"What are the Real Advantages that American Society Derives
From the 'Government of Democracy'"

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The word democracy is not in the Constitution, but it is appropriate to speak of America's democratic institutions. The root of the word democracy is from the Greek, *demos*, and refers to the people. In America, the people are recognized in the most prominent way in the preamble of the Constitution, which begins with the words "we the people." It was these same people who in 1776 declared independence from the British. They explained in the Declaration that it was necessary for one people to dissolve the political bands that had connected them to another, the British. The belief in the self-evident truth, that all men are created equal, is a universal truth and one that the people who separated from the British in 1776 to assume a separate and equal station. The colonists also embraced the truth that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. The people alone cannot secure these rights, but they recognize that they must institute governments to secure them. It is not just any government, but one that derives its just powers from the consent of the governed. This underscores the notion that it is the people who consent to the government. The principles and organization of power that guide the government are those that shall be most likely to affect the safety and happiness of the people.

To recall a bit of constitutional history, the government that was instituted after declaring independence was first organized as a confederation of states. The states entered a "league of friendship." Each state retain[ed] its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which [was] not . . . expressly delegated to the United States, in Congress assembled.[1] The inadequacies of this government became apparent after a few short years and the effort to draft a new constitution was initiated by several citizens and representatives from the states. Once complete, it was presented to the people for ratification. The intention of the new Constitution is stated in the Preamble:

> We The People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, 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.

The aim of the people was to implement a constitution that placed the government on a sound foundation that would contribute to securing their inalienable rights—life, liberty, and the pursuit of happiness.

I now turn to the title of my talk. I am not speaking directly on the Constitution, but rather on the advantages that American society derives from America's government of democracy. The title is from a chapter in a book called *Democracy in America*. It was written by one of most famous foreigners to visit America, a Frenchman named Alexis de Tocqueville. He spent nine months traveling throughout the United States in 1831 through 1832; when he returned to France, he began writing *Democracy in America*. He completed the first volume in 1835 and the second volume five years later in 1840. In the Introduction to the first volume he shares with his readers that he conceived the idea of the book when he realized that "the same democracy reigning in American society appeared to me to be advancing rapidly toward power in Europe."[2] The French Revolution of 1789 and the subsequent beheading of King Louis XVI (and Tocqueville's great-grandfather Chrétien de Malesherbes) occurred during the sixteen years before Tocqueville's birth; he lived through Napoleon's reign and the Revolution of 1830, which saw the restoration of Louis XVIII as King of France. These were among the most turbulent years of French history. Tocqueville's direct experience with disastrous political occurrences included a fear of a "democracy abandoned to its savage instincts" and saw in America the opportunity "to find lessons there from which we [his fellow French citizens] could profit."[3] We, too, continue to profit from Tocqueville's observations and analysis. He looked to America to study democracy because there he found the image of democracy: its penchants, its character, its prejudices, and its passions.[4] He writes about the people in America, their origins, their beliefs, their activities, and their institutions.

The chapter from Tocqueville's book that I am discussing today highlights many of the positive features and benefits that redound from our constitutional government and the institutions that arise in a well-governed nation. His observations and arguments are an effective way to respond to those who are relentless in their attacks on America, its citizens, and its history. No country or its people are perfect, no span of history is not without its dark times, but this is only part of the story. We must not forget that there is much to be acclaimed and applauded in America. Preservation and renewal of what is worthy in this nation begins with recognition and Tocqueville's work is a good starting point.

The chapter "What are the Real Advantages that American Society Derives from the Government of Democracy" is divided into five parts. Each takes a different topic that highlights advantages.

On the General Tendency of the Laws Under the Empire of American Democracy, and on the instinct of those who apply them

When we are discussing a democratic form of government, we must necessarily speak about the laws. The first of Tocqueville's topics on the advantages that America derives from democracy is on the general tendency of the laws and on the instinct of those who apply them. He speaks first of the laws and then public officials. Tocqueville argues that "the laws of democracy generally tend to the good of the greatest number, for they emanate from the majority of all citizens, which can be mistaken, but cannot have an interest contrary to itself."[5] A majority generally prevails in democratic governments, though our government has safeguards that prevent the rights of the minority being trampled.

