which inequality would be increased with the increased extent of the duties. The confinement of the national revenues to this species of imposts would be attended with inequality, from a different cause, between the manufacturing and the non-manufacturing States. The States which can go furthest towards the supply of their own wants by their own manufactures will not, according to their numbers or wealth, consume so great a proportion of imported articles as those States which are not in the same favorable situation. They would not, therefore, in this mode alone contribute to the public treasury in a ratio to their abilities. To make them do this it is necessary that recourse be had to excises, the proper objects of which are particular kinds of manufactures. New York is more deeply interested in these considerations than such of her citizens as contend for limiting the power of the Union to external taxation may be aware of. New York is an importing State, and from a greater disproportion between her population and territory is less likely, than some other States, speedily to become in any considerable degree a manufacturing State. She would, of course, suffer in a double light from restraining the jurisdiction of the Union to commercial imposts.

So far as these observations tend to inculcate a danger of the import duties being extended to an injurious extreme it may be observed, conformably to a remark made in another part of these papers, that the interest of the revenue itself would be a sufficient guard against such an extreme. I readily admit that this would be the case as long as other resources were open; but if the avenues to them were closed, HOPE, stimulated by necessity, might

beget experiments, fortified by rigorous precautions and additional penalties, which, for a time, might have the intended effect, till there had been leisure to contrive expedients to elude these new precautions. The first success would be apt to inspire false opinions, which it might require a long course of subsequent experience to correct. Necessity, especially in politics, often occasions false hopes, false reasonings, and a system of measures correspondingly erroneous. But even if this supposed excess should not be a consequence of the limitation of the federal power of taxation, the inequalities spoken of would still ensue, though not in the same degree, from the other causes that have been noticed. Let us now return to the examination of objections.

One which, if we may judge from the frequency of its repetition, seems most to be relied on, is that the House of Representatives is not sufficiently numerous for the reception of all the different classes of citizens in order to combine the interests and feelings of every part of the community, and to produce a true sympathy between the representative body and its constituents. This argument presents itself under a very specious and seducing form; and is well calculated to lay hold of the prejudices of those to whom it is addressed, But when we come to dissect it with attention, it will appear to be made up of nothing but fair-sounding words. The object it seems to aim at is, in the first place, impracticable, and in the sense in which it is contended for, is unnecessary. I reserve for another place the discussion of the question which relates to the sufficiency of the representative body in respect to numbers, and shall content myself with examining here the particular use which has been made of a contrary supposition in reference to the immediate subject of our inquiries.

The idea of an actual representation of all classes of the people by persons of each class is altogether visionary. Unless it were expressly provided in the Constitution that each different occupation should send one or more members, the thing would never take place in practice. Mechanics and manufacturers will always be inclined, with few exceptions, to give their votes to merchants in preference to persons of their own professions or trades. Those discerning citizens are well aware that the mechanic and manufacturing arts furnish the materials of mercantile enterprise and industry. Many of them, indeed, are immediately connected with the

operations of commerce. They know that the merchant is their natural patron and friend; and they are aware that however great the confidence they may justly feel in their own good sense, their interests can be more effectually promoted by the merchant than by themselves. They are sensible that their habits in life have not been such as to give them those acquired endowments, without which in a deliberative assembly the greatest natural abilities are for the most part useless; and that the influence and weight and superior acquirements of the merchants render them more equal to a contest with any spirit which might happen to infuse itself into the public councils, unfriendly to the manufacturing and trading interests. These considerations and many others that might be mentioned prove, and experience confirms it, that artisans and manufacturers will commonly be disposed to bestow their votes upon merchants and those whom they recommend. We must therefore consider merchants as the natural representatives of all these classes of the community.

With regard to the learned professions, little need be observed; they truly form no distinct interest in society, and according to their situation and talents, will be indiscriminately the objects of the confidence and choice of each other and of other parts of the community.

Nothing remains but the landed interest; and this in a political view, and particularly in relation to taxes, I take to be perfectly united from the wealthiest landlord to the poorest tenant. No tax can be laid on land which will not affect the proprietor of millions of acres as well as the proprietor of a single acre. Every landholder will therefore have a common interest to keep the taxes on land as low as possible; and common interest may always be reckoned upon as the surest bond of sympathy. But if we even could suppose a distinction of interest between the opulent landholder and the middling farmer, what reason is there to conclude that the first would stand a better chance of being deputed to the national legislature than the last? If we take fact as our guide, and look into our own senate and assembly, we shall find that moderate proprietors of land prevail in both; nor is this less the case in the senate, which consists of a smaller number than in the assembly, which is composed of a greater number. Where the qualifications of the electors are the same, whether they have to choose a small or a large number, their votes will fall upon those in whom they have most

confidence; whether these happen to be men of large fortunes, or of moderate property, or of no property at all.

It is said to be necessary that all classes of citizens should have some of their own number in the representative body in order that their feelings and interests may be the better understood and attended to. But we have seen that this will never happen under any arrangement that leaves the votes of the people free. Where this is the case, the representative body, with too few exceptions to have any influence on the spirit of the government, will be composed of landholders, merchants, and men of the learned professions. But where is the danger that the interests and feelings of the different classes of citizens will not be understood or attended to by these three descriptions of men? Will not the landholder know and feel whatever will promote or injure the interest of landed property? And will he not, from his own interest in that species of property, be sufficiently prone to resist every attempt to prejudice or encumber it? Will not the merchant understand and be disposed to cultivate, as far as may be proper, the interests of the mechanic and manufacturing arts to which his commerce is so nearly allied? Will not the man of the learned profession, who will feel a neutrality to the rivalships between the different branches of industry, be likely to prove an impartial arbiter between them, ready to promote either, so far as it shall appear to him conducive to the general interests of the society?

If we take into the account the momentary humors or dispositions which may happen to prevail in particular parts of the society, and to which a wise administration will never be inattentive, is the man whose situation leads to extensive inquiry and information less likely to be a competent judge of their nature, extent, and foundation than one whose observation does not travel beyond the circle of his neighbors and acquaintances? Is it not natural that a man who is a candidate for the favor of the people, and who is dependent on the suffrages of his fellow-citizens for the continuance of his public honors, should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct? This dependence, and the necessity of being bound, himself and his posterity, by the laws to which he gives his assent are the true and they are the strong cords of sympathy between the

representative and the constituent.

There is no part of the administration of government that requires extensive information and a thorough knowledge of the principles of political economy so much as the business of taxation. The man who understands those principles best will be least likely to resort to oppressive expedients, or to sacrifice any particular class of citizens to the procurement of revenue. It might be demonstrated that the most productive system of finance will always be the least burdensome. There can be no doubt that in order to ensure a judicious exercise of the power of taxation, it is necessary that the person in whose hands it is should be acquainted with the general genius, habits, and modes of thinking of the people at large and with the resources of the country. And this is all that can be reasonably meant by a knowledge of the interests and feelings of the people. In any other sense the proposition has either no meaning, or an absurd one. And in that sense let every considerate citizen judge for himself where the requisite qualification is most likely to be found.

PUBLIUS [Hamilton]

Number 36: The Same Subject Continued (Taxation)

# NUMBER 36

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

WE HAVE seen that the result of the observations to which the foregoing number has been principally devoted is that from the natural operation of the different interests and views of the various classes of the community, whether the representation of the people be more or less numerous, it will consist almost entirely of proprietors of land, of merchants, and of members of the learned professions, who will truly represent all those different interests and views. If it should be objected that we have seen other descriptions of men in the local legislatures, I answer that it is admitted there are exceptions to the rule, but not in sufficient number to influence the general complexion or character of the government. There are strong minds in every walk of life that will rise superior to the disadvantages of situation and will command the tribute due to their merit, not only from the classes to which they particularly belong, but from the society in general], The door ought to be equally open to all; and I trust, for the credit of human nature, that we shall see examples of such vigorous plants flourishing in the soil of federal as well as of State legislation; but occasional instances of this sort will not render the reasoning, founded upon the general course of things, less conclusive.

The subject might be placed in several other lights that would all lead to the same result; and in particular it might be asked. What greater affinity or relation of interest can be conceived between the carpenter and blacksmith, and the linen manufacturer or stocking-weaver, than between the merchant and either of them? It is notorious that there are often as great rivalships between different branches of the mechanic or manufacturing arts as there are between any of the departments of labor and industry; so that unless the representative body were to be far more numerous than would be consistent with any idea of regularity or wisdom in its deliberations, it is impossible that what seems to be the spirit of the objection we have been considering should ever be realized in practice. But I forbear to dwell longer on a matter which has hitherto worn too loose a garb to admit even of an accurate

inspection of its real shape or tendency.

There is another objection of a somewhat more precise nature which claims our attention. It has been asserted that a power of internal taxation in the national legislature could never be exercised with advantage, as well from the want of a sufficient knowledge of local circumstances as from an interference between the revenue laws of the Union and of the particular States. The supposition of a want of proper knowledge seems to be entirely destitute of foundation. If any question is depending in a State legislature respecting one of the counties, which demands a knowledge of local details, how is it acquired? No doubt from the information of the members of the county. Cannot the like knowledge be obtained in the national legislature from the representatives of each State? And is it not to be presumed that the men who will generally be sent there will be possessed of the necessary degree of intelligence to be able to communicate that information? Is the knowledge of local circumstances, as applied to taxation, a minute topographical acquaintance with all the mountains, rivers, streams, highways, and bypaths in each State; or is it a general acquaintance with its situation and resources, with the state of its agriculture, commerce, manufactures, with the nature of its products and consumptions, with the different degrees and kinds of its wealth, property, and industry?

Nations in general, even under governments of the more popular kind, usually commit the administration of their finances to single men or to boards composed of a few individuals, who digest and prepare, in the first instance, the plans of taxation, which are afterwards passed into law by the authority of the sovereign or legislature.

Inquisitive and enlightened statesmen are everywhere deemed best qualified to make a judicious selection of the objects proper for revenue; which is a clear indication, as far as the sense of mankind can have weight in the question, of the species of knowledge of local circumstances requisite to the purposes of taxation.

The taxes intended to be comprised under the general denomination of internal taxes may be subdivided into those of the direct and those of the indirect kind. Though the objection be made to both, yet the reasoning upon

it seems to be confined to the former branch. And indeed, as to the latter, by which must be understood duties and excises on articles of consumption, one is at a loss to conceive what can be the nature of the difficulties apprehended. The knowledge relating to them must evidently be of a kind that will either be suggested by the nature of the article itself, or can easily be procured from any well-informed man, especially of the mercantile class. The circumstances that may distinguish its situation in one State from its situation in another must be few, simple, and easy to be comprehended. The principal thing to be attended to would be to avoid those articles which had been previously appropriated to the use of a particular State; and there could be no difficulty in ascertaining the revenue system of each. This could always be known from the respective codes of laws, as well as from the information of the members of the several States.

The objection, when applied to real property or to houses and lands, appears to have, at first sight, more foundation, but even in this view it will not bear a close examination. Land taxes are commonly laid in one of two modes, either by actual valuations, permanent or periodical, or by occasional assessments, at the discretion, or according to the best judgment, of certain officers whose duty it is to make them. In either case, the EXECUTION of the business, which alone requires the knowledge of local details, must be developed upon discreet persons in the character of commissioners or assessors, elected by the people or appointed by the government for the purpose. All that the law can do must be to name the persons or to prescribe the manner of their election or appointment, to fix their numbers and qualifications, and to draw the general outlines of their powers and duties. And what is there in all this that cannot as well be performed by the national legislature as by a State legislature? The attention of either can only reach to general principles; local details, as already observed, must be referred to those who are to execute the plan.

But there is a simple point of view in which this matter may be placed that must be altogether satisfactory. The national legislature can make use of the system of each State within that State. The method of laying and collecting this species of taxes in each State can, in all its parts, be adopted and employed by the federal government.

Let it be recollected that the proportion of these taxes is not to be left to the discretion of the national legislature, but is to be determined by the numbers of each State, as described in the second section of the first article. An actual census or enumeration of the people must furnish the rule, a circumstance which effectually shuts the door to partiality or oppression. The abuse of this power of taxation seems to have been provided against with guarded circumspection. In addition to the precaution just mentioned, there is a provision that all duties, imposts, and excises shall be UNIFORM throughout the United States.

It has been very properly observed by different speakers and writers on the side of the Constitution that if the exercise of the power of internal taxation by the Union should be judged beforehand upon mature consideration, or should be discovered on experiment to be really inconvenient, the federal government may forbear the use of it, and have recourse to requisitions in its stead. By way of answer to this, it has been triumphantly asked, Why not in the first instance omit that ambiguous power and rely upon the latter resource? Two solid answers may be given. The first is that the actual exercise of the power may be found both convenient and necessary; for it is impossible to prove in theory, or otherwise than by the experiment, that it cannot be advantageously exercised. The contrary, indeed, appears most probable. The second answer is that the existence of such a power in the Constitution will have a strong influence in giving efficacy to requisitions. When the States know that the Union can supply itself without their agency, it will be a powerful motive for exertion on their part.

As to the interference of the revenue laws of the Union and of its members, we have already seen that there can be no clashing or repugnancy of authority. The laws cannot, therefore, in a legal sense, interfere with each other; and it is far from impossible to avoid an interference even in the policy of their different systems. An effectual expedient for this purpose will be mutually to abstain from those objects which either side may have first had recourse to. As neither can control the other, each will have an obvious and sensible interest in this reciprocal forbearance. And where there is an immediate common interest, we may safely count upon its operation. When the particular debts of the States are done away and their expenses come to be limited within their natural compass, the possibility

almost of interference will vanish. A small land tax will answer the purposes of the States, and will be their most simple and most fit resource.

Many specters have been raised out of this power of internal taxation to excite the apprehensions of the people: double sets of revenue officers, a duplication of their burdens by double taxations, and the frightful forms of odious and oppressive poll taxes have been played off with all the ingenious dexterity of political legerdemain.

As to the first point, there are two cases in which there can be no room for double sets of officers: one, where the right of imposing the tax is exclusively vested in the Union, which applies to the duties on imports; the other, where the object has not fallen under any State regulation or provision, which may be applicable to a variety of objects. In other cases, the probability is that the United States will either wholly abstain from the objects preoccupied for local purposes, or will make use of the State officers and State regulations for collecting the additional imposition. This will best answer the views of revenue, because it will save expense in the collection, and will best avoid any occasion of disgust to the State governments and to the people. At all events, here is a practicable expedient for avoiding such an inconvenience; and nothing more can be required than to show that evils predicted do not necessarily result from the plan.

As to any argument derived from a supposed system of influence, it is a sufficient answer to say that it ought not to be presumed; but the supposition is susceptible of a more precise answer. If such a spirit should infest the councils of the Union, the most certain road to the accomplishment of its aim would be to employ the State officers as much as possible, and to attach them to the Union by an accumulation of their emoluments. This would serve to turn the tide of State influence into the channels of the national government, instead of making federal influence flow in an opposite and adverse current. But all suppositions of this kind are invidious, and ought to be banished from the consideration of the great question before the people. They can answer no other end than to cast a mist over the truth.

As to the suggestion of double taxation, the answer is plain. The wants of the Union are to be supplied in one way or another; if to be done by the authority of the federal government, it will not need to be done by that of the State governments. The quantity of taxes to be paid by the community must be the same in either case; with this advantage—if the provision is to be made by the Union—that the capital resource of commercial imposts, which is the most convenient branch of revenue, can be prudently improved to a much greater extent under federal than under State regulation, and of course will render it less necessary to recur to more inconvenient methods; and with this further advantage, that as far as there may be any real difficulty in the exercise of the power of internal taxation, it will impose a disposition to greater care in the choice and arrangement of the means; and must naturally tend to make it a fixed point of policy in the national administration to go as far as may be practicable in making the luxury of the rich tributary to the public treasury in order to diminish the necessity of those impositions which might create dissatisfaction in the poorer and most numerous classes of the society. Happy it is when the interest which the government has in the preservation of its own power coincides with a proper distribution of the public burdens and tends to guard the least wealthy part of the community from oppression!

As to poll taxes, I, without scruple, confess my disapprobation of them; and though they have prevailed from an early period in those States [39](#) which have uniformly been the most tenacious of their rights, I should lament to see them introduced into practice under the national government. But does it follow because there is a power to lay them that they will actually be laid? Every State in the Union has power to impose taxes of this kind; and yet in several of them they are unknown in practice. Are the State governments to be stigmatized as tyrannies because they possess this power? If they are not, with what propriety can the like power justify such a charge against the national government, or even be urged as an obstacle to its adoption? As little friendly as I am to the species of imposition, I still feel a thorough conviction that the power of having recourse to it ought to exist in the federal government. There are certain emergencies of nations in which expedients that in the ordinary state of things ought to be forborne become essential to the public weal. And the government, from the possibility of such emergencies, ought ever to have the option of making use of them.

The real scarcity of objects in this country, which may be considered as productive sources of revenue, is a reason peculiar to itself for not abridging the discretion of the national councils in this respect. There may exist certain critical and tempestuous conjunctures of the State, in which a poll tax may become an inestimable resource. And as I know nothing to exempt this portion of the globe from the common calamities that have befallen other parts of it, I acknowledge my aversion to every project that is calculated to disarm the government of a single weapon, which in any possible contingency might be usefully employed for the general defense and security.

I have now gone through the examination of those powers proposed to be conferred upon the federal government which relate more peculiarly to its energy, and to its efficiency for answering the great and primary objects of union. There are others which, though omitted here, will, in order to render the view of the subject more complete, be taken notice of under the next head of our inquiries. I flatter myself the progress already made will have sufficed to satisfy the candid and judicious part of the community that some of the objections which have been most strenuously urged against the Constitution, and which were most formidable in their first appearance, are not only destitute of substance, but if they had operated in the formation of the plan, would have rendered it incompetent to the great ends of public happiness and national prosperity. I equally flatter myself that a further and more critical investigation of the system will serve to recommend it still more to every sincere and disinterested advocate for good government and will leave no doubt with men of this character of the propriety and expediency of adopting it. Happy will it be for ourselves, and most honorable for human nature, if we have wisdom and virtue enough to set so glorious an example to mankind!

PUBLIUS [Hamilton]

Number 37: Concerning the Difficulties Which the Convention Must Have Experienced in the Formation of a Proper Plan

# NUMBER 37

CONCERNING THE DIFFICULTIES WHICH  
THE CONVENTION MUST HAVE EXPERIENCED  
IN THE FORMATION OF A PROPER PLAN

[James Madison]

IN REVIEWING the defects of the existing Confederation, and showing that they cannot be supplied by a government of less energy than that before the public, several of the most important principles of the latter fell of course under consideration. But as the ultimate object of these papers is to determine clearly and fully the merits of this Constitution, and the expediency of adopting it, our plan cannot be completed without taking a more critical and thorough survey of the work of the convention, without examining it on all sides, comparing it in all its parts, and calculating its probable effects. That this remaining task may be executed under impressions conducive to a just and fair result, some reflections must in this place be indulged, which candor previously suggests.

It is a misfortune, inseparable from human affairs, that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance or obstruct the public good; and that this spirit is more apt to be diminished than promoted by those occasions which require an unusual exercise of it. To those who have been led by experience to attend to this consideration, it could not appear surprising that the act of the convention, which recommends so many important changes and innovations, which may be viewed in so many lights and relations, and which touches the springs of so many passions and interests, should find or excite dispositions unfriendly, both on one side and on the other, to a fair discussion and accurate judgment of its merits. In some, it has been too evident from their own publications that they have scanned the proposed Constitution, not only with a predisposition to censure, but with a predetermination to condemn; as the language held by others betrays an opposite predetermination or bias, which must render their opinion also of little moment in the question. In placing, however, these different characters on a level with respect to the weight of their opinions I

wish not to insinuate that there may not be a material difference in the purity of their intentions. It is but just to remark in favor of the latter description that as our situation is universally admitted to be peculiarly critical, and to require indispensably that something should be done for our relief, the predetermined patron of what has been actually done may have taken his bias from the weight of these considerations, as well as from considerations of a sinister nature. The predetermined adversary, on the other hand, can have been governed by no venial motive whatever. The intentions of the first may be upright, as they may on the contrary be culpable. The views of the last cannot be upright, and must be culpable. But the truth is that these papers are not addressed to persons falling under either of these characters. They solicit the attention of those only who add to a sincere zeal for the happiness of their country, a temper favorable to a just estimate of the means of promoting it.

Persons of this character will proceed to an examination of the plan submitted by the convention, not only without a disposition to find or to magnify faults; but will see the propriety of reflecting that a faultless plan was not to be expected. Nor will they barely make allowances for the errors which may be chargeable on the fallibility to which the convention, as a body of men, were liable; but will keep in mind that they themselves also are but men and ought not to assume an infallibility in rejudging the fallible opinions of others.

With equal readiness will it be perceived that besides these inducements to candor, many allowances ought to be made for the difficulties inherent in the very nature of the undertaking referred to the convention.

The novelty of the undertaking immediately strikes us. It has been shown in the course of these papers that the existing Confederation is founded on principles which are fallacious; that we must consequently change this first foundation, and with it the superstructure resting upon it. It has been shown that the other confederacies which could be consulted as precedents have been vitiated by the same erroneous principles, and can therefore furnish no other light than that of beacons, which give warning of the course to be shunned, without pointing out that which ought to be pursued. The most that the convention could do in such a situation was to avoid the errors

suggested by the past experience of other countries, as well as of our own; and to provide a convenient mode of rectifying their own errors, as future experience may unfold them.

Among the difficulties encountered by the convention, a very important one must have lain in combining the requisite stability and energy in government with the inviolable attention due to liberty and to the republican form. Without substantially accomplishing this part of their undertaking, they would have very imperfectly fulfilled the object of their appointment, or the expectation of the public; yet that it could not be easily accomplished will be denied by no one who is unwilling to betray his ignorance of the subject. Energy in government is essential to that security against external and internal danger and to that prompt and salutary execution of the laws which enter into the very definition of good government. Stability in government is essential to national character and to the advantages annexed to it, as well as to that repose and confidence in the minds of the people, which are among the chief blessings of civil society. An irregular and mutable legislation is not more an evil in itself than it is odious to the people; and it may be pronounced with assurance that the people of this country, enlightened as they are with regard to the nature, and interested, as the great body of them are, in the effects of good government, will never be satisfied till some remedy be applied to the vicissitudes and uncertainties which characterize the State administrations. On comparing, however, these valuable ingredients with the vital principles of liberty, we must perceive at once the difficulty of mingling them together in their due proportions. The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people by a short duration of their appointments; and that even during this short period the trust should be placed not in a few, but a number of hands. Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measures from a frequent change of men: whilst energy in government requires not only a certain duration of power, but the execution of it by a single hand.

How far the convention may have succeeded in this part of their work will better appear on a more accurate view of it. From the cursory view here taken, it must clearly appear to have been an arduous part.

Not less arduous must have been the task of marking the proper line of partition between the authority of the general and that of the State governments. Every man will be sensible of this difficulty in proportion as he has been accustomed to contemplate and discriminate objects extensive and complicated in their nature. The faculties of the mind itself have never yet been distinguished and defined with satisfactory precision by all the efforts of the most acute and metaphysical philosophers. Sense, perception, judgment, desire, volition, memory, imagination are found to be separated by such delicate shades and minute gradations that their boundaries have eluded the most subtle investigations, and remain a pregnant source of ingenious disquisition and controversy. The boundaries between the great kingdoms of nature, and, still more, between the various provinces and lesser portions into which they are subdivided, afford another illustration of the same important truth. The most sagacious and laborious naturalists have never yet succeeded in tracing with certainty the line which separates the district of vegetable life from the neighboring region of unorganized matter, or which marks the termination of the former and the commencement of the animal empire. A still greater obscurity lies in the distinctive characters by which the objects in each of these great departments of nature have been arranged and assorted.

When we pass from the works of nature, in which all the delineations are perfectly accurate and appear to be otherwise only from the imperfection of the eye which surveys them, to the institutions of man, in which the obscurity arises as well from the object itself as from the organ by which it is contemplated, we must perceive the necessity of moderating still further our expectations and hopes from the efforts of human sagacity. Experience has instructed us that no skill in the science of government has yet been able to discriminate and define, with sufficient certainty, its three great provinces—the legislative, executive, and judiciary; or even the privileges and powers of the different legislative branches. Questions daily occur in the course of practice which prove the obscurity which reigns in these

subjects, and which puzzle the greatest adepts in political science.

The experience of ages, with the continued and combined labors of the most enlightened legislators and jurists, has been equally unsuccessful in delineating the several objects and limits of different codes of laws and different tribunals of justice. The precise extent of the common law, and the statute law, the maritime law, the ecclesiastical law, the law of corporations, and other local laws and customs, remains still to be clearly and finally established in Great Britain, where accuracy in such subjects has been more industriously pursued than in any other part of the world. The jurisdiction of her several courts, general and local, of law, of equity, of admiralty, etc., is not less a source of frequent and intricate discussions, sufficiently denoting the indeterminate limits by which they are respectively circumscribed. All new laws, though penned with the greatest technical skill and passed on the fullest and most mature deliberation, are considered as more or less obscure and equivocal, until their meaning be liquidated and ascertained by a series of particular discussions and adjudications. Besides the obscurity arising from the complexity of objects and the imperfection of the human faculties, the medium through which the conceptions of men are conveyed to each other adds a fresh embarrassment. The use of words is to express ideas. Perspicuity, therefore, requires not only that the ideas should be distinctly formed, but that they should be expressed by words distinctly and exclusively appropriate to them. But no language is so copious as to supply words or phrases for every complex idea, or so correct as not to include many equivocally denoting different ideas. Hence it must happen that however accurately objects may be discriminated in themselves, and however accurately the discrimination may be considered, the definition of them may be rendered inaccurate by the inaccuracy of the terms in which it is delivered. And this unavoidable inaccuracy must be greater or less, according to the complexity and novelty of the objects defined. When the Almighty himself condescends to address mankind in their own language, his meaning, luminous as it must be, is rendered dim and doubtful by the cloudy medium through which it is communicated.

Here, then, are three sources of vague and incorrect definitions: indistinctness of the object, imperfection of the organ of conception, inadequateness of the vehicle of ideas. Any one of these must produce a

certain degree of obscurity. The convention, in delineating the boundary between the federal and State jurisdictions, must have experienced the full effect of them all.

To the difficulties already mentioned may be added the interfering pretensions of the larger and smaller States. We cannot err in supposing that the former would contend for a participation in the government, fully proportioned to their superior wealth and importance; and that the latter would not be less tenacious of the equality at present enjoyed by them. We may well suppose that neither side would entirely yield to the other, and consequently that the struggle could be terminated only by compromise. It is extremely probable, also, that after the ratio of representation had been adjusted, this very compromise must have produced a fresh struggle between the same parties to give such a turn to the organization of the government and to the distribution of its powers as would increase the importance of the branches, in forming which they had respectively obtained the greatest share of influence. There are features in the Constitution which warrant each of these suppositions; and as far as either of them is well founded, it shows that the convention must have been compelled to sacrifice theoretical propriety to the force of extraneous considerations.

Nor could it have been the large and small States only which would marshal themselves in opposition to each other on various points. Other combinations, resulting from a difference of local position and policy, must have created additional difficulties. As every State may be divided into different districts, and its citizens into different classes, which give birth to contending interests and local jealousies, so the different parts of the United States are distinguished from each other by a variety of circumstances, which produce a like effect on a larger scale. And although this variety of interests, for reasons sufficiently explained in a former paper, may have a salutary influence on the administration of the government when formed, yet every one must be sensible of the contrary influence which must have been experienced in the task of forming it.

Would it be wonderful if, under the pressure of all these difficulties, the convention should have been forced into some deviations from that

artificial structure and regular symmetry which an abstract view of the subject might lead an ingenious theorist to bestow on a Constitution planned in his closet or in his imagination? The real wonder is that so many difficulties should have been surmounted, and surmounted with a unanimity almost as unprecedented as it must have been unexpected. It is impossible for any man of candor to reflect on this circumstance without partaking of the astonishment. It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution.

We had occasion in a former paper to take notice of the repeated trials which have been unsuccessfully made in the United Netherlands for reforming the baneful and notorious vices of their constitution. The history of almost all the great councils and consultations held among mankind for reconciling their discordant opinions, assuaging their mutual jealousies and adjusting their respective interests, is a history of factions, contentions, and disappointments, and may be classed among the most dark and degrading pictures which display the infirmities and depravities of the human character. If in a few scattered instances a brighter aspect is presented, they serve only as exceptions to admonish us of the general truth; and by their luster to darken the gloom of the adverse prospect to which they are contrasted. In resolving the causes from which these exceptions result, and applying them to the particular instances before us, we are necessarily led to two important conclusions. The first is that the convention must have enjoyed, in a very singular degree, an exemption from the pestilential influence of party animosities—the disease most incident to deliberative bodies and most apt to contaminate their proceedings. The second conclusion is that all the deputations composing the convention were either satisfactorily accommodated by the final act, or were induced to accede to it by a deep conviction of the necessity of sacrificing private opinions and partial interests to the public good, and by a despair of seeing this necessity diminished by delays or by new experiments.

PUBLIUS [Madison]

Number 38: The Subject Continued and the Incoherence of the Objections To the Plan Exposed

# NUMBER 38

## THE SUBJECT CONTINUED AND THE INCOHERENCE OF THE OBJECTIONS TO THE PLAN EXPOSED

[James Madison]

IT IS not a little remarkable that in every case reported by ancient history in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men, but has been performed by some individual citizen of pre-eminent wisdom and approved integrity.

Minos, we learn, was the primitive founder of the government of Crete, as Zaleucus was of that of the Locrians. Theseus first, and after him Draco and Solon, instituted the government of Athens. Lycurgus was the lawgiver of Sparta. The foundation of the original government of Rome was laid by Romulus, and the work completed by two of his elective successors, Numa and Tullius Hostilius. On the abolition of royalty the consular administration was substituted by Brutus, who stepped forward with a project for such a reform, which, he alleged, had been prepared by Servius Tullius, and to which his address obtained the assent and ratification of the senate and people. This remark is applicable to confederate governments also. Amphictyon, we are told, was the author of that which bore his name. The Achaean league received its first birth from Achaeus, and its second from Aratus.

What degree of agency these reputed lawyers might have in their respective establishments, or how far they might be clothed with the legitimate authority of the people, cannot in every instance be ascertained. In some, however, the proceeding was strictly regular, Draco appears to have been intrusted by the people of Athens with indefinite powers to reform its government and laws. Solon, according to Plutarch, was in a manner compelled by the universal suffrage of his fellow-citizens to take upon him the sole and absolute power of new-modeling the constitution. The proceedings under Lycurgus were less regular; but as far as the advocates for a regular reform could prevail, they all turned their eyes towards the

single efforts of that celebrated patriot and sage, instead of seeking to bring about a revolution by the intervention of a deliberative body of citizens.

Whence could it have proceeded that a people, jealous as the Greeks were of their liberty, should so far abandon the rules of caution as to place their destiny in the hands of a single citizen? Whence could it have proceeded that the Athenians, a people who would not suffer an army to be commanded by fewer than ten generals, and who required no other proof of danger to their liberties than the illustrious merit of a fellow-citizen, should consider one illustrious citizen as a more eligible depositary of the fortunes of themselves and their posterity than a select body of citizens, from whose common deliberations more wisdom, as well as more safety, might have been expected? These questions cannot be fully answered without supposing that the fears of discord and disunion among a number of counselors exceeded the apprehension of treachery or incapacity in a single individual. History informs us, likewise, of the difficulties with which these celebrated reformers had to contend, as well as of the expedients which they were obliged to employ in order to carry their reforms into effect. Solon, who seems to have indulged a more temporizing policy, confessed that he had not given to his countrymen the government best suited to their happiness, but most tolerable to their prejudices. And Lycurgus, more true to his object, was under the necessity of mixing a portion of violence with the authority of superstition, and of securing his final success by a revolutionary renunciation, first of his country and then of his life. If these lessons teach us, on the one hand, to admire the improvement made by America on the ancient mode of preparing and establishing regular plans of government, they serve not less, on the other, to admonish us of the hazards and difficulties incident to such experiments, and of the great imprudence of unnecessarily multiplying them.

Is it an unreasonable conjecture that the errors which may be contained in the plan of the convention are such as have resulted rather from the defect of antecedent experience on this complicated and difficult subject, than from a want of accuracy or care in the investigation of it; and, consequently, such as will not be ascertained until an actual trial shall have pointed them out? This conjecture is rendered probable, not only by many considerations of a general nature, but by the particular case of the Articles of

Confederation, It is observable that among the numerous objections and amendments suggested by the several States, when these articles were submitted for their ratification, not one is found which alludes to the great and radical error which on actual trial has discovered itself. And if we except the observations which New Jersey was led to make, rather by her local situation than by her peculiar foresight, it may be questioned whether a single suggestion was of sufficient moment to justify a revision of the system. There is abundant reason, nevertheless, to suppose that immaterial as these objections were, they would have been adhered to with a very dangerous inflexibility in some States, had not a zeal for their opinions and supposed interests been stifled by the more powerful sentiment of self-preservation. One State, we may remember, persisted for several years in refusing her concurrence, although the enemy remained the whole period at our gates, or rather in the very bowels of our country. [40](#) Nor was her pliancy in the end effected by a lesser motive than the fear of being chargeable with protracting the public calamities and endangering the event of the contest. Every candid reader will make the proper reflections on these important facts.

A patient who finds his disorder daily growing worse, and that an efficacious remedy can no longer be delayed without extreme danger, after coolly revolving his situation and the characters of different physicians, selects and calls in such of them as he judges most capable of administering relief, and best entitled to his confidence. The physicians attend; the case of the patient is carefully examined; a consultation is held; they are unanimously agreed that the symptoms are critical, but that the case, with proper and timely relief, is so far from being desperate that it may be made to issue in an improvement of his constitution. They are equally unanimous in prescribing the remedy by which this happy effect is to be produced. The prescription is no sooner made known, however, than a number of persons interpose, and, without denying the reality or danger of the disorder, assure the patient that the prescription will be poison to his constitution, and forbid him, under pain of certain death, to make use of it. Might not the patient reasonably demand, before he ventured to follow this advice, that the authors of it should at least agree among themselves on some other remedy to be substituted? And if he found them differing as much from one another as from his first counselors, would he not act prudently in trying the

experiment unanimously recommended by the latter, rather than by hearkening to those who could neither deny the necessity of a speedy remedy, nor agree in proposing one?

Such a patient and in such a situation is America at this moment. She has been sensible of her malady. She has obtained a regular and unanimous advice from men of her own deliberate choice. And she is warned by others against following this advice under pain of the most fatal consequences. Do the monitors deny the reality of her danger? No. Do they deny the necessity of some speedy and powerful remedy? No. Are they agreed, are any two of them agreed, in their objections to the remedy proposed, or in the proper one to be substituted? Let them speak for themselves. This one tells us that the proposed Constitution ought to be rejected because it is not a confederation of the States, but a government over individuals. Another admits that it ought to be a government over individuals to a certain extent, but by no means to the extent proposed. A third does not object to the government over individuals, or to the extent proposed, but to the want of a bill of rights. A fourth concurs in the absolute necessity of a bill of rights, but contends that it ought to be declaratory, not of the personal rights of individuals, but of the rights reserved to the States in their political capacity. A fifth is of opinion that a bill of rights of any sort would be superfluous and misplaced, and that the plan would be unexceptionable but for the fatal power of regulating the times and places of election. An objector in a large State exclaims loudly against the unreasonable equality of representation in the Senate. An objector in a small State is equally loud against the dangerous inequality in the House of Representatives. From this quarter we are alarmed with the amazing expense from the number of persons who are to administer the new government. From another quarter, and sometimes from the same quarter, on another occasion, the cry is that the Congress will be hut a shadow of a representation, and that the government would be far less objectionable if the number and the expense were doubled. A patriot in a State that does not import or export discerns insuperable objections against the power of direct taxation. The patriotic adversary in a State of great exports and imports is not less dissatisfied that the whole burden of taxes may be thrown on consumption. This politician discovers in the Constitution a direct and irresistible tendency to monarchy; that is equally sure it will end in aristocracy. Another is puzzled to say which of these

shapes it will ultimately assume, but sees clearly it must be one or other of them; whilst a fourth is not wanting, who with no less confidence affirms that the Constitution is so far from having a bias towards either of these dangers, that the weight on that side will not be sufficient to keep it upright and firm against its opposite propensities. With another class of adversaries to the Constitution the language is that the legislative, executive, and judiciary departments are intermixed in such a manner as to contradict all the ideas of regular government and all the requisite precautions in favor of liberty. Whilst this objection circulates in vague and general expressions, there are but a few who lend their sanction to it. Let each one come forward with his particular explanation, and scarce any two are exactly agreed upon the subject. In the eyes of one the junction of the Senate with the President in the responsible function of appointing to offices, instead of vesting this executive power in the Executive alone, is the vicious part of the organization. To another, the exclusion of the House of Representatives, whose numbers alone could be a due security against corruption and partiality in the exercise of such a power, is equally obnoxious. With another the admission of the President into any share of a power which must ever be a dangerous engine in the hands of the executive magistrate is an unpardonable violation of the maxims of republican jealousy. No part of the arrangement, according to some, is more inadmissible than the trial of impeachments by the Senate, which is alternately a member both of the legislative and executive departments, when this power so evidently belonged to the judiciary department. We concur fully, reply others, in the objection to this part of the plan, but we can never agree that a reference of impeachments to the judiciary authority would be an amendment of the error. Our principal dislike to the organization arises from the extensive powers already lodged in that department. Even among the zealous patrons of a council of state the most irreconcilable variance is discovered concerning the mode in which it ought to be constituted. The demand of one gentleman is that the council should consist of a small number to be appointed by the most numerous branch of the legislature. Another would prefer a larger number, and considers it as a fundamental condition that the appointment should be made by the President himself.

As it can give no umbrage to the writers against the plan of the federal Constitution, let us suppose that as they are the most zealous, so they are

also the most sagacious, of those who think the late convention were unequal to the task assigned them, and that a wiser and better plan might and ought to be substituted. Let us further suppose that their country should concur, both in this favorable opinion of their merits, and in their unfavorable opinion of the convention; and should accordingly proceed to form them into a second convention, with full powers, and for the express purpose of revising and remolding the work of the first. Were the experiment to be seriously made, though it requires some effort to view it seriously even in fiction, I leave it to be decided by the sample of opinions just exhibited whether, with all their enmity to their predecessors, they would, in any one point, depart so widely from their example as in the discord and ferment that would mark their own deliberations; and whether the Constitution now before the public would not stand as fair a chance for immortality as Lycurgus gave to that of Sparta by making its change to depend on his own return from exile and death, if it were to be immediately adopted and were to continue in force, not until a BETTER, but until ANOTHER, should be agreed upon by this new assembly of lawgivers.

It is a matter both of wonder and regret that those who raise so many objections against the new Constitution should never call to mind the defects of that which is to be exchanged for it. It is not necessary that the former should be perfect: it is sufficient that the latter is more imperfect. No man would refuse to give brass for silver or gold, because the latter had some alloy in it. No man would refuse to quit a shattered and tottering habitation for a firm and commodious building because the latter had not a porch to it, or because some of the rooms might be a little larger or smaller, or the ceiling a little higher or lower than his fancy would have planned them. But waiving illustrations of this sort, is it not manifest that most of the capital objections urged against the new system lie with tenfold weight against the existing Confederation? Is an indefinite power to raise money dangerous in the hands of the federal government? The present Congress can make requisitions to any amount they please, and the States are constitutionally bound to furnish them; they can emit bills of credit as long as they will pay for the paper; they can borrow, both abroad and at home, as long as a shilling will be lent. Is an indefinite power to raise troops dangerous? The Confederation gives to Congress that power also; and they have already begun to make use of it. Is it improper and unsafe to intermix

the different powers of government in the same body of men? Congress, a single body of men, are the sole depository of all the federal powers. Is it particularly dangerous to give the keys of the treasury, and the command of the army, into the same hands? The Confederation places them both in the hands of Congress. Is a bill of rights essential to liberty? The Confederation has no bill of rights. Is it an objection against the new Constitution that it empowers the Senate, with the concurrence of the executive, to make treaties which are to be the laws of the land? The existing Congress, without any such control, can make treaties which they themselves have declared and most of the States have recognized, to be the supreme law of the land. Is the importation of slaves permitted by the new Constitution for twenty years? By the old it is permitted forever.

I shall be told that however dangerous this mixture of powers may be in theory, it is rendered harmless by the dependence of Congress on the States for the means of carrying them into practice; that however large the mass of powers may be, it is in fact a lifeless mass. Then, say I, in the first place, that the Confederation is chargeable with the still greater folly of declaring certain powers in the federal government to be absolutely necessary, and at the same time rendering them absolutely nugatory; and, in the next place, that if the Union is to continue, and no better government be substituted, effective powers must either be granted to, or assumed by, the existing Congress; in either of which events, the contrast just stated will hold good. But this is not all. Out of this lifeless mass has already grown an excrescent power, which tends to realize all the dangers that can be apprehended from a defective construction of the supreme government of the Union. It is now no longer a point of speculation and hope that the Western territory is a mine of vast wealth to the United States; and although it is not of such a nature as to extricate them from their present distresses, or for some time to come to yield any regular supplies for the public expenses, yet must it hereafter be able, under proper management, both to effect a gradual discharge of the domestic debt and to furnish, for a certain period, liberal tributes to the federal treasury. A very large proportion of this fund has been already surrendered by individual States; and it may with reason be expected that the remaining States will not persist in withholding similar proofs of their equity and generosity. We may calculate, therefore, that a rich and fertile country of an area equal to the inhabited extent of the United

States will soon become a national stock, Congress have assumed the administration of this stock. They have begun to render it productive. Congress have undertaken to do more: they have proceeded to form new States, to erect temporary governments, to appoint officers for them, and to prescribe the conditions on which such States shall be admitted into the Confederacy. All this has been done; and done without the least color of constitutional authority. Yet no blame has been whispered; no alarm has been sounded, A GREAT and INDEPENDENT fund of revenue is passing into the hands of a SINGLE BODY of men, who can RAISE TROOPS to an INDEFINITE NUMBER and appropriate money to their support for an INDEFINITE PERIOD OF TIME. And yet there are men, who have not only been silent spectators of this prospect, but who are advocates for the system which exhibits it; and at the same time urge against the new system the objections which we have heard. Would they not act with more consistency in urging the establishment of the latter as no less necessary to guard the Union against the future powers and resources of a body constructed like the existing Congress, than to save it from the dangers threatened by the present impotency of that assembly?

I mean not by anything here said to throw censure on the measures which have been pursued by Congress. I am sensible they could not have done otherwise. The public interest, the necessity of the case, imposed upon them the task of overleaping their constitutional limits. But is not the fact an alarming proof of the danger resulting from a government which does not possess regular powers commensurate to its objects? A dissolution or usurpation is the dreadful dilemma to which it is continually exposed.

PUBLIUS [Madison]

Number 39: The Conformity of the Plan to Republican Principles: An Objection in Respect to the Powers of the Convention Examined

# NUMBER 39

## THE CONFORMITY OF THE PLAN TO REPUBLICAN PRINCIPLES: AN OBJECTION IN RESPECT TO THE POWERS OF THE CONVENTION EXAMINED

[James Madison]

THE last paper having concluded the observations which were meant to introduce a candid survey of the plan of government reported by the convention, we now proceed to the execution of that part of our undertaking.

The first question that offers itself is whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible.

What, then, are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles but in the application of the term by political writers to the constitutions of different States, no satisfactory one would ever be found. Holland, in which no particle of the supreme authority is derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people is exercised in the most absolute manner by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy in their worst forms, has been dignified with the same appellation. The government of England, which has one republican branch only, combined with an hereditary aristocracy and monarchy, has with equal impropriety been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, show the extreme inaccuracy with which the term has been used in political

disquisitions.

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic. It is sufficient for such a government that the persons administering it be appointed, either directly or indirectly, by the people; and that they hold their appointments by either of the tenures just specified; otherwise every government in the United States, as well as every other popular government that has been or can be well organized or well executed, would be degraded from the republican character. According to the constitution of every State in the Union, some or other of the officers of government are appointed indirectly only by the people. According to most of them, the chief magistrate himself is so appointed. And according to one, this mode of appointment is extended to one of the co-ordinate branches of the legislature. According to all the constitutions, also, the tenure of the highest offices is extended to a definite period, and in many instances, both within the legislative and executive departments, to a period of years. According to the provisions of most of the constitutions, again, as well as according to the most respectable and received opinions on the subject, the members of the judiciary department are to retain their offices by the firm tenure of good behavior.

On comparing the Constitution planned by the convention with the standard here fixed, we perceived at once that it is, in the most rigid sense, conformable to it. The House of Representatives, like that of one branch at least of all the State legislatures, is elected immediately by the great body of the people. The Senate, like the present Congress and the Senate of Maryland, derives its appointment indirectly from the people. The President is indirectly derived from the choice of the people, according to the

example in most of the States. Even the judges, with all other officers of the Union, will, as in the several States, be the choice, though a remote choice, of the people themselves. The duration of the appointments is equally conformable to the republican standard and to the model of State constitutions. The House of Representatives is periodically elective, as in all the States; and for the period of two years, as in the State of South Carolina. The Senate is elective for the period of six years, which is but one year more than the period of the Senate of Maryland, and but two more than that of the Senates of New York and Virginia. The President is to continue in office for the period of four years; as in New York and Delaware the chief magistrate is elected for three years, and in South Carolina for two years. In the other States the election is annual. In several of the States, however, no explicit provision is made for the impeachment of the chief magistrate. And in Delaware and Virginia he is not impeachable till out of office. The President of the United States is impeachable at any time during his continuance in office. The tenure by which the judges are to hold their places is, as it unquestionably ought to be, that of good behavior. The tenure of the ministerial offices generally will be a subject of legal regulation, conformably to the reason of the case and the example of the State constitutions.

Could any further proof be required of the republican complexion of this system, the most decisive one might be found in its absolute prohibition of titles of nobility, both under the federal and the State governments; and in its express guaranty of the republican form to each of the latter.

But it was not sufficient, say the adversaries of the proposed Constitution, for the convention to adhere to the republican form. They ought with equal care to have preserved the federal form, which regards the Union as a Confederacy of sovereign states; instead of which they have framed a national government, which regards the Union as a consolidation of the States. And it is asked by what authority this bold and radical innovation was undertaken? The handle which has been made of this objection requires that it should be examined with some precision.

Without inquiring into the accuracy of the distinction on which the objection is founded, it will be necessary to a just estimate of its force, first,

to ascertain the real character of the government in question; secondly, to inquire how far the convention were authorized to propose such a government; and thirdly, how far the duty they owed to their country could supply any defect of regular authority.

First.—In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a federal act.

That it will be a federal and not a national act, as these terms are understood by the objectors—the act of the people, as forming so many independent States, not as forming one aggregate nation—is obvious from this single consideration: that it is to result neither from the decision of a majority of the people of the Union, nor from that of a majority of the States. It must result from the unanimous assent of the several States that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority, in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States. Neither of these rules has been adopted. Each State, in ratifying the Constitution, is considered as a sovereign body independent of

all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a federal and not a national constitution.

The next relation is to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion and on the same principle as they are in the legislature of a particular State. So far the government is national, not federal. The Senate, on the other hand, will derive its powers from the States as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is federal, not national. The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society. The eventual election, again, is to be made by that branch of the legislature which consists of the national representatives; but in this particular act they are to be thrown into the form of individual delegations from so many distinct and coequal bodies politic. From this aspect of the government it appears to be of a mixed character, presenting at least as many federal as national features.

The difference between a federal and national government, as it relates to the operation of the government, is by the adversaries of the plan of the convention supposed to consist in this, that in the former the powers operate on the political bodies composing the Confederacy in their political capacities; in the latter, on the individual citizens composing the nation in their individual capacities. On trying the Constitution by this criterion, it falls under the national not the federal character; though perhaps not so completely as has been understood. In several cases, and particularly in the trial of controversies to which States may be parties, they must be viewed and proceeded against in their collective and political capacities only. But the operation of the government on the people in their individual capacities, in its ordinary and most essential proceedings, will, in the sense of its opponents, on the whole, designate it, in this relation, a national

government.

But if the government be national with regard to the operation of its powers, it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national government involves in it not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation, this supremacy is completely vested in the national legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures. In the former case, all local authorities are subordinate to the supreme; and may be controlled, directed, or abolished by it at pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them, within its own sphere. In this relation, then, the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the general government, But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact; and that it ought to be established under the general rather than under the local governments, or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.

If we try the Constitution by its last relation to the authority by which amendments are to be made, we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate authority would reside in the majority of the people of the Union; and this authority would be competent at all times, like that of a majority of every national society to alter or abolish its established government. Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to

every alteration that would be binding on all. The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and particularly in computing the proportion by States, not by citizens, it departs from the national and advances towards the federal character; in rendering the concurrence of less than the whole number of States sufficient, it loses again the federal and partakes of the national character.

The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a federal Constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is federal, not national; and, finally in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national.

PUBLIUS [Madison]

Number 40: The Same Objection Further Examined

# NUMBER 40

## THE SAME OBJECTION FURTHER EXAMINED

[James Madison]

THE second point to be examined is whether the convention were authorized to frame and propose this mixed Constitution.

The powers of the convention ought, in strictness, to be determined by an inspection of the commissions given to the members by their respective constituents. As all of these, however, had reference either to the recommendation from the meeting at Annapolis, in September, 1786, or to that from Congress, in February, 1787, it will be sufficient to recur to these particular acts.

The act from Annapolis recommends the appointment of commissioners to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the Constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as when agreed to by them, and afterwards confirmed by the legislature of every State, will effectually provide for the same.

The recommendatory act of a Congress is in the words following: Whereas there is provision in the articles of Confederation and perpetual Union for making alterations therein, by the assent of a Congress of the United States and of the legislatures of the several States; and whereas experience hath evinced that there are defects in the present Confederation; as a means to remedy which, several of the States, and particularly the State of New York, by express instructions to their delegates in Congress, have suggested a convention for the purposes expressed in the following resolution; and such convention appearing to be the most probable mean of establishing in these States a firm national government:

Resolved—That in the opinion of Congress it is expedient that on the second Monday in May next a convention of delegates, who shall have been

appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the federal Constitution adequate to the exigencies of government and the preservation of the Union.

From these two acts, it appears, 1st, that the object of the convention was to establish in these States a firm national government; 2nd, that this government was to be such as would be adequate to the exigencies of government and the preservation of the Union; 3rd, that these purposes were to be effected by alterations and provisions in the Articles of Confederation, as it is expressed in the act of Congress, or by such further provisions as should appear necessary, as it stands in the recommendatory act from Annapolis; 4th, that the alterations and provisions were to be reported to Congress and to the States in order to be agreed to by the former and confirmed by the latter.

From a comparison and fair construction of these several modes of expression is to be deduced the authority under which the convention acted. They were to frame a national government, adequate to the exigencies of government and of the Union; and to reduce the articles of Confederation into such form as to accomplish these purposes.

There are two rules of construction, dictated by plain reason as well as founded on legal axioms. The one is that every part of the expression ought, if possible, to be allowed some meaning, and be made to conspire to some common end, The other is that where the several parts cannot be made to coincide, the less important should give way to the more important part; the means should be sacrificed to the end, rather than the end to the means.

Suppose, then, that the expressions defining the authority of the convention were irreconcilably at variance with each other; that a national and adequate government could not possibly, in the judgment of the convention, be effected by alterations and provisions in the Articles of Confederation; which part of the definition ought to have been embraced and which rejected? Which was the more important, which the less important part?

Which the end; which the means? Let the most scrupulous expositors of delegated powers, let the most inveterate objectors against those exercised by the convention answer these questions. Let them declare whether it was of most importance to the happiness of the people of America that the Articles of Confederation should be disregarded, and an adequate government be provided, and the Union preserved; or that an adequate government should be omitted, and the Articles of Confederation preserved. Let them declare whether the preservation of these articles was the end for securing which a reform of the government was to be introduced as the means; or whether the establishment of a government adequate to the national happiness was the end at which these articles themselves originally aimed, and to which they ought, as insufficient means, to have been sacrificed.

But is it necessary to suppose that these expressions are absolutely irreconcilable to each other; that no alterations or provisions in the Articles of the Confederation could possibly mold them into a national and adequate government; into such a government as has been proposed by the convention?

No stress, it is presumed, will, in this case, be laid on the title; a change of that could never be deemed an exercise of ungranted power. Alterations in the body of the instrument are expressly authorized. New provisions therein are also expressly authorized. Here then is a power to change the title; to insert new articles; to alter old ones. Must it of necessity be admitted that this power is infringed, so long as a part of the old articles remain? Those who maintain the affirmative ought at least to mark the boundary between authorized and usurped innovations; between that degree of change which lies within the compass of alterations and further provisions and that which amounts to a transmutation of the government. Will it be said that the alterations ought not to have touched the substances of the Confederation? The States would never have appointed a convention with so much solemnity, nor described its objects with so much latitude, if some substantial reform had not been in contemplation. Will it be said that the fundamental principles of the Confederation were not within the purview of the convention, and ought not to have been varied? I ask, What are these principles? Do they require that in the establishment of the Constitution the

States should be regarded as distinct and independent sovereigns? They are so regarded by the Constitution proposed, Do they require that the members of the government should derive their appointment from the legislatures, not from the people of the States? One branch of the new government is to be appointed by these legislatures; and under the Confederation the delegates to Congress may all be appointed immediately by the people, and in two States [41](#) are actually so appointed, Do they require that the powers of the government should act on the States and not immediately on individuals? In some instances, as has been shown, the powers of the new government will act on the States in their collective characters. In some instances, also, those of the existing government act immediately on individuals. In cases of capture; of piracy; of the post office; of coins, weights, and measures; of trade with the Indians; of claims under grants of land by different States; and, above all, in the case of trials by courts-martial in the army and navy, by which death may be inflicted without the intervention of a jury, or even of a civil magistrate in all these cases the powers of the Confederation operate immediately on the persons and interests of individual citizens. Do these fundamental principles require, particularly, that no tax should be levied without the intermediate agency of the States? The Confederation itself authorizes a direct tax, to a certain extent, on the post office. The power of coinage has been so construed by Congress as to levy a tribute immediately from that source also. But premitting these instances, was it not an acknowledged object of the convention and the universal expectation of the people that the regulation of trade should be submitted to the general government in such a form as would render it an immediate source of general revenue? Had not Congress repeatedly recommended this measure as not inconsistent with the fundamental principles of the Confederation? Had not every State but one, had not New York herself, so far complied with the plan of Congress as to recognize the principle of the innovation? Do these principles, in fine, require that the powers of the general government should be limited, and that, beyond this limit, the States should be left in possession of their sovereignty and independence? We have seen that in the new government, as in the old, the general powers are limited; and that the States, in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction.

The truth is that the great principles of the Constitution proposed by the convention may be considered less as absolutely new than as the expansion of principles which are found in the Articles of Confederation. The misfortune under the latter system has been that these principles are so feeble and confined as to justify all the charges of inefficiency which have been urged against it, and to require a degree of enlargement which gives to the new system the aspect of an entire transformation of the old.

In one particular it is admitted that the convention have departed from the tenor of their commission. Instead of reporting a plan requiring the confirmation of all the States, they have reported a plan which is to be confirmed and may be carried into effect by nine States only. It is worthy of remark that this objection, though the most plausible, has been the least urged in the publications which have swarmed against the convention. The forbearance can only have proceeded from an irresistible conviction of the absurdity of subjecting the fate of twelve States to the perverseness or corruption of a thirteenth; from the example of inflexible opposition given by a majority of one sixtieth of the people of America to a measure approved and called for by the voice of twelve States, comprising fifty-nine sixtieths of the people—an example still fresh in the memory and indignation of every citizen who has felt for the wounded honor and prosperity of his country. As this objection, therefore, has been in a manner waived by those who have criticized the powers of the convention, I dismiss it without further observation.

The third point to be inquired into is how far considerations of duty arising out of the case itself could have supplied any defect of regular authority.

In the preceding inquiries the powers of the convention have been analyzed and tried with the same rigor, and by the same rules, as if they had been real and final powers for the establishment of a Constitution for the United States. We have seen in what manner they have borne the trial even on that supposition. It is time now to recollect that the powers were merely advisory and recommendatory; that they were so meant by the States and so understood by the convention; and that the latter have accordingly planned and proposed a Constitution which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of

those to whom it is addressed. This reflection places the subject in a point of view altogether different, and will enable us to judge with propriety of the course taken by the convention.

Let us view the ground on which the convention stood. It may be collected from their proceedings that they were deeply and unanimously impressed with the crisis, which had led their country almost with one voice to make so singular and solemn an experiment for correcting the errors of a system by which this crisis had been produced; that they were no less deeply and unanimously convinced that such a reform as they have proposed was absolutely necessary to effect the purposes of their appointment. It could not be unknown to them that the hopes and expectations of the great body of citizens, throughout this great empire, were turned with the keenest anxiety to the event of their deliberations. They had every reason to believe that the contrary sentiments agitated the minds and bosoms of every external and internal foe to the liberty and prosperity of the United States. They had seen in the origin and progress of the experiment the alacrity with which the proposition, made by a single State (Virginia) towards a partial amendment of the Confederation, had been attended to and promoted. They had seen the liberty assumed by a very few deputies from a very few States, convened at Annapolis, of recommending a great and critical object, wholly foreign to their commission, not only justified by the public opinion, but actually carried into effect by twelve out of the thirteen States. They had seen, in a variety of instances, assumptions by Congress, not only of recommendatory, but of operative, powers, warranted, in the public estimation, by occasions and objects infinitely less urgent than those by which their conduct was to be governed. They must have reflected that in all great changes of established governments forms ought to give way to substance; that a rigid adherence in such cases to the former would render nominal and nugatory the transcendent and precious right of the people to abolish or alter their governments as to them shall seem most likely to effect their safety and happiness, [42](#) since it is impossible for the people spontaneously and universally to move in concert towards their object; and it is therefore essential that such changes be instituted by some informal and unauthorized propositions, made by some patriotic and respectable citizen or number of citizens. They must have recollected that it was by this irregular and assumed privilege of proposing to the people plans for their

safety and happiness that the States were first united against the danger with which they were threatened by their ancient government; that committees and congresses were formed for concentrating their efforts and defending their rights; and that conventions were elected in the several States for establishing the constitutions under which they are now governed; nor could it have been forgotten that no little ill-timed scruples, no zeal for adhering to ordinary forms, were anywhere seen, except in those who wished to indulge, under these masks, their secret enmity to the substance contended for. They must have borne in mind that as the plan to be framed and proposed was to be submitted to the people themselves, the disapprobation of this supreme authority would destroy it forever; its approbation blot out antecedent errors and irregularities. It might even have occurred to them that where a disposition to cavil prevailed, their neglect to execute the degree of power vested in them, and still more their recommendation of any measure whatever not warranted by their commission, would not less excite animadversion than a recommendation at once of a measure fully commensurate to the national exigencies.

Had the convention, under all these impressions and in the midst of all these considerations, instead of exercising a manly confidence in their country, by whose confidence they had been so peculiarly distinguished, and of pointing out a system capable, in their judgment, of securing its happiness, taken the cold and sullen resolution of disappointing its ardent hopes, of sacrificing substance to forms, of committing the dearest interests of their country to the uncertainties of delay and the hazard of events, let me ask the man who can raise his mind to one elevated conception, who can awaken in his bosom one patriotic emotion, what judgment ought to have been pronounced by the impartial world, by the friends of mankind, by every virtuous citizen, on the conduct and character of this assembly? Or if there be a man whose propensity to condemn is susceptible of no control, let me then ask what sentence he has in reserve for the twelve States who usurped the power of sending deputies to the convention, a body utterly unknown to their constitutions; for Congress, who recommended the appointment of this body, equally unknown to the Confederation; and for the State of New York, in particular, which first urged and then complied with this unauthorized interposition?

But that the objectors may be disarmed of every pretext, it shall be granted for a moment that the convention were neither authorized by their commission, nor justified by circumstances in proposing a Constitution for their country: does it follow that the Constitution ought, for that reason alone, to be rejected? If, according to the noble precept, it be lawful to accept good advice even from an enemy, shall we set the ignoble example of refusing such advice even when it is offered by our friends? The prudent inquiry, in all cases, ought surely to be not so much from whom the advice comes, as whether the advice be good.

The sum of what has been here advanced and proved is that the charge against the convention of exceeding their powers, except in one instance little urged by the objectors, has no foundation to support it; that if they had exceeded their powers, they were not only warranted, but required as the confidential servants of their country, by the circumstances in which they were placed to exercise the liberty which they assumed; and that finally, if they had violated both their powers and their obligations in proposing a Constitution, this ought nevertheless to be embraced, if it be calculated to accomplish the views and happiness of the people of America. How far this character is due to the Constitution is the subject under investigation.

PUBLIUS [Madison]

Number 41: General View of the Powers Proposed to Be Vested in the Union

# NUMBER 41

## GENERAL VIEW OF THE POWERS PROPOSED TO BE VESTED IN THE UNION

[James Madison]

THE Constitution proposed by the convention may be considered under two general points of view. The FIRST relates to the sum or quantity of power which it vests in the government, including the restraints imposed on the States. The SECOND, to the particular structure of the government and the distribution of this power among its several branches.

Under the first view of the subject, two important questions arise: 1. Whether any part of the powers transferred to the general government be unnecessary or improper? 2. Whether the entire mass of them be dangerous to the portion of jurisdiction left in the several States?

Is the aggregate power of the general government greater than ought to have been vested in it? This is the first question.

It cannot have escaped those who have attended with candor to the arguments employed against the extensive powers of the government that the authors of them have very little considered how far these powers were necessary means of attaining a necessary end. They have chosen rather to dwell on the inconveniences which must be unavoidably blended with all political advantages; and on the possible abuses which must be incident to every power or trust of which a beneficial use can be made. This method of handling the subject cannot impose on the good sense of the people of America. It may display the subtlety of the writer; it may open a boundless field for rhetoric and declamation; it may inflame the passions of the unthinking and may confirm the prejudices of the misthinking: but cool and candid people will at once reflect that the purest of human blessings must have a portion of alloy in them; that the choice must always be made, if not of the lesser evil, at least of the GREATER, not the PERFECT, good; and that in every political institution, a power to advance the public happiness involves a discretion which may be misapplied and abused. They will see,

therefore, that in all cases where power is to be conferred, the point first to be decided is whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectually as possible against a perversion of the power to the public detriment.

That we may form a correct judgment on this subject, it will be proper to review the several powers conferred on the government of the Union; and that this may be the more conveniently done they may be reduced into different classes as they relate to the following different objects: 1. Security against foreign danger; 2. Regulation of the intercourse with foreign nations; 3. Maintenance of harmony and proper intercourse among the States; 4. Certain miscellaneous objects of general utility; 5. Restraint of the States from certain injurious acts; 6. Provisions for giving due efficacy to all these powers.

The powers falling within the first class are those of declaring war and granting letters of marque; of providing armies and fleets; of regulating and calling forth the militia; of levying and borrowing money.

Security against foreign danger is one of the primitive objects of civil society. It is an avowed and essential object of the American Union. The powers requisite for attaining it must be effectually confided to the federal councils.

Is the power of declaring war necessary? No man will answer this question in the negative. It would be superfluous, therefore, to enter into a proof of the affirmative. The existing Confederation establishes this power in the most ample form.

Is the power of raising armies and equipping fleets necessary? This is involved in the foregoing power. It is involved in the power of self-defense.

But was it necessary to give an INDEFINITE POWER of raising TROOPS, as well as providing fleets; and of maintaining both in PEACE as well as in WAR?

The answer to these questions has been too far anticipated in another place to admit an extensive discussion of them in this place. The answer indeed seems to be so obvious and conclusive as scarcely to justify such a discussion in any place. With what color of propriety could the force necessary for defense be limited by those who cannot limit the force of offense? If a federal Constitution could chain the ambition or set bounds to the exertions of all other nations, then indeed might it prudently chain the discretion of its own government and set bounds to the exertions for its own safety.

How could a readiness for war in time of peace be safely prohibited, unless we could prohibit in like manner the preparations and establishments of every hostile nation? The means of security can only be regulated by the means and the danger of attack. They will, in fact, be ever determined by these rules and by no others. It is in vain to oppose constitutional barriers to the impulse of self-preservation. It is worse than in vain; because it plants in the Constitution itself necessary usurpations of power, every precedent of which is a germ of unnecessary and multiplied repetitions. If one nation maintains constantly a disciplined army, ready for the service of ambition or revenge, it obliges the most pacific nations who may be within the reach of its enterprises to take corresponding precautions. The fifteenth century was the unhappy epoch of military establishments in time of peace. They were introduced by Charles VII of France. All Europe has followed, or been forced into, the example. Had the example not been followed by other nations, all Europe must long ago have worn the chains of a universal monarch. Were every nation except France now to disband its peace establishment, the same event might follow. The veteran legions of Rome were an overmatch for the undisciplined valor of all other nations, and rendered her mistress of the world.

Not the less true is it that the liberties of Rome proved the final victim to her military triumphs; and that the liberties of Europe, as far as they ever existed, have, with few exceptions, been the price of her military establishments. A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution. A wise

nation will combine all these considerations; and, whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

The clearest marks of this prudence are stamped on the proposed Constitution. The Union itself, which it cements and secures, destroys every pretext for a military establishment which could be dangerous. America united, with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat. It was remarked on a former occasion that the want of this pretext had saved the liberties of one nation in Europe. Being rendered by her insular situation and her maritime resources impregnable to the armies of her neighbors, the rulers of Great Britain have never been able, by real or artificial dangers, to cheat the public into an extensive peace establishment. The distance of the United States from the powerful nations of the world gives them the same happy security. A dangerous establishment can never be necessary or plausible, so long as they continue a united people. But let it never for a moment be forgotten that they are indebted for this advantage to their Union alone. The moment of its dissolution will be the date of a new order of things. The fears of the weaker, or the ambition of the stronger States, or Confederacies, will set the same example in the new as Charles VII did in the old world. The example will be followed here from the same motives which produced universal imitation there. Instead of deriving from our situation the precious advantage which Great Britain has derived from hers, the face of America will be but a copy of that of the continent of Europe. It will present liberty everywhere crushed between standing armies and perpetual taxes. The fortunes of disunited America will be even more disastrous than those of Europe. The sources of evil in the latter are confined to her own limits. No superior powers of another quarter of the globe intrigue among her rival nations, inflame their mutual animosities, and render them the instruments of foreign ambition, jealousy, and revenge. In America the miseries springing from her internal jealousies, contentions, and wars would form a part only of her lot. A plentiful addition of evils would have their source in that relation in which Europe stands to this quarter of the earth, and which

no other quarter of the earth bears to Europe.

