

FROM FRIENDLY SOCIETIES TO LABOR UNIONS: THE TRANSFORMATION OF THE VOLUNTARY ASSOCIATION

The trajectory taken by early voluntary associations depended on their legal settings and on the motives and goals of the individuals who organized them. The early development of labor organizations presents a case in point. By the late eighteenth century, the shoe industry was undergoing rapid change. Traditionally, master craftsmen presided over the labor of apprentices and journeymen in household workshops which produced "bespoke" work -- shoes to order -- for individual customers. By the late 1780s, more and more footwear was being produced in large lots to be sold to merchants. Though it would be decades before shoemaking became mechanized, it nevertheless took on an industrial character: journeymen and apprentices performed specialized tasks in "factories;" they increasingly lived outside the shops; and their ties to masters were defined increasingly by cash payment rather than a host of informal obligations (including education, medical care, and moral supervision).

In this changed economic situation, both masters and journeymen turned to voluntary associations for mutual support. Initially, the organizations they formed resembled "friendly societies," with a primary emphasis on assistance in case of sickness, disability, or death. But as industrial conditions became more competitive, they quickly took on a more explicitly economic character. In the first decade of the nineteenth century, a series of conflicts between associations of masters and journeymen brought the question of the nature of these organizations before the courts. These cases played an important role in formally differentiating types of voluntary associations.

The documentary Philadelphia Cordwainers Conspiracy Case of 1806 contains fascinating information about the evolution of these early voluntary associations, as well as a panorama of the ways in which voluntary bodies were viewed under the law in the Early National Period. In addition, the case raises many of the issues about the relation between American and British law that concerned Jefferson a generation earlier. Quite clearly, by 1806, the common law was being used -- as Jefferson had feared it would be -- as an instrument of the propertied against the propertyless.

THE TRIAL
OF THE
BOOT & SHOEMAKERS
OF PHILADELPHIA,
ON AN INDICTMENT
FOR A COMBINATION AND CONSPIRACY
TO RAISE THEIR WAGES
(1806)

January Sessions, 1806. City of Philadelphia, ss.

The grand inquest of the commonwealth of Pennsylvania, inquiring for the city of Philadelphia upon their oaths and affirmations, respectively, do present that George Pullis, Peter Pollen, John Harket, John Hepburn, Underl Barnes, John Dubois, George Keimer, and George Snyder, late of the city of Philadelphia, aforesaid, being artificers, workmen and journeymen in the art and occupation of a cordwainer, and not being content to work, and labour in that art and occupation, at the usual prices and rates for which that and other artificers workmen and journeymen, in the same art and occupation were used and accustomed to work and labour; but contriving, and intending unjustly and oppressively, to increase and augment the prices and rates usually paid and allowed to them and other artificers, workmen, and journeymen, in the said art, and occupation, and unjustly to exact great sums of money, for their work and labour, in the said art and occupation, on the first day of November in the year of our Lord one thousand eight hundred and five, with force and arms did combine, conspire, confederate, and unlawfully agree together, at the city of Philadelphia, aforesaid, they . . . would not, nor should work and labour in the said art and occupation, but at certain high prices and rates, which they . . . then and there insisted on being paid, for future their future work and labour in the said art and occupation, . . . to the damage, injury, and prejudice, of the masters employing them and of the citizens of the commonwealth generally, and to the great damage and prejudice of other artificers, and journeymen in the said art and occupation of a cordwainer, to the evil example of others, and against the peace and dignity of the commonwealth of Pennsylvania. . . .

