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Lessons from Tocqueville in America

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[00:00:00] Tanaya Tauber: Welcome to Live at the National Constitution Center, the podcast sharing live constitutional conversations and debates hosted by the center in person and online. I'm Tanaya Tauber, the senior director of town hall programs. Alexis de Tocqueville's *Democracy in America* has been called by Harvey Mansfield the "best book ever written on democracy and the best book ever written on America." What can a 200-year-old book teach us about democracy in America today? Scholars Jeremy Jennings, author of *Travels with Tocqueville Beyond America*, Olivier Zunz, author of *The Man Who Understood Democracy: the Life of Alexis de Tocqueville*, and Catherine Zuckert of the University of Notre Dame, discuss Tocqueville's masterpiece and its lessons for modern Americans. Jeffrey Rosen, president and CEO of the National Constitution Center moderates. Here's Jeff to get the conversation started.

[00:01:05] Jeffrey Rosen: Hello, friends. Welcome to the National Constitution Center and to today's convening of America's Town Hall. I'm Jeffrey Rosen, the president and CEO of this wonderful institution. Welcome, Jeremy Jennings, Catherine Zuckert, and Olivier Zunz.

[00:01:19] Jeffrey Rosen: Olivier, if I may, I'll start with you. You describe so much of Tocqueville's thought in your compelling new biography *The Man Who Understood Democracy*, including his belief that liberty and equality could reinforce each other. But you also discuss the influence of his studies of the American constitution on his thought, which eventually inspired him to propose a bicameral legislative system for France. Tell us about what Tocqueville's conversations with legislators like John Spencer and Chancellor Kent and other figures taught him about the US Constitution and how that influenced his thought.

[00:01:55] Olivier Zunz: Thank you for inviting me to this conversation here. I'm delighted to be here. For many years, I taught a Tocqueville seminar, reading Tocqueville with a group of other graduates at UVA and one of the things that always surprised them, and understandably so, is how could a young man who was just only a couple of years older than they were, he was only 25 when he came to this country, could write such a book. And so many years later we're still reading it and learning from it. Moreover, Tocqueville knew absolutely pretty much close to zero about this country before he came. He learned English during the sea voyage. He had very little understanding of it, but he had this intuition that if he was going to live in a democracy he got to see one.

[00:03:03] Olivier Zunz: And he had got another piece of intuition, which I think was important. I think Jeremy will especially question this listening to us from England. Tocqueville bypassed England altogether. He didn't want to just see a constitutional

monarchy. He wanted to see a republic. But he arrived here and he learned on the go. He learned on the way. And he spent several weeks here even before thinking about the constitution. And suddenly, when he was in Upstate New York, traveling around the Erie Canal, going down the Mohawk Valley, that he met John Spencer, who was a New York State lawyer and would end up becoming, for a short time, treasury secretary in the Tyler administration. Then they had rewritten the New York Constitution, he helped part of it, and introduced him to the US Constitution.

[00:04:15] Olivier Zunz: So John Spencer was a very important informant. Tocqueville talked to about 200 Americans and I think Spencer said, "Well, look, young man, you really need to understand something about the constitution if you want to understand this country," and that was really critical. So a couple of things. Tocqueville really was impressed with this idea that the constitution made it possible for people to live at the same time in a small country and a big country, that somehow, there were provisions where one could retain a lot of local autonomy, a sense of direct political action, and yet, maintain a Republican system throughout a vast and expanding territory. So that is the point that I thought was critical to him, because he came, if he had any idea at all, with this idea from Montesquieu and others that you could have a Republican government only in small countries, though it could also exist in big one. So that was, I think, the Madisonian touch that he really picked up on.

[00:05:51] Olivier Zunz: He also was completely surprised by the idea. This was impossible for him, coming from France to conceive that a court could invalidate a law. That was not something that he had ever, ever thought about. And yes, as you pointed out, Jeff, he was extremely impressed with the notion of bicameralism of two chambers. And later on, Tocqueville, who, yes, wanted to be an intellectual and a writer, but he wanted even more, to be a politician. After many years in the chamber, he had his, I hesitate to say stay in the sun, because it was not very successful, but he was briefly foreign minister of the Second Republic in 1849 after the 1848 Revolution. And he also in 1849, was part of the constitutional committee, and he was still very much in conversation with John Spencer and with other American informants, and he tried very hard to implement bicameralism in the French constitution of the Second Republic, and he failed.