This picture of the consequences of disunion cannot be too highly colored, or too often exhibited. Every man who loves peace, every man who loves his country, every man who loves liberty ought to have it ever before his eyes that he may cherish in his heart a due attachment to the Union of America and be able to set a due value on the means of preserving it.

Next to the effectual establishment of the Union, the best possible precaution against danger from standing armies is a limitation of the term for which revenue may be appropriated to their support. This precaution the Constitution has prudently added. I will not repeat here the observations which I flatter myself have placed this subject in a just and satisfactory light. But it may not be improper to take notice of an argument against this part of the Constitution, which has been drawn from the policy and practice of Great Britain. It is said that the continuance of an army in that kingdom requires an annual vote of the legislature; whereas the American Constitution has lengthened this critical period to two years. This is the form in which the comparison is usually stated to the public: but is it a just form? Is it a fair comparison? Does the British Constitution restrain the parliamentary discretion to one year? Does the American impose on the Congress appropriations for two years? On the contrary, it cannot be unknown to the authors of the fallacy themselves that the British Constitution fixes no limit whatever to the discretion of the legislature, and that the American ties down the legislature to two years as the longest admissible term.

Had the argument from the British example been truly stated, it would have stood thus: The term for which supplies may be appropriated to the army establishment, though unlimited by the British Constitution, has nevertheless, in practice, been limited by parliamentary discretion to a single year. Now, if in Great Britain, where the House of Commons is elected for seven years; where so great a proportion of the members are elected by so small a proportion of the people; where the electors are so corrupted by the representatives, and the representatives so corrupted by the Crown, the representative body can possess a power to make appropriations to the army for an indefinite term, without desiring, or without daring, to

extend the term beyond a single year, ought not suspicion herself to blush, in pretending that the representatives of the United States, elected FREELY by the WHOLE BODY of the people every SECOND YEAR, cannot be safely intrusted with the discretion over such appropriations, expressly limited to the short period of TWO YEARS?

A bad cause seldom fails to betray itself. Of this truth the management of the opposition to the federal government is an unvaried exemplification. But among all the blunders which have been committed, none is more striking than the attempt to enlist on that side the prudent jealousy entertained by the people of standing armies. The attempt has awakened fully the public attention to that important subject; and has led to investigations which must terminate in a thorough and universal conviction, not only that the Constitution has provided the most effectual guards against danger from that quarter, but that nothing short of a Constitution fully adequate to the national defense and the preservation of the Union can save America from as many standing armies as it may be split into States or Confederacies, and from such a progressive augmentation of these establishments in each as will render them as burdensome to the properties and ominous to the liberties of the people as any establishment that can become necessary under a united and efficient government must be tolerable to the former and safe to the latter.

The palpable necessity of the power to provide and maintain a navy has protected that part of the Constitution against a spirit of censure which has spared few other parts. It must, indeed, be numbered among the greatest blessings of America that as her Union will be the only source of her maritime strength, so this will be a principal source of her security against danger from abroad. In this respect our situation bears another likeness to the insular advantage of Great Britain. The batteries most capable of repelling foreign enterprises on our safety are happily such as can never be turned by a perfidious government against our liberties.

The inhabitants of the Atlantic frontier are all of them deeply interested in this provision for naval protection, and if they have hitherto been suffered to sleep quietly in their beds; if their property has remained safe against the predatory spirit of licentious adventurers; if their maritime towns have not

yet been compelled to ransom themselves from the terrors of a conflagration by yielding to the exactions of daring and sudden invaders, these instances of good fortune are not to be ascribed to the capacity of the existing government for the protection of those from whom it claims allegiance, but to causes that are fugitive and fallacious. If we except perhaps Virginia and Maryland, which are peculiarly vulnerable on their eastern frontiers, no part of the Union ought to feel more anxiety on this subject than New York. Her seacoast is extensive. A very important district of the State is an island. The State itself is penetrated by a large navigable river for more than fifty leagues. The great emporium of its commerce, the great reservoir of its wealth, lies every moment at the mercy of events, and may also be regarded as a hostage for ignominious compliances with the dictates of a foreign enemy, or even with the rapacious demands of pirates and barbarians. Should a war be the result of the precarious situation of European affairs, and all the unruly passions attending it be let loose on the ocean, our escape from insults and depredations, not only on that element, but every part of the other bordering on it, will be truly miraculous. In the present condition of America, the States more immediately exposed to these calamities have nothing to hope from the phantom of a general government which now exists; and if their single resources were equal to the task of fortifying themselves against the danger, the object to be protected would be almost consumed by the means of protecting them.

The power of regulating and calling forth the militia has been already sufficiently vindicated and explained.

The power of levying and borrowing money, being the sinew of that which is to be exerted in the national defense, is properly thrown into the same class with it. This power, also, has been examined already with such attention, and has, I trust, been clearly shown to be necessary, both in the extent and form given to it by the Constitution. I will address one additional reflection only to those who contend that the power ought to have been restrained to external taxation—by which they mean taxes on articles imported from other countries. It cannot be doubted that this will always be a valuable source of revenue; that for a considerable time it must be a principal source; that at this moment it is an essential one. But we may form very mistaken ideas on this subject, if we do not call to mind in our

calculations that the extent of revenue drawn from foreign commerce must vary with the variations, both in the extent and the kind of imports; and that these variations do not correspond with the progress of population, which must be the general measure of the public wants. As long as agriculture continues the sole field of labor, the importation of manufactures must increase as the consumers multiply. As soon as domestic manufactures are begun by the hands not called for by agriculture, the imported manufactures will decrease as the numbers of people increase. In a more remote stage, the imports may consist in a considerable part of raw materials, which will be wrought into articles for exportation, and will, therefore, require rather the encouragement of bounties than to be loaded with discouraging duties. A system of government meant for duration ought to contemplate these revolutions and be able to accommodate itself to them.

Some who have not denied the necessity of the power of taxation have grounded a very fierce attack against the Constitution, on the language in which it is defined. It has been urged and echoed that the power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States, amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms to raise money for the general welfare.

But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part

which will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the more doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity, which, as we are reduced to the dilemma of charging either on the authors of the objection or on the authors of the Constitution, we must take the liberty of supposing had not its origin with the latter.

The objection here is the more extraordinary, as it appears that the language used by the convention is a copy from the Articles of Confederation. The objects of the Union among the States, as described in article third, are their common defense, security of their liberties, and mutual and general welfare. The terms of article eighth are still more identical: All charges of war and all other expenses that shall be incurred for the common defense or general welfare and allowed by the United States in Congress shall be defrayed out of a common treasury, etc. A similar language again occurs in article ninth. Construe either of these articles by the rules which would justify the construction put on the new Constitution, and they vest in the existing Congress a power to legislate in all cases whatsoever. But what would have been thought of that assembly, if, attaching themselves to these general expressions and disregarding the specifications which ascertain and limit their import, they had exercised an unlimited power of providing for the common defense and general welfare? I appeal to the objectors themselves, whether they would in that case have employed the same reasoning in justification of Congress as they now make use of against the convention. How difficult it is for error to escape its own condemnation.

PUBLIUS [Madison]

Number 42: The Same View Continued (Powers to be Vested in the Union)

# NUMBER 42

## THE SAME VIEW CONTINUED

[James Madison]

THE second class of powers lodged in the general government consist of those which regulate the intercourse with foreign nations, to wit: to make treaties; to send and receive ambassadors, other public ministers, and consuls; to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; to regulate foreign commerce, including a power to prohibit, after the year 1808, the importation of slaves, and to lay an intermediate duty of ten dollars per head, as a discouragement to such importations.

This class of powers forms an obvious and essential branch of the federal administration. If we are to be one nation in any respect, it clearly ought to be in respect to other nations.

The powers to make treaties and to send and receive ambassadors speak their own propriety. Both of them are comprised in the Articles of Confederation, with this difference only, that the former is disembarassed by the plan of the convention, of an exception under which treaties might be substantially frustrated by regulations of the States; and that a power of appointing and receiving other public ministers and consuls is expressly and very properly added to the former provision concerning ambassadors. The term ambassador, if taken strictly, as seems to be required by the second of the Articles of Confederation, comprehends the highest grade only of public ministers, and excludes the grades which the United States will be most likely to prefer, where foreign embassies may be necessary, And under no latitude of construction will the term comprehend consuls. Yet it has been found expedient, and has been the practice of Congress, to employ the inferior grades of public ministers and to send and receive consuls.

It is true that where treaties of commerce stipulate for the mutual appointment of consuls, whose functions are connected with commerce, the admission of foreign consuls may fall within the power of making

commercial treaties; and that where no such treaties exist, the mission of American consuls into foreign countries may perhaps be covered under the authority, given by the ninth article of the Confederation, to appoint all such civil officers as may be necessary for managing the general affairs of the United States. But the admission of consuls into the United States, where no previous treaty has stipulated it, seems to have been nowhere provided for. A supply of the omission is one of the lesser instances in which the convention have improved on the model before them. But the most minute provisions become important when they tend to obviate the necessity or the pretext for gradual and unobserved usurpations of power. A list of the cases in which Congress have been betrayed, or forced by the defects of the Confederation, into violations of their chartered authorities would not a little surprise those who have paid no attention to the subject; and would be no inconsiderable argument in favor of the new Constitution, which seems to have provided no less studiously for the lesser than the more obvious and striking defects of the old.

The power to define and punish piracies and felonies committed on the high seas and offenses against the law of nations belongs with equal propriety to the general government, and is a still greater improvement on the Articles of Confederation. These articles contain no provision for the case of offenses against the law of nations; and consequently leave it in the power of any indiscreet member to embroil the Confederacy with foreign nations. The provision of the federal articles on the subject of piracies and felonies extends no further than to the establishment of courts for the trial of these offenses. The definition of piracies might, perhaps, without inconveniency, be left to the law of nations; though a legislative definition of them is found in most municipal codes. A definition of felonies on the high seas is evidently requisite. Felony is a term of loose signification even in the common law of England; and of various import in the statute law of that kingdom. But neither the common nor the statute law of that, or of any other nation, ought to be a standard for the proceedings of this, unless previously made its own by legislative adoption. The meaning of the term, as defined in the codes of the several States, would be as impracticable as the former would be a dishonorable and illegitimate guide. It is not precisely the same in any two of the States; and varies in each with every revision of its criminal laws. For the sake of certainty and uniformity,

therefore, the power of defining felonies in this case was in every respect necessary and proper.

The regulation of foreign commerce, having fallen within several views which have been taken of this subject, has been too fully discussed to need additional proofs here of its being properly submitted to the federal administration.

It were doubtless to be wished that the power of prohibiting the importation of slaves had not been postponed until the year 1808, or rather that it had been suffered to have immediate operation. But it is not difficult to account either for this restriction on the general government, or for the manner in which the whole clause is expressed. It ought to be considered as a great point gained in favor of humanity that a period of twenty years may terminate forever, within these States, a traffic which has so long and so loudly upbraided the barbarism of modern policy; that within that period it will receive a considerable discouragement from the federal government, and may be totally abolished, by a concurrence of the few States which continue the unnatural traffic in the prohibitory example which has been given by so great a majority of the Union. Happy would it be for the unfortunate Africans if an equal prospect lay before them of being redeemed from the oppressions of their European brethren!

Attempts have been made to pervert this clause into an objection against the Constitution by representing it on one side as a criminal toleration of an illicit practice, and on another as calculated to prevent voluntary and beneficial emigrations from Europe to America. I mention these misconstructions not with a view to give them an answer, for they deserve none, but as specimens of the manner and spirit in which some have thought fit to conduct their opposition to the proposed government.

The powers included in the third class are those which provide for the harmony and proper intercourse among the States.

Under this head might be included the particular restraints imposed on the authority of the States and certain powers of the judicial department; for the former are reserved for a distinct class and the latter will be particularly

examined when we arrive at the structure and organization of the government. I shall confine myself to a cursory review of the remaining powers comprehended under this third description, to wit: to regulate commerce among the several States and the Indian tribes; to coin money, regulate the value thereof and of foreign coin; to provide for the punishment of counterfeiting the current coin and securities of the United States; to fix the standard of weights and measures; to establish a uniform rule of naturalization, and uniform laws of bankruptcy; to prescribe the manner in which the public acts, records, and judicial proceedings of each State shall be proved, and the effect they shall have in other States; and to establish post offices and post roads.

The defect of power in the existing Confederacy to regulate the commerce between its several members is in the number of those which have been clearly pointed out by experience. To the proofs and remarks which former papers have brought into view on this subject, it may be added that without this supplemental provision, the great and essential power of regulating foreign commerce would have been incomplete and ineffectual. A very material object of this power was the relief of the States which import and export through other States from the improper contributions levied on them by the latter. Were these at liberty to regulate the trade between State and State, it must be foreseen that ways would be found out to load the articles of import and export, during the passage through their jurisdiction, with duties which would fall on the makers of the latter and the consumers of the former. We may be assured by past experience that such a practice would be introduced by future contrivances; and both by that and a common knowledge of human affairs that it would nourish unceasing animosities, and not improbably terminate in serious interruptions of the public tranquillity. To those who do not view the question through the medium of passion or of interest, the desire of the commercial States to collect, in any form, an indirect revenue from their uncommercial neighbors must appear not less impolitic than it is unfair; since it would stimulate the injured party by resentment as well as interest to resort to less convenient channels for their foreign trade. But the mild voice of reason, pleading the cause of an enlarged and permanent interest, is but too often drowned, before public bodies as well as individuals, by the clamors of an impatient avidity for

immediate and immoderate gain.

The necessity of a superintending authority over the reciprocal trade of confederated States has been illustrated by other examples as well as our own. In Switzerland, where the Union is so very slight, each canton is obliged to allow to merchandises a passage through its jurisdiction into other cantons, without an augmentation of the tolls. In Germany it is a law of the empire that the princes and states shall not lay tolls or customs on bridges, rivers, or passages, without the consent of the emperor and the diet; though it appears from a quotation in an antecedent paper that the practice in this, as in many other instances in that confederacy, has not followed the law, and has produced there the mischiefs which have been foreseen here. Among the restraints imposed by the Union of the Netherlands on its members, one is that they shall not establish imposts disadvantageous to their neighbors without the general permission.

The regulation of commerce with the Indian tribes is very properly unfettered from two limitations in the Articles of Confederation, which render the provision obscure and contradictory. The power is there restrained to Indians, not members of any of the States, and is not to violate or infringe the legislative right of any State within its own limits. What description of Indians are to be deemed members of a State is not yet settled, and has been a question of frequent perplexity and contention in the federal councils. And how the trade with Indians, though not members of a State, yet residing within its legislative jurisdiction can be regulated by an external authority, without so far intruding on the internal rights of legislation, is absolutely incomprehensible. This is not the only case in which the Articles of Confederation have considerably endeavored to accomplish impossibilities; to reconcile a partial sovereignty in the Union, with complete sovereignty in the States; to subvert a mathematical axiom by taking away a part and letting the whole remain.

All that need be remarked on the power to coin money, regulate the value thereof, and of foreign coin, is that by providing for this last case, the Constitution has supplied a material omission in the Articles of Confederation. The authority of the existing Congress is restrained to the regulation of coin struck by their own authority, or that of the respective

States. It must be seen at once that the proposed uniformity in the value of the current coin might be destroyed by subjecting that of foreign coin to the different regulations of the different States.

The punishment of counterfeiting the public securities, as well as the current coin, is submitted of course to that authority which is to secure the value of both.

The regulation of weights and measures is transferred from the Articles of Confederation, and is founded on like considerations with the preceding power of regulating coin.

The dissimilarity in the rules of naturalization has long been remarked as a fault in our system, and as laying a foundation for intricate and delicate questions. In the fourth article of the Confederation, it is declared that the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall, in every other, enjoy all the privileges of trade and commerce, etc. There is a confusion of language here which is remarkable. Why the terms free inhabitants are used in one part of the article, free citizens in another, and people in another; or what was meant by superadding to all privileges and immunities of free citizens, all the privileges of trade and commerce, cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of free inhabitants of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of free citizens of the latter; that is, to greater privileges than they may be entitled to in their own State: so that it may be in the power of a particular State, or rather every State is laid under a necessity not only to confer the rights of citizenship in other States upon any whom it may admit to such rights within itself, but upon any whom it may allow to become inhabitants within its jurisdiction. But were an exposition of the term inhabitants to be admitted which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The very improper power would still be retained by each State of naturalizing aliens in every other State. In one State, residence for a short term confirms all the rights of citizenship: in another, qualifications of

greater importance are required. An alien, therefore, legally incapacitated for certain rights in the latter, may, by previous residence only in the former, elude his incapacity; and thus the law of one State be preposterously rendered paramount to the law of another, within the jurisdiction of the other. We owe it to mere casualty that very serious embarrassments on this subject have been hitherto escaped. By the laws of several States, certain descriptions of aliens, who had rendered themselves obnoxious, were laid under interdicts inconsistent not only with the rights of citizenship but with the privilege of residence. What would have been the consequence if such persons, by residence or otherwise, had acquired the character of citizens under the laws of another State, and then asserted their rights as such, both to residence and citizenship, within the State proscribing them? Whatever the legal consequences might have been, other consequences would probably have resulted of too serious a nature not to be provided against. The new Constitution has accordingly, with great propriety, made provision against them, and all others proceeding from the defect of the Confederation on this head, by authorizing the general government to establish a uniform rule of naturalization throughout the United States.

The power of establishing uniform laws of bankruptcy is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different States, that the expediency of it seems not likely to be drawn into question.

The power of prescribing by general laws the manner in which the public acts, records, and judicial proceedings of each State shall be proved, and the effect they shall have in other States, is an evident and valuable improvement on the clause relating to this subject in the Articles of Confederation. The meaning of the latter is extremely indeterminate, and can be of little importance under any interpretation which it will bear. The power here established may be rendered a very convenient instrument of justice, and be particularly beneficial on the borders of contiguous States, where the effects liable to justice may be suddenly and secretly translated in any stage of the process within a foreign jurisdiction.

The power of establishing post roads must, in every view, be a harmless power and may, perhaps, by judicious management become productive of great public conveniency. Nothing which tends to facilitate the intercourse between the States can be deemed unworthy of the public care.

PUBLIUS [Madison]

Number 43: The Same View Continued (Powers to be Vested in the Union)

# NUMBER 43

## THE SAME VIEW CONTINUED

[James Madison]

THE fourth class comprises the following miscellaneous powers:

1. A power to promote the progress of science and useful arts by securing, for a limited time, to authors and inventors the exclusive right to their respective writings and discoveries.

The utility of this power will scarcely be questioned. The copyright of authors has been solemnly adjudged in Great Britain to be a right of common law. The right to useful inventions seems with equal reason to belong to the inventors. The public good fully coincides in both cases with the claims of individuals. The States cannot separately make effectual provision for either of the cases, and most of them have anticipated the decision of this point by laws passed at the instance of Congress.

2. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislatures of the States in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings interrupted with impunity, but a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the government and dissatisfactory to the other members of the

Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession will be derived from the whole people of the State in their adoption of the Constitution, every imaginable objection seems to be obviated.

The necessity of a like authority over forts, magazines, etc., established by the general government, is not less evident. The public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned in every such establishment.

3. To declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it. But as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free government, have usually wreaked their alternate malignity on each other, the convention have, with great judgment, opposed a barrier to this peculiar danger, by inserting a constitutional definition of

the crime, fixing the proof necessary for conviction of it, and restraining the Congress, even in punishing it, from extending the consequences of guilt beyond the person of its author.

4. To admit new States into the Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

In the Articles of Confederation, no provision is found on this important subject. Canada was to be admitted of right, on her joining in the measures of the United States; and the other colonies, by which were evidently meant the other British colonies, at the discretion of nine States. The eventual establishment of new States seems to have been overlooked by the compilers of that instrument. We have seen the inconvenience of this omission, and the assumption of power into which Congress have been led by it. With great propriety, therefore, has the new system supplied the defect. The general precaution that no new States shall be formed without the concurrence of the federal authority and that of the States concerned is consonant to the principles which ought to govern such transactions. The particular precaution against the erection of new States, by the partition of a State without its consent, quiets the jealousy of the larger States; as that of the smaller is quieted by a like precaution against a junction of States without their consent.

5. To dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, with a proviso that nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

This is a power of very great importance, and required by considerations similar to those which show the propriety of the former. The proviso annexed is proper in itself, and was probably rendered absolutely necessary by jealousies and questions concerning the Western territory sufficiently known to the public.

6. To guarantee to every State in the Union a republican form of government; to protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained. But a right implies a remedy; and where else could the remedy be deposited than where it is deposited by the Constitution? Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort than those of a kindred nature. As the confederate republic of Germany, says Montesquieu, consists of free cities and petty states, subject to different princes, experience shows us that it is more imperfect than that of Holland and Switzerland. Greece was undone, he adds, as soon as the king of Macedon obtained a seat among the Amphictyons. In the latter case, no doubt, the disproportionate force, as well as the monarchical form of the new confederate, had its share of influence on the events. It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the general government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign powers? To the second question it may be answered that if the general government should interpose by virtue of this constitutional authority, it will be, of course, bound to pursue the authority. But the authority extends no further than to a guaranty of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the federal Constitution. Whenever the States may choose to substitute other

republican forms, they have a right to do so and to claim the federal guaranty for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican Constitutions; a restriction which, it is presumed, will hardly be considered as a grievance.

A protection against invasion is due from every society to the parts composing it. The latitude of the expression here used seems to secure each State not only against foreign hostility, but against ambitious or vindictive enterprises of its more powerful neighbors. The history both of ancient and modern confederacies proves that the weaker members of the Union ought not to be insensible to the policy of this article.

Protection against domestic violence is added with equal propriety. It has been remarked that even among the Swiss cantons, which, properly speaking, are not under one government, provision is made for this object; and the history of that league informs us that mutual aid is frequently claimed and afforded; and as well by the most democratic as the other cantons. A recent and well-known event among ourselves has warned us to be prepared for emergencies of a like nature.

At first view, it might seem not to square with the republican theory to suppose either that a majority have not the right, or that a minority will have the force, to subvert a government; and consequently that the federal interposition can never be required but when it would be improper, But theoretic reasoning, in this as in most other cases, must be qualified by the lessons of practice. Why may not illicit combinations, for purposes of violence, be formed as well by a majority of a State, especially a small State, as by a majority of a county, or a district of the same State; and if the authority of the State ought, in the latter case, to protect the local magistracy, ought not the federal authority, in the former, to support the State authority? Besides, there are certain parts of the State constitutions which are so interwoven with the federal Constitution that a violent blow cannot be given to the one without communicating the wound to the other. Insurrections in a State will rarely induce a federal interposition, unless the number concerned in them bear some proportion to the friends of government. It will be much better that the violence in such cases should be repressed by the superintending power, than that the majority should be left

to maintain their cause by a bloody and obstinate contest. The existence of a right to interpose will generally prevent the necessity of exerting it.

Is it true that force and right are necessarily on the same side in republican governments? May not the minor party possess such a superiority of pecuniary resources, of military talents and experience, or of secret succors from foreign powers, as will render it superior also in an appeal to the sword? May not a more compact and advantageous position turn the scale on the same side against a superior number so situated as to be less capable of a prompt and collected exertion of its strength? Nothing can be more chimerical than to imagine that in a trial of actual force victory may be calculated by the rules which prevail in a census of the inhabitants, or which determine the event of an election! May it not happen, in fine, that the minority of citizens may become a majority of persons, by the accession of alien residents, of a casual concourse of adventurers, or of those whom the constitution of the State has not admitted to the rights of suffrage? I take no notice of an unhappy species of population abounding in some of the States, who, during the calm of regular government, are sunk below the level of men; but who, in the tempestuous scenes of civil violence, may emerge into the human character and give a superiority of strength to any party with which they may associate themselves.

In cases where it may be doubtful on which side justice lies, what better umpires could be desired by two violent factions, flying to arms and tearing a State to pieces, than the representatives of confederate States, not heated by the local flame? To the impartiality of judges, they would unite the affection of friends. Happy would it be if such a remedy for its infirmities could be enjoyed by all free governments; if a project equally effectual could be established for the universal peace of mankind!

Should it be asked what is to be the redress for an insurrection pervading all the States, and comprising a superiority of the entire force, though not a constitutional right? The answer must be that such a case, as it would be without the compass of human remedies, so it is fortunately not within the compass of human probability; and that it is a sufficient recommendation of the federal Constitution that it diminishes the risk of calamity for which no

possible constitution can provide a cure.

Among the advantages of a confederate republic enumerated by Montesquieu, an important one is that should a popular insurrection happen in one of the States, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound.

7. To consider all debts contracted and engagements entered into before the adoption of this Constitution as being no less valid against the United States under this Constitution than under the Confederation.

This can only be considered as a declaratory proposition; and may have been inserted, among other reasons, for the satisfaction of the foreign creditors of the United States, who cannot be strangers to the pretended doctrine that a change in the political form of civil society has the magical effect of dissolving its moral obligations.

Among the lesser criticisms which have been exercised on the Constitution, it has been remarked that the validity of engagements ought to have been asserted in favor of the United States, as well as against them; and in the spirit which usually characterizes little critics, the omission has been transformed and magnified into a plot against the national rights. The authors of this discovery may be told what few others need to be informed of, that as engagements are in their nature reciprocal, an assertion of their validity on one side necessarily involves a validity on the other side; and that as the article is merely declaratory, the establishment of the principle in one case is sufficient for every case. They may be further told that every constitution must limit its precautions to dangers that are not altogether imaginary; and that no real danger can exist that the government would dare, with or even without this constitutional declaration before it, to remit the debts justly due to the public on the pretext here condemned.

8. To provide for amendments to be ratified by three fourths of the States under two exceptions only.

That useful alterations will be suggested by experience could not but be foreseen, It was requisite, therefore, that a mode for introducing them

should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults. It, moreover, equally enables the general and the State governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other. The exception in favor of the equality of suffrage in the Senate was probably meant as a palladium to the residuary sovereignty of the States, implied and secured by that principle of representation in one branch of the legislature; and was probably insisted on by the States particularly attached to that equality. The other exception must have been admitted on the same considerations which produced the privilege defended by it.

9. The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States, ratifying the same.

This article speaks for itself. The express authority of the people alone could give due validity to the Constitution. To have required the unanimous ratification of the thirteen States would have subjected the essential interests of the whole to the caprice or corruption of a single member. It would have marked a want of foresight in the convention, which our own experience would have rendered inexcusable.

Two questions of a very delicate nature present themselves on this occasion: 1. On what principle the Confederation, which stands in the solemn form of a compact among the States, can be superseded without the unanimous consent of the parties to it? 2. What relation is to subsist between the nine or more States ratifying the Constitution, and the remaining few who do not become parties to it?

The first question is answered at once by recurring to the absolute necessity of the case; to the great principle of self-preservation; to the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim and to which all such institutions must be sacrificed. Perhaps, also, an

answer may be found without searching beyond the principles of the compact itself. It has been heretofore noted among the defects of the Confederation that in many of the States it had received no higher sanction than a mere legislative ratification. The principle of reciprocity seems to require that its obligation on the other States should be reduced to the same standard. A compact between independent sovereigns, founded on ordinary acts of legislative authority, can pretend to no higher validity than a league or treaty between the parties. It is an established doctrine on the subject of treaties that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; and that a breach, committed by either of the parties, absolves the others, and authorizes them, if they please, to pronounce the compact violated and void. Should it unhappily be necessary to appeal to these delicate truths for a justification for dispensing with the consent of particular States to a dissolution of the federal pact, will not the complaining parties find it a difficult task to answer the multiplied and important infractions with which they may be confronted? The time has been when it was incumbent on us all to veil the ideas which this paragraph exhibits. The scene is now changed, and with it the part which the same motives dictate.

The second question is not less delicate; and the flattering prospect of its being merely hypothetical forbids an over-curious discussion of it. It is one of those cases which must be left to provide for itself. In general, it may be observed that although no political relation can subsist between the assenting and dissenting States, yet the moral relations will remain uncanceled. The claims of justice, both on one side and on the other, will be in force, and must be fulfilled; the rights of humanity must in all cases be duly and mutually respected; whilst considerations of a common interest, and, above all, the remembrance of the endearing scenes which are past, and the anticipation of a speedy triumph over the obstacles to reunion, will, it is hoped, not urge in vain moderation on one side, and prudence on the other.

PUBLIUS [Madison]

Number 44: The Same View Continued and Concluded (Powers to be Vested in the Union)

# NUMBER 44

## THE SAME VIEW CONTINUED AND CONCLUDED

[James Madison]

A fifth class of provisions in favor of the federal authority consists of the following restrictions on the authority of the several States.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver a legal tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

The prohibition against treaties, alliances, and confederations makes a part of the existing articles of Union; and for reasons which need no explanation, is copied into the new Constitution. The prohibition of letters of marque is another part of the old system, but is somewhat extended in the new. According to the former, letters of marque could be granted by the States after a declaration of war; according to the latter, these licenses must be obtained, as well during war as previous to its declaration, from the government of the United States. This alteration is fully justified by the advantage of uniformity in all points which relate to foreign powers; and of immediate responsibility to the nation in all those for whose conduct the nation itself is to be responsible.

The right of coining money, which is here taken from the States, was left in their hands by the Confederation as a concurrent right with that of Congress, under an exception in favor of the exclusive right of Congress to regulate the alloy and Value. In this instance, also, the new provision is an improvement on the old. Whilst the alloy and value depended on the general authority, a right of coinage in the particular States could have no other effect than to multiply expensive mints and diversify the forms and weights of the circulating pieces. The latter inconveniency defeats one purpose for which the power was originally submitted to the federal head;

and as far as the former might prevent an inconvenient remittance of gold and silver to the central mint for recoinage, the end can be as well attained by local mints established under the general authority.

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money on the necessary confidence between man and man, on the necessary confidence in the public councils, on the industry and morals of the people, and on the character of republican government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it. In addition to these persuasive considerations, it may be observed that the same reasons which show the necessity of denying to the States the power of regulating coin prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. Had every State a right to regulate the value of its coin, there might be as many different currencies as States, and thus the intercourse among them would be impeded; retrospective alterations in its value might be made, and thus the citizens of other States be injured, and animosities be kindled among the States themselves. The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make anything but gold and silver a tender in payment of debts is withdrawn from the States on the same principle with that of issuing a paper currency.

Bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact and to every principle of sound legislation. The two former are expressly prohibited by the declarations prefixed to some of the State constitutions, and all of them are prohibited by the spirit and scope of these fundamental charters. Our own experience has taught us, nevertheless, that additional fences against these dangers ought not to be omitted. Very properly,

therefore, have the convention added this constitutional bulwark in favor of personal security and private rights; and I am much deceived if they have not, in so doing, as faithfully consulted the genuine sentiments as the undoubted interests of their constituents. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden changes and legislative interferences, in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators, and snares to the more industrious and less informed part of the community. They have seen, too, that one legislative interference is but the first link of a long chain of repetitions, every subsequent interference being naturally produced by the effects of the preceding. They very rightly infer, therefore, that some thorough reform is wanting, which will banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society. The prohibition with respect to titles of nobility is copied from the Articles of Confederation and needs no comment.

2. No State shall; without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of trade to the federal councils. It is needless, therefore, to remark further on this head, than that the manner in which the restraint is qualified seems well calculated at once to secure to the States a reasonable discretion in providing for the conveniency of their imports and exports, and to the United States a reasonable check against the abuse of this discretion. The remaining particulars of this clause fall within reasonings which are either so obvious, or have been so fully developed, that they may

be passed over without remark.

The sixth and last class consists of the several powers and provisions by which efficacy is given to all the rest.

1. Of these the first is the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof.

Few parts of the Constitution have been assailed with more intemperance than this; yet on a fair investigation of it, as has been elsewhere shown, no part can appear more completely invulnerable. Without the substance of this power, the whole Constitution would be a dead letter. Those who object to the article, therefore, as a part of the Constitution, can only mean that the form of the provision is improper. But have they considered whether a better form could have been substituted?

There are four other possible methods which the Convention might have taken on this subject. They might have copied the second article of the existing Confederation, which would have prohibited the exercise of any power not expressly delegated; they might have attempted a positive enumeration of the powers comprehended under the general terms necessary and proper ; they might have attempted a negative enumeration of them by specifying the powers excepted from the general definition; they might have been altogether silent on the subject, leaving these necessary and proper powers to construction and inference.

Had the convention taken the first method of adopting the second article of Confederation, it is evident that the new Congress would be continually exposed, as their predecessors have been, to the alternative of construing the term expressly with so much rigor as to disarm the government of all real authority whatever, or with so much latitude as to destroy altogether the force of the restriction. It would be easy to show, if it were necessary, that no important power delegated by the Articles of Confederation has been or can be executed by Congress, without recurring more or less to the doctrine of construction or implication. As the powers delegated under the new

system are more extensive, the government which is to administer it would find itself still more distressed with the alternative of betraying the public interests by doing nothing, or of violating the Constitution by exercising powers indispensably necessary and proper, but, at the same time, not expressly granted.

Had the convention attempted a positive enumeration of the powers necessary and proper for carrying their other powers into effect, the attempt would have involved a complete digest of laws on every subject to which the Constitution relates; accommodated too not only to the existing state of things, but to all the possible changes which futurity may produce; for in every new application of a general power, the particular powers, which are the means of attaining the object of the general power, must always necessarily vary with that object, and be often properly varied whilst the object remains the same.

Had they attempted to enumerate the particular powers or means not necessary or proper for carrying the general powers into execution, the task would have been no less chimerical; and would have been liable to this further objection, that every defect in the enumeration would have been equivalent to a positive grant of authority. If, to avoid this consequence, they had attempted a partial enumeration of the exceptions, and described the residue by the general terms not necessary or proper, it must have happened that the enumeration would comprehend a few of the excepted powers only; that these would be such as would be least likely to be assumed or tolerated, because the enumeration would of course select such as would be least necessary or proper; and that the unnecessary and improper powers included in the residuum would be less forcibly excepted than if no partial enumeration had been made.

Had the Constitution been silent on this head, there can be no doubt that all the particular powers requisite as means of executing the general powers would have resulted to the government by unavoidable implication. No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included. Had this last method, therefore, been pursued by the convention,

every objection now urged against their plan would remain in all its plausibility; and the real inconveniency would be incurred of not removing a pretext which may be seized on critical occasions for drawing into question the essential powers of the Union.

If it be asked what is to be the consequence, in case the Congress shall misconstrue this part of the Constitution and exercise powers not warranted by its true meaning. I answer the same as if they should misconstrue or enlarge any other power vested in them; as if the general power had been reduced to particulars, and any one of these were to be violated; the same, in short, as if the State legislatures should violate their respective constitutional authorities. In the first instance, the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representatives, annul the acts of the usurpers. The truth is that this ultimate redress may be more confided in against unconstitutional acts of the federal than of the State legislatures, for this plain reason that as every such act of the former will be an invasion of the rights of the latter, these will be ever ready to mark the innovation, to sound the alarm to the people, and to exert their local influence in effecting a change of federal representatives. There being no such intermediate body between the State legislatures and the people interested in watching the conduct of the former, violations of the State constitutions are more likely to remain unnoticed and unredressed.

2. This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

The indiscreet zeal of the adversaries to the Constitution has betrayed them into an attack on this part of it also, without which it would have been evidently and radically defective. To be fully sensible of this, we need only suppose for a moment that the supremacy of the State constitutions had

been left complete by a saving clause in their favor.

In the first place, as these constitutions invest the State legislatures with absolute sovereignty in all cases not excepted by the existing Articles of Confederation, all the authorities contained in the proposed Constitution, so far as they exceed those enumerated in the Confederation, would have been annulled, and the new Congress would have been reduced to the same impotent condition with their predecessors.

In the next place, as the constitutions of some of the States do not even expressly and fully recognize the existing powers of the Confederacy, an express saving of the supremacy of the former would, in such States, have brought into question every power contained in the proposed Constitution.

In the third place, as the constitutions of the States differ much from each other, it might happen that a treaty or national law of great and equal importance to the States would interfere with some and not with other constitutions, and would consequently be valid in some of the States at the same time that it would have no effect in others.

In fine, the world would have seen, for the first time, a system of government founded on an inversion of the fundamental principles of all government; it would have seen the authority of the whole society everywhere subordinate to the authority of the parts; it would have seen a monster, in which the head was under the direction of the members.

3. The senators and representatives, and the members of the several State legislatures, and all executive and judicial officers; both of the United States and the several States, shall be bound by oath or affirmation to support this Constitution.

It has been asked why it was thought necessary that the State magistracy should be bound to support the federal Constitution, and unnecessary that a like oath should be imposed on the officers of the United States in favor of the State constitutions.

Several reasons might be assigned for the distinction. I content myself with one, which is obvious and conclusive. The members of the federal government will have no agency in carrying the State constitutions into effect. The members and officers of the State governments, on the contrary, will have an essential agency in giving effect to the federal Constitution. The election of the President and Senate will depend, in all cases, on the legislatures of the several States. And the election of the House of Representatives will equally depend on the same authority in the first instance; and will, probably, forever be conducted by the officers and according to the laws of the States.

4. Among the provisions for giving efficacy to the federal powers might be added those which belong to the executive and judiciary departments: but as these are reserved for particular examination in another place, I pass them over in this.

We have now reviewed, in detail, all the articles composing the sum or quantity of power delegated by the proposed Constitution to the federal government, and are brought to this undeniable conclusion that no part of the power is unnecessary or improper for accomplishing the necessary objects of the Union. The question, therefore, whether this amount of power shall be granted or not resolves itself into another question, whether or not a government commensurate to the exigencies of the Union shall be established; or, in other words, whether the Union itself shall be preserved.

PUBLIUS [Madison]

Number 45: A Further Discussion of the Supposed Danger from the Powers of the Union to the State Governments

# NUMBER 45

A FURTHER DISCUSSION OF THE SUPPOSED DANGER  
FROM THE POWERS OF THE UNION  
TO THE STATE GOVERNMENTS

[James Madison]

HAVING shown that no one of the powers transferred to the federal government is unnecessary or improper, the next question to be considered is whether the whole mass of them will be dangerous to the portion of authority left in the several States.

The adversaries to the plan of the convention, instead of considering in the first place what degree of power was absolutely necessary for the purposes of the federal government, have exhausted themselves in a secondary inquiry into the possible consequences of the proposed degree of power to the governments of the particular States. But if the Union, as has been shown, be essential to the security of the people of America against foreign danger; if it be essential to their security against contentions and wars among the different States; if it be essential to guard them against those violent and oppressive factions which embitter the blessings of liberty and against those military establishments which must gradually poison its very fountain; if, in a word, the Union be essential to the happiness of the people of America, is it not preposterous to urge as an objection to a government, without which the objects of the Union cannot be attained, that such a government may derogate from the importance of the governments of the individual States? Was, then, the American Revolution effected, was the American Confederacy formed, was the precious blood of thousands spilt, and the hard-earned substance of millions lavished, not that the people of America should enjoy peace, liberty, and safety, but that the governments of the individual States, that particular municipal establishments, might enjoy a certain extent of power and be arrayed with certain dignities and attributes of sovereignty? We have heard of the impious doctrine in the old world, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a

different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued; and that no form of government whatever has any other value than as it may be fitted for the attainment of this object. Were the plan of the convention adverse to the public happiness, my voice would be, Reject the plan. Were the Union itself inconsistent with the public happiness, it would be, Abolish the Union. In like manner, as far as the sovereignty of the States cannot be reconciled to the happiness of the people, the voice of every good citizen must be, Let the former be sacrificed to the latter. How far the sacrifice is necessary has been shown. How far the unsacrificed residue will be endangered is the question before us.

Several important considerations have been touched in the course of these papers, which discountenance the supposition that the operation of the federal government will by degrees prove fatal to the State governments. The more I revolve the subject, the more fully I am persuaded that the balance is much more likely to be disturbed by the preponderancy of the last than of the first scale.

We have seen, in all the examples of ancient and modern confederacies, the strongest tendency continually betraying itself in the members to despoil the general government of its authorities, with a very ineffectual capacity in the latter to defend itself against the encroachments. Although, in most of these examples, the system has been so dissimilar from that under consideration as greatly to weaken any inference concerning the latter from the fate of the former, yet, as the States will retain under the proposed Constitution a very extensive portion of active sovereignty, the inference ought not to be wholly disregarded. In the Achaean league it is probable that the federal head had a degree and species of power which gave it a considerable likeness to the government framed by the convention. The Lycian Confederacy, as far as its principles and form are transmitted, must have borne a still greater analogy to it. Yet history does not inform us that either of them ever degenerated, or tended to degenerate, into one consolidated government. On the contrary, we know that the ruin of one of them proceeded from the incapacity of the federal authority to prevent the dissensions, and finally the disunion, of the subordinate authorities. These cases are the more worthy of our attention as the external causes by which

the component parts were pressed together were much more numerous and powerful than in our case; and consequently less powerful ligaments within would be sufficient to bind the members to the head and to each other.

In the feudal system, we have seen a similar propensity exemplified. Notwithstanding the want of proper sympathy in every instance between the local sovereigns and the people, and the sympathy in some instances between the general sovereign and the latter, it usually happened that the local sovereigns prevailed in the rivalry for encroachments. Had no external dangers enforced internal harmony and subordination, and particularly, had the local sovereigns possessed the affections of the people, the great kingdoms in Europe would at this time consist of as many independent princes as there were formerly feudatory barons.

The State governments will have the advantage of the federal government, whether we compare them in respect to the immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the predilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other.

The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former. Without the intervention of the State legislatures, the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will, perhaps, in most cases, of themselves determine it, The Senate will be elected absolutely and exclusively by the State legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men whose influence over the people obtains for themselves an election into the State legislatures. Thus, each of the principal branches of the federal government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing towards them. On the other side, the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the federal

government, and very little, if at all, to the local influence of its members.

The number of individuals employed under the Constitution of the United States will be much smaller than the number employed under the particular States. There will consequently be less of personal influence on the side of the former than of the latter. The members of the legislative, executive, and judiciary departments of thirteen and more States, the justices of peace, officers of militia, ministerial officers of justice, with all the county, corporation, and town officers, for three millions and more of people, intermixed and having particular acquaintance with every class and circle of people must exceed, beyond all proportion, both in number and influence, those of every description who will be employed in the administration of the federal system. Compare the members of the three great departments of the thirteen States, excluding from the judiciary department the justices of peace, with the members of the corresponding departments of the single government of the Union; compare the militia officers of three millions of people with the military and marine officers of any establishment which is within the compass of probability, or, I may add, of possibility, and in this view alone, we may pronounce the advantage of the States to be decisive. If the federal government is to have collectors of revenue, the State governments will have theirs also. And as those of the former will be principally on the seacoast, and not very numerous, whilst those of the latter will be spread over the face of the country, and will be very numerous, the advantage in this view also lies on the same side. It is true that the Confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection, under the immediate authority of the Union, will generally be made by the officers, and according to the rules, appointed by the several States. Indeed it is extremely probable that in other instances, particularly in the organization of the judicial power, the officers of the States will be clothed with the correspondent authority of the Union. Should it happen, however, that separate collectors of internal revenue should be appointed under the federal government, the influence of the whole number would not bear a comparison with that of the multitude of State officers in the opposite

scale. Within every district to which a federal collector would be allotted, there would not be less than thirty or forty, or even more, officers of different descriptions, and many of them persons of character and weight whose influence would lie on the side of the State.

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government. The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of NEW POWERS to the Union than in the invigoration of its ORIGINAL POWERS. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose and from which no apprehensions are entertained. The powers relating to war and peace, armies and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress by the Articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual mode of administering them. The change relating to taxation may be regarded as the most important; and yet the present Congress have as complete authority to REQUIRE of the States indefinite supplies of money for the common defense and general welfare

as the future Congress will have to require them of individual citizens; and the latter will be no more bound than the States themselves have been to pay the quotas respectively taxed on them. Had the States complied punctually with the Articles of Confederation, or could their compliance have been enforced by as peaceable means as may be used with success towards single persons, our past experience is very far from countenancing an opinion that the State governments would have lost their constitutional powers, and have gradually undergone an entire consolidation. To maintain that such an event would have ensued would be to say at once that the existence of the State governments is incompatible with any system whatever that accomplishes the essential purposes of the Union.

PUBLIUS [Madison]

Number 46: The Subject of the Last Paper Resumed with an Examination of the Comparative Means of Influence of the Federal and State Governments

# NUMBER 46

THE SUBJECT OF THE LAST PAPER RESUMED  
WITH AN EXAMINATION OF THE COMPARATIVE  
MEANS OF INFLUENCE OF  
THE FEDERAL AND STATE GOVERNMENTS

[James Madison]

RESUMING the subject of the last paper, I proceed to inquire whether the federal government or the State governments will have the advantage with regard to the predilection and support of the people. Notwithstanding the different modes in which they are appointed, we must consider both of them as substantially dependent on the great body of the citizens of the United States. I assume this position here as it respects the first, reserving the proofs for another place. The federal and State governments are in fact but different agents and trustees of the people, constituted with different powers and designed for different purposes. The adversaries of the Constitution seem to have lost sight of the people altogether in their reasonings on this subject; and to have viewed these different establishments not only as mutual rivals and enemies, but as uncontrolled by any common superior in their efforts to usurp the authorities of each other. These gentlemen must here be reminded of their error. They must be told that the ultimate authority, wherever the derivative may be found, resides in the people alone, and that it will not depend merely on the comparative ambition or address of the different governments whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expense of the other. Truth, no less than decency, requires that the event in every case should be supposed to depend on the sentiments and sanction of their common constituents.

Many considerations, besides those suggested on a former occasion, seem to place it beyond doubt that the first and most natural attachment of the people will be to the governments of their respective States. Into the administration of these a greater number of individuals will expect to rise. From the gift of these a greater number of offices and emoluments will flow. By the superintending care of these, all the more domestic and

personal interests of the people will be regulated and provided for. With the affairs of these, the people will be more familiarly and minutely conversant. And with the members of these will a greater proportion of the people have the ties of personal acquaintance and friendship, and of family and party attachments; on the side of these, therefore, the popular bias may well be expected most strongly to incline.

Experience speaks the same language in this case. The federal administration, though hitherto very defective in comparison with what may be hoped under a better system, had, during the war, and particularly whilst the independent fund of paper emissions was in credit, an activity and importance as great as it can well have in any future circumstances whatever. It was engaged, too, in a course of measures which had for their object the protection of everything that was dear, and the acquisition of everything that could be desirable to the people at large. It was, nevertheless, invariably found, after the transient enthusiasm for the early Congresses was over, that the attention and attachment of the people were turned anew to their own particular governments; that the federal council was at no time the idol of popular favor; and that opposition to proposed enlargements of its powers and importance was the side usually taken by the men who wished to build their political consequence on the prepossessions of their fellow-citizens.

If, therefore, as has been elsewhere remarked, the people should in future become more partial to the federal than to the State governments, the change can only result from such manifest and irresistible proofs of a better administration as will overcome all their antecedent propensities. And in that case, the people ought not surely to be precluded from giving most of their confidence where they may discover it to be most due; but even in that case the State governments could have little to apprehend, because it is only within a certain sphere that the federal power can, in the nature of things, be advantageously administered.

The remaining points on which I propose to compare the federal and State governments are the disposition and the faculty they may respectively possess to resist and frustrate the measures of each other.

It has been already proved that the members of the federal will be more dependent on the members of the State governments than the latter will be on the former. It has appeared also that the prepossessions of the people, on whom both will depend, will be more on the side of the State governments than of the federal government. So far as the disposition of each towards the other may be influenced by these causes, the State governments must clearly have the advantage. But in a distinct and very important point of view, the advantage will lie on the same side. The prepossessions, which the members themselves will carry into the federal government, will generally be favorable to the States; whilst it will rarely happen that the members of the State governments will carry into the public councils a bias in favor of the general government. A local spirit will infallibly prevail much more in the members of Congress than a national spirit will prevail in the legislatures of the particular States. Everyone knows that a great proportion of the errors committed by the State legislatures proceeds from the disposition of the members to sacrifice the comprehensive and permanent interest of the State to the particular and separate views of the counties or districts in which they reside. And if they do not sufficiently enlarge their policy to embrace the collective welfare of their particular State, how can it be imagined that they will make the aggregate prosperity of the Union, and the dignity and respectability of its government, the objects of their affections and consultations? For the same reason that the members of the State legislatures will be unlikely to attach themselves sufficiently to national objects, the members of the federal legislature will be likely to attach themselves too much to local objects. The States will be to the latter what counties and towns are to the former. Measures will too often be decided according to their probable effect, not on the national prosperity and happiness, but on the prejudices, interests, and pursuits of the governments and people of the individual States. What is the spirit that has in general characterized the proceedings of Congress? A perusal of their journals, as well as the candid acknowledgements of such as have had a seat in that assembly, will inform us that the members have but too frequently displayed the character rather of partisans of their respective States than of impartial guardians of a common interest; that where on one occasion improper sacrifices have been made of local considerations to the aggrandizement of the federal government; the great interests of the nation have suffered on a hundred from an undue attention to the local prejudices,

interests, and views of the particular States. I mean not by these reflections to insinuate that the new federal government will not embrace a more enlarged plan of policy than the existing government may have pursued; much less that its views will be as confined as those of the State legislatures; but only that it will partake sufficiently of the spirit of both to be disinclined to invade the rights of the individual States, or the prerogatives of their governments. The motives on the part of the State governments to augment their prerogatives by defalcations from the federal government will be overruled by no reciprocal predispositions in the members.

Were it admitted, however, that the federal government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments. If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and, of course, by means on the spot and depending on the State alone. The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or

of a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other. But what degree of madness could ever drive the federal government to such an extremity? In the contest with Great Britain, one part of the empire was employed against the other. The more numerous part invaded the rights of the less numerous part. The attempt was unjust and unwise; but it was not in speculation absolutely chimerical. But what would be the contest in the case we are supposing? Who would be the parties? A few representatives of the people would be opposed to the people themselves; or rather one set of representatives would be contending against thirteen sets of representatives, with the whole body of their common constituents on the side of the latter.

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm and continue to supply the materials until it should be prepared to burst on their own heads must appear to everyone more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it, however, be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government: still it would not be going too far to say that the State governments with the people on their side would be able to repel the danger. The highest number

to which, according to the best computation, a standing army can be carried in any country does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it. Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment by a blind and tame submission to the long train of insidious measures which must precede and produce it.

The argument under the present head may be put into a very concise form, which appears altogether conclusive. Either the mode in which the federal government is to be constructed will render it sufficiently dependent on the people, or it will not. On the first supposition, it will be restrained by that dependence from forming schemes obnoxious to their constituents. On the other supposition, it will not possess the confidence of the people, and its schemes of usurpation will be easily defeated by the State governments, who will be supported by the people.

On summing up the considerations stated in this and the last paper, they seem to amount to the most convincing evidence that the powers proposed to be lodged in the federal government are as little formidable to those reserved to the individual States as they are indispensably necessary to accomplish the purposes of the Union; and that all those alarms which have been sounded of a meditated and consequential annihilation of the State governments must, on the most favorable interpretation, be ascribed to the chimerical fears of the authors of them.

PUBLIUS [Madison]

Number 47: The Meaning of the Maxim, Which Requires a Separation of the Departments of Power, Examined and Ascertained

# NUMBER 47

THE MEANING OF THE MAXIM, WHICH REQUIRES  
A SEPARATION OF THE DEPARTMENTS OF POWER,  
EXAMINED AND ASCERTAINED

[James Madison]

HAVING reviewed the general form of the proposed government and the general mass of power allotted to it, I proceed to examine the particular structure of this government, and the distribution of this mass of power among its constituent parts.

One of the principal objections inculcated by the more respectable adversaries to the Constitution is its supposed violation of the political maxim that the legislative, executive, and judiciary departments ought to be separate and distinct. In the structure of the federal government no regard, it is said, seems to have been paid to this essential precaution in favor of liberty. The several departments of power are distributed and blended in such a manner as at once to destroy all symmetry and beauty of form, and to expose some of the essential parts of the edifice to the danger of being crushed by the disproportionate weight of other parts.

No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. Were the federal Constitution, therefore, really chargeable with this accumulation of power, or with a mixture of powers, having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system. I persuade myself, however, that it will be made apparent to everyone that the charge cannot be supported, and that the maxim on which it relies has been totally misconceived and misapplied. In order to form correct ideas on this important subject it will be proper to investigate the sense in which the preservation of liberty requires that the three great

departments of power should be separate and distinct.

The oracle who is always consulted and cited on this subject is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying and recommending it most effectually to the attention of mankind. Let us endeavor, in the first place, to ascertain his meaning on this point.

The British Constitution was to Montesquieu what Homer has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal bard as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged, so this great political critic appears to have viewed the Constitution of England as the standard, or to use his own expression, as the mirror of political liberty; and to have delivered, in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure, then, not to mistake his meaning in this case, let us recur to the source from which the maxim was drawn.

On the slightest view of the British Constitution, we must perceive that the legislative, executive, and judiciary departments are by no means totally separate and distinct from each other. The executive magistrate forms an integral part of the legislative authority. He alone has the prerogative of making treaties with foreign sovereigns which, when made, have, under certain limitations, the force of legislative acts. All the members of the judiciary department are appointed by him, can be removed by him on the address of the two Houses of Parliament, and form, when he pleases to consult them, one of his constitutional councils. One branch of the legislative department forms also a great constitutional council to the executive chief, as, on another hand, it is the sole depositary of judicial power in cases of impeachment, and is invested with the supreme appellate jurisdiction in all other cases. The judges, again, are so far connected with the legislative department as often to attend and participate in its deliberations, though not admitted to a legislative vote.

From these facts, by which Montesquieu was guided, it may clearly be inferred that in saying There can be no liberty where the legislative and

executive powers are united in the same person, or body of magistrates, or, if the power of judging be not separated from the legislative and executive powers, he did not mean that these departments ought to have no partial agency in, or no control over, the acts of each other. His meaning, as his own words import, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted. This would have been the case in the constitution examined by him, if the king, who is the sole executive magistrate, had possessed also the complete legislative power, or the supreme administration of justice; or if the entire legislative body had possessed the supreme judiciary, or the supreme executive authority. This, however, is not among the vices of that constitution. The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law; nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock; nor any legislative function, though they may be advised by the legislative councils. The entire legislature can perform no judiciary act, though by the joint act of two of its branches the judges may be removed from their offices, and though one of its branches is possessed of the judicial power in the last resort. The entire legislature, again, can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy, and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.

The reasons on which Montesquieu grounds his maxim are a further demonstration of his meaning. When the legislative and executive powers are united in the same person or body, says he, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner. Again: Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator, Were it joined to the executive power, the judge might behave with all the violence of an oppressor. Some of these reasons are more fully

explained in other passages; but briefly stated as they are here they sufficiently establish the meaning which we have put on this celebrated maxim of this celebrated author.

If we look into the constitutions of the several States we find that, notwithstanding the emphatical and, in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct. New Hampshire, whose constitution was the last formed, seems to have been fully aware of the impossibility and inexpediency of avoiding any mixture whatever of these departments, and has qualified the doctrine by declaring that the legislative, executive, and judiciary powers ought to be kept as separate from, and independent of, each other as the nature of a free government will admit; or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity. Her constitution accordingly mixes these departments in several respects. The Senate, which is a branch of the legislative department, is also a judicial tribunal for the trial of impeachments. The President, who is the head of the executive department, is the presiding member also of the Senate; and, besides an equal vote in all cases, has a casting vote in case of a tie. The executive head is himself eventually elective every year by the legislative department, and his council is every year chosen by and from the members of the same department. Several of the officers of state are also appointed by the legislature. And the members of the judiciary department are appointed by the executive department.

The constitution of Massachusetts has observed a sufficient though less pointed caution in expressing this fundamental article of liberty. It declares that the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them. This declaration corresponds precisely with the doctrine of Montesquieu, as it has been explained, and is not in a single point violated by the plan of the convention. It goes no farther than to prohibit any one of the entire departments from exercising the powers of another department. In the very

Constitution to which it is prefixed, a partial mixture of powers has been admitted. The executive magistrate has a qualified negative on the legislative body, and the Senate, which is a part of the legislature, is a court of impeachment for members both of the executive and judiciary departments. The members of the judiciary department, again, are appointable by the executive department, and removable by the same authority on the address of the two legislative branches. Lastly, a number of the officers of government are annually appointed by the legislative department. As the appointment to offices, particularly executive offices, is in its nature an executive function, the compilers of the Constitution have, in this last point at least, violated the rule established by themselves.

I pass over the constitutions of Rhode Island and Connecticut, because they were formed prior to the Revolution and even before the principle under examination had become an object of political attention.

The constitution of New York contains no declaration on this subject, but appears very clearly to have been framed with an eye to the danger of improperly blending the different departments. It gives, nevertheless, to the executive magistrate, a partial control over the legislative department; and, what is more, gives a like control to the judiciary department; and even blends the executive and judiciary departments in the exercise of this control. In its council of appointment members of the legislative are associated with the executive authority, in the appointment of officers, both executive and judiciary. And its court for the trial of impeachments and correction of errors is to consist of one branch of the legislature and the principal members of the judiciary department.

The constitution of New Jersey has blended the different powers of government more than any of the preceding. The governor, who is the executive magistrate, is appointed by the legislature; is chancellor and ordinary, or surrogate of the State; is a member of the Supreme Court of Appeals, and president, with a casting vote, of one of the legislative branches. The same legislative branch acts again as executive council to the governor, and with him constitutes the Court of Appeals. The members of the judiciary department are appointed by the legislative department, and

removable by one branch of it, on the impeachment of the other.

According to the constitution of Pennsylvania, the president, who is the head of the executive department, is annually elected by a vote in which the legislative department predominates. In conjunction with an executive council, he appoints the members of the judiciary department and forms a court of impeachment for trial of all officers, judiciary as well as executive. The judges of the Supreme Court and justices of the peace seem also to be removable by the legislature; and the executive power of pardoning, in certain cases, to be referred to the same department. The members of the executive council are made EX OFFICIO justices of peace throughout the State.

In Delaware, the chief executive magistrate is annually elected by the legislative department. The speakers of the two legislative branches are vice-presidents in the executive department. The executive chief, with six others appointed, three by each of the legislative branches, constitutes the Supreme Court of Appeals; he is joined with the legislative department in the appointment of the other judges. Throughout the States it appears that the members of the legislature may at the same time be justices of the peace; in this State, the members of one branch of it are EX OFFICIO justices of the peace; as are also the members of the executive council. The principal officers of the executive department are appointed by the legislative; and one branch of the latter forms a court of impeachments. All officers may be removed on address of the legislature.

Maryland has adopted the maxim in the most unqualified terms; declaring that the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other. Her constitution, notwithstanding, makes the executive magistrate appointable by the legislative department; and the members of the judiciary by the executive department.

The language of Virginia is still more pointed on this subject. Her constitution declares that the legislative, executive, and judiciary departments shall be separate and distinct; so that neither exercises the powers properly belonging to the other; nor shall any person exercise the

powers of more than one of them at the same time, except that the justices of county courts shall be eligible to either House of Assembly. Yet we find not only this express exception with respect to the members of the inferior courts, but that the chief magistrate, with his executive council, are appointable by the legislature; that two members of the latter are triennially displaced at the pleasure of the legislature; and that all the principal offices, both executive and judiciary, are filled by the same department. The executive prerogative of pardon, also, is in one case vested in the legislative department.

The constitution of North Carolina, which declares that the legislative, executive, and supreme judicial powers of government ought to be forever separate and distinct from each other, refers, at the same time, to the legislative department, the appointment not only of the executive chief, but all the principal officers within both that and the judiciary department.

In South Carolina, the constitution makes the executive magistracy eligible by the legislative department. It gives to the latter, also, the appointment of the members of the judiciary department, including even justices of the peace and sheriffs; and the appointment of officers in the executive department, down to captains in the army and navy of the State.

In the constitution of Georgia where it is declared that the legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other, we find that the executive department is to be filled by appointments of the legislature; and the executive prerogative of pardon to be finally exercised by the same authority. Even justices of the peace are to be appointed by the legislature.

In citing these cases, in which the legislative, executive, and judiciary departments have not been kept totally separate and distinct, I wish not to be regarded as an advocate for the particular organizations of the several State governments. I am fully aware that among the many excellent principles which they exemplify they carry strong marks of the haste, and still stronger of the inexperience, under which they were framed. It is but too obvious that in some instances the fundamental principle under consideration has been violated by too great a mixture, and even an actual

consolidation of the different powers; and that in no instance has a competent provision been made for maintaining in practice the separation delineated on paper. What I have wished to evince is that the charge brought against the proposed Constitution of violating the sacred maxim of free government is warranted neither by the real meaning annexed to that maxim by its author, nor by the sense in which it has hitherto been understood in America. This interesting subject will be resumed in the ensuing paper.

PUBLIUS [Madison]

Number 48: The Same Subject Continued with a View to the Means Of Giving Efficacy in Practice to That Maxim

# NUMBER 48

THE SAME SUBJECT CONTINUED  
WITH A VIEW TO THE MEANS OF GIVING  
EFFICACY IN PRACTICE TO THAT MAXIM  
[James Madison]

IT WAS shown in the last paper that the political apothegm there examined does not require that the legislative, executive, and judiciary departments should be wholly unconnected with each other. I shall undertake, in the next place, to show that unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.

It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it. After discriminating, therefore, in theory, the several classes of power, as they may in their nature be legislative, executive, or judiciary, the next and most difficult task is to provide some practical security for each, against the invasion of the others. What this security ought to be is the great problem to be solved.

Will it be sufficient to mark, with precision, the boundaries of these departments in the constitution of the government, and to trust to these parchment barriers against the encroaching spirit of power? This is the security which appears to have been principally relied on by the compilers of most of the American constitutions. But experience assures us that the efficacy of the provision has been greatly overrated; and that some more adequate defense is indispensably necessary for the more feeble against the more powerful members of the government. The legislative department is everywhere extending the sphere of its activity and drawing all power into

its impetuous vortex.

The founders of our republics have so much merit for the wisdom which they have displayed that no task can be less pleasing than that of pointing out the errors into which they have fallen. A respect for truth, however, obliges us to remark that they seem never for a moment to have turned their eyes from the danger, to liberty, from the overgrown and all-grasping prerogative of an hereditary magistrate, supported and fortified by an hereditary branch of the legislative authority. They seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations.

In a government where numerous and extensive prerogatives are placed in the hands of an hereditary monarch, the executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise in person the legislative functions and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their executive magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter. But in a representative republic where the executive magistracy is carefully limited, both in the extent and the duration of its power; and where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions.

The legislative department derives a superiority in our governments from other circumstances. Its constitutional powers being at once more extensive, and less susceptible of precise limits, it can, with the greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments. It is not unfrequently a question of real nicety in legislative bodies whether the operation of a particular

measure will, or will not, extend beyond the legislative sphere. On the other side, the executive power being restrained within a narrower compass and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is this all: as the legislative department alone has access to the pockets of the people, and has in some constitutions full discretion, and in all a prevailing influence, over the pecuniary rewards of those who fill the other departments, a dependence is thus created in the latter, which gives still greater facility to encroachments of the former.

I have appealed to our own experience for the truth of what I advance on this subject. Were it necessary to verify this experience by particular proofs, they might be multiplied without end. I might collect vouchers in abundance from the records and archives of every State in the Union. But as a more concise and at the same time equally satisfactory evidence, I will refer to the example of two States, attested by two unexceptionable authorities.

The first example is that of Virginia, a State which, as we have seen, has expressly declared in its constitution that the three great departments ought not to be intermixed. The authority in support of it is Mr. Jefferson, who, besides his other advantages for remarking the operation of the government, was himself the chief magistrate of it. In order to convey fully the ideas with which his experience had impressed him on this subject, it will be necessary to quote a passage of some length from his very interesting Notes on the State of Virginia, p. 195. All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits

without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and the executive members were left dependent on the legislative for their subsistence in office, and some of them for their continuance in it, If, therefore, the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can be effectual; because in that case they may put their proceedings into the form of acts of Assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy, and the direction of the executive, during the whole time of their session, is becoming habitual and familiar.

The other State which I shall have for an example is Pennsylvania; and the other authority, the Council of Censors, which assembled in the years 1783 and 1784. A part of the duty of this body, as marked out by the Constitution, was to inquire whether the Constitution had been preserved inviolate in every part; and whether the legislative and executive branches of government had performed their duty as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the Constitution. In the execution of this trust, the council were necessarily led to a comparison of both the legislative and executive proceedings with the constitutional powers of these departments; and from the facts enumerated, and to the truth of most of which both sides in the council subscribed, it appears that the Constitution had been flagrantly violated by the legislature in a variety of important instances.

A great number of laws had been passed violating, without any apparent necessity, the rule requiring that all bills of a public nature shall be previously printed for the consideration of the people; although this is one of the precautions chiefly relied on by the Constitution against improper acts of the legislature.

The constitutional trial by jury had been violated and powers assumed which had not been delegated by the Constitution.

Executive powers had been usurped.

The salaries of the judges, which the Constitution expressly requires to be fixed, had been occasionally varied; and cases belonging to the judiciary department frequently drawn within legislative cognizance and determination.

Those who wish to see the several particulars falling under each of these heads may consult the journals of the council which are in print. Some of them, it will be found, may be imputable to peculiar circumstances connected with the war; but the greater part of them may be considered as the spontaneous shoots of an ill-constituted government.

It appears, also, that the executive department had not been innocent of frequent breaches of the Constitution. There are three observations, however, which ought to be made on this head: first, a great proportion of the instances were either immediately produced by the necessities of the war, or recommended by Congress or the commander-in-chief; second, in most of the other instances they conformed either to the declared or the known sentiments of the legislative department; third, the executive department of Pennsylvania is distinguished from that of the other States by the number of members composing it. In this respect, it has as much affinity to a legislative assembly as to an executive council. And being at once exempt from the restraint of an individual responsibility for the acts of the body, and deriving confidence from mutual example and joint influence, unauthorized measures would, of course, be more freely hazarded, than where the executive department is administered by a single hand, or by a few hands.

The conclusion which I am warranted in drawing from these observations is that a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in

the same hands.