Tocqueville specifically speaks of the general tendency of the laws because he admits that "laws [in a democracy] are almost always defective or unseasonable (or untimely)." His only experience with government prior to coming to America was living in an aristocracy; in spite of the attempts to transform the French government including France's bloody revolution of 1779, the hierarchy of an aristocracy remained an entrenched part of the design of the French government. Throughout much of *Democracy in America* he contrasts the democracy that he saw in America with the aristocracy in France. His assertion that laws in a democracy are almost always defective or untimely is contrasted with laws in an aristocracy. Why is this so? In an aristocracy laws are made by the few and for the few and are therefore more targeted, better timed, and the "collective force of all its laws converge at the same time toward the same point."[6] In a democracy, the defective and untimely laws are such because the laws of democracy "emanate from the majority of all citizens" and therefore "generally tend to the good of the greatest number"[7] Because the "democratic" approach is more haphazard than the "aristocratic" approach, they may well be more defective, but this is not necessarily a bad thing.

Tocqueville asks his readers to "imagine a society that nature or its constitution has organized in such a manner as to bear the transient operation of bad laws, and that can await the result of the *general tendency* of the laws without perishing." The targeted focus of the aristocracy is not present in a democratic government, and the general tendency of the laws in a

democratic government makes their bad effects less oppressive. He concludes that "the government of democracy, despite its faults, is still the most appropriate of all to make this society prosper" because, with respect to Americans, it is their great privilege is "to be able to have repairable mistakes."[8] Our Constitution establishes that the people directly elect new representatives and one-third of the Senate every two years who can amend laws or pass new ones. We elect a President every four years who can advance national public policy debates. Every state has its own elected officials who govern on behalf of the citizens of the state. Public debate, which also contributes to amending laws or pointing out defects or ways to improve, is protected through the first amendment's prohibition on "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." These are among the means to repair our mistakes.

With respect to public officials, Tocqueville makes another astute observation: "it is easy to see that American democracy is often mistaken in the choice of the men in whom it entrusts power; but it is not so easy to say why the state prospers in their hands." One of the advantages of having a limited government with enumerated powers is the prosperity of the state does not rely solely on the government or its elected leaders. Do I need to remind you of President Reagan's line: "the most terrifying words in the English language are: I'm from the government and I'm here to help."? The prosperity of the state also relies on the citizenry and their participation. The likelihood of success is greater with an engaged citizenry.

Tocqueville contrasts the public officials with the people. "If those who govern in a democratic state are less honest or less capable, the governed are more enlightened and more attentive." The truth of this statement is attested to by the fact that "the people in democracies, constantly occupied as they are with their affairs, and jealous of their rights, prevent their representatives from deviating from a certain general line that their interest traces for them."[9] American public officials stand for election every two, four, or six years and must respond to the voters. It is also advantageous that the views and opinions of the people are not monolithic. We are the better for the free exchange of ideas. We also see this in a party system that fosters debate and participation. Parties and movements form, they thrive, they die away, but when viable their purpose includes serving as a check on public officials, the policies that they advance, and the laws that they pass.

Tocqueville emphasizes again that "those who govern do not have interests contrary to or different from the mass of the governed." It is not possible to have interests similar to those of all of the governed. There are differences among us: we are rich and poor, we live in different geographical regions, we embrace different forms of worship, and we have different professions. The point that Tocqueville is making is that "the real advantage of democracy is not, as has been said, to favor the prosperity of all, but only to serve the well-being of the greatest number."[10] The democratic foundation encourages broad appeal to the majority.

An additional point that Tocqueville makes is that though these public officials may be perceived to be inferior in capacity and morality, "their interest intermingles and is identified with that of the majority of their fellow citizens." I would like to interject that I believe this explains why President Trump has been so successful and may well be re-elected to a second term. There are many opinions on his capacity and morality, or his fitness to be President, but he strikes a chord with a large and growing segment of the citizenry with his emphasis on jobs, deregulation, recognizing the life of the unborn, appointing judges that interpret the Constitution instead of legislating from the bench, and law and order to name a few of the themes and policies that he has consistently advanced since announcing his run for the Presidency. The American people look to his job performance and judge him as a public figure and elected official as well as fulfilling his campaign promises. Where is the American Embassy in Israel? Did someone say Jerusalem?

