no natural and permanent dissidence is yet found among the interests of the various inhabitants.\textsuperscript{8}

There is such a social state in which the members of the minority cannot hope to attract the majority because to do so it would be necessary to abandon the very object of the struggle that the minority wagers against the majority. An aristocracy, for example, cannot become a majority while preserving its exclusive privileges, and it cannot allow its privileges to slip away without ceasing to be an aristocracy. [In these countries, it is almost impossible for the moral power of the majority ever to succeed in being recognized by all.]

In the United States, political questions cannot be posed in as general and absolute a way, and all parties are ready to recognize the rights of the majority, because all hope one day to be able to exercise those rights to their profit.

So in the United States the majority has an immense power in fact and a power of opinion almost as great; and once the majority has formed on a question, there is, so to speak, no obstacle that can, I will not say stop, but even slow its course and leave time for the majority to hear the cries of those whom it crushes as it goes.

The consequences of this state of affairs are harmful and dangerous\textsuperscript{h} for the future.

How the Omnipotence of the Majority in America Increases the Legislative and Administrative Instability That Is Natural to Democracies

\textit{How the Americans increase legislative instability, which is natural to democracy, by changing the legislator annually and by arming him with an almost limitless power. — The same effect produced in the administration. — In America a force infinitely greater, but less sustained than in Europe is brought to social improvements.}

I spoke previously of the vices that are natural to the government of democracy; there is not one of them that does not grow at the same time as the power of the majority.

And, to begin with the most obvious of all.

Administrative instability is an evil inherent in democratic government, because it is in the nature of democracies to bring new men to power. But this evil is greater or lesser depending on the power and the means of action granted to the legislator.

In America sovereign power is handed over to the authority that makes the laws. That authority can rapidly and irresistibly abandon itself to each of its desires, and every year it is given other representatives. That is to say, what has been adopted is precisely the combination that most favors dem-
ocratic instability and that allows democracy to apply its changeable will to the most important objects. [We have seen under the National Assembly and the Convention how, by granting omnipotence to the legislative body, the natural instability of law in republics increased more. These extreme consequences of a bad principle cannot recur in the same way in America because American society is not in revolution as French society then was and because there has been a long apprenticeship in liberty in America.]

America today is, therefore, the country in the world where laws have the shortest duration. Nearly all the American constitutions have been amended during the last thirty years. So, during this period, there is no American state that has not modified the principle of its laws.

As for the laws themselves, it is sufficient to glance at the archives of the different states of the Union to be persuaded that in America the activity of the legislator never flags. Not that the American democracy is by nature more unstable than another, but in the formation of the laws, it has been given the means to follow the natural instability of its inclinations.

The omnipotence of the majority and the rapid and absolute manner in which its will is executed in the United States not only make the law unstable, but also exercise the same influence on the execution of the law and on the action of public administration.

Since the majority is the only power important to please, the works that it undertakes are ardently supported; but from the moment when its ar-

[In this place in the manuscript three paragraphs are found that Tocqueville will later add to chapter V of this second part. (It concerns the passage that begins with: "Many Americans consider ..." and that concludes with the citation of Number 73 of the Federalist, pp. 322–23.)]

k. To the side: "#The omnipotence of the majority is not the first cause of the evil, but it infinitely increases it."

2. The legislative acts promulgated in the state of Massachusetts alone, from 1780 to today, already fill three thick volumes. It must be noted as well that the collection of which I speak was revised in 1823, and that many former or pointless laws were discarded. Now, the state of Massachusetts, which is no more populated than one of our departments, can pass for the most stable state in the entire Union, and the one that puts the most coherence and wisdom into its enterprises.

tention goes elsewhere, all efforts cease; whereas in the free States of Europe, in which administrative power has an independent existence and an assured position, the will of the legislator continues to be executed, even when he is occupied by other objects.

In America, much more zeal and activity is brought to certain improvements than is done elsewhere.

In Europe, an infinitely smaller, but more sustained social force is applied to the same things.

[I saw some striking examples of what I am advancing in a matter that I had particular occasion to examine in the United States.]

Several years ago some religious men undertook to improve the condition of prisons. The public was roused by their voice, and the regeneration of criminals became a popular undertaking.

Then new prisons arose. For the first time, the idea of reforming the guilty penetrated the jail at the same time as the idea of punishing him. But the happy revolution that the public joined with so much fervor and that the simultaneous efforts of citizens made irresistible could not be accomplished in one moment.