PUBLIUS [Madison]

Number 49: The Same Subject Continued with the Same View

# NUMBER 49

THE SAME SUBJECT CONTINUED  
WITH THE SAME VIEW

[James Madison]

THE author of the Notes on the State of Virginia, quoted in the last paper, has subjoined to that valuable work the draught of a constitution, which had been prepared in order to be laid before a convention expected to be called in 1783, by the legislature, for the establishment of a constitution for that commonwealth. The plan, like everything from the same pen, marks a turn of thinking, original, comprehensive, and accurate; and is the more worthy of attention as it equally displays a fervent attachment to republican government and an enlightened view of the dangerous propensities against which it ought to be guarded. One of the precautions which he proposes, and on which he appears ultimately to rely as a palladium to the weaker departments of power against the invasions of the stronger, is perhaps altogether his own, and as it immediately relates to the subject of our present inquiry, ought not to be overlooked.

His proposition is that whenever any two of the three branches of government shall concur in opinion, each by the voices of two thirds of their whole number, that a convention is necessary for altering the Constitution, or correcting breaches of it, a convention shall be called for the purpose.

As the people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived, it seems strictly consonant to the republican theory to recur to the same original authority, not only whenever it may be necessary to enlarge, diminish, or new-model the powers of government, but also whenever any one of the departments may commit encroachments on the chartered authorities of the others. The several departments being perfectly co-ordinate by the terms of their common commission, neither of them, it is evident, can pretend to an exclusive or superior right of settling the boundaries between their respective powers;

and how are the encroachments of the stronger to be prevented, or the wrongs of the weaker to be redressed, without an appeal to the people themselves, who, as the grantors of the commission, can alone declare its true meaning, and enforce its observance?

There is certainly great force in this reasoning, and it must be allowed to prove that a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions. But there appear to be insuperable objections against the proposed recurrence to the people, as a provision in all cases for keeping the several departments of power within their constitutional limits.

In the first place, the provision does not reach the case of a combination of two of the departments against the third. If the legislative authority, which possesses so many means of operating on the motives of the other departments, should be able to gain to its interest either of the others, or even one third of its members, the remaining department could derive no advantage from this remedial provision. I do not dwell, however, on this objection, because it may be thought to lie rather against the modifications of the principle, than against the principle itself.

In the next place, it may be considered as an objection inherent in the principle that as every appeal to the people would carry an implication of some defect in the government, frequent appeals would, in great measure, deprive the government of that veneration which time bestows on everything, and without which perhaps the wisest and freest governments would not possess the requisite stability. If it be true that all governments rest on opinion, it is no less true that the strength of opinion in each individual, and its practical influence on his conduct, depend much on the number which he supposes to have entertained the same opinion. The reason of man, like man himself, is timid and cautious when left alone, and acquires firmness and confidence in proportion to the number with which it is associated. When the examples which fortify opinion are ancient as well as numerous, they are known to have a double effect. In a nation of philosophers, this consideration ought to be disregarded. A reverence for the laws would be sufficiently inculcated by the voice of an enlightened reason. But a nation of philosophers is as little to be expected as the

philosophical race of kings wished for by Plato. And in every other nation, the most rational government will not find it a superfluous advantage to have the prejudices of the community on its side.

The danger of disturbing the public tranquillity by interesting too strongly the public passions is a still more serious objection against a frequent reference of constitutional questions to the decision of the whole society. Notwithstanding the success which has attended the revisions of our established forms of government and which does so much honor to the virtue and intelligence of the people of America, it must be confessed that the experiments are of too ticklish a nature to be unnecessarily multiplied. We are to recollect that all the existing constitutions were formed in the midst of a danger which repressed the passions most unfriendly to order and concord: of an enthusiastic confidence of the people in their patriotic leaders, which stifled the ordinary diversity of opinions on great national questions; of a universal ardor for new and opposite forms, produced by a universal resentment and indignation against the ancient government; and whilst no spirit of party connected with the changes to be made, or the abuses to be reformed, could mingle its leaven in the operation, The future situations in which we must expect to be usually placed do not present any equivalent security against the danger which is apprehended.

But the greatest objection of all is that the decisions which would probably result from such appeals would not answer the purpose of maintaining the constitutional equilibrium of the government. We have seen that the tendency of republican governments is to an aggrandizement of the legislative at the expense of the other departments. The appeals to the people, therefore, would usually be made by the executive and judiciary departments. But whether made by one side or the other, would each side enjoy equal advantages on the trial? Let us view their different situations. The members of the executive and judiciary departments are few in number, and can be personally known to a small part only of the people. The latter, by the mode of their appointment, as well as by the nature and permanency of it, are too far removed from the people to share much in their prepossessions. The former are generally the objects of jealousy and their administration is always liable to be discolored and rendered unpopular. The members of the legislative department, on the other hand, are

numerous. They are distributed and dwell among the people at large. Their connections of blood, of friendship, and of acquaintance embrace a great proportion of the most influential part of the society. The nature of their public trust implies a personal influence among the people, and that they are more immediately the confidential guardians of the rights and liberties of the people. With these advantages it can hardly be supposed that the adverse party would have an equal chance for a favorable issue.

But the legislative party would not only be able to plead their cause most successfully with the people. They would probably be constituted themselves the judges. The same influence which had gained them an election into the legislature would gain them a seat in the convention. If this should not be the case with all, it would probably be the case with many, and pretty certainly with those leading characters, on whom everything depends in such bodies. The convention, in short, would be composed chiefly of men who had been, who actually were, or who expected to be, members of the department whose conduct was arraigned. They would consequently be parties to the very question to be decided by them.

It might, however, sometimes happen, that appeals would be made under circumstances less adverse to the executive and judiciary departments. The usurpations of the legislature might be so flagrant and so sudden, as to admit of no specious coloring. A strong party among themselves might take side with the other branches. The executive power might be in the hands of a peculiar favorite of the people. In such a posture of things, the public decision might be less swayed by prepossessions in favor of the legislative party. But still it could never be expected to turn on the true merits of the question. It would inevitably be connected with the spirit of pre-existing parties, or of parties springing out of the question itself. It would be connected with persons of distinguished character and extensive influence in the community. It would be pronounced by the very men who had been agents in, or opponents of, the measures to which the decision would relate. The passions, therefore, not the reason, of the public would sit in judgment. But it is the reason, alone, of the public, that ought to control and regulate the government. The passions ought to be controlled and regulated by the government.

We found in the last paper that mere declarations in the written Constitution are not sufficient to restrain the several departments within their legal rights. It appears in this that occasional appeals to the people would be neither a proper nor an effectual provision for that purpose. How far the provisions of a different nature contained in the plan above quoted might be adequate I do not examine. Some of them are unquestionably founded on sound political principles, and all of them are framed with singular ingenuity and precision.

PUBLIUS [Madison]

Number 50: The Same Subject Continued with the Same View

# NUMBER 50

THE SAME SUBJECT CONTINUED  
WITH THE SAME VIEW

[James Madison]

IT MAY be contended, perhaps, that instead of occasional appeals to the people, which are liable to the objections urged against them, periodical appeals are the proper and adequate means of preventing and correcting infractions of the Constitution.

It will be attended to that in the examination of these expedients I confine myself to their aptitude for enforcing the Constitution, by keeping the several departments of power within their due bounds without particularly considering them as provisions for altering the Constitution itself. In the first view, appeals to the people at fixed periods appear to be nearly as ineligible as appeals on particular occasions as they emerge. If the periods be separated by short intervals, the measures to be reviewed and rectified will have been of recent date, and will be connected with all the circumstances which tend to vitiate and pervert the result of occasional revisions. If the periods be distant from each other, the same remark will be applicable to all recent measures; and in proportion as the remoteness of the others may favor a dispassionate review of them, this advantage is inseparable from inconveniences which seem to counterbalance it. In the first place, a distant prospect of public censure would be a very feeble restraint on power from those excesses to which it might be urged by the force of present motives. Is it to be imagined that a legislative assembly, consisting of a hundred or two hundred members, eagerly bent on some favorite object, and breaking through the restraints of the Constitution in pursuit of it, would be arrested in their career by considerations drawn from a censorial revision of their conduct at the future distance of ten, fifteen, or twenty years? In the next place, the abuses would often have completed their mischievous effects before the remedial provision would be applied. And in the last place, where this might not be the case, they would be of long standing, would have taken deep root, and would not easily be

extirpated.

The scheme of revising the Constitution, in order to correct recent breaches of it, as well as for other purposes, has been actually tried in one of the States. One of the objects of the Council of Censors which met in Pennsylvania in 1783 and 1784, was, as we have seen, to inquire, whether the Constitution had been violated, and whether the legislative and executive departments had encroached on each other. This important and novel experiment in politics merits, in several points of view, very particular attention. In some of them it may, perhaps, as a single experiment, made under circumstances somewhat peculiar, be thought to be not absolutely conclusive. But as applied to the case under consideration it involves some facts which I venture to remark, as a complete and satisfactory illustration of the reasoning which I have employed.

First. It appears, from the names of the gentlemen who composed the council that some, at least, of its most active and leading members had also been active and leading characters in the parties which pre-existed in the State.

Second. It appears that the same active and leading members of the council had been active and influential members of the legislative and executive branches within the period to be reviewed; and even patrons or opponents of the very measures to be thus brought to the test of the Constitution. Two of the members had been vice-presidents of the State, and several others, members of the executive council within the seven preceding years. One of them had been speaker, and a number of others distinguished members of the legislative assembly within the same period.

Third. Every page of their proceedings witnesses the effect of all these circumstances on the temper of their deliberations. Throughout the continuance of the council, it was split into two fixed and violent parties. The fact is acknowledged and lamented by themselves. Had this not been the case, the face of their proceedings exhibits a proof equally satisfactory. In all questions, however unimportant in themselves, or unconnected with each other, the same names stand invariably contrasted on the opposite columns. Every unbiased observer may infer, without danger of mistake,

and at the same time without meaning to reflect on either party. Or any individuals of either party, that, unfortunately, passion, not reason, must have presided over their decisions. When men exercise their reason coolly and freely on a variety of distinct questions, they inevitably fall into different opinions on some of them. When they are governed by a common passion, their opinions, if they are so to be called, will be the same.

Fourth. It is at least problematical whether the decisions of this body do not, in several instances, misconstrue the limits prescribed for the legislative and executive departments, instead of reducing and limiting them within their constitutional places.

Fifth. I have never understood that the decisions of the council on constitutional questions, whether rightly or erroneously formed, have had any effect in varying the practice founded on legislative constructions. It even appears, if I mistake not, that in one instance the contemporary legislature denied the constructions of the council, and actually prevailed in the contest.

This censorial body, therefore, proves at the same time, by its researches, the existence of the disease, and by its example, the inefficacy of the remedy.

This conclusion cannot be invalidated by alleging that the State in which the experiment was made was at that crisis, and had been for a long time before, violently heated and distracted by the rage of party. Is it to be presumed that at any future septennial epoch the same State will be free from parties? Is it to be presumed that any other State, at the same or any other given period, will be exempt from them? Such an event ought to be neither presumed nor desired; because an extinction of parties necessarily implies either a universal alarm for the public safety, or an absolute extinction of liberty.

Were the precaution taken of excluding, from the assemblies elected by the people to revise the preceding administration of the government, all persons who should have been concerned with the government within the given period, the difficulties would not be obviated. The important task would

probably devolve on men, who, with inferior capacities, would in other respects be little better qualified. Although they might not have been personally concerned in the administration, and therefore not immediately agents in the measures to be examined, they would probably have been involved in the parties connected with these measures and have been elected under their auspices.

PUBLIUS [Madison]

Number 51: The Same Subject Continued with the Same View and Concluded

# NUMBER 51

THE SAME SUBJECT CONTINUED  
WITH THE SAME VIEW AND CONCLUDED

[James Madison]

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments as laid down in the Constitution? The only answer that can be given is that as all these exterior provisions are found to be inadequate the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea I will hazard a few general observations which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expense would attend the execution of it. Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; second,

because the permanent tenure by which the appointments are held in that department must soon destroy all sense of dependence on the authority conferring them.

It is equally evident that the members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal.

But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government, But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other—that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State.

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department?

If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution, it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test.

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among

distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

Second. It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority—that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies, or States, oppressive combinations of a majority will be facilitated; the best security, under the republican forms, for the rights of every class of citizen, will be diminished; and consequently the stability and independence of some member of the government, the only other security, must be proportionally increased, justice is the end of

government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practicable sphere, the more duly capable it will be of self-government. And happily for the republican cause, the practicable sphere may be carried to a very great extent by a judicious modification and mixture of the federal principle.

PUBLIUS [Madison]

Number 52: Concerning the House of Representatives, with a View to the Qualifications of the Electors and Elected, and the Time of Service of the Members

# NUMBER 52

CONCERNING THE HOUSE OF REPRESENTATIVES,  
WITH A VIEW TO THE QUALIFICATIONS OF  
THE ELECTORS AND ELECTED, AND  
THE TIME OF SERVICE OF THE MEMBERS

[James Madison]

FROM the more general inquiries pursued in the four last papers, I pass on to a more particular examination of the several parts of the government. I shall begin with the House of Representatives.

The first view to be taken of this part of the government relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch of the State legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the federal government which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the convention. The provision made by the convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the federal Constitution.

The qualifications of the elected, being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention. A representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must, at the time of his election, be an inhabitant of the State he is to represent; and, during the time of his service, must be in no office under the United States. Under these reasonable limitations, the door of this part of the federal government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith.

The term for which the representatives are to be elected falls under a second view which may be taken of this branch. In order to decide on the propriety of this article, two questions must be considered: first, whether biennial elections will, in this case, be safe; second, whether they be necessary or useful.

First. As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured. But what particular degree of frequency may be absolutely necessary for the purpose does not appear to be susceptible of any precise calculation, and must depend on a variety of circumstances with which it may be connected. Let us consult experience, the guide that ought always to be followed whenever it can be found.

The scheme of representation as a substitute for a meeting of the citizens in person being at most but very imperfectly known to ancient polity, it is in more modern times only that we are to expect instructive examples. And even here, in order to avoid a research too vague and diffusive, it will be proper to confine ourselves to the few examples which are best known, and which bear the greatest analogy to our particular case. The first to which this character ought to be applied is the House of Commons in Great Britain. The history of this branch of the English Constitution, anterior to

the date of Magna Charta, is too obscure to yield instruction. The very existence of it has been made a question among political antiquaries. The earliest records of subsequent date prove that parliaments were to sit only every year; not that they were to be elected every year. And even these annual sessions were left so much at the discretion of the monarch, that, under various pretexts, very long and dangerous intermissions were often contrived by royal ambition. To remedy this grievance, it was provided by a statute in the reign of Charles II that the intermissions should not be protracted beyond a period of three years. On the accession of William III, when a revolution took place in the government, the subject was still more seriously resumed, and it was declared to be among the fundamental rights of the people that parliaments ought to be held frequently. By another statute, which passed a few years later in the same reign, the term frequently, which had alluded to the triennial period settled in the time of Charles II, is reduced to a precise meaning, it being expressly enacted that a new parliament shall be called within three years after the termination of the former. The last change, from three to seven years, is well known to have been introduced pretty early in the present century, under an alarm for the Hanoverian succession. From these facts it appears that the greatest frequency of elections which has been deemed necessary in that kingdom for binding the representatives to their constituents does not exceed a triennial return of them. And if we may argue from the degree of liberty retained even under septennial elections, and all the other vicious ingredients in the parliamentary Constitution, we cannot doubt that a reduction of the period from seven to three years, with the other necessary reforms, would so far extend the influence of the people over their representatives as to satisfy us that biennial elections, under the federal system, cannot possibly be dangerous to the requisite dependence of the House of Representatives on their constituents.

Elections in Ireland, till of late, were regulated entirely by the discretion of the crown, and were seldom repeated, except on the accession of a new prince, or some other contingent event. The Parliament which commenced with George II was continued throughout his whole reign, a period of about thirty-five years. The only dependence of the representatives on the people consisted in the right of the latter to supply occasional vacancies by the election of new members, and in the chance of some event which might

produce a general new election. The ability also of the Irish parliament to maintain the rights of their constituents, so far as the disposition might exist, was extremely shackled by the control of the crown over the subjects of their deliberation. Of late, these shackles, if I mistake not, have been broken; and octennial parliaments have besides been established. What effect may be produced by this partial reform must be left to further experience. The example of Ireland, from this view of it, can throw but little light on the subject. As far as we can draw any conclusion from it, it must be that if the people of that country have been able under all these disadvantages to retain any liberty whatever, the advantage of biennial elections would secure to them every degree of liberty, which might depend on a due connection between their representatives and themselves.

Let us bring our inquiries nearer home. The example of these States, when British colonies, claims particular attention, at the same time that it is so well known as to require little to be said on it. The principle of representation, in one branch of the legislature at least, was established in all of them. But the periods of election were different. They varied from one to seven years. Have we any reason to infer, from the spirit and conduct of the representatives of the people, prior to the Revolution, that biennial elections would have been dangerous to the public liberties? The spirit which everywhere displayed itself at the commencement of the struggle, and which vanquished the obstacles to independence, is the best of proofs that a sufficient portion of liberty had been everywhere enjoyed to inspire both a sense of its worth and a zeal for its proper enlargement. This remark holds good as well with regard to the then colonies whose elections were least frequent, as to those whose elections were most frequent. Virginia was the colony which stood first in resisting the parliamentary usurpations of Great Britain; it was the first also in espousing, by public act, the resolution of independence. In Virginia, nevertheless, if I have not been misinformed, elections under the former government were septennial. This particular example is brought into view, not as a proof of any peculiar merit, for the priority in those instances was probably accidental; and still less of any advantage in septennial elections, for when compared with a greater frequency they are inadmissible; but merely as a proof, and I conceive it to be a very substantial proof, that the liberties of the people can be in no

danger from biennial elections.

The conclusion resulting from these examples will be not a little strengthened by recollecting three circumstances. The first is, that the federal legislature will possess a part only of that supreme legislative authority which is vested completely in the British Parliament; and which, with a few exceptions, was exercised by the colonial assemblies and the Irish legislature. It is a received and well-founded maxim that where no other circumstances affect the case, the greater the power is, the shorter ought to be its duration; and, conversely, the smaller the power, the more safely may its duration be protracted. In the second place it has, on another occasion, been shown that the federal legislature will not only be restrained by its dependence on the people, as other legislative bodies are, but that it will be, moreover, watched and controlled by the several collateral legislatures, which other legislative bodies are not. And in the third place, no comparison can be made between the means that will be possessed by the more permanent branches of the federal government for seducing, if they should be disposed to seduce, the House of Representatives from their duty to the people, and the means of influence over the popular branch possessed by the other branches of the government above cited. With less power, therefore, to abuse, the federal representatives can be less tempted on one side, and will be doubly watched on the other.

PUBLIUS [Madison]

Number 53: The Same Subject Continued with a View of the Term of the Service of the Members

# NUMBER 53

THE SAME SUBJECT CONTINUED  
WITH A VIEW OF THE TERM OF  
THE SERVICE OF THE MEMBERS

[James Madison]

I SHALL here, perhaps, be reminded of a current observation that where annual elections end, tyranny begins. If it be true, as has often been remarked, that sayings which become proverbial are generally founded in reason, it is not less true that when once established they are often applied to cases to which the reason of them does not extend, I need not look for a proof beyond the case before us. What is the reason on which this proverbial observation is founded? No man will subject himself to the ridicule of pretending that any natural connection subsists between the sun or the seasons, and the period within which human virtue can bear the temptations of power. Happily for mankind, liberty is not, in this respect, confined to any single point of time, but lies within extremes, which afford sufficient latitude for all the variations which may be required by the various situations and circumstances of civil society. The election of magistrates might be, if it were found expedient, as in some instances it actually has been, daily, weekly, or monthly, as well as annual; and if circumstances may require a deviation from the rule on one side, why not also on the other side? Turning our attention to the periods established among ourselves, for the election of the most numerous branches of the State legislatures, we find them by no means coinciding any more in this instance than in the elections of other civil magistrates. In Connecticut and Rhode Island, the periods are half-yearly. In the other States, South Carolina excepted, they are annual. In South Carolina they are biennial—as is proposed in the federal government. Here is a difference, as four to one, between the longest and shortest periods; and yet it would be not easy to show, that Connecticut or Rhode Island is better governed, or enjoys a greater share of rational liberty, than South Carolina; or that either the one or the other of these States is distinguished in these respects, and by these causes, from the States whose elections are different from both.

In searching for the grounds of this doctrine, I can discover but one, and that is wholly inapplicable to our case. The important distinction so well understood in America between a Constitution established by the people and unalterable by the government, and a law established by the government and alterable by the government, seems to have been little understood and less observed in any other country. Wherever the supreme power of legislation has resided, has been supposed to reside also a full power to change the form of the government. Even in Great Britain, where the principles of political and civil liberty have been most discussed, and where we hear most of the rights of the Constitution, it is maintained that the authority of the Parliament is transcendent and uncontrollable as well with regard to the Constitution as the ordinary objects of legislative provision. They have accordingly, in several instances, actually changed, by legislative acts, some of the most fundamental articles of the government. They have in particular, on several occasions, changed the period of election; and, on the last occasion, not only introduced septennial in place of triennial elections, but by the same act, continued themselves in place four years beyond the term for which they were elected by the people. Inattention to these dangerous practices has produced a very natural alarm in the votaries of free government, of which frequency of elections is the cornerstone; and has led them to seek for some security to liberty, against the danger to which it is exposed. Where no Constitution, paramount to the government, either existed or could be obtained, no constitutional security, similar to that established in the United States, was to be attempted. Some other security, therefore, was to be sought for; and what better security would the case admit than that of selecting and appealing to some simple and familiar portion of time as a standard for measuring the danger of innovations, for fixing the national sentiment, and for uniting the patriotic exertions? The most simple and familiar portion of time applicable to the subject was that of a year; and hence the doctrine has been inculcated by a laudable zeal to erect some barrier against the gradual innovations of an unlimited government, that the advance towards tyranny was to be calculated by the distance of departure from the fixed point of annual elections. But what necessity can there be of applying this expedient to a government limited, as the federal government will be, by the authority of a paramount Constitution? Or who will pretend that the liberties of the people of America will not be more secure under biennial elections, unalterably

fixed by such a Constitution, than those of any other nation would be, where elections were annual, or even more frequent, but subject to alterations by the ordinary power of the government?

The second question stated is whether biennial elections be necessary or useful. The propriety of answering this question in the affirmative will appear from several very obvious considerations.

No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it. The period of service ought, therefore, in all such cases, to bear some proportion to the extent of practical knowledge requisite to the due performance of the service. The period of legislative service established in most of the States for the more numerous branch is, as we have seen, one year. The question then may be put into this simple form: does the period of two years bear no greater proportion to the knowledge requisite for federal legislation than one year does to the knowledge requisite for State legislation? The very statement of the question, in this form, suggests the answer that ought to be given to it.

In a single State, the requisite knowledge relates to the existing laws which are uniform throughout the State and with which all the citizens are more or less conversant; and to the general affairs of the State, which lie within a small compass, are not very diversified, and occupy much of the attention and conversation of every class of people. The great theater of the United States presents a very different scene. The laws are so far from being uniform that they vary in every State; whilst the public affairs of the Union are spread throughout a very extensive region and are extremely diversified by the local affairs connected with them, and can with difficulty be correctly learned in any other place than in the central councils, to which a knowledge of them will be brought by the representatives of every part of the empire. Yet some knowledge of the affairs, and even of the laws, of all the States, ought to be possessed by the members from each of the States.

How can foreign trade be properly regulated by uniform laws without some acquaintance with the commerce, the ports, the usages, and the regulations of the different States? How can the trade between the different States be duly regulated without some knowledge of their relative situations in these and other points? How can taxes be judiciously imposed and effectually collected if they be not accommodated to the different laws and local circumstances relating to these objects in the different States? How can uniform regulations for the militia be duly provided without a similar knowledge of some internal circumstances by which the States are distinguished from each other? These are the principal objects of federal legislation and suggest most forcibly the extensive information which the representatives ought to acquire. The other inferior objects will require a proportional degree of information with regard to them.

It is true that all these difficulties will, by degrees, be very much diminished. The most laborious task will be the proper inauguration of the government and the primeval formation of a federal code. Improvements on the first draught will every year become both easier and fewer. Past transactions of the government will be a ready and accurate source of information to new members. The affairs of the Union will become more and more objects of curiosity and conversation among the citizens at large. And the increased intercourse among those of different States will contribute not a little to diffuse a mutual knowledge of their affairs, as this again will contribute to a general assimilation of their manners and laws. But with all these abatements, the business of federal legislation must continue so far to exceed, both in novelty and difficulty, the legislative business of a single State, as to justify the longer period of service assigned to those who are to transact it.

A branch of knowledge which belongs to the acquirements of a federal representative and which has not been mentioned is that of foreign affairs. In regulating our own commerce, he ought to be not only acquainted with the treaties between the United States and other nations, but also with the commercial policy and laws of other nations. He ought not to be altogether ignorant of the law of nations; for that, as far as it is a proper object of municipal legislation, is submitted to the federal government. And although the House of Representatives is not immediately to participate in foreign

negotiations and arrangements, yet from the necessary connection between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation and will sometimes demand particular legislative sanction and co-operation. Some portion of this knowledge may, no doubt, be acquired in a man's closet; but some of it also can only be derived from the public sources of information; and all of it will be acquired to best effect by a practical attention to the subject during the period of actual service in the legislature.

There are other considerations, of less importance perhaps, but which are not unworthy of notice. The distance which many of the representatives will be obliged to travel and the arrangements rendered necessary by that circumstance might be much more serious objections with fit men to this service, if limited to a single year, than if extended to two years. No argument can be drawn on this subject from the case of the delegates to the existing Congress. They are elected annually, it is true; but their re-election is considered by the legislative assemblies almost as a matter of course. The election of the representatives by the people would not be governed by the same principle.

A few of the members, as happens in all such assemblies, will possess superior talents; will, by frequent re-elections, become members of long standing; will be thoroughly masters of the public business, and perhaps not unwilling to avail themselves of those advantages. The greater the proportion of new members and the less the information of the bulk of the members, the more apt will they be to fall into the snares that may be laid for them. This remark is no less applicable to the relation which will subsist between the House of Representatives and the Senate.

It is an inconvenience mingled with the advantages of our frequent elections, even in single States, where they are large, and hold but one legislative session in a year, that spurious elections cannot be investigated and annulled in time for the decision to have its due effect. If a return can be obtained, no matter by what unlawful means, the irregular member, who takes his seat of course, is sure of holding it a sufficient time to answer his purposes. Hence, a very pernicious encouragement is given to the use of unlawful means for obtaining irregular returns. Were elections for the

federal legislature to be annual this practice might become a very serious abuse, particularly in the more distant States. Each house is, as it necessarily must be, the judge of the elections, qualifications, and returns of its members; and whatever improvements may be suggested by experience for simplifying and accelerating the process in disputed cases, so great a portion of a year would unavoidably elapse before an illegitimate member could be dispossessed of his seat that the prospect of such an event would be little check to unfair and illicit means of obtaining a seat.

All these considerations taken together warrant us in affirming that biennial elections will be as useful to the affairs of the public as we have seen that they will be safe to the liberties of the people.

PUBLIUS [Madison]

Number 54: The Same Subject Continued with a View to the Ratio Of Representation

# NUMBER 54

THE SAME SUBJECT CONTINUED  
WITH A VIEW TO THE RATIO OF REPRESENTATION

[James Madison]

THE next view which I shall take of the House of Representatives relates to the apportionment of its members to the several States, which is to be determined by the same rule with that of direct taxes.

It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State. The establishment of the same rule for the apportionment of taxes will probably be as little contested; though the rule itself, in this case, is by no means founded on the same principle. In the former case, the rule is understood to refer to the personal rights of the people, with which it has a natural and universal connection, In the latter, it has reference to the proportion of wealth of which it is in no case a precise measure, and in ordinary cases a very unfit one. But notwithstanding the imperfection of the rule as applied to the relative wealth and contributions of the States, it is evidently the least exceptionable among the practicable rules, and had too recently obtained the general sanction of America not to have found a ready preference with the convention.

All this is admitted, it will perhaps be said; but does it follow, from an admission of numbers for the measure of representation, or of slaves combined with free citizens as a ratio of taxation, that slaves ought to be included in the numerical rule of representation? Slaves are considered as property, not as persons. They ought therefore to be comprehended in estimates of taxation which are founded on property, and to be excluded from representation which is regulated by a census of persons. This is the objection, as I understand it, stated in its full force. I shall be equally candid in stating the reasoning which may be offered on the opposite side.

We subscribe to the doctrine, might one of our Southern brethren observe, that representation relates more immediately to persons, and taxation more

immediately to property, and we join in the application of this distinction to the case of our slaves. But we must deny the fact that slaves are considered merely as property, and in no respect whatever as persons. The true state of the case is that they partake of both these qualities: being considered by our laws, in some respects, as persons, and in other respects as property, In being compelled to labor, not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty and chastised in his body, by the capricious will of another—the slave may appear to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property, In being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labor and his liberty; and in being punishable himself for all violence committed against others—the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; as a moral person, not as a mere article of property. The federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property. This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied that these are the proper criterion; because it is only under the pretext that the laws have transformed the Negroes into subjects of property that a place is disputed them in the computation of numbers; and it is admitted that if the laws were to restore the rights which have been taken away, the Negroes could no longer be refused an equal share of representation with the other inhabitants.

This question may be placed in another light. It is agreed on all sides that numbers are the best scale of wealth and taxation, as they are the only proper scale of representation. Would the convention have been impartial or consistent, if they had rejected the slaves from the list of inhabitants when the shares of representation were to be calculated, and inserted them on the lists when the tariff of contributions was to be adjusted? Could it be reasonably expected that the Southern States would concur in a system which considered their slaves in some degree as men when burdens were to be imposed, but refused to consider them in the same light when advantages were to be conferred? Might not some surprise also be expressed that those who reproach the Southern States with the barbarous policy of considering

as property a part of their human brethren should themselves contend that the government to which all the States are to be parties ought to consider this unfortunate race more completely in the unnatural light of property than the very laws of which they complain?

It may be replied, perhaps, that slaves are not included in the estimate of representatives in any of the States possessing them. They neither vote themselves nor increase the votes of their masters. Upon what principle, then, ought they to be taken into the federal estimate of representation? In rejecting them altogether, the Constitution would, in this respect, have followed the very laws which have been appealed to as the proper guide.

This objection is repelled by a single observation. It is a fundamental principle of the proposed Constitution that as the aggregate number of representatives allotted to the several States is to be determined by a federal rule founded on the aggregate number of inhabitants, so the right of choosing this allotted number in each State is to be exercised by such part of the inhabitants as the State itself may designate. The qualifications on which the right of suffrage depend are not, perhaps, the same in all two States, In some of the States the difference is very material. In every State, a certain proportion of inhabitants are deprived of this right by the constitution of the State, who will be included in the census by which the federal Constitution apportions the representatives. In this point of view the Southern States might retort the complaint by insisting that the principle laid down by the convention required that no regard should be had to the policy of particular States towards their own inhabitants; and consequently that the slaves, as inhabitants, should have been admitted into the census according to their full number, in like manner with other inhabitants, who, by the policy of other States, are not admitted to all the rights of citizens. A rigorous adherence, however, to this principle is waived by those who would be gainers by it. All that they ask is that equal moderation be shown on the other side. Let the case of the slaves be considered, as it is in truth a peculiar one. Let the compromising expedient of the Constitution be mutually adopted which regards them as inhabitants, but as debased by servitude below the equal level of free inhabitants; which regards the slave as divested of two fifths of the man.

After all, may not another ground be taken on which this article of the Constitution will admit of a still more ready defense? We have hitherto proceeded on the idea that representation related to persons only, and not at all to property. But is it a just idea? Government is instituted no less for protection of the property than of the persons of individuals. The one as well as the other, therefore, may be considered as represented by those who are charged with the government. Upon this principle it is that in several of the States, and particularly in the State of New York, one branch of the government is intended more especially to be the guardian of property and is accordingly elected by that part of the society which is most interested in this object of government. In the federal Constitution, this policy does not prevail. The rights of property are committed into the same hands with the personal rights. Some attention ought, therefore, to be paid to property in the choice of those hands.

For another reason, the votes allowed in the federal legislature to the people of each State ought to bear some proportion to the comparative wealth of the States. States have not, like individuals, an influence over each other, arising from superior advantages of fortune. If the law allows an opulent citizen but a single vote in the choice of his representative, the respect and consequence which he derives from his fortunate situation very frequently guide the votes of others to the objects of his choice; and through this imperceptible channel the rights of property are conveyed into the public representation. A State possesses no such influence over other States. It is not probable that the richest State in the Confederacy will ever influence the choice of a single representative in any other State. Nor will the representatives of the larger and richer States possess any other advantage in the federal legislature over the representatives of other States than what may result from their superior number alone. As far, therefore, as their superior wealth and weight may justly entitle them to any advantage, it ought to be secured to them by a superior share of representation. The new Constitution is, in this respect, materially different from the existing Confederation, as well as from that of the United Netherlands, and other similar confederacies. In each of the latter, the efficacy of the federal resolutions depends on the subsequent and voluntary resolutions of the States composing the union. Hence the States, though possessing an equal vote in the public councils, have an unequal influence, corresponding with

the unequal importance of these subsequent and voluntary resolutions. Under the proposed Constitution, the federal acts will take effect without the necessary intervention of the individual States. They will depend merely on the majority of votes in the federal legislature, and consequently each vote, whether proceeding from a larger or a smaller State, or a State more or less wealthy or powerful, will have an equal weight and efficacy: in the same manner as the votes individually given in a State legislature, by the representatives of unequal counties or other districts, have each a precise equality of value and effect; or if there be any difference in the case, it proceeds from the difference in the personal character of the individual representative, rather than from any regard to the extent of the district from which he comes.

Such is the reasoning which an advocate for the Southern interests might employ on this subject; and although it may appear to be a little strained in some points, yet on the whole, I must confess that it fully reconciles me to the scale of representation which the convention have established.

In one respect, the establishment of a common measure for representation and taxation will have a very salutary effect. As the accuracy of the census to be obtained by the Congress will necessarily depend, in a considerable degree, on the disposition, if not on the co-operation of the States, it is of great importance that the States should feel as little bias as possible to swell or to reduce the amount of their numbers. Were their share of representation alone to be governed by this rule, they would have an interest in exaggerating their inhabitants. Were the rule to decide their share of taxation alone, a contrary temptation would prevail. By extending the rule to both objects, the States will have opposite interests which will control and balance each other and produce the requisite impartiality.

PUBLIUS [Madison]

Number 55: The Same Subject Continued in Relation to the Total Number of the Body

# NUMBER 55

THE SAME SUBJECT CONTINUED  
IN RELATION TO THE TOTAL NUMBER OF THE BODY

[James Madison]

THE number of which the House of Representatives is to consist forms another and a very interesting point of view under which this branch of the federal legislature may be contemplated. Scarce any article, indeed, in the whole Constitution seems to be rendered more worthy of attention by the weight of character and the apparent force of argument with which it has been assailed. The charges exhibited against it are, first, that so small a number of representatives will be an unsafe depository of the public interests; second, that they will not possess a proper knowledge of the local circumstances of their numerous constituents; third, that they will be taken from that class of citizens which will sympathize least with the feelings of the mass of the people and be most likely to aim at a permanent elevation of the few on the depression of the many; fourth, that defective as the number will be in the first instance, it will be more and more disproportionate, by the increase of the people and the obstacles which will prevent a correspondent increase of the representatives.

In general it may be remarked on this subject that no political problem is less susceptible of a precise solution than that which relates to the number most convenient for a representative legislature; nor is there any point on which the policy of the several States is more at variance, whether we compare their legislative assemblies directly with each other, or consider the proportions which they respectively bear to the number of their constituents. Passing over the difference between the smallest and largest States, as Delaware, whose most numerous branch consists of twenty-one representatives, and Massachusetts, where it amounts to between three and four hundred, a very considerable difference is observable among States nearly equal in population. The number of representatives in Pennsylvania is not more than one fifth of that in the State last mentioned. New York, whose population is to that of South Carolina as six to five, has little more than one third of the number of representatives. As great a disparity prevails

between the States of Georgia and Delaware or Rhode Island. In Pennsylvania, the representatives do not bear a greater proportion to their constituents than of one for every four or five thousand. In Rhode Island, they bear a proportion of at least one for every thousand. And according to the constitution of Georgia, the proportion may be carried to one to every ten electors; and must unavoidably far exceed the proportion in any of the other States.

Another general remark to be made is that the ratio between the representatives and the people ought not to be the same where the latter are very numerous as where they are very few. Were the representatives in Virginia to be regulated by the standard in Rhode Island, they would, at this time, amount to between four and five hundred; and twenty or thirty years hence, to a thousand. On the other hand, the ratio of Pennsylvania, if applied to the State of Delaware, would reduce the representative assembly of the latter to seven or eight members. Nothing can be more fallacious than to found our political calculations on arithmetical principles. Sixty or seventy men may be more properly trusted with a given degree of power than six or seven. But it does not follow that six or seven hundred would be proportionably a better depository. And if we carry on the supposition to six or seven thousand, the whole reasoning ought to be reversed. The truth is that in all cases a certain number at least seems to be necessary to secure the benefits of free consultation and discussion, and to guard against too easy a combination for improper purposes; as, on the other hand, the number ought at most to be kept within a certain limit, in order to avoid the confusion and intemperance of a multitude. In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob.

It is necessary also to recollect here the observations which were applied to the case of biennial elections. For the same reason that the limited powers of the Congress, and the control of the State legislatures, justify less frequent election than the public safety might otherwise require, the members of the Congress need be less numerous than if they possessed the whole power of legislation, and were under no other than the ordinary

restraints of other legislative bodies.

With these general ideas in our minds, let us weigh the objections which have been stated against the number of members proposed for the House of Representatives. It is said, in the first place, that so small a number cannot be safely trusted with so much power.

The number of which this branch of the legislature is to consist, at the outset of the government, will be sixty-five. Within three years a census is to be taken, when the number may be augmented to one for every thirty thousand inhabitants; and within every successive period of ten years the census is to be renewed, and augmentations may continue to be made under the above limitation. It will not be thought an extravagant conjecture that the first census will, at the rate of one for every thirty thousand, raise the number of representatives to at least one hundred. Estimating the Negroes in the proportion of three fifths, it can scarcely be doubted that the population of the United States will by that time, if it does not already, amount to three millions. At the expiration of twenty-five years, according to the computed rate of increase, the number of representatives will amount to two hundred; and of fifty years, to four hundred. This is a number which, I presume, will put an end to all fears arising from the smallness of the body. I take for granted here what I shall, in answering the fourth objection, hereafter show, that the number of representatives will be augmented from time to time in the manner provided by the Constitution. On a contrary supposition, I should admit the objection to have very great weight indeed.

The true question to be decided, then, is whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty? Whether sixty-five members for a few years, and a hundred or two hundred for a few more, be a safe depositary for a limited and well-guarded power of legislating for the United States? I must own that I could not give a negative answer to this question, without first obliterating every impression which I have received with regard to the present genius of the people of America, the spirit which actuates the State legislatures, and the principles which are incorporated with the political character of every class of citizens. I am unable to conceive that the people of America, in their present temper, or under any circumstances which can speedily happen, will

choose, and every second year repeat the choice of, sixty-five or a hundred men who would be disposed to form and pursue a scheme of tyranny or treachery. I am unable to conceive that the State legislatures, which must feel so many motives to watch and which possess so many means of counteracting the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents. I am equally unable to conceive that there are at this time, or can be in any short time, in the United States, any sixty-five or a hundred men capable of recommending themselves to the choice of the people at large, who would either desire or dare, within the short space of two years, to betray the solemn trust committed to them. What change of circumstances time, and a fuller population of our country may produce requires a prophetic spirit to declare, which makes no part of my pretensions. But judging from the circumstances now before us, and from the probable state of them within a moderate period of time, I must pronounce that the liberties of America cannot be unsafe in the number of hands proposed by the federal Constitution.

From what quarter can the danger proceed? Are we afraid of foreign gold? If foreign gold could so easily corrupt our federal rulers and enable them to ensnare and betray their constituents, how has it happened that we are at this time a free and independent nation? The Congress which conducted us through the Revolution was a less numerous body than their successors will be; they were not chosen by, nor responsible to, their fellow-citizens at large; though appointed from year to year, and recallable at pleasure, they were generally continued for three years, and, prior to the ratification of the federal articles, for a still longer term. They held their consultations always under the veil of secrecy; they had the sole transaction of our affairs with foreign nations; through the whole course of the war they had the fate of their country more in their hands than it is to be hoped will ever be the case with our future representatives; and from the greatness of the prize at stake, and the eagerness of the party which lost it, it may well be supposed that the use of other means than force would not have been scrupled. Yet we know by happy experience that the public trust was not betrayed; nor has the purity of our public councils in this particular ever suffered, even from the whispers of calumny.

Is the danger apprehended from the other branches of the federal government? But where are the means to be found by the President, or the Senate, or both? Their emoluments of office, it is to be presumed, will not, and without a previous corruption of the House of Representatives cannot, more than suffice for very different purposes; their private fortunes, as they must all be American citizens, cannot possibly be sources of danger. The only means, then, which they can possess, will be in the dispensation of appointments. Is it here that suspicion rests her charge? Sometimes we are told that this fund of corruption is to be exhausted by the President in subduing the virtue of the Senate. Now, the fidelity of the other House is to be the victim. The improbability of such a mercenary and perfidious combination of the several members of government, standing on as different foundations as republican principles will well admit, and at the same time accountable to the society over which they are placed, ought alone to quiet this apprehension. But, fortunately, the Constitution has provided a still further safeguard. The members of the Congress are rendered ineligible to any civil offices that may be created, or of which the emoluments may be increased, during the term of their election. No offices therefore can be dealt out to the existing members but such as may become vacant by ordinary casualties: and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain. The sincere friends of liberty who give themselves up to the extravagancies of this passion are not aware of the injury they do their own cause. As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another.

PUBLIUS [Madison]

Number 56: The Same Subject Continued in Relation to the Same Point

# NUMBER 56

THE SAME SUBJECT CONTINUED  
IN RELATION TO THE SAME POINT

[James Madison]

THE second charge against the House of Representatives is that it will be too small to possess a due knowledge of the interests of its constituents.

As this objection evidently proceeds from a comparison of the proposed number of representatives with the great extent of the United States, the number of their inhabitants, and the diversity of their interests, without taking into view at the same time the circumstances which will distinguish the Congress from other legislative bodies, the best answer that can be given to it will be a brief explanation of these peculiarities.

It is a sound and important principle that the representative ought to be acquainted with the interests and circumstance of his constituents. But this principle can extend no further than to those circumstances and interests to which the authority and care of the representative relate. An ignorance of a variety of minute and particular objects which do not lie within the compass of legislation is consistent with every attribute necessary to a due performance of the legislative trust. In determining the extent of information required in the exercise of a particular authority, recourse then must be had to the objects within the purview of that authority.

What are to be the objects of federal legislation? Those which are of most importance, and which seem most to require local knowledge, are commerce, taxation, and the militia.

A proper regulation of commerce requires much information, as has been elsewhere remarked; but as far as this information relates to the laws and local situation of each individual State, a very few representatives would be very sufficient vehicles of it to the federal councils.

Taxation will consist, in a great measure, of duties which will be involved in the regulation of commerce. So far the preceding remark is applicable to this object. As far as it may consist of internal collections, a more diffusive knowledge of the circumstances of the State may be necessary. But will not this also be possessed in sufficient degree by a very few intelligent men, diffusively elected within the State? Divide the largest State into ten or twelve districts and it will be found that there will be no peculiar local interests in either which will not be within the knowledge of the representative of the district. Besides this source of information, the laws of the State, framed by representatives from every part of it, will be almost of themselves a sufficient guide. In every State there have been made, and must continue to be made, regulations on this subject which will, in many cases, leave little more to be done by the federal legislature than to review the different laws and reduce them in one general act. A skilful individual in his closet, with all the local codes before him, might compile a law on some subjects of taxation for the whole Union, without any aid from oral information, and it may be expected that whenever internal taxes may be necessary, and particularly in cases requiring uniformity throughout the States, the more simple objects will be preferred. To be fully sensible of the facility which will be given to this branch of federal legislation by the assistance of the State codes, we need only suppose for a moment that this or any other State were divided into a number of parts, each having and exercising within itself a power of local legislation. Is it not evident that a degree of local information and preparatory labor would be found in the several volumes of their proceedings, which would very much shorten the labors of the general legislature, and render a much smaller number of members sufficient for it? The federal councils will derive great advantage from another circumstance. The representatives of each State will not only bring with them a considerable knowledge of its laws, and a local knowledge of their respective districts, but will probably in all cases have been members, and may even at the very time be members, of the State legislature, where all the local information and interests of the State are assembled, and from whence they may easily be conveyed by a very few hands into the legislature of the United States.

With regard to the regulation of the militia, there are scarcely any circumstances in reference to which local knowledge can be said to be

necessary. The general face of the country, whether mountainous or level, most fit for the operations of infantry or cavalry, is almost the only consideration of this nature that can occur. The art of war teaches general principles of organization, movement, and discipline, which apply universally.

The attentive reader will discern that the reasoning here used to prove the sufficiency of a moderate number of representatives does not in any respect contradict what was urged on another occasion with regard to the extensive information which the representatives ought to possess, and the time that might be necessary for acquiring it. This information, so far as it may relate to local objects, is rendered necessary and difficult, not by a difference of laws and local circumstances within a single State, but of those among different States. Taking each State by itself, its laws are the same, and its interests but little diversified. A few men, therefore, will possess all the knowledge requisite for a proper representation of them. Were the interests and affairs of each individual State perfectly simple and uniform, a knowledge of them in one part would involve a knowledge of them in every other, and the whole State might be competently represented by a single member taken from any part of it. On a comparison of the different States together, we find a great dissimilarity in their laws, and in many other circumstances connected with the objects of federal legislation, with all of which the federal representatives ought to have some acquaintance. Whilst a few representatives, therefore, from each State may bring with them a due knowledge of their own State, every representative will have much information to acquire concerning all the other States. The changes of time, as was formerly remarked, on the comparative situation of the different States, will have an assimilating effect. The effect of time on the internal affairs of the States, taken singly, will be just the contrary. At present some of the States are little more than a society of husbandmen. Few of them have made much progress in those branches of industry which give a variety and complexity to the affairs of a nation. These, however, will in all of them be the fruits of a more advanced population; and will require, on the part of each State, a fuller representation. The foresight of the convention has accordingly taken care that the progress of population may be accompanied with a proper increase of the representative branch of the

government.

The experience of Great Britain, which presents to mankind so many political lessons, both of the monitory and exemplary kind, and which has been frequently consulted in the course of these inquiries, corroborates the result of the reflections which we have just made. The number of inhabitants in the two kingdoms of England and Scotland cannot be stated at less than eight millions. The representatives of these eight millions in the House of Commons amount to five hundred and fifty-eight. Of this number, one ninth are elected by three hundred and sixty-four persons, and one half, by five thousand seven hundred and twenty-three persons. [43](#) It cannot be supposed that the half thus elected, and who do not even reside among the people at large, can add anything either to the security of the people against the government, or to the knowledge of their circumstances and interests in the legislative councils. On the contrary, it is notorious that they are more frequently the representatives and instruments of the executive magistrate than the guardians and advocates of the popular rights. They might therefore, with great propriety, be considered as something more than a mere deduction from the real representatives of the nation. We will, however, consider them in this light alone, and will not extend the deduction to a considerable number of others who do not reside among their constituents, are very faintly connected with them, and have very little particular knowledge of their affairs. With all these concessions, two hundred and seventy-nine persons only will be the depositary of the safety, interest, and happiness of eight millions—that is to say, there will be one representative only to maintain the rights and explain the situation of twenty-eight thousand six hundred and seventy constituents, in an assembly exposed to the whole force of executive influence and extending its authority to every object of legislation within a nation whose affairs are in the highest degree diversified and complicated. Yet it is very certain, not only that a valuable portion of freedom has been preserved under all these circumstances, but that the defects in the British code are chargeable, in a very small proportion, on the ignorance of the legislature concerning the circumstances of the people. Allowing to this case the weight which is due to it, and comparing it with that of the House of Representatives as above explained, it seems to give the fullest assurance that a representative for every thirty thousand inhabitants will render the latter both a safe and

competent guardian of interests which will be confided to it.

PUBLIUS [Madison]

Number 57: The Same Subject Continued in Relation to the Supposed Tendency of the Plan of the Convention to Elevate the Few Above the Many

# NUMBER 57

THE SAME SUBJECT CONTINUED  
IN RELATION TO THE SUPPOSED TENDENCY OF  
THE PLAN OF THE CONVENTION TO ELEVATE  
THE FEW ABOVE THE MANY

[James Madison]

THE third charge against the House of Representatives is that it will be taken from that class of citizen which will have least sympathy with the mass of the people, and be most likely to aim at an ambitious sacrifice of the many to the aggrandizement of the few.

Of all the objections which have been framed against the federal Constitution, this is perhaps the most extraordinary. Whilst the objection itself is leveled against a pretended oligarchy, the principle of it strikes at the very root of republican government.

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust. The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various, The most effectual one is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

Let me now ask what circumstance there is in the constitution of the House of Representatives that violates the principles of republican government, or favors the elevation of the few on the ruins of the many? Let me ask whether every circumstance is not, on the contrary, strictly conformable to these principles, and scrupulously impartial to the rights and pretensions of every class and description of citizens?

Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the corresponding branch of the legislature of the State.

Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people.

If we consider the situation of the men on whom the free suffrages of their fellow-citizens may confer the representative trust, we shall find it involving every security which can be devised or desired for their fidelity to their constituents.

In the first place, as they will have been distinguished by the preference of their fellow-citizens, we are to presume that in general they will be somewhat distinguished also by those qualities which entitle them to it, and which promise a sincere and scrupulous regard to the nature of their engagements.

In the second place, they will enter into the public service under circumstances which cannot fail to produce a temporary affection at least to their constituents. There is in every breast a sensibility to marks of honor, of favor, of esteem, and of confidence, which, apart from all considerations of interests, is some pledge for grateful and benevolent returns. Ingratitude is a common topic of declamation against human nature; and it must be confessed that instances of it are but too frequent and flagrant, both in public and in private life. But the universal and extreme indignation which it inspires is itself a proof of the energy and prevalence of the contrary sentiment.

In the third place, those ties which bind the representative to his constituents are strengthened by motives of a more selfish nature. His pride and vanity attach him to a form of government which favors his pretensions

and gives him a share in its honors and distinctions. Whatever hopes or projects might be entertained by a few aspiring characters, it must generally happen that a great proportion of the men deriving their advancement from their influence with the people would have more to hope from a preservation of the favor than from innovations in the government subversive of the authority of the people.

All these securities, however, would be found very insufficient without the restraint of frequent elections. Hence, in the fourth place, the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America—a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

Such will be the relation between the House of Representatives and their constituents. Duty, gratitude, interest, ambition itself, are the cords by which they will be bound to fidelity and sympathy with the great mass of the people. It is possible that these may all be insufficient to control the caprice and wickedness of men. But are they not all that government will admit, and that human prudence can devise? Are they not the genuine and the characteristic means by which republican government provides for the liberty and happiness of the people? Are they not the identical means on which every State government in the Union relies for the attainment of these important ends? What, then, are we to understand by the objection which this paper has combated? What are we to say to the men who profess the most flaming zeal for republican government, yet boldly impeach the fundamental principle of it; who pretend to be champions for the right and the capacity of the people to choose their own rulers, yet maintain that they will prefer those only who will immediately and infallibly betray the trust committed to them?

Were the objection to be read by one who had not seen the mode prescribed by the Constitution for the choice of representatives, he could suppose nothing less than that some unreasonable qualification of property was annexed to the right of suffrage; or that the right of eligibility was limited to persons of particular families or fortunes; or at least that the mode prescribed by the State constitutions was, in some respect or other, very grossly departed from. We have seen how far such a supposition would err, as to the two first points. Nor would it, in fact, be less erroneous as to the last. The only difference discoverable between the two cases is that each representative of the United States will be elected by five or six thousand citizens; whilst in the individual States, the election of a representative is left to about as many hundreds. Will it be pretended that this difference is sufficient to justify an attachment to the State governments and an abhorrence to the federal government? If this be the point on which the objection turns, it deserves to be examined.

Is it supported by reason? This cannot be said, without maintaining that five or six thousand citizens are less capable of choosing a fit representative, or more liable to be corrupted by an unfit one, than five or six hundred. Reason, on the contrary, assures us that as in so great a number a fit

representative would be most likely to be found, so the choice would be less likely to be diverted from him by the intrigues of the ambitious or the bribes of the rich.

Is the consequence from this doctrine admissible? If we say that five or six hundred citizens are as many as can jointly exercise their right of suffrage, must we not deprive the people of the immediate choice of their public servants in every instance where the administration of the government does not require as many of them as will amount to one for that number of citizens?

Is the doctrine warranted by facts? It was shown in the last paper that the real representation in the British House of Commons very little exceeds the proportion of one for every thirty thousand inhabitants. Besides a variety of powerful causes not existing here, and which favor in that country the pretensions of rank and wealth, no person is eligible as a representative of a county unless he possess real estate of the clear value of six hundred pounds sterling per year; nor of a city or borough, unless he possess a like estate of half that annual value. To this qualification on the part of the county representatives is added another on the part of the county electors, which restrains the right of suffrage to persons having a freehold estate of the annual value of more than twenty pounds sterling, according to the present rate of money. Notwithstanding these unfavorable circumstances, and notwithstanding some very unequal laws in the British code, it cannot be said that the representatives of the nation have elevated the few on the ruins of the many.

But we need not resort to foreign experience on this subject. Our own is explicit and decisive. The districts in New Hampshire in which the senators are chosen immediately by the people are nearly as large as will be necessary for her representatives in the Congress. Those of Massachusetts are larger than will be necessary for that purpose; and those of New York still more so. In the last State the members of Assembly for the cities and counties of New York and Albany are elected by very nearly as many voters as will be entitled to a representative in the Congress, calculating on the number of sixty-five representatives only. It makes no difference that in these senatorial districts and counties a number of representatives are voted

for by each elector at the same time. If the same electors at the same time are capable of choosing four or five representatives, they cannot be incapable of choosing one. Pennsylvania is an additional example. Some of her counties, which elect her State representatives, are almost as large as her districts will be by which her federal representatives will be elected. The city of Philadelphia is supposed to contain between fifty and sixty thousand souls. It will therefore form nearly two districts for the choice of federal representatives. It forms, however, but one county, in which every elector votes for each of its representatives in the State legislature. And what may appear to be still more directly to our purpose, the whole city actually elects a single member for the executive council. This is the case in all the other counties of the State.

Are not these facts the most satisfactory proofs of the fallacy which has been employed against the branch of the federal government under consideration? Has it appeared on trial that the senators of New Hampshire, Massachusetts, and New York, or the executive council of Pennsylvania, or the members of the Assembly in the two last States, have betrayed any peculiar disposition to sacrifice the many to the few, or are in any respect less worthy of their places than the representatives and magistrates appointed in other States by very small divisions of the people?

But there are cases of a stronger complexion than any which I have yet quoted. One branch of the legislature of Connecticut is so constituted that each member of it is elected by the whole State. So is the governor of that State, of Massachusetts, and of this State, and the president of New Hampshire. I leave every man to decide whether the result of any one of these experiments can be said to countenance a suspicion that a diffusive mode of choosing representatives of the people tends to elevate traitors and to undermine the public liberty.

PUBLIUS [Madison]

Number 58: The Same Subject Continued in Relation to the Future Augmentation of the Members

# NUMBER 58

THE SAME SUBJECT CONTINUED  
IN RELATION TO THE FUTURE  
AUGMENTATION OF THE MEMBERS  
[James Madison]

THE remaining charge against the House of Representatives, which I am to examine, is grounded on a supposition that the number of members will not be augmented from time to time, as the progress of population may demand.

It has been admitted that this objection, if well supported, would have great weight. The following observations will show that, like most other objections against the Constitution, it can only proceed from a partial view of the subject, or from a jealousy which discolors and disfigures every object which is beheld.

1. Those who urge the objection seem not to have recollected that the federal Constitution will not suffer by a comparison with the State constitutions, in the security provided for a gradual augmentation of the number of representatives. The number which is to prevail in the first instance is declared to be temporary. Its duration is limited to the short term of three years.

Within every successive term of ten years a census of inhabitants is to be repeated. The unequivocal objects of these regulations are, first, to readjust, from time to time, the apportionment of representatives to the number of inhabitants, under the single exception that each State shall have one representative at least; secondly, to augment the number of representatives at the same periods, under the sole limitation that the whole number shall not exceed one for every thirty thousand inhabitants. If we review the constitutions of the several States we shall find that some of them contain no determinate regulations on this subject, that others correspond pretty much on this point with the federal Constitution, and that the most effectual

security in any of them is resolvable into a mere directory provision.

2. As far as experience has taken place on this subject, a gradual increase of representatives under the State constitutions has at least kept pace with that of the constituents, and it appears that the former have been as ready to concur in such measures as the latter have been to call for them.

3. There is a peculiarity in the federal Constitution which insures a watchful attention in a majority both of the people and of their representatives to a constitutional augmentation of the latter. The peculiarity lies in this, that one branch of the legislature is a representation of citizens, the other of the States: in the former, consequently, the larger States will have most weight; in the latter, the advantage will be in favor of the smaller States. From this circumstance it may with certainty be inferred that the larger States will be strenuous advocates for increasing the number and weight of that part of the legislature in which their influence predominates. And it so happens that four only of the largest will have a majority of the whole votes in the House of Representatives. Should the representatives or people, therefore, of the smaller States oppose at any time a reasonable addition of members, a coalition of a very few States will be sufficient to overrule the opposition; a coalition which, notwithstanding the rivalry and local prejudices which might prevent it on ordinary occasions, would not fail to take place when not merely prompted by common interest, but justified by equity and the principles of the Constitution.

It may be alleged, perhaps, that the Senate would be prompted by like motives to an adverse coalition; and as their concurrence would be indispensable, the just and constitutional views of the other branch might be defeated. This is the difficulty which has probably created the most serious apprehensions in the jealous friends of a numerous representation. Fortunately it is among the difficulties which, existing only in appearance, vanish on a close and accurate inspection. The following reflections will, if I mistake not, be admitted to be conclusive and satisfactory on this point.

Notwithstanding the equal authority which will subsist between the two houses on all legislative subjects, except the originating of money bills, it cannot be doubted that the House, composed of the greater number of

members, when supported by the more powerful States, and speaking the known and determined sense of a majority of the people, will have no small advantage in a question depending on the comparative firmness of the two houses.

This advantage must be increased by the consciousness, felt by the same side, of being supported in its demands by right, by reason, and by the Constitution; and the consciousness, on the opposite side, of contending against the force of all these solemn considerations.

It is farther to be considered that in the gradation between the smallest and largest States there are several which, though most likely in general to arrange themselves among the former, are too little removed in extent and population from the latter to second an opposition to their just and legitimate pretensions. Hence it is by no means certain that a majority of votes, even in the Senate, would be unfriendly to proper augmentations in the number of representatives.

It will not be looking too far to add that the senators from all the new States may be gained over to the just views of the House of Representatives by an expedient too obvious to be overlooked. As these States will, for a great length of time, advance in population with peculiar rapidity, they will be interested in frequent reapportionments of the representatives to the number of inhabitants. The large States, therefore, who will prevail in the House of Representatives, will have nothing to do but to make reapportionments and augmentations mutually conditions of each other; and the senators from all the most growing States will be bound to contend for the latter, by the interest which their States will feel in the former.

These considerations seem to afford ample security on this subject, and ought alone to satisfy all the doubts and fears which have been indulged with regard to it. Admitting, however, that they should all be insufficient to subdue the unjust policy of the smaller States, or their predominant influence in the councils of the Senate, a constitutional and infallible resource still remains with the larger States by which they will be able at all times to accomplish their just purposes. The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the

support of government. They, in a word, hold the purse that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

But will not the House of Representatives be as much interested as the Senate in maintaining the government in its proper functions, and will they not therefore be unwilling to stake its existence or its reputation on the pliancy of the Senate? For, if such a trial of firmness between the two branches were hazarded, would not the one be as likely first to yield as the other? These questions will create no difficulty with those who reflect that in all cases the smaller the number, and the more permanent and conspicuous the station of men in power, the stronger must be the interest which they will individually feel in whatever concerns the government. Those who represent the dignity of their country in the eyes of other nations will be particularly sensible to every prospect of public danger, or of a dishonorable stagnation in public affairs. To those causes we are to ascribe the continual triumph of the British House of Commons over the other branches of the government, whenever the engine of a money bill has been employed. An absolute inflexibility on the side of the latter, although it could not have failed to involve every department of the state in the general confusion, has neither been apprehended nor experienced. The utmost degree of firmness that can be displayed by the federal Senate or President will not be more than equal to a resistance in which they will be supported by constitutional and patriotic principles.

In this review of the Constitution of the House of Representatives, I have passed over the circumstances of economy which, in the present state of affairs, might have had some effect in lessening the temporary number of representatives, and a disregard of which would probably have been as rich a theme of declamation against the Constitution as has been furnished by the smallness of the number proposed. I omit also any remarks on the

difficulty which might be found, under present circumstances, in engaging in the federal service a large number of such characters as the people will probably elect. One observation, however, I must be permitted to add on this subject as claiming, in my judgment, a very serious attention. It is that in all legislative assemblies the greater the number composing them may be, the fewer will be the men who will in fact direct their proceedings. In the first place, the more numerous any assembly may be, of whatever characters composed, the greater is known to be the ascendancy of passion over reason, In the next place, the larger the number, the greater will be the proportion of members of limited information and of weak capacities. Now, it is precisely on characters of this description that the eloquence and address of the few are known to act with all their force. In the ancient republics, where the whole body of the people assembled in person, a single orator, or an artful statesman, was generally seen to rule with as complete a sway as if a scepter had been placed in his single hand. On the same principle, the more multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people. Ignorance will be the dupe of cunning, and passion the slave of sophistry and declamation. The people can never err more than in supposing that by multiplying their representatives beyond a certain limit they strengthen the barrier against the government of a few. Experience will forever admonish them that, on the contrary, after securing a sufficient number for the purposes of safety, of local information, and of diffusive sympathy with the whole society, they will counteract their own views by every addition to their representatives. The countenance of the government may become more democratic, but the soul that animates it will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

As connected with the objection against the number of representatives may properly be here noticed that which has been suggested against the number made competent for legislative business. It has been said that more than a majority ought to have been required for a quorum; and in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these

considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority. Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or, in particular emergencies, to extort unreasonable indulgences. Lastly, it would facilitate and foster the baneful practice of secessions, a practice which has shown itself even in States where a majority only is required; a practice subversive of all the principles of order and regular government; a practice which leads more directly to public convulsions and the ruin of popular governments than any other which has yet been displayed among us.

PUBLIUS [Madison]

Number 59: Concerning the Regulation of Elections

# NUMBER 59

## CONCERNING THE REGULATION OF ELECTIONS

[Alexander Hamilton]

THE natural order of the subject leads us to consider, in this place, that provision of the Constitution which authorizes the national legislature to regulate, in the last resort, the election of its own members. It is in these words: The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators. [44](#) This provision has not only been declaimed against by those who condemn the Constitution in the gross; but it has been censured by those who have objected with less latitude and greater moderation; and, in one instance, it has been thought exceptionable by a gentleman who had declared himself the advocate of every other part of the system.

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation. Every just reasoner will, at first sight, approve an adherence to this rule, in the work of the convention; and will disapprove every deviation from it which may not appear to have been dictated by the necessity of incorporating into the work some particular ingredient with which a rigid conformity to the rule was incompatible. Even in this case, though he may acquiesce in the necessity, yet he will not cease to regard a departure from so fundamental a principle as a portion of imperfection in the system which may prove the seed of future weakness, and perhaps anarchy.

It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been applicable to every probable change in the situation of the country; and it will therefore not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in

which this power could have been reasonably modified and disposed: that it must either have been lodged wholly in the national legislature, or wholly in the State legislatures, or primarily in the latter and ultimately in the former. The last mode has, with reason, been preferred by the convention. They have submitted the regulation of elections for the federal government, in the first instance, to the local administrations; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Nothing can be more evident than that an exclusive power of regulating elections for the national government, in the hands of the State legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs. It is to little purpose to say that a neglect or omission of this kind would not be likely to take place. The constitutional possibility of the thing, without an equivalent for the risk, is an unanswerable objection. Nor has any satisfactory reason been yet assigned for incurring that risk. The extravagant surmises of a distempered jealousy can never be dignified with that character. If we're in a humor to presume abuses of power, it is as fair to presume them on the part of the State governments as on the part of the general government. And as it is more consonant to the rules of a just theory to trust the Union with the care of its own existence than to transfer that care to any other hands, if abuses of power are to be hazarded on the one side or on the other, it is more rational to hazard them where the power would naturally be placed than where it would unnaturally be placed.

Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments? The violation of principle, in this case, would have required no comment; and, to an unbiased observer, it will not be less apparent in the project of subjecting the existence of the national government, in a similar respect, to the pleasure of the State governments.

An impartial view of the matter cannot fail to result in a conviction that each, as far as possible, ought to depend on itself for its own preservation.

As an objection to this position, it may be remarked that the constitution of the national Senate would involve, in its full extent, the danger which it is suggested might flow from an exclusive power in the State legislatures to regulate the federal elections. It may be alleged that by declining the appointment of senators they might at any time give a fatal blow to the Union; and from this it may be inferred that as its existence would be thus rendered dependent upon them in so essential a point, there can be no objection to intrusting them with it in the particular case under consideration. The interest of each State, it may be added, to maintain its representation in the national councils, would be a complete security against an abuse of the trust.

This argument, though specious, will not, upon examination, be found solid. It is certainly true that the State legislatures, by forbearing the appointment of senators, may destroy the national government. But it will not follow that, because they have the power to do this in one instance, they ought to have it in every other. There are cases in which the pernicious tendency of such a power may be far more decisive, without any motive equally cogent with that which must have regulated the conduct of the convention in respect to the construction of the Senate to recommend their admission into the system. So far as that construction may expose the Union to the possibility of injury from the State legislatures, it is an evil; but it is an evil which could not have been avoided without excluding the States, in their political capacities, wholly from a place in the organization of the national government. If this had been done it would doubtless have been interpreted into an entire dereliction of the federal principle, and would certainly have deprived the State governments of that absolute safeguard which they will enjoy under this provision. But however wise it may have been to have submitted in this instance to an inconvenience, for the attainment of a necessary advantage or a greater good, no inference can be drawn from thence to favor an accumulation of the evil, where no necessity urges, nor any greater good invites.