On Public Spirit in the United States

The second section in Tocqueville's chapter on the advantages that America derives from democracy addresses the public spirit in the United States. In contrast to a love of native country that has a taste for old customs, a respect for ancestors, and memory of the past, Tocqueville sees in America a more rational, fruitful and longer lasting public spirit that "develops with the aid of laws . . . grows with the exercise of rights, and in the end intermingles in a way with personal interest." He explains that "a man understands the influence that the well-being of the country has on his own; he knows that the law permits him to contribute to producing this well-being, and he interests himself in the prosperity of his country at first as a thing that is useful to him, and afterwards as his own work."[11] President Coolidge expresses it this way: "Patriotism is easy to understand in America; it means looking out for yourself by looking out for your country."[12]

Tocqueville marvels that newcomers to America can immediately become interested in the affairs of their community, district, state, and I add nation. He remarks, "it is that each, in his sphere, takes an active part in the government of society." The citizens, whether newly arrived or descendants of generations of Americans have the opportunity to participate in the governance of the nation. Tocqueville explains it this way: "in the United States, the man of the people understands the influence that general prosperity exerts on his happiness-an idea so simple and yet so little known by the people. . . He therefore sees in the public fortune his own, and he works for the good of the state not only out of duty or out of pride, but I would almost dare say out of cupidity."

But not everything was to Tocqueville's liking when he visited America. He speaks of "this irritable patriotism of the Americans" when an American "believes himself interested in defending all that is criticized there; for not only is his country then attacked, he himself is." He adds,

> America is therefore a country of freedom where, in order not to wound anyone, the foreigner must not speak freely either of particular persons, or of the state, or of the governed, or of those who govern, or of public undertakings, or of private undertakings; or, finally of anything one encounters except perhaps the climate and the soil; and still one finds Americans ready to defend both as if they had helped to form them.[13]

American public spirit and patriotism is grounded in love of country and love of their place within the country.

On the Idea of Rights in the United States

Tocqueville offers one of the more original concepts of rights in the third section entitled "On the Idea of Rights in the United States." He claims, "the idea of rights is nothing other than the idea of virtue introduced into the political world." Virtuous conduct is measured by a standard of moral excellence. The idea of rights, according to Tocqueville, is steering a course between license and tyranny. In other words, one's conduct must both be a check on his own behavior and a check on how he rules or submits to the rule of others. The stakes are high in Tocqueville's estimation: "there are no great men without virtue; without respect for rights, there is no great people: one can almost say that there is no society."[14]

How is an idea of rights inculcated in Americans? Tocqueville looks to the right of property that is present in the United States. One respects "in those like him what he wants to be respected in himself." The same can be said for political rights: "so that his own political rights

are not violated, he does not attack those of others." Tocqueville praises the government of democracy because "it makes the idea of political rights descend to the least of citizens."[15]

Beyond the praise of democratic influences in the government and the habits that they can instill in its citizenry, Tocqueville argues that this takes on greater importance as other institutions are under assault. He cites the weakening of religions, the disappearance of divine notions, mores are being altered, and the moral notion of rights is vanishing. Does any of this sound familiar? The attacks on our institutions that support and sustain civil society are constant. This is one of my greatest criticisms of progressive democrats who push for increasing the size and scope of government at the expense of civic and private associations who, more often than not, are better at performing the task and for less money. These conditions make the recognition of political rights and their connection to the personal interests of the citizenry all the more important. Recall that governments are instituted to secure the rights of the people, and the Constitution provides a design by which governance can fulfill its obligation to the people.

Yet the people, too, must rise to the occasion. Tocqueville says, "There is nothing more prolific in marvels than the art of being free; but there is nothing harder than the apprenticeship of freedom." We teach our children and instill good habits in them as they are growing up, we teach them to respect others and to conduct themselves well. This is part of the apprenticeship of freedom, but the practice continues once we are adults and participate in governance of ourselves and the more formal participation of what a free society allows: holding elective office as outlined in the U. S. and State Constitutions, designing and executing policy, judging others whether as a judge or as a juror, voting, and other political and civic activities.

On Respect for the Law in the United States

The fourth section in Tocqueville's chapter addresses the respect for law in the United States. We recall from classical Greek history reading about solitary lawgivers such as Solon and Draco, but in a government with a democratic foundation there are opportunities for far greater involvement by the people to make law or vote for representatives who will carry out the task.