[00:07:20] Jeffrey Rosen: So interesting to learn about his Madisonian conclusions about federalism and his unsuccessful efforts to implement bicameralism and you so vividly show how his own political career was full of, challenges to implement his theories in practice. Well, let's talk now about what Tocqueville learned from his travels abroad, which is a topic that you talk about so powerfully, Jeremy Jennings. In your new book *Travels with Tocqueville Beyond America*, you take us with Tocqueville to Canada, to Germany, to Italy, to Algeria. He learned many things, but give our audience a sense of whether his travels, which taught him more about the dangers of administrative despotism in Italy and Germany, for example. Did they reinforce the lessons that he had put forth in *Democracy in America* or did they challenge them?

[00:08:14] Jeremy Jennings: Thank you very much for inviting me and it's a pleasure to be with you. Following on through what Olivier Zunz has just said, one of the important points that Olivier makes in his book, is that the way Tocqueville thought was, in his phrase, intrinsically comparative, and that is true and I think so wherever. So Tocqueville comes to America, as has been pointed out, a very, very young man. He writes this classic book as a very young man. But then he continues to travel. And then it's quite clear that, and I think it's

also he didn't mention he comes to England, he went to Ireland as well. And I think it's true to say wherever he went America stayed with him in his head really and it was always a point of reference.

[00:09:01] Jeremy Jennings: When they go to England and he'd say, well, his traveling friend Beaumont sort of says, "Where's America in all of this? What's the link with America in all of this?" and so on. It's not the only thing he's doing. Obviously, he's doing lots of other things. But I think his travels, in a way, is always testing the basic hypothesis that he developed in America and what he saw in America, and in particular that hypothesis, that crucial hypothesis that in a sense the future was democracy and, you know, that is where we're going to go. So everything was all seen in that light.

[00:09:39] Jeremy Jennings: And that's one of the things that it's really fascinating about, especially his trips. He made a few trips to England. His trips to England and his trip to Ireland and also the trip to Germany, because in a way what he sees there is quite a challenge to what he'd seen in America and what he thought the course of history would be. The English case is fascinating because of course here was a country which was seemingly holding democracy at bay, which was still keeping a monarchy and an aristocracy, and so on.

[00:10:14] Jeremy Jennings: Ireland was interesting because here was a country which was just driven by a democratic spirit and so on and so forth, and to what extent would that, and he believed it would, and Beaumont agreed with him, ultimately, to what extent would that ultimately challenge English aristocracy? A similar thing in Germany. One of the questions, and that is, why did other countries manage to avoid the catastrophe that became French history? That's another question, which is very uppermost in his mind, and that's one reason he goes to Germany. He says, "Well, obviously, no one can understand the French Revolution but only understand in France."

[00:10:53] Jeremy Jennings: So all the time he's making these comparisons wherever he goes. Likewise, with Algeria. He goes to Algeria and says, "Well, this reminds me of Cincinnati," and all of these sorts of things. So it's always there. And although Tocqueville doesn't come back to America, it never leaves him, and that's why, as we know, and that's something I worked on some years ago, right up to his death, he's following developments in America. When friends come back from America and he sees them, "Tell me what you saw. Has this changed? What about this? What about that?" And so on. American friends and American visitors to Paris, he would see and so on and so forth.

[00:11:31] Jeremy Jennings: So America always remains with him. But I think Olivier is right to talk about those constitutional debates, and focus attention on those. Because here was Tocqueville's opportunity to actually install something equivalent to the American constitution in France. And he fails and actually the bits where he succeeded turned out to be politically failures as well. But the last piece, I think I'm right in this, the last piece that Tocqueville actually published, was on the theme of judicial review. Something, of course, completely alien to the French tradition. So that's the last thing he published. So these are American issues remained with him wherever he went and right the way through until the end.

[00:12:18] Jeffrey Rosen: So interesting. And highlighting, as you do, why France descended into liberalism and America didn't, is so powerful, and noting those two differences, as you do, separation of powers and judicial review introduces the question of to what degree constitutionalism may protect liberty?