It may easily be discerned also that the national government would run a much greater risk from a power in the State legislatures over the elections of its House of Representatives than from their power of appointing the members of its Senate. The senators are to be chosen for the period of six years; there is to be a rotation, by which the seats of a third part of them are to be vacated and replenished every two years; and no State is to be entitled to more than two senators; a quorum of the body is to consist of sixteen members. The joint result of these circumstances would be that a temporary combination of a few States to intermit the appointment of senators could neither annul the existence nor impair the activity of the body; and it is not from a general or permanent combination of the States that we can have anything to fear. The first might proceed from sinister designs in the leading members of a few of the State legislatures; the last would suppose a fixed and rooted disaffection in the great body of the people which will either never exist at all, or will, in all probability, proceed from an experience of the inaptitude of the general government to the advancement of their happiness—in which event no good citizen could desire its continuance.

But with regard to the federal House of Representatives, there is intended to be a general election of members once in two years. If the State legislatures were to be invested with an exclusive power of regulating these elections, every period of making them would be a delicate crisis in the national situation, which might issue in a dissolution of the Union, if the leaders of a few of the most important States should have entered into a previous conspiracy to prevent an election.

I shall not deny that there is a degree of weight in the observation that the interests of each State, to be represented in the federal councils, will be a security against the abuse of a power over its elections in the hands of the State legislatures. But the security will not be considered as complete by those who attend to the force of an obvious distinction between the interest of the people in the public felicity and the interest of their local rulers in the power and consequence of their offices. The people of America may be warmly attached to the government of the Union, at times when the particular rulers of particular States, stimulated by the natural rivalship of power, and by the hopes of personal aggrandizement, and supported by a strong faction in each of those States, may be in a very opposite temper.

This diversity of sentiment between a majority of the people and the individuals who have the greatest credit in their councils is exemplified in some of the States at the present moment, on the present question. The scheme of separate confederacies, which will always multiply the chances of ambition, will be a never-failing bait to all such influential characters in the State administrations as are capable of preferring their own emolument and advancement to the public weal. With so effectual a weapon in their hands as the exclusive power of regulating elections for the national government, a combination of a few such men, in a few of the most considerable States, where the temptation will always be the strongest, might accomplish the destruction of the Union by seizing the opportunity of some casual dissatisfaction among the people (and which perhaps they may themselves have excited) to discontinue the choice of members for the federal House of Representatives. It ought never to be forgotten that a firm union of this country, under an efficient government, will probably be an increasing object of jealousy to more than one nation of Europe; and that enterprises to subvert it will sometimes originate in the intrigues of foreign powers and will seldom fail to be patronized and abetted by some of them. Its preservation, therefore, ought in no case that can be avoided to be committed to the guardianship of any but those whose situation will uniformly beget an immediate interest in the faithful and vigilant performance of the trust.

PUBLIUS [Hamilton]

Number 60: The Same Subject Continued (Regulation of Elections)

# NUMBER 60

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

WE HAVE seen that an uncontrollable power over the elections to the federal government could not, without hazard, be committed to the State legislatures. Let us now see what would be the danger on the other side; that is, from confiding the ultimate right of regulating its own elections to the Union itself. It is not pretended that this right would ever be used for the exclusion of any State from its share in the representation. The interest of all would, in this respect at least, be the security of all. But it is alleged that it might be employed in such a manner as to promote the election of some favorite class of men in exclusion of others by confining the places of election to particular districts and rendering it impracticable to the citizens at large to partake in the choice. Of all chimerical suppositions, this seems to be the most chimerical. On the one hand, no rational calculation of probabilities would lead us to imagine that the disposition which a conduct so violent and extraordinary would imply could ever find its way into the national councils; and on the other it may be concluded with certainty that if so improper a spirit should ever gain admittance into them, it would display itself in a form altogether different and far more decisive.

The improbability of the attempt may be satisfactorily inferred from this single reflection, that it could never be made without causing an immediate revolt of the great body of the people, headed and directed by the State governments. It is not difficult to conceive that this characteristic right of freedom may, in certain turbulent and factious seasons, be violated, in respect to a particular class of citizens, by a victorious majority; but that so fundamental a privilege, in a country so situated and enlightened, should be invaded to the prejudice of the great mass of the people by the deliberate policy of the government without occasioning a popular revolution, is altogether inconceivable and incredible.

In addition to this general reflection, there are considerations of a more precise nature which forbid all apprehension on the subject. The

dissimilarity in the ingredients which will compose the national government, and still more in the manner in which they will be brought into action in its various branches, must form a powerful obstacle to a concert of views in any partial scheme of elections. There is sufficient diversity in the state of property, in the genius, manners, and habits of the people of the different parts of the Union to occasion a material diversity of disposition in their representatives towards the different ranks and conditions in society. And though an intimate intercourse under the same government will promote a gradual assimilation of temper and sentiments, yet there are causes, as well physical as moral, which may, in a greater or less degree, permanently nourish different propensities and inclinations in this particular. But the circumstance which will be likely to have the greatest influence in the matter will be the dissimilar modes of constituting the several component parts of the government. The House of Representatives being to be elected immediately by the people, the Senate by the State legislatures, the President by electors chosen for that purpose by the people, there would be little probability of a common interest to cement these different branches in a predilection for any particular class of electors.

As to the Senate, it is impossible that any regulation of time and manner, which is all that is proposed to be submitted to the national government in respect to that body, can affect the spirit which will direct the choice of its members. The collective sense of the State legislatures can never be influenced by extraneous circumstances of that sort; a consideration which alone ought to satisfy us that the discrimination apprehended would never be attempted. For what inducement could the Senate have to concur in a preference in which itself would not be included? Or to what purpose would it be established, in reference to one branch of the legislature, if it could not be extended to the other? The composition of the one would in this case counteract that of the other. And we can never suppose that it would embrace the appointments to the Senate unless we can at the same time suppose the voluntary co-operation of the State legislatures. If we make the latter supposition, it then becomes immaterial where the power in question is placed—whether in their hands or in those of the Union.

But what is to be the object of this capricious partiality in the national councils? Is it to be exercised in a discrimination between the different

departments of industry, or between the different kinds of property, or between the different degrees of property? Will it lean in favor of the landed interest, or the moneyed interest, or the mercantile interest, or the manufacturing interest? Or, to speak in the fashionable language of the adversaries to the Constitution, will it court the elevation of the wealthy and the well-born, to the exclusion and debasement of all the rest of the society?

If this partiality is to be exerted in favor of those who are concerned in any particular description of industry or property, I presume it will readily be admitted that the competition for it will lie between landed men and merchants. And I scruple not to affirm that it is infinitely less likely that either of them should gain an ascendant in the national councils, than that the one or the other of them should predominate in all the local councils. The inference will be that a conduct tending to give an undue preference to either is much less to be dreaded from the former than from the latter.

The several States are in various degrees addicted to agriculture and commerce. In most, if not all of them, agriculture is predominant. In a few of them, however, commerce nearly divides its empire, and in most of them has a considerable share of influence. In proportion as either prevails, it will be conveyed into the national representation; and for the very reason that this will be an emanation from a greater variety of interests and in much more various proportions than are to be found in any single State, it will be much less apt to espouse either of them with a decided partiality than the representation of any single State.

In a country consisting chiefly of the cultivators of land, where the rules of an equal representation obtain, the landed interest must, upon the whole, preponderate in the government. As long as this interest prevails in most of the State legislatures, so long it must maintain a correspondent superiority in the national Senate, which will generally be a faithful copy of the majorities of those assemblies. It cannot therefore be presumed that a sacrifice of the landed to the mercantile class will ever be a favorite object of this branch of the federal legislature. In applying thus particularly to the Senate a general observation suggested by the situation of the country, I am governed by the consideration that the credulous votaries of State power cannot, upon their own principles, suspect that the State legislatures would

be warped from their duty by any external influence. But in reality the same situation must have the same effect, in the primitive composition at least of the federal House of Representatives: an improper bias towards the mercantile class is as little to be expected from this quarter as from the other.

In order, perhaps, to give countenance to the objection, at any rate, it may be asked, is there not danger of an opposite bias in the national government, which may dispose it to endeavor to secure a monopoly of the federal administration to the landed class? As there is little likelihood that the supposition of such a bias will have any terrors for those who would be immediately injured by it, a labored answer to this question will be dispensed with. It will be sufficient to remark, first, that for the reasons elsewhere assigned it is less likely that any decided partiality should prevail in the councils of the Union than in those of any of its members. Secondly, that there would be no temptation to violate the Constitution in favor of the landed class, because that class would, in the natural course of things, enjoy as great a preponderancy as itself could desire. And thirdly, that men accustomed to investigate the sources of public prosperity upon a large scale must be too well convinced of the utility of commerce to be inclined to inflict upon it so deep a wound as would be occasioned by the entire exclusion of those who would best understand its interest from a share in the management of them. The importance of commerce, in the view of revenue alone, must effectually guard it against the enmity of a body which would be continually importuned in its favor by the urgent calls of public necessity.

I rather consult brevity in discussing the probability of a preference founded upon a discrimination between the different kinds of industry and property, because, as far as I understand the meaning of the objectors, they contemplate a discrimination of another kind. They appear to have in view, as the objects of the preference with which they endeavor to alarm us, those whom they designate by the description of the wealthy and the well-born. These, it seems, are to be exalted to an odious pre-eminence over the rest of their fellow-citizens. At one time, however, their elevation is to be a necessary consequence of the smallness of the representative body; at another time it is to be effected by depriving the people at large of the

opportunity of exercising their right of suffrage in the choice of that body.

But upon what principle is the discrimination of the places of election to be made, in order to answer the purpose of the mediated preference? Are the wealthy and the well-born, as they are called, confined to particular spots in the several States? Have they, by some miraculous instinct or foresight, set apart in each of them a common place of residence? Are they only to be met with in the towns or cities? Or are they, on the contrary, scattered over the face of the country as avarice or chance may have happened to cast their own lot or that of their predecessors? If the latter is the case (as every intelligent man knows it to be<sup>45</sup>) is it not evident that the policy of confining the places of elections to particular districts would be as subversive of its own aim as it would be exceptionable on every other account? The truth is that there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature.

Let it, however, be admitted, for argument's sake, that the expedient suggested might be successful; and let it at the same time be equally taken for granted that all the scruples which a sense of duty or an apprehension of the danger of the experiment might inspire were overcome in the breasts of the national rulers, still I imagine it will hardly be pretended that they could ever hope to carry such an enterprise into execution without the aid of a military force sufficient to subdue the resistance of the great body of the people. The improbability of the existence of a force equal to that object has been discussed and demonstrated in different parts of these papers; but that the futility of the objection under consideration may appear in the strongest light, it shall be conceded for a moment that such a force might exist and the national government shall be supposed to be in the actual possession of it. What will be the conclusion? With a disposition to invade the essential rights of the community and with the means of gratifying that disposition, is it presumable that the persons who were actuated by it would amuse

themselves in the ridiculous task of fabricating election laws for securing a preference to a favorite class of men? Would they not be likely to prefer a conduct better adapted to their own immediate aggrandizement? Would they not rather boldly resolve to perpetuate themselves in office by one decisive act of usurpation, than to trust to precarious expedients which, in spite of all the precautions that might accompany them, might terminate in the dismissal, disgrace, and ruin of their authors? Would they not fear that citizens, not less tenacious than conscious of their rights, would flock from the remotest extremes of their respective States to the places of election, to overthrow their tyrants and to substitute men who would be disposed to avenge the violated majesty of the people?

PUBLIUS [Hamilton]

Number 61: The Same Subject Continued and Concluded (Regulation of Elections)

# NUMBER 61

THE SAME SUBJECT CONTINUED  
AND CONCLUDED

[Alexander Hamilton]

THE more candid opposers of the provisions respecting elections contained in the plan of the convention, when pressed in argument, will sometimes concede the propriety of that provision; with this qualification, however, that it ought to have been accompanied with a declaration that all elections should be had in the counties where the electors resided. This, say they, was a necessary precaution against an abuse of the power. A declaration of this nature would certainly have been harmless; so far as it would have had the effect of quieting apprehensions it might not have been undesirable. But it would, in fact, have afforded little or no additional security against the danger apprehended; and the want of it will never be considered by an impartial and judicious examiner as a serious, still less as an insuperable, objection to the plan. The different views taken of the subject in the two preceding papers must be sufficient to satisfy all dispassionate and discerning men, that if the public liberty should ever be the victim of the ambition of the national rulers, the power under examination, at least, will be guiltless of the sacrifice.

If those who are inclined to consult their jealousy only would exercise it in a careful inspection of the several State constitutions, they would find little less room for disquietude and alarm from the latitude which most of them allow in respect to elections than from the latitude which is proposed to be allowed to the national government in the same respect. A review of their situation, in this particular, would tend greatly to remove any ill impressions which may remain in regard to this matter. But as that view would lead into long and tedious details, I shall content myself with the single example of the State in which I write. The constitution of New York makes no other provision for locality of elections than that the members of the Assembly shall be elected in the counties; those of the Senate, in the great districts into which the State is or may be divided: these at present are four in number and comprehend each from two to six counties. It may

readily be perceived that it would not be more difficult to the legislature of New York to defeat the suffrages of the citizens of New York by confining elections to particular places than for the legislature of the United States to defeat the suffrages of the citizens of the Union by the like expedient. Suppose, for instance, the city of Albany was to be appointed the sole place of election for the county and district of which it is a part, would not the inhabitants of that city speedily become the only electors of the members both of the Senate and Assembly for that county and district? Can we imagine that the electors who reside in the remote subdivisions of the counties of Albany, Saratoga, Cambridge, etc., or in any part of the county of Montgomery, would take the trouble to come to the city of Albany to give their votes for members of the Assembly or Senate sooner than they would repair to the city of New York to participate in the choice of the members of the federal House of Representatives? The alarming indifference discoverable in the exercise of so invaluable a privilege under the existing laws, which afford every facility to it, furnishes a ready answer to this question. And, abstracted from any experience on the subject, we can be at no loss to determine that when the place of election is at an inconvenient distance from the elector, the effect upon his conduct will be the same whether that distance be twenty miles or twenty thousand miles. Hence it must appear that objections to the particular modification of the federal power of regulating elections will, in substance, apply with equal force to the modification of the like power in the constitution of this State; and for this reason it will be impossible to acquit the one and to condemn the other. A similar comparison would lead to the same conclusion in respect to the constitutions of most of the other States.

If it should be said that defects in the State constitutions furnish no apology for those which are to be found in the plan proposed, I answer that as the former have never been thought chargeable with inattention to the security of liberty, where the imputations thrown on the latter can be shown to be applicable to them also, the presumption is that they are rather the cavilling refinements of a predetermined opposition than the well-founded inferences of a candid research after truth. To those who are disposed to consider, as innocent omissions in the State constitutions, what they regard as unpardonable blemishes in the plan of the convention, nothing can be said; or at most, they can only be asked to assign some substantial reason why

the representatives of the people in a single State should be more impregnable to the lust of power, or other sinister motives, than the representatives of the people of the United States? If they cannot do this, they ought at least to prove to us that it is easier to subvert the liberties of three millions of people, with the advantage of local governments to head their opposition, than of two hundred thousand people who are destitute of that advantage. And in relation to the point immediately under consideration, they ought to convince us that it is less probable that a predominant faction in a single State should, in order to maintain its superiority, incline to a preference of a particular class of electors, than that a similar spirit should take possession of the representatives of thirteen States, spread over a vast region, and in several respects distinguishable from each other by a diversity of local circumstances, prejudices, and interests.

Hitherto my observations have only aimed at a vindication of the provision in question on the ground of theoretic propriety, on that of the danger of placing the power elsewhere, and on that of the safety of placing it in the manner proposed. But there remains to be mentioned a positive advantage which will result from this disposition and which could not as well have been obtained from any other: I allude to the circumstance of uniformity in the time of elections for the federal House of Representatives. It is more than possible that this uniformity may be found by experience to be of great importance to the public welfare, both as a security against the perpetuation of the same spirit in the body, and as a cure for the diseases of faction. If each State may choose its own time of election it is possible there may be at least as many different periods as there are months in the year. The times of election in the several States, as they are now established for local purposes, vary between extremes as wide as March and November. The consequence of this diversity would be that there could never happen a total dissolution or renovation of the body at one time. If an improper spirit of any kind should happen to prevail in it, that spirit would be apt to infuse itself into the new members, as they come forward in succession. The mass would be likely to remain nearly the same, assimilating constantly to itself its gradual accretions. There is a contagion in example which few men have sufficient force of mind to resist. I am inclined to think that treble the duration in office, with the condition of a total dissolution of the body at the same time,

might be less formidable to liberty than one third of that duration subject to gradual and successive alterations.

Uniformity in the time of elections seems not less requisite for executing the idea of a regular rotation in the Senate, and for conveniently assembling the legislature at a stated period in each year.

It may be asked, Why, then, could not a time have been fixed in the Constitution? As the most zealous adversaries of the plan of the convention in this State are, in general, not less zealous admirers of the constitution of the State, the question may be retorted, and it may be asked, Why was not a time for the like purpose fixed in the constitution of this State? No better answer can be given than that it was a matter which might safely be intrusted to legislative discretion; and that if a time had been appointed, it might, upon experiment, have been found less convenient than some other time. The same answer may be given to the question put on the other side. And it may be added that the supposed danger of a gradual change being merely speculative, it would have been hardly advisable upon that speculation to establish, as a fundamental point, what would deprive several States of the convenience of having the elections for their own governments and for the national government at the same epoch.

PUBLIUS [Hamilton]

Number 62: Concerning the Constitution of the Senate with Regard to the Qualifications of the Members, the Manner of Appointing Them, the Equality of Representation, the Number of the Senators and the Duration of their Appointments

# NUMBER 62

CONCERNING THE CONSTITUTION OF THE SENATE  
WITH REGARD TO THE QUALIFICATIONS OF  
THE MEMBERS, THE MANNER OF APPOINTING THEM,  
THE EQUALITY OF REPRESENTATION,  
THE NUMBER OF THE SENATORS  
AND THE DURATION OF THEIR APPOINTMENTS

[James Madison]

HAVING examined the constitution of the House of Representatives, and answered such of the objections against it as seemed to merit notice, I enter next on the examination of the Senate. The heads into which this member of the government may be considered are: I. The qualifications of senators; II. The appointment of them by the State legislatures; III. The equality of representation in the Senate; IV. The number of senators, and the term for which they are to be elected; V. The powers vested in the Senate.

I. The qualifications proposed for senators, as distinguished from those of representatives, consist in a more advanced age and a longer period of citizenship. A senator must be thirty years of age at least; as a representative must be twenty-five. And the former must have been a citizen nine years; as seven years are required for the latter. The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life most likely to supply these advantages; and which, participating immediately in transactions with foreign nations, ought to be exercised by none who are not thoroughly weaned from the prepossessions and habits incident to foreign birth and education. The term of nine years appears to be a prudent mediocrity between a total exclusion of adopted citizens, whose merits and talents may claim a share in the public confidence, and an indiscriminate and hasty admission of them, which might create a channel for foreign influence on the national councils.

II. It is equally unnecessary to dilate on the appointment of senators by the State legislatures. Among the various modes which might have been devised for constituting this branch of the government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.

III. The equality of representation in the Senate is another point which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion. If indeed it be right that among a people thoroughly incorporated into one nation every district ought to have a proportional share in the government and that among independent and sovereign States, bound together by a simple league, the parties, however unequal in size, ought to have an equal share in the common councils, it does not appear to be without some reason that in a compound republic, partaking both of the national and federal character, the government ought to be founded on a mixture of the principles of proportional and equal representation. But it is superfluous to try, by the standard of theory, a part of the Constitution which is allowed on all hands to be the result, not of theory, but of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable. A common government, with powers equal to its objects, is called for by the voice, and still more loudly by the political situation, of America. A government founded on principles more consonant to the wishes of the larger States is not likely to be obtained from the smaller States. The only option, then, for the former lies between the proposed government and a government still more objectionable. Under this alternative, the advice of prudence must be to embrace the lesser evil; and instead of indulging a fruitless anticipation of the possible mischiefs which may ensue, to contemplate rather the advantageous consequences which may qualify the sacrifice.

In this spirit it may be remarked that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States and an instrument for preserving that residuary

sovereignty. So far the equality ought to be no less acceptable to the large than to the small States; since they are not less solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic.

Another advantage accruing from this ingredient in the constitution of the Senate is the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then of a majority of the States. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial; and that the peculiar defense which it involves in favor of the smaller States would be more rational if any interests common to them and distinct from those of the other States would otherwise be exposed to peculiar danger. But as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States, and as the facility and excess of lawmaking seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice than it appears to many in contemplation.

IV. The number of senators and the duration of their appointment come next to be considered. In order to form an accurate judgment on both these points it will be proper to inquire into the purposes which are to be answered by a senate; and in order to ascertain these it will be necessary to review the inconveniences which a republic must suffer from the want of such an institution.

First. It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents and prove unfaithful to their important trust. In this point of view a senate, as a second branch of the legislative assembly distinct from and dividing the power with a first, must be in all cases a salutary check on the government. It doubles the security to the people by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient. This is a precaution founded on such clear

principles, and now so well understood in the United States, that it would be more than superfluous to enlarge on it. I will barely remark that as the improbability of sinister combinations will be in proportion to the dissimilarity in the genius of the two bodies, it must be politic to distinguish them from each other by every circumstance which will consist with a due harmony in all proper measures, and with the genuine principles of republican government.

Second. The necessity of a senate is not less indicated by the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions. Examples on this subject might be cited without number; and from proceedings within the United States, as well as from the history of other nations. But a position that will not be contradicted need not be proved. All that need be remarked is that a body which is to correct this infirmity ought itself to be free from it, and consequently ought to be less numerous. It ought, moreover, to possess great firmness, and consequently ought to hold its authority by a tenure of considerable duration.

Third. Another defect to be supplied by a senate lies in a want of due acquaintance with the objects and principles of legislation. It is not possible that an assembly of men called for the most part from pursuits of a private nature, continued in appointment for a short time and led by no permanent motive to devote the intervals of public occupation to a study of the laws, the affairs, and the comprehensive interests of their country, should, if left wholly to themselves, escape a variety of important errors in the exercise of their legislative trust. It may be affirmed, on the best grounds, that no small share of the present embarrassments of America is to be charged on the blunders of our governments; and that these have proceeded from the heads rather than the hearts of most of the authors of them. What indeed are all the repealing, explaining, and amending laws, which fill and disgrace our voluminous codes, but so many monuments of deficient wisdom; so many impeachments exhibited by each succeeding against each preceding session; so many admonitions to the people of the value of those aids which may be expected from a well-constituted senate?

A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained. Some governments are deficient in both these qualities; most governments are deficient in the first. I scruple not to assert that in American governments too little attention has been paid to the last. The federal Constitution avoids this error; and what merits particular notice, it provides for the last in a mode which increases the security for the first.

Fourth. The mutability in the public councils arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government. Every new election in the States is found to change one half of the representatives. From this change of men must proceed a change of opinions; and from a change of opinions, a change of measures. But a continual change even of good measures is inconsistent with every rule of prudence and every prospect of success. The remark is verified in private life, and becomes more just, as well as more important, in national transactions.

To trace the mischievous effects of a mutable government would fill a volume. I will hint a few only, each of which will be perceived to be a source of innumerable others.

In the first place, it forfeits the respect and confidence of other nations, and all the advantages connected with national character. An individual who is observed to be inconstant to his plans, or perhaps to carry on his affairs without any plan at all, is marked at once by all prudent people as a speedy victim to his own unsteadiness and folly. His more friendly neighbors may pity him, but all will decline to connect their fortunes with his; and not a few will seize the opportunity of making their fortunes out of his. One nation is to another what one individual is to another; with this melancholy distinction, perhaps, that the former, with fewer of the benevolent emotions than the latter, are under fewer restraints also from taking undue advantage of the indiscretions of each other. Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of its wiser neighbors.

But the best instruction on this subject is unhappily conveyed to America by the example of her own situation. She finds that she is held in no respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs.

The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?

Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uninformed mass of the people. Every new regulation concerning commerce or revenue, or in any manner affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens. This is a state of things in which it may be said with some truth that laws are made for the few, not for the many.

In another point of view, great injury results from an unstable government. The want of confidence in the public councils damps every useful undertaking, the success and profit of which may depend on a continuance of existing arrangements. What prudent merchant will hazard his fortunes in any branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed? What farmer or manufacturer will lay himself out for the encouragement given to any particular cultivation or establishment, when he can have no assurance that his preparatory labors and advances will not render him a victim to an inconstant government? In a word, no great improvement or laudable enterprise can go forward which requires the auspices of a steady system of

national policy.

But the most deplorable effect of all is that diminution of attachment and reverence which steals into the hearts of the people towards a political system which betrays so many marks of infirmity, and disappoints so many of their flattering hopes. No government, any more than an individual, will long be respected without being truly respectable; nor be truly respectable without possessing a certain portion of order and stability.

PUBLIUS [Madison]

Number 63: A Further View of the Constitution of the Senate in Regard to the Duration of Appointment of Its Members

# NUMBER 63

## A FURTHER VIEW OF THE CONSTITUTION OF THE SENATE IN REGARD TO THE DURATION OF APPOINTMENT OF ITS MEMBERS

[James Madison]

A fifth desideratum, illustrating the utility of a senate, is the want of a due sense of national character. Without a select and stable member of the government, the esteem of foreign powers will not only be forfeited by an unenlightened and variable policy, proceeding from the causes already mentioned, but the national councils will not possess that sensibility to the opinion of the world which is perhaps not less necessary in order to merit than it is to obtain its respect and confidence.

An attention to the judgment of other nations is important to every government for two reasons; the one is that independently of the merits of any particular plan or measure, it is desirable, on various accounts, that it should appear to other nations as the offspring of a wise and honorable policy; the second is that in doubtful cases, particularly where the national councils may be warped by some strong passion or momentary interest, the presumed or known opinion of the impartial world may be the best guide that can be followed. What has not America lost by her want of character with foreign nations; and how many errors and follies would she not have avoided, if the justice and propriety of her measures had, in every instance, been previously tried by the light in which they would probably appear to the unbiased part of mankind?

Yet however requisite a sense of national character may be, it is evident that it can never be sufficiently possessed by a numerous and changeable body. It can only be found in a number so small that a sensible degree of the praise and blame of public measures may be the portion of each individual; or in an assembly so durably invested with public trust that the pride and consequence of its members may be sensibly incorporated with the reputation and prosperity of the community. The half-yearly representatives of Rhode Island would probably have been little affected in their

deliberations on the iniquitous measures of that State by arguments drawn from the light in which such measures would be viewed by foreign nations, or even by the sister States; whilst it can scarcely be doubted that if the concurrence of a select and stable body had been necessary, a regard to national character alone would have prevented the calamities under which that misguided people is now laboring.

I add, as a sixth defect, the want, in some important cases, of a due responsibility in the government to the people, arising from that frequency of elections which in other cases produces this responsibility. This remark will, perhaps, appear not only new, but paradoxical. It must nevertheless be acknowledged, when explained, to be as undeniable as it is important.

Responsibility, in order to be reasonable, must be limited to objects within the power of the responsible party, and in order to be effectual, must relate to operations of that power, of which a ready and proper judgment can be formed by the constituents. The objects of government may be divided into two general classes: the one depending on measures which have singly an immediate and sensible operation; the other depending on a succession of well-chosen and well-connected measures, which have a gradual and perhaps unobserved operation. The importance of the latter description to the collective and permanent welfare of every country needs no explanation. And yet it is evident that an assembly elected for so short a term as to be unable to provide more than one or two links in a chain of measures, on which the general welfare may essentially depend, ought not to be answerable for the final result any more than a steward or tenant, engaged for one year, could be justly made to answer for places or improvements which could not be accomplished in less than half a dozen years. Nor is it possible for the people to estimate the share of influence which their annual assemblies may respectively have on events resulting from the mixed transactions of several years. It is sufficiently difficult, at any rate, to preserve a personal responsibility in the members of a numerous body, for such acts of the body as have an immediate, detached, and palpable operation on its constituents.

The proper remedy for this defect must be an additional body in the legislative department, which, having sufficient permanency to provide for

such objects as require a continued attention, and a train of measures, may be justly and effectually answerable for the attainment of those objects.

Thus far I have considered the circumstances which point out the necessity of a well-constructed Senate only as they relate to the representatives of the people. To a people as little blinded by prejudice or corrupted by flattery as those whom I address, I shall not scruple to add that such an institution may be sometimes necessary as a defense to the people against their own temporary errors and delusions. As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statues on the next.

It may be suggested that a people spread over an extensive region cannot, like the crowded inhabitants of a small district, be subject to the infection of violent passions or to the danger of combining in pursuit of unjust measures. I am far from denying that this is a distinction of peculiar importance. I have, on the contrary, endeavored in a former paper to show that it is one of the principal recommendations of a confederated republic. At the same time, this advantage ought not to be considered as superseding the use of auxiliary precautions. It may even be remarked that the same extended situation which will exempt the people of America from some of the dangers incident to lesser republics will expose them to the inconveniency of remaining for a longer time under the influence of those misrepresentations which the combined industry of interested men may

succeed in distributing among them.

It adds no small weight to all these considerations to recollect that history informs us of no long-lived republic which had not a senate. Sparta, Rome, and Carthage are, in fact, the only states to whom that character can be applied. In each of the two first there was a senate for life. The constitution of the senate in the last is less known. Circumstantial evidence makes it probable that it was not different in this particular from the two others. It is at least certain that it had some quality or other which rendered it an anchor against popular fluctuations; and that a smaller council, drawn out of the senate, was appointed not only for life, but filled up vacancies itself. These examples, though as unfit for the imitation as they are repugnant to the genius of America, are, notwithstanding, when compared with the fugitive and turbulent existence of other ancient republics, very instructive proofs of the necessity of some institution that will blend stability with liberty. I am not unaware of the circumstances which distinguish the American from other popular governments, as well ancient as modern; and which render extreme circumspection necessary, in reasoning from one case to the other. But after allowing due weight to this consideration it may still be maintained that there are many points of similitude which render these examples not unworthy of our attention. Many of the defects, as we have seen, which can only be supplied by a senatorial institution, are common to a numerous assembly frequently elected by the people, and to the people themselves. There are others peculiar to the former which require the control of such an institution. The people can never wilfully betray their own interests; but they may possibly be betrayed by the representatives of the people; and the danger will be evidently greater where the whole legislative trust is lodged in the hands of one body of men than where the concurrence of separate and dissimilar bodies is required in every public act.

The difference most relied on between the American and other republics consists in the principle of representation, which is the pivot on which the former move, and which is supposed to have been unknown to the latter, or at least to the ancient part of them. The use which has been made of this difference, in reasonings contained in former papers, will have shown that I am disposed neither to deny its existence nor to undervalue its importance. I

feel the less restraint, therefore, in observing that the position concerning the ignorance of the ancient governments on the subject of representation is by no means precisely true in the latitude commonly given to it. Without entering into a disquisition which here would be misplaced, I will refer to a few known facts in support of what I advance.

In the most pure democracies of Greece, many of the executive functions were performed, not by the people themselves, but by officers elected by the people, and representing the people in their executive capacity.

Prior to the reform of Solon, Athens was governed by nine Archons, annually elected by the people at large. The degree of power delegated to them seems to be left in great obscurity. Subsequent to that period we find an assembly, first of four, and afterwards of six hundred members, annually elected by the people; and partially representing them in their legislative capacity, since they were not only associated with the people in the function of making laws, but had the exclusive right of originating legislative propositions to the people. The senate of Carthage, also, whatever might be its power or the duration of its appointment, appears to have been elective by the suffrages of the people. Similar instances might be traced in most, if not all, the popular governments of antiquity.

Lastly, in Sparta we meet with the Ephori, and in Rome with the Tribunes; two bodies, small indeed in number, but annually elected by the whole body of the people, and considered as the representatives of the people, almost in their plenipotentiary capacity. The Cosmi of Crete were also annually elected by the people, and have been considered by some authors as an institution analogous to those of Sparta and Rome, with this difference only, that in the election of that representative body the right of suffrage was communicated to a part only of the people.

From these facts, to which many others might be added, it is clear that the principle of representation was neither unknown to the ancients nor wholly overlooked in their political constitutions. The true distinction between these and the American governments lies in the total exclusion of the people in their collective capacity, from any share in the latter, and not in the total exclusion of the representatives of the people from the

administration of the former. The distinction, however, thus qualified, must be admitted to leave a most advantageous superiority in favor of the United States. But to insure to this advantage its full effect, we must be careful not to separate it from the other advantage, of an extensive territory. For it cannot be believed that any form of representative government could have succeeded within the narrow limits occupied by the democracies of Greece.

In answer to all these arguments, suggested by reason, illustrated by examples, and enforced by our own experience, the jealous adversary of the Constitution will probably content himself with repeating that a senate appointed not immediately by the people, and for the term of six years, must gradually acquire a dangerous pre-eminence in the government and finally transform it into a tyrannical aristocracy.

To this general answer the general reply ought to be sufficient, that liberty may be endangered by the abuses of liberty as well as by the abuses of power; that there are numerous instances of the former as well as of the latter; and that the former, rather than the latter, is apparently most to be apprehended by the United States. But a more particular reply may be given.

Before such a revolution can be effected, the Senate, it is to be observed, must in the first place corrupt itself; must next corrupt the State legislatures, must then corrupt the House of Representatives, and must finally corrupt the people at large. It is evident that the Senate must be first corrupted before it can attempt an establishment of tyranny. Without corrupting the State legislatures it cannot prosecute the attempt because the periodical change of members would otherwise regenerate the whole body. Without exerting the means of corruption with equal success on the House of Representatives, the opposition of that co-equal branch of the government would inevitably defeat the attempt; and without corrupting the people themselves, a succession of new representatives would speedily restore all things to their pristine order. Is there any man who can seriously persuade himself that the proposed Senate can, by any possible means within the compass of human address, arrive at the object of a lawless ambition through all these obstructions?

If reason condemns the suspicion, the same sentence is pronounced by experience. The constitution of Maryland furnishes the most apposite example. The Senate of that State is elected, as the federal Senate will be, indirectly by the people, and for a term less by one year only than the federal Senate. It is distinguished, also, by the remarkable prerogative of filling up its own vacancies within the term of its appointment, and at the same time is not under the control of any such rotation as is provided for the federal Senate. There are some other lesser distinctions which would expose the former to colorable objections that do not lie against the latter. If the federal Senate, therefore, really contained the danger which has been so loudly proclaimed, some symptoms at least of a like danger ought by this time to have been betrayed by the Senate of Maryland, but no such symptoms have appeared. On the contrary, the jealousies at first entertained by men of the same description with those who view with terror the correspondent part of the federal Constitution have been gradually extinguished by the progress of the experiment; and the Maryland constitution is daily deriving, from the salutary operation of this part of it, a reputation in which it will probably not be rivaled by that of any State in the Union.

But if anything could silence the jealousies on this subject, it ought to be the British example. The Senate there, instead of being elected for a term of six years, and of being unconfined to particular families or fortunes, is an hereditary assembly of opulent nobles. The House of Representatives, instead of being elected for two years, and by the whole body of the people, is elected for seven years, and, in very great proportion, by a very small proportion of the people. Here, unquestionably, ought to be seen in full display the aristocratic usurpations and tyranny which are at some future period to be exemplified in the United States. Unfortunately, however, for the anti-federal argument, the British history informs us that this hereditary assembly has not been able to defend itself against the continual encroachments of the House of Representatives, and that it no sooner lost the support of the monarch than it was actually crushed by the weight of the popular branch.

As far as antiquity can instruct us on this subject, its examples support the reasoning which we have employed. In Sparta, the Ephori, the annual

representatives of the people, were found an overmatch for the senate for life, continually gained on its authority and finally drew all power into their own hands. The Tribunes of Rome who were the representatives of the people prevailed, it is well known, in almost every contest with the senate for life, and in the end gained the most complete triumph over it. The fact is the more remarkable as unanimity was required in every act of the Tribunes, even after their number was augmented to ten. It proves the irresistible force possessed by that branch of a free government, which has the people on its side. To these examples might be added that of Carthage, whose senate, according to the testimony of Polybius, instead of drawing all power into its vortex had, at the commencement of the second Punic War, lost almost the whole of its original portion.

Besides the conclusive evidence resulting from this assemblage of facts that the federal Senate will never be able to transform itself, by gradual usurpations, into an independent and aristocratic body, we are warranted in believing that if such a revolution should ever happen from causes which the foresight of man cannot guard against, the House of Representatives, with the people on their side, will at all times be able to bring back the Constitution to its primitive form and principles. Against the force of the immediate representatives of the people nothing will be able to maintain even the constitutional authority of the Senate, but such a display of enlightened policy, and attachment to the public good, as will divide with that branch of the legislature the affections and support of the entire body of the people themselves.

PUBLIUS [Madison]

Number 64: A Further View of the Constitution of the Senate in Regard to the Power of Making Treaties

# NUMBER 64

## A FURTHER VIEW OF THE CONSTITUTION OF THE SENATE IN REGARD TO THE POWER OF MAKING TREATIES

[John Jay]

IT IS a just and not a new observation that enemies to particular persons, and opponents to particular measures, seldom confine their censures to such things only, in either, as are worthy of blame. Unless, on this principle, it is difficult to explain the motives of their conduct, who condemn the proposed Constitution in the aggregate and treat with severity some of the most unexceptionable articles in it.

The second section gives power to the President, by and with the advice and consent of the Senate, to make treaties, PROVIDED TWO THIRDS OF THE SENATORS PRESENT CONCUR.

The power of making treaties is an important one, especially as it relates to war, peace, and commerce; and it should not be delegated but in such a mode, and with such precautions, as will afford the highest security that it will be exercised by men the best qualified for the purpose, and in the manner most conducive to the public good. The convention appears to have been attentive to both these points; they have directed the President to be chosen by select bodies of electors to be deputed by the people for that express purpose; and they have committed the appointment of senators to the State legislatures. This mode has, in such cases, vastly the advantage of elections by the people in their collective capacity where the activity of party zeal, taking advantage of the supineness, the ignorance, and the hopes and fears of the unwary and interested, often places men in office by the votes of a small proportion of the electors.

As the select assemblies for choosing the President, as well as the State legislatures who appoint the senators, will in general be composed of the most enlightened and respectable citizens, there is reason to presume that their attention and their votes will be directed to those men only who have

become the most distinguished by their abilities and virtue, and in whom the people perceive just grounds for confidence. The Constitution manifests very particular attention to this object. By excluding men under thirty-five from the first office, and those under thirty from the second, it confines the electors to men of whom the people have had time to form a judgment, and with respect to whom they will not be liable to be deceived by those brilliant appearances of genius and patriotism which, like transient meteors, sometimes mislead as well as dazzle. If the observation be well founded that wise kings will always be served by able ministers it is fair to argue that as an assembly of select electors possess, in a greater degree than kings, the means of extensive and accurate information relative to men and characters, so will their appointments bear at least equal marks of discretion and discernment. The inference which naturally results from these considerations is this, that the President and senators so chosen will always be of the number of those who best understand our national interests, whether considered in relation to the several States or to foreign nations, who are best able to promote those interests, and whose reputation for integrity inspires and merits confidence. With such men the power of making treaties may be safely lodged.

Although the absolute necessity of system, in the conduct of any business, is universally known and acknowledged, yet the high importance of it in national affairs has not yet become sufficiently impressed on the public mind. They who wish to commit the power under consideration to a popular assembly composed of members constantly coming and going in quick succession seem not to recollect that such a body must necessarily be inadequate to the attainment of those great objects which require to be steadily contemplated in all their relations and circumstances, and which can only be approached and achieved by measures which not only talents, but also exact information, and often much time, are necessary to concert and to execute. It was wise, therefore, in the convention, to provide not only that the power of making treaties should be committed to able and honest men, but also that they should continue in place a sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system for the management of them. The duration prescribed is such as will give them an opportunity of greatly extending their political informations, and of rendering their accumulating experience more and

more beneficial to their country. Nor has the convention discovered less prudence in providing for the frequent elections of senators in such a way as to obviate the inconvenience of periodically transferring those great affairs entirely to new men; for by leaving a considerable residue of the old ones in place, uniformity and order, as well as a constant succession of official information, will be preserved.

There are few who will not admit that the affairs of trade and navigation should be regulated by a system cautiously formed and steadily pursued; and that both our treaties and our laws should correspond with and be made to promote it. It is of much consequence that this correspondence and conformity be carefully maintained; and they who assent to the truth of this position will see and confess that it is well provided for by making the concurrence of the Senate necessary both to treaties and to laws.

It seldom happens in the negotiation of treaties, of whatever nature, but that perfect secrecy and immediate dispatch are sometimes requisite. There are cases where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehensions of discovery. Those apprehensions will operate on those persons whether they are actuated by mercenary or friendly motives; and there doubtless are many of both descriptions who would rely on the secrecy of the President, but who would not confide in that of the Senate, and still less in that of a large popular assembly. The convention have done well, therefore, in so disposing of the power of making treaties that although the President must, in forming them, act by the advice and consent of the Senate, yet he will be able to manage the business of intelligence in such manner as prudence may suggest.

They who have turned their attention to the affairs of men must have perceived that there are tides in them; tides very irregular in their duration, strength, and direction, and seldom found to run twice exactly in the same manner or measure. To discern and to profit by these tides in national affairs is the business of those who preside over them; and they who have had much experience on this head inform us that there frequently are occasions when days, nay, even when hours, are precious. The loss of a battle, the death of a prince, the removal of a minister, or other circumstances intervening to change the present posture and aspect of affairs may turn the

most favorable tide into a course opposite to our wishes. As in the field, so in the cabinet, there are moments to be seized as they pass, and they who preside in either should be left in capacity to improve them. So often and so essentially have we heretofore suffered from the want of secrecy and dispatch that the Constitution would have been inexcusably defective if no attention had been paid to those objects. Those matters which in negotiations usually require the most secrecy and the most dispatch are those preparatory and auxiliary measures which are not otherwise important in a national view, than as they tend to facilitate the attainment of the objects of the negotiation. For these the President will find no difficulty to provide; and should any circumstances occur which requires the advice and consent of the Senate, he may at any time convene them. Thus we see that the Constitution provides that our negotiations for treaties shall have every advantage which can be derived from talents, information, integrity, and deliberate investigations, on the one hand, and from secrecy and dispatch on the other.

But to this plan, as to most others that have ever appeared, objections are contrived and urged.

Some are displeased with it, not on account of any errors or defects in it, but because, as the treaties, when made, are to have the force of laws, they should be made only by men invested with legislative authority. These gentlemen seem not to consider that the judgments of our courts, and the commissions constitutionally given by our governor, are as valid and as binding on all persons whom they concern as the laws passed by our legislature. All constitutional acts of power, whether in the executive or in the judicial department, have as much legal validity and obligation as if they proceeded from the legislature; and therefore, whatever name be given to the power of making treaties, or however obligatory they may be when made, certain it is that the people may, with much propriety, commit the power to a distinct body from the legislature, the executive, or the judicial. It surely does not follow that because they have given the power of making laws to the legislature, that therefore they should likewise give them power to do every other act of sovereignty by which the citizens are to be bound and affected.

Others, though content that treaties should be made in the mode proposed, are averse to their being the supreme laws of the land. They insist, and profess to believe, that treaties, like acts of assembly, should be repealable at pleasure. This idea seems to be new and peculiar to this country, but new errors, as well as new truths, often appear. These gentlemen would do well to reflect that a treaty is only another name for a bargain, and that it would be impossible to find a nation who would make any bargain with us, which should be binding on them absolutely, but on us only so long and so far as we may think proper to be bound by it. They who make laws may, without doubt, amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them; but still let us not forget that treaties are made, not by only one of the contracting parties, but by both, and consequently, that as the consent of both was essential to their formation at first, so must it ever afterwards be to alter or cancel them. The proposed Constitution, therefore, has not in the least extended the obligation of treaties. They are just as binding and just as far beyond the lawful reach of legislative acts now as they will be at any future period, or under any form of government.

However useful jealousy may be in republics, yet when like bile in the natural it abounds too much in the body politic, the eyes of both become very liable to be deceived by the delusive appearances which that malady casts on surrounding objects. From this cause, probably, proceed the fears and apprehensions of some, that the President and Senate may make treaties without an equal eye to the interests of all the States. Others suspect that the two thirds will oppress the remaining third, and ask whether those gentlemen are made sufficiently responsible for their conduct; whether, if they act corruptly, they can be punished; and if they make disadvantageous treaties, how are we to get rid of those treaties?

As all the States are equally represented in the Senate, and by men the most able and the most willing to promote the interests of their constituents, they will all have an equal degree of influence in that body, especially while they continue to be careful in appointing proper persons, and to insist on their punctual attendance. In proportion as the United States assume a national form and a national character, so will the good of the whole be more and more an object of attention, and the government must be a weak one indeed

if it should forget that the good of the whole can only be promoted by advancing the good of each of the parts or members which compose the whole. It will not be in the power of the President and Senate to make any treaties by which they and their families and estates will not be equally bound and affected with the rest of the community; and, having no private interests distinct from that of the nation, they will be under no temptations to neglect the latter.

As to corruption, the case is not supposable. He must either have been very unfortunate in his intercourse with the world, or possess a heart very susceptible of such impressions, who can think it probable that the President and two thirds of the Senate will ever be capable of such unworthy conduct. The idea is too gross and too invidious to be entertained. But in such a case, if it should ever happen, the treaty so obtained from us would, like all other fraudulent contracts, be null and void by the laws of nations.

With respect to their responsibility, it is difficult to conceive how it could be increased. Every consideration that can influence the human mind, such as honor, oaths, reputations, conscience, the love of country, and family affections and attachments, afford security for their fidelity. In short, as the Constitution has taken the utmost care that they shall be men of talents, and integrity, we have reason to be persuaded that the treaties they make will be as advantageous as, all circumstances considered, could be made; and so far as the fear of punishment and disgrace can operate, that motive to good behaviour is amply afforded by the article on the subject of impeachments.

PUBLIUS [Jay]

Number 65: A Further View of the Constitution of the Senate in Relation to Its Capacity as a Court for the Trial of Impeachments

# NUMBER 65

## A FURTHER VIEW OF THE CONSTITUTION OF THE SENATE IN RELATION TO ITS CAPACITY AS A COURT FOR THE TRIAL OF IMPEACHMENTS

[Alexander Hamilton]

THE remaining powers which the plan of the convention allots to the Senate, in a distinct capacity, are comprised in their participation with the executive in the appointment to offices, and in their judicial character as a court for the trial of impeachments. As in the business of appointments the executive will be the principal agent, the provisions relating to it will most properly be discussed in the examination of that department. We will, therefore, conclude this head with a view of the judicial character of the Senate.

A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt.

The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs speak for themselves. The difficulty of placing it rightly in a government resting entirely on the basis of periodical

elections will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction, and on this account can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny.

The convention, it appears, thought the Senate the most fit depository of this important trust. Those who can best discern the intrinsic difficulty of the thing will be the least hasty in condemning that opinion, and will be most inclined to allow due weight to the arguments which may be supposed to have produced it.

What, it may be asked, is the true spirit of the institution itself? Is it not designed as a method of NATIONAL INQUEST into the conduct of public men? If this be the design of it, who can so properly be the inquisitors for the nation as the representatives of the nation themselves? It is not disputed that the power of originating the inquiry, or, in other words, of preferring the impeachment, ought to be lodged in the hands of one branch of the legislative body. Will not the reasons which indicate the propriety of this arrangement strongly plead for an admission of the other branch of that body to a share of the inquiry? The model from which the idea of this institution has been borrowed pointed out that course to the convention. In Great Britain it is the province of the House of Commons to prefer the impeachment, and of the House of Lords to decide upon it. Several of the State constitutions have followed the example. As well the latter as the former seem to have regarded the practice of impeachments as a bridle in the hands of the legislative body upon the executive servants of the government. Is not this the true light in which it ought to be regarded?

Where else than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation to preserve, unawed and uninfluenced, the necessary impartiality between an individual accused and the representatives of the people, his accusers?

Could the Supreme Court have been relied upon as answering this description? It is much to be doubted whether the members of that tribunal

would at all times be endowed with so eminent a portion of fortitude as would be called for in the execution of so difficult a task; and it is still more to be doubted whether they would possess the degree of credit and authority which might, on certain occasions, be indispensable towards reconciling the people to a decision that should happen to clash with an accusation brought by their immediate representatives. A deficiency in the first would be fatal to the accused; in the last, dangerous to the public tranquillity. The hazard, in both these respects, could only be avoided, if at all, by rendering that tribunal more numerous than would consist with a reasonable attention to economy. The necessity of a numerous court for the trial of impeachments is equally dictated by the nature of the proceeding. This can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges, as in common cases serve to limit the discretion of courts in favor of personal security. There will be no jury to stand between the judges who are to pronounce the sentence of the law and the party who is to receive or suffer it. The awful discretion which a court of impeachments must necessarily have to doom to honor or to infamy the most confidential and the most distinguished characters of the community forbids the commitment of the trust to a small number of persons.

These considerations seem alone sufficient to authorize a conclusion, that the Supreme Court would have been an improper substitute for the Senate, as a court of impeachments. There remains a further consideration, which will not a little strengthen this conclusion. It is this: the punishment which may be the consequence of conviction upon impeachment is not to terminate the chastisement of the offender. After having been sentenced to a perpetual ostracism from the esteem and confidence and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of law. Would it be proper that the persons who had disposed of his fame, and his most valuable rights as a citizen, in one trial, should, in another trial, for the same offense, be also the disposers of his life and his fortune? Would there not be the greatest reason to apprehend that error, in the first sentence, would be the parent of error in the second sentence? That the strong bias of one decision would be apt to overrule the influence of any new lights which might be brought to vary the complexion of another decision? Those who know anything of human

nature will not hesitate to answer these questions in the affirmative; and will be at no loss to perceive that by making the same persons judges in both cases, those who might happen to be the objects of prosecution would, in a great measure, be deprived of the double security intended them by a double trial. The loss of life and estate would often be virtually included in a sentence which, in its terms, imported nothing more than dismissal from a present and disqualification for a future office. It may be said that the intervention of a jury, in the second instance, would obviate the danger. But juries are frequently influenced by the opinions of judges. They are sometimes induced to find special verdicts, which refer the main question to the decision of the court. Who would be willing to stake his life and his estate upon the verdict of a jury acting under the auspices of judges who had predetermined his guilt?

Would it have been an improvement of the plan to have united the Supreme Court with the Senate in the formation of the court of impeachments? This union would certainly have been attended with several advantages; but would they not have been overbalanced by the signal disadvantage, already stated, arising from the agency of the same judges in the double prosecution to which the offender would be liable? To a certain extent, the benefits of that union will be obtained from making the chief justice of the Supreme Court the president of the court of impeachments, as is proposed to be done in the plan of the convention; while the inconveniences of an entire incorporation of the former into the latter will be substantially avoided. This was perhaps the prudent mean. I forbear to remark upon the additional pretext for clamor against the judiciary, which so considerable an augmentation of its authority would have afforded.

Would it have been desirable to have composed the court for the trial of impeachments of persons wholly distinct from the other departments of the government? There are weighty arguments, as well against as in favor of such a plan. To some minds it will not appear a trivial objection that it would tend to increase the complexity of the political machine, and to add a new spring to the government, the utility of which would at best be questionable. But an objection which will not be thought by any unworthy of attention is this: a court formed upon such a plan would either be attended with heavy expense, or might in practice be subject to a variety of

casualties and inconveniences. It must either consist of permanent officers, stationary at the seat of government and of course entitled to fixed and regular stipends, or of certain officers of the State governments, to be called upon whenever an impeachment was actually depending. It will not be easy to imagine any third mode materially different which could rationally be proposed. As the court, for reasons already given, ought to be numerous, the first scheme will be reprobated by every man who can compare the extent of the public wants with the means of supplying them. The second will be espoused with caution by those who will seriously consider the difficulty of collecting men dispersed over the whole Union; the injury to the innocent, from the procrastinated determination of the charges which might be brought against them; the advantage to the guilty, from the opportunities which delay would afford to intrigue and corruption; and in some cases the detriment to the State, from the prolonged inaction of men whose firm and faithful execution of their duty might have exposed them to the persecution of an intemperate or designing majority in the House of Representatives. Though this latter supposition may seem harsh and might not be likely often to be verified, yet it ought not to be forgotten that the demon of faction will, at certain seasons, extend his scepter over all numerous bodies of men.

But, though one or the other of the substitutes which have been examined or some other that might be devised should be thought preferable to the plan, in this respect reported by the convention, it will not follow that the Constitution ought for this reason to be rejected. If mankind were to resolve to agree in no institution of government, until every part of it had been adjusted to the most exact standard of perfection, society would soon become a general scene of anarchy, and the world a desert. Where is the standard of perfection to be found? Who will undertake to unite the discordant opinions of a whole community in the same judgment of it; and to prevail upon one conceited projector to renounce his infallible criterion for the fallible criterion of his more conceited neighbor? To answer the purpose of the adversaries of the Constitution, they ought to prove, not merely that particular provisions in it are not the best which might have been imagined, but that the plan upon the whole is bad and pernicious.

PUBLIUS [Hamilton]

Number 66: The Same Subject Continued (Senate Impeachment Authority)

# NUMBER 66

THE SAME SUBJECT CONTINUED

[Alexander Hamilton]

A REVIEW of the principal objections that have appeared against the proposed court for the trial of impeachments will not improbably eradicate the remains of any unfavorable impressions which may still exist in regard to this matter.

The first of these objections is that the provision in question confounds legislative and judiciary authorities in the same body in violation of that important and well-established maxim which requires a separation between the different departments of power. The true meaning of this maxim has been discussed and ascertained in another place, and has been shown to be entirely compatible with a partial intermixture of those departments for special purposes, preserving them, in the main, distinct and unconnected. This partial intermixture is even, in some cases, not only proper but necessary to the mutual defense of the several members of the government against each other. An absolute or qualified negative in the executive upon the acts of the legislative body is admitted, by the ablest adepts in political science, to be an indispensable barrier against the encroachments of the latter upon the former. And it may, perhaps, with no less reason, be contended that the powers relating to impeachments are, as before intimated, an essential check in the hands of that body upon the encroachments of the executive. The division of them between the two branches of the legislature, assigning to one the right of accusing, to the other the right of judging, avoids the inconvenience of making the same persons both accusers and judges; and guards against the danger of persecution, from the prevalency of a factious spirit in either of those branches. As the concurrence of two thirds of the Senate will be requisite to a condemnation, the security to innocence, from this additional circumstance, will be as complete as itself can desire.

It is curious to observe with what vehemence this part of the plan is assailed, on the principle here taken notice of, by men who profess to

admire without exception the constitution of this State; while that constitution makes the Senate, together with the chancellor and judges of the Supreme Court, not only a court of impeachments, but the highest judicatory in the State, in all causes, civil and criminal. The proportion, in point of numbers, of the chancellor and judges to the senators, is so inconsiderable that the judiciary authority of New York in the last resort may with truth be said to reside in its Senate. If the plan of the convention be, in this respect, chargeable with a departure from the celebrated maxim which has been so often mentioned, and seems to be so little understood, how much more culpable must be the constitution of New York? [46](#)

A second objection to the Senate, as a court of impeachments, is that it contributes to an undue accumulation of power in that body, tending to give to the government a countenance too aristocratic. The Senate, it is observed, is to have concurrent authority with the executive in the formation of treaties and in the appointment to offices: if, say the objectors, to these prerogatives is added that of determining in all cases of impeachment, it will give a decided predominancy to senatorial influence. To an objection so little precise in itself it is not easy to find a very precise answer. Where is the measure or criterion to which we can appeal for estimating what will give the Senate too much, too little, or barely the proper degree of influence? Will it not be more safe, as well as more simple, to dismiss such vague and uncertain calculations, to examine each power by itself, and to decide, on general principles, where it may be deposited with most advantage and least inconvenience?

If we take this course, it will lead to a more intelligible if not to a more certain result. The disposition of the power of making treaties which has obtained in the plan of the convention will then, if I mistake not, appear to be fully justified by the consideration stated in a former number, and by others which will occur under the next head of our inquiries. The expediency of the junction of the Senate with the executive, in the power of appointing to offices, will, I trust, be placed in a light not less satisfactory in the disquisitions under the same head. And I flatter myself the observations in my last paper must have gone no inconsiderable way towards proving that it was not easy, if practicable, to find a more fit receptacle for the power of determining impeachments than that which has been chosen. If

this be truly the case, the hypothetical danger of the too great weight of the Senate ought to be discarded from our reasonings.

But this hypothesis, such as it is, has already been refuted in the remarks applied to the duration in office prescribed for the senators. It was by them shown, as well on the credit of historical examples as from the reason of the thing, that the most popular branch of every government partaking of the republican genius, by being generally the favorite of the people, will be as generally a full match, if not an overmatch, for every other member of the government.

But independent of this most active and operative principle, to secure the equilibrium of the national House of Representatives, the plan of the convention has provided in its favor several important counterpoises to the additional authorities to be conferred upon the Senate. The exclusive privilege of originating money bills will belong to the House of Representatives. The same house will possess the sole right of instituting impeachments; is not this a complete counterbalance to that of determining them? The same house will be umpire in all elections of the President which do not unite the suffrages of a majority of the whole number of electors; a case which it cannot be doubted will sometimes, if not frequently, happen. The constant possibility of the thing must be a fruitful source of influence to that body. The more it is contemplated, the more important will appear this ultimate though contingent power of deciding the competitions of the most illustrious citizens of the Union, for the first office in it. It would not perhaps be rash to predict, that as a mean influence it will be found to outweigh all the peculiar attributes of the Senate.

A third objection to the Senate as a court of impeachments is drawn from the agency they are to have in the appointments to office. It is imagined that they would be too indulgent judges of the conduct of men, in whose official creation they had participated. The principle of this objection would condemn a practice which is to be seen in all the State governments, if not in all the governments with which we are acquainted: I mean that of rendering those who hold office during pleasure dependent on the pleasure of those who appoint them. With equal plausibility might it be alleged in this case that the favoritism of the latter would always be an asylum for the

misbehavior of the former. But that practice, in contradiction to this principle, proceeds upon the presumption that the responsibility of those who appoint, for the fitness and competency of the persons on whom they bestow their choice, and the interest they have in the respectable and prosperous administration of affairs, will inspire a sufficient disposition to dismiss from a share in it all such who, by their conduct, may have proved themselves unworthy of the confidence reposed in them. Though facts may not always correspond with this presumption, yet if it be, in the main, just, it must destroy the supposition that the Senate, who will merely sanction the choice of the Executive, should feel a bias towards the objects of that choice strong enough to blind them to the evidences of guilt so extraordinary as to have induced the representatives of the nation to become its accusers.

If any further argument were necessary to evince the improbability of such a bias, it might be found in the nature of the agency of the Senate in the business of appointments. It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made. They might even entertain a preference to some other person at the very moment they were assenting to the one proposed, because there might be no positive ground of opposition to him; and they could not be sure, if they withheld their assent, that the subsequent nomination would fall upon their own favorite, or upon any other person in their estimation more meritorious than the one rejected. Thus it could hardly happen that the majority of the Senate would feel any other complacency towards the object of an appointment than such as the appearances of merit might inspire and the proofs of the want of it destroy.

A fourth objection to the Senate, in the capacity of a court of impeachments, is derived from its union with the executive in the power of making treaties. This, it has been said, would constitute the senators their own judges in every case of a corrupt or perfidious execution of that trust. After having combined with the Executive in betraying the interests of the nation in a ruinous treaty, what prospect, it is asked, would there be of their

being made to suffer the punishment they would deserve when they were themselves to decide upon the accusation brought against them for the treachery of which they had been guilty?

This objection has been circulated with more earnestness and with greater show of reason than any other which has appeared against this part of the plan; and yet I am deceived if it does not rest upon an erroneous foundation.

The security essentially intended by the Constitution against corruption and treachery in the formation of treaties is to be sought for in the numbers and characters of those who are to make them. The JOINT AGENCY of the Chief Magistrate of the Union, and of two thirds of the members of a body selected by the collective wisdom of the legislatures of the several States, is designed to be the pledge for the fidelity of the national councils in this particular. The convention might with propriety have meditated the punishment of the executive for a deviation from the instructions of the Senate, or a want of integrity in the conduct of the negotiations committed to him; they might also have had in view the punishment of a few leading individuals in the Senate who should have prostituted their influence in that body as the mercenary instruments of foreign corruption: but they could not, with more or with equal propriety, have contemplated the impeachment and punishment of two thirds of the Senate, consenting to an improper treaty, than of a majority of that or of the other branch of the national legislature, consenting to a pernicious or unconstitutional law—a principle which, I believe, has never been admitted into any government. How, in fact, could a majority in the House of Representatives impeach themselves? Not better, it is evident, than two thirds of the Senate might try themselves. And yet what reason is there that a majority of the flouse of Representatives, sacrificing the interests of the society by an unjust and tyrannical act of legislation, should escape with impunity, more than two thirds of the Senate sacrificing the same interests in an injurious treaty with a foreign power? The truth is that in all such cases it is essential to the freedom and to the necessary independence of the deliberations of the body that the members of it should be exempt from punishment for acts done in a collective capacity; and the security to the society must depend on the care which is taken to confide the trust to proper hands, to make it their interest to execute it with fidelity, and to make it as difficult as possible for them to

combine in any interest opposite to that of the public good.

So far as might concern the misbehavior of the executive in perverting the instructions or contravening the views of the Senate, we need not be apprehensive of the want of a disposition in that body to punish the abuse of their confidence or to vindicate their own authority. We may thus far count upon their pride, if not upon their virtue. And so far even as might concern the corruption of leading members by whose arts and influence the majority may have been inveigled into measures odious to the community, if the proofs of that corruption should be satisfactory, the usual propensity of human nature will warrant us in concluding that there would be commonly no defect of inclination in the body to divert the public resentment from themselves by a ready sacrifice of the authors of their mismanagement and disgrace.

PUBLIUS [Hamilton]

Number 67: Concerning the Constitution of the President: A Gross Attempt to Misrepresent This Part of the Plan Detected

# NUMBER 67

CONCERNING THE CONSTITUTION OF THE PRESIDENT:  
A GROSS ATTEMPT TO MISREPRESENT  
THIS PART OF THE PLAN DETECTED  
[Alexander Hamilton]

THE constitution of the executive department of the proposed government claims next our attention.

There is hardly any part of the system which could have been attended with greater difficulty in the arrangement of it than this; and there is, perhaps, none which has been inveighed against with less candor or criticized with less judgment.

Here the writers against the Constitution seem to have taken pains to signalize their talent of misrepresentation. Calculating upon the aversion of the people to monarchy, they have endeavored to enlist all their jealousies and apprehensions in opposition to the intended President of the United States; not merely as the embryo, but as the full-grown progeny of that detested parent. To establish the pretended affinity, they have not scrupled to draw resources even from the regions of fiction. The authorities of a magistrate, in few instances greater, in some instances less, than those of a governor of New York, have been magnified into more than royal prerogatives. He has been decorated with attributes superior in dignity and splendor to those of a king of Great Britain. He has been shown to us with the diadem sparkling on his brow and the imperial purple flowing in his train. He has been seated on a throne surrounded with minions and mistresses, giving audience to the envoys of foreign potentates in all the supercilious pomp of majesty. The images of Asiatic despotism and voluptuousness have scarcely been wanting to crown the exaggerated scene. We have been almost taught to tremble at the terrific visages of murdering janizaries, and to blush at the unveiled mysteries of a future seraglio.

Attempts so extravagant as these to disfigure or, it might rather be said, to metamorphose the object, render it necessary to take an accurate view of its

real nature and form: in order as well to ascertain its true aspect and genuine appearance, as to unmask the disingenuity and expose the fallacy of the counterfeit resemblances which have been so insidiously, as well as industriously, propagated.

In the execution of this task there is no man who would not find it an arduous effort either to behold with moderation or to treat with seriousness the devices, not less weak than wicked, which have been contrived to pervert the public opinion in relation to the subject. They so far exceed the usual though unjustifiable licenses of party artifice that even in a disposition the most candid and tolerant they must force the sentiments which favor an indulgent construction of the conduct of political adversaries to give place to a voluntary and unreserved indignation. It is impossible not to bestow the imputation of deliberate imposture and deception upon the gross pretense of a similitude between a king of Great Britain and a magistrate of the character marked out for that of the President of the United States. It is still more impossible to withhold that imputation from the rash and barefaced expedients which have been employed to give success to the attempted imposition.

In one instance, which I cite as a sample of the general spirit, the temerity has proceeded so far as to ascribe to the President of the United States a power which by the instrument reported is expressly allotted to the executives of the individual States. I mean the power of filling casual vacancies in the Senate.

This bold experiment upon the discernment of his countrymen has been hazarded by a writer who (whatever may be his real merit) has had no inconsiderable share in the applauses of his party; [47](#) and who, upon his false and unfounded suggestion, has built a series of observations equally false and unfounded. Let him now be confronted with the evidence of the fact, and let him, if he be able, justify or extenuate the shameful outrage he has offered to the dictates of truth and to the rules of fair dealing. [48](#)

The second clause of the second section of the second article empowers the President of the United States to nominate, and by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and

consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not in the Constitution otherwise provided for, and which shall be established by law. Immediately after this clause follows another in these words: The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. It is from this last provision that the pretended power of the President to fill vacancies in the Senate has been deduced. A slight attention to the connection of the clauses and to the obvious meaning of the terms will satisfy us that the deduction is not even colorable.

The first of these two clauses, it is clear, only provides a mode for appointing such officers whose appointments are not otherwise provided for in the Constitution, and which shall be established by law ; of course it cannot extend to the appointment of senators, whose appointments are otherwise provided for in the Constitution, [49](#) and who are established by the Constitution, and will not require a future establishment by law. This position will hardly be contested.

