A Summer Seminar on "The American Experiment"

The seminar we taught for secondary school teachers in the summer of 1982 on "The American Experiment" was part of a greatly expanded program of the National Endowment for the Humanities and its energetic Chairman, William J. Bennett. With the goal of improving secondary education, Dr. Bennett puts his weight behind an effort to send secondary school teachers of humanities back to the classic books in their fields. Since we are firm believers in the superiority of the best books to current fashion, whatever that may be, we joined eagerly in this idea. It seemed to us that such a program applied to American politics would be so far from enslaving teachers to tradition that it would best reveal what is novel and distinctive about America. That is why we called the seminar "The American Experiment".

--Harvey Mansfield, Jr.
and
Delba Winthrop

Because America is so familiar to Americans, we take for granted the experimental nature of our politics. But this is the very theme of the two best books on American politics, *The Federalist* and Alexis de Tocqueville's *Democracy in America*. The seminar we conducted read these books as books, not merely as flat statements or documents in which to find famous phrases. We wanted to discover their authors' intent and, as the way to this, to consider their literary form, their style, and their mode of persuasion.

The Federalist, consisting of 85 essays, first appeared in New York newspapers in 1787-88 in order to urge ratification of the Constitution by that state. Immediately afterwards the essays were published as a book with the more serious aim of providing an authoritative, though unofficial, commentary on the Constitution. The authors--Alexander Hamilton, John Jay, and James Madison--wrote under a single pen name, "Publius," the popular savior of the Roman republic. Alexis de Tocqueville, the French statesman and scholar, wrote his *Democracy in America* after a brief trip to America and published it in two volumes, in 1835 and 1840. He too addressed both an immediate audience of partisans in his country and those in the present and future who might want to reflect on the nature of democracy.

That America is an "experiment" is announced by Alexander Hamilton on the flat page of *The Federalist*, where he says that the American people are deciding for mankind whether self-government is possible; and it is repeated by James Madison in *The Federalist*, where he speaks of "that honorable determination . to rest all our political experiments on the capacity of mankind for self-government." These statements were not unique. Many other Americans, speaking just before *The Federalist* was written and long after, said the same, most memorably Lincoln in his Gettysburg Address. Tocqueville too looked to the New World to see the first and most complete modern democracy. He hoped the United States might be a model for Europe, not in the particulars of its laws, but as a more or less successful attempt at "the organization and establishment of democracy."

What does it mean to say that America is an *experiment*? As an experiment, it is first of all something chosen. America did not come about gradually in the course of time; it was *founded* at a certain time by certain men known as "Founders" who deliberated together in a constitutional convention. Although all looked to, George Washington to be the first president, he was not the sole founder choosing the

regime by himself. The Constitution was proposed by a few, then debated and ratified by many.

Second, as an experiment the American regime was something new. Although much was inherited --institutions of the British Constitution and of state constitutions, and ideas from political philosophers in Europe --America was not a, regime devoted to tradition. Its best inheritance-the space of a continent-was an opportunity. The first Americans, the Puritans, chose to come to the New World, and they were followed by waves of immigrants. These immigrants came over to escape persecution and poverty in their homelands, but they were not mere refugees or exiles wandering where chance might take them. The Puritans came purposefully to the new world to live a life of their own; later immigrants were attracted by the promise of America. The essential Americans have not been those born in America so much as those who chose it, or those, once in America, who left for the frontier. Today, Americans pick where they will live; few of us live where we were born, and none of us does so without ever thinking of moving.

Third, the American constitution is an experiment on behalf of all mankind. It would fail if it proved not to be valid for all peoples but for Americans alone because of their particular circumstances or national superiority. Whereas the English pride themselves on "the rights of Englishmen," Americans take pride in the rights of man or, as we say today, in human rights. American say to the world: "You can have what we have, and we are superior only because we have shown this Americans are not content with liberty merely for themselves, but they would be untrue to their principles, especially the right of consent, if they were to attempt to force their way of life on others as do most other revolutionaries. So they tout it or "sell" it to the world.

The American experiment is an experiment of an hypothesis. When America was founded, one could not be sure that self-government would work. At that time the question was not "decided," as we tend to believe today. And it was an innovation to found a nation by constructing a government that ha d not yet been tried indeed to make its founding the trial of a theory as yet untested in experience or tradition. American political practice has not merely been shaped by theory, but it was deliberately intended to serve as the test of theory.

Last, America is an experiment of self-government, of human beings governing themselves. However much Americans at the founding may have sought the guidance of God, or prayed for His blessing on their undertaking, their principle was not divine right, their laws did not come from above, their government was not a theocracy, and their people were not chosen by God for a divine mission.