[00:12:40] Jeffrey Rosen: Catherine Zuckert, you discuss another central protection for liberty, properly understood, and that is religion. And Tocqueville famously said that liberty didn't consist in unregulated license but in self-control, self-mastery, and that the spirit of religion was a great incentive in that regard. Tell us more about his complicated views about the spirit of religion, where he balanced his Catholicism with an ecumenicalism and to what degree his observations about religion and liberty are still relevant.

[00:13:11] Catherine Zuckert: Thank you. I will try. I think it might be useful to begin with the observation that Tocqueville's use of the word democracy, in French, isn't quite the same as we ordinarily use. So by democracy he meant an egalitarian social state, which is one that has no aristocracy, no one born into, a class or a station. And he thought that the progress of history was moving away from governments instituted by force in which some people had a hereditary right to rule and to have all the wealth to a more egalitarian, not perfectly egalitarian, but in this respect more egalitarian situation. What he then saw, maybe from his worries about France, was that just having people equal doesn't necessarily make them politically free.

[00:14:17] Catherine Zuckert: So what Tocqueville was most concerned about in coming to the United States was learning how this equality could not lead to an all-powerful centralized government but instead would lead to liberty among the public, and one part of that was the decentralized constitution, in this case less bicameralism and more federal, some things national, some things state, and most important from Tocqueville's point of view, some things local. So for Tocqueville, what was really important about the development of the United States was its origin in the Puritans, because he saw that the Puritans combined what we would think would be highly incompatible, that is this really strict moral legislation with democratic institutions, town meetings, and majority consent to the law.

[00:15:16] Catherine Zuckert: With the settlement and after the revolution in the United States, the morals couldn't be imposed by law, nor did he think that they should be. Those were taken straight out of the Bible and he thought that they were suitable only for primitive people. But the religious or the strict morals in the United States remained, and in fact he thought that was so important that at a certain point he says the first institution, political institution, in the United States is religion. So how could that be? It's a kind of paradoxical statement, because his argument is the reason why religion could be so powerful in the United States was it was not state-imposed.

[00:16:04] Catherine Zuckert: Once you have an equal and democratic people, they'd want to think for themselves and so they don't want to be told what to think. Religion retained its influence in the United States because there weren't public officials telling people what to believe. And his argument was that that was the only way in which religion could maintain influence in a democracy. Well, how did that work? What he saw, or he thought he saw in France, was when state officials dictate to people what they should believe or what churches they should go to, the Catholic Church in this case, what ceremony should be, people resist. That's not free.

[00:16:55] Catherine Zuckert: So in the United States, where people were allowed to worship as they pleased, they retained the general moral principles, largely of protestant Christianity, but also that were compatible with Catholicism. And his observations after that were, or his predictions, really, in volume two of *Democracy in America*, was that religions would remain powerful in the modern world if and only if they remained out, non-state religion, non-enforced. Moreover, he thought, yes, the religions help having strict morals, and he associated those actually primarily with marriage and family life, and so that's got a lot of contemporary relevance, although things have changed massively. But he didn't think that a new religion could be introduced.

[00:18:08] Catherine Zuckert: He didn't think that any religion would be successfully state supported or state-imposed. He didn't think any religion that had very fancy rituals would last in the United States. He thought things would become more informal, so I think he wouldn't have been surprised by time in which in Catholic churches, this was in the 1960s, they started, um, singing folk songs. So there would be a great reduction. You don't have the Latin mass anymore. So not rituals, the emergence of community churches, non-denominational, just very loose beliefs in a God, a promise of an afterlife, which he thought rise out of natural human desires. So if you don't block those desires, they will remain.

[00:19:03] Catherine Zuckert: Not all of his predictions, I think, have become true. It'd be hard to look at them, at least now, and say religion isn't powerful in politics, but, at least, I hope that's where we could begin.

[00:19:17] Jeffrey Rosen: Very well. Thank you so much for summarizing so beautifully Tocqueville's belief that religion, the spirit of religion, could promote that sort of self-control and self-mastery, and for raising the question about whether or not his, predictions have been vindicated. So, in addition to religion, Tocqueville also said that the doctrine of self-interest, properly understood, would promote this kind of self-control, and he said philosophers teaching this doctrine tell men that to be happy in this life they must keep close watch upon their passions and keep control over all their excesses. They must control themselves in order to promote their own interests.