Alongside some new penitentiaries, the development of which was hastened by the desire of the majority, the old prisons still existed and continued to house a great number of the guilty. The latter seemed to become more unhealthy and more corrupting as the new ones became more reforming and healthier. This double effect is easily understood: the majority, preoccupied by the idea of founding the new establishment, had forgotten the one that already existed. By each person averting his eyes from the object that no longer attracted the regard of the master, supervision had ceased. At first the salutary bonds of discipline were seen to relax and then, soon after, to break. And alongside the prison, lasting monument of the mildness and enlightenment of our time, was found a dungeon that recalled the barbarism of the Middle Ages.

[In France, it would be very difficult to find prisons as good and as bad as in the United States.]
Tyranny of the Majority

How the principle of sovereignty of the people must be understood. — Impossibility of conceiving a mixed government. — The sovereign power must be somewhere. — Precautions that must be taken to moderate its action. — These precautions have not been taken in the United States. — What results.

I regard as impious and detestable this maxim that in matters of government the majority of a people has the right to do anything, and yet I consider that the will of the majority is the origin of all powers. Do I contradict myself?

A general law exists that has been made, or at least adopted, not only by the majority of such or such people, but by the majority of all men. This law is justice.

So justice forms the limit of the right of each people [to command].

A nation is like a jury charged with representing universal society and with applying justice, which is its law. Should the jury, which represents society, have more power than the very society whose laws it applies?

So when I refuse to obey an unjust law, I am not denying the right of the majority to command; I am only appealing from the sovereignty of the people to the sovereignty of the human race.

There are men who are not afraid to say that, in objects that concern only itself, a people could not go entirely beyond the limits of justice and reason, and that we should not be afraid, therefore, to give all power to the majority that represents a people. But that is the language of a slave.

So what is a majority taken as a whole, if not an individual who has opinions and, most often, interests contrary to another individual called the minority. Now, if you admit that an individual vested with omnipotence can abuse it against his adversaries, why would you not admit the same thing for the majority? Have men, by gathering together, changed character? By becoming stronger, have they become more patient in the face of obstacles?

As for me, I cannot believe it; and the power to do everything that I refuse to any one of my fellows, I will never grant to several.

Not that I believe that, to preserve liberty, several principles can be mixed together in the same government, in a way that truly opposes them to each other.

The government called mixed has always seemed to me a chimera. Truly

3. No one would want to maintain that a people is not able to abuse strength vis-à-vis another people. Now, parties are like small nations within a large one; in relation to each other, they are like foreigners.

If you agree that a nation can be tyrannical toward another nation, how can you deny that a party can be so toward another party?

o. Democracy.

Tyranny of democracy. Confusion of all powers in the hands of the assemblies. Weakness of the executive power to react against these assemblies of which it is only an instrument. See very curious article of the Federalist on this subject, p. 213 [No. 48 (ed.)]; id., p. 205 [No. 46 (ed.)]; id., p. 224 [No. 51 (ed.)].

Moreover, that is a required result of the rule of democracy. There is strength only in the people; there can only be strength in the constitutional power that represents the people.

In America the executive and judicial powers are absolutely dependent upon the legislative power. It fixes their salaries in general, modifies their organization; and nothing is provided for them to be able to resist its encroachments [word in English in the original (ed.)]. Federalist, p. 205 [No. 46 (ed.)].

Necessity of taking measures to avoid the abuse of all powers, even those that seem most legitimate. Federalist, p. 223 [No. 51 (ed.)] (YTC, CVb, pp. 25–26).
speaking, there is no mixed government (in the sense that is given to this term), because, in each society, you eventually discover a principle of action that dominates all the others.

England of the last century, which was particularly cited as an example of this sort of government, was an essentially aristocratic State, although some large elements of democracy were found within it; for the laws and the mores were established in such a way that eventually the aristocracy would always predominate and lead public affairs as it willed.

The error arose because, seeing the interests of the great constantly in conflict with those of the people, only the struggle was considered, instead of paying attention to the result of this struggle, which was the important point. When a society truly comes to have a mixed government, that is a government equally divided among contrary principles, it enters into revolution or dissolves.9

So I think that a social power superior to all others must always be placed somewhere, but I believe liberty is in danger when this power encounters no obstacle that can check its course and give it time to moderate itself.

Omnipotence in itself seems to me something bad and dangerous.9 Its exercise seems to me beyond the power of man, whoever he may be; and I see only God who can, without danger, be all powerful, because his wisdom and his justice are always equal to his power. So there is no authority on earth so respectable in itself, or vested with a right so sacred, that I would want to allow it to act without control or to dominate without obstacles. So when I see the right and the ability to do everything granted to whatever power, whether called people or king, democracy or aristocracy, whether exercised in a monarchy or a republic, I say: the seed of tyranny is there and I try to go and live under other laws.