Self-government in America was popular government-but of a new kind. How was this new kind presented in *The Federalist*? All previous popular government had failed (as we learn from *The Federalist* Nos. 9, 10, 14) when the majority of the people behaved tyrannically as a faction hostile to the rights of others or to the interest of the community. Two new remedies for this general failure were found in modem political science, especially in Locke and Montesquieu. These were the principle of representation, by which government is delegated to a small number elected by the rest, and the idea of an extensive republic, in which the imperial size that had previously been thought fatal to a republic is deliberately embraced as a means of its salvation. If you "extend the sphere" or enlarge the orbit, you include many more "fit characters" to serve as representatives, who are more likely to be

elected from large constituencies; and, most important, you take m a greater variety of parties and interests less likely to combine in a majority faction than a homogeneous majority.

This "wholly popular government" is derived in all its parts from the people, on the one hand, but on the other, being wholly representative, it never allows the people to rule directly. Thus it gains the legitimacy of democratic consent while not sacrificing the advantages of aristocracy arising from the election of representatives who choose better than the people would choose on their own. B ut the advantages of aristocracy are not presented as such in *The Federalist*, for to do so would risk affronting the "republican genius" of the American people and hand a winning card to the Antifederalists who were already gravely suspicious of aristocracy in the new constitution.

Therefore, *The Federalist* is much more careful in explaining the third great innovation of modem political science in the Constitution, the separation of powers. This cannot be so easily described as a republican remedy" to a republican disease, as can representation and extensive size, which cure faction by making government responsible to the people and by adding more people. It is indeed described as an "auxiliary precaution" (*The Federalist* No. 51) - auxiliary, that is, to representation; and it might more candidly be called. A nonrepublican auxiliary to republican government.

Accordingly, *The Federalist* developed a justification for the separation of powers in two stages. The first is a more popular presentation that stresses the negative, republican concern of preventing tyranny, to be found in *The Federalist* Nos. 47-51. But a less popular account, addressed to the ambitious or even to the "fit characters" mentioned in *The Federalist* No.10 as one advantage of representation but left undiscussed there, appears in the later sections of The Federalist devoted to explaining the terms and the tasks of, three branches of government. Actually, the are inferred from the terms. The merits re for each branch a-re presented as the expected consequences of merely formal characteristics; the number and term of Senators and of the President; and the lifetime tenure of judges. Thus the argument of *The Federalist*, in respect to separation of powers and in general, moves from what is republican to what is good for republican government. Its rhetoric is "politic," not in the low sense of pandering to current prejudices but in the best sense of reforming those prejudices insofar as possible. To see the political science in *The Federalist* one must read it as a book and learn to appreciate its politic rhetoric.

When Tocqueville came to America, its experiment was nearly a half-century old. By that time democracy, understood as the principle of equality of condition by contrast to aristocratic rank, was established, and could no longer be chosen or rejected by Americans or by Tocqueville's European audience; it could only be accepted. But whether such equality could be maintained in conjunction with liberty and human dignity was still an open question.

The first volume of *Democracy in America* surveys the "forms" and "matter" of American politics. Beginning with the physiognomy of the New World and the mores of its first settlers, Tocqueville moves to an analysis of the political institutions of the United States and, above all, its federal constitution. He then examines her "matter," the citizens who live both under and above these forms. How form and matter come I to be unified we learn in the second volume. Its theme is the modem soul-its intellect, sentiments, and habits. To this democratic soul is contrasted the soul bred

by aristocratic, or pre-modern politics. Knowledge of this forgotten or despised alternative informs the critique of modern , politics with which the book ends.

If *The Federalist* is imbued with a guarded optimism about the future of republicanism, Tocqueville intends to supplement it with a salutary pessimism. While explicitly praising our Founding Fathers for their earnest deliberations, he tacitly questions the remedies they had adopted for republican diseases. Representation as a remedy for majority faction is insufficient because it hinders citizens from seeing that their interest lies in political activity and discourages them from participation. To participate in politics can inculcate the habit of reasoned choice while at the same time revealing the limits of reasoned choice. The second remedy, an extended republic, by which *The Federalist* means a commercial republic, exacerbates popular disinterest in politics by fostering a preoccupation with material well-being. The separation of powers, which is designed to permit "fit characters" to come to the fore, cannot free even the ablest from the dominion of an unreflective and often unjust or unsound public opinion.