[00:19:59] Jeffrey Rosen: The question that I have now, Olivier, is to what degree is Tocqueville's hope, not his confidence, that the spirit of religion and the doctrine of self-interest, properly understood, succeeding in American today or to what degree have new forces, social media, polarization, others, led to a decline of the moderation and self-control that Tocqueville thought was necessary for the spirit of the American democracy? So it's a broad question, but what did Tocqueville get right and what can his views about self-interest, properly understood, teach us today?

[00:20:33] Olivier Zunz: I'm going to answer that question, of course. I want to backtrack a little bit. One of the most puzzling thing about Tocqueville was how many things he got right, and you wouldn't assume he would get these things right on if you read his observations, because there is a very large distance separating what he writes from what he knows as he is traveling. For example, his conclusions on the power of religion as a force in American culture and politics, provided the state doesn't interfere in religious life, as Catherine just very correctly summed up, is remarkable in the sense that Tocqueville missed a lot of American religion.

[00:21:36] Olivier Zunz: I cannot understand, for example, how he could travel along the Erie Canal for about six weeks in July and August of 1831 and miss the Second Great Awakening. He has absolutely nothing to say about the evangelical religion. And nobody even informed him about it. And yet despite all of these blind spots, he comes down with the right judgment in so many things. Just reading Tocqueville is really amazing and there's something when you think about the various travels that Jeremy studied, and yes, Tocqueville was always thinking comparatively, but he never tell you what he is comparing what with what.

[00:22:37] Olivier Zunz: So unless you have followed him and his travels, you really don't know whether he is talking about Ireland or England or Germany. And yet, he is keeping all these different systems in mind, and often he talks about America as if it were America, but he is really describing England. For example, in America he bypasses industry completely, and yet in the second volume of Democracy in America, he comes out with a major section on the course of a possibility of an industrial aristocracy which will replace the old aristocracy that has disappeared, fortunately, in America, but this will come back as a new aristocracy. He is not predicting the Gilded Age. Describing what he saw in England, in Manchester, and elsewhere in industrial England. And all of that section comes out of his English notes, but he's describing it as the future of America. It's truly interesting the ways in which he puts all of this together.

[00:23:53] Olivier Zunz: Now when Tocqueville left France, he comes from an aristocratic family, the entire family has been, almost the entire family, otherwise he wouldn't be living, but last part of his family was decimated by the terror, by the revolutionaries, during the revolutionary terror in 1793, 1794. Equality, the way Catherine described it, that is equality of status, no privilege at birth, equality of condition but in a legal sense, not in an economic sense, is a bad word in Tocqueville's lexicon. It means leveling. It means everybody is taken down to the same level.

[00:24:45] Olivier Zunz: One of the things that Tocqueville really discovers or realizes, was a surprise to him when he comes to America, is that equality can actually be uplifting rather than leveling. This equality at birth, that is equality, again, not of economic condition but of status, of no aristocracy, of nobody having privileges at birth, legal privileges at birth, that can be uplifting. It gives everybody the possibility. Not everybody, but a large part of the population, of the white population, the white male population. It gives them a possibility of achieving their promise, which is something that is prevented, that most people can achieve elsewhere. And that is really the greatest argument. Now how can people achieve their promise? Well, there are different ways of achieving greatness in life and I think certainly if you read most 18th century philosophy, you'd think virtue is the way to go. Well, Tocqueville realized that self-interest is comes in much greater quantity than virtue. [laughs]

[00:26:13] Olivier Zunz: So if you encourage people to look after their own interests first, you'd probably have many more people involved in this than people seeking to do the right thing for the sake of doing the right thing, that, you know, interest comes in much better supply than virtue in society. The key is to merge private interest with the general interest, and Tocqueville saw the promise of this being realized more in America than elsewhere, that is in working for your own self-interest you have a better chance in American society than you had anywhere else in Europe at the time to promote the common interest, and that is what

Tocqueville called self-interest totally understood, on life and self-interest, depending how you want to frame it.