The last of these two clauses, it is equally clear, cannot be understood to comprehend the power of filling vacancies in the Senate, for the following reasons:—First. The relation in which that clause stands to the other, which declares the general mode of appointing officers of the United States, denotes it to be nothing more than a supplement to the other for the purpose of establishing an auxiliary method of appointment, in cases to which the general method was inadequate. The ordinary power of appointment is confided to the President and Senate jointly, and can therefore only be exercised during the session of the Senate; but as it would have been improper to oblige this body to be continually in session for the appointment of officers, and as vacancies might happen in their recess, which it might be necessary for the public service to fill without delay, the succeeding clause is evidently intended to authorize the President, singly, to make temporary appointments during the recess of the Senate, by granting commissions which shall expire at the end of their next session. Second. If this clause is to be considered as supplementary to the one which precedes, the vacancies of which it speaks must be construed to relate to the officers described in the preceding one; and this, we have seen, excludes from its

description the members of the Senate. Third. The time within which the power is to operate during the recess of the Senate, and the duration of the appointments to the end of the next session of that body, conspire to elucidate the sense of the provision which, if it had been intended to comprehend senators, would naturally have referred the temporary power of filling vacancies to the recess of the State legislatures, who are to make the permanent appointments, and not to the recess of the national Senate, who are to have no concern in those appointments; and would have extended the duration in office of the temporary senators to the next session of the legislature of the State, in whose representation the vacancies had happened, instead of making it to expire at the end of the ensuing session of the national Senate. The circumstances of the body authorized to make the permanent appointments would, of course, have governed the modification of a power which related to the temporary appointments; and as the national Senate is the body whose situation is alone contemplated in the clause upon which the suggestion under examination has been founded, the vacancies to which it alludes can only be deemed to respect those officers in whose appointment that body has a concurrent agency with the President. But lastly, the first and second clauses of the third section of the first article not only obviate all possibility of doubt, but destroy the pretext of misconception. The former provides that the Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof for six years ; and the latter directs that if vacancies in that body should happen by resignation or otherwise, during the recess of the legislature of ANY STATE, the executive THEREOF may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies. Here is an express power given, in clear and unambiguous terms, to the State executives to fill casual vacancies in the Senate by temporary appointments; which not only invalidates the supposition that the clause before considered could have been intended to confer that power upon the President of the United States, but proves that this supposition, destitute as it is even of the merit of plausibility, must have originated in an intention to deceive the people, too palpable to be obscured by sophistry, too atrocious to be palliated by hypocrisy.

I have taken the pains to select this instance of misrepresentation and to place it in a clear and strong light, as an unequivocal proof of the

unwarrantable arts which are practiced to prevent a fair and impartial judgment of the real merits of the Constitution submitted to the consideration of the people. Nor have I scrupled, in so flagrant a case, to allow myself a severity of animadversion little congenial with the general spirit of these papers. I hesitate not to submit it to the decision of any candid and honest adversary of the proposed government whether language can furnish epithets of too much asperity for so shameless and so prostitute an attempt to impose on the citizens of America.

PUBLIUS [Hamilton]

Number 68: The View of the Constitution of the President Continued In Relation to the Mode of Appointment

# NUMBER 68

THE VIEW OF THE CONSTITUTION OF THE PRESIDENT  
CONTINUED IN RELATION TO THE MODE OF APPOINTMENT  
[Alexander Hamilton]

THE mode of appointment of the Chief Magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure or which has received the slightest mark of approbation from its opponents. The most plausible of these, who has appeared in print, has even deigned to admit that the election of the President is pretty well guarded. [50](#) I venture somewhat further, and hesitate not to affirm that if the manner of it be not perfect, it is at least excellent. It unites in an eminent degree all the advantages the union of which was to be desired. [51](#)

It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it, not to any pre-established body, but to men chosen by the people for the special purpose, and at the particular conjuncture.

It was equally desirable that the immediate election should be made by men most capable of analyzing the qualities adapted to the station and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation.

It was also peculiarly desirable to afford as little opportunity as possible to tumult and disorder. This evil was not least to be dreaded in the election of a magistrate who was to have so important an agency in the administration of the government as the President of the United States. But the precautions which have been so happily concerted in the system under consideration promise an effectual security against this mischief. The choice of several to

form an intermediate body of electors will be much less apt to convulse the community with any extraordinary or violent movements than the choice of one who was himself to be the final object of the public wishes. And as the electors, chosen in each State, are to assemble and vote in the State in which they are chosen, this detached and divided situation will expose them much less to heats and ferments, which might be communicated from them to the people, than if they were all to be convened at one time, in one place.

Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this than by raising a creature of their own to the chief magistracy of the Union? But the convention have guarded against all danger of this sort with the most provident and judicious attention. They have not made the appointment of the President to depend on any pre-existing bodies of men who might be tampered with beforehand to prostitute their votes; but they have referred it in the first instance to an immediate act of the people of America, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment. And they have excluded from eligibility to this trust all those who from situation might be suspected of too great devotion to the President in office. No senator, representative, or other person holding a place of trust or profit under the United States can be of the number of the electors. Thus without corrupting the body of the people, the immediate agents in the election will at least enter upon the task free from any sinister bias. Their transient existence and their detached situation, already taken notice of, afford a satisfactory prospect of their continuing so, to the conclusion of it. The business of corruption, when it is to embrace so considerable a number of men, requires time as well as means. Nor would it be found easy suddenly to embark them, dispersed as they would be over thirteen States, in any combinations founded upon motives which, though they could not properly be denominated corrupt, might yet be of a nature to mislead them from their duty.

Another and no less important desideratum was that the executive should be independent for his continuance in office on all but the people themselves. He might otherwise be tempted to sacrifice his duty to his complaisance for those whose favor was necessary to the duration of his official consequence. This advantage will also be secured, by making his re-election to depend on a special body of representatives, deputed by the society for the single purpose of making the important choice.

All these advantages will be happily combined in the plan devised by the convention; which is, that the people of each State shall choose a number of persons as electors, equal to the number of senators and representatives of such State in the national government who shall assemble within the State, and vote for some fit person as President. Their votes, thus given, are to be transmitted to the seat of the national government, and the person who may happen to have a majority of the whole number of votes will be the President. But as a majority of the votes might not always happen to center on one man, and as it might be unsafe to permit less than a majority to be conclusive, it is provided that, in such a contingency, the House of Representatives shall elect out of the candidates who shall have the five highest number of votes the man who in their opinion may be best qualified for the office.

This process of election affords a moral certainty that the office of President will seldom fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications. Talents for low intrigue, and the little arts of popularity, may alone suffice to elevate a man to the first honors in a single State; but it will require other talents, and a different kind of merit, to establish him in the esteem and confidence of the whole Union, or of so considerable a portion of it as would be necessary to make him a successful candidate for the distinguished office of President of the United States. It will not be too strong to say that there will be a constant probability of seeing the station filled by characters pre-eminent for ability and virtue. And this will be thought no inconsiderable recommendation of the Constitution by those who are able to estimate the share which the executive in every government must necessarily have in its good or ill administration. Though we cannot acquiesce in the political heresy of the

poet who says:

For forms of government let fools contest—

That which is best administered is best, —

yet we may safely pronounce that the true test of a good government is its aptitude and tendency to produce a good administration. [52](#)

The Vice-President is to be chosen in the same manner with the President; with this difference, that the Senate is to do, in respect to the former, what is to be done by the House of Representatives, in respect to the latter.

The appointment of an extraordinary person, as Vice-President, has been objected to as superfluous, if not mischievous. It has been alleged that it would have been preferable to have authorized the Senate to elect out of their own body an officer answering to that description. But two considerations seem to justify the ideas of the convention in this respect. One is that to secure at all times the possibility of a definitive resolution of the body, it is necessary that the President should have only a casting vote. And to take the senator of any State from his seat as senator, to place him in that of President of the Senate, would be to exchange, in regard to the State from which he came, a constant for a contingent vote. The other consideration is that as the Vice-President may occasionally become a substitute for the President, in the supreme executive magistracy, all the reasons which recommend the mode of election prescribed for the one apply with great if not with equal force to the manner of appointing the other. It is remarkable that in this, as in most other instances, the objection which is made would lie against the constitution of this State. We have a Lieutenant-Governor, chosen by the people at large, who presides in the Senate, and is the constitutional substitute for the Governor, in casualties similar to those which would authorize the Vice-President to exercise the authorities and discharge the duties of the President.

PUBLIUS [Hamilton]

Number 69: The Same View Continued, with a Comparison Between the President and the King of Great Britain on the One Hand, and the Governor of New York on the Other

# NUMBER 69

THE SAME VIEW CONTINUED, WITH A COMPARISON  
BETWEEN THE PRESIDENT AND  
THE KING OF GREAT BRITAIN ON THE ONE HAND,  
AND THE GOVERNOR OF NEW YORK ON THE OTHER  
[Alexander Hamilton]

I PROCEED now to trace the real characters of the proposed executive, as they are marked out in the plan of the convention. This will serve to place in a strong fight the unfairness of the representations which have been made in regard to it.

The first thing which strikes our attention is that the executive authority, with few exceptions, is to be vested in a single magistrate. This will scarcely, however, be considered as a point upon which any comparison can be grounded; for if, in this particular, there be a resemblance to the king of Great Britain, there is not less a resemblance to the Grand Seignior, to the khan of Tartary, to the Man of the Seven Mountains, or to the governor of New York.

That magistrate is to be elected for four years; and is to be re-eligible as often as the people of the United States shall think him worthy of their confidence. In these circumstances there is a total dissimilitude between him and a king of Great Britain, who is an hereditary monarch, possessing the crown as a patrimony descendible to his heirs forever; but there is a close analogy between him and a governor of New York, who is elected for three years, and is re-eligible without limitation or intermission. If we consider how much less time would be requisite for establishing a dangerous influence in a single State than for establishing a like influence throughout the United States, we must conclude that a duration of four years for the Chief Magistrate of the Union is a degree of permanency far less to be dreaded in that office, than a duration of three years for a corresponding office in a single State.

The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law. The person of the king of Great Britain is sacred and inviolable; there is no constitutional tribunal to which he is amenable; no punishment to which he can be subjected without involving the crisis of a national revolution. In this delicate and important circumstance of personal responsibility, the President of Confederated America would stand upon no better ground than a governor of New York, and upon worse ground than the governors of Virginia and Delaware.

The President of the United States is to have power to return a bill, which shall have passed the two branches of the legislature, for reconsideration; but the bill so returned is not to become a law unless, upon that reconsideration, it be approved by two thirds of both houses. The king of Great Britain, on his part, has an absolute negative upon the acts of the two houses of Parliament. The disuse of that power for a considerable time past does not affect the reality of its existence and is to be ascribed wholly to the crown's having found the means of substituting influence to authority, or the art of gaining a majority in one or the other of the two houses, to the necessity of exerting a prerogative which could seldom be exerted without hazarding some degree of national agitation. The qualified negative of the President differs widely from this absolute negative of the British sovereign and tallies exactly with the revisionary authority of the council of revision of this State, of which the governor is a constituent part. In this respect the power of the President would exceed that of the governor of New York, because the former would possess, singly, what the latter shares with the chancellor and judges; but it would be precisely the same with that of the governor of Massachusetts, whose constitution, as to this article, seems to have been the original from which the convention have copied.

The President is to be the commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He is to have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment: to recommend to the consideration of Congress such

measures as he shall judge necessary and expedient; to convene, on extraordinary occasions, both houses of the legislature, or either of them, and, in case of disagreement between them with respect to the time of adjournment, to adjourn them to such time as he shall think proper; to take care that the laws be faithfully executed; and to commission all officers of the United States. In most of these particulars, the power of the President will resemble equally that of the king of Great Britain and of the governor of New York. The most material points of difference are these:—First. The President will have only the occasional command of such part of the militia of the nation as by legislative provision may be called into the actual service of the Union. The king of Great Britain and the governor of New York have at all times the entire command of all the militia within their several jurisdictions. In this article, therefore, the power of the President would be inferior to that of either the monarch or the governor. Second. The President is to be the commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature. [53](#) The governor of New York, on the other hand, is by the constitution of the State vested only with the command of its militia and navy. But the constitutions of several of the States expressly declare their governors to be commanders-in-chief, as well of the army as navy; and it may well be a question whether those of New Hampshire and Massachusetts, in particular, do not, in this instance, confer larger powers upon their respective governors than could be claimed by a President of the United States. Third. The power of the President, in respect to pardons, would extend to all cases, except those of impeachment. The governor of New York may pardon in all cases, even in those of impeachment, except for treason and murder. Is not the power of the governor, in this article, on a calculation of political consequences, greater than that of the President? All conspiracies and plots against the government which have not been matured into actual treason may be screened from punishment of every kind by the interposition of the prerogative of pardoning. If a governor of New York, therefore, should be at

the head of any such conspiracy, until the design had been ripened into actual hostility he could insure his accomplices and adherents an entire impunity. A President of the Union, on the other hand, though he may even pardon treason, when prosecuted in the ordinary course of law, could shelter no offender, in any degree, from the effects of impeachment and conviction. Would not the prospect of a total indemnity for all the preliminary steps be a greater temptation to undertake and persevere in an enterprise against the public liberty, than the mere prospect of an exemption from death and confiscation, if the final execution of the design, upon an actual appeal to arms, should miscarry? Would this last expectation have any influence at all, when the probability was computed that the person who was to afford that exemption might himself be involved in the consequences of the measure, and might be incapacitated by his agency in it from affording the desired impunity? The better to judge of this matter, it will be necessary to recollect that, by the proposed Constitution, the offense of treason is limited to levying war upon the United States, and adhering to their enemies, giving them aid and comfort ; and that by the laws of New York it is confined within similar bounds. Fourth. The President can only adjourn the national legislature in the single case of disagreement about the time of adjournment. The British monarch may prorogue or even dissolve the Parliament. The governor of New York may also prorogue the legislature of this State for a limited time; a power which, in certain situations, may be employed to very important purposes.

The President is to have power, with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur. The king of Great Britain is the sole and absolute representative of the nation in all foreign transactions. He can of his own accord make treaties of peace, commerce, alliance, and of every other description. It has been insinuated that his authority in this respect is not conclusive, and that his conventions with foreign powers are subject to the revision, and stand in need of the ratification, of Parliament. But I believe this doctrine was never heard of until it was broached upon the present occasion. Every jurist [54](#) of that kingdom, and every other man acquainted with its Constitution knows, as an established fact, that the prerogative of making treaties exists in the crown in its utmost plenitude; and that the compacts entered into by the royal authority have the most complete legal validity and perfection,

independent of any other sanction. The Parliament, it is true, is sometimes seen employing itself in altering the existing laws to conform them to the stipulations in a new treaty; and this may have possibly given birth to the imagination that its co-operation was necessary to the obligatory efficacy of the treaty. But this parliamentary interposition proceeds from a different cause: from the necessity of adjusting a most artificial and intricate system of revenue and commercial laws, to the changes made in them by the operation of the treaty; and of adapting new provisions and precautions to the new state of things, to keep the machine from running into disorder. In this respect, therefore, there is no comparison between the intended power of the President and the actual power of the British sovereign. The one can perform alone what the other can only do with the concurrence of a branch of the legislature. It must be admitted that in this instance the power of the federal executive would exceed that of any State executive. But this arises naturally from the exclusive possession by the Union of that part of the sovereign power which relates to treaties. If the Confederacy were to be dissolved, it would become a question whether the executives of the several States were not solely invested with that delicate and important prerogative.

The President is also to be authorized to receive ambassadors and other public ministers. This, though it has been a rich theme of declamation, is more a matter of dignity than of authority. It is a circumstance which will be without consequence in the administration of the government; and it was far more convenient that it should be arranged in this manner than that there should be a necessity of convening the legislature, or one of its branches, upon every arrival of a foreign minister, though it were merely to take the place of a departed predecessor.

The President is to nominate, and, with the advice and consent of the Senate, to appoint ambassadors and other public ministers, judges of the Supreme Court, and in general all officers of the United States established by law, and whose appointments are not otherwise provided for by the Constitution. The king of Great Britain is emphatically and truly styled the fountain of honor. He not only appoints to all offices, but can create offices. He can confer titles of nobility at pleasure, and has the disposal of an immense number of church preferments. There is evidently a great inferiority in the power of the President, in this particular, to that of the

British king; nor is it equal to that of the governor of New York, if we are to interpret the meaning of the constitution of the State by the practice which has obtained under it. The power of appointment is with us lodged in a council, composed of the governor and four members of the Senate, chosen by the Assembly. The governor claims, and has frequently exercised, the right of nomination, and is entitled to a casting vote in the appointment. If he really has the right of nominating, his authority is in this respect equal to that of the President, and exceeds it in the article of the casting vote. In the national government, if the Senate should be divided, no appointment could be made; in the government of New York, if the council should be divided, the governor can turn the scale and confirm his own nomination. [55](#) If we compare the publicity which must necessarily attend the mode of appointment by the President and an entire branch of the national legislature, with the privacy in the mode of appointment by the governor of New York, closeted in a secret apartment with at most four, and frequently with only two persons; and if we at the same time consider how much more easy it must be to influence the small number of which a council of appointment consists than the considerable number of which the national Senate would consist, we cannot hesitate to pronounce that the power of the chief magistrate of this State, in the disposition of offices, must, in practice, be greatly superior to that of the Chief Magistrate of the Union.

Hence it appears that, except as to the concurrent authority of the President in the article of treaties, it would be difficult to determine whether that magistrate would, in the aggregate, possess more or less power than the governor of New York. And it appears yet more unequivocally that there is no pretense for the parallel which has been attempted between him and the king of Great Britain. But to render the contrast in this respect still more striking, it may be of use to throw the principal circumstances of dissimilitude into a closer group.

The President of the United States would be an officer elected by the people for four years; the king of Great Britain is a perpetual and hereditary prince. The one would be amenable to personal punishment and disgrace; the person of the other is sacred and inviolable. The one would have a qualified negative upon the acts of the legislative body; the other has an absolute negative. The one would have a right to command the military and naval

forces of the nation; the other, in addition to this right, possesses that of declaring war, and of raising and regulating fleets and armies by his own authority. The one would have a concurrent power with a branch of the legislature in the formation of treaties; the other is the sole possessor of the power of making treaties. The one would have a like concurrent authority in appointing to offices; the other is the sole author of all appointments. The one can confer no privileges whatever; the other can make denizens of aliens, noblemen of commoners; can erect corporations with all the rights incident to corporate bodies. The one can prescribe no rules concerning the commerce or currency of the nation; the other is in several respects the arbiter of commerce, and in this capacity can establish markets and fairs, can regulate weights and measures, can lay embargoes for a limited time, can coin money, can authorize or prohibit the circulation of foreign coin. The one has no particle of spiritual jurisdiction; the other is the supreme head and governor of the national church! What answer shall we give to those who would persuade us that things so unlike resemble each other? The same that ought to be given to those who tell us that a government, the whole power of which would be in the hands of the elective and periodical servants of the people, is an aristocracy, a monarchy, and a despotism.

PUBLIUS [Hamilton]

Number 70: The Same View Continued in Relation to the Unity of the Executive, with an Examination of the Project of an Executive Council

# NUMBER 70

THE SAME VIEW CONTINUED IN RELATION TO  
THE UNITY OF THE EXECUTIVE, WITH  
AN EXAMINATION OF THE PROJECT OF  
AN EXECUTIVE COUNCIL

[Alexander Hamilton]

THERE is an idea, which is not without its advocates, that a vigorous executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without at the same time admitting the condemnation of their own principles. Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy. Every man the least conversant in Roman history knows how often that republic was obliged to take refuge in the absolute power of a single man, under the formidable title of dictator, as well against the intrigues of ambitious individuals who aspired to the tyranny, and the seditions of whole classes of the community whose conduct threatened the existence of all government, as against the invasions of external enemies who menaced the conquest and destruction of Rome.

There can be no need, however, to multiply arguments or examples on this head. A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.

Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined

with those other ingredients which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the executive are unity; duration; an adequate provision for its support; and competent powers.

The ingredients which constitute safety in the republican sense are a due dependence on the people, and a due responsibility.

Those politicians and statesmen who have been the most celebrated for the soundness of their principles and for the justness of their views have declared in favor of a single executive and a numerous legislature. They have, with great propriety, considered energy as the most necessary qualification of the former, and have regarded this as most applicable to power in a single hand; while they have, with equal propriety, considered the latter as best adapted to deliberation and wisdom, and best calculated to conciliate the confidence of the people and to secure their privileges and interests.

That unity is conducive to energy will not be disputed. Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished.

This unity may be destroyed in two ways: either by vesting the power in two or more magistrates of equal dignity and authority, or by vesting it ostensibly in one man, subject in whole or in part to the control and co-operation of others, in the capacity of counselors to him. Of the first, the two consuls of Rome may serve as an example; of the last, we shall find examples in the constitutions of several of the States. New York and New Jersey, if I recollect right, are the only States which have intrusted the executive authority wholly to single men. [56](#) Both these methods of destroying the unity of the executive have their partisans; but the votaries of an executive council are the most numerous. They are both liable, if not to equal, to similar objections, and may in most lights be examined in

conjunction.

The experience of other nations will afford little instruction on this head. As far, however, as it teaches anything, it teaches us not to be enamored of plurality in the executive. We have seen that the Achaeans, on an experiment of two Praetors, were induced to abolish one. The Roman history records many instances of mischiefs to the republic from the dissensions between the consuls, and between the military tribunes, who were at times substituted for the consuls. But it gives us no specimens of any peculiar advantages derived to the state from the circumstance of the plurality of those magistrates. That the dissensions between them were not more frequent or more fatal is matter of astonishment, until we advert to the singular position in which the republic was almost continually placed, and to the prudent policy pointed out by the circumstances of the state, and pursued by the consuls, of making a division of the government between them. The patricians engaged in a perpetual struggle with the plebeians for the preservation of their ancient authorities and dignities; the consuls, who were generally chosen out of the former body, were commonly united by the personal interest they had in the defense of the privileges of their order. In addition to this motive of union, after the arms of the republic had considerably expanded the bounds of its empire, it became an established custom with the consuls to divide the administration between themselves by lot—one of them remaining at Rome to govern the city and its environs, the other taking command in the more distant provinces. This expedient must no doubt have had great influence in preventing those collisions and rivalships which might otherwise have embroiled the peace of the republic.

But quitting the dim light of historical research, and attaching ourselves purely to the dictates of reason and good sense, we shall discover much greater cause to reject than to approve the idea of plurality in the executive, under any modification whatever.

Whenever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion. If it be a public trust or office in which they are clothed with equal dignity and authority, there is peculiar danger of personal emulation and even animosity. From either, and especially from all these causes, the most bitter dissensions are

apt to spring. Whenever these happen, they lessen the respectability, weaken the authority, and distract the plans and operations of those whom they divide. If they should unfortunately assail the supreme executive magistracy of a country, consisting of a plurality of persons, they might impede or frustrate the most important measures of the government in the most critical emergencies of the state. And what is still worse, they might split the community into the most violent and irreconcilable factions, adhering differently to the different individuals who composed the magistracy.

Men often oppose a thing merely because they have had no agency in planning it, or because it may have been planned by those whom they dislike. But if they have been consulted, and have happened to disapprove, opposition then becomes, in their estimation, an indispensable duty of self-love. They seem to think themselves bound in honor, and by all the motives of personal infallibility, to defeat the success of what has been resolved upon contrary to their sentiments. Men of upright, benevolent tempers have too many opportunities of remarking, with horror, to what desperate lengths this disposition is sometimes carried, and how often the great interests of society are sacrificed to the vanity, to the conceit, and to the obstinacy of individuals, who have credit enough to make their passions and their caprices interesting to mankind. Perhaps the question now before the public may, in its consequences, afford melancholy proofs of the effects of this despicable frailty, or rather detestable vice, in the human character.

Upon the principles of a free government, inconveniences from the source just mentioned must necessarily be submitted to in the formation of the legislature; but it is unnecessary, and therefore unwise, to introduce them into the constitution of the executive. It is here too that they may be most pernicious. In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarring of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority. When a resolution too is once taken, the opposition must be at an end. That resolution is a law, and resistance to it punishable. But no favorable circumstances palliate or atone for the disadvantages of dissension in the executive department. Here they are pure

and unmixed. There is no point at which they cease to operate. They serve to embarrass and weaken the execution of the plan or measure to which they relate, from the first step to the final conclusion of it. They constantly counteract those qualities in the executive which are the most necessary ingredients in its composition—vigor and expedition, and this without any counterbalancing good. In the conduct of war, in which the energy of the executive is the bulwark of the national security, everything would be to be apprehended from its plurality.

It must be confessed that these observations apply with principal weight to the first case supposed—that is, to a plurality of magistrates of equal dignity and authority, a scheme, the advocates for which are not likely to form a numerous sect; but they apply, though not with equal yet with considerable weight, to the project of a council, whose concurrence is made constitutionally necessary to the operations of the ostensible executive. An artful cabal in that council would be able to distract and to enervate the whole system of administration. If no such cabal should exist, the mere diversity of views and opinions would alone be sufficient to tincture the exercise of the executive authority with a spirit of habitual feebleness and dilatoriness.

But one of the weightiest objections to a plurality in the executive, and which lies as much against the last as the first plan is that it tends to conceal faults and destroy responsibility. Responsibility is of two kinds—to censure and to punishment. The first is the more important of the two, especially in an elective office. Men in public trust will much oftener act in such a manner as to render them unworthy of being any longer trusted, than in such a manner as to make them obnoxious to legal punishment. But the multiplication of the executive adds to the difficulty of detection in either case. It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author. The circumstances which may have led to any national miscarriage or misfortune are sometimes so complicated that where there are a number of actors who may have had different degrees and kinds of agency, though we may clearly see

upon the whole that there has been mismanagement, yet it may be impracticable to pronounce to whose account the evil which may have been incurred is truly chargeable.

I was overruled by my council. The council were so divided in their opinions that it was impossible to obtain any better resolution on the point. These and similar pretexts are constantly at hand, whether true or false. And who is there that will either take the trouble or incur the odium of a strict scrutiny into the secret springs of the transaction? Should there be found a citizen zealous enough to undertake the unpromising task, if there happened to be a collusion between the parties concerned, how easy it is to clothe the circumstances with so much ambiguity as to render it uncertain what was the precise conduct of any of those parties.

In the single instance in which the governor of this State is coupled with a council—that is, in the appointment to offices, we have seen the mischiefs of it in the view now under consideration. Scandalous appointments to important offices have been made. Some cases, indeed, have been so flagrant that ALL PARTIES have agreed in the impropriety of the thing. When inquiry has been made, the blame has been laid by the governor on the members of the council, who, on their part, have charged it upon his nomination; while the people remain altogether at a loss to determine by whose influence their interests have been committed to hands so unqualified and so manifestly improper. In tenderness to individuals, I forbear to descend to particulars.

It is evident from these considerations that the plurality of the executive tends to deprive the people of the two greatest securities they can have for the faithful exercise of any delegated power, first, the restraints of public opinion, which lose their efficacy, as well on account of the division of the censure attendant on bad measures among a number as on account of the uncertainty on whom it ought to fall; and, second, the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office or to their actual punishment in cases which admit of it.

In England, the king is a perpetual magistrate; and it is a maxim which has obtained for the sake of the public peace that he is unaccountable for his administration, and his person sacred. Nothing, therefore, can be wiser in that kingdom than to annex to the king a constitutional council, who may be responsible to the nation for the advice they give. Without this, there would be no responsibility whatever in the executive department—an idea inadmissible in a free government. But even there the king is not bound by the resolutions of his council, though they are answerable for the advice they give. He is the absolute master of his own conduct in the exercise of his office and may observe or disregard the counsel given to him at his sole discretion.

But in a republic where every magistrate ought to be personally responsible for his behavior in office, the reason which in the British Constitution dictates the propriety of a council not only ceases to apply, but turns against the institution. In the monarchy of Great Britain, it furnishes a substitute for the prohibited responsibility of the Chief Magistrate, which serves in some degree as a hostage to the national justice for his good behavior. In the American republic, it would serve to destroy, or would greatly diminish, the intended and necessary responsibility of the Chief Magistrate himself.

The idea of a council to the executive, which has so generally obtained in the State constitutions, has been derived from that maxim of republican jealousy which considers power as safer in the hands of a number of men than of a single man. If the maxim should be admitted to be applicable to the case, I should contend that the advantage on that side would not counterbalance the numerous disadvantages on the opposite side. But I do not think the rule at all applicable to the executive power. I clearly concur in opinion, in this particular, with a writer [57](#) whom the celebrated Junius [58](#) pronounces to be deep, solid, and ingenious, that the executive power is more easily confined when it is one ; [59](#) that it is far more safe there should be a single object for the jealousy and watchfulness of the people; and, in a word, that all multiplication of the executive is rather dangerous than friendly to liberty.

A little consideration will satisfy us that the species of security sought for in the multiplication of the executive is unattainable. Numbers must be so

great as to render combination difficult, or they are rather a source of danger than of security. The united credit and influence of several individuals must be more formidable to liberty than the credit and influence of either of them separately. When power, therefore, is placed in the hands of so small a number of men as to admit of their interests and views being easily combined in a common enterprise, by an artful leader, it becomes more liable to abuse, and more dangerous when abused, than if it be lodged in the hands of one man, who, from the very circumstance of his being alone, will be more narrowly watched and more readily suspected, and who cannot unite so great a mass of influence as when he is associated with others. The decemvirs of Rome, whose name denotes their number, [60](#) were more to be dreaded in their usurpation than any ONE of them would have been. No person would think of proposing an executive much more numerous than that body; from six to a dozen have been suggested for the number of the council. The extreme of these numbers is not too great for an easy combination; and from such a combination America would have more to fear than from the ambition of any single individual. A council to a magistrate, who is himself responsible for what he does, are generally nothing better than a clog upon his good intentions, are often the instruments and accomplices of his bad, and are almost always a cloak to his faults.

I forbear to dwell upon the subject of expense; though it be evident that if the council should be numerous enough to answer the principal end aimed at by the institution, the salaries of the members, who must be drawn from their homes to reside at the seat of government, would form an item in the catalogue of public expenditures too serious to be incurred for an object of equivocal utility.

I will only add that, prior to the appearance of the Constitution, I rarely met with an intelligent man from any of the States who did not admit, as the result of experience, that the UNITY of the executive of this State was one of the best of the distinguishing features of our Constitution.

PUBLIUS [Hamilton]

Number 71: The Same View Continued in Regard to the Duration of the Office

# NUMBER 71

## THE SAME VIEW CONTINUED IN REGARD TO THE DURATION OF THE OFFICE

[Alexander Hamilton]

DURATION in office has been mentioned as the second requisite to the energy of the executive authority. This has relation to two objects: to the personal firmness of the executive magistrate in the employment of his constitutional powers, and to the stability of the system of administration which may have been adopted under his auspices. With regard to the first, it must be evident that the longer the duration in office, the greater will be the probability of obtaining so important an advantage. It is a general principle of human nature that a man will be interested in whatever he possesses, in proportion to the firmness or precariousness of the tenure by which he holds it; will be less attached to what he holds by a momentary or uncertain title, than to what he enjoys by a durable or certain title; and, of course, will be willing to risk more for the sake of the one than for the sake of the other. This remark is not less applicable to a political privilege, or honor, or trust, than to any article of ordinary property. The inference from it is that a man acting in the capacity of chief magistrate, under a consciousness that in a very short time he must lay down his office, will be apt to feel himself too little interested in it to hazard any material censure or perplexity from the independent exertion of his powers, or from encountering the ill humors, however transient, which may happen to prevail, either in a considerable part of the society itself, or even in a predominant faction in the legislative body. If the case should only be that he might lay it down, unless continued by a new choice, and if he should be desirous of being continued, his wishes, conspiring with his fears, would tend still more powerfully to corrupt his integrity, or debase his fortitude. In either case, feebleness and irresolution must be the characteristics of the station.

There are some who would be inclined to regard the servile pliancy of the executive to a prevailing current, either in the community or in the legislature, as its best recommendation. But such men entertain very crude notions, as well of the purposes for which government was instituted, as of

the true means by which the public happiness may be promoted. The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter their prejudices to betray their interests. It is a just observation that the people commonly intend the PUBLIC GOOD. This often applies to their very errors. But their good sense would despise the adulator who should pretend that they always reason right about the means of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do, beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it. When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved the people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure.

But however inclined we might be to insist upon an unbounded complaisance in the executive to the inclinations of the people, we can with no propriety contend for a like complaisance to the humors of the legislature. The latter may sometimes stand in opposition to the former, and at other times the people may be entirely neutral. In either supposition, it is certainly desirable that the executive should be in a situation to dare to act his own opinion with vigor and decision.

The same rule which teaches the propriety of a partition between the various branches of power teaches likewise that this partition ought to be so contrived as to render the one independent of the other. To what purpose separate the executive or the judiciary from the legislative, if both the executive and the judiciary are so constituted as to be at the absolute

devotion of the legislative? Such a separation must be merely nominal, and incapable of producing the ends for which it was established. It is one thing to be subordinate to the laws, and another to be dependent on the legislative body. The first comports with, the last violates, the fundamental principles of good government; and, whatever may be the forms of the Constitution, unites all power in the same hands. The tendency of the legislative authority to absorb every other has been fully displayed and illustrated by examples in some preceding numbers. In governments purely republican, this tendency is almost irresistible. The representatives of the people, in a popular assembly, seem sometimes to fancy that they are the people themselves, and betray strong symptoms of impatience and disgust at the least sign of opposition from any other quarter; as if the exercise of its rights, by either the executive or judiciary, were a breach of their privilege and an outrage to their dignity. They often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the government to maintain the balance of the Constitution.

It may perhaps be asked how the shortness of the duration in office can affect the independence of the executive on the legislature, unless the one were possessed of the power of appointing or displacing the other. One answer to this inquiry may be drawn from the principle already remarked—that is, from the slender interest a man is apt to take in a short-lived advantage, and the little inducement it affords him to expose himself, on account of it, to any considerable inconvenience or hazard. Another answer, perhaps more obvious, though not more conclusive, will result from the consideration of the influence of the legislative body over the people, which might be employed to prevent the re-election of a man who, by an upright resistance to any sinister project of that body, should have made himself obnoxious to its resentment.

It may be asked also whether a duration of four years would answer the end proposed; and if it would not, whether a less period, which would at least be recommended by greater security against ambitious designs, would not, for that reason, be preferable to a longer period which was, at the same time, too short for the purpose of inspiring the desired firmness and independence

of the magistrate.

It cannot be affirmed that a duration of four years, or any other limited duration, would completely answer the end proposed; but it would contribute towards it in a degree which would have a material influence upon the spirit and character of the government. Between the commencement and termination of such a period there would always be a considerable interval in which the prospect of annihilation would be sufficiently remote not to have an improper effect upon the conduct of a man endowed with a tolerable portion of fortitude; and in which he might reasonably promise himself that there would be time enough before it arrived to make the community sensible of the propriety of the measures he might incline to pursue. Though it be probable that, as he approached the moment when the public were, by a new election, to signify their sense of his conduct, his confidence, and with it his firmness, would decline; yet both the one and the other would derive support from the opportunities which his previous continuance in the station had afforded him, of establishing himself in the esteem and good will of his constituents. He might, then, hazard with safety, in proportion to the proofs he had given of his wisdom and integrity, and to the title he had acquired to the respect and attachment of his fellow-citizens. As on the one hand, a duration of four years will contribute to the firmness of the executive in a sufficient degree to render it a very valuable ingredient in the composition, so, on the other, it is not long enough to justify any alarm for the public liberty. If a British House of Commons, from the most feeble beginnings, from the mere power of assenting or disagreeing to the imposition of a new tax, have, by rapid strides, reduced the prerogatives of the crown and the privileges of the nobility within the limits they conceived to be compatible with the principles of a free government, while they raised themselves to the rank and consequence of a co-equal branch of the legislature; if they have been able, in one instance, to abolish both the royalty and the aristocracy, and to overturn all the ancient establishments, as well in the Church as State; if they have been able, on a recent occasion, to make the monarch tremble at the prospect of an innovation [61](#) attempted by them, what would be to be feared from an elective magistrate of four years' duration with the confined authorities of a President of the United States? What, but that he might be unequal to the task which the Constitution assigns him? I shall only add that

if his duration be such as to leave a doubt of his firmness, that doubt is inconsistent with a jealousy of his encroachments.

PUBLIUS [Hamilton]

Number 72: The Same View Continued in Regard to the Re-Eligibility of the President

# NUMBER 72

## THE SAME VIEW CONTINUED IN REGARD TO THE RE-ELIGIBILITY OF THE PRESIDENT

[Alexander Hamilton]

THE administration of government, in its largest sense, comprehends all the operations of the body politic, whether legislative, executive, or judiciary; but in its most usual and perhaps in its most precise signification, it is limited to executive details, and falls peculiarly within the province of the executive department. The actual conduct of foreign negotiations, the preparatory plans of finance, the application and disbursement of the public moneys in conformity to the general appropriations of the legislature, the arrangement of the army and navy, the direction of the operations of war—these, and other matters of a like nature, constitute what seems to be most properly understood by the administration of government. The persons, therefore, to whose immediate management these different matters are committed ought to be considered as the assistants or deputies of the Chief Magistrate, and on this account they ought to derive their offices from his appointment, at least from his nomination, and ought to be subject to his superintendence. This view of the subject will at once suggest to us the intimate connection between the duration of the executive magistrate in office and the stability of the system of administration. To reverse and undo what has been done by a predecessor is very often considered by a successor as the best proof he can give of his own capacity and desert; and in addition to this propensity, where the alteration has been the result of public choice, the person substituted is warranted in supposing that the dismissal of his predecessor has proceeded from a dislike to his measures; and that the less he resembles him, the more he will recommend himself to the favor of his constituents. These considerations, and the influence of personal confidences and attachments, would be likely to induce every new President to promote a change of men to fill the subordinate stations; and these causes together could not fail to occasion a disgraceful and ruinous mutability in the administration of the government.

With a positive duration of considerable extent, I connect the circumstances of re-eligibility. The first is necessary to give the officer himself the inclination and the resolution to act his part well, and to the community time and leisure to observe the tendency of his measures, and thence to form an experimental estimate of their merits. The last is necessary to enable the people, when they see reason to approve of his conduct, to continue him in the station in order to prolong the utility of his talents and virtues, and to secure to the government the advantage of permanency in a wise system of administration.

Nothing appears more plausible at first sight, nor more ill-founded upon close inspection, than a scheme which in relation to the present point has had some respectable advocates—I mean that of continuing the Chief Magistrate in office for a certain time, and then excluding him from it, either for a limited period or forever after. This exclusion, whether temporary or perpetual, would have nearly the same effects, and these effects would be for the most part rather pernicious than salutary.

One ill effect of the exclusion would be a diminution of the inducements to good behavior. There are few men who would not feel much less zeal in the discharge of a duty when they were conscious that the advantage of the station with which it was connected must be relinquished at a determinate period, than when they were permitted to entertain a hope of obtaining, by meriting, a continuance of them. This position will not be disputed so long as it is admitted that the desire of reward is one of the strongest incentives of human conduct; or that the best security for the fidelity of mankind is to make their interest coincide with their duty. Even the love of fame, the ruling passion of the noblest minds, which would prompt a man to plan and undertake extensive and arduous enterprises for the public benefit, requiring considerable time to mature and perfect them, if he could flatter himself with the prospect of being allowed to finish what he had begun, would, on the contrary, deter him from the undertaking, when he foresaw that he must quit the scene before he could accomplish the work, and must commit that, together with his own reputation, to hands which might be unequal or unfriendly to the task. The most to be expected from the generality of men, in such a situation, is the negative merit of not doing harm, instead of the

positive merit of doing good.

Another ill effect of the exclusion would be the temptation to sordid views, to peculation, and, in some instances, to usurpation. An avaricious man who might happen to fill the office, looking forward to a time when he must at all events yield up the advantages he enjoyed, would feel a propensity not easy to be resisted by such a man to make the best use of his opportunities while they lasted, and might not scruple to have recourse to the most corrupt expedients to make the harvest as abundant as it was transitory; though the same man, probably, with a different prospect before him, might content himself with the regular perquisites of his situation, and might even be unwilling to risk the consequences of an abuse of his opportunities. His avarice might be a guard upon his avarice. Add to this that the same man might be vain or ambitious, as well as avaricious. And if he could expect to prolong his honors by his good conduct, he might hesitate to sacrifice his appetite for them to his appetite for gain. But with the prospect before him of approaching and inevitable annihilation, his avarice would be likely to get the victory over his caution, his vanity, or his ambition.

An ambitious man, too, finding himself seated on the summit of his country's honors, looking forward to the time at which he must descend from the exalted eminence forever, and reflecting that no exertion of merit on his part could save him from the unwelcome reverse, would be much more violently tempted to embrace a favorable conjuncture for attempting the prolongation of his power, at every personal hazard, than if he had the probability of answering the same end by doing his duty.

Would it promote the peace of the community, or the stability of the government, to have half a dozen men who had had credit enough to raise themselves to the seat of the supreme magistracy wandering among the people like discontented ghosts and sighing for a place which they were destined never more to possess?

A third ill effect of the exclusion would be the depriving the community of the advantage of the experience gained by the Chief Magistrate in the exercise of his office. That experience is the parent of wisdom is an adage the truth of which is recognized by the wisest as well as the simplest of

mankind. What more desirable or more essential than this quality in the governors of nations? Where more desirable or more essential than in the first magistrate of a nation? Can it be wise to put this desirable and essential quality under the ban of the Constitution, and to declare that the moment it is acquired, its possessor shall be compelled to abandon the station in which it was acquired and to which it is adapted? This, nevertheless, is the precise import of all those regulations which exclude men from serving their country, by the choice of their fellow-citizens, after they have by a course of service fitted themselves for doing it with a greater degree of utility.

A fourth ill effect of the exclusion would be the banishing men from stations in which, in certain emergencies of the State, their presence might be of the greatest moment to the public interest or safety. There is no nation which has not, at one period or another, experienced an absolute necessity of the services of particular men in particular situations, perhaps it would not be too strong to say, to the preservation of its political existence. How unwise, therefore, must be every such self-denying ordinance as serves to prohibit a nation from making use of its own citizens in the matter best suited to its exigencies and circumstances! Without supposing the personal essentiality of the man, it is evident that a change of the Chief Magistrate, at the breaking out of a war, or any similar crisis, for another, even of equal merit, would at all times be detrimental to the community, inasmuch as it would substitute inexperience to experience, and would tend to unhinge and set afloat the already settled train of the administration.

A fifth ill effect of the exclusion would be that it would operate as a constitutional interdiction of stability in the administration. By necessitating a change of men, in the first office in the nation, it would necessitate a mutability of measures. It is not generally to be expected that men will vary and measures remain uniform. The contrary is the usual course of things. And we need not be apprehensive there will be too much stability, while there is even the option of changing; nor need we desire to prohibit the people from continuing their confidence where they think it may be safely placed, and where, by constancy on their part, they may obviate the fatal inconveniences of fluctuating councils and a variable policy.

These are some of the disadvantages which would flow from the principle of exclusion. They apply most forcibly to the scheme of a perpetual exclusion; but when we consider that even a partial one would always render the readmission of the person a remote and precarious object, the observations which have been made will apply nearly as fully to one case as to the other.

What are the advantages promised to counterbalance these disadvantages? They are represented to be: 1st, greater independence in the magistrate; 2nd, greater security to the people. Unless the exclusion be perpetual, there will be no pretence to infer the first advantage. But even in that case, may he have no object beyond his present station to which he may sacrifice his independence? May he have no connections, no friends, for whom he may sacrifice it? May he not be less willing, by a firm conduct, to make personal enemies, when he acts under the impression that a time is fast approaching, on the arrival of which he not only MAY, but MUST, be exposed to their resentments, upon an equal, perhaps upon an inferior, footing? It is not an easy point to determine whether his independence would be most promoted or impaired by such an arrangement.

As to the second supposed advantage, there is still greater reason to entertain doubts concerning it. If the exclusion were to be perpetual, a man of irregular ambition, of whom alone there could be reason in any case to entertain apprehension, would, with infinite reluctance, yield to the necessity of taking his leave forever of a post in which his passion for power and pre-eminence had acquired the force of habit. And if he had been fortunate or adroit enough to conciliate the good will of the people, he might induce them to consider as a very odious and unjustifiable restraint upon themselves a provision which was calculated to debar them of the right of giving a fresh proof of their attachment to a favorite. There may be conceived circumstances in which this disgust of the people, seconding the thwarted ambition of such a favorite, might occasion greater danger to liberty than could ever reasonably be dreaded from the possibility of a perpetuation in office by the voluntary suffrages of the community exercising a constitutional privilege.

There is an excess of refinement in the idea of disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive.

PUBLIUS [Hamilton]

Number 73: The Same View Continued in Relation to the Provision Concerning Support and the Power of the Negative

# NUMBER 73

## THE SAME VIEW CONTINUED IN RELATION TO THE PROVISION CONCERNING SUPPORT AND THE POWER OF THE NEGATIVE

[Alexander Hamilton]

THE third ingredient towards constituting the vigor of the executive authority is an adequate provision for its support. It is evident that without proper attention to this article, the separation of the executive from the legislative department would be merely nominal and nugatory. The legislature, with a discretionary power over the salary and emoluments of the Chief Magistrate, could render him as obsequious to their will as they might think proper to make him. They might, in most cases, either reduce him by famine, or tempt him by largesses, to surrender at discretion his judgment to their inclinations. These expressions, taken in all the latitude of the terms, would no doubt convey more than is intended. There are men who could neither be distressed nor won into a sacrifice of their duty; but this stern virtue is the growth of few soils; and in the main it will be found that a power over the man's support is a power over his will. If it were necessary to confirm so plain a truth by facts, examples would not be wanting, even in this country, of the intimidation or seduction of the executive by the terrors or allurements of the pecuniary arrangements of the legislative body.

It is not easy, therefore, to commend too highly the judicious attention which has been paid to this subject in the proposed Constitution. It is there provided that The President of the United States shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them. It is impossible to imagine any provision which would have been more eligible than this. The legislature, on the appointment of a President, is once for all to declare what shall be the compensation for his services during the time for which he shall have been elected. This done, they will have no power to alter it, either by increase or

diminution, till a new period of service by a new election commences. They can neither weaken his fortitude by operating on his necessities, nor corrupt his integrity by appealing to his avarice. Neither the Union, nor any of its members, will be at liberty to give, nor will he be at liberty to receive, any other emolument than that which may have been determined by the first act. He can, of course, have no pecuniary inducement to renounce or desert the independence intended for him by the Constitution.

The last of the requisites to energy which have been enumerated are competent powers. Let us proceed to consider those which are proposed to be vested in the President of the United States.

The first thing that offers itself to our observation is the qualified negative of the President upon the acts or resolutions of the two houses of the legislature; or, in other words, his power of returning all bills with objections to have the effect of preventing their becoming laws, unless they should afterwards be ratified by two thirds of each of the component members of the legislative body.

The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments has been already more than once suggested. The insufficiency of a mere parchment delineation of the boundaries of each has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defense has been inferred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the executive upon the acts of the legislative branches. Without the one or the other, the former would be absolutely unable to defend himself against the depredations of the latter. He might gradually be stripped of his authorities by successive resolutions or annihilated by a single vote. And in the one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands. If even no propensity had ever discovered itself in the legislative body to invade the rights of the executive, the rules of just reasoning and theoretic propriety would of themselves teach us that the one ought not to be left to the mercy of the other but ought to possess a constitutional and effectual power of self-defense.

But the power in question has a further use. It not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.

The propriety of a negative has, upon some occasions, been combated by an observation that it was not to be presumed a single man would possess more virtue and wisdom than a number of men; and that unless this presumption should be entertained, it would be improper to give the executive magistrate any species of control over the legislative body.

But this observation, when examined, will appear rather specious than solid. The propriety of the thing does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn. The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design. The oftener the measure is brought under examination, the greater the diversity in the situations of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or of those missteps which proceed from the contagion of some common passion or interest. It is far less probable that culpable views of any kind should infect all the parts of the government at the same moment and in relation to the same object than that they should by turns govern and mislead every one of them.

It may perhaps be said that the power of preventing bad laws includes that of preventing good ones; and may be used to the one purpose as well as to the other. But this objection will have little weight with those who can properly estimate the mischiefs of that inconstancy and mutability in the

laws, which form the greatest blemish in the character and genius of our governments. They will consider every institution calculated to restrain the excess of lawmaking, and to keep things in the same state in which they happen to be at any given period as much more likely to do good than harm; because it is favorable to greater stability in the system of legislation. The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones.

Nor is this all. The superior weight and influence of the legislative body in a free government and the hazard to the executive in a trial of strength with that body afford a satisfactory security that the negative would generally be employed with great caution; and that there would oftener be room for a charge of timidity than of rashness in the exercise of it. A king of Great Britain, with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would, at this day, hesitate to put a negative upon the joint resolutions of the two houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle a measure disagreeable to him, in its progress to the throne, to avoid being reduced to the dilemma of permitting it to take effect, or of risking the displeasure of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative, but in a case of manifest propriety, or extreme necessity. All well-informed men in that kingdom will accede to the justness of this remark. A very considerable period has elapsed since the negative of the crown has been exercised.

If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed for the short period of four years with the executive authority of a government wholly and purely republican?

It is evident that there would be greater danger of his not using his power when necessary, than of his using it too often, or too much. An argument, indeed, against its expediency, has been drawn from this very source. It has been represented, on this account, as a power odious in appearance, useless in practice. But it will not follow, that because it might be rarely exercised,

it would never be exercised. In the case for which it is chiefly designed, that of an immediate attack upon the constitutional rights of an executive, or in a case in which the public good was evidently and palpably sacrificed, a man of tolerable firmness would avail himself of his constitutional means of defense, and would listen to the admonitions of duty and responsibility. In the former supposition, his fortitude would be stimulated by his immediate interest in the power of his office; in the latter, by the probability of the sanction of his constituents who, though they would naturally incline to the legislative body in a doubtful case, would hardly suffer their partiality to delude them in a very plain case. I speak now with an eye to a magistrate possessing only a common share of firmness. There are men who, under any circumstances, will have the courage to do their duty at every hazard.

But the convention have pursued a mean in this business, which will both facilitate the exercise of the power vested in this respect in the executive magistrate, and make its efficacy to depend on the sense of a considerable part of the legislative body. Instead of an absolute negative, it is proposed to give the executive the qualified negative already described. This is a power which would be much more readily exercised than the other. A man who might be afraid to defeat a law by his single VETO might not scruple to return it for reconsideration, subject to being finally rejected only in the event of more than one third of each house concurring in the sufficiency of his objections. He would be encouraged by the reflection that if his opposition should prevail, it would embark in it a very respectable proportion of the legislative body whose influence would be united with his in supporting the propriety of his conduct in the public opinion. A direct and categorical negative has something in the appearance of it more harsh, and more apt to irritate, than the mere suggestion of argumentative objections to be approved or disapproved by those to whom they are addressed. In proportion as it would be less apt to offend, it would be more apt to be exercised; and for this Very reason it may in practice be found more effectual. It is to be hoped that it will not often happen that improper views will govern so large a proportion as two thirds of both branches of the legislature at the same time; and this, too, in defiance of the counterpoising weight of the executive. It is at any rate far less probable that this should be the case than that such views should taint the resolutions and conduct of a bare majority. A power of this nature in the executive will often have a

silent and unperceived, though forcible, operation. When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition from doing what they would with eagerness rush into if no such external impediments were to be feared.

This qualified negative, as has been elsewhere remarked, is in this State vested in a council, consisting of the governor, with the chancellor and judges of the Supreme Court, or any two of them. It has been freely employed upon a variety of occasions, and frequently with success. And its utility has become so apparent, that persons who, in compiling the Constitution, were violent opposers of it, have from experience become its declared admirers. [62](#)

I have in another place remarked that the convention, in the formation of this part of their plan, had departed from the model of the constitution of this State in favor of that of Massachusetts. Two strong reasons may be imagined for this preference. One is that the judges, who are to be the interpreters of the law, might receive an improper bias from having given a previous opinion in their revisionary capacities; the other is that by being often associated with the executive, they might be induced to embark too far in the political views of that magistrate, and thus a dangerous combination might by degrees be cemented between the executive and judiciary departments. It is impossible to keep the judges too distinct from every other avocation than that of expounding the laws. It is peculiarly dangerous to place them in a situation to be either corrupted or influenced by the executive.

PUBLIUS [Hamilton]

Number 74: The Same View Continued in Relation to the Command of the National Forces and the Power of Pardoning

# NUMBER 74

THE SAME VIEW CONTINUED IN RELATION TO  
THE COMMAND OF THE NATIONAL FORCES AND  
THE POWER OF PARDONING

[Alexander Hamilton]

THE President of the United States is to be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. The propriety of this provision is so evident in itself and it is at the same time so consonant to the precedents of the State constitutions in general, that little need be said to explain or enforce it. Even those of them which have in other respects coupled the Chief Magistrate with a council have for the most part concentrated the military authority in him alone. Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority.

The President may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices. This I consider as a mere redundancy in the plan, as the right for which it provides would result of itself from the office.

He is also to be authorized to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. Humanity and good policy conspire to dictate that the benign prerogative of pardoning should be as little as possible fettered or embarrassed. The criminal code of every country partakes so much of necessary severity that without an easy access to exceptions in favor of unfortunate guilt, justice would wear a countenance too sanguinary and cruel. As the sense of responsibility is always strongest in proportion as it is undivided, it may be inferred that a single man would be most ready to attend to the force of those motives which might plead for the mitigation of the rigor of the law, and least apt to

yield to considerations which were calculated to shelter a fit object of its vengeance. The reflection that the fate of a fellow-creature depended on his sole fate would naturally inspire scrupulousness and caution; the dread of being accused of weakness or connivance would beget equal circumspection, though of a different kind. On the other hand, as men generally derive confidence from their numbers, they might often encourage each other in an act of obduracy, and might be less sensible to the apprehension of suspicion or censure for an injudicious or affected clemency. On these accounts, one man appears to be a more eligible dispenser of the mercy of the government than a body of men.

The expediency of vesting the power of pardoning in the President has, if I mistake not, been only contested in relation to the crime of treason. This, it has been urged, ought to have depended upon the assent of one, or both, of the branches of the legislative body. I shall not deny that there are strong reasons to be assigned for requiring in this particular the concurrence of that body or of a part of it. As treason is a crime leveled at the immediate being of the society when the laws have once ascertained the guilt of the offender, there seems a fitness in referring the expediency of an act of mercy towards him to the judgment of the legislature. And this ought the rather to be the case, as the supposition of the connivance of the Chief Magistrate ought not to be entirely excluded. But there are also strong objections to such a plan. It is not to be doubted that a single man of prudence and good sense is better fitted, in delicate conjunctures, to balance the motives which may plead for and against the remission of the punishment than any numerous body whatever. It deserves particular attention that treason will often be connected with seditions which embrace a large proportion of the community, as lately happened in Massachusetts. In every such case we might expect to see the representation of the people tainted with the same spirit which had given birth to the offense. And when parties were pretty equally matched, the secret sympathy of the friends and favorers of the condemned, availing itself of the good nature and weakness of others, might frequently bestow impunity where the terror of an example was necessary. On the other hand, when the sedition had proceeded from causes which had inflamed the resentments of the major party, they might often be found obstinate and inexorable, when policy demanded a conduct of forbearance and clemency. But the principal argument for reposing the power of

pardoning in this case in the Chief Magistrate is this: in seasons of insurrection or rebellion, there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquillity of the commonwealth; and which, if suffered to pass unimproved, it may never be possible afterwards to recall. The dilatory process of convening the legislature, or one of its branches, for the purpose of obtaining its sanction to the measure, would frequently be the occasion of letting slip the golden opportunity. The loss of a week, a day, an hour, may sometimes be fatal. If it should be observed that a discretionary power with a view to such contingencies might be occasionally conferred upon the President, it may be answered in the first place that it is questionable, whether, in a limited Constitution, that power could be delegated by law; and in the second place, that it would generally be impolitic beforehand to take any step which might hold out the prospect of impunity. A proceeding of this kind, out of the usual course, would be likely to be construed into an argument of timidity or of weakness, and would have a tendency to embolden guilt.

PUBLIUS [Hamilton]

Number 75: The Same View Continued in Relation to the Power of Making Treaties

# NUMBER 75

## THE SAME VIEW CONTINUED IN RELATION TO THE POWER OF MAKING TREATIES

[Alexander Hamilton]

THE President is to have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. Though this provision has been assailed, on different grounds, with no small degree of vehemence, I scruple not to declare my firm persuasion that it is one of the best digested and most unexceptionable parts of the plan. One ground of objection is the trite topic of the intermixture of powers: some contending that the President ought alone to possess the power of making treaties; and others, that it ought to have been exclusively deposited in the Senate. Another source of objection is derived from the small number of persons by whom a treaty may be made. Of those who espouse this objection, a part are of opinion that the House of Representatives ought to have been associated in the business, while another part seem to think that nothing more was necessary than to have substituted two thirds of all members of the Senate to two thirds of the members present. As I flatter myself the observations made in a preceding number upon this part of the plan must have sufficed to place it, to a discerning eye, in a very favorable light. I shall here content myself with offering only some supplementary remarks, principally with a view to the objections which have been just stated.

With regard to the intermixture of powers, I shall rely upon the explanations already given in other places of the true sense of the rule upon which that objection is founded; and shall take it for granted, as an inference from them, that the union of the executive with the Senate, in the article of treaties, is no infringement of that rule. I venture to add that the particular nature of the power of making treaties indicates a peculiar propriety in that union. Though several writers on the subject of government place that power in the class of executive authorities, yet this is evidently an arbitrary disposition; for if we attend carefully to its operation it will be found to partake more of the legislative than of the executive character, though it

does not seem strictly to fall within the definition of either of them. The essence of the legislative authority is to enact laws, or, in other words, to prescribe rules for the regulation of the society; while the execution of the laws and the employment of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate. The power of making treaties is, plainly, neither the one nor the other. It relates neither to the execution of the subsisting laws nor to the enactment of new ones; and still less to an exertion of the common strength. Its objects are CONTRACTS with foreign nations which have the force of law, but derive it from the obligations of good faith. They are not rules prescribed by the sovereign to the subject, but agreements between sovereign and sovereign. The power in question seems therefore to form a distinct department, and to belong, properly, neither to the legislative nor to the executive. The qualities elsewhere detailed as indispensable in the management of foreign negotiations point out the executive as the most fit agent in those transactions; while the vast importance of the trust and the operation of treaties as laws plead strongly for the participation of the whole or a portion of the legislative body in the office of making them.

However proper or safe it may be in governments where the executive magistrate is an hereditary monarch, to commit to him the entire power of making treaties, it would be utterly unsafe and improper to intrust that power to an elective magistrate of four years' duration. It has been remarked, upon another occasion, and the remark is unquestionably just, that an hereditary monarch, though often the oppressor of his people, has personally too much at stake in the government to be in any material danger of being corrupted by foreign powers. But a man raised from the station of a private citizen to the rank of Chief Magistrate, possessed of but a moderate or slender fortune, and looking forward to a period not very remote when he may probably be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the interests of the state to the acquisition of wealth. An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents. The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and

momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States.

To have intrusted the power of making treaties to the Senate alone would have been to relinquish the benefits of the constitutional agency of the President in the conduct of foreign negotiations. It is true that the Senate would, in that case, have the option of employing him in this capacity, but they would also have the option of letting it alone and pique or cabal might induce the latter rather than the former. Besides this, the ministerial servant of the Senate could not be expected to enjoy the confidence and respect of foreign powers in the same degree with the constitutional representative of the nation, and, of course, would not be able to act with an equal degree of weight or efficacy. While the Union would, from this cause, lose a considerable advantage in the management of its external concerns, the people would lose the additional security which would result from the cooperation of the executive. Though it would be imprudent to confide in him solely so important a trust, yet it cannot be doubted that his participation in it would materially add to the safety of the society. It must indeed be clear to a demonstration that the joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them. And whoever has maturely weighed the circumstances which must concur in the appointment of a President will be satisfied that the office will always bid fair to be filled by men of such characters as to render their concurrence in the formation of treaties peculiarly desirable, as well on the score of wisdom as on that of integrity.

The remarks made in a former number, which have been alluded to in another part of this paper, will apply with conclusive force against the admission of the House of Representatives to share in the formation of treaties. The fluctuating and, taking its future increase into the account, the multitudinous composition of that body, forbid us to expect in it those qualities which are essential to the proper execution of such a trust. Accurate and comprehensive knowledge of foreign politics; a steady and systematic adherence to the same views; a nice and uniform sensibility to national character; decision, secrecy, and dispatch, are incompatible with

the genius of a body so variable and so numerous. The very complication of the business, by introducing a necessity of the concurrence of so many different bodies, would of itself afford a solid objection. The greater frequency of the calls upon the House of Representatives, and the greater length of time which it would often be necessary to keep them together when convened to obtain their sanction in the progressive stages of a treaty would be a source of so great inconvenience and expense as alone ought to condemn the project.

The only objection which remains to be canvassed is that which would substitute the proportion of two thirds of all the members composing the senatorial body to that of two thirds of the members present. It has been shown, under the second head of our inquiries, that all provisions which require more than the majority of any body to its resolutions have a direct tendency to embarrass the operations of the government and an indirect one to subject the sense of the majority to that of the minority. This consideration seems sufficient to determine our opinion, that the convention have gone as far in the endeavor to secure the advantage of numbers in the formation of treaties as could have been reconciled either with the activity of the public councils or with a reasonable regard to the major sense of the community. If two thirds of the whole number of members had been required it would, in many cases, from the nonattendance of a part, amount in practice to a necessity of unanimity. And the history of every political establishment in which this principle has prevailed is a history of impotence, perplexity, and disorder. Proofs of this position might be adduced from the examples of the Roman Tribuneship, the Polish Diet, and the States-General of the Netherlands did not an example at home render foreign precedents unnecessary.

To require a fixed proportion of the whole body would not, in all probability, contribute to the advantages of a numerous agency, better than merely to require a proportion of the attending members. The former, by increasing the difficulty of resolutions disagreeable to the minority, diminishes the motives to punctual attendance. The latter, by making the capacity of the body to depend on a proportion which may be varied by the absence or presence of a single member, has the contrary effect. And as, by promoting punctuality, it tends to keep the body complete, there is great

likelihood that its resolutions would generally be dictated by as great a number in this case as in the other; while there would be much fewer occasions of delay. It ought not to be forgotten that under the existing Confederation two members may, and usually do, represent a State; whence it happens that Congress, who now are solely invested with all the powers of the Union, rarely consists of a greater number of persons than would compose the intended Senate. If we add to this that as the members vote by States, and that where there is only a single member present from a State his vote is lost, it will justify a supposition that the active voices in the Senate, where the members are to vote individually, would rarely fall short in number of the active voices in the existing Congress. When, in addition to these considerations, we take into view the co-operation of the President, we shall not hesitate to infer that the people of America would have greater security against an improper use of the power of making treaties, under the new Constitution, than they now enjoy under the Confederation. And when we proceed still one step further and look forward to the probable augmentation of the Senate, by the erection of new States, we shall not only perceive ample ground of confidence in the sufficiency of the numbers to whose agency that power will be intrusted, but we shall probably be led to conclude that a body more numerous than the Senate would be likely to become, would be very little fit for the proper discharge of the trust.

PUBLIUS [Hamilton]

Number 76: The Same View Continued in Relation to the Appointment of the Officers of the Government

# NUMBER 76

THE SAME VIEW CONTINUED IN RELATION TO  
THE APPOINTMENT OF THE OFFICERS OF THE GOVERNMENT  
[Alexander Hamilton]

THE President is to nominate, and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for in the Constitution. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, or in the courts of law, or in the heads of departments. The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

It has been observed in a former paper that the hue test of a good government is its aptitude and tendency to produce a good administration. If the justness of this observation be admitted the mode of appointing the officers of the United States contained in the foregoing clauses must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to produce a judicious choice of men for filling the offices of the Union; and it will not need proof that on this point must essentially depend the character of its administration.

It will be agreed on all hands that the power of appointment, in ordinary cases, can be properly modified only in one of three ways. It ought either to be vested in a single man, or in a select assembly of a moderate number, or in a single man with the concurrence of such an assembly. The exercise of it by the people at large will be readily admitted to be impracticable; as waiving every other consideration, it would leave them little time to do anything else. When, therefore, mention is made in the subsequent reasonings of an assembly or body of men, what is said must be understood to relate to a select body or assembly, of the description already given. The people collectively, from their number and from their dispersed situation, cannot be regulated in their movements by that systematic spirit of cabal

and intrigue which will be urged as the chief objections to reposing the power in question in a body of men.

Those who have themselves reflected upon the subject, or who have attended to the observations made in other parts of these papers in relation to the appointment of the President will, I presume, agree to the position that there would always be great probability of having the place supplied by a man of abilities, at least respectable. Premising this, I proceed to lay it down as a rule that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices than a body of men of equal or perhaps even of superior discernment.

The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have fewer personal attachments to gratify than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. There is nothing so apt to agitate the passions of mankind as personal considerations, whether they relate to ourselves or to others, who are to be the objects of our choice or preference. Hence, in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly. The choice which may at any time happen to be made under such circumstances will of course be the result either of a victory gained by one party over the other, or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: Give us the man we wish for this office, and you shall have the one you wish for that. This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party

negotiations.

The truth of the principles here advanced seems to have been felt by the most intelligent of those who have found fault with the provision made, in this respect, by the convention. They contend that the President ought solely to have been authorized to make the appointments under the federal government. But it is easy to show that every advantage to be expected from such an arrangement would, in substance, be derived from the power of nomination which is proposed to be conferred upon him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided. In the act of nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing. The same motives which would influence a proper discharge of his duty in one case would exist in the other. And as no man could be appointed but on his previous nomination, every man who might be appointed would be, in fact, his choice.

But his nomination may be overruled: this it certainly may, yet it can only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed; because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected and might have the appearance of a reflection upon the judgment of the Chief Magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in

general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended that a man who had himself the sole disposition of offices would be governed much more by his private inclinations and interests than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism or an unbecoming pursuit of popularity to the observation of a body whose opinion would have great weight in forming that of the public could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

To this reasoning it has been objected that the President, by the influence of the power of nomination, may secure the complaisance of the Senate to his views. The supposition of universal venality in human nature is little less an error in political reasoning than the supposition of universal rectitude. The institution of delegated power implies that there is a portion of virtue and honor among mankind which may be a reasonable foundation of confidence. And experience justifies the theory. It has been found to exist in the most corrupt periods of the most corrupt governments. The venality of the British House of Commons has been long a topic of accusation against that body in the country to which they belong, as well as in this; and it cannot be doubted that the charge is, to a considerable extent, well founded. But it is as little to be doubted that there is always a large proportion of the body which consists of independent and public-spirited men who have an

influential weight in the councils of the nation. Hence it is (the present reign not excepted) that the sense of that body is often seen to control the inclinations of the monarch, both with regard to men and to measures. Though it might therefore be allowable to suppose that the executive might occasionally influence some individuals in the Senate, yet the supposition that he could in general purchase the integrity of the whole body would be forced and improbable. A man disposed to view human nature as it is, without either flattering its virtues or exaggerating its vices, will see sufficient ground of confidence in the probity of the Senate to rest satisfied, not only that it will be impracticable to the executive to corrupt or seduce a majority of its members, but that the necessity of its co-operation in the business of appointments will be a considerable and salutary restraint upon the conduct of that magistrate. Nor is the integrity of the Senate the only reliance. The Constitution has provided some important guards against the danger of executive influence upon the legislative body. It declares that No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

PUBLIUS [Hamilton]

Number 77: The View of the Constitution of the President Concluded. With a Further Consideration of the Power of Appointment, and a Concise Examination of His Remaining Powers

# NUMBER 77

THE VIEW OF THE CONSTITUTION OF  
THE PRESIDENT CONCLUDED.