And the inquest aforesaid, . . . do further present, that, that said . . . artificers, workmen and journeymen in the said art and occupation of cordwainer, . . . unlawfully and perniciously, and deceitfully designing and intending to form and united themselves into a club and combination, and to make and ordain unlawful and arbitrary bye laws, rules, and orders amongst themselves, and thereby to govern

themselves and other artificers, workmen and journeymen in the art and occupation of cordwainer [and] did unlawfully assemble and meet together, did then and there unjustly and corruptly conspire, combine, confederate, and agree together that none of them the said conspirators, . . . would work for any master or person whatever, who should employ any artificer, workman or journeyman, in the said art and occupation of a cordwainer, or other person who should thereafter infringe or break any either of the said unlawful rules, orders or bye laws, and that they would by threats and menaces and other injuries prevent any other workmen and journeymen from working for such master

For the attorney general. --JOS. REED

This prosecution has been commenced, not from any private pique, or personal resentment, but solely, with a view, to promote the common good of the community: and to prevent in future the pernicious combinations, of misguided men, to effect purposes not only injurious to themselves, but mischievous to society. Yet infinite pains have been taken to represent this prosecution, as founded in very improper motives. Not only in private conversation, and in public taverns, but even the press has been employed in the work of misrepresentations. . . .

Let it be well understood that the present action, is not intended to introduce the doctrine, that a man is not at liberty to fix any price whatsoever upon his own labour; we disclaim the idea, in the most unqualified terms, we declare every man, has a right to fix any price upon his commodities or his labour which he deems proper. We have no design to prevent him. We disclaim any such design. If any one of the defendants, had thought proper to charge \$100 for making a pair of boots, nobody would interfere, if he could get his employer to give it, or could compel the payment. He would have a legal right to do so, our complaint is not of that kind.

Our position is, that no man is at liberty to combine, conspire, confederate, and unlawfully agree to regulate the whole body of workmen in the city. The defendants are not indicted for regulating their own individual wages, but for undertaking by a combination, to regulate the price of labour of others as well as their own.

It must be well known to you, that every society of people are affected by such private confederacies: that they are injurious to the public good and against the public interest. The law therefore forbids conspiracies of every kind which puts in jeopardy the interest and well being of the community; what may be lawful in an individual, may be criminal in a number of individuals combined, with a view to carry it into effect. The law does not permit any body of men to conspire or to undertake to do any act injurious to the general welfare. The act of conspiracy is an offense against the laws of this country, and that is the charge brought against the defendants, in the first count of the indictment. . . .

You will please to observe that this body of journeymen are not an incorporated society whatever may have been represented out of doors on that head; neither are they a society instituted for benevolent purposes. But merely a society for compelling by the most arbitrary and malignant means, the whole body of journeymen to submit to their rules and regulations; it is not confined even to the members of the society, it reaches every individual of the trade, whether journeymen or master. . . . You will find that they not only determine the price of labour for themselves, but compel every one to demand that price and receive no other, they refuse to hold communion with any person who shall disobey their mandates, in fine, they regulate the whole trade under the most dreadful pains and penalties, such as I believe as never was heard of in this or any other civilized country. . . .

MR. FRANKLIN. If the court pleases, and you gentlemen of the jury, it is my duty to open the case on the part of the defendants and to state the grounds on which we mean to rely for their acquittal. . . .

The defendants, with a number of other persons, who go under the denomination of journeymen shoemakers, are members of an association, call "the federal society of journeymen cordwainers," which has been established in this city for a considerable time past. For fifteen years and more, the members of that society have been accustomed to the enjoyment of the privilege secured to them and all other citizens, by the constitution of the commonwealth of Pennsylvania, to assemble together in a peaceable manner for their common good. The objects, of their thus uniting, and meeting together, were the advancement of their mutual interests; the relief of the distressed, and indigent members; and generally, to promote the happiness of the individuals, of which their society was composed. These purposes were, certainly, innocent and legal: even in the eyes of the master workmen, they must appear laudable and meritorious. But, unfortunately for these poor and ignorant men! they went a step beyond this! They mistook their privilege! they thought they had a right, to determine for themselves the value of their own labour! and among other acts of their association, committed the unpardonable sin of settling and ascertaining the price of their own work!!!

If this offense against the master workmen were really an offense against the laws of their country, how were these journeymen to know it? They knew that their would-be masters, had united against them; they had set the example of combining, and confederating together. They had their meetings, and passed their resolutions; they had joined all their forces: not for the purpose only of establishing the prices of their own goods; but also, for the purpose of determining the rate, at which the journeymen

should work. They assumed the right of limiting those whom they employed, at all times, and under all circumstances, whatever might be the misfortunes of society, the changes in the value of necessaries, or the actual increase, or decrease of trade; without consulting the interests, or wishes of the workmen, or permitting them to have a voice upon the question.