The Constitution was drafted behind closed doors at the Constitutional Convention in Philadelphia by representatives from the various states, but once complete it was sent to the people of the states to be debated and voted upon through the vehicle of ratifying conventions. While the people, strictly speaking, were not directly involved in the writing of the actual document, they were called upon to decide if this document framed a government that would

institute a new and better foundation for governance. The Constitution also allowed for amendments, which served as another vehicle for participation by the people. The first ten amendments, the Bill of Rights, were ratified within two years of the ratification of the Constitution. This effort to secure the rights of the people began when several in the states made this a condition of ratification. These forms of participation contribute to the personal interest on the part of the citizenry in lawmaking and therefore they have an interest in abiding by the laws that they or their representatives have made. If the laws are not satisfactory, the people know that they can participate in the effort to amend. These are among some of the vehicles by which they can contribute, both directly and indirectly.

Another feature of popular participation is in the give and take of politics. Tocqueville again links this to citizens finding a personal interest in obeying the laws. He gives the example of fellow citizens who may not be in the majority today but may be in its ranks tomorrow. They join in the effort to support a cause or argue against it, but Tocqueville's point still applies: citizen engagement in making the laws fosters respect for the laws.

I am currently teaching a seminar on Abraham Lincoln at the University of Colorado Boulder and one of the speeches that I study with my students is Lincoln's Lyceum Address. He makes a similar point about the laws:

> Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and Laws, let every American pledge his life, his property, and his sacred honor;--let every man remember that to violate the law, is to trample on the blood of his father, and to tear the character of his own, and his children's liberty. . . .
>
> When I so pressingly urge a strict observance of all the laws, let me not be understood as saying there are no bad laws, nor that grievances may not arise, for the redress of which, no legal provisions have been made.--I mean to say no such thing. But I do mean to say, that, although bad laws, if they exist, should be repealed as soon as possible, still while they continue in force, for the sake of example, they should be religiously observed.

Lincoln wrote these words some seven years after Tocqueville visited America. The two men did not meet, but they express similar sentiments that still hold true today.

Activity Reigning in all Parts of the Body Politic of the United States; Influence that it Exerts on Society

The beneficial effects of the activity of a people is described by Tocqueville in his fifth and last section on his chapter devoted to the advantages of democracy. He contrasts the activity

in a democracy and the lack of it in a country that is not free. He makes the following observation: "When one passes from a free country into another that is not, one is struck by a very extraordinary spectacle: there [in the free country], all is activity and movement; here [in the country that is not free], all seems calm and immobile." He continues with his contrast:

> In the one, (the free), it is only a question of betterment and progress; one would say that society in the other (the not free), after having acquired all goods, aspires only to rest to enjoy them. Nevertheless, the country that gives itself so much agitation so as to be happy is generally richer and more prosperous than the one that appears so satisfied with its lot. And in considering them both, one has trouble conceiving how so many new needs make themselves felt daily in the first (the free), whereas one seems to feel so few in the second (the not free).[16]

The activity of a people in a free country leads to greater riches and prosperity and pervades the whole. "There, it is no longer one portion of the people that undertakes to better the state of society; the entire people takes charge of this care."[17] He comments on the broad cross section of those participating, from the lowest ranks of the people, spreading gradually to all classes of citizens, to women whom he notes often go to political assemblies.

The economic benefits are but one result of the activity that Tocqueville describes. Political activity also reigns, as he witnessed during his nine months of travel in America. He paints a vivid picture.

> Scarcely have you descended on the soil of America when you find yourself in the midst of a sort of tumult; a confused clamor arises on all sides; a thousand voices come to your ear at the same time; each of them expressing some social needs. Around you everything moves: here, the people of one neighborhood have gathered to learn if a church ought to be built; there, they are working on the choice of a representative; farther on, the deputies of a district are going to town in all haste to decide about some local improvement; in another place, the farmers of a village abandon their furrows to go to discuss the plan of a road or a school.

He continues.

> Citizens assemble with the sole goal of declaring that they disapprove of the course of government, whereas others gather to proclaim that the men in place are the fathers of their country. Here are others still who, regarding drunkenness as the principal source of the evils of the state, come solemnly to pledge themselves to give an example of temperance.[18]

In addition to the bettering of one's condition, happiness, too, results from this activity. Tocqueville contrasts inhabitants of other countries who begrudge time lost to dealing with common interests with the American who revels in it. "From the moment when an American

were reduced to occupying himself only with his own affairs, he would have been robbed of half of his existence; he would feel an immense void in his days, and he would become incredibly unhappy."[19]