WITH A FURTHER CONSIDERATION OF  
THE POWER OF APPOINTMENT, AND  
A CONCISE EXAMINATION OF HIS REMAINING POWERS

[Alexander Hamilton]

IT HAS been mentioned as one of the advantages to be expected from the co-operation of the Senate, in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to displace as well as to appoint. [63](#) A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the government as might be expected if he were the sole disposer of offices. Where a man in any station had given satisfactory evidence of his fitness for it. A new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that a discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body which, from the greater permanency of its own composition, will in all probability be less subject to inconstancy than any other member of the government.

To this union of the Senate with the President, in the article of appointments, it has in some cases been suggested that it would serve to give the President an undue influence over the Senate, and in others that it would have an opposite tendency—a strong proof that neither suggestion is true.

To state the first in its proper form is to refute it. It amounts to this: the President would have an improper influence over the Senate, because the Senate would have the power of restraining him. This is an absurdity in terms. It cannot admit of a doubt that the entire power of appointment,

would enable him much more effectually to establish a dangerous empire over that body than a mere power of nomination subject to their control.

Let us take a view of the converse of the proposition: the Senate would influence the executive. As I have had occasion to remark in several other instances, the indistinctness of the objection forbids a precise answer. In what manner is this influence to be exerted? In relation to what objects? The power of influencing a person, in the sense in which it is here used, must imply a power of conferring a benefit upon him. How could the Senate confer a benefit upon the President by the manner of employing their right of negative upon his nominations? If it be said they might sometimes gratify him by an acquiescence in a favorite choice, when public motives might dictate a different conduct, I answer that the instances in which the President could be personally interested in the result would be too few to admit of his being materially affected by the compliances of the Senate. Besides this, it is evident that the POWER which can originate the disposition of honors and emoluments is more likely to attract than to be attracted by the POWER which can merely obstruct their course. If by influencing the President be meant restraining him, this is precisely what must have been intended. And it has been shown that the restraint would be salutary, at the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrolled agency of that magistrate. The right of nomination would produce all the good, without the ill.

Upon a comparison of the plan for the appointment of the officers of the proposed government with that which is established by the constitution of this State, a decided preference must be given to the former. In that plan the power of nomination is unequivocally vested in the executive. And as there would be a necessity for submitting each nomination to the judgment of an entire branch of the legislature, the circumstances attending an appointment, from the mode of conducting it, would naturally become matters of notoriety, and the public would be at no loss to determine what part had been performed by the different actors. The blame of a bad nomination would fall upon the President singly and absolutely. The censure of rejecting a good one would lie entirely at the door of the Senate, aggravated by the consideration of their having counteracted the good intentions of the executive. If an ill appointment should be made, the executive, for

nominating, and the Senate, for approving, would participate, though in different degrees, in the opprobrium and disgrace.

The reverse of all this characterizes the manner of appointment in this State. The council of appointment consists of from three to five persons, of whom the governor is always one. This small body, shut up in a private apartment, impenetrable to the public eye, proceed to the execution of the trust committed to them. It is known that the governor claims the right of nomination upon the strength of some ambiguous expressions in the Constitution; but it is not known to what extent, or in what manner he exercises it; nor upon what occasions he is contradicted or opposed. The censure of a bad appointment, on account of the uncertainty of its author and for want of a determinate object, has neither poignancy nor duration. And while an unbounded field for cabal and intrigue lies open, all idea of responsibility is lost. The most that the public can know is that the governor claims the right of nomination; that two out of the inconsiderable number of four men can too often be managed without much difficulty; that if some of the members of a particular council should happen to be of an uncomplying character, it is frequently not impossible to get rid of their opposition by regulating the times of meeting in such a manner as to render their attendance inconvenient; and that from whatever cause it may proceed, a great number of very improper appointments are from time to time made. Whether a governor of this State avails himself of the ascendant, he must necessarily have in this delicate and important part of the administration to prefer to offices men who are best qualified for them; or whether he prostitutes that advantage to the advancement of persons whose chief merit is their implicit devotion to his will and to the support of a despicable and dangerous system of personal influence are questions which, unfortunately for the community, can only be the subjects of speculation and conjecture.

Every mere council of appointment, however constituted, will be a conclave in which cabal and intrigue will have their full scope. Their number, without an unwarrantable increase of expense, cannot be large enough to preclude a facility of combination. And as each member will have his friends and connections to provide for, the desire of mutual gratification will beget a scandalous bartering of votes and bargaining for places. The private attachments of one man might easily be satisfied, but to satisfy the

private attachments of a dozen, or of twenty men, would occasion a monopoly of all the principal employments of the government in a few families and would lead more directly to an aristocracy or an oligarchy than any measure that could be contrived. If, to avoid an accumulation of offices, there was to be a frequent change in the persons who were to compose the council, this would involve the mischiefs of a mutable administration in their full extent. Such a council would also be more liable to executive influence than the Senate, because they would be fewer in number, and would act less immediately under the public inspection. Such a council, in fine, as a substitute for the plan of the convention, would be productive of an increase of expense, a multiplication of the evils which spring from favoritism and intrigue in the distribution of public honors, a decrease of stability in the administration of the government, and a diminution of the security against an undue influence of the executive. And yet such a council has been warmly contended for as an essential amendment in the proposed Constitution.

I could not with propriety conclude my observations on the subject of appointments without taking notice of a scheme for which there have appeared some, though but a few, advocates; I mean that of uniting the House of Representatives in the power of making them. I shall, however, do little more than mention it, as I cannot imagine that it is likely to gain the countenance of any considerable part of the community. A body so fluctuating and at the same time so numerous can never be deemed proper for the exercise of that power. Its unfitness will appear manifest to all when it is recollected that in half a century it may consist of three or four hundred persons. All the advantages of the stability, both of the executive and of the Senate, would be defeated by this union, and infinite delays and embarrassments would be occasioned. The example of most of the States in their local constitutions encourages us to reprobate the idea.

The only remaining powers of the executive are comprehended in giving information to Congress of the state of the Union; in recommending to their consideration such measures as he shall judge expedient; in convening them, or either branch, upon extraordinary occasions; in adjourning them when they cannot themselves agree upon the time of the adjournment; in receiving ambassadors and other public ministers; in faithfully executing

the laws; and in commissioning all the officers of the United States.

Except some cavils about the power of convening either house of the legislature, and that of receiving ambassadors, no objection has been made to this class of authorities; nor could they possibly admit of any. It required, indeed, an insatiable avidity for censure to invent exceptions to the parts which have been excepted to. In regard to the power of convening either house of the legislature I shall barely remark that in respect to the Senate, at least, we can readily discover a good reason for it. As this body has a concurrent power with the executive in the article of treaties, it might often be necessary to call it together with a view to this object, when it would be unnecessary and improper to convene the House of Representatives. As to the reception of ambassadors, what I have said in a former paper will furnish a sufficient answer.

We have now completed a survey of the structure and powers of the executive department which, I have endeavored to show, combines, as far as republican principles will admit, all the requisites to energy. The remaining inquiry is: Does it also combine the requisites to safety, in the republican sense—due dependence on the people, a due responsibility? The answer to this question has been anticipated in the investigation of its other characteristics, and is satisfactorily deducible from these circumstances; the election of the President once in four years by persons immediately chosen by the people for that purpose, and his being at all times liable to impeachment, trial, dismissal from office, incapacity to serve in any other, and to the forfeiture of life and estate by subsequent prosecution in the common course of law. But these precautions, great as they are, are not the only ones which the plan of the convention has provided in favor of the public security. In the only instances in which the abuse of the executive authority was materially to be feared, the Chief Magistrate of the United States would, by that plan, be subjected to the control of a branch of the legislative body, What more can an enlightened and reasonable people desire?

PUBLIUS [Hamilton]

Number 78: A View of the Constitution of the Judicial Department in Relation to the Tenure of Good Behaviour

# NUMBER 78

## A VIEW OF THE CONSTITUTION OF THE JUDICIAL DEPARTMENT IN RELATION TO THE TENURE OF GOOD BEHAVIOUR [Alexander Hamilton]

WE proceed now to an examination of the judiciary department of the proposed government.

In unfolding the defects of the existing Confederation, the utility and necessity of a federal judicature have been clearly pointed out. It is the less necessary to recapitulate the considerations there urged as the propriety of the institution in the abstract is not disputed; the only questions which have been raised being relative to the manner of constituting it, and to its extent. To these points, therefore, our observations shall be confined.

The manner of constituting it seems to embrace these several objects: 1st. The mode of appointing the judges. 2nd. The tenure by which they are to hold their places. 3rd. The partition of the judiciary authority between different courts and their relations to each other. First. As to the mode of appointing the judges: this is the same with that of appointing the officers of the Union in general and has been so fully discussed in the two last numbers that nothing can be said here which would not be useless repetition.

Second. As to the tenure by which the judges are to hold their places: this chiefly concerns their duration in office, the provisions for their support, the precautions for their responsibility.

According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices during good behavior; which is conformable to the most approved of the State constitutions, and among the rest, to that of the State. Its propriety having been drawn into question by the adversaries of that plan is no light symptom of the rage for objection which disorders their imaginations and judgments. The standard of good

behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government to secure a steady, upright, and impartial administration of the laws.

Whoever attentively considers the different departments of power must perceive that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

This simple view of the matter suggests several important consequences. It proves incontestably that the judiciary is beyond comparison the weakest of the three departments of power; [64](#) that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. It equally proves that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislature and the executive. For I agree that there is no liberty if the power of judging be not separated from the legislative and executive powers. [65](#) And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments; that as all the effects of such a union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as, from the natural feebleness of the

judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution, and, in a great measure, as the citadel of the public justice and the public security.

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Some perplexity respecting the rights of the courts to pronounce legislative acts void, because contrary to the Constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged that the authority which can declare the acts of another void must necessarily be superior to the one whose acts may be declared void. As this doctrine is of great importance in all the American constitutions, a brief discussion of the grounds on which it rests cannot be unacceptable.

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers and that the construction they put upon them is

conclusive upon the other departments it may be answered that this cannot be the natural presumption where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both, and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws rather than by those which are not fundamental.

This exercise of judicial discretion in determining between two contradictory laws is exemplified in a familiar instance. It not uncommonly happens that there are two statutes existing at one time, clashing in whole or in part with each other and neither of them containing any repealing clause or expression. In such a case, it is the province of the courts to liquidate and fix their meaning and operation. So far as they can, by fair construction, be reconciled to each other, reason and law conspire to dictate that this should be done; where this is impracticable, it becomes a matter of necessity to give effect to one in exclusion of the other. The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law but from the nature and reason of the

thing. It is a rule not enjoined upon the courts by legislative provision but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable that between the interfering acts of an equal authority that which was the last indication of its will should have the preference.

But in regard to the interfering acts of a superior and subordinate authority of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that accordingly, whenever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former.

It can be of no weight to say that the courts, on the pretense of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes; or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure for that of the legislative body. The observation, if it proved anything, would prove that there ought to be no judges distinct from that body.

If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.

This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion

dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed Constitution will never concur with its enemies [66](#) in questioning that fundamental principle of republican government which admits the right of the people to alter or abolish the established Constitution whenever they find it inconsistent with their happiness; yet it is not to be inferred from this principle that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents incompatible with the provisions in the existing Constitution, would, on that account, be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape than when they had proceeded wholly from the cabals of the representative body. Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiment can warrant their representatives in a departure from it prior to such an act. But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.

But it is not with a view to infractions of the Constitution only that the independence of the judges may be an essential safeguard against the effects of occasional ill humors in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of an iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled, by the very motives of the injustice they meditate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments than but few may be aware of. The benefits of the integrity and moderation of the judiciary have already been felt in more States than one; and though they may have displeased those whose sinister expectations they may have

disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today. And every man must now feel that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence and to introduce in its stead universal distrust and distress.

That inflexible and uniform adherence to the rights of the Constitution, and of individuals, which we perceive to be indispensable in the courts of justice, can certainly not be expected from judges who hold their offices by a temporary commission. Periodical appointments, however regulated, or by whomsoever made, would, in some way or other, be fatal to their necessary independence. If the power of making them was committed either to the executive or legislature there would be danger of an improper complaisance to the branch which possessed it; if to both, there would be an unwillingness to hazard the displeasure of either; if to the people, or to persons chosen by them for the special purpose, there would be too great a disposition to consult popularity to justify a reliance that nothing would be consulted but the Constitution and the laws.

There is yet a further and weighty reason for the permanency of the judicial offices which is deducible from the nature of the qualifications they require. It has been frequently remarked with great propriety that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind that the records of those precedents must unavoidably swell to a very considerable bulk and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be

still smaller of those who unite the requisite integrity with the requisite knowledge. These considerations apprise us that the government can have no great option between fit characters; and that a temporary duration in office which would naturally discourage such characters from quitting a lucrative line of practice to accept a seat on the bench would have a tendency to throw the administration of justice into hands less able and less well qualified to conduct it with utility and dignity. In the present circumstances of this country and in those in which it is likely to be for a long time to come, the disadvantages on this score would be greater than they may at first sight appear; but it must be confessed that they are far inferior to those which present themselves under the other aspects of the subject.

Upon the whole, there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established good behavior as the tenure of their judicial offices, in the point of duration; and that so far from being blamable on this account, their plan would have been inexcusably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.

PUBLIUS [Hamilton]

Number 79: A Further View of the Judicial Department in Relation to the Provisions for the Support and Responsibility of the Judges

# NUMBER 79

A FURTHER VIEW OF THE JUDICIAL DEPARTMENT  
IN RELATION TO THE PROVISIONS FOR  
THE SUPPORT AND RESPONSIBILITY OF THE JUDGES  
[Alexander Hamilton]

NEXT to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support. The remark made in relation to the President is equally applicable here. In the general course of human nature, a power over a man's subsistence amounts to a power over his will. And we can never hope to see realized in practice the complete separation of the judicial from the legislative power, in any system which leaves the former dependent for pecuniary resources on the occasional grants of the latter. The enlightened friends to good government in every State have seen cause to lament the want of precise and explicit precautions in the State constitutions on this head. Some of these indeed have declared that permanent [67](#) salaries should be established for the judges; but the experiment has in some instances shown that such expressions are not sufficiently definite to preclude legislative evasions. Something still more positive and unequivocal has been evinced to be requisite. The plan of the convention accordingly has provided that the judges of the United States shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

This, all circumstances considered, is the most eligible provision that could have been devised. It will readily be understood that the fluctuations in the value of money and in the state of society rendered a fixed rate of compensation in the Constitution inadmissible. What might be extravagant today might in half a century become penurious and inadequate. It was therefore necessary to leave it to the discretion of the legislature to vary its provisions in conformity to the variations in circumstances, yet under such restrictions as to put it out of the power of that body to change the condition of the individual for the worse. A man may then be sure of the ground upon which he stands, and can never be deterred from his duty by the

apprehension of being placed in a less eligible situation. The clause which has been quoted combines both advantages. The salaries of judicial offices may from time to time be altered, as occasion shall require, yet so as never to lessen the allowance with which any particular judge comes into office, in respect to him. It will be observed that a difference has been made by the convention between the compensation of the President and of the judges. That of the former can neither be increased nor diminished; that of the latter can only not be diminished. This probably arose from the difference in the duration of the respective offices. As the President is to be elected for no more than four years, it can rarely happen that an adequate salary, fixed at the commencement of that period, will not continue to be such to the end of it. But with regard to the judges who, if they behave properly, will be secured in their places for life. It may well happen, especially in the early stages of the government, that a stipend which would be very sufficient at their first appointment would become too small in the progress of their service.

This provision for the support of the judges bears every mark of prudence and efficacy; and it may be safely affirmed that, together with the permanent tenure of their offices, it affords a better prospect of their independence than is discoverable in the constitutions of any of the States in regard to their own judges.

The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and, if convicted, may be dismissed from office and disqualified from holding any other. This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose. The mensuration of the faculties of the mind has, I believe, no place in the catalogue of known arts. An attempt to fix the boundary between the regions of ability and

inability would much oftener give scope to personal and party attachments and enmities than advance the interests of justice or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be a virtual disqualification.

The constitution of New York, to avoid investigations that must forever be vague and dangerous, has taken a particular age as the criterion of inability. No man can be a judge beyond sixty. I believe there are few at present who do not disapprove of this provision. There is no station in relation to which it is less proper than to that of a judge. The deliberating and comparing faculties generally preserve their strength much beyond that period in men who survive it; and when, in addition to this circumstance, we consider how few there are who outlive the season of intellectual vigor and how improbable it is that any considerable portion of the bench, whether more or less numerous, should be in such a situation at the same time, we shall be ready to conclude that limitations of this sort have little to recommend them. In a republic where fortunes are not affluent and pensions not expedient, the dismissal of men from stations in which they have served their country long and usefully, on which they depend for subsistence, and from which it will be too late to resort to any other occupation for a livelihood, ought to have some better apology to humanity than is to be found in the imaginary danger of a superannuated bench.

PUBLIUS [Hamilton]

Number 80: A Further View of the Judicial Department in Relation to the Extent of Its Powers

# NUMBER 80

## A FURTHER VIEW OF THE JUDICIAL DEPARTMENT IN RELATION TO THE EXTENT OF ITS POWERS

[Alexander Hamilton]

TO JUDGE with accuracy of the proper extent of the federal judicature it will be necessary to consider, in the first place, what are its proper objects.

It seems scarcely to admit of controversy that the judiciary authority of the Union ought to extend to these several descriptions of cases: 1st, to all those which arise out of the laws of the United States, passed in pursuance of their just and constitutional powers of legislation; 2nd, to all those which concern the execution of the provisions expressly contained in the articles of Union; 3rd, to all those in which the United States are a party; 4th, to all those which involve the PEACE of the CONFEDERACY, whether they relate to the intercourse between the United States and foreign nations or to that between the States themselves; 5th, to all those which originate on the high seas, and are of admiralty or maritime jurisdiction; and lastly, to all those in which the State tribunals cannot be supposed to be impartial and unbiased.

The first point depends upon this obvious consideration, that there ought always to be a constitutional method of giving efficacy to constitutional provisions. What, for instance, would avail restrictions on the authority of the State legislatures, without some constitutional mode of enforcing the observance of them? The States, by the plan of the convention, are prohibited from doing a variety of things, some of which are incompatible with the interests of the Union and others with the principles of good government. The imposition of duties on imported articles and the emission of paper money are specimens of each kind. No man of sense will believe that such prohibitions would be scrupulously regarded without some effectual power in the government to restrain or correct the infractions of them. This power must either be a direct negative on the State laws, or an authority in the federal courts to overrule such as might be in manifest contravention of the articles of Union. There is no third course that I can

imagine. The latter appears to have been thought by the convention preferable to the former, and I presume will be most agreeable to the States.

As to the second point, it is impossible, by any argument or comment, to make it clearer than it is in itself. If there are such things as political axioms, the propriety of the judicial power of a government being coextensive with its legislative may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government from which nothing but contradiction and confusion can proceed.

Still less need be said in regard to the third point. Controversies between the nation and its members or citizens can only be properly referred to the national tribunals. Any other plan would be contrary to reason, to precedent, and to decorum.

The fourth point rests on this plain proposition, that the peace of the WHOLE ought not to be left at the disposal of a PART. The Union will undoubtedly be answerable to foreign powers for the conduct of its members. And the responsibility for an injury ought ever to be accompanied with the faculty of preventing it. As the denial or perversion of justice by the sentences of courts, as well as in any other manner, is with reason classed among the just causes of war, it will follow that the federal judiciary ought to have cognizance of all causes in which the citizens of other countries are concerned. This is not less essential to the preservation of the public faith than to the security of the public tranquillity. A distinction may perhaps be imagined between cases arising upon treaties and the laws of nations and those which may stand merely on the footing of the municipal law. The former kind may be supposed proper for the federal jurisdiction, the latter for that of the States, But it is at least problematical whether an unjust sentence against a foreigner, where the subject of controversy was wholly relative to the *lex loci*, would not, if unredressed, be an aggression upon his sovereign, as well as one which violated the stipulations in a treaty or the general law of nations. And a still greater objection to the distinction would result from the immense difficulty, if not impossibility, of a practical discrimination between the cases of one

complexion and those of the other. So great a proportion of the cases in which foreigners are parties involve national questions that it is by far the most safe and most expedient to refer all those in which they are concerned to the national tribunals.

The power of determining causes between two States, between one State and the citizens of another, and between the citizens of different States, is perhaps not less essential to the peace of the Union than that which has been just examined. History gives us a horrid picture of the dissensions and private wars which distracted and desolated Germany prior to the institution of the IMPERIAL CHAMBER by Maximilian towards the close of the fifteenth century, and informs us, at the same time, of the vast influence of that institution in appeasing the disorders and establishing the tranquillity of the empire. This was a court invested with authority to decide finally all differences among the members of the Germanic body.

A method of terminating territorial disputes between the States, under the authority of the federal head, was not unattended to, even in the imperfect system by which they have been hitherto held together. But there are many other sources, besides interfering claims of boundary, from which bickerings and animosities may spring up among the members of the Union. To some of these we have been witnesses in the course of our past experience. It will readily be conjectured that I allude to the fraudulent laws which have been passed in too many of the States. And though the proposed Constitution establishes particular guards against the repetition of those instances which have heretofore made their appearance, yet it is warrantable to apprehend that the spirit which produced them will assume new shapes that could not be foreseen nor specifically provided against. Whatever practices may have a tendency to disturb the harmony between the States are proper objects of federal superintendence and control.

It may be esteemed the basis of the Union that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States. And if it be a just principle that every government ought to possess the means of executing its own provisions by its own authority it will follow that in order to the inviolable maintenance of that equality of privileges and immunities to which the citizens of the Union will be

entitled, the national judiciary ought to preside in all cases in which one State or its citizens are opposed to another State or its citizens. To secure the full effect of so fundamental a provision against all evasion and subterfuge, it is necessary that its construction should be committed to that tribunal which, having no local attachments, will be likely to be impartial between the different States and their citizens and which, owing its official existence to the Union, will never be likely to feel any bias inauspicious to the principles on which it is founded.

The fifth point will demand little animadversion. The most bigoted idolizers of State authority have not thus far shown a disposition to deny the national judiciary the cognizance of maritime causes. These so generally depend on the laws of nations and so commonly affect the rights of foreigners that they fall within the considerations which are relative to the public peace. The most important part of them are, by the present Confederation, submitted to federal jurisdiction.

The reasonableness of the agency of the national courts in cases in which the State tribunals cannot be supposed to be impartial speaks for itself. No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias. This principle has no inconsiderable weight in designating the federal courts as the proper tribunals for the determination of controversies between different States and their citizens. And it ought to have the same operation in regard to some cases between the citizens of the same State. Claims to land under grants of different States, founded upon adverse pretensions of boundary, are of this description. The courts of neither of the granting States could be expected to be unbiased. The laws may have even prejudged the question and tied the courts down to decisions in favor of the grants of the State to which they belonged. And even where this had not been done, it would be natural that the judges, as men, should feel a strong predilection to the claims of their own government.

Having thus laid down and discussed the principles which ought to regulate the constitution of the federal judiciary we will proceed to test, by these principles, the particular powers of which, according to the plan of the convention, it is to be composed. It is to comprehend all cases in law and

equity arising under the Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State or the citizens thereof and foreign states, citizens and subjects. This constitutes the entire mass of the judicial authority of the Union. Let us now review it in detail. It is, then, to extend:

First. To all cases in law and equity, arising under the Constitution and the laws of the United States, This corresponds to the two first classes of causes which have been enumerated, as proper for the jurisdiction of the United States. It has been asked what is meant by cases arising under the Constitution, in contradistinction from those arising under the laws of the United States ? The difference has been already explained. All the restrictions upon the authority of the State legislatures furnish examples of it. They are not, for instance, to emit paper money; but the interdiction results from the Constitution and will have no connection with any law of the United States. Should paper money, notwithstanding, be emitted, the controversies concerning it would be cases arising under the Constitution and not the laws of the United States, in the ordinary signification of the terms. This may serve as a sample of the whole.

It has also been asked, what need of the word equity ? What equitable causes can grow out of the Constitution and laws of the United States? There is hardly a subject of litigation between individuals which may not involve those ingredients of fraud, accident, trust, or hardship, which would render the matter an object of equitable rather than of legal jurisdiction, as the distinction is known and established in several of the States. It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains: these are contracts in which, though there may have been no direct fraud or deceit sufficient to invalidate them in a court of law, yet there may have been some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties which a court of equity would not tolerate. In such cases, where foreigners were concerned

on either side, it would be impossible for the federal judicatories to do justice without an equitable as well as legal jurisdiction. Agreements to convey lands claimed under the grants of different States may afford another example of the necessity of an equitable jurisdiction in the federal courts. This reasoning may not be so palpable in those States where the formal and technical distinction between LAW and EQUITY is not maintained as in this State, where it is exemplified by every day's practice.

The judiciary authority of the Union is to extend:

Second. To treaties made, or which shall be made, under the authority of the United States and to all cases affecting ambassadors, other public ministers, and consuls. These belong to the fourth class of the enumerated cases, as they have an evident connection with the preservation of the national peace.

Third. To cases of admiralty and maritime jurisdiction. These form, altogether, the fifth of the enumerated classes of causes proper for the cognizance of the national courts.

Fourth. To controversies to which the United States shall be a party. These constitute the third of those classes.

Fifth. To controversies between two or more States; between a State and citizens of another State; between citizens of different States. These belong to the fourth of those classes, and partake, in some measure, of the nature of the last.

Sixth. To cases between the citizens of the same State, claiming lands under grants of different States. These fall within the last class, and are the only instances in which the proposed Constitution directly contemplates the cognizance of disputes between the citizens of the same State.

Seventh. To cases between a State and the citizens thereof, and foreign States, citizens, or subjects. These have been already explained to belong to the fourth of the enumerated classes and have been shown to be, in a peculiar manner, the proper subjects of the national judicature.

From this review of the particular powers of the federal judiciary, as marked out in the Constitution, it appears that they are all conformable to the principles which ought to have governed the structure of that department and which were necessary to the perfection of the system. If some partial inconveniences should appear to be connected with the incorporation of any of them into the plan it ought to be recollected that the national legislature will have ample authority to make such exceptions and to prescribe such regulations as will be calculated to obviate or remove these inconveniences. The possibility of particular mischiefs can never be viewed, by a well-informed mind, as a solid objection to a general principle which is calculated to avoid general mischiefs and to obtain general advantages.

PUBLIUS [Hamilton]

Number 81: A Further View of the Judicial Department in Relation to the Distribution of Its Authority

# NUMBER 81

## A FURTHER VIEW OF THE JUDICIAL DEPARTMENT IN RELATION TO THE DISTRIBUTION OF ITS AUTHORITY

[Alexander Hamilton]

LET us now return to the partition of the judiciary authority between different courts and their relations to each other.

The judicial power of the United States is (by the plan of the convention) to be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. [68](#)

That there ought to be one court of supreme and final jurisdiction is a proposition which has not been, and is not likely to be, contested. The reasons for it have been assigned in another place and are too obvious to need repetition. The only question that seems to have been raised concerning it is whether it ought to be a distinct body or a branch of the legislature. The same contradiction is observable in regard to this matter which has been remarked in several other cases. The very men who object to the Senate as a court of impeachments, on the ground of an improper intermixture of powers, advocate, by implication at least, the propriety of vesting the ultimate decision of all causes in the whole or in a part of the legislative body.

The arguments, or rather suggestions, upon which this charge is founded are to this effect: The authority of the proposed Supreme Court of the United States, which is to be a separate and independent body, will be superior to that of the legislature. The power of construing the laws according to the spirit of the constitution will enable that court to mould them into whatever shape it may think proper; especially as its decisions will not be in any manner subject to the revision or correction of the legislative body. This is as unprecedented as it is dangerous. In Britain the judicial power, in the last resort, resides in the House of Lords, which is a branch of the legislature; and this part of the British government has been imitated in the State constitutions in general. The Parliament of Great Britain, and the

legislatures of the several States, can at any time rectify, by law, the exceptionable decisions of their respective courts. But the errors and usurpations of the Supreme Court of the United States will be uncontrollable and remediless. This, upon examination, will be found to be made up altogether of false reasoning upon misconceived fact.

In the first place, there is not a syllable in the plan under consideration which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution. But this doctrine is not deducible from any circumstance peculiar to the plan of convention, but from the general theory of a limited Constitution; and as far as it is true is equally applicable to most if not all the State governments. There can be no objection, therefore, on this account to the federal judicature which will not lie against the local judicatures in general, and which will not serve to condemn every constitution that attempts to set bounds to the legislative discretion.

But perhaps the force of the objection may be thought to consist in the particular organization of the proposed Supreme Court; in its being composed of a distinct body of magistrates, instead of being one of the branches of the legislature, as in the government of Great Britain and in that of this State. To insist upon this point, the authors of the objection must renounce the meaning they have labored to annex to the celebrated maxim requiring a separation of the departments of power. It shall, nevertheless, be conceded to them, agreeably to the interpretation given to that maxim in the course of these papers, that it is not violated by vesting the ultimate power of judging in a part of the legislative body. But though this be not an absolute violation of that excellent rule, yet it verges so nearly upon it as on this account alone to be less eligible than the mode preferred by the convention. From a body which had had even a partial agency in passing bad laws we could rarely expect a disposition to temper and moderate them in the application. The same spirit which had operated in making them would be too apt to operate in interpreting them; still less could it be expected that men who had infringed the Constitution in the character of

legislators would be disposed to repair the breach in the character of judges. Nor is this all. Every reason which recommends the tenure of good behavior for judicial offices militates against placing the judiciary power, in the last resort, in a body composed of men chosen for a limited period. There is an absurdity in referring the determination of causes, in the first instance, to judges of permanent standing; and in the last, to those of a temporary and mutable constitution. And there is a still greater absurdity in subjecting the decisions of men, selected for their knowledge of the laws, acquired by long and laborious study, to the revision and control of men who, for want of the same advantage, cannot but be deficient in that knowledge. The members of the legislature will rarely be chosen with a view to those qualifications which fit men for the stations of judges; and as, on this account, there will be great reason to apprehend all the ill consequences of defective information, so, on account of the natural propensity of such bodies to party divisions, there will be no less reason to fear that the pestilential breath of faction may poison the fountains of justice. The habit of being continually marshaled on the opposite sides will be too apt to stifle the voice both of law and of equity.

These considerations teach us to applaud the wisdom of those States who have committed the judicial power, in the last resort, not to a part of the legislature, but to distinct and independent bodies of men. Contrary to the supposition of those who have represented the plan of the convention, in this respect, as novel and unprecedented, it is but a copy of the constitutions of New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, and Georgia; and the preference which has been given to these models is highly to be commended.

It is not true, in the second place, that the parliament of Great Britain, or the legislatures of the particular States, can rectify the exceptionable decisions of their respective courts, in any other sense than might be done by a future legislature of the United States. The theory, neither of the British, nor the State constitutions, authorizes the revisal of a judicial sentence by a legislative act. Nor is there anything in the proposed Constitution, more than in either of them, by which it is forbidden. In the former, as well as in the latter, the impropriety of the thing, on the general principles of law and reason, is the sole obstacle. A legislature, without exceeding its province,

cannot reverse a determination once made in a particular case; though it may prescribe a new rule for future cases. This is the principle and it applies in all its consequences, exactly in the same manner and extent, to the State governments, as to the national government now under consideration. Not the least difference can be pointed out in any view of the subject.

It may in the last place be observed that the supposed danger of judiciary encroachments on the legislative authority which has been upon many occasions reiterated is in reality a phantom. Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty from the general nature of the judicial power, from the objects to which it relates, from the manner in which it is exercised, from its comparative weakness, and from its total incapacity to support its usurpations by force. And the inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations. While this ought to remove all apprehensions on the subject it affords, at the same time, a cogent argument for constituting the Senate a court for the trial of impeachments.

Having now examined, and, I trust, removed the objections to the distinct and independent organization of the Supreme Court, I proceed to consider the propriety of the power of constituting inferior courts [69](#) and the relations which will subsist between these and the former.

The power of constituting inferior courts is evidently calculated to obviate the necessity of having recourse to the Supreme Court in every case of federal cognizance. It is intended to enable the national government to institute or authorize, in each State or district of the United States, a tribunal

competent to the determination of matters of national jurisdiction within its limits.

But why, it is asked, might not the same purpose have been accomplished by the instrumentality of the State courts? This admits of different answers. Though the fitness and competency of those courts should be allowed in the utmost latitude, yet the substance of the power in question may still be regarded as a necessary part of the plan, if it were only to empower the national legislature to commit to them the cognizance of causes arising out of the national Constitution. To confer the power of determining such causes upon the existing courts of the several States would perhaps be as much to constitute tribunals, as to create new courts with the like power. But ought not a more direct and explicit provision to have been made in favor of the State courts? There are, in my opinion, substantial reasons against such a provision: the most discerning cannot see how far the prevalency of a local spirit may be found to disqualify the local tribunals for the jurisdiction of national causes; whilst every man may discover that courts constituted like those of some of the States would be improper channels of the judicial authority of the Union. State judges, holding their offices during pleasure, or from year to year, will be too little independent to be relied upon for an inflexible execution of the national laws. And if there was a necessity for confiding the original cognizance of causes arising under those laws to them, there would be a correspondent necessity for leaving the door of appeal as wide as possible. In proportion to the grounds of confidence in or distrust of the subordinate tribunals ought to be the facility or difficulty of appeals. And well satisfied as I am of the propriety of the appellate jurisdiction in the several classes of causes to which it is extended, by the plan of the convention I should consider everything calculated to give, in practice, an unrestrained course to appeals, as a source of public and private inconvenience.

I am not sure but that it will be found highly expedient and useful to divide the United States into four or five or half a dozen districts, and to institute a federal court in each district in lieu of one in every State. The judges of these courts, with the aid of the State judges, may hold circuits for the trial of causes in the several parts of the respective districts. Justice through them may be administered with ease and dispatch and appeals may be

safely circumscribed within a narrow compass. This plan appears to me at present the most eligible of any that could be adopted; and in order to it, it is necessary that the power of constituting inferior courts should exist in the full extent in which it is to be found in the proposed Constitution.

These reasons seem sufficient to satisfy a candid mind, that the want of such a power would have been a great defect in the plan. Let us now examine in what manner the judicial authority is to be distributed between the supreme and the inferior courts of the Union.

The Supreme Court is to be invested with original jurisdiction only in cases affecting ambassadors, other public ministers, and consuls, and those in which A STATE shall be a party. Public ministers of every class are the immediate representatives of their sovereigns. All questions in which they are concerned are so directly connected with the public peace, that, as well for the preservation of this as out of respect to the sovereignties they represent, it is both expedient and proper that such questions should be submitted in the first instance to the highest judicatory of the nation. Though consuls have not in strictness a diplomatic character, yet, as they are the public agents of the nations to which they belong, the same observation is in a great measure applicable to them. In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal.

Though it may rather be a digression from the immediate subject of this paper, I shall take occasion to mention here a supposition which has excited some alarm upon very mistaken grounds. It has been suggested that an assignment of the public securities of one State to the citizens of another would enable them to prosecute that State in the federal courts for the amount of those securities; a suggestion which the following considerations prove to be without foundation.

It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every State in the Union. Unless, therefore, there is a surrender of this immunity in the plan of the

convention, it will remain with the States and the danger intimated must be merely ideal. The circumstances which are necessary to produce an alienation of State sovereignty were discussed in considering the article of taxation and need not be repeated here. A recurrence to the principles there established will satisfy us that there is no color to pretend that the State governments would, by the adoption of that plan, be divested of the privilege of paying their own debts in their own way, free from every constraint but that which flows from the obligations of good faith. The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretensions to a compulsive force. They confer no right of action independent of the sovereign will. To what purpose would it be to authorize suits against States for the debts they owe? How could recoveries be enforced? It is evident that it could not be done without waging war against the contracting State; and to ascribe to the federal courts, by mere implication, and in destruction of a pre-existing right of the State governments, a power which would involve such a consequence, would be altogether forced and unwarrantable.

Let us resume the train of our observations. We have seen that the original jurisdiction of the Supreme Court would be confined to two classes of cases, and those of a nature rarely to occur. In all other cases of federal cognizance the original jurisdiction would appertain to the inferior tribunals; and the Supreme Court would have nothing more than an appellate jurisdiction with such exceptions and under such regulations as the Congress shall make.

The propriety of this appellate jurisdiction has been scarcely called in question in regard to matters of law; but the clamors have been loud against it as applied to matters of fact. Some well-intentioned men in this State, deriving their notions from the language and forms which obtain in our courts, have been induced to consider it as an implied supersedure of the trial by jury, in favor of the civil-law mode of trial, which prevails in our courts of admiralty, probate, and chancery. A technical sense has been affixed to the term appellate which, in our law parlance, is commonly used in reference to appeals in the course of the civil law. But if I am not misinformed, the same meaning would not be given to it in any part of New England. There, an appeal from one jury to another is familiar both in

language and practice, and is even a matter of course until there have been two verdicts on one side. The word appellate therefore will not be understood in the same sense in New England as in New York, which shows the impropriety of a technical interpretation derived from the jurisprudence of any particular State. The expression, taken in the abstract, denotes nothing more than the power of one tribunal to review the proceedings of another, either as to the law or fact, or both. The mode of doing it may depend on ancient custom or legislative provision (in a new government it must depend on the latter), and may be with or without the aid of a jury, as may be judged advisable. If, therefore, the re-examination of a fact once determined by a jury should in any case be admitted under the proposed Constitution, it may be so regulated as to be done by a second jury, either by remanding the cause to the court below for a second trial of the fact, or by directing an issue immediately out of the Supreme Court.

But it does not follow that the re-examination of a fact once ascertained by a jury will be permitted in the Supreme Court. Why may not it be said, with the strictest propriety, when a writ of error is brought from an inferior to a superior court of law in this State, that the latter has jurisdiction [70](#) of the fact as well as the law? It is true it cannot institute a new inquiry concerning the fact but it takes cognizance of it as it appears upon the record and pronounces the law arising upon it. This is jurisdiction of both fact and law; nor is it even possible to separate them. Though the common-law courts of this State ascertain disputed facts by a jury, yet they unquestionably have jurisdiction of both fact and law; and accordingly when the former is agreed in the pleadings they have no recourse to a jury but proceed at once to judgment. I contend therefore, on this ground, that the expressions, appellate jurisdiction, both as to law and fact, do not necessarily imply a re-examination in the Supreme Court of facts decided by juries in the inferior courts.

The following train of ideas may well be imagined to have influenced the convention in relation to this particular provision. The appellate jurisdiction of the Supreme Court (it may have been argued) will extend to causes determinable in different modes, some in the course of the COMMON LAW, others in the course of the CIVIL LAW. In the former, the revision of the law only will be, generally speaking, the proper province of the

Supreme Court; in the latter, the re-examination of the fact is agreeable to usage, and in some cases, of which prize causes are an example, might be essential to the preservation of the public peace. It is therefore necessary that the appellate jurisdiction should, in certain cases, extend in the broadest sense to matters of fact. It will not answer to make an express exception of cases which shall have been originally tried by a jury because in the courts of some of the States all causes are tried in this mode; [71](#) and such an exception would preclude the revision of matters of fact, as well where it might be proper as where it might be improper. To avoid all inconveniences, it will be safest to declare generally that the Supreme Court shall possess appellate jurisdiction both as to law and fact and that this jurisdiction shall be subject to such exceptions and regulations as the national legislature may prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security.

This view of the matter, at any rate, puts it out of all doubt that the supposed abolition of the trial by jury, by the operation of this provision, is fallacious and untrue. The legislature of the United States would certainly have full power to provide that in appeals to the Supreme Court there should be no re-examination of facts where they had been tried in the original causes by juries. This would certainly be an authorized exception; but if, for the reason already intimated, it should be thought too extensive, it might be qualified with a limitation to such causes only as are determinable at common law in that mode of trial.

The amount of the observations hitherto made on the authority of the judicial department is this: that it has been carefully restricted to those causes which are manifestly proper for the cognizance of the national judicature; that in the partition of this authority a very small portion of original jurisdiction has been reserved to the Supreme Court and the rest consigned to the subordinate tribunals; that the Supreme Court will possess an appellate jurisdiction, both as to law and fact, in all the cases referred to them, but subject to any exceptions and regulations which may be thought advisable; that this appellate jurisdiction does, in no case, abolish the trial by jury; and that an ordinary degree of prudence and integrity in the national councils will insure us solid advantages from the establishment of the proposed judiciary without exposing us to any of the inconveniences

which have been predicted from that source.

PUBLIUS [Hamilton]

Number 82: A Further View of the Judicial Department in Reference to  
Some Miscellaneous Questions

# NUMBER 82

## A FURTHER VIEW OF THE JUDICIAL DEPARTMENT IN REFERENCE TO SOME MISCELLANEOUS QUESTIONS

[Alexander Hamilton]

THE erection of a new government, whatever care or wisdom may distinguish the work, cannot fail to originate questions of intricacy and nicety; and these may, in a particular manner, be expected to flow from the establishment of a constitution founded upon the total or partial incorporation of a number of distinct sovereignties. 'Tis time only that can mature and perfect so compound a system, can liquidate the meaning of all the parts, and can adjust them to each other in a harmonious and consistent WHOLE.

Such questions, accordingly, have arisen upon the plan proposed by the convention, and particularly concerning the judiciary department. The principal of these respect the situation of the State courts in regard to those causes which are to be submitted to federal jurisdiction. Is this to be exclusive, or are those courts to possess a concurrent jurisdiction? If the latter, in what relation will they stand to the national tribunals? These are inquiries which we meet with in the mouths of men of sense, and which are certainly entitled to attention.

The principles established in a former paper [72](#) teach us that the States will retain all pre-existing authorities which may not be exclusively delegated to the federal head; and that this exclusive delegation can only exist in one of three cases: where an exclusive authority is, in express terms, granted to the Union; or where a particular authority is granted to the Union and the exercise of a like authority is prohibited to the States; or where an authority is granted to a Union with which a similar authority in the States would be utterly incompatible. Though these principles may not apply with the same force to the judiciary as to the legislative power, yet I am inclined to think that they are, in the main, just with respect to the former, as well as the latter. And under this impression, I shall lay it down as a rule that the State courts will retain the jurisdiction they now have, unless it appears to be

taken away in one of the enumerated modes.

The only thing in the proposed Constitution, which wears the appearance of confining the causes of federal cognizance to the federal courts, is contained in this passage:— THE JUDICIAL POWER of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress shall from time to time ordain and establish. This might either be construed to signify that the supreme and subordinate courts of the Union should alone have the power of deciding those causes to which their authority is to extend; or simply to denote that the organs of the national judiciary should be one Supreme Court, and as many subordinate courts as Congress should think proper to appoint; or in other words, that the United States should exercise the judicial power with which they are to be invested, through one supreme tribunal, and a certain number of inferior ones to be instituted by them. The first excludes, the last admits, the concurrent jurisdiction of the State tribunals; and as the first would amount to an alienation of State power by implication, the last appears to me the most natural and the most defensible construction.

But this doctrine of concurrent jurisdiction is only clearly applicable to those descriptions of the causes of which the State courts have previous cognizance. It is not equally evident in relation to cases which may grow out of, and be peculiar to, the Constitution to be established; for not to allow the State courts a right of jurisdiction in such cases can hardly be considered as the abridgment of a pre-existing authority. I mean not therefore to contend that the United States, in the course of legislation upon the objects intrusted in their direction, may not commit the decision of causes arising upon a particular regulation to the federal courts solely, if such a measure should be deemed expedient; but I hold that the State courts will be divested of no part of their primitive jurisdiction further than may relate to an appeal; and I am even of opinion that in every case in which they were not expressly excluded by the future acts of the national legislature, they will of course take cognizance of the causes to which those acts may give birth. This I infer from the nature of judiciary power, and from the general genius of the system. The judiciary power of every government looks beyond its own local or municipal laws, and in civil cases lays hold of all subjects of litigation between parties within its jurisdiction,

though the causes of dispute are relative to the laws of the most distant part of the globe. Those of Japan, not less than of New York, may furnish the objects of legal discussion to our courts. When in addition to this we consider the State governments and the national governments, as they truly are, in the light of kindred systems, and as parts of ONE WHOLE, the inference seems to be conclusive that the State courts would have a concurrent jurisdiction in all cases arising under the laws of the Union where it was not expressly prohibited.

Here another question occurs: What relation would subsist between the national and State courts in these instances of concurrent jurisdiction? I answer that an appeal would certainly lie from the latter to the Supreme Court of the United States. The Constitution in direct terms gives an appellate jurisdiction to the Supreme Court in all the enumerated cases of federal cognizance in which it is not to have an original one, without a single expression to confine its operation to the inferior federal courts. The objects of appeal, not the tribunals from which it is to be made, are alone contemplated. From this circumstance, and from the reason of the thing, it ought to be construed to extend to the State tribunals. Either this must be the case or the local courts must be excluded from a concurrent jurisdiction in matters of national concern, else the judiciary authority of the Union may be eluded at the pleasure of every plaintiff or prosecutor. Neither of these consequences ought, without evident necessity, to be involved; the latter would be entirely inadmissible, as it would defeat some of the most important and avowed purposes of the proposed government and would essentially embarrass its measures. Nor do I perceive any foundation for such a supposition. Agreeably to the remark already made, the national and State systems are to be regarded as ONE WHOLE. The courts of the latter will of course be natural auxiliaries to the execution of the laws of the Union, and an appeal from them will as naturally lie to that tribunal which is destined to unite and assimilate the principles of national justice and the rules of national decisions. The evident aim of the plan of the convention is that all the causes of the specified classes shall, for weighty public reasons, receive their original or final determination in the courts of the Union. To confine, therefore, the general expressions giving appellate jurisdiction to the Supreme Court to appeals from the subordinate federal courts, instead of allowing their extension to the State courts would be to abridge the

latitude of the terms, in subversion of the intent, contrary to every sound rule of interpretation.

But could an appeal be made to lie from the State courts to the subordinate federal judicatories? This is another of the questions which have been raised, and of greater difficulty than the former. The following considerations countenance the affirmative. The plan of the convention, in the first place, authorizes the national legislature to constitute tribunals inferior to the Supreme Court. [73](#) It declares, in the next place, that the JUDICIAL POWER of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress shall . . . ordain and establish ; and it then proceeds to enumerate the cases to which this judicial power shall extend. It afterwards divides the jurisdiction of the Supreme Court into original and appellated, but gives no definition of that of the subordinate courts. The only outlines described for them are that they shall be inferior to the Supreme Court, and that they shall not exceed the specified limits of the federal judiciary. Whether their authority shall be original or appellated, or both, is not declared. All this seems to be left to the discretion of the legislature. And this being the case, I perceive at present no impediment to the establishment of an appeal from the State courts to the subordinate nation tribunals; and many advantages attending the power of doing it may be imagined. It would diminish the motives to the multiplication of federal courts and would admit of arrangements calculated to contract the appellated jurisdiction of the Supreme Court. The State tribunals may then be left with a more entire charge of federal causes; and appeals, in most cases in which they may be deemed proper, instead of being carried to the Supreme Court may be made to lie from the State courts to district courts of the Union.

PUBLIUS [Hamilton]

Number 83: A Further View of the Judicial Department in Relation to the Trial By Jury

# NUMBER 83

## A FURTHER VIEW OF THE JUDICIAL DEPARTMENT IN RELATION TO THE TRIAL BY JURY

[Alexander Hamilton]

THE objection to the plan of the convention, which has met with most success in this State, and perhaps in several of the other States, is that relative to the want of a constitutional provision for the trial by jury in civil cases. The disingenuous form in which this objection is usually stated has been repeatedly adverted to and exposed but continues to be pursued in all the conversations and writings of the opponents of the plan. The mere silence of the Constitution in regard to civil causes is represented as an abolition of the trial by jury, and the declamations to which it has afforded a pretext are artfully calculated to induce a persuasion that this pretended abolition is complete and universal, extending not only to every species of civil but even to criminal causes. To argue with respect to the latter would, however, be as vain and fruitless as to attempt the serious proof of the existence of matter, or to demonstrate any of those proportions which, by their own internal evidence, force conviction when expressed in language adapted to convey their meaning.

With regard to civil causes, subtleties almost too contemptible for refutation have been adopted to countenance the surmise that a thing which is only not provided for is entirely abolished. Every man of discernment must at once perceive the wide difference between silence and abolition. But as the inventors of this fallacy have attempted to support it by certain legal maxims of interpretation which they have perverted from their true meaning, it may not be wholly useless to explore the ground they have taken.

The maxims on which they rely are of this nature: A specification of particulars is an exclusion of generals ; or The expression of one thing is the exclusion of another. Hence, say they, as the Constitution has established the trial by jury in criminal cases and is silent in respect to civil, this silence

is an implied prohibition of trial by jury in regard to the latter.

The rules of legal interpretation are rules of common sense, adopted by the courts in the construction of the laws. The true test, therefore, of a just application of them is its conformity to the source from which they are derived. This being the case, let me ask if it is consistent with reason or common sense to suppose that a provision obliging the legislative power to commit the trial of criminal causes to juries is a privation of its right to authorize or permit that mode of trial in other cases? Is it natural to suppose that a command to do one thing is a prohibition to the doing of another, which there was a previous power to do, and which is not incompatible with the thing commanded to be done? If such a supposition would be unnatural and unreasonable, it cannot be rational to maintain that an injunction of the trial by jury in certain cases is an interdiction of it in others.

A power to constitute courts is a power to prescribe the mode of trial; and consequently, if nothing was said in the Constitution on the subject of juries, the legislature would be at liberty either to adopt that institution or to let it alone. This discretion, in regard to criminal causes, is abridged by the express injunction of trial by jury in all such cases; but it is, of course, left at large in relation to civil causes, there being a total silence on this head. The specification of an obligation to try all criminal causes in a particular mode excludes indeed the obligation or necessity of employing the same mode in civil causes, but does not abridge the power of the legislature to exercise that mode if it should be thought proper. The pretense, therefore, that the national legislature would not be at full liberty to submit all the civil causes of federal cognizance to the determination of juries is a pretense destitute of all just foundation.

From these observations this conclusion results: that the trial by jury in civil cases would not be abolished; and that the use attempted to be made of the maxims which have been quoted is contrary to reason and common sense, and therefore not admissible. Even if these maxims had a precise technical sense, corresponding with the ideas of those who employ them upon the present occasion, which, however, is not the case, they would still be inapplicable to a constitution of government. In relation to such a subject, the natural and obvious sense of its provisions, apart from any technical

rules, is the true criterion of construction.

Having now seen that the maxims relied upon will not bear the use made of them, let us endeavor to ascertain their proper use and true meaning. This will be best done by examples. The plan of the convention declares that the power of Congress, or, in other words, of the national legislature, shall extend to certain enumerated cases. This specification of particulars evidently excludes all pretension to a general legislative authority, because an affirmative grant of special powers would be absurd as well as useless if a general authority was intended.

In like manner the judicial authority of the federal judicatures is declared by the Constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits beyond which the federal courts cannot extend their jurisdiction, because the objects of their cognizance being enumerated, the specification would be nugatory if it did not exclude all ideas of more extensive authority.

These examples might be sufficient to elucidate the maxims which have been mentioned, and to designate the manner in which they should be used. But that there may be no possibility of misapprehension upon this subject, I shall add one case more, to demonstrate the proper use of these maxims, and the abuse which has been made of them.

Let us suppose that by the laws of this State a married woman was incapable of conveying her estate, and that the legislature, considering this as an evil, should enact that she might dispose of her property by deed executed in the presence of a magistrate. In such a case there can be no doubt but the specification would amount to an exclusion of any other mode of conveyance, because the woman having no previous power to alienate her property, the specification determines the particular mode which she is, for that purpose, to avail herself of. But let us further suppose that in a subsequent part of the same act it should be declared that no woman should dispose of any estate of a determinate value without the consent of three of her nearest relations, signified by their signing the deed; could it be inferred from this regulation that a married woman might not procure the approbation of her relations to a deed for conveying property of inferior

value? The position is too absurd to merit a refutation, and yet this is precisely the position which those must establish who contend that the trial by juries in civil cases is abolished, because it is expressly provided for in cases of a criminal nature.

From these observations it must appear unquestionably true that trial by jury is in no case abolished by the proposed Constitution, and it is equally true that in those controversies between individuals in which the great body of people are likely to be interested, that institution will remain precisely in the same situation in which it is placed by the State constitutions, and will be in no degree altered or influenced by the adoption of the plan under consideration. The foundation of this assertion is that the national judiciary will have no cognizance of them, and of course they will remain determinable as heretofore by the State courts only, and in the manner which the State constitutions and laws prescribe. All land causes, except where claims under the grants of different States come into question, and all other controversies between the citizens of the same State, unless where they depend upon positive violations of the articles of union by acts of the State legislatures, will belong exclusively to the jurisdiction of the State tribunals. Add to this that admiralty causes, and almost all those which are of equity jurisdiction, are determinable under our own government without the intervention of a jury, and the inference from the whole will be that this institution, as it exists with us at present, cannot possibly be affected to any great extent by the proposed alteration in our system of government.

The friends and adversaries of the plan of the convention, if they agree in nothing else, concur at least in the value they set upon the trial by jury; or if there is any difference between them it consists in this: the former regard it as a valuable safeguard to liberty; the latter represent it as the very palladium of free government. For my own part, the more the operation of the institution has fallen under my observation, the more reason I have discovered for holding it in high estimation; and it would be altogether superfluous to examine to what extent it deserves to be esteemed useful or essential in a representative republic, or how much more merit it may be entitled to as a defense against the oppressions of an hereditary monarch, than as a barrier to the tyranny of popular magistrates in a popular government. Discussions of this kind would be more curious than

beneficial, as all are satisfied of the utility of the institution, and of its friendly aspect to liberty. But I must acknowledge that I cannot readily discern the inseparable connection between the existence of liberty and the trial by jury in civil cases. Arbitrary impeachments, arbitrary methods of prosecuting pretended offenses, and arbitrary punishments upon arbitrary convictions have ever appeared to me to be the great engines of judicial despotism; and these have all relation to criminal proceedings. The trial by jury in criminal cases, aided by the habeas corpus act, seems therefore to be alone concerned in the question. And both of these are provided for in the most ample manner in the plan of the convention.

It has been observed that trial by jury is a safeguard against an oppressive exercise of the power of taxation. This observation deserves to be canvassed.

It is evident that it can have no influence upon the legislature in regard to the amount of taxes to be laid, to the objects upon which they are to be imposed, or to the rule by which they are to be apportioned. If it can have any influence, therefore, it must be upon the mode of collection and the conduct of the officers intrusted with the execution of the revenue laws.

As to the mode of collection in this State, under our own Constitution the trial by jury is in most cases out of use. The taxes are usually levied by the more summary proceeding of distress and sale, as in cases of rent. And it is acknowledged on all hands that this is essential to the efficacy of the revenue laws. The dilatory course of a trial at law to recover the taxes imposed on individuals would neither suit the exigencies of the public nor promote the convenience of the citizens. It would often occasion an accumulation of costs, more burdensome than the original sum of the tax to be levied.

And as to the conduct of the officers of the revenue, the provision in favor of trial by jury in criminal cases will afford the security aimed at. Wilful abuses of a public authority, to the oppression of the subject, and every species of official extortion, are offenses against the government, for which the persons who commit them may be indicted and punished according to

the circumstances of the case.

The excellence of the trial by jury in civil cases appears to depend on circumstances foreign to the preservation of liberty. The strongest argument in its favor is that it is a security against corruption. As there is always more time and better opportunity to tamper with a standing body of magistrates than with a jury summoned for the occasion, there is room to suppose that a corrupt influence would more easily find its way to the former than to the latter. The force of this consideration is, however, diminished by others. The sheriff, who is the summoner of ordinary juries, and the clerks of courts, who have the nomination of special juries, are themselves standing officers, and, acting individually, may be supposed more accessible to the touch of corruption than the judges, who are a collective body. It is not difficult to see that it would be in the power of those officers to select jurors who would serve the purpose of the party as well as a corrupted bench. In the next place, it may fairly be supposed that there would be less difficulty in gaining some of the jurors promiscuously taken from the public mass, than in gaining men who had been chosen by the government for their probity and good character. But making every deduction for these considerations, the trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury unless the court could be likewise gained. Here then is a double security; and it will readily be perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either. The temptations to prostitution which the judges might have to surmount must certainly be much fewer, while the cooperation of a jury is necessary, than they might be if they had themselves the exclusive determination of all causes.

Notwithstanding, therefore, the doubts I have expressed as to the essentiality of trial by jury in civil cases to liberty, I admit that it is in most cases, under proper regulations, an excellent method of determining questions of property; and that on this account alone it would be entitled to a constitutional provision in its favor if it were possible to fix the limits

within which it ought to be comprehended. There is, however, in all cases, great difficulty in this; and men not blinded by enthusiasm must be sensible that in a federal government, which is a composition of societies whose ideas and institutions in relation to the matter materially vary from each other, that difficulty must be not a little augmented. For my own part, at every new view I take of the subject I become more convinced of the reality of the obstacles which, we are authoritatively informed, prevented the insertion of a provision on this head in the plan of the convention.

The great difference between the limits of the jury trial in different States is not generally understood; and as it must have considerable influence on the sentence we ought to pass upon the omission complained of in regard to this point, an explanation of it is necessary. In this State, our judicial establishments resemble, more nearly than in any other, those of Great Britain. We have courts of common law, courts of probates (analogous in certain matters to the spiritual courts in England), a court of admiralty, and a court of chancery. In the courts of common law only, the trial by jury prevails, and this with some exceptions. In all the others a single judge presides, and proceeds in general either according to the course of the canon or civil law, without the aid of a jury. [74](#) In New Jersey, there is a court of chancery which proceeds like ours, but neither courts of admiralty nor of probates, in the sense in which these last are established with us. In that State the courts of common law have the cognizance of those causes which with us are determinable in the courts of the admiralty and of probates, and of course the jury trial is more extensive in New Jersey than in New York. In Pennsylvania, this is perhaps still more the case, for there is no court of chancery in that State, and its common-law courts have equity jurisdiction. It has a court of admiralty, but none of probates, at least on the plan of ours. Delaware has in these respects imitated Pennsylvania. Maryland approaches more nearly to New York, as does also Virginia, except that the latter has a plurality of chancellors. North Carolina bears most affinity to Pennsylvania; South Carolina to Virginia. I believe, however, that in some of those States which have distinct courts of admiralty, the causes depending in them are triable by juries. In Georgia there are none but common-law courts, and an appeal of course lies from the verdict of one jury to another, which is called a special jury, and for which a particular mode of appointment is marked out. In Connecticut, they have no distinct courts either of chancery or of

admiralty, and their courts of probates have no jurisdiction of causes. Their common-law courts have admiralty and, to a certain extent, equity jurisdiction. In cases of importance, their General Assembly is the only court of chancery. In Connecticut, therefore, the trial by jury extends in practice further than in any other State yet mentioned. Rhode Island is, I believe, in this particular, pretty much in the situation of Connecticut. Massachusetts and New Hampshire, in regard to the blending of law, equity, and admiralty jurisdictions, are in a similar predicament. In the four Eastern States, the trial by jury not only stands upon a broader foundation than in the other States, but it is attended with a peculiarity unknown, in its full extent, to any of them. There is an appeal of course from one jury to another, till there have been two verdicts out of three on one side.

From this sketch it appears that there is a material diversity, as well in the modification as in the extent of the institution of trial by jury in civil cases, in the several States; and from this fact these obvious reflections flow: first, that no general rule could have been fixed upon by the convention which would have corresponded with the circumstances of all the States; and secondly, that more or at least as much might have been hazarded by taking the system of any one State for a standard, as by omitting a provision altogether and leaving the matter, as it has been left, to legislative regulation.

The propositions which have been made for supplying the omission have rather served to illustrate than to obviate the difficulty of the thing. The minority of Pennsylvania have proposed this mode of expression for the purpose— Trial by jury shall be as heretofore —and this I maintain would be absolutely senseless and nugatory. The United States, in their united or collective capacity, are the OBJECT to which all general provisions in the Constitution must necessarily be construed to refer. Now it is evident that though trial by jury, with various limitations, is known in each State individually, yet in the United States, as such, it is at this time altogether unknown because the present federal government has no judiciary power whatever; and consequently there is no proper antecedent or previous establishment to which the term heretofore could relate, It would therefore be destitute of a precise meaning, and inoperative from its uncertainty.

As, on the one hand, the form of the provision would not fulfil the intent of its proposers, so, on the other, if I apprehend that intent rightly, it would be in itself inexpedient. I presume it to be that causes in the federal courts should be tried by jury, if, in the State where the courts sat, that mode of trial would obtain in a similar case in the State courts; that is to say, admiralty causes should be tried in Connecticut by a jury, in New York without one. The capricious operation of so dissimilar a method of trial in the same cases, under the same government is of itself sufficient to indispose every well-regulated judgment towards it. Whether the cause should be tried with or without a jury would depend, in a great number of cases, on the accidental situation of the court and parties.

But this is not, in my estimation, the greatest objection. I feel a deep and deliberate conviction that there are many cases in which the trial by jury is an ineligible one, I think it so particularly in cases which concern the public peace with foreign nations—that is, in most cases where the question turns wholly on the laws of nations. Of this nature, among others, are all prize causes. Juries cannot be supposed competent to investigations that require a thorough knowledge of the laws and usages of nations; and they will sometimes be under the influence of impressions which will not suffer them to pay sufficient regard to those considerations of public policy which ought to guide their inquiries. There would of course be always danger that the rights of other nations might be infringed by their decisions so as to afford occasions of reprisal and war. Though the proper province of juries be to determine matters of fact, yet in most cases legal consequences are complicated with fact in such a manner as to render separation impracticable.

It will add great weight to this remark, in relation to prize causes, to mention that the method of determining them has been thought worthy of particular regulation in various treaties between different powers of Europe, and that, pursuant to such treaties, they are determinable in Great Britain, in the last resort, before the king himself, in his privy council, where the fact, as well as the law, undergoes a re-examination. This alone demonstrates the impolicy of inserting a fundamental provision in the Constitution which would make the State systems a standard for the national government in the article under consideration, and the danger of encumbering the government

with any constitutional provisions the propriety of which is not indisputable.

My convictions are equally strong that great advantages result from the separation of the equity from the law jurisdiction, and that the causes which belong to the former would be improperly committed to juries. The great and primary use of a court of equity is to give relief in extraordinary cases, which are exceptions [75](#) to general rules. To unite the jurisdiction of such cases with the ordinary jurisdiction must have a tendency to unsettle the general rules, and to subject every case that arises to a special determination; while a separation of the one from the other has the contrary effect of rendering one a sentinel over the other, and of keeping each within the expedient limits. Besides this, the circumstances that constitute cases proper for courts of equity are in many instances so nice and intricate that they are incompatible with the genius of trials by jury. They require often such long, deliberate, and critical investigation as would be impracticable to men called from their occupations, and obliged to decide before they were permitted to return to them. The simplicity and expedition which form the distinguishing characters of this mode of trial require that the matter to be decided should be reduced to some single and obvious point; while the litigations usual in chancery frequently comprehend a long train of minute and independent particulars.

It is true that the separation of the equity from the legal jurisdiction is peculiar to the English system of jurisprudence, which is the model that has been followed in several of the States. But it is equally true that the trial by jury has been unknown in every case in which they have been united. And the separation is essential to the preservation of that institution in its pristine purity. The nature of a court of equity will readily permit the extension of its jurisdiction to matters of law; but it is not a little to be suspected that the attempt to extend the jurisdiction of the courts of law to matters of equity will not only be unproductive of the advantages which may be derived from courts of chancery, on the plan upon which they are established in this State, but will tend gradually to change the nature of the courts of law, and to undermine the trial by jury, by introducing questions too complicated for a decision in that mode.

These appeared to be conclusive reasons against incorporating the systems of all the States in the formation of the national judiciary, according to what may be conjectured to have been the attempt of the Pennsylvania minority. Let us now examine how far the proposition of Massachusetts is calculated to remedy the supposed defect.

It is in this form: In civil actions between citizens of different States, every issue of fact arising in actions at common law may be tried by a jury if the parties, or either of them, request it.

This, at best, is a proposition confined to one description of causes; and the inference is fair, either that the Massachusetts convention considered that as the only class of federal causes in which the trial by jury would be proper; or that if desirous of a more extensive provision, they found it impracticable to devise one which would properly answer the end. If the first, the omission of a regulation respecting so partial an object can never be considered as a material imperfection in the system. If the last, it affords a strong corroboration of the extreme difficulty of the thing.

But this is not all: if we advert to the observations already made respecting the courts that subsist in the several States of the Union, and the different powers exercised by them, it will appear that there are no expressions more vague and indeterminate than those which have been employed to characterize that species of causes which it is intended shall be entitled to a trial by jury. In this State, the boundaries between actions at common law and actions of equitable jurisdiction are ascertained in conformity to the rules which prevail in England upon that subject. In many of the other States the boundaries are less precise. In some of them, every cause is to be tried in a court of common law, and upon that foundation every action may be considered as an action at common law, to be determined by a jury, if the parties, or either of them, choose it. Hence the same irregularity and confusion would be introduced by a compliance with this proposition that I have already noticed as resulting from the regulation proposed by the Pennsylvania minority. In one State a cause would receive its determination from a jury, if the parties, or either of them, requested it; but in another State a cause exactly similar to the other must be decided without the intervention of a jury, because the State judicatories varied as to common-

law jurisdiction.

It is obvious therefore, that the Massachusetts proposition upon this subject cannot operate as a general regulation until some uniform plan, with respect to the limits of common-law and equitable jurisdictions, shall be adopted by the different States. To devise a plan of that kind is a task arduous in itself, and which it would require much time and reflection to mature. It would be extremely difficult, if not impossible, to suggest any general regulation that would be acceptable to all the States in the Union, or that would be perfectly quadrate with the several State institutions.