To this state of slavish subordination, the journeymen refused to submit. They conceived that every man being the sole owner, and master of his own goods and labour, had a right to affix the price of them; leaving to those who were to employ or purchase, the right to accept or reject as they might think proper. These appeared to them, and doubtless they will to you, to be principles founded on the plainest grounds of equity and justice. . . .

MR. HOPKINSON [for the prosecution] . . . I venture to state, without any apprehension of contradiction, it has been proved, a certain number of persons, among whom are the present defendants, associated for several distinct and criminal purposes. This is the gist of the prosecution, it is not for what any one man of them has done, that the state prosecutes: the offense is in the combination.

Why a combination in such a case is criminal, will not be difficult to explain: we live under a government composed of a constitution and laws. . . and ever man is obliged to obey the constitution, and the laws made under it. When I say he is bound to obey these, I mean to state the whole extent of his obedience. Do you feel yourselves bound to obey any other laws, enacted by any other legislature, than that of your own choice? Shall these, or any other body of men, associate for the purpose of making new laws, laws not made under the constitutional authority, and compel their fellow citizens to obey them, under the penalty of their existence? This prosecution contravenes no

man's right, it is to prevent infringement of right; it is in favour of the equal liberty of all men, this is the policy of our laws; but if private associations and clubs, can make constitutions and laws for us. . . if they can associate and make bye-laws paramount, or inconsistent with state laws; What, I ask, becomes of the liberty of the people, about which so much is prated; about which the opening counsel made such a flourish!

There is evidence before you that shews, this secret association, this private club, composed of men who have only been a little time in your country, (not that they are the worse for that,) but they ought to submit to the laws of the country, and not attempt to alter them according to their own whim or caprice.

. . . I am now to speak to the policy of permitting such associations. This is a large, encreasing, manufacturing city. Those best acquainted with our situation, believe that its manufactures will, bye and by, become one of its chief means of support. A vast quantity of manufactured articles are already exported to the West Indies, and the southern states; we rival supplies from England in many things, and great sums are annually received in returns. It is then proper to support this manufacture. Will you permit men to destroy it, who have no permanent stake in the city; men who can pack up their all in a knapsack, or carry them in their pockets to New-York or Baltimore? These manufactures are not confined to boots and shoes . . . other articles, to a great amount, are manufactured here, and exported. . . . I cannot make a calculation of the importance of manufactures to this city.

If the court and jury shall decide, that journeymen may associate together, and determine that none shall work under certain prices; then, when orders arrive for considerable quantities of any article, the association may determine to raise the wages, and reduce the contractors to diminish their profit; to sustain a loss, or to abandon the

execution of the orders. . . . [This] will break up the manufactories; the masters will be afraid to make a contract, therefor he must relinquish the export trade, and depend altogether on the profits of the work of Philadelphia, and confine his supplies altogether to the city. . . .

I will now proceed to shew you what the law is. . . . It will be seen, that the mere combination to raise wages is considered an offence at common law: the reason is founded in common sense. Suppose the bakers were to combine, and agree not to sell a loaf of bread, only for one week, under a dollar, would not this be an injury to the community? . . . Certainly it would: and a few men, unless their pockets are filled with money, could support it for any considerable length of time. All combinations to regulate the price of commodities is against the law. Extend the case to butchers, and all others who deal in articles of prime necessity, and the good policy of the law is then apparent.

I Hawkins, c.72, sec2, in note was cited. Speaking of combinations, he says; "but since it does not appear that such an offender is indictable by any statute, it is safest to proceed at common law." "Where divers persons confederate together, in order to prejudice a third person, it is indictable as high criminal at common law." "Journeymen confederating and refusing to work, unless at encreased prices, is indictable!" "A conspiracy to do an unlawful act, though nothing done