Whether the activity and movement—the motion—of the people be a confused clamor, a thousand voices, a gathering of neighbors, an assembling of citizens, Tocqueville identifies this activity as one of the great benefits of democratic government. "This agitation, constantly reborn, that the government of democracy has introduced into the political world, passes afterwards into civil society. I [Tocqueville] do not know if, all in all, that is not the greatest advantage of democratic government, and I praise it much more because of what it causes to be done than for what it does."[20] We have discussed the respect for laws that stems from the involvement of the people in crafting the laws or their efforts to improve them, the idea of rights that is virtue introduced into the political world, and the identification of the citizen with his country that manifests itself in a particular form of patriotism. These political elements and features are necessary, but they are only a part of our lives. Tocqueville's mention of civil society completes the whole. He praises the agitation and motion of the people more for what it causes to be done than for what it does. It causes and supports a civic foundation of participation.

The activity translates into civic associations that people form to improve and enrich their lives. Tocqueville shares what he saw in America:

> Americans of all ages, all conditions, all minds constantly unite. Not only do they have commercial and industrial associations in which all take part, but they also have a thousand other kinds: religious, moral, grave, futile, very general and very particular, immense and very small; Americans use associations to give fetes, to found seminaries, to build inns, to raise churches, to distribute books, to send missionaries to the antipodes; in this manner they create hospitals, prisons, schools.[21]

All this activity redounds to the benefit of the people and the country. Tocqueville wrote his books more than 180 years ago, were he to visit today he would see much of the same.

We had previously spoken of the apprenticeship for freedom and Tocqueville's belief about how difficult it is to learn the art of being free. The political and civic activities that Tocqueville describes serves to train citizens in the art of being free. Think of students in school who are members of clubs or young professionals who take lead roles in their communities or work on political campaigns or professional associations that we join related to our work or pastimes. These experiences give us opportunities to use our freedom well, improve our lives and

communities, and set examples for the next generation so that the political institutions and civic associations are perpetuated.

Intertwining Personal Interest with Public Interest

Each of these sections highlights much to applaud in America and its democratic foundations. They begin and flourish in large part from our constitutional government that is designed to secure the liberties that we cherish. The unifying theme that connects these five seemingly disparate topics of laws, public spirit and patriotism, rights, respect for law, and the activity of the people is that each activity, behavior, or sentiment intertwines public interest with personal interest. Why is this important? It is human nature that when one has a personal stake, there is greater interest, involvement, and likelihood of success. Many perform selfless acts throughout their lives, but it would be unrealistic to think that everyone can adopt such a posture without some sort of benefit or reward. Tocqueville was astute in his observations that among the real advantages that Americans derives from democracy is that what benefits us personally translates into a public benefit. To quote Abraham Lincoln's 1863 Gettysburg Address, in a government "of the people, by the people, and for the people," the joining of personal and public interest is necessary to the success of the government and its perpetuation, and for the people to prosper.

Conclusion

These remarks would not be complete without asking what do we lose as a people should these advantages that Tocqueville identified are imperiled? I will briefly discuss three dangers that Tocqueville identifies.

The first danger is complacency. A definition of complacency includes being pleased with oneself or one's merits, advantages, or situation, and often without awareness of some potential danger or defect, or it can simply mean being self-satisfied. Complacency often happens when we have achieved some success and we let down our guard, so to speak. There is a lack of awareness or a disregard that public involvement redounds to our personal benefit, as Tocqueville demonstrated in his chapter on the advantages that America derives from democracy. Another source of complacency that arises from habits born of a commercial nature is that of love of public tranquility. Tocqueville argues that this desire for public tranquility leads citizens to increase the central power of government. The movement toward central power is

movement toward despotism and ultimately the loss of freedom. Tocqueville gives a vivid description:

> Despotism often presents itself as the mender of all ills suffered; it is the support of good law, the sustainer of the oppressed, and the founder of order. Peoples fall asleep in the bosom of the temporary prosperity to which it gives birth; and when they awaken, they are miserable. Freedom, in contrast, is ordinarily born in the midst of storms, it is established painfully among civil discords, and only when it is old can one know its benefits.[22]

If we become complacent and do not engage or defend our freedoms and the freedoms that are enjoyed by the broader community, they are at great risk of being lost.

The simplest example that comes to mind is the lack of participation in voting.