It may be asked, Why could not a reference have been made to the constitution of this State, taking that which is allowed by me to be a good one, as a standard for the United States? I answer that it is not very probable the other States would entertain the same opinion of our institutions as we do ourselves. It is natural to suppose that they are hitherto more attached to their own, and that each would struggle for the preference. If the plan of taking one State as a model for the whole had been thought of in the convention, it is to be presumed that the adoption of it in that body would have been rendered difficult by the predilection of each representation in favor of its own government; and it must be uncertain which of the States would have been taken as the model. It has been shown that many of them would be improper ones. And I leave it to conjecture whether under all circumstances it is most likely that New York, or some other State, would have been preferred. But admit that a judicious selection could have been effected in the convention, still there would have been great danger of jealousy and disgust in the other States at the partiality which had been shown to the institutions of one. The enemies of the plan would have been furnished with a fine pretext for raising a host of local prejudices against it which perhaps might have hazarded, in no inconsiderable degree, its final establishment.

To avoid the embarrassment of a definition of the cases which the trial by jury ought to embrace, it is sometimes suggested by men of enthusiastic tempers that a provision might have been inserted for establishing it in all cases whatsoever. For this, I believe, no precedent is to be found in any member of the Union; and the considerations which have been stated in

discussing the proposition of the minority of Pennsylvania must satisfy every sober mind that the establishment of the trial by jury in all cases would have been an unpardonable error in the plan.

In short, the more it is considered the more arduous will appear the task of fashioning a provision in such a form as not to express too little to answer the purpose, or too much to be advisable; or which might not have opened other sources of opposition to the great and essential object of introducing a firm national government.

I cannot but persuade myself, on the other hand, that the different lights in which the subject has been placed in the course of these observations will go far towards removing in candid minds the apprehensions they may have entertained on the point. They have tended to show that the security of liberty is materially concerned only in the trial by jury in criminal cases which is provided for in the most ample manner in the plan of the convention; that even in far the greatest proportion of civil cases, and those in which the great body of the community is interested, that mode of trial will remain in its full force as established in the State constitutions, untouched and unaffected by the plan of the convention; that it is in no case abolished [76](#) by that plan; and that there are great if not insurmountable difficulties in the way of making any precise and proper provision for it in a Constitution for the United States.

The best judges of the matter will be the least anxious for a constitutional establishment of the trial by jury in civil cases, and will be the most ready to admit that the changes which are continually happening in the affairs of society may render a different mode of determining questions of property preferable in many cases in which that mode of trial now prevails. For my own part, I acknowledge myself to be convinced that even in this State it might be advantageously extended to some cases to which it does not at present apply and might as advantageously be abridged in others. It is conceded by all reasonable men that it ought not to obtain in all cases. The examples of innovations which contract its ancient limits as well in these States as in Great Britain afford a strong presumption that its former extent has been found inconvenient, and give room to suppose that future experience may discover the propriety and utility of other exceptions. I

suspect it to be impossible in the nature of the thing to fix the salutary point at which the operation of the institution ought to stop, and this is with me a strong argument for leaving the matter to the discretion of the legislature.

This is now clearly understood to be the case in Great Britain, and it is equally so in the State of Connecticut; and yet it may be safely affirmed that more numerous encroachments have been made upon the trial by jury in this State since the Revolution, though provided for by a positive article of our Constitution, than has happened in the same time either in Connecticut or Great Britain. It may be added that these encroachments have generally originated with the men who endeavor to persuade the people they are the warmest defenders of popular liberty, but who have rarely suffered constitutional obstacles to arrest them in a favorite career. The truth is that the general GENIUS of a government is all that can be substantially relied upon for permanent effects. Particular provisions, though not altogether useless, have far less virtue and efficacy than are commonly ascribed to them; and the want of them will never be, with men of sound discernment, a decisive objection to any plan which exhibits the leading characters of a good government.

It certainly sounds not a little harsh and Extraordinary to affirm that there is no security for liberty in a Constitution which expressly establishes the trial by jury in criminal cases, because it does not do it in civil also; while it is a notorious fact that Connecticut, which has been always regarded as the most popular State in the Union, can boast of no constitutional provision for either.

PUBLIUS [Hamilton]

Number 84: Concerning Several Miscellaneous Objections

# NUMBER 84

## CONCERNING SEVERAL MISCELLANEOUS OBJECTIONS

[Alexander Hamilton]

IN THE course of the foregoing review of the Constitution, I have taken notice of, and endeavoured to answer, most of the objections which have appeared against it. There however remain a few which either did not fall naturally under any particular head or were forgotten in their proper places. These shall now be discussed; but as the subject has been drawn into great length, I shall so far consult brevity as to comprise all my observations on these miscellaneous points in a single paper.

The most considerable of these remaining objections is that the plan of the convention contains no bill of rights. Among other answers given to this, it has been upon different occasions remarked that the constitutions of several of the States are in a similar predicament. I add that New York is of this number. And yet the opposers of the new system in this State, who profess an unlimited admiration for its constitution, are among the most intemperate partisans of a bill of rights. To justify their zeal in this matter they allege two things: one is that, though the constitution of New York has no bill of rights prefixed to it, yet it contains, in the body of it, various provisions in favor of particular privileges and rights which, in substance, amount to the same thing; the other is that the Constitution adopts, in their full extent, the common and statute laws of Great Britain, by which many other rights not expressed in it are equally secured.

To the first I answer that the Constitution proposed by the convention contains, as well as the constitution of this State, a number of such provisions.

Independent of those which relate to the structure of the government, we find the following: Article 1, section 3, clause 7— Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and

subject to indictment, trial, judgment, and punishment according to law. Section 9, of the same article, clause 2— The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. Clause 3— No bill of attainder or ex post facto law shall be passed. Clause 7— No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present emolument, office, or title of any kind whatever, from any king, prince, or foreign State. Article 3, section 2, clause 3— The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed. Section 3, of the same article Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. And clause 3, of the same section— The Congress shall have the power to declare the punishment of treason but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

It may well be a question whether these are not, upon the whole, of equal importance with any which are to be found in the constitution of this State. The establishment of the writ of habeas corpus, the prohibition of ex post facto laws, and of TITLES OF NOBILITY, to which we have no corresponding provision in our Constitution, are perhaps greater securities to liberty and republicanism than any it contains. The creation of crimes after the commission of the fact, or in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone, [ZZ](#) in reference to the latter, are well worthy of recital: To bereave a man of life [says he] or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less

striking, and therefore a more dangerous engine of arbitrary government. [78](#)  
And as a remedy for this fatal Evil he is everywhere peculiarly emphatical  
in his encomiums on the habeas corpus act, which in one place he calls the  
BULWARK of the British Constitution. [79](#)

Nothing need be said to illustrate the importance of the prohibition of titles  
of nobility. This may truly be denominated the cornerstone of republican  
government; for so long as they are excluded there can never be serious  
danger that the government will be any other than that of the people.

To the second, that is, to the pretended establishment of the common and  
statute law by the Constitution, I answer that they are expressly made  
subject to such alterations and provisions as the legislature shall from time  
to time make concerning the same. They are therefore at any moment liable  
to repeal by the ordinary legislative power, and of course have no  
constitutional sanction. The only use of the declaration was to recognize the  
ancient law and to remove doubts which might have been occasioned by the  
Revolution. This consequently can be considered as no part of a declaration  
of rights, which under our constitutions must be intended as limitations of  
the power of the government itself.

It has been several times truly remarked that bills of rights are, in their  
origin, stipulations between kings and their subjects, abridgments of  
prerogative in favour of privilege, reservations of rights not surrendered to  
the prince. Such was MAGNA CARTA, obtained by the barons, sword in  
hand, from King John. Such were the subsequent confirmations of that  
charter by subsequent princes. Such was the Petition of Right assented to by  
Charles the First in the beginning of his reign. Such, also, was the  
Declaration of Right presented by the Lords and Commons to the Prince of  
Orange in 1688, and afterwards thrown into the form of an act of  
Parliament called the Bill of Rights. It is evident, therefore, that, according  
to their primitive signification, they have no application to constitutions,  
professedly founded upon the power of the people and executed by their  
immediate representatives and servants. Here, in strictness, the people  
surrender nothing; and as they retain everything they have no need of  
particular reservations, WE, THE PEOPLE of the United States, to secure  
the blessings of liberty to ourselves and our posterity, do ordain and

establish this Constitution for the United States of America. Here is a better recognition of popular rights than volumes of those aphorisms which make the principal figure in several of our State bills of rights and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a Constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns. If, therefore, the loud clamors against the plan of the convention, on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this State. But the truth is that both of them contain all which, in relation to their objects, is reasonably to be desired.

I go further and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution but would even be dangerous. They would contain various exceptions to powers which are not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

On the subject of the liberty of the press, as much as has been said, I cannot forbear adding a remark or two: in the first place, I observe that there is not

a syllable concerning it in the constitution of this State; in the next, I contend that whatever has been said about it in that of any other State amounts to nothing. What signifies a declaration that the liberty of the press shall be inviolably preserved? What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this I infer that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government. [80](#) And here, after all, as is intimated upon another occasion, must we seek for the only solid basis of all our rights.

There remains but one other view of this matter to conclude the point. The truth is, after all the declamations we have heard, that the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS. The several bills of rights in Great Britain form its Constitution, and conversely the constitution of each State is its bill of rights. And the proposed Constitution, if adopted, will be the bill of rights of the Union. Is it one object of a bill of rights to declare and specify the political privileges of the citizens in the structure and administration of the government? This is done in the most ample and precise manner in the plan or the convention; comprehending various precautions for the public security which are not to be found in any of the State constitutions. Is another object of a bill of rights to define certain immunities and modes of proceeding, which are relative to personal and private concerns? This we have seen has also been attended to in a variety of cases in the same plan. Adverting therefore to the substantial meaning of a bill of rights, it is absurd to allege that it is not to be found in the work of the convention. It may be said that it does not go far enough though it will not be easy to make this appear; but it can with no propriety be contended that there is no such thing. It certainly must be immaterial what mode is observed as to the order of declaring the rights of the citizens if they are to be found in any part of the instrument which establishes the government. And hence it must be apparent that much of what has been said on this subject rests merely on verbal and nominal distinctions, entirely foreign from the substance of the thing.

Another objection which has been made, and which, from the frequency of its repetition, it is to be presumed is relied on, is of this nature: It is

improper [say the objectors] to confer such large powers as are proposed upon the national government, because the seat of that government must of necessity be too remote from many of the States to admit of a proper knowledge on the part of the constituent of the conduct of the representative body. This argument, if it proves anything, proves that there ought to be no general government whatever. For the powers which, it seems to be agreed on all hands, ought to be vested in the Union, cannot be safely intrusted to a body which is not under every requisite control. But there are satisfactory reasons to show that the objection is in reality not well founded. There is in most of the arguments which relate to distance a palpable illusion of the imagination. What are the sources of information by which the people in Montgomery County must regulate their judgment of the conduct of their representatives in the State legislature? Of personal observation they can have no benefit. This is confined to the citizens on the spot. They must therefore depend on the information of intelligent men, in whom they confide; and how must these men obtain their information? Evidently from the complexion of public measures, from the public prints, from the correspondences with their representatives, and with other persons who reside at the place of their deliberations. This does not apply to Montgomery County only, but to all the counties at any considerable distance from the seat of government.

It is equally evident that the same sources of information would be open to the people in relation to the conduct of their representatives in the general government and the impediments to a prompt communication which distance may be supposed to create will be overbalanced by the effects of the vigilance of the State governments. The executive and legislative bodies of each State will be so many sentinels over the persons employed in every department of the national administration; and as it will be in their power to adopt and pursue a regular and effectual system of intelligence, they can never be at a loss to know the behavior of those who represent their constituents in the national councils, and can readily communicate the same knowledge to the people. Their disposition to apprise the community of whatever may prejudice its interests from another quarter may be relied upon, if it were only from the rivalry of power. And we may conclude with the fullest assurance that the people, through that channel, will be better informed of the conduct of their national representatives than they

can be by any means they now possess, of that of their State representatives.

It ought also to be remembered that the citizens who inhabit the country at and near the seat of government will, in all questions that affect the general liberty and prosperity, have the same interest with those who are at a distance, and that they will stand ready to sound the alarm when necessary, and to point out the actors in any pernicious project. The public papers will be expeditious messengers of intelligence to the most remote inhabitants of the Union.

Among the many extraordinary objections which have appeared against the proposed Constitution, the most extraordinary and the least colorable one is derived from the want of some provision respecting the debts due to the United States. This has been represented as a tacit relinquishment of those debts, and as a wicked contrivance to screen public defaulters. The newspapers have teemed with the most inflammatory railings on this head; and yet there is nothing clearer than that the suggestion is entirely void of foundation, and is the offspring of extreme ignorance or extreme dishonesty. In addition to the remarks I have made upon the subject in another place. I shall only observe that as it is a plain dictate of common sense, so it is also an established doctrine of political law, that States neither lose any of their rights, nor are discharged from any of their obligations, by a change in the form of their civil government. [81](#)

The last objection of any consequence, which I at present recollect, turns upon the article of expense. If it were even true that the adoption of the proposed government would occasion a considerable increase of expense, it would be an objection that ought to have no weight against the plan.

The great bulk of the citizens of America are with reason convinced that Union is the basis of their political happiness. Men of sense of all parties now with few exceptions agree that it cannot be preserved under the present system, nor without radical alterations; that new and extensive powers ought to be granted to the national head, and that these require a different organization of the federal government—a single body being an unsafe depository of such ample authorities. In conceding all this, the question of expense must be given up; for it is impossible, with any degree of safety, to

narrow the foundation upon which the system is to stand. The two branches of the legislature are, in the first instance, to consist of only sixty-five persons, which is the same number of which Congress, under the existing Confederation, may be composed. It is true that this number is intended to be increased; but this is to keep pace with the increase of the population and resources of the country. It is evident that a less number would, even in the first instance, have been unsafe, and that a continuance of the present number would, in a more advanced stage of population, be a very inadequate representation of the people.

Whence is the dreaded augmentation of expense to spring? One source pointed out is the multiplication of offices under the new government. Let us examine this a little.

It is evident that the principal departments of the administration under the present government are the same which will be required under the new. There are now a Secretary at War, a Secretary for Foreign Affairs, a Secretary for Domestic Affairs, a Board of Treasury, consisting of three persons, a treasurer, assistants, clerks, etc. These offices are indispensable under any system and will suffice under the new as well as under the old. As to ambassadors and other ministers and agents in foreign countries, the proposed Constitution can make no other difference than to render their characters, where they reside, more respectable, and their services more useful. As to persons to be employed in the collection of the revenues, it is unquestionably true that these will form a very considerable addition to the number of federal officers; but it will not follow that this will occasion an increase of public expense. It will be in most cases nothing more than an exchange of State officers for national officers. In the collection of all duties, for instance, the persons employed will be wholly of the latter description. The States individually will stand in no need of any for this purpose. What difference can it make in point of expense to pay officers of the customs appointed by the State or those appointed by the United States? There is no good reason to suppose that either the number or the salaries of the latter will be greater than those of the former.

Where then are we to seek for those additional articles of expense which are to swell the account to the enormous size that has been represented to us?

The chief item which occurs to me respects the support of the judges of the United States. I do not add the President, because there is now a president of Congress, whose expenses may not be far, if anything, short of those which will be incurred on account of the President of the United States. The support of the judges will clearly be an extra expense, but to what extent will depend on the particular plan which may be adopted in practice in regard to this matter. But it can upon no reasonable plan amount to a sum which will be an object of material consequence.

Let us now see what there is to counterbalance any extra expense that may attend the establishment of the proposed government. The first thing that presents itself is that a great part of the business which now keeps Congress sitting through the year will be transacted by the President. Even the management of foreign negotiations will naturally devolve upon him, according to general principles concerted with the Senate, and subject to their final concurrence. Hence it is evident that a portion of the year will suffice for the session of both the Senate and the House of Representatives; we may suppose about a fourth for the latter and a third, or perhaps a half, for the former. The extra business of treaties and appointments may give this extra occupation to the Senate. From this circumstance we may infer that, until the House of Representatives shall be increased greatly beyond its present number, there will be a considerable saving of expense from the difference between the constant session of the present and the temporary session of the future Congress.

But there is another circumstance of great importance in the view of economy. The business of the United States has hitherto occupied the State legislatures, as well as Congress. The latter has made requisitions which the former have had to provide for. Hence it has happened that the sessions of the State legislatures have been protracted greatly beyond what was necessary for the execution of the mere local business of the States. More than half their time has been frequently employed in matters which related to the United States. Now the members who compose the legislatures of the several States amount to two thousand and upwards, which number has hitherto performed what under the new system will be done in the first instance by sixty-five persons, and probably at no future period by above a fourth or a fifth of that number. The Congress under the proposed

government will do all the business of the United States themselves, without the intervention of the State legislatures, who thenceforth will have only to attend to the affairs of their particular States, and will not have to sit in any proportion as long as they have heretofore done. This difference in the time of the sessions of the State legislatures will be all clear gain, and will alone form an article of saving, which may be regarded as an equivalent for any additional objects of expense that may be occasioned by the adoption of the new system.

The result from these observations is that the sources of additional expense from the establishment of the proposed Constitution are much fewer than may have been imagined; that they are counterbalanced by considerable objects of saving; and that while it is questionable on which side the scale will preponderate, it is certain that a government less expensive would be incompetent to the purpose of the Union.

PUBLIUS [Hamilton]  
Number 85: Conclusion

# NUMBER 85

## CONCLUSION

[Alexander Hamilton]

ACCORDING to the formal division of the subject of these papers announced in my first number, there would appear still to remain for discussion two points: the analogy of the proposed government to your own State constitution, and the additional security which its adoption will afford to republican government, to liberty, and to property. But these heads have been so fully anticipated and exhausted in the progress of the work that it would now scarcely be possible to do anything more than repeat, in a more dilated form, what has been heretofore said, which the advanced stage of the question and the time already spent upon it conspire to forbid.

It is remarkable that the resemblance of the plan of the convention to the act which organizes the government of this State holds, not less with regard to many of the supposed defects than to the real excellences of the former. Among the pretended defects are the re-eligibility of the executive, the want of a council, the omission of a formal bill of rights, the omission of a provision respecting the liberty of the press. These and several others which have been noted in the course of our inquiries are as much chargeable on the existing constitution of this State as on the one proposed for the Union; and a man must have slender pretensions to consistency who can rail at the latter for imperfections which he finds no difficulty in excusing in the former. Nor indeed can there be a better proof of the insincerity and affectation of some of the zealous adversaries of the plan of the convention among us who profess to be the devoted admirers of the government under which they live than the fury with which they have attacked that plan, for matters in regard to which our own constitution is equally or perhaps more vulnerable.

The additional securities to republican government, to liberty, and to property, to be derived from the adoption of the plan under consideration, consist chiefly in the restraints which the preservation of the Union will impose on local factions and insurrections, and on the ambition of powerful

individuals in single States who might acquire credit and influence enough from leaders and favorites to become the despots of the people; in the diminution of the opportunities to foreign intrigue, which the dissolution of the confederacy would invite and facilitate; in the prevention of extensive military establishments, which could not fail to grow out of wars between the States in a disunited situation; in the express guaranty of a republican form of government to each; in the absolute and universal exclusion of titles of nobility; and in the precautions against the repetition of those practices on the part of the State governments which have undermined the foundations of property and credit, have planted mutual distrust in the breasts of all classes of citizens, and have occasioned an almost universal prostration of morals.

Thus have I, fellow-citizens, executed the task I had assigned to myself; with what success your conduct must determine. I trust at least you will admit that I have not failed in the assurance I gave you respecting the spirit with which my endeavors should be conducted. I have addressed myself purely to your judgments, and have studiously avoided those asperities which are too apt to disgrace political disputants of all parties and which have been not a little provoked by the language and conduct of the opponents of the Constitution. The charge of a conspiracy against the liberties of the people which has been indiscriminately brought against the advocates of the plan has something in it too wanton and too malignant not to excite the indignation of every man who feels in his own bosom a refutation of the calumny. The perpetual changes which have been rung upon the wealthy, the well-born, and the great have been such as to inspire the disgust of all sensible men. And the unwarrantable concealments and misrepresentations which have been in various ways practiced to keep the truth from the public eye have been of a nature to demand the reprobation of all honest men. It is not impossible that these circumstances may have occasionally betrayed me into intemperances of expression which I did not intend; it is certain that I have frequently felt a struggle between sensibility and moderation; and if the former has in some instances prevailed, it must be my excuse that it has been neither often nor much.

Let us now pause and ask ourselves whether, in the course of these papers, the proposed Constitution has not been satisfactorily vindicated from the

aspersions thrown upon it; and whether it has not been shown to be worthy of the public approbation and necessary to the public safety and prosperity. Every man is bound to answer these questions to himself, according to the best of his conscience and understanding, and to act agreeably to the genuine and sober dictates of his judgment. This is a duty from which nothing can give him a dispensation. 'Tis one that he is called upon, nay, constrained by all the obligations that form the bonds of society, to discharge sincerely and honestly. No partial motive, no particular interest, no pride of opinion, no temporary passion or prejudice, will justify to himself, to his country, or to his posterity, an improper election of the part he is to act. Let him beware of an obstinate adherence to party; let him reflect that the object upon which he is to decide is not a particular interest of the community, but the very existence of the nation; and let him remember that a majority of America has already given its sanction to the plan which he is to approve or reject.

I shall not dissemble that I feel an entire confidence in the arguments which recommend the proposed system to your adoption, and that I am unable to discern any real force in those by which it has been opposed. I am persuaded that it is the best which our political situation, habits, and opinions will admit, and superior to any the revolution has produced.

Concessions on the part of the friends of the plan that it has not a claim to absolute perfection have afforded matter of no small triumph to its enemies. Why, say they, should we adopt an imperfect thing? Why not amend it and make it perfect before it is irrevocably established? This may be plausible enough, but it is only plausible. In the first place I remark that the extent of these concessions has been greatly exaggerated. They have been stated as amounting to an admission that the plan is radically defective and that without material alterations the rights and the interests of the community cannot be safely confided to it. This, as far as I have understood the meaning of those who make the concessions, is an entire perversion of their sense. No advocate of the measure can be found who will not declare as his sentiment that the system, though it may not be perfect in every part, is, upon the whole, a good one; is the best that the present views and circumstances of the country will permit; and is such a one as promises

every species of security which a reasonable people can desire.

I answer in the next place that I should esteem it the extreme of imprudence to prolong the precarious state of our national affairs and to expose the Union to the jeopardy of successive experiments in the chimerical pursuit of a perfect plan. I never expect to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound, as well of the errors and prejudices as of the good sense and wisdom of the individuals of whom they are composed. The compacts which are to embrace thirteen distinct States in a common bond of amity and union must as necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?

The reasons assigned in an excellent little pamphlet lately published in this city [82](#) are unanswerable to show the utter improbability of assembling a new convention under circumstances in any degree so favorable to a happy issue as those in which the late convention met, deliberated, and concluded. I will not repeat the arguments there used, as I presume the production itself has had an extensive circulation. It is certainly well worth the perusal of every friend to his country. [83](#) There is, however, one point of light in which the subject of amendments still remains to be considered, and in which it has not yet been exhibited to public view. I cannot resolve to conclude without first taking a survey of it in this aspect.

It appears to me susceptible of absolute demonstration that it will be far more easy to obtain subsequent than previous amendments to the Constitution. The moment an alteration is made in the present plan it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each State. To its complete establishment throughout the Union it will therefore require the concurrence of thirteen States. If, on the contrary, the Constitution proposed should once be ratified by all the States as it stands, alterations in it may at any time be effected by nine States. Here, then, the chances are as thirteen to nine [84](#) in favor of subsequent amendment, rather than of the original adoption of an entire system.

This is not all. Every Constitution for the United States must inevitably consist of a great variety of particulars in which thirteen independent States

are to be accommodated in their interests or opinions of interest. We may of course expect to see, in any body of men charged with its original formation, very different combinations of the parts upon different points. Many of those who form a majority on one question may become the minority on a second, and an association dissimilar to either may constitute the majority on a third. Hence the necessity of moulding and arranging all the particulars which are to compose the whole in such a manner as to satisfy all the parties to the compact; and hence, also, an immense multiplication of difficulties and casualties in obtaining the collective assent to a final act. The degree of that multiplication must evidently be in a ratio to the number of particulars and the number of parties.

But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly. There would then be no necessity for management or compromise in relation to any other point—no giving nor taking. The will of the requisite number would at once bring the matter to a decisive issue. And consequently, whenever nine, or rather ten States, were united in the desire of a particular amendment, that amendment must infallibly take place. There can, therefore, be no comparison between the facility of effecting an amendment and that of establishing, in the first instance, a complete Constitution.

In opposition to the probability of subsequent amendments, it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed. For my own part, I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the government, not to the mass of its powers; and on this account alone I think there is no weight in the observation just stated. I also think there is little weight in it on another account. The intrinsic difficulty of governing THIRTEEN STATES at any rate, independent of calculations upon an ordinary degree of public spirit and integrity will, in my opinion, constantly impose on the national rulers the necessity of a spirit of accommodation to the reasonable expectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of doubt that the observation is futile. It is this: that the national rulers,

whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged on the application of the legislatures of two thirds of the States [which at present amount to nine], to call a convention for proposing amendments which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the states, or by conventions in three fourths thereof. The words of this article are peremptory. The Congress shall call a convention. Nothing in this particular is left to the discretion of that body. And of consequence all the declamation about the disinclination to a change vanishes in air. Nor however difficult it may be supposed to unite two thirds or three fourths of the State legislatures in amendments which may affect local Interests can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people. We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.

If the foregoing argument is a fallacy, certain it is that I am myself deceived by it for it is, in my conception, one of those rare instances in which a political truth can be brought to the test of mathematical demonstration. Those who see the matter in the same light with me, however zealous they may be for amendments, must agree in the propriety of a previous adoption as the most direct road to their own object.

The zeal for attempts to amend, prior to the establishment of the Constitution, must abate in every man who is ready to accede to the truth of the following observations of a writer equally solid and ingenious: To balance a large state or society [says he], whether monarchical or republican, on general laws, is a work of so great difficulty that no human genius, however comprehensive, is able, by the mere dint of reason and reflection, to effect it. The judgments of many must unite in the work; EXPERIENCE must guide their labor; TIME must bring it to perfection, and the FEELING of inconveniences must correct the mistakes which they inevitably fall into in their first trials and experiments. [85](#) These judicious reflections contain a lesson of moderation to all the sincere lovers of the Union, and ought to put them upon their guard against hazarding anarchy, civil war, a perpetual alienation of the States from each other, and perhaps the military despotism of a victorious demagogue, in the pursuit of what

they are not likely to obtain, but from TIME and EXPERIENCE. It may be in me a defect of political fortitude but I acknowledge that I cannot entertain an equal tranquillity with those who affect to treat the dangers of a longer continuance in our present situation as imaginary. A NATION without a NATIONAL GOVERNMENT is, in my view, an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a PRODIGY, to the completion of which I look forward with trembling anxiety. I can reconcile it to no rules of prudence to let go the hold we now have, in so arduous an enterprise, upon seven out of the thirteen States, and after having passed over so considerable a part of the ground, to recommence the course. I dread the more the consequences of new attempts because I know that POWERFUL INDIVIDUALS, in this and other States, are enemies to a general national government in every possible shape.

PUBLIUS [Hamilton]

---

The same idea, tracing the arguments to their consequences, is held out in several of the late publications against the new Constitution.

The poet is Shakespeare, King Henry VIII, III, ii. [Ed.]

Aspasia, vide Plutarch's Life of Pericles.

Ibid.

Ibid. Phidias was supposed to have stolen some public gold, with the connivance of Pericles, for the embellishment of the statue of Minerva.

Ibid.

Worn by the popes.

Madame de Maintenon.

Duchess of Marlborough.

Madame de Pompadour.

The League of Cambray, comprehending the Emperor, the King of France, the King of Aragon, and most of the Italian princes and states.

The Duke of Marlborough.

Vide Principes des Negociations par l'Abbe de Mably.

Gabriel Bonnet de Mably (1709-85) was a French historian and writer on international law. [Ed.]

Divide and command.

This objection will be fully examined in its proper place, and it will be shown that the only rational precaution on which could have been taken on this subject has been taken; and a much better one than is to be found in any constitution that has been heretofore framed in America, most of which contain no guard at all on this subject.

Charles Louis de Secondat, Baron de la Brede et de Montesquieu (1689-1755), French historian and political theorist, who wrote *Esprit des Lois* in 1748. [Ed.]

*Spirit of Laws*, Vol. I, Book IX, Chap. I.

*Recherches philosophiques sur les Americains.*

L'Abbe Guillaume Thomas Francois Raynal (1713-96) was the author in 1770 of *Recherches Philosophiques sur les Americains*. The original idea of physical degeneration in America is attributed to the naturalist Comte de Buffon (1707-88). [Ed.]

Jacques Necker (1732-1804), Director-General of Finances in France 1776-81 and 1788-90. [Ed.]

I mean for the Union.

Charles Francois Xavier Milot (1726-85), a widely read French historian who often wrote about ancient history. [Ed.]

This was but another name more specious for the independence of the members of the federal head.

Pfeffel. *Nouvel Abreg. Chronol. de l'Hist., etc., d'Allemagne*, says the pretext was to indemnify himself for the expense of the expedition.

Thuanus was Jacques Auguste de Thou (1553-1617), a French historian. C. F. Pfeffel (1726-1807) was a German diplomat and historian. [Ed.]

Hugo du Grotius (1583-1645), the famous writer on international law and political theory, published his *De Jure Belli ac Paeis* in 1625. [Ed.]

Sir William Temple (1628-99), English diplomat and essayist, wrote *Observations Upon the United Provinces* in 1672. [Ed.]

This, as nearly as I can recollect, was the sense of his speech in introducing the last bill.

Encyclopedia, article Empire.

New Hampshire, Rhode Island, New Jersey, Delaware, Georgia, South Carolina, and Maryland are a majority of the whole number of the States, but they do not contain one third of the people.

Add New York and Connecticut to the foregoing seven, and they will be less than a majority.

The Fourth Earl of Chesterfield, Philip Dormer Stanhope (1694-1773), was, in addition to being a wit and letter-writer, a statesman who served as British ambassador at The Hague from 1728-1732. [Ed.]

The historical episode referred to is the coup d'etat by Gustavus IV of Sweden in 1722. [Ed.]

This statement of the matter is taken from the printed collections of State constitutions. Pennsylvania and North Carolina are the two which contain the interdiction in these words: As standing armies in time of peace are dangerous to liberty, they ought not to be kept up. This is, in truth, rather a CAUTION than a PROHIBITION. New Hampshire, Massachusetts, Delaware, and Maryland have, in each of their bills of rights, a clause to this effect: Standing armies are dangerous to liberty, and ought not to be raised or kept up WITHOUT THE CONSENT OF THE LEGISLATURE ; which is a formal admission of authority of the legislature. New York has no bill of her rights, and her constitution says not a word about the matter. No bills of rights appear annexed to the constitutions of the other States, except the foregoing, and their constitutions are equally silent. I am told, however, that one or two States have bills of rights which do not appear in this collection; but that those also recognize the right of the legislative authority in this respect.

The Seventeenth Amendment to the Constitution (1913) now requires that Senators be elected directly by the people of the states. [Ed.]

The sophistry which has been employed to show that this will tend to the destruction of the State governments will, in its proper place, be fully detected.

Its full efficacy will be examined hereafter.

The New England States.

The state referred to is Maryland which refused to ratify the Articles until her demands were met that all states renounce to the Union their claims to western land. [ED.]

Connecticut and Rhode Island.

Declaration of Independence.

Burgh's Political Disquisitions.

1st Clause, 4th Section, of the 1st Article.

Particularly in the Southern States and in this State.

In that of New Jersey, also, the final judiciary authority is in a branch of the legislature. In New Hampshire, Massachusetts, Pennsylvania, and South Carolina, one branch of the legislature is the court for the trial of impeachments.

See Cato, No. V.

Cato was George Clinton (1739-1812), Governor of New York and main opponent of the Constitution in that state. He authored seven letters under the name Cato in the New York Journal between September, 1787, and January, 1788. [Ed.]

Article 1, Section 3. Clause 1.

vide Federal Farmer.

Richard Henry Lee (1723-94) was the author of Letter of a Federal Farmer. [Ed.]

The poet is Alexander Pope (1688-1744) in his Essay on Man, written in 1733 and 1734. Hamilton has the second line wrong. It should read: whate'er is best administered, is best.

A writer in a Pennsylvania paper, under the signature of TAMONY, has asserted that the king of Great Britain owes his prerogative as commander-in-chief to an annual mutiny bill. The truth is, on the contrary, that his prerogative in this respect is immemorial, and was only disputed contrary to all reason and precedent, as Blackstone, Vol. I, page 262, expresses it, by the Long Parliament of Charles I; but by the statute the 13th of Charles II, chap. 6, it was declared to be in the king alone, for that the sole supreme government and command of all the militia within his Majesty's realms and dominions, and of all forces by sea and land, and of all fous and places of strength, EVER WAS AND Is the undoubted right of his Majesty and his royal predecessors, kings and queens of England, and that both or either house of Parliament cannot nor ought to pretend to the same.

vide Blackstone's Commentaries, Vol. I, page 257.

Candor, however, demands an acknowledgment that I do not think the claim of the governor to a right of nomination well founded. Yet it is always justifiable to reason from the practice of a government till its propriety has been constitutionally questioned. And independent of this claim, when we take into view the other considerations and pursue them through all their consequences, we shall be inclined to draw much the same conclusion.

New York has no council except for the single purpose of appointing to offices; New Jersey has a council whom the governor may consult. But I think, from the terms of the Constitution, their resolutions do not bind him.

Jean Louis Delolme (1740-1806), a native of Geneva, who spent much of his life in England, where he wrote *Constitution de t'Anyleterre* in 1791. [Ed.]

Junius was the pseudonym used by a radical political writer in London in the late 1760s and early 1770s. while there are numerous candidates, the exact identity of Junius is still unknown. [Ed.]

Delolme.

Ten.

This was the case with respect to Mr. Fox's India bill, which was carried in the House of Commons and rejected in the House of Lords, to the entire satisfaction, as it is said, of the people.

Mr. Abraham Yates, a warm opponent of the plan of the convention, is of this number.

Hamilton's claim that the Senate's consent would be required for dismissals as well as for appointments would be proven wrong. [Ed.]

The celebrated Montesquieu, speaking of them, says: Of the three powers above mentioned, the JUDICIARY is next to nothing. -*Spirit of Laws*, vol. I, page 186.

Idem. page 181.

vide Protest of the Minority of the Convention of Pennsylvania, Mauin's speech, etc.

vide Constitution of Massachusetts, Chapter 2, Section 1, Article 13.

Article 3, Section 1.

This power has been absurdly represented as intended to abolish all the county courts in the several States which are commonly called inferior courts. But the expressions of the Constitution are to constitute tribunals INFERIOR TO THE SUPREME COURT ; and the evident design of the provision is to enable the institution of local courts, subordinate to the Supreme, either in States or larger districts. It is ridiculous to imagine that county courts were in contemplation.

This word is composed of Jus and ietio, juris, dietio, or a speaking or pronouncing of the law.

I hold that the States will have concurrent jurisdiction with the subordinate federal judicatories in many cases of federal cognizance as will be explained in my next paper.

No. 32.

Section 8, Article 1.

It has been erroneously insinuated, with regard to the court of chancery, that this court generally tries disputed facts by a jury. The truth is that references to a jury in that court rarely happen, and are in no case necessary but where the validity of a devise of land comes into question.

It is true that the principles by which that relief is governed are now reduced to a regular system; but it is not the less true that they are in the main applicable to SPECIAL circumstances, which form exceptions to general rules.

vide No. 81 in which the supposition of its being abolished by the appellate jurisdiction in matters of fact being vested in the Supreme Court is examined and refuted.

vide Blackstone's Commentaries, Vol. 1, page 136.

Sir William Blackstone (1723-80) published his commentaries on the Laws of England between 1765 and 1769. It soon became the basic text in Anglo-American legal and constitutional circles. [Ed.]

Idem, Vol. 4, page 438.

To show that there is a power in the Constitution by which the liberty of the press may be affected, recourse has been had to the power of taxation. It is said that duties may be laid upon the publications so high as to amount to a prohibition. I know not by what logic it could be maintained that the declarations in the State constitutions, in favor of the freedom of the press, would be a constitutional impediment to the imposition of duties upon publications by the State legislatures. It cannot certainly be pretended that

any degree of duties, however low, would be an abridgment of the liberty of the press, we know that newspapers are taxed in Great Britain, and yet it is notorious that the press nowhere enjoys greater liberty than in that country. And if duties of any kind may be laid without a violation of that liberty, it is evident that the extent must depend on legislative discretion, regulated by public opinion; so that, after all, general declarations respecting the liberty of the press will give it no greater security than it will have without them. The same invasions of it may be effected under the State constitutions which contain those declarations through the means of taxation, as under the proposed Constitution, which has nothing of the kind. It would be quite as significant to declare that government ought to be free, that taxes ought not to be excessive, etc., as that the liberty of the press ought not to be restrained.

vide Rutherford's Institutes, Vol.2, Book II, Chapter X, Sections XIV and XV, vide also Grotius, Book II, Chapter IX, Sections VII and IX.

Entitled An Address to the People of the State of New York.

The author of this excellent little pamphlet was Hamilton's collaborator on the Federalist, John Jay. [Ed.]

It may rather be said TEN, for though two thirds may set on foot the measure, three fourths.

Hume's Essays, Vol. I, page 128: The Rise of Arts and Sciences.

**copyright 2002, Western Standard Publishing**

**(www.originalsources.com)**

Unauthorized duplication and distribution is prohibited.

This volume is part of OriginalSources.com which contains over 300,000 documents. You can check out this incredible collection at

**www.originalsources.com.**

# Common Sense

by Thomas Paine

[Introduction](#)

[Of the Origin and Design of Government in General. With Concise Remarks on the English Constitution](#)

[Of Monarchy and Hereditary Succession](#)

[Thoughts on the Present State of American Affairs](#)

[Of the Present Ability of America, with Some Miscellaneous Reflections](#)

[Appendix](#)

**developed by Packard Technologies (www.ebooksarchive.com)**  
go to [www.ebooksarchive.com](http://www.ebooksarchive.com) for thousands of other ebooks for your handheld.

Unauthorized duplication and distribution is prohibited.  
This volume is part of the US Constitution Coach which contains over 60,000 complete works and documents of American History and Political Science. You can check out this incredible collection at [PowerThinkPublishing.com](http://PowerThinkPublishing.com).

# Common Sense

by Thomas Paine

Common Sense; Addressed to the Inhabitants of America, on the Following Interesting Subjects:

I. Of the Origin and Design of Government in General, with Concise Remarks on the English Constitution.

II. Of Monarchy and Hereditary Succession.

III. Thoughts on the Present State of American Affairs.

IV. Of the Present Ability of America, with Some Miscellaneous Reflections.

Philadelphia: Printed and sold by W. and T. Bradford, 1776.

## Introduction

Perhaps the sentiments contained in the following pages, are not *yet* sufficiently fashionable to procure them general favour; a long habit of not thinking a thing *wrong*, gives it a superficial appearance of being *right*, and raises at first a formidable outcry in defense of custom. But the tumult soon subsides. Time makes more converts than reason.

As a long and violent abuse of power, is generally the Means of calling the right of it in question (and in Matters too which might never have been thought of, had not the Sufferers been aggravated into the inquiry) and as the King of England hath undertaken in his *own right*, to support the Parliament in what he calls *theirs*, and as the good people of this country are grievously oppressed by the combination, they have an undoubted privilege to inquire into the pretensions of both, and equally to reject the usurpation of either.

In the following sheets, the author hath studiously avoided every thing which is personal among ourselves. Compliments as well as censure to

individuals make no part thereof. The wise, and the worthy, need not the triumph of a pamphlet; and those whose sentiments are injudicious, or unfriendly, will cease of themselves unless too much pains are bestowed upon their conversion.

The cause of America is in a great measure the cause of all mankind. Many circumstances hath, and will arise, which are not local, but universal, and through which the principles of all Lovers of Mankind are affected, and in the Event of which, their Affections are interested. The laying a Country desolate with Fire and Sword, declaring War against the natural rights of all Mankind, and extirpating the Defenders thereof from the Face of the Earth, is the Concern of every Man to whom Nature hath given the Power of feeling; of which Class, regardless of Party Censure, is the *Author*.

P.S. The Publication of this new Edition hath been delayed, with a View of taking notice (had it been necessary) of any Attempt to refute the Doctrine of Independance: As no Answer hath yet appeared, it is now presumed that none will, the Time needful for getting such a Performance ready for the Public being considerably past.

Who the Author of this Production is, is wholly unnecessary to the Public, as the Object for Attention is the *doctrine itself*, not the *man*. Yet it may not be unnecessary to say, That he is unconnected with any Party, and under no sort of Influence public or private, but the influence of reason and principle.  
Philadelphia, February 14, 1776

**Of the Origin and Design of Government in General. With Concise Remarks on the English Constitution**

Some writers have so confounded society with government, as to leave little or no distinction between them; whereas they are not only different, but have different origins. Society is produced by our wants, and government by our wickedness; the former promotes our *positively* by uniting our affections, the latter *negatively* by restraining our vices. The one encourages intercourse, the other creates distinctions. The first a patron, the last a punisher.

Society in every state is a blessing, but government even in its best state is but a necessary evil; in its worst state an intolerable one; for when we suffer, or are exposed to the same miseries *by a government*, which we might expect in a country *without government*, our calamity is heightened

by reflecting that we furnish the means by which we suffer. Government, like dress, is the badge of lost innocence; the palaces of kings are built on the ruins of the bowers of paradise. For were the impulses of conscience clear, uniform, and irresistibly obeyed, man would need no other lawgiver; but that not being the case, he finds it necessary to surrender up a part of his property to furnish means for the protection of the rest; and this he is induced to do by the same prudence which in every other case advises him out of two evils to choose the least. *Wherefore*, security being the true design and end of government, it unanswerably follows, that whatever *form* thereof appears most likely to ensure it to us, with the least expense and greatest benefit, is preferable to all others.

In order to gain a clear and just idea of the design and end of government, let us suppose a small number of persons settled in some sequestered part of the earth, unconnected with the rest, they will then represent the first peopling of any country, or of the world. In this state of natural liberty, society will be their first thought. A thousand motives will excite them thereto, the strength of one man is so unequal to his wants, and his mind so unfitted for perpetual solitude, that he is soon obliged to seek assistance and relief of another, who in his turn requires the same. Four or five united would be able to raise a tolerable dwelling in the midst of a wilderness, but one man might labour out of the common period of life without accomplishing any thing; when he had felled his timber he could not remove it, nor erect it after it was removed; hunger in the mean time would urge him from his work, and every different want call him a different way. Disease, nay even misfortune would be death, for though neither might be mortal, yet either would disable him from living, and reduce him to a state in which he might rather be said to perish than to die.

Thus necessity, like a gravitating power, would soon form our newly arrived emigrants into society, the reciprocal blessings of which, would supersede, and render the obligations of law and government unnecessary while they remained perfectly just to each other; but as nothing but heaven is impregnable to vice, it will unavoidably happen, that in proportion as they surmount the first difficulties of emigration, which bound them together in a common cause, they will begin to relax in their duty and attachment to each other; and this remissness will point out the necessity of establishing some form of government to supply the defect of moral virtue.

Some convenient tree will afford them a State-House, under the branches of which, the whole colony may assemble to deliberate on public matters. It is more than probable that their first laws will have the title only of *regulations*, and be enforced by no other penalty than public disesteem. In this first parliament every man, by natural right, will have a seat.

But as the colony increases, the public concerns will increase likewise, and the distance at which the members may be separated, will render it too inconvenient for all of them to meet on every occasion as at first, when their number was small, their habitations near, and the public concerns few and trifling. This will point out the convenience of their consenting to leave the legislative part to be managed by a select number chosen from the whole body, who are supposed to have the same concerns at stake which those who appointed them, and who will act in the same manner as the whole body would act, were they present. If the colony continues increasing, it will become necessary to augment the number of the representatives, and that the interest of every part of the colony may be attended to, it will be found best to divide the whole into convenient parts, each part sending its proper number; and that the *elected* might never form to themselves an interest separate from the *electors*, prudence will point out the propriety of having elections often; because as the *elected* might by that means return and mix again with the general body of the *electors* in a few months, their fidelity to the public will be secured by the prudent reflection of not making a rod for themselves. And as this frequent interchange will establish a common interest with every part of the community, they will mutually and naturally support each other, and on this (not on the unmeaning name of king) depends the *strength of government, and the happiness of the governed*.

Here then is the origin and rise of government; namely, a mode rendered necessary by the inability of moral virtue to govern the world; here too is the design and end of government, viz. freedom and security. And however our eyes may be dazzled with show, or our ears deceived by sound; however prejudice may warp our wills, or interest darken our understanding, the simple voice of nature and of reason will say, it is right.

I draw my idea of the form of government from a principle in nature, which no art can overturn, viz. that the more simple any thing is, the less liable it is to be disordered; and the easier repaired when disordered; and with this maxim in view, I offer a few remarks on the so much boasted constitution

of England. That it was noble for the dark and slavish times in which it was erected, is granted. When the world was overrun with tyranny the least remove therefrom was a glorious rescue. But that it is imperfect, subject to convulsions, and incapable of producing what it seems to promise, is easily demonstrated.

Absolute governments (tho' the disgrace of human nature) have this advantage with them, that they are simple; if the people suffer, they know the head from which their suffering springs, know likewise the remedy, and are not bewildered by a variety of causes and cures. But the constitution of England is so exceedingly complex, that the nation may suffer for years together without being able to discover in which part the fault lies; some will say in one and some in another, and every political physician will advise a different medicine.

I know it is difficult to get over local or long standing prejudices, yet if we will suffer ourselves to examine the component parts of the English constitution, we shall find them to be the base remains of two ancient tyrannies, compounded with some new republican materials.

*First*—The remains of monarchial tyranny in the person of the king.

*Secondly*—The remains of aristocratical tyranny in the persons of the peers.

*Thirdly*—The new republican materials in the persons of the commons, on whose virtue depends the freedom of England.

The two first, by being hereditary, are independent of the people; wherefore in a *constitutional sense* they contribute nothing towards the freedom of the state.

To say that the constitution of England is a *union* of three powers reciprocally *checking* each other, is farcical, either the words have no meaning, or they are flat contradictions.

To say that the commons is a check upon the king, presupposes two things:

*First*—That the king is not to be trusted without being looked after, or in other words, that a thirst for absolute power is the natural disease of monarchy.

*Secondly*—That the commons, by being appointed for that purpose, are either wiser or more worthy of confidence than the crown.

But as the same constitution which gives the commons a power to check the king by withholding the supplies, gives afterwards the king a power to check the commons, by empowering him to reject their other bills; it again

supposes that the king is wiser than those whom it has already supposed to be wiser than him. A mere absurdity!

There is something exceedingly ridiculous in the composition of monarchy; it first excludes a man from the means of information, yet empowers him to act in cases where the highest judgment is required. The state of a king shuts him from the world, yet the business of a king requires him to know it thoroughly; wherefore the different parts, by unnaturally opposing and destroying each other, prove the whole character to be absurd and useless.

Some writers have explained the English constitution thus: The king, say they, is one, the people another; the peers are a house in behalf of the king, the commons in behalf of the people; but this hath all the distinctions of a house divided against itself; and though the expressions be pleasantly arranged, yet when examined, they appear idle and ambiguous; and it will always happen, that the nicest construction that words are capable of, when applied to the description of some thing which either cannot exist, or is too incomprehensible to be within the compass of description, will be words of sound only, and though they may amuse the ear, they cannot inform the mind, for this explanation includes a previous question, viz. *How came the king by a power which the people are afraid to trust, and always obliged to check?* Such a power could not be the gift of a wise people, neither can any power, *which needs checking*, be from God; yet the provision, which the constitution makes, supposes such a power to exist.

But the provision is unequal to the task; the means either cannot or will not accomplish the end, and the whole affair is a *felo de se*; for as the greater weight will always carry up the less, and as all the wheels of a machine are put in motion by one, it only remains to know which power in the constitution has the most weight, for that will govern; and though the others, or a part of them, may clog, or, as the phrase is, check the rapidity of its motion, yet so long as they cannot stop it, their endeavours will be ineffectual; the first moving power will at last have its way, and what it wants in speed, is supplied by time.

That the crown is this overbearing part in the English constitution, needs not be mentioned, and that it derives its whole consequence merely from being the giver of places and pensions, is self-evident, wherefore, though we have been wise enough to shut and lock a door against absolute monarchy, we at the same time have been foolish enough to put the crown in possession of the key.

The prejudice of Englishmen in favour of their own government by king, lords, and commons, arises as much or more from national pride than reason. Individuals are undoubtedly safer in England than in some other countries, but the WILL of the king is as much the LAW of the land in Britain as in France, with this difference, that instead of proceeding directly from his mouth, it is handed to the people under the more formidable shape of an act of parliament. For the fate of Charles the First hath only made kings more subtle—not more just.

Wherefore, laying aside all national pride and prejudice in favour of modes and forms, the plain truth is, that *it is wholly owing to the constitution of the people, and not to the constitution of the government*, that the crown is not as oppressive in England as in Turkey.

An inquiry into the *constitutional errors* in the English form of government is at this time highly necessary; for as we are never in a proper condition of doing justice to others, while we continue under the influence of some leading partiality, so neither are we capable of doing it to ourselves while we remain fettered by any obstinate prejudice. And as a man, who is attached to a prostitute, is unfitted to choose or judge a wife, so any prepossession in favour of a rotten constitution of government will disable us from discerning a good one.

#### **Of Monarchy and Hereditary Succession**

Mankind being originally equals in the order of creation, the equality could only be destroyed by some subsequent circumstance; the distinctions of rich, and poor, may in a great measure be accounted for, and that without having recourse to the harsh, ill-sounding names of oppression and avarice. Oppression is often the *consequence*, but seldom or never the *means* of riches; and though avarice will preserve a man from being necessitously poor, it generally makes him too timorous to be wealthy.

But there is another and greater distinction, for which no truly natural or religious reason can be assigned, and that is, the distinction of men into *kings* and *subjects*. Male and female are the distinctions of nature, good and bad the distinctions of heaven; but how a race of men came into the world so exalted above the rest, and distinguished like some new species, is worth inquiring into, and whether they are the means of happiness or of misery to mankind.

In the early ages of the world, according to the scripture chronology, there were no kings; the consequence of which was, there were no wars; it is the pride of kings which throw mankind into confusion. Holland without a king hath enjoyed more peace for this last century than any of the monarchical governments in Europe. Antiquity favours the same remark; for the quiet and rural lives of the first patriarchs hath a happy something in them, which vanishes away when we come to the history of Jewish royalty.

Government by kings was first introduced into the world by the Heathens, from whom the children of Israel copied the custom. It was the most prosperous invention the Devil ever set on foot for the promotion of idolatry. The Heathens paid divine honours to their deceased kings, and the Christian world hath improved on the plan, by doing the same to their living ones. How impious is the title of sacred majesty applied to a worm, who in the midst of his splendor is crumbling into dust!

As the exalting one man so greatly above the rest cannot be justified on the equal rights of nature, so neither can it be defended on the authority of scripture; for the will of the Almighty, as declared by Gideon and the prophet Samuel, expressly disapproves of government by kings. All anti-monarchical parts of scripture have been very smoothly glossed over in monarchical governments, but they undoubtedly merit the attention of countries which have their governments yet to form. RENDER UNTO CAESAR THE THINGS WHICH ARE CAESAR'S is the scripture doctrine of courts, yet it is no support of monarchical government, for the Jews at that time were without a king, and in a state of vassalage to the Romans.

Now three thousand years passed away from the Mosaic account of the creation, till the Jews under a national delusion requested a king. Till then their form of government (except in extraordinary cases, where the Almighty interposed) was a kind of republic administered by a judge and the elders of the tribes. Kings they had none, and it was held sinful to acknowledge any being under that title but the Lord of Hosts. And when a man seriously reflects on the idolatrous homage which is paid to the persons of kings, he need not wonder that the Almighty, ever jealous of his honour, should disapprove of a form of government which so impiously invades the prerogative of heaven.

Monarchy is ranked in scripture as one of the sins of the Jews, for which a curse in reserve is denounced against them. The history of that transaction

is worth attending to.

The children of Israel being oppressed by the Midianites, Gideon marched against them with a small army, and victory, through the divine interposition, decided in his favour. The Jews, elate with success, and attributing it to the generalship of Gideon, proposed making him a king, saying, RULE THOU OVER US, THOU AND THY SON AND THY SON'S SON. Here was temptation in its fullest extent; not a kingdom only, but an hereditary one, but Gideon in the piety of his soul replied, I WILL NOT RULE OVER YOU, NEITHER SHALL MY SON RULE OVER YOU THE LORD SHALL RULE OVER YOU . Words need not be more explicit; Gideon doth not decline the honour, but denieth their right to give it; neither doth he compliment them with invented declarations of his thanks, but in the positive style of a prophet charges them with disaffection to their proper Sovereign, the King of heaven.

About one hundred and thirty years after this, they fell again into the same error. The hankering which the Jews had for the idolatrous customs of the Heathens, is something exceedingly unaccountable; but so it was, that laying hold of the misconduct of Samuel's two sons, who were entrusted with some secular concerns, they came in an abrupt and clamorous manner to Samuel, saying, BEHOLD THOU ART OLD, AND THY SONS WALK NOT IN THY WAYS, NOW MAKE US A KING TO JUDGE US, LIKE ALL OTHER NATIONS. And here we cannot but observe that their motives were bad, viz. that they might be LIKE unto other nations, i.e. the Heathens, whereas their true glory laid in being as much UNLIKE them as possible. BUT THE THING DISPLEASED SAMUEL WHEN THEY SAID, GIVE US A KING TO JUDGE US; AND SAMUEL PRAYED UNTO THE LORD, AND THE LORD SAID UNTO SAMUEL, HEARKEN UNTO THE VOICE OF THE PEOPLE IN ALL THAT THEY SAY UNTO THEE, FOR THEY HAVE NOT REJECTED THEE, BUT THEY HAVE REJECTED ME, THAT I SHOULD NOT REIGN OVER THEM . ACCORDING TO ALL THE WORKS WHICH THEY HAVE SINCE THE DAY THAT I BROUGHT THEM UP OUT OF EGYPT, EVEN UNTO THIS DAY; WHEREWITH THEY HAVE FORSAKEN ME AND SERVED OTHER GODS; SO DO THEY ALSO UNTO THEE. NOW THEREFORE HEARKEN UNTO THEIR VOICE, HOWBEIT, PROTEST SOLEMNLY UNTO THEM AND SHEW THEM THE MANNER OF THE KING THAT SHALL REIGN OVER THEM, I.E. not

of any particular king, but the general manner of the kings of the earth, whom Israel was so eagerly copying after. And notwithstanding the great distance of time and difference of manners, the character is still in fashion. AND SAMUEL TOLD ALL THE WORDS OF THE LORD UNTO THE PEOPLE, THAT ASKED OF HIM A KING. AND HE SAID, THIS SHALL BE THE MANNER OF THE KING THAT SHALL REIGN OVER YOU; HE WILL TAKE YOUR SONS AND APPOINT THEM FOR HIMSELF, FOR HIS CHARIOTS, AND TO BE HIS HORSEMAN, AND SOME SHALL RUN BEFORE HIS CHARIOTS (this description agrees with the present mode of impressing men) AND HE WILL APPOINT HIM CAPTAINS OVER THOUSANDS AND CAPTAINS OVER FIFTIES, AND WILL SET THEM TO EAR HIS GROUND AND REAP HIS HARVEST, AND TO MAKE HIS INSTRUMENTS OF WAR, AND INSTRUMENTS OF HIS CHARIOTS; AND HE WILL TAKE YOUR DAUGHTERS TO BE CONFECTIONARIES, AND TO BE COOKS AND TO BE BAKERS (this describes the expense and luxury as well as the oppression of kings) AND HE WILL TAKE YOUR FIELDS AND YOUR OLIVE YARDS, EVEN THE BEST OF THEM, AND GIVE THEM TO HIS SERVANTS; AND HE WILL TAKE THE TENTH OF YOUR SEED, AND OF YOUR VINEYARDS, AND GIVE THEM TO HIS OFFICERS AND TO HIS SERVANTS (by which we see that bribery, corruption, and favouritism are the standing vices of kings) AND HE WILL TAKE THE TENTH OF YOUR MEN SERVANTS, AND YOUR MAID SERVANTS, AND YOUR GOODLIEST YOUNG MEN AND YOUR ASSES, AND PUT THEM TO HIS WORK; AND HE WILL TAKE THE TENTH OF YOUR SHEEP, AND YE SHALL BE HIS SERVANTS, AND YE SHALL CRY OUT IN THAT DAY BECAUSE OF YOUR KING WHICH YE SHALL HAVE CHOSEN, AND THE LORD WILL NOT HEAR YOU IN THAT DAY . This accounts for the continuation of monarchy; neither do the characters of the few good kings which have lived since, either sanctify the title, or blot out the sinfulness of the origin; the high encomium given of David takes no notice of him OFFICIALLY AS A KING, but only as a MAN after God's own heart. NEVERTHELESS THE PEOPLE REFUSED TO OBEY THE VOICE OF SAMUEL, AND THEY SAID, NAY, BUT WE WILL HAVE A KING OVER US, THAT WE MAY BE LIKE ALL THE NATIONS, AND THAT OUR KING MAY JUDGE US, AND GO OUT BEFORE US, AND FIGHT OUR BATTLES. Samuel

continued to reason with them, but to no purpose; he set before them their ingratitude, but all would not avail; and seeing them fully bent on their folly, he cried out, I WILL CALL UNTO THE LORD, AND HE SHALL SEND THUNDER AND RAIN (which then was a punishment, being in the time of wheat harvest) THAT YE MAY PERCEIVE AND SEE THAT YOUR WICKEDNESS IS GREAT WHICH YE HAVE DONE IN THE SIGHT OF THE LORD, AND THE LORD SENT THUNDER AND RAIN THAT DAY, AND ALL THE PEOPLE GREATLY FEARED THE LORD AND SAMUEL. AND ALL THE PEOPLE SAID UNTO SAMUEL, PRAY FOR THY SERVANTS UNTO THE LORD THY GOD THAT WE DIE NOT, FOR WE HAVE ADDED UNTO OUR SINS THIS EVIL, TO ASK A KING . These portions of scripture are direct and positive. They admit of no equivocal construction. That the Almighty hath here entered his protest against monarchical government, is true, or the scripture is false. And a man hath good reason to believe that there is as much of kingcraft, as priestcraft, in withholding the scripture from the public in Popish countries. For monarchy in every instance is the Popery of government.

To the evil of monarchy we have added that of hereditary succession; and as the first is a degradation and lessening of ourselves, so the second, claimed as a matter of right, is an insult and an imposition on posterity. For all men being originally equals, no ONE by BIRTH could have a right to set up his own family in perpetual preference to all others for ever, and though himself might deserve SOME decent degree of honours of his contemporaries, yet his descendants might be far too unworthy to inherit them. One of the strongest NATURAL proofs of the folly of hereditary right in kings, is, that nature disapproves it, otherwise she would not so frequently turn it into ridicule by giving mankind an ASS FOR A LION.

Secondly, as no man at first could possess any other public honours than were bestowed upon him, so the givers of those honours could have no power to give away the right of posterity. And though they might say, "We chooses you for OUR head," they could not, without manifest injustice to their children, say, "that your children and your children's children shall reign over OURS for ever." Because such an unwise, unjust, unnatural compact might (perhaps) in the next succession put them under the government of a rogue or a fool. Most wise men, in their private sentiments, have ever treated hereditary right with contempt; yet it is one of those evils, which when once established is not easily removed; many submit from fear,

others from superstition, and the more powerful part shares with the king the plunder of the rest.

This is supposing the present race of kings in the world to have had an honourable origin; whereas it is more than probable, that could we take off the dark covering of antiquities, and trace them to their first rise, that we should find the first of them nothing better than the principal ruffian of some restless gang, whose savage manners or preeminence in subtlety obtained the title of chief among plunderers; and who by increasing in power, and extending his depredations, overawed the quiet and defenseless to purchase their safety by frequent contributions. Yet his electors could have no idea of giving hereditary right to his descendants, because such a perpetual exclusion of themselves was incompatible with the free and unrestrained principles they professed to live by. Wherefore, hereditary succession in the early ages of monarchy could not take place as a matter of claim, but as something casual or complementary; but as few or no records were extant in those days, and traditional history stuffed with fables, it was very easy, after the lapse of a few generations, to trump up some superstitious tale, conveniently timed, Mahomet like, to cram hereditary right down the throats of the vulgar. Perhaps the disorders which threatened, or seemed to threaten, on the decease of a leader and the choice of a new one (for elections among ruffians could not be very orderly) induced many at first to favour hereditary pretensions; by which means it happened, as it hath happened since, that what at first was submitted to as a convenience, was afterwards claimed as a right.

England, since the conquest, hath known some few good monarchs, but groaned beneath a much larger number of bad ones; yet no man in his senses can say that their claim under William the Conqueror is a very honourable one. A French bastard landing with an armed banditti, and establishing himself king of England against the consent of the natives, is in plain terms a very paltry rascally original. It certainly hath no divinity in it. However, it is needless to spend much time in exposing the folly of hereditary right; if there are any so weak as to believe it, let them promiscuously worship the ass and lion, and welcome. I shall neither copy their humility, nor disturb their devotion.

Yet I should be glad to ask how they suppose kings came at first? The question admits but of three answers, viz. either by lot, by election, or by usurpation. If the first king was taken by lot, it establishes a precedent for

the next, which excludes hereditary succession. Saul was by lot, yet the succession was not hereditary, neither does it appear from that transaction there was any intention it ever should be. If the first king of any country was by election, that likewise establishes a precedent for the next; for to say, that the RIGHT of all future generations is taken away, by the act of the first electors, in their choice not only of a king, but of a family of kings for ever, hath no parallel in or out of scripture but the doctrine of original sin, which supposes the free will of all men lost in Adam; and from such comparison, and it will admit of no other, hereditary succession can derive no glory. For as in Adam all sinned, and as in the first electors all men obeyed; as in the one all mankind were subjected to Satan, and in the other to Sovereignty; as our innocence was lost in the first, and our authority in the last; and as both disable us from reassuming some former state and privilege, it unanswerably follows that original sin and hereditary succession are parallels. Dishonourable rank! Inglorious connection! Yet the most subtle sophist cannot produce a juster simile.

As to usurpation, no man will be so hardy as to defend it; and that William the Conqueror was an usurper is a fact not to be contradicted. The plain truth is, that the antiquity of English monarchy will not bear looking into.

But it is not so much the absurdity as the evil of hereditary succession which concerns mankind. Did it ensure a race of good and wise men it would have the seal of divine authority, but as it opens a door to the FOOLISH, the WICKED, and the IMPROPER, it hath in it the nature of oppression. Men who look upon themselves born to reign, and others to obey, soon grow insolent; selected from the rest of mankind their minds are early poisoned by importance; and the world they act in differs so materially from the world at large, that they have but little opportunity of knowing its true interests, and when they succeed to the government are frequently the most ignorant and unfit of any throughout the dominions.

Another evil which attends hereditary succession is, that the throne is subject to be possessed by a minor at any age; all which time the regency, acting under the cover a king, have every opportunity and inducement to betray their trust. The same national misfortune happens, when a king, worn out with age and infirmity, enters the last stage of human weakness. In both these cases the public becomes a prey to every miscreant, who can tamper successfully with the follies either of age or infancy.

The most plausible plea, which hath ever been offered in favour of hereditary succession, is, that it preserves a nation from civil wars; and were this true, it would be weighty; whereas, it is the most barefaced falsity ever imposed upon mankind. The whole history of England disowns the fact. Thirty kings and two minors have reigned in that distracted kingdom since the conquest, in which time there have been (including the Revolution) no less than eight civil wars and nineteen rebellions. Wherefore instead of making for peace, it makes against it, and destroys the very foundation it seems to stand on.

The contest for monarchy and succession, between the houses of York and Lancaster, laid England in a scene of blood for many years. Twelve pitched battles, besides skirmishes and sieges, were fought between Henry and Edward. Twice was Henry prisoner to Edward, who in his turn was prisoner to Henry. And so uncertain is the fate of war and the temper of a nation, when nothing but personal matters are the ground of a quarrel, that Henry was taken in triumph from a prison to a palace, and Edward obliged to fly from a palace to a foreign land; yet, as sudden transitions of temper are seldom lasting, Henry in his turn was driven from the throne, and Edward recalled to succeed him. The parliament always following the strongest side.

This contest began in the reign of Henry the Sixth, and was not entirely extinguished till Henry the Seventh, in whom the families were united. Including a period of 67 years, viz. from 1422 to 1489.

In short, monarchy and succession have laid (not this or that kingdom only) but the world in blood and ashes. Tis a form of government which the word of God bears testimony against, and blood will attend it.

If we inquire into the business of a king, we shall find that in some countries they have none; and after sauntering away their lives without pleasure to themselves or advantage to the nation, withdraw from the scene, and leave their successors to tread the same idle ground. In absolute monarchies the whole weight of business, civil and military, lies on the king; the children of Israel in their request for a king, urged this plea "that he may judge us, and go out before us and fight our battles." But in countries where he is neither a judge nor a general, as in England, a man would be puzzled to know what IS his business.

The nearer any government approaches to a republic the less business there is for a king. It is somewhat difficult to find a proper name for the

government of England. Sir William Meredith calls it a republic; but in its present state it is unworthy of the name, because the corrupt influence of the crown, by having all the places in its disposal, hath so effectually swallowed up the power, and eaten out the virtue of the house of commons (the republican part in the constitution) that the government of England is nearly as monarchical as that of France or Spain. Men fall out with names without understanding them. For it is the republican and not the monarchical part of the constitution of England which Englishmen glory in, viz. the liberty of choosing an house of commons from out of their own body—and it is easy to see that when republican virtue fails, slavery ensues. Why is the constitution of England sickly, but because monarchy hath poisoned the republic, the crown hath engrossed the commons?

In England a king hath little more to do than to make war and give away places; which in plain terms, is to impoverish the nation and set it together by the ears. A pretty business indeed for a man to be allowed eight hundred thousand sterling a year for, and worshipped into the bargain! Of more worth is one honest man to society and in the sight of God, than all the crowned ruffians that ever lived.

#### **Thoughts on the Present State of American Affairs**

In the following pages I offer nothing more than simple facts, plain arguments, and common sense; and have no other Preliminaries to settle with the reader, than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves; that he will put ON, or rather that he will not put OFF the true character of a man, and generously enlarge his views beyond the present day.