[00:27:13] Jeffrey Rosen: Thank you so much for that and for helping us understand how he merged the classical and enlightenment conception of virtue into that idea of self-interest, properly understood. Jeremy, you discuss in your book, Gary Wills's critique that Tocqueville didn't get America and all the things he got wrong, but on this broad question of whether his concerns about majority tyranny coming more from social appropriate than from government and his cautious hope that the spirit of religion would induce people to pursue self-interest, properly understood. What can Tocqueville teach us today?

[00:27:54] Jeremy Jennings: I just want to come back one stage, just to say the point about missing evangelical Christianity in America. He missed it everywhere. I mean, he comes to England and he doesn't see it in England. I mean, doesn't really talk about it at all. See, it is quite remarkable that he misses that massive movement. Wasn't just, you know, in America that exists today, existed elsewhere. In terms of Catholicism in Ireland, evangelical Christianity was missed and it was going very, very strong politically, socially, and so on in England.

[00:28:28] Jeremy Jennings: It's very difficult. That broader point, and Olivier has just mentioned it, you know, that he got lots of things. Tocqueville got lots of things right and he got lots of things wrong. The tyranny of the majority was probably the most controversial argument that he made, and Americans immediately disliked it. And you know, Spencer, writes these notes to the American edition, has an introduction and notes by Spencer, and he basically says, "Well, this is a very great book, except that on this issue of the tyranny of the majority Tocqueville is wrong." The people, of course, didn't like America, the British, for example. It's the bit of the argument which they took up. They thought this was really spot on. This told them everything they feared about America was there and what we find in John Stewart Mill and so on and so forth.

[00:29:25] Jeremy Jennings: It's always been a very controversial part of the thesis. One argument was that the very idea was in part an accident of time. That he came to America at the moment of Jacksonian democracy and he missed that sort of Jackson for the sort of, you know, the future of American politics and so on and so forth. So in a sense, he was fooled by the immediate things that he saw and he didn't see beyond those immediate things.

[00:29:56] Jeremy Jennings: So that's always been, you know, the most controversial part of his thesis. And yet it's the bit which people remember, probably most strongly, and it's the argument which time and time again has reappeared, not just in American context but in the European context, and so on, if you think of sort of Ortega y Gasset, *The Revolt of the Masses*, and all that sort of stuff, Michael Oakeshott. There was a very famous essay of Michael Oakeshott on mass man and so on and so forth.

[00:30:27] Jeremy Jennings: These are all developments of this sort of Tocquevillean argument about a potential tyranny of the majority that in a sense, you know, the enlightened few would be swamped by the ignorant masses, and once the ignorant masses have made up their their minds, then, all debate was over. One response to that has been of course to say, "Well, but that majority opinion is never stable." You know? There might be a majority

opinion but it's not something which, you know, exists permanently. What you have, in a sense, is competition going on and the majority views prevail and and so on and so forth. And so, again, that's another argument which says, well, you know, it's livable with so to speak.

[00:31:12] Jeremy Jennings: One argument about America in particular, is of course that one area of the tyranny of the majority was longstanding was precisely about the position of African Americans, you know, in American society. Early on he goes to Philadelphia, he goes to Baltimore, and so on. And he notices it doesn't matter what the law says. The law might make these people free but opinion won't let them be free. Black people are still buried separately from white people. Black people can go to schools with white people but they don't, et cetera, et cetera, et cetera.

[00:31:49] Jeremy Jennings: And so that subsequently developed in American society. But, you know, that's an example. That seems to be a legitimate example of how a tyranny can be enduring and repress minority in iniquitous ways, irrespective of what the law might say. And I suppose it's that point that is the far more difficult thing to overcome. You can change the law easily, but changing sort of the mores of a society, which can often have those long-term, deep, in-built prejudices, is an extremely difficult thing. And I think... And I think, you know, it's for you to tell me whether those things still exist in America. I don't know.

[00:32:42] Jeremy Jennings: The broader point, I suppose, now of course people say, well, if, you know, the tyranny of the majority is taking a different form, it's taking the form of Twitter mobs or all of those sorts of things. You know, it's now gone into the internet and, you know, there's suddenly thousands and thousands of people, well, descend sort of metaphorically upon a particular individual which has the audacity to disagree with public opinion and so on and so forth. And I don't think any of us know really, frankly, how to deal with this. It's something which does, let's be fair, it does silence people. People are terrified now. They can lose their jobs, they can lose lots and lots of things which are precious to them by saying the wrong thing. Just the wrong word can bring this about nowadays.