The second danger is extreme individualism that results in no involvement in the government or civic life. The success of a democratic foundation rests in large part on the motion of the people. Their active participation in government at all levels, political and civil associations, jury service, and commerce are among the activities that provide opportunities for the people to learn to govern themselves, to participate in a meaningful way in the governing process, and to sustain freedom. Yet this constant motion of the people presents challenges that have an impact on many facets of the lives of those in a democracy. For example, the continual movement of the people breaks or relaxes the bond with prior generations. Such a break, according to Tocqueville, leads individuals to withdraw into themselves and base their judgments solely on their own reason. The individualism that originates in democratic societies can also lead to selfishness, which Tocqueville describe as "a passionate and exaggerated love of self that brings man to relate everything to himself alone and to prefer himself to everything."[23] This is a tremendous loss in a government with democratic foundations. It diminishes participation of the citizen and it potentially allows the government to go unchecked. It also contributes to the degradation of the people as Tocqueville describes: "selfishness withers the seed of all the virtues; individualism at first dries up only the source of public virtues; but in the long term it attacks and destroys all the others and will finally be absorbed in selfishness."[24]

What a sad prospect to live in such a society. The declining numbers of people involved in civic organizations that aim to improve the society is a detriment to our republic. The "what am I getting out of it mentality" that prevails is contrary to what Tocqueville is arguing, that public involvement results in private benefits.

The third danger is tyranny of the majority. The majority has great influence in governing the nation insofar as the legislature is elected by the people and obeys the will of the majority by enacting laws that it desires. The executive also answers to the people and must execute the laws passed by the legislature, although he maintains some independence through the veto power. That the majority has a legitimate existence in a democratic government is not the issue; the problem is when there is no restraint that can be imposed on the majority. Beyond the influence that the majority has in governing the nation, it also has great power over the thoughts of the citizens. Tocqueville vividly contrasts how a despot strikes the body in order to reach the soul as a means of ruling over the citizens and the manner in which the absolute tyranny of the majority strikes:

> [I]n democratic republics, tyranny . . . goes straight for the soul . . . You are free not to think as I do; your life, your goods, everything remains to you; but from this day on, you are a stranger among us. You shall keep your privileges in the city, but they will becomes useless to you; for if you crave the vote of your fellow citizens, they will not grant it to you, and if you demand only their esteem, they will still pretend to refuse it to you. You shall remain among men, but you shall lose your rights of humanity. When you approach those like you, they shall flee you as being impure; and those who believe in your innocence, even they shall abandon you, for one would flee them in their turn. Go in peace, I leave you your life, but I leave it to you worse than death.[25]

The attempt to deviate from the will of the majority is almost impossible and the challenge is to keep the majority from becoming tyrannical and absolute. I must interject here that Tocqueville's description seems to be anticipating a cancel culture.

These challenges to morality and freedom all lead to the same result. Whether it is the loss of the freedom to think, to act, or to participate in the governance of one's life, the loss is such that one's ability to act morally is seriously impaired and one's freedom is limited or lost. With respect to extreme individualism, it eventually turns to selfishness, which "withers the seed of all the virtues."[26] It brings about the isolation of individuals that leads to the abandonment of society and these individuals are at risk of becoming completely occupied with material enjoyments because their entire focus is on themselves and not others. Such individuals are completely consumed with their own affairs (extreme individualism) and therefore voluntarily remove themselves from the moderating influences of civil society. They are made to believe that their contributions are of little or no significance or they are powerless and therefore they do not choose to participate in governance. It is nearly impossible to act or think independently (in

the face of a tyrannical majority) and one therefore is exiled in a manner of speaking if he is not part of the majority. With respect to despotism, which involves a giving over to another authority rule over one's life, there is no freedom to act or make moral choices or participate in political life. A common feature of all these threats is that the individual no longer participates in governing and the democratic institutions that are designed to allow for participation by the people is greatly diminished or lost in the process. Based upon these examples, it is clear that holding on to freedom requires active involvement in political life, in governing, in those activities that directly and indirectly affect one's life, and having the understanding that occupying oneself with the affairs of the whole has a beneficial effect on one's own affairs.[27]

There is a republican guarantee clause in the U. S. Constitution: "The United States shall guarantee to every State in the Union a Republican Form of Government"[28] The foundation of republican government is the people. Our government is typically referred to as a democratic republic. The Declaration of Independence and the preamble of the Constitution rely on the people as a source of authority. The success of our democratic republic relies in large part on the people to participate in significant ways. While no government is perfect, there are advantages that American society derives from our democratic foundations. Alexis de Tocqueville visited the United States in the 1830's and devoted a chapter in his work entitled *Democracy in America* to identifying these advantages. In this era of constant critique of America and its institutions, it is time to bring to the forefront the benefits that Americans enjoy. Preservation of benefits begins with recognition.