Volumes have been written on the subject of the struggle between England and America. Men of all ranks have embarked in the controversy, from different motives, and with various designs; but all have been ineffectual, and the period of debate is closed. Arms, as the last resource, decide this contest; the appeal was the choice of the king, and the continent hath accepted the challenge.

It hath been reported of the late Mr. Pelham (who tho' an able minister was not without his faults) that on his being attacked in the house of commons, on the score, that his measures were only of a temporary kind, replied

"THEY WILL LAST MY TIME." Should a thought so fatal and unmanly possess the colonies in the present contest, the name of ancestors will be remembered by future generations with detestation.

The sun never shined on a cause of greater worth. 'Tis not the affair of a city, a county, a province, or a kingdom, but of a continent—of at least one eighth part of the habitable globe. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now. Now is the seed-time of continental union, faith and honour. The least fracture now will be like a name engraved with the point of a pin on the tender rind of a young oak; the wound will enlarge with the tree, and posterity read it in full grown characters.

By referring the matter from argument to arms, a new aera for politics is struck; a new method of thinking hath arisen. All plans, proposals, &c. prior to the nineteenth of April, i.e. to the commencement of hostilities, are like the almanacs of the last year; which, though proper then are superseded and useless now. Whatever was advanced by the advocates on either side of the question then, terminated in one and the same point. viz. a union with Great-Britain: the only difference between the parties was the method of effecting it; the one proposing force, the other friendship; but it hath so far happened that the first hath failed, and the second hath withdrawn her influence.

As much hath been said of the advantages of reconciliation which, like an agreeable dream, hath passed away and left us as we were, it is but right, that we should examine the contrary side of the argument, and inquire into some of the many material injuries which these colonies sustain, and always will sustain, by being connected with, and dependent on Great Britain: To examine that connection and dependence, on the principles of nature and common sense, to see what we have to trust to, if separated, and what we are to expect, if dependant.

I have heard it asserted by some, that as America hath flourished under her former connection with Great Britain that the same connection is necessary towards her future happiness, and will always have the same effect. Nothing can be more fallacious than this kind of argument. We may as well assert that because a child has thrived upon milk that it is never to have meat, or that the first twenty years of our lives is to become a precedent for the next twenty. But even this is admitting more than is true, for I answer roundly,

that America would have flourished as much, and probably much more, had no European power had any thing to do with her. The commerce, by which she hath enriched herself, are the necessaries of life, and will always have a market while eating is the custom of Europe.

But she has protected us, say some. That she has engrossed us is true, and defended the continent at our expense as well as her own is admitted, and she would have defended Turkey from the same motive, viz. the sake of trade and dominion.

Alas, we have been long led away by ancient prejudices, and made large sacrifices to superstition. We have boasted the protection of Great Britain, without considering, that her motive was INTEREST not ATTACHMENT; that she did not protect us from OUR ENEMIES on OUR ACCOUNT, but from HER ENEMIES on HER OWN ACCOUNT, from those who had no quarrel with us on any OTHER ACCOUNT, and who will always be our enemies on the SAME ACCOUNT. Let Britain wave her pretensions to the continent, or the continent throw off the dependence, and we should be at peace with France and Spain were they at war with Britain. The miseries of Hanover last war ought to warn us against connections.

It has lately been asserted in parliament, that the colonies have no relation to each other but through the parent country, i. e. that Pennsylvania and the Jerseys, and so on for the rest, are sister colonies by the way of England; this is certainly a very round-about way of proving relationship, but it is the nearest and only true way of proving enemyship, if I may so call it. France and Spain never were. nor perhaps ever will be our enemies as AMERICANS, but as our being the subjects of GREAT BRITAIN.

But Britain is the parent country, say some. Then the more shame upon her conduct. Even brutes do not devour their young, nor savages make war upon their families; wherefore the assertion, if true, turns to her reproach; but it happens not to be true, or only partly so and the phrase PARENT or MOTHER COUNTRY hath been jesuitically adopted by the king and his parasites, with a low papistical design of gaining an unfair bias on the credulous weakness of our minds. Europe, and not England, is the parent country of America. This new world hath been the asylum for the persecuted lovers of civil and religious liberty from EVERY PART of Europe. Hither have they fled, not from the tender embraces of the mother, but from the cruelty of the monster; and it is so far true of England, that the

same tyranny which drove the first emigrants from home, pursues their descendants still.

In this extensive quarter of the globe, we forget the narrow limits of three hundred and sixty miles (the extent of England) and carry our friendship on a larger scale; we claim brotherhood with every European Christian, and triumph in the generosity of the sentiment.

It is pleasant to observe by what regular gradations we surmount the force of local prejudice, as we enlarge our acquaintance with the world. A man born in any town in England divided into parishes, will naturally associate most with his fellow-parishioners (because their interests in many cases will be common) and distinguish him by the name of NEIGHBOUR; if he meet him but a few miles from home, he drops the narrow idea of a street, and salutes him by the name of TOWNSMAN; if he travel out of the county, and meet him in any other, he forgets the minor divisions of street and town, and calls him COUNTRYMAN, i. e. COUNTRYMAN; but if in their foreign excursions they should associate in France or any other part of EUROPE, their local remembrance would be enlarged into that of ENGLISHMEN. And by a just parity of reasoning, all Europeans meeting in America, or any other quarter of the globe, are COUNTRYMEN; for England, Holland, Germany, or Sweden, when compared with the whole, stand in the same places on the larger scale, which the divisions of street, town, and county do on the smaller ones; distinctions too limited for continental minds. Not one third of the inhabitants, even of this province, are of English descent. Wherefore I reprobate the phrase of parent or mother country applied to England only, as being false, selfish, narrow and ungenerous.

But admitting, that we were all of English descent, what does it amount to? Nothing. Britain, being now an open enemy, extinguishes every other name and title: And to say that reconciliation is our duty, is truly farcical. The first king of England, of the present line (William the Conqueror) was a Frenchman, and half the Peers of England are descendants from the same country; therefore, by the same method of reasoning, England ought to be governed by France.

Much hath been said of the united strength of Britain and the colonies, that in conjunction they might bid defiance to the world. But this is mere presumption; the fate of war is uncertain, neither do the expressions mean

any thing; for this continent would never suffer itself to be drained of inhabitants, to support the British arms in either Asia, Africa, or Europe.

Besides what have we to do with setting the world at defiance? Our plan is commerce, and that, well attended to, will secure us the peace and friendship of all Europe; because, it is the interest of all Europe to have America a FREE PORT. Her trade will always be a protection, and her barrenness of gold and silver secure her from invaders.

I challenge the warmest advocate for reconciliation, to shew, a single advantage that this continent can reap, by being connected with Great Britain. I repeat the challenge, not a single advantage is derived. Our corn will fetch its price in any market in Europe, and our imported goods must be paid for, buy them where we will.

But the injuries and disadvantages we sustain by that connection, are without number; and our duty to mankind at large, as well as to ourselves, instruct us to renounce the alliance: Because, any submission to, or dependence on Great Britain, tends directly to involve this continent in European wars and quarrels; and sets us at variance with nations, who would otherwise seek our friendship, and against whom, we have neither anger nor complaint. As Europe is our market for trade, we ought to form no partial connection with any part of it. It is the true interest of America to steer clear of European contentions, which she never can do, while by her dependence on Britain, she is made the make-weight in the scale of British politics.

Europe is too thickly planted with kingdoms to be long at peace, and whenever a war breaks out between England and any foreign power, the trade of America goes to ruin, BECAUSE OF HER CONNECTION WITH ENGLAND. The next war may not turn out like the last, and should it not, the advocates for reconciliation now, will be wishing for separation then, because, neutrality in that case, would be a safer convoy than a man of war. Every thing that is right or natural pleads for separation. The blood of the slain, the weeping voice of nature cries, 'TIS TIME TO PART. Even the distance at which the Almighty hath placed England and America, is a strong and natural proof, that the authority of the one, over the other, was never the design of Heaven. The time likewise at which the continent was discovered, adds weight to the argument, and the manner in which it was peopled increases the force of it. The reformation was preceded by the discovery of America, as if the Almighty graciously meant to open a

sanctuary to the Persecuted in future years, when home should afford neither friendship nor safety.

The authority of Great Britain over this continent, is a form of government, which sooner or later must have an end: And a serious mind can draw no true pleasure by looking forward under the painful and positive conviction, that what he calls "the present constitution" is merely temporary. As parents, we can have no joy, knowing that THIS GOVERNMENT is not sufficiently lasting to ensure any thing which we may bequeath to posterity: And by a plain method of argument, as we are running the next generation into debt, we ought to do the work of it, otherwise we use them meanly and pitifully. In order to discover the line of our duty rightly, we should take our children in our hand, and fix our station a few years farther into life; that eminence will present a prospect, which a few present fears and prejudices conceal from our sight.

Though I would carefully avoid giving unnecessary offense, yet I am inclined to believe, that all those who espouse the doctrine of reconciliation, may be included within the following descriptions. Interested men, who are not to be trusted; weak men, who CANNOT see; prejudiced men, who WILL NOT see; and a certain set of moderate men, who think better of the European world than it deserves; and this last class, by an ill-judged deliberation, will be the cause of more calamities to this continent, than all the other three.

It is the good fortune of many to live distant from the scene of sorrow; the evil is not sufficient brought to their doors to make THEM feel the precariousness with which all American property is possessed. But let our imaginations transport us far a few moments to Boston, that seat of wretchedness will teach us wisdom, and instruct us for ever to renounce a power in whom we can have no trust. The inhabitants of that unfortunate city, who but a few months ago were in ease and affluence, have now, no other alternative than to stay and starve, or turn and beg. Endangered by the fire of their friends if they continue within the city, and plundered by the soldiery if they leave it. In their present condition they are prisoners without the hope of redemption, and in a general attack for their relief, they would be exposed to the fury of both armies.

Men of passive tempers look somewhat lightly over the offenses of Britain, and, still hoping for the best, are apt to call out, "COME, COME, WE SHALL BE FRIENDS AGAIN, FOR ALL THIS." But examine the

passions and feelings of mankind, Bring the doctrine of reconciliation to the touchstone of nature, and then tell me, whether you can hereafter love, honor, and faithfully serve the power that hath carried fire and sword into your land? If you cannot do all these, then are you only deceiving yourselves, and by your delay bringing ruin upon posterity. Your future connection with Britain, whom you can neither love nor honor will be forced and unnatural, and being formed only on the plan of present convenience, will in a little time fall into a relapse more wretched than the first. But if you say, you can still pass the violations over, then I ask, Hath your house been burnt? Hath your property been destroyed before your face! Are your wife and children destitute of a bed to lie on, or bread to live on? Have you lost a parent or a child by their hands, and yourself the ruined and wretched survivor! If you have not, then are you not a judge of those who have. But if you have, and still can shake hands with the murderers, then are you unworthy the name of husband, father, friend, or lover, and whatever may be your rank or title in life, you have the heart of a coward, and the spirit of a sycophant.

This is not inflaming or exaggerating matters, but trying them by those feelings and affections which nature justifies, and without which, we should be incapable of discharging the social duties of life, or enjoying the felicities of it. I mean not to exhibit horror for the purpose of provoking revenge, but to awaken us from fatal and unmanly slumbers, that we may pursue determinately some fixed object. It is not in the power of Britain or of Europe to conquer America, if she do not conquer herself by DELAY and TIMIDITY. The present winter is worth an age if rightly employed, but if lost or neglected, the whole continent will partake of the misfortune; and there is no punishment which that man will not deserve, be he who, or what, or where he will, that may be the means of sacrificing a season so precious and useful.

It is repugnant to reason, to the universal order of things, to all examples from former ages, to suppose, that this continent can longer remain subject to any external power. The most sanguine in Britain does not think so. The utmost stretch of human wisdom cannot, at this time, compass a plan short of separation, which can promise the continent even a year's security. Reconciliation is NOW a fallacious dream. Nature hath deserted the connection, and Art cannot supply her place. For, as Milton wisely

expresses, "never can true reconciliation grow, where wounds of deadly hate have pierced so deep."

Every quiet method for peace hath been ineffectual. Our prayers have been rejected with disdain; and only tended to convince us, that nothing Batters vanity, or confirms obstinacy in Kings more than repeated petitioning-and nothing hath contributed more than that very measure to make the Kings of Europe absolute: Witness Denmark and Sweden. Wherefore, since nothing but blows will do, for God's sake, let us come to a final separation, and not leave the next generation to be cutting throats, under the violated unmeaning names of parent and child.

To say, they will never attempt it again is idle and visionary, we thought so at the repeal of the stamp-act, yet a year or two undeceived us; as well may we suppose that nations, which have been once defeated, will never renew the quarrel.

As to government matters, it is not in the power of Britain to do this continent justice: The business of it will soon be too weighty, and intricate, to be managed with any tolerable degree of convenience, by a power so distant from us, and so very ignorant of us; for if they cannot conquer us, they cannot govern us. To be always running three or four thousand miles with a tale or a petition, waiting four or five months for an answer, which when obtained requires five or six more to explain it in, will in a few years be looked upon as folly and childishness—There was a time when it was proper, and there is a proper time for it to cease.

Small islands not capable of protecting themselves, are the proper objects for kingdoms to take under their care; but there is something very absurd, in supposing a continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than its primary planet, and as England and America, with respect to each other, reverses the common order of nature, it is evident they belong to different systems; England to Europe, America to itself.

I am not induced by motives of pride, party, or resentment to espouse the doctrine of separation and independance; I am clearly, positively, and conscientiously persuaded that it is the true interest of this continent to be so; that every thing short of THAT is mere patchwork, that it can afford no lasting felicity,—that it is leaving the sword to our children, and shrinking back at a time, when, a little more, a little farther, would have rendered this continent the glory of the earth.

As Britain hath not manifested the least inclination towards a compromise, we may be assured that no terms can be obtained worthy the acceptance of the continent, or any ways equal to the expense of blood and treasure we have been already put to.

The object, contended for, ought always to bear some just proportion to the expense. The removal of North, or the whole detestable junto, is a matter unworthy the millions we have expended. A temporary stoppage of trade, was an inconvenience, which would have sufficiently balanced the repeal of all the acts complained of, had such repeals been obtained; hut if the whole continent must take up arms, if every man must be a soldier, it is scarcely worth our while to fight against a contemptible ministry only. Dearly, dearly, do we pay for the repeal of the acts, if that is all we fight for; for in a just estimation, it is as great a folly to pay a Bunker-hill price for law, as for land. As I have always considered the independancy of this continent, as an event, which sooner or later must arrive, so from the late rapid progress of the continent to maturity, the event could not be far off. Wherefore, on the breaking out of hostilities, it was not worth while to have disputed a matter, which time would have finally redressed, unless we meant to be in earnest; otherwise, it is like wasting an estate on a suit at law, to regulate the trespasses of a tenant, whose lease is just expiring. No man was a warmer wisher for reconciliation than myself, before the fatal nineteenth of April 1775, but the moment the event of that day was made known, I rejected the hardened, sullen tempered Pharaoh of England for ever; and disdain the wretch, that with the pretended title of FATHER OF HIS PEOPLE can unfeelingly hear of their slaughter, and composedly sleep with their blood upon his soul.

But admitting that matters were now made up, what would be the event? I answer, the ruin of the continent. And that for several reasons.

FIRST. The powers of governing still remaining in the hands of the king, he will have a negative over the whole legislation of this continent. And as he hath shewn himself such an inveterate enemy to liberty. and discovered such a thirst for arbitrary power; is he, or is he not, a proper man to say to these colonies, "YOU SHALL MAKE NO LAWS BUT WHAT I PLEASE." And is there any inhabitant in America so ignorant as not to know, that according to what is called the PRESENT CONSTITUTION, that this continent can make no laws but what the king gives leave to; and is there any man so unwise, as not to see, that (considering what has

happened) he will suffer no law to be made here, but such as suit HIS purpose. We may be as effectually enslaved by the want of laws in America, as by submitting to laws made for us in England. After matters are made up (as it is called) can there be any doubt, but the whole power of the crown will be exerted, to keep this continent as low and humble as possible? Instead of going forward we shall go backward, or be perpetually quarrelling or ridiculously petitioning.—WE are already greater than the king wishes us to be, and will he not hereafter endeavour to make us less? To bring the matter to one point. Is the power who is jealous of our prosperity, a proper power to govern us? Whoever says No to this question, is an INDEPENDANT, for independancy means no more, than, whether we shall make our own laws, or whether the king, the greatest enemy this continent hath, or can have, shall tell us "THERE SHALL BE NO LAWS BUT SUCH AS I LIKE."

But the king you will say has a negative in England; the people there can make no laws without his consent. In point of right and good order, there is something very ridiculous, that a youth of twenty-one (which hath often happened) shall say to several millions of people, older and wiser than himself, I forbid this or that act of yours to be law. But in this place I decline this sort of reply, though I will never cease to expose the absurdity of it, and only answer, that England being the King's residence, and America not so, makes quite another case. The king's negative HERE is ten times more dangerous and fatal than it can be in England, for THERE he will scarcely refuse his consent to a bill for putting England into as strong a state of defense as possible, and in America he would never suffer such a bill to be passed.

America is only a secondary object in the system of British politics, England consults the good of THIS country, no farther than it answers her OWN purpose. Wherefore, her own interest leads her to suppress the growth of OURS in every case which doth not promote her advantage, or in the least interferes with it. A pretty state we should soon be in under such a secondhand government, considering what has happened! Men do not change from enemies to friends by the alteration of a name: And in order to shew that reconciliation now is a dangerous doctrine, I affirm, THAT IT WOULD BE POLICY IN THE KING AT THIS TIME, TO REPEAL THE ACTS FOR THE SAKE OF REINSTATING HIMSELF IN THE GOVERNMENT OF THE PROVINCES; in order, that HE MAY

ACCOMPLISH BY CRAFT AND SUBTLETY, IN THE LONG RUN, WHAT HE CANNOT DO BY FORCE AND VIOLENCE IN THE SHORT ONE. Reconciliation and ruin are nearly related.

SECONDLY. That as even the best terms, which we can expect to obtain, can amount to no more than a temporary expedient, or a kind of government by guardianship, which can last no longer than till the colonies come of age, so the general face and state of things, in the interim, will be unsettled and unpromising. Emigrants of property will not choose to come to a country whose form of government hangs but by a thread, and who is every day tottering on the brink of commotion and disturbance; and numbers of the present inhabitants would lay hold of the interval, to dispense of their effects, and quit the continent.

But the most powerful of all arguments, is, that nothing but independence, i.e. a continental form of government, can keep the peace of the continent and preserve it inviolate from civil wars. I dread the event of a reconciliation with Britain now, as it is more than probable, that it will be followed by a revolt somewhere or other, the consequences of which may be far more fatal than all the malice of Britain.

Thousands are already ruined by British barbarity; (thousands more will probably suffer the same fate) Those men have other feelings than us who have nothing suffered. All they NOW possess is liberty, what they before enjoyed is sacrificed to its service, and having nothing more to lose, they disdain submission. Besides, the general temper of the colonies, towards a British government, will be like that of a youth, who is nearly out of his time; they will care very little about her. And a government which cannot preserve the peace, is no government at all, and in that case we pay our money for nothing; and pray what is it that Britain can do, whose power will be wholly on paper. should a civil tumult break out the very day after reconciliation! I have heard some men say, many of whom I believe spoke without thinking, that they dreaded an independence, fearing that it would produce civil wars. It is but seldom that our first thoughts are truly correct, and that is the case here; for there are ten times more to dread from a patched up connection than from independence. I make the sufferers case my own, and I protest, that were I driven from house and home, my property destroyed, and my circumstances ruined, that as man, sensible of injuries, I could never relish the doctrine of reconciliation, or consider myself bound thereby.

The colonies have manifested such a spirit of good order and obedience to continental government, as is sufficient to make every reasonable person easy and happy on that head. No man can assign the least pretence for his fears, on any other grounds, than such as are truly childish and ridiculous, viz. that one colony will be striving for superiority over another.

Where there are no distinctions there can be no superiority, perfect equality affords no temptation. The republics of Europe are all (and we may say always) in peace. Holland and Switzerland are without wars, foreign or domestic: Monarchical governments, it is true, are never long at rest; the crown itself is a temptation to enterprising ruffians at HOME; and that degree of pride and insolence ever attendant on regal authority, swells into a rupture with foreign powers, in instances, where a republican government, by being formed on more natural principles, would negotiate the mistake.

If there is any true cause of fear respecting independence, it is because no plan is yet laid down. Men do not see their way out—Wherefore, as an opening into that business, I offer the following hints; at the same time modestly affirming, that I have no other opinion of them myself, than that they may be the means of giving rise to something better. Could the straggling thoughts of individuals be collected, they would frequently form materials for wise and able men to improve into useful matter.

LET the assemblies be annual, with a President only. The representation more equal. Their business wholly domestic, and subject to the authority of a Continental Congress.

Let each colony be divided into six, eight, or ten, convenient districts, each district to send a proper number of delegates to Congress, so that each colony send at least thirty. The whole number in Congress will be at least 390. Each Congress to sit and to choose a president by the following method. When the delegates are met, let a colony be taken from the whole thirteen colonies by lot, after which, let the whole Congress choose (by ballot) a president from out of the delegates of that province. In the next Congress, let a colony be taken by lot from twelve only, omitting that colony from which the president was taken in the former Congress, and so proceeding on till the whole thirteen shall have had their proper rotation. And in order that nothing may pass into a law but what is satisfactorily just not less than three fifths of the Congress to be called a majority—He that will promote discord, under a government so equally formed as this, would have joined Lucifer in his revolt.

But as there is a peculiar delicacy, from whom, or in what manner, this business must first arise, and as it seems most agreeable and consistent, that it should come from some intermediate body between the governed and the governors, that is, between the Congress and the people. Let a CONTINENTAL CONFERENCE be held, in the following manner, and for the following purpose.

A committee of twenty-six members of Congress, viz. two for each colony. Two Members from each House of Assembly, or Provincial Convention; and five representatives of the people at large, to be chosen in the capital city or town of each province, for and in behalf of the whole province, by as many qualified voters as shall think proper to attend from all parts of the province for that purpose; or, if more convenient, the representatives may be chosen in two or three of the most populous parts thereof. In this conference, thus assembled, will be united, the two grand principles of business KNOWLEDGE and POWER. The members of Congress, Assemblies, or Conventions, by having had experience in national concerns, will be able and useful counsellors, and the whole, being empowered by the people, will have a truly legal authority.

The conferring members being met, let their business be to frame a CONTINENTAL CHARTER, Or Charter of the United Colonies; (answering to what is called the Magna Carta of England) fixing the number and manner of choosing members of Congress, members of Assembly, with their date of sitting, and drawing the line of business and jurisdiction between them: (Always remembering, that our strength is continental, not provincial:) Securing freedom and property to all men, and above all things, the free exercise of religion, according to the dictates of conscience; with such other matter as is necessary for a charter to contain. Immediately after which, the said Conference to dissolve, and the bodies which shall be chosen conformable to the said charter, to be the legislators and governors of this continent for the time being: Whose peace and happiness may God preserve, Amen.

Should any body of men be hereafter delegated for this or some similar purpose, I offer them the following extracts or that wise observer on governments DRAGONETTI. "The science" says he "of the politician consists in fixing the true point of happiness and freedom. Those men would deserve the gratitude of ages, who should discover a mode of

government that contained the greatest sum of individual happiness, with the least national expense. (1. Dragonetti on virtue and rewards)

But where, says some, is the King of America? I'll tell you. Friend, he reigns above, and doth not make havoc of mankind like the Royal Brute of Britain. Yet that we may not appear to be defective even in earthly honors, let a day be solemnly set apart for proclaiming the charter; let it be brought forth placed on the divine law, the word of God; let a crown be placed thereon, by which the world may know, that so far we approve of monarchy, that in America THE LAW IS KING. For as in absolute governments the King is law, so in free countries the law OUGHT to be King; and there ought to be no other. But lest any ill use should afterwards arise, let the crown at the conclusion of the ceremony, be demolished, and scattered among the people whose right it is.

A government of our own is our natural right: And when a man seriously reacts on the precariousness of human affairs, he will become convinced, that it is infinitely wiser and safer, to form a constitution of our own in a cool deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance. If we omit it now, some (2. Thomas Anello otherwise Massanello a fisherman of Naples, who after spiring up his countrymen in the public marketplace, against the oppressions of the Spaniards, to whom the place was then subject prompted them to revolt, and in the space of a day became king.) Massanello may hereafter arise, who laying hold of popular disquietudes, may collect together the desperate and the discontented, and by assuming to themselves the powers of government, may sweep away the liberties of the continent like a deluge. Should the government of America return again into the hands of Britain, the tottering situation of things will be a temptation for some desperate adventurer to try his fortune; and in such a case, that relief can Britain give? Ere she could hear the news, the fatal business might be done; and ourselves suffering like the wretched Britons under the oppression of the Conqueror. Ye that oppose independence now, ye know not what ye do; ye are opening a door to eternal tyranny, by keeping vacant the seat of government. There are thousands, and tens of thousands, who would think it glorious to expel from the continent that barbarous and hellish power, which hath stirred up the Indians and Negroes to destroy us; the cruelty hath a double guilt, it is dealing brutally by us, and treacherously by them.

To talk of friendship with those in whom our reason forbids us to have faith, and our affections wounded through a thousand pores instruct us to detest, is madness and folly. Every day wears out the little remains of kindred between us and them, and can there be any reason to hope, that as the relationship expires, the affection will increase, or that we shall agree better, when we have ten times more and greater concerns to quarrel over than ever?

Ye that tell us of harmony and reconciliation, can ye restore to us the time that is past? Can ye give to prostitution its former innocence? Neither can ye reconcile Britain and America. The last cord now is broken, the people of England are presenting addresses against us. There are injuries which nature cannot forgive; she would cease to be nature if she did. As well can the lover forgive the ravisher of his mistress, as the continent forgive the murders of Britain. The Almighty hath implanted in us these unextinguishable feelings for good and wise purposes. They are the guardians of his image in our hearts. They distinguish us from the herd of common animals. The social compact would dissolve, and justice be extirpated the earth, or have only a casual existence were we callous to the touches of affection. The robber, and the murderer, would often escape unpunished, did not the injuries which our tempers sustain, provoke us into justice.

O ye that love mankind! Ye that dare oppose, not only the tyranny, but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe. Asia, and Africa, have long expelled her—Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.

#### **Of the Present Ability of America , with Some Miscellaneous Reflections**

I have never met with a man, either in England or America, who hath not confessed his opinion that a separation between the countries, would take place one time or other: And there is no instance, in which we have shewn less judgement, than in endeavouring to describe, what we call the ripeness or fitness of the Continent for independence.

As all men allow the measure, and vary only in their opinion of the time, let us, in order to remove mistakes, take a general survey of things, and

endeavour, if possible, to find out the VERY time. But we need not go far, the inquiry ceases at once, for, the TIME HATH FOUND US. The general concurrence, the glorious union of all things prove the fact.

It is not in numbers, but in unity, that our great strength lies; yet our present numbers are sufficient to repel the force of all the world. The Continent hath, at this time, the largest body of armed and disciplined men of any power under Heaven; and is just arrived at that pitch of strength, in which no single colony is able to support itself, and the whole, when united, can accomplish the matter, and either more, or, less than this, might be fatal in its effects. Our land force is already sufficient, and as to naval affairs, we cannot be insensible, that Britain would never suffer an American man of war to be built, while the continent remained in her hands. Wherefore, we should be no forwarder an hundred years hence in that branch, than we are now; but the truth is, we should be less so, because the timber of the country is every day diminishing, and that, which will remain at last, will be far off and difficult to procure.

Were the continent crowded with inhabitants, her sufferings under the present circumstances would be intolerable. The more seaport towns we had, the more should we have both to defend and to lose. Our present numbers are so happily proportioned to our wants, that no man need be idle. The diminution of trade affords an army, and the necessities of an army create a new trade.

Debts we have none; and whatever we may contract on this account will serve as a glorious memento of our virtue. Can we but leave posterity with a settled form of government, an independent constitution of its own, the purchase at any price will be cheap. But to expend millions for the sake of getting a few vile acts repealed, and routing the present ministry only, is unworthy the charge, and is using posterity with the utmost cruelty; because it is leaving them the great work to do, and a debt upon their backs, from which they derive no advantage. Such a thought is unworthy of a man of honor, and is the true characteristic of a narrow heart and a peddling politician.

The debt we may contract doth not deserve our regard, if the work be but accomplished. No nation ought to be without a debt. A national debt is a national bond; and when it bears no interest, is in no case a grievance. Britain is oppressed with a debt of upwards of one hundred and forty millions sterling, for which she pays upwards of four millions interest. And

as a compensation for her debt, she has a large navy; America is without a debt, and without a navy; yet for the twentieth part of the English national debt, could have a navy as large again. The navy of England is not worth, at this time, more than three millions and an half sterling.

The first and second editions of this pamphlet were published without the following calculations, which are now given as a proof that the above estimation of the navy is just. (3. See Entic's naval history, intro. page 56.)

The charge of building a ship of each rate, and furnishing her with masts, yards, sails and rigging, together with a proportion of eight months boatswain's and carpenter's seastores, as calculated by Mr. Burchett, Secretary to the navy. (4. pounds Sterling)

For a ship of a

100 guns — 35,553

90 — 29,886

80 — 23,638

70 — 17,795

60 — 14,197

50 — 10,606

40 — 7,558

30 — 5,846

20 — 3,710

And from hence it is easy to sum up the value, or cost rather, of the whole British navy, which in the year 1757, when it was at its greatest glory consisted of the following ships and guns:

Ships. Guns. Cost of one. Cost of all

6 — 100 — 35,553 — 213,318

12 — 90 — 29,886 — 358,632

12 — 80 — 23,638 — 283,656

43 — 70 — 17,785 — 764,755

35 — 60 — 14,197 — 496,895

40 — 50 — 10,606 — 424,240

45 — 40 — 7,558 — 340,110

58 — 20 — 3,710 — 215,180

85 Sloops, bombs, and fireships,

one 2,000 170,000

with another,

---

Cost 3,266,786

Remains for guns,

---

233,214

---

3,500,000

No country on the globe is so happily situated, or so internally capable of raising a fleet as America. Tar, timber, iron, and cordage are her natural produce. We need go abroad for nothing. Whereas the Dutch, who make large profits by hiring out their ships of war to the Spaniards and Portuguese, are obliged to import most of their materials they use. We ought to view the building a fleet as an article of commerce, it being the natural manufactory of this country. It is the best money we can lay out. A navy when finished is worth more than it cost. And is that nice point in national policy, in which commerce and protection are united. Let us build; if we want them not, we can sell; and by that means replace our paper currency with ready gold and silver.

In point of manning a fleet, people in general run into great errors; it is not necessary that one fourth part should be sailors. The Terrible privateer, Captain Death, stood the hottest engagement of any ship last war, yet had not twenty sailors on board, though her complement of men was upwards of two hundred. A few able and social sailors will soon instruct a sufficient number of active landmen in the common work of a ship. Wherefore, we never can be more capable to begin on maritime matters than now, while our timber is standing, our fisheries blocked up, and our sailors and shipwrights out of employ. Men of war of seventy and eighty guns were built forty years ago in New-England, and why not the same now? Ship-building is America's greatest pride, and in which she will in time excel the whole world. The great empires of the east are mostly inland, and consequently excluded from the possibility of rivalling her. Africa is in a state of barbarism; and no power in Europe hath either such an extent of coast, or such an internal supply of materials. Where nature hath given the one, she has withheld the other; to America only hath she been liberal of both. The vast empire of Russia is almost shut out from the sea: wherefore, her boundless forests, her tar, iron, and cordage are only articles of commerce.

In point of safety, ought we to be without a fleet? We are not the little people now, which we were sixty years ago; at that time we might have trusted our property in the streets, or fields rather; and slept securely without locks or bolts to our doors or windows. The case now is altered, and our methods of defense ought to improve with our increase of property. A common pirate, twelve months ago, might have come up the Delaware, and laid the city of Philadelphia under instant contribution, for what sum he pleased; and the same might have happened to other places. Nay, any daring fellow, in a brig of fourteen or sixteen guns might have robbed the whole continent, and carried off half a million of money. These are circumstances which demand our attention, and point out the necessity of naval protection. Some, perhaps, will say, that after we have made it up Britain, she will protect us. Can we be so unwise as to mean, that she shall keep a navy in our harbours for that purpose? Common sense will tell us, that the power which hath endeavoured to subdue us, is of all others the most improper to defend us. Conquest may be effected under the pretence of friendship; and ourselves after a long and brave resistance, be at last cheated into slavery. And if her ships are not to be admitted into our harbours, I would ask, how is she to protect us? A navy three or four thousand miles off can be of little use, and on sudden emergencies, none at all. Wherefore, if we must hereafter protect ourselves, why not do it for ourselves?

The English list of ships of war, is long and formidable, but not a tenth part of them are at any one time fit for service, numbers of them not in being; yet their names are pompously continued in the list, if only a plank be left of the ship: and not a fifth part of such as are fit for service, can be spared on any one station at one time. The East and West Indies, Mediterranean, Africa, and other parts over which Britain extends her claim, make large demands upon her navy. From a mixture of prejudice and inattention, we have contracted a false notion respecting the navy of England, and have talked as if we should have the whole of it to encounter at once, and for that reason, supposed, that we must have one as large; which not being instantly practicable, have been made use of by a set of disguised Tories to discourage our beginning thereon. Nothing can be farther from truth than this; for if America had only a twentieth part of the naval force of Britain, she would be by far an overmatch for her; because, as we neither have, nor claim any foreign dominion, our whole force would be employed on our own coast, where we should, in the long run, have two to one the advantage

of those who had three or four thousand miles to sail over, before they could attack us, and the same distance to return in order to refit and recruit. And although Britain, by her fleet, hath a check over our trade to Europe, we have as large a one over her trade to the West Indies, which, by laying in the neighbourhood of the continent, is entirely at its mercy.

Some method might be fallen on to keep up a naval force in time of peace, if we should not judge it necessary to support a constant navy. If premiums were to be given to merchants, to build and employ in their service ships mounted with twenty, thirty, forty or fifty guns, (the premiums to be in proportion to the loss of bulk to the merchants) fifty or sixty of those ships, with a few guardships on constant duty, would keep up a sufficient navy, and that without burdening ourselves with the evil so loudly complained of in England, of suffering their fleet, in time of peace to lie rotting in the docks. To unite the sinews of commerce and defense is sound policy; for when our strength and our riches play into each other's hand, we need fear no external enemy.

In almost every article of defense we abound. Hemp flourishes even to rankness, so that we need not want cordage. Our iron is superior to that of other countries. Our small arms equal to any in the world. Cannon we can cast at pleasure. Saltpetre and gunpowder we are every day producing. Our knowledge is hourly improving. Resolution is our inherent character, and courage hath never yet forsaken us. Wherefore, what is it that we want? Why is it that we hesitate? From Britain we can expect nothing but ruin. If she is once admitted to the government of America again, this Continent will not be worth living in. Jealousies will be always arising; insurrections will be constantly happening; and who will go forth to quell them? Who will venture his life to reduce his own countrymen to a foreign obedience? The difference between Pennsylvania and Connecticut, respecting some unlocated lands, shews the insignificance of a British government, and fully proves, that nothing but Continental authority can regulate Continental matters.

Another reason why the present time is preferable to all others, is, that the fewer our numbers are, the more land there is yet unoccupied, which instead of being lavished by the king on his worthless dependants, may be hereafter applied, not only to the discharge of the present debt, but to the constant support of government. No nation under heaven hath such an advantage at this.

The infant state of the Colonies, as it is called, so far from being against, is an argument in favour of independance. We are sufficiently numerous, and were we more so, we might be less united. It is a matter worthy of observation, that the more a country is peopled, the smaller their armies are. In military numbers, the ancients far exceeded the modems: and the reason is evident. for trade being the consequence of population, men become too much absorbed thereby to attend to anything else. Commerce diminishes the spirit, both of patriotism and military defence. And history sufficiently informs us, that the bravest achievements were always accomplished in the non-age of a nation. With the increase of commerce, England hath lost its spirit. The city of London, notwithstanding its numbers, submits to continued insults with the patience of a coward. The more men have to lose, the less willing are they to venture. The rich are in general slaves to fear, and submit to courtly power with the trembling duplicity of a Spaniel.

Youth is the seed time of good habits, as well in nations as in individuals. It might be difficult, if not impossible, to form the Continent into one government half a century hence. The vast variety of interests, occasioned by an increase of trade and population, would create confusion. Colony would be against colony. Each being able might scorn each other's assistance: and while the proud and foolish gloried in their little distinctions, the wise would lament, that the union had not been formed before. Wherefore, the PRESENT TIME is the TRUE TIME for establishing it. The intimacy which is contracted in infancy, and the friendship which is formed in misfortune, are, of all others, the most lasting and unalterable. Our present union is marked with both these characters: we are young and we have been distressed; but our concord hath withstood our troubles, and fixes a memorable are for posterity to glory in.

The present time, likewise, is that peculiar time, which never happens to a nation but once, viz. the time of forming itself into a government. Most nations have let slip the opportunity, and by that means have been compelled to receive laws from their conquerors, instead of making laws for themselves. First, they had a king, and then a form of government; whereas, the articles or charter of government, should be formed first, and men delegated to execute them afterward but from the errors of other nations, let us learn wisdom, and lay hold of the present opportunity—TO BEGIN GOVERNMENT AT THE RIGHT END.

When William the Conqueror subdued England, he gave them law at the point of the sword; and until we consent, that the seat of government, in America, be legally and authoritatively occupied, we shall be in danger of having it filled by some fortunate ruffian, who may treat us in the same manner, and then, where will be our freedom? where our property? As to religion, I hold it to be the indispensable duty of all government, to protect all conscientious professors thereof, and I know of no other business which government hath to do therewith, Let a man throw aside that narrowness of soul, that selfishness of principle, which the niggards of all professions are willing to part with, and he will be at delivered of his fears on that head. Suspicion is the companion of mean souls, and the bane of all good society. For myself, I fully and conscientiously believe, that it is the will of the Almighty, that there should be diversity of religious opinions among us: It affords a larger field for our Christian kindness. Were we all of one way of thinking, our religious dispositions would want matter for probation; and on this liberal principle, I look on the various denominations among us, to be like children of the same family, differing only, in what is called, their Christian names.

In page forty, I threw out a few thoughts on the propriety of a Continental Charter, (for I only presume to offer hints, not plans) and in this place, I take the liberty of rementioning the subject, by observing, that a charter is to be understood as a bond of solemn obligation, which the whole enters into, to support the right of every separate part, whether of religion, personal freedom, or property. A firm bargain and a right reckoning make long friends.

In a former page I likewise mentioned the necessity of a large and equal representation; and there is no political matter which more deserves our attention. A small number of electors, or a small number of representatives, are equally dangerous. But if the number of the representatives be not only small, but unequal, the danger is increased. As an instance of this, I mention the following; when the Associators petition was before the House of Assembly of Pennsylvania; twenty-eight members only were present, all the Bucks county members, being eight, voted against it, and had seven of the Chester members done the same, this whole province had been governed by two counties only, and this danger it is always exposed to. The unwarrantable stretch likewise, which that house made in their last sitting, to gain an undue authority over the delegates of that province, ought to

warn the people at large, how they trust power out of their own hands. A set of instructions for the Delegates were put together, which in point of sense and business would have dishonoured a schoolboy, and after being approved by a FEW, a VERY FEW without doors, were carried into the House, and there passed IN BEHALF OF THE WHOLE COLONY; whereas, did the whole colony know, with what ill-will that House hath entered on some necessary public measures, they would not hesitate a moment to think them unworthy of such a trust.

Immediate necessity makes many things convenient, which if continued would grow into oppressions. Expedience and right are different things. When the calamities of America required a consultation, there was no method so ready, or at that time so proper, as to appoint persons from the several Houses of Assembly for that purpose; and the wisdom with which they have proceeded hath preserved this continent from ruin. But as it is more than probable that we shall never be without a CONGRESS, every well wisher to good order, must own, that the mode for choosing members of that body, deserves consideration. And I put it as a question to those, who make a study of mankind, whether representation and election is not too great a power for one and the same body of men to possess? When we are planning for posterity, we ought to remember, that virtue is not hereditary.

It is from our enemies that we often gain excellent maxims, and are frequently surprised into reason by their mistakes, Mr. Cornwall (one of the Lords of the Treasury) treated the petition of the New-York Assembly with contempt, because THAT House, he said, consisted but of twenty-six members, which trifling number, he argued, could not with decency be put for the whole. We thank him for his involuntary honesty. (5. Those who would fully understand of what great consequence a large and equal representation is to a state, should read Burgh's political disquisitions.)

TO CONCLUDE, however strange it may appear to some, or however unwilling they may be to think so, matters not, but many strong and striking reasons may be given, to shew, that nothing can settle our affairs so expeditiously as an open and determined declaration for independance. Some of which are,

FIRST.— It is the custom of nations, when any two are at war, for some other powers, not engaged in the quarrel, to step in as mediators, and bring about the preliminaries of a peace: hut while America calls herself the Subject of Great Britain, no power, however well disposed she may be, can

offer her mediation. Wherefore, in our present state we may quarrel on for ever.

SECONDLY.— It is unreasonable to suppose, that France or Spain will give us any kind of assistance, if we mean only, to make use of that assistance for the purpose of repairing the breach, and strengthening the connection between Britain and America; because, those powers would be sufferers by the consequences.

THIRDLY.— While we profess ourselves the subjects of Britain, we must, in the eye of foreign nations. be considered as rebels. The precedent is somewhat dangerous to THEIR PEACE, for men to be in arms under the name of subjects; we, on the spot, can solve the paradox: but to unite resistance and subjection, requires an idea much too refined for common understanding.

FOURTHLY.— Were a manifesto to be published, and despatched to foreign courts, setting forth the miseries we have endured, and the peaceable methods we have ineffectually used for redress; declaring, at the same time, that not being able, any longer, to live happily or safely under the cruel disposition of the British court, we had been driven to the necessity of breaking off all connections with her; at the same time, assuring all such courts of our peaceable disposition towards them, and of our desire of entering into trade with them: Such a memorial would produce more good effects to this Continent, than if a ship were freighted with petitions to Britain.

Under our present denomination of British subjects, we can neither be received nor heard abroad: The custom of all courts is against us, and will be so, until, by an independance, we take rank with other nations.

These proceedings may at first appear strange and difficult; but, like all other steps which we have already passed over, will in a little time become familiar and agreeable; and, until an independance is declared, the Continent will feel itself like a man who continues putting off some unpleasant business from day to day, yet knows it must be done, hates to set about it, wishes it over, and is continually haunted with the thoughts of its necessity.

## Appendix

Since the publication of the first edition of this pamphlet, or rather, on the same day on which it came out, the King's Speech made its appearance in this city. Had the spirit of prophecy directed the birth of this production, it could not have brought it forth, at a more seasonable juncture, or a more necessary time. The bloody mindedness of the one, shew the necessity of pursuing the doctrine of the other. Men read by way of revenge. And the Speech, instead of terrifying, prepared a way for the manly principles of Independance.

Ceremony, and even, silence, from whatever motive they may arise, have a hurtful tendency, when they give the least degree of countenance to base and wicked performances; wherefore, if this maxim be admitted, it naturally follows, that the King's Speech, as being a piece of finished villany, deserved, and still deserves, a general execration both by the Congress and the people. Yet, as the domestic tranquillity of a nation, depends greatly, on the CHASTITY of what may properly be called NATIONAL MANNERS, it is often better, to pass some things over in silent disdain, than to make use of such new methods of dislike, as might introduce the least innovation, on that guardian of our peace and safety. And, perhaps, it is chiefly owing to this prudent delicacy, that the King's Speech, hath not, before now, suffered a public execution. The Speech if it may be called one, is nothing better than a wilful audacious libel against the truth, the common good, and the existence of mankind; and is a formal and pompous method of offering up human sacrifices to the pride of tyrants. But this general massacre of mankind. is one of the privileges, and the certain consequence of Kings; for as nature knows them NOT, they know NOT HER, and although they are beings of our OWN creating, they know not US, and are become the gods of their creators. The Speech hath one good quality, which is, that it is not calculated to deceive, neither can we, even if we would, be deceived by it. Brutality and tyranny appear on the face of it. It leaves us at no loss: And every line convinces, even in the moment of reading, that He, who hunts the woods for prey, the naked and untutored Indian, is less a Savage than the King of Britain.

Sir John Dalrymple, the putative father of a whining jesuitical piece, fallaciously called, "THE ADDRESS OF THE PEOPLE OF ENGLAND TO THE INHABITANTS OF AMERICA ," hath, perhaps, from a vain supposition, that the people here were to be frightened at the pomp and description of a king, given, (though very unwisely on his part) the real

character of the present one: "But" says this writer, "if you are inclined to pay compliments to an administration, which we do not complain of," (meaning the Marquis of Rockingham's at the repeal of the Stamp Act) "it is very unfair in you to withhold them from that prince by WHOSE NOD ALONE THEY WERE PERMITTED TO DO ANY THING." This is toryism with a witness! Here is idolatry even without a mask: And he who can calmly hear, and digest such doctrine, hath forfeited his claim to rationality an apostate from the order of manhood; and ought to be considered as one, who hath not only given up the proper dignity of man, but sunk himself beneath the rank of animals, and contemptibly crawl through the world like a worm.

However, it matters very little now, what the king of England either says or does; he hath wickedly broken through every moral and human obligation, trampled nature and conscience beneath his feet; and by a steady and constitutional spirit of insolence and cruelty, procured for himself an universal hatred. It is NOW the interest of America to provide for herself. She hath already a large and young family, whom it is more her duty to take care of, than to be granting away her property, to support a power who is become a reproach to the names of men and christians—YE, whose office it is to watch over the morals of a nation, of whatsoever sect or denomination ye are of, as well as ye, who, are more immediately the guardians of the public liberty, if ye wish to preserve your native country uncontaminated by European corruption, ye must in secret wish a separation—But leaving the moral part to private reflection, I shall chiefly confine my farther remarks to the following heads.

First. That it is the interest of America to be separated from Britain.

Secondly. Which is the easiest and most practicable plan, RECONCILIATION OR INDEPENDANCE? With some occasional remarks.

In support of the first, I could, if I judged it proper, produce the opinion of some of the ablest and most experienced men on this continent; and whose sentiments, on that head, are not yet publicly known. It is in reality a self-evident position: For no nation in a state of foreign dependance, limited in its commerce, and cramped and fettered in its legislative powers, can ever arrive at any material eminence. America doth not yet know what opulence is; and although the progress which she hath made stands unparalleled in the history of other nations, it is but childhood, compared with what she

would be capable of arriving at, had she, as she ought to have, the legislative powers in her own hands. England is, at this time, proudly coveting what would do her no good, were she to accomplish it; and the Continent hesitating on a matter, which will be her final ruin if neglected. It is the commerce and not the conquest of America, by which England is to be benefited, and that would in a great measure continue, were the countries as independent of each other as France and Spain; because in many articles, neither can go to a better market. But it is the independence of this country on Britain or any other, which is now the main and only object worthy of contention, and which, like all other truths discovered by necessity, will appear clearer and stronger every day.

First. Because it will come to that one time or other.

Secondly. Because, the longer it is delayed the harder it will be to accomplish.

I have frequently amused myself both in public and private companies, with silently remarking, the specious errors of those who speak without reflecting. And among the many which I have heard, the following seems the most general, viz. that had this rupture happened forty or fifty years hence, instead of NOW, the Continent would have been more able to have shaken off the dependence. To which I reply, that our military ability, AT THIS TIME, arises from the experience gained in the last war, and which in forty or fifty years time, would have been totally extinct. The Continent, would not, by that time, have had a General, or even a military officer left; and we, or those who may succeed us, would have been as ignorant of martial matters as the ancient Indians: And this single position, closely attended to, will unanswerably prove, that the present time is preferable to all others. The argument turns thus—at the conclusion of the last war, we had experience, but wanted numbers; and forty or fifty years hence, we should have numbers, without experience; wherefore, the proper point of time, must be some particular point between the two extremes, in which a sufficiency of the former remains, and a proper increase of the latter is obtained: And that point of time is the present time.

The reader will pardon this digression, as it does not properly come under the head I first set out with, and to which I again return by the following position, viz.

Should affairs be patched up with Britain, and she to remain the governing and sovereign power of America, (which, as matters are now

circumstanced, is giving up the point entirely) we shall deprive ourselves of the very means of sinking the debt we have, or may contract. The value of the back lands which some of the provinces are clandestinely deprived of, by the unjust extension of the limits of Canada, valued only at five pounds sterling per hundred acres, amount to upwards of twenty-five millions, Pennsylvania currency; and the quit-rents at one penny sterling per acre, to two millions yearly.

It is by the sale of those lands that the debt may be sunk, without burthen to any, and the quit-rent reserved thereon, will always lessen, and in time, will wholly support the yearly expence of government. It matters not how long the debt is in paying, so that the lands when sold be applied to the discharge of it, and for the execution of which, the Congress for the time being, will be the continental trustees. .

I proceed now to the second head, viz. Which is the easiest and most practicable plan, RECONCILIATION or INDEPENDANCE; With some occasional remarks.

He who takes nature for his guide is not easily beaten out of his argument, and on that ground, I answer GENERALLY—THAT INDEPENDANCE BEING A SINGLE SIMPLE LINE , CONTAINED WITHIN OURSELVES; AND RECONCILIATION, A MATTER EXCEEDINGLY PERPLEXED AND COMPLICATED, AND IN WHICH, A TREACHEROUS CAPRICIOUS COURT IS TO INTERFERE, GIVES THE ANSWER WITHOUT A DOUBT.

The present state of America is truly alarming to every man who is capable of reflexion. Without law, without government, without any other mode of power than what is founded on, and granted by courtesy. Held together by an unexampled concurrence of sentiment, which, is nevertheless subject to change, and which, every secret enemy is endeavouring to dissolve. Our present condition, is, Legislation without law; wisdom without a plan; a constitution without a name; and, what is strangely astonishing, perfect Independance contending for dependance. The instance is without a precedent; the case never existed before; and who can tell what may be the event? The property of no man is secure in the present unbraced system of things. The mind of the multitude is left at random, and seeing no fixed object before them, they pursue such as fancy or opinion starts. Nothing is criminal; there is no such thing as treason; wherefore, every one thinks himself at liberty to act as he pleases. The Tories dared not have assembled

offensively, had they known that their lives, by that act, were forfeited to the laws of the state. A line of distinction should be drawn, between, English soldiers taken in battle, and inhabitants of America taken in arms. The first are prisoners, but the latter traitors. The one forfeits his liberty, the other his head.

Notwithstanding our wisdom, there is a visible feebleness in some of our proceedings which gives encouragement to dissensions. The Continental Belt is too loosely buckled. And if something is not done in time, it will be too late to do any thing, and we shall fall into a state, in which, neither RECONCILIATION nor INDEPENDANCE will be practicable. The king and his worthless adherents are got at their old game of dividing the Continent, and there are not wanting among us, Printers, who will be busy in spreading specious falsehoods. The artful and hypocritical letter which appeared a few months ago in two of the New York papers, and likewise in two others, is an evidence that there are men who want either judgment or honesty.

It is easy getting into holes and corners and talking of reconciliation: But do such men seriously consider, how difficult the task is, and how dangerous it may prove, should the Continent divide thereon. Do they take within their view, all the various orders of men whose situation and circumstances, as well as their own, are to be considered therein. Do they put themselves in the place of the sufferer whose ALL is ALREADY gone, and of the soldier, who hath quitted ALL for the defence of his country. If their ill judged moderation be suited to their own private situations only, regardless of others, the event will convince them, that "they are reckoning without their Host."

Put us, says some, on the footing we were on in sixty-three: To which I answer, the request is not now in the power of Britain to comply with, neither will she propose it; but if it were, and even should be granted, I ask, as a reasonable question, By what means is such a corrupt and faithless court to be kept to its engagements? Another parliament, nay, even the present, may hereafter repeal the obligation, on the pretense, of its being violently obtained, or unwisely granted; and in that case, Where is our redress?—No going to law with nations; cannon are the barristers of Crowns; and the sword, not of justice, but of war, decides the suit. To be on the footing of sixty-three, it is not sufficient, that the laws only be put on the same state, but, that our circumstances, likewise, be put on the same state;

Our burnt and destroyed towns repaired or built up, our private losses made good, our public debts (contracted for defence) discharged; otherwise, we shall be millions worse than we were at that enviable period. Such a request, had it been complied with a year ago, would have won the heart and soul of the Continent—but now it is too late, "The Rubicon is passed." Besides, the taking up arms, merely to enforce the repeal of a pecuniary law, seems as unwarrantable by the divine law, and as repugnant to human feelings, as the taking up arms to enforce obedience thereto. The object, on either side, doth not justify the means; for the lives of men are too valuable to be cast away on such trifles. It is the violence which is done and threatened to our persons; the destruction of our property by an armed force; the invasion of our country by fire and sword, which conscientiously qualifies the use of arms: And the instant, in which such a mode of defence became necessary, all subjection to Britain ought to have ceased; and the independancy of America, should have been considered, as dating its era from, and published by, THE FIRST MUSKET THAT WAS FIRED AGAINST HER. This line is a line of consistency; neither drawn by caprice, nor extended by ambition; but produced by a chain of events, of which the colonies were not the authors.

I shall conclude these remarks with the following timely and well intended hints. We ought to reflect, that there are three different ways by which an independancy may hereafter be effected; and that ONE of those THREE, will one day or other, be the fate of America, viz. By the legal voice of the people in Congress; by a military power; or by a mob—It may not always happen that OUR soldiers are citizens, and the multitude a body of reasonable men; virtue, as I have already remarked, is not hereditary, neither is it perpetual. Should an independancy be brought about by the first of those means, we have every opportunity and every encouragement before us, to form the noblest purest constitution on the face of the earth. We have it in our power to begin the world over again. A situation, similar to the present, hath not happened since the days of Noah until now. The birthday of a new world is at hand, and a race of men, perhaps as numerous as all Europe contains, are to receive their portion of freedom from the event of a few months. The Reflexion is awful—and in this point of view, How trifling, how ridiculous, do the little, paltry cavillings, of a few weak or interested men appear, when weighed against the business of a world.

Should we neglect the present favourable and inviting period, and an Independance be hereafter effected by any other means, we must charge the consequence to ourselves, or to those rather, whose narrow and prejudiced souls, are habitually opposing the measure, without either inquiring or reflecting. There are reasons to be given in support of Independance, which men should rather privately think of, than be publicly told of. We ought not now to be debating whether we shall be independant or not, but, anxious to accomplish it on a firm, secure, and honorable basis, and uneasy rather that it is not yet began upon. Every day convinces us of its necessity. Even the Tories (if such beings yet remain among us) should, of all men, be the most solicitous to promote it; for, as the appointment of committees at first, protected them from popular rage, so, a wise and well established form of government, will be the only certain means of continuing it securely to them. WHEREFORE, if they have not virtue enough to be WHIGS, they ought to have prudence enough to wish for Independance.

In short, Independance is the only BOND that can tye and keep us together. We shall then see our object, and our ears will be legally shut against the schemes of an intriguing, as well, as a cruel enemy. We shall then too, be on a proper footing, to treat with Britain; for there is reason to conclude, that the pride of that court, will be less hurt by treating with the American states for terms of peace, than with those, whom she denominates, "rebellious subjects," for terms of accommodation. It is our delaying it that encourages her to hope for conquest, and our backwardness tends only to prolong the war. As we have, without any good effect therefrom, withheld our trade to obtain a redress of our grievances, let us now try the alternative, by independantly redressing them ourselves, and then offering to open the trade. The mercantile and reasonable part in England, will be still with us; because, peace with trade, is preferable to war without it. And if this offer be not accepted, other courts may be applied to.

On these grounds I rest the matter. And as no offer hath yet been made to refute the doctrine contained in the former editions of this pamphlet, it is a negative proof, that either the doctrine cannot be refuted, or, that the party in favour of it are too numerous to be opposed. WHEREFORE, instead of gazing at each other with suspicious or doubtful curiosity; let each of us, hold out to his neighbour the hearty hand of friendship, and unite in drawing a line, which, like an act of oblivion shall bury in forgetfulness every former dissension. Let the names of Whig and Tory be extinct; and let

none other be heard among us, than those of A GOOD CITIZEN, AN OPEN AND RESOLUTE FRIEND, AND A VIRTUOUS SUPPORTER OF THE RIGHTS OF MANKIND AND OF THE FREE AND INDEPENDANT STATES OF AMERICA .

To the Representatives of the Religious Society of the People called Quakers, or to so many of them as were concerned in publishing the late piece, entitled "THE ANCIENT TESTIMONY and PRINCIPLES of the People called QUAKERS renewed, with Respect to the KING and GOVERNMENT, and touching the COMMOTIONS now prevailing in these and other parts of AMERICA addressed to the PEOPLE IN GENERAL."

The Writer of this, is one of those few, who never dishonours religion either by ridiculing, or cavilling at any denomination whatsoever. To God, and not to man, are all men accountable on the score of religion. Wherefore, this epistle is not so properly addressed to you as a religious, but as a political body, dabbling in matters, which the professed Quietude of your Principles instruct you not to meddle with. As you have, without a proper authority for so doing, put yourselves in the place of the whole body of the Quakers, so, the writer of this, in order to be on an equal rank with yourselves, is under the necessity, of putting himself in the place of all those, who, approve the very writings and principles, against which, your testimony is directed: And he hath chosen this singular situation, in order, that you might discover in him that presumption of character which you cannot see in yourselves. For neither he nor you can have any claim or title to POLITICAL REPRESENTATION.

When men have departed from the right way, it is no wonder that they stumble and fall. And it is evident from the manner in which ye have managed your testimony, that politics, (as a religious body of men) is not your proper Walk; for however well adapted it might appear to you, it is, nevertheless, a jumble of good and bad put unwisely together, and the conclusion drawn therefrom, both unnatural and unjust.

The two first pages, (and the whole doth not make four) we give you credit for, and expect the same civility from you, because the love and desire of peace is not confined to Quakerism, it is the natural, as well the religious wish of all denominations of men. And on this ground, as men labouring to establish an Independant Constitution of our own, do we exceed all others in our hope, end, and aim. OUR PLAN IS PEACE FOR EVER. We are

tired of contention with Britain, and can see no real end to it but in a final separation. We act consistently, because for the sake of introducing an endless and uninterrupted peace, do we bear the evils and burthens of the present day. We are endeavoring, and will steadily continue to endeavour, to separate and dissolve a connexion which hath already filled our land with blood; and which, while the name of it remains, will be the fatal cause of future mischiefs to both countries.

We fight neither for revenge nor conquest; neither from pride nor passion; we are not insulting the world with our fleets and armies, nor ravaging the globe for plunder. Beneath the shade of our own vines are we attacked; in our own houses, and on our own lands, is the violence committed against us. We view our enemies in the character of Highwaymen and Housebreakers, and having no defence for ourselves in the civil law, are obliged to punish them by the military one, and apply the sword, in the very case, where you have before now, applied the halter—Perhaps we feel for the ruined and insulted sufferers in all and every part of the continent, with a degree of tenderness which hath not yet made its way into some of your bosoms. But be ye sure that ye mistake not the cause and ground of your Testimony. Call not coldness of soul, religion; nor put the BIGOT in the place of the CHRISTIAN.

O ye partial ministers of your own acknowledged principles. If the bearing arms be sinful, the first going to war must be more so, by all the difference between wilful attack, and unavoidable defence. Wherefore, if ye really preach from conscience, and mean not to make a political hobbyhorse of your religion convince the world thereof, by proclaiming your doctrine to our enemies, FOR THEY LIKEWISE BEAR ARMS . Give us proof of your sincerity by publishing it at St. James's, to the commanders in chief at Boston, to the Admirals and Captains who are piratically ravaging our coasts, and to all the murdering miscreants who are acting in authority under HIM whom ye profess to serve. Had ye the honest soul of BARCLAY ye would preach repentance to YOUR king; Ye would tell the Royal Wretch his sins, and warn him of eternal ruin. (6. "Thou hast tasted of prosperity and adversity; thou knowest what it is to be banished thy native country, to be over-ruled as well as to rule, and set upon the throne; and being oppressed thou hast reason to know how hateful the oppressor is both to God and man: If after all these warnings and advertisements, thou dost not turn unto the Lord with all thy heart, but forget him who

remembered thee in thy distress, and give up thyself to fallow lust and vanity, surely great will be thy condemnation.—Against which snare, as well as the temptation of those who may or do feed thee, and prompt thee to evil, the most excellent and prevalent remedy will be, to apply thyself to that light of Christ which shineth in thy conscience, and which neither can, nor will flatter thee, nor suffer thee to be at ease in thy sins."—Barclay's address to Charles II.) Ye would not spend your partial invectives against the injured and the insulted only, but, like faithful ministers, would cry aloud and SPARE NONE. Say not that ye are persecuted, neither endeavour to make us the authors of that reproach, which, ye are bringing upon yourselves; for we testify unto all men, that we do not complain against you because ye are Quakers, but because ye pretend to be and are NOT Quakers.

Alas! it seems by the particular tendency of some part of your testimony, and other parts of your conduct, as if, all sin was reduced to, and comprehended in, THE ACT OF BEARING ARMS, and that by the people only. Ye appear to us, to have mistaken party for conscience; because, the general tenor of your actions wants uniformity—And it is exceedingly difficult to us to give credit to many of your pretended scruples; because, we see them made by the same men, who, in the very instant that they are exclaiming against the mammon of this world, are nevertheless, hunting after it with a step as steady as Time, and an appetite as keen as Death.

The quotation which ye have made from Proverbs, in the third page of your testimony, that, "when a man's ways please the Lord, he maketh even his enemies to be at peace with him"; is very unwisely chosen on your part; because, it amounts to a proof, that the king's ways (whom ye are desirous of supporting) do NOT please the Lord, otherwise, his reign would be in peace.

I now proceed to the latter part of your testimony, and that, for which all the foregoing seems only an introduction viz.

"It hath ever been our judgment and principle, since we were called to profess the light of Christ Jesus, manifested in our consciences unto this day, that the setting up and putting down kings and governments, is God's peculiar prerogative; for causes best known to himself: And that it is not our business to have any hand or contrivance therein; nor to be busy bodies above our station, much less to plot and contrive the ruin, or overturn of any of them, but to pray for the king, and safety of our nation. and good of all

men—That we may live a peaceable and quiet life, in all godliness and honesty; UNDER THE GOVERNMENT WHICH GOD IS PLEASED TO SET OVER US"—If these are REALLY your principles why do ye not abide by them? Why do ye not leave that, which ye call God's Work, to be managed by himself? These very principles instruct you to wait with patience and humility, for the event of all public measures, and to receive that event as the divine will towards you. Wherefore, what occasion is there for your POLITICAL TESTIMONY if you fully believe what it contains? And the very publishing it proves, that either, ye do not believe what ye profess, or have not virtue enough to practise what ye believe.

The principles of Quakerism have a direct tendency to make a man the quiet and inoffensive subject of any, and every government WHICH IS SET OVER HIM. And if the setting up and putting down of kings and governments is God's peculiar prerogative, he most certainly will not be robbed thereof by us: wherefore, the principle itself leads you to approve of every thing, which ever happened, or may happen to kings as being his work. OLIVER CROMWELL thanks you. CHARLES, then, died not by the hands of man; and should the present Proud Imitator of him, come to the same untimely end, the writers and publishers of the Testimony, are bound, by the doctrine it contains, to applaud the fact. Kings are not taken away by miracles, neither are changes in governments brought about by any other means than such as are common and human; and such as we are now using. Even the dispersion of the Jews, though foretold by our Saviour, was effected by arms. Wherefore, as ye refuse to be the means on one side, ye ought not to be meddlers on the other; but to wait the issue in silence; and unless ye can produce divine authority, to prove, that the Almighty who hath created and placed this new world, at the greatest distance it could possibly stand, east and west, from every part of the old, doth, nevertheless, disapprove of its being independent of the corrupt and abandoned court of Britain, unless I say, ye can shew this, how can ye on the ground of your principles, justify the exciting and stirring up the people "firmly to unite in the abhorrence of all such writings, and measures, as evidence a desire and design to break off the happy connexion we have hitherto enjoyed, with the kingdom of Great-Britain, and our just and necessary subordination to the king, and those who are lawfully placed in authority under him." What a slap of the face is here! the men, who in the very paragraph before, have quietly and passively resigned up the ordering, altering, and disposal of

kings and governments, into the hands of God, are now, recalling their principles, and putting in for a share of the business. Is it possible, that the conclusion, which is here justly quoted, can any ways follow from the doctrine laid down? The inconsistency is too glaring not to be seen; the absurdity too great not to be laughed at; and such as could only have been made by those, whose understandings were darkened by the narrow and crabby spirit of a despairing political party; for ye are not to be considered as the whole body of the Quakers but only as a factional and fractional part thereof.

Here ends the examination of your testimony; (which I call upon no man to abhor, as ye have done, but only to read and judge of fairly;) to which I subjoin the following remark; "That the setting up and putting down of kings," most certainly mean, the making him a king, who is yet not so, and the making him no king who is already one. And pray what hath this to do in the present case? We neither mean to set up nor to pull down, neither to make nor to unmake, but to have nothing to do with them. Wherefore, your testimony in whatever light it is viewed serves only to dishonor your judgement, and for many other reasons had better have been let alone than published.

First, Because it tends to the decrease and reproach of all religion whatever, and is of the utmost danger to society to make it a party in political disputes.

Secondly, Because it exhibits a body of men, numbers of whom disavow the publishing political testimonies, as being concerned therein and approvers thereof.

Thirdly, because it hath a tendency to undo that continental harmony and friendship which yourselves by your late liberal and charitable donations hath lent a hand to establish; and the preservation of which, is of the utmost consequence to us all.

And here without anger or resentment I bid you farewell. Sincerely wishing, that as men and christians, ye may always fully and uninterruptedly enjoy every civil and religious right; and be, in your turn, the means of securing it to others; but that the example which ye have unwisely set, of mingling religion with politics, **MAY BE DISAVOWED AND REPROBATED BY EVERY INHABITANT OF AMERICA .**

**F I N I S.**

**copyright 2005, Western Standard Publishing  
(www.originalsources.com)**

**developed by Packard Technologies (www.ebooksarchive.com)**  
go to [www.ebooksarchive.com](http://www.ebooksarchive.com) for thousands of other ebooks for your  
handheld.

Unauthorized duplication and distribution is prohibited.  
This volume is part of OriginalSources.com which contains over 400,000  
documents. You can check out this incredible collection at  
[www.originalsources.com](http://www.originalsources.com).