Democratic public opinion is egalitarian, individualistic, and materialistic. In theory each citizen is equal in his ability to look after matters of his own exclusive concern. But Tocqueville points out that in fact we are often unable to provide for all our interests by our own efforts. Individualism intensifies our preoccupation with providing for our own material needs. Yet even the modest goal of providing for oneself is beyond the reach of some. Those who are incapable will hardly desire to discover that an "equal" might be more capable than they are, nor can they expect freely given assistance from other individuals. It is all too tempting to rely instead on a powerful and impersonal bureaucracy, first to do what we ask and then to tell us what can be done and therefore should be asked. Democratic citizens are soon relieved of the necessity and finally of the ability to make even the smallest choice.

For Tocqueville, America's experiment in republican government is endangered not only by imprudent popular willfulness, but especially by thoughtless, almost slavish affection for big government. In the face of this danger Tocqueville proposes his own remedies which are somewhat different from *The Federalist*'s: freedom of association, local self-government, jury service, judicial protection of individual rights, and a general respect for legal and constitutional forms. These are the remedies needed to preserve liberty and dignity in American democracy.

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As the following syllabus indicates, we began our seminar with Alexander Solzhenitsyn's celebrated Harvard commencement address questioning the success of the American experiment. We then presented *The Federalist* and *Democracy in America* in a context of the liberal political philosophy, or political science, which preceded them and to which both books referred. This Political science, found in Locke and Montesquieu, was "liberal" in the widest sense of putting liberty before anything else, and of protecting liberty with a constitution limiting the powers of government. The American experiment made use of liberal political science but improved on it in ways explained by the *The Federalist* and by Tocqueville. Discussion of one of the greatest obstacles to America's success, the problem of slavery and its aftermath, concluded the seminar.

SYLLABUS

"The American Experiment"
NEH Summer Institute
July 11 - August 6, 1983

Meeting

1. Has the American experiment succeeded?
   Alexander Solzhenitsyn, A World Split Apart (Harper & Row, 1979).
2. The State of Nature as the basis of modern politics:
   Locke, *Second Treatise of Government*, chs. 1-9.
3. Modern constitutionalism: Locke, *Second Treatise*, chs. 10-19.
4. Moderation and the Regime of Liberty:
   Montesquieu, *Spirit of the Laws*, 1; II, 1-2; III, 1-3; IV, 4-5, 8; VIII, 1-4; XI, 1-6; XII, 1-4; XIX, 27.
5. The Right of Revolution:
   The Declaration of Independence and "Two Letters on the Declaration" in Thomas Jefferson *Selected Writings* (H. C. Mansfield, Jr., ed., AHM Publishing Co., 1979).
6. Union and popular government:
   The Federalist, Nos. 1-14.
7. Necessary powers for the union:
   The Federalist, Nos. 15-36; Marvin Meyers, *The Mind of the Founder* (rev. ed., University Press of. New England, 1981), pp. 13-43, 69-86.
8. Energy and stability, and separation of powers:
   The Federalist, Nos. 37-51.
9. Congress:
   The Federalist, Nos. 52-66.
10. Energy in the Executive:
    The Federalist, Nos. 67-77. Meyers, *The Mind of the Founder*, pp. 199-214; Alexander Hamilton, *Pacificus*, No. 1 (Harold Syrett, ed., *Papers of Alexander Hamilton*, v. 15, pp. 33-43 (Columbia University Press, 1969)).
11. Judiciary and a Bill of Rights:
    The Federalist, Nos. 78-85; Meyers, *The Mind of the Founder*, pp. 155-59.
12. America's Point of Departure:
    Tocqueville, *Democracy in America* (Doubleday/Anchor, 1969), pp. 1-98.
13. The American Constitution and Popular Sovereignty: Tocqueville, pp. 99-315.
14. The Three Races:
    Tocqueville, pp. 316-413.
15. Democracy and the Intellect:
    Tocqueville, pp. 417-502.
16. Individualism and Democratic Associations:
    Tocqueville, pp. 503-558.
17. Democratic Mores:
    Tocqueville, pp. 561-664.
18. Democratic Despotism:
    Tocqueville, pp. 667-705.
19. Freedom and Popular Sovereignty:
    Robert W. Johannsen, *The Lincoln-Douglas Debates* (Oxford University Press, 1965), pp.14-74, 75-79, 86-92, 145-149, 162-163, 195-200, 206-226,229-

239,242-244; Meyers, *The Mind of the Founder*, pp. 313-336; Thomas Jefferson, *Selected Writings*, pp. 50-52.

20. A Debate on Affirmative Action:
    Ronald Dworkin, "Why Bakke Has No Case, " *New York Review of Books*, Nov. 10, 1977. Thomas Sowell, "Weber and Bakke, and the Presuppositions of Affirmative Action," in *Civil Rights: Rhetoric or Reality* (William Morrow, 1984), 37-60.

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