I cannot conclude my remarks without commenting on the current state of affairs, what I have come to call without affection "the covid cocoon." Tocqueville states, "I am persuaded that if despotism ever comes to be established in America, it will find more difficulties in defeating the habits to which freedom has given birth than in surmounting the love of freedom itself."[29] We are suffocating under the governmental mandates restricting movement and interactions with our fellow citizens and colleagues, shutting down or limiting legitimate businesses, dictating health mandates to healthy people, among other decisions that in many cases have been made solely by state governors. In spite of these measures taken ostensibly to protect the life and health of Americans, the habits to which freedom has given birth remain strong. I marvel at the ingenious ways in which business owners have sustained their businesses, including the small restaurant that takes half of its parking lot, covers it with artificial turf to make it look attractive,

pitches a tent, puts up folding tables and chairs and serves the same delicious food that they always have. The folks who can no longer go to an office work from home. The in-person meetings that have been canceled are now held online. I admit that these measures may not be sustainable long term because there is a price to pay for loss of human contact, but Tocqueville's recognition of the freedom loving habits of the American people is what is at the root of their success in overcoming these hurdles that have been put in their way to live their daily lives and conduct their businesses. These comments are not intended to diminish the seriousness of covid for some, but as one of my friends said, I wish the government trusted the citizenry more to make decisions about their own behavior and health.

What contributes to forming these habits? Our founding documents play a large part in shaping the character and habits of the people. Independence from Britain was declared 244 years ago, and the Constitution was ratified 231 years ago. I began my remarks talking about the Declaration and I conclude talking about the Constitution. The design of a limited government and one of enumerated powers is necessary to forming a country that respects and supports a people who are capable to self-govern. A people who are permitted to practice self-governance are a people who are free and practice the very freedom in the ways that Tocqueville described. Our country and its government have strayed from many of these ideals and prescriptions set forth in our founding documents, but the habits remain, and it is these habits and instincts that we must draw upon fortify ourselves to reclaim our country.

Thank you to the organizers of this event and thank you to those listening who join in this celebration of Constitution Week.

Notes

[1] The Articles of Confederation and Perpetual Union, 1777, Articles 2, 3.

[2] Alexis de Tocqueville, *Democracy in America*, trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), Introduction, p. 3.

[3] Tocqueville, Introduction, pp. 7, 12.

[4] Tocqueville, Introduction, p. 13.

[5] Tocqueville, I.2.6, p. 222.

[6] Tocqueville, I.2.6, p. 222.

[7] Tocqueville, I.2.6, p. 222.

[8] Tocqueville, I.2.6, p. 222.

[9] Tocqueville, I.2.6, p. 222-223.

[10] Tocqueville, I.2.6, p. 223.

[11] Tocqueville, I.2.6, p. 225.

[12] President Calvin Coolidge, "The Destiny Of America," on May 30, 1923. As found in *The Price of Freedom*, https://www.coolidgefoundation.org/quote/quotations-p/

[13] Tocqueville, I.2.6, p. 227.

[14] Tocqueville, I.2.6, p. 227.

[15] Tocqueville, I.2.6, p. 228.

[16] Tocqueville, I.2.6, p. 231.

[17] Tocqueville, I.2.6, p. 231.

[18] Tocqueville, I.2.6, p. 232.

[19] Tocqueville, I.2.6, p. 233.

[20] Tocqueville, I.2.6, p. 233.

[21] Tocqueville, II.2.5, p. 489.

[22] Tocqueville, I.2.6, p. 229.

[23] Tocqueville, II.1.2, II.2.2, p. 482.

[24] Tocqueville, II.2.2, p. 483.

[25] Tocqueville, I.2.7, pp. 244-5.

[26] Tocqueville, II.2.2, p. 483.

[27] "The Challenge of Sustaining Freedom and Morality in a Democracy: Insights Drawn from Tocqueville's *Democracy in America*," Elizabeth Eastman, Annual Meeting of the American Political Science Association, Boston, August 29 - September 1, 2002.

[28] U. S. Constitution, Article IV, Section 4.

[29] Tocqueville, I.2.6, p. 233.

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