[00:33:29] Jeremy Jennings: That is something we really have to be very, very worried about. And people are worried about it, but for the moment I don't think anyone's got much of a clue about how to prevent that from happening. People talk about controls of the internet and so on and so forth, then people come back, well, what about free speech and so on? It's a very worrying thing. So, you know, he was on to something with his idea of the tyranny of the majority, but it changes its form. It changes its character and form over time.

[00:33:57] Jeffrey Rosen: He was on to something but it changes its form over time. Catherine Zuckert, Jeremy Jennings puts on the table the question of what Tocqueville would make of Twitter mobs, which is a constructive question. And what does Tocqueville tell us about how to avoid the tyranny of public opinion. We've talked about federalism as one, protection about, uh, the spirit of religion, about character education. What were his antidotes to the tyranny of the majority and and how well have they worn?

[00:34:27] Catherine Zuckert: So I would pick up on some some of the comments first that, Olivier Zunz made about Tocqueville's understanding of the way in which self-interest properly understood was cultivated and preserved in the United States. And a part of that was participation in local government. That was the way in which people learned the art of

association and it was by participation in the deliberations about where you should build the sidewalk or the road that would teach people that, oh, there is a connection between my immediate economic and personal interest and what the government does, and by getting together with other people we can do something about it. And I think that Tocqueville's relevance for us is to say, you know, there's not much that exists anymore. So it's a danger point.

[00:35:23] Catherine Zuckert: He was increasingly worried and went looking at the United States, and I trust my colleagues to talk about other places, about the centralization of authority, which he thought would necessarily grow as it has, because individuals in modern industrial societies can do very little for themselves, very little to protect themselves from the internet, et cetera. So you have to ask the government to step in. That's going to be inevitable. And we haven't developed the laws or ways for the government to step in to the problems with the internet, but I think Tocqueville helps us understand very well the sort of phenomena that Jeremy is talking about, because his controversial contention about the tyranny of the majority, at least, as I understand it, is that you'd think this tyranny would be exercised by taking votes in congress. Well, they disagree all the time.

[00:36:24] Catherine Zuckert: So it's not so much by legislation that the majority tyrannizes. And he wasn't talking about nations, he was talking about states or small communities. The way the majority tyrannizes is through opinion and the social isolation of anyone who disagrees. That's why it's hard to get to legally. But I, like Olivier, I taught Tocqueville's *Democracy in America* to students for many, many times, many years and if you ask them, "Oh, do you feel pressures to conform?" You bet the majority of them do. So, you know, the epidemic now of loneliness, teenage suicides going up and well, Robert Putnam is famous for having adapted Tocqueville's thesis about bowling alone, the increasing sense of isolation and non-participation on the part of individuals, not just in government but in other social groups, has a lot of terrifying political implications for American politics, and I think elsewhere.

[00:37:38] Catherine Zuckert: And I guess, um, given the exchange, I think one of the difficulties is that when people encourage political participation as they do these days, they tend to identify political participation with protests or demonstrations. But protests and demonstrations, as for George Floyd, get an immediate reaction, but then how do you get those causes into legislation and policy? Well, you have to work in a more systematic way. So I think protests lead to more cynicism because they don't have immediate effects, and what we should understand political participation is and should be, engaging in deliberations and continuing over time rather than a one-time show.

[00:38:30] Jeffrey Rosen: So powerful. Participation is engaging in deliberation over time and when you lose the intermediate associations that allowed people to participate in politics on the local level then they feel the sense of isolation and non-participation that Tocqueville feared. Olivier, I think I'll just let you pick up on this fascinating discussion, and to what degree have Tocqueville's fears about the excesses of individualism and centralized authority been vindicated in our anxious age?

[00:39:01] Olivier Zunz: Well, in the Tocqueville text, there is a very clear relationship between the tyranny of the majority, which by the way, is the idea that came out of a conversation with Jared Sparks, who was Unitarian minister, the first history professor at

Harvard, later on Harvard president, who says to Tocqueville in the conversation in Cambridge, "Well, in this country the majority is always right." There's one thing you need to understand. The majority is always right."