What I most criticize about democratic government as it has been organized in the United States, is not its weaknesses as many people in Europe claim, but on the contrary, its irresistible strength.9 And what repels me the
most in America is not the extreme liberty that reigns there; it is the slight guarantee against tyranny that is found.\footnote{u}{It is very much easier to contest a principle than its consequences. You easily prove to a king that he does not have the right to sacrifice the interest of the State to his own, but when the majority oppresses you, you are forced to recognize its right before attacking the use of that right.} (YTC, CVh. 4, p. 8).

When a man or a party suffers from an injustice in the United States, to whom do you want them to appeal? To public opinion? That is what forms the majority. To the legislative body? It represents the majority and blindly obeys it. To the executive power? It is named by the majority and serves it as a passive instrument. To the police? The police are nothing other than the majority under arms. To the jury? The jury is the majority vested with the right to deliver judgments. The judges themselves, in certain states, are elected by the majority. However iniquitous or unreasonable the measure that strikes you may be, you must therefore submit to it [or flee]. <What is that if not the very soul of tyranny under the forms of liberty?>\footnote{v}{Mr. Cruse, editor of a newspaper in Baltimore, told this anecdote to Tocqueville.}

\footnote{4}{In Baltimore, at the time of the War of 1812, a striking example was seen of the excesses to which the despotism of the majority can lead. At this time the war was very popular in Baltimore. A newspaper that was strongly against the war aroused the indignation of the inhabitants by its conduct. The people gathered, broke the presses, and attacked the newspaper office. Some wanted to call the militia, but it did not answer the call. In order to save the unfortunate journalists, who were threatened by the public furor, it was decided to put them in jail, like criminals. This precaution was useless; during the night, the people gathered again; the magistrates were unable to get the militia to come; the prison was forced open; one of the journalists was killed on the spot; the others were left for dead; the guilty, brought before a jury, were acquitted.}

\footnote{I said one day to an inhabitant of Pennsylvania: “Please explain to me why, in a state founded by Quakers and renowned for its tolerance, emancipated Negroes are not allowed to exercise the rights of citizens. They pay taxes; isn’t it just that they vote?” — “Don’t insult us, he answered, by thinking that our legislators have committed such a gross act of injustice and intolerance.” — “So, among you, Blacks have the right to vote?” — “Undoubtedly.” — “Then, how come at the polling place this morning, I did not see a single one in the crowd?” — “This is not the fault of the law,” the American said to me; “Negroes, it is true, have the right to present themselves at elections, but they abstain voluntarily it seems.” — “That is very modest of them.” — “Oh! it is not that they refuse to go, but they are afraid that they will be mistreated there. Among us, it sometimes happens that the law lacks force when the majority does not support it. Now, the majority is imbued with the greatest prejudices against Negroes, and magistrates do not feel they have the strength to guarantee to the latter the rights that the legislator has conferred.” — “What! the majority which has the privilege of making the law, also wants to have that of disobeying the law”}

Suppose, in contrast, a legislative body composed in such a way that it represents the majority, without necessarily being the slave of the majority’s passions; an executive power that has a strength of its own; and a judicial power independent of the two other powers; you will still have a democratic government, but there will no longer be hardly any chances for tyranny. [If the effects of this tyranny are not felt more in America, it is because America is a new country where political passions are still not very deep and where so vast a field for human activity is presented that interests are rarely opposed to each other.]

I am not saying that at the present time in America tyranny is frequently practiced; I am saying that no guarantee against tyranny is found there, and that the causes for the mildness of government must be sought in circumstances and in mores, rather than in laws.\footnote{w}{The omnipotence of the majority seems to me the most serious disadvantage attached to democratic governments and the source of their greatest dangers."

\footnote{x}{In the manuscript: "#Arbitrary must be carefully distinguished from tyranny, and tyranny from arbitrariness. Arbitrary can be not tyrannical, and tyranny can be not arbitrary. In the United States there is almost never arbitrary, but sometimes there is tyranny."

To the side: "#When Louis XIV regulated by himself and with sovereign power the Effects of the Omnipotence of the Majority on the Arbitrariness of American Public Officials

_Liberty that American law leaves to officials within the circle that it draws._ — Their power.

Arbitrary must be carefully distinguished from tyranny. Tyranny can be exercised by means of the law itself, and then it is not arbitrary; arbitrariness can be exercised in the interests of the governed, and then it is not tyrannical.\footnote{note of 4 November 1831, pocket notebook 3, YTC, BIIa, and Voyage, OC, V, 1, pp. 187–88. The interlocutor of the other conversation is George Washington Smith (conversation of 24 October 1831, alphabetic notebook B, YTC, BIIa, and Voyage, OC, V, 1, pp. 246–47).}