[00:39:49] Olivier Zunz: So Tocqueville ran with it and built it into this idea of the tyranny of the majority, which I was explained was really the tyranny of majority opinion. Now in Tocqueville's text, one encounters the danger of the tyranny of the majority through association. That is to say through the possibility of associating with like-minded people who then will basically assert their autonomy, their ideas, their independence. The way Tocqueville constructed this is really significant because he really changed the political science conversation of the day. Remember, you know, Washington feared associations and Madison conceived of blunting their negative effects only by multiplying them so that they will cancel each other out.

[00:40:54] Olivier Zunz: So Tocqueville actually changed the conversation. He said, "No, no. We really need to use those as a force, association." And we are, as have been discussed here, in a moment in our lives in this country where, we are struggling with finding creative thought of associations that have disappeared, and haven't been really replaced with satisfactory means of participation. Even though protest is one form of participation, there are many other ways of participating in mass society as opposed to more localized societies. But this is an open question. This is a struggle. This is a fight.

[00:41:58] Olivier Zunz: I think this why Tocqueville is relevant still as much as he is today is not because he has resolved issues, it's because he has posed the right questions. And as often is the case, the question is a hell of more important than the answer, which we are, you know, struggling with. So I think there is this mystery of why Tocqueville has this ability to always become relevant, it's the strength of the question. And here we're at the heart of it. How we are free from majority tyranny, how we express ourselves individually and in groups, and I think the fact that so many of us here sense the crisis, the crisis is real.

[00:43:02] Jeffrey Rosen: The the crisis is real and Tocqueville poses the right questions. One way of participating in intermediate associations is to do what our friends in the audience are doing, which is to listen to people of different perspectives and to deliberate with them. There are so many great questions in the chat. We won't have an opportunity to get to many of them, but they include asking us to discuss Tocqueville's views on slavery and democracy and the excellent observation by Diana Post at the end that it's not majority of opinion but ability to access the public square, now social media, so those who can access it have an outside influence and don't represent the majority. It so squarely raises this question of Tocqueville and faction, which Olivier put on the table.

[00:43:48] Jeffrey Rosen: Jeremy, these maybe closing thoughts for you and Catherine, but wrap up these strains as you think best and if Tocqueville poses the right question about how to avoid Twitter mobs, that question that you put on the table, what are some of his answers and how can we translate them today?

[00:44:05] Jeremy Jennings: Gosh. Gosh, gosh, gosh. That's a tricky one. I do think that again that the point that Tocqueville, you know, asked questions, and the remarkable thing, I mean, this man was ill for a lot of the final years of his life. This man keeps on asking

questions. He just follows things. Wherever he goes, he's looking to try and understand places, and so on. I mean, it has to be said that, you know, over time his interests do shift. And so the tyranny of the majority should become as far less important for him and his big question then becomes, which is illustrated in his second great book, you know, how is it that the French cannot sustain a political culture of liberty? That becomes the big question for him. That is part of his answer to this issue, because the answer to that question is that the French over a period of time simply destroyed the middle, you know? They left themselves with the state and with these relatively weak individuals, and so on.

[00:45:11] Jeremy Jennings: So, I mean, I think in terms of what his answer is, his answer is, I think, a social capital type response that, you know, that what you need, you need that sort of middle ground where people can come together and so on and so forth and develop the necessary social capital to live together. I mean, that's one of the most fundamental questions of all political philosophy. What's the glue? What's the glue which holds all of these people together? And it can't just be government. That won't do. Government and law won't do the job for you. There's got to be something more to it. And the discussions about religion, and so once those sort of bonds of common bonds are weakened, you face a really massive problem.

[00:45:58] Jeremy Jennings: You've got the issue of individualism, not well understood. That's another part of the problem. I mean, it's trying to get people to, as again pointed out, to marry the private with the public. This is a hell of a difficult issue. And again political philosophers have talked about that for centuries and centuries. Think of Jean-Jacques Rousseau and the social contract and so on and so forth.

[00:46:22] Jeremy Jennings: Tocqueville's answer is that sort of social capital argument. Interestingly enough, I mean, some of us can remember when, you know, when the Soviet Union collapsed, when the wall came down and so on. And suddenly just right across eastern and central Europe in the former communist bloc, hundreds, if not thousands of people were reading Tocqueville. Why? Because they thought that Tocqueville could give them the answer to what, you know, the way forward was Tocqueville. And look what's happened in those societies on the whole. The Tocquevillean initiative we might say has come to nothing.

[00:46:56] Jeffrey Rosen: Yeah.

[00:46:56] Jeremy Jennings: I know most of those societies have finished up more or less where they were, they're corrupt, et cetera, et cetera, et cetera. So Again, he's asking questions and it's a big ask. Everything that he's asking is a big ask, because ultimately he wants to marry liberty. He thinks a life without liberty is not worth living as far as he's concerned. He says that quite explicitly. It's not worth living. How do you get that? And that is just about the most difficult question you can ask. How can you live freely in a fair society? He gives us some clues on that one, but the evidence seems to suggest that our society isn't really listening to what he's got to say, sadly.

[00:47:42] Jeffrey Rosen: Such a powerful and sad reminder of people after the fall of the wall reading Tocqueville and the tragedy of that aftermath and the tragedies in Tocqueville's own life, which all of you write about, about his efforts to implement liberal principles in France, where he largely failed.

[00:48:01] Jeffrey Rosen: Well, Catherine, the last word in this sobering but really provocative discussion, what are some of the grounds for hope, if any, in solutions to this problem of majority tyranny that Tocqueville identified? He did talk about character education, he talked about federalism, he talked about intermediate associations. Might any of them be productively applied today?

[00:48:26] Catherine Zuckert: This is a place where maybe I think Lincoln is better than Tocqueville, because I think the religion of the law or religion of the constitution would be probably as good a direction as we could take. You know, where are we going to find agreement? We're not going to find it in religion. I mean, it's better from a religious point of view in the United States. Still, 63% of Americans according to the survey, define themselves as Christian. But, still, that's not strong enough. And in fact, Tocqueville never thought it was strong enough. It won't resist material interests. So you have to combine them. And I guess my hope, which is that, an insistence on subjecting differences of opinion to conversation peacefully, peaceful exchanges, not cooperation, not shouting down. In a way the rules of civil society understood and with an emphasis on the civil.

[00:49:38] Catherine Zuckert: And public leaders. That is one of the things that Tocqueville doesn't emphasize, but I think could be emphasized, is the potential role of the people who used to be called statesmen in articulating principles in a way that's persuasive to the public. So everybody in the United States, I think, now understands that the partisanship is horrible. But you need somebody to say, "Well, this is how we move away from this," and to get people persuaded that that would be the way to do it. And there are institutional changes, I think, you could make, beginning with the primaries that might foster that.

[00:50:21] Jeffrey Rosen: Superb. Thank you so much for that inspiring and constructive suggestion. That's the religion of the constitution as Lincoln put it. Making reverence for the constitution and the laws, a civic religion is the answer. Friends, I must share with you the Constitution Center is committed in the years leading up to America's 250th birthday in 2026, to playing a constructive role in convening the kind of conversations that Catherine talks about and that Tocqueville called for, so that we can subject differences of opinion to peaceful exchanges and that citizens, as all of us are doing in the audience and on this wonderful panel, can respectfully learn to disagree without being disagreeable, can contest our passions, and can achieve a common experience of modeling civil discourse on which the future of liberty depends.

[00:51:12] Jeffrey Rosen: This discussion is a model for these kind of conversations and I am just honored to have been part of this wonderful conversation. Thank you, friends in the chat, for having spent an hour learning and growing together, and please join me in thanking our superb scholars, Olivier Zunz, Jeremy Jennings, and Catherine Zuckert, for spreading so much light about the legacy of Alexis de Tocqueville. Thank you, all.

[00:51:42] Tanaya Tauber: This conversation was streamed live on March 6, 2023. This episode was produced by John Guerra, Lana Ulrich, Bill Pollock and me, Tanaya Tauber. It was engineered by the National Constitution Center's EV team. Research was provided by our wonderful interns here at the NCC, Sophia Gardell, Emily Campbell, and Liam Kerr. For a list of resources mentioned throughout this episode, visit constitutioncenter.org/debate. At that same page, you can check out our full lineup of exciting programs and register to join us virtually. As always, we'll publish those programs on the podcast, so stay tuned here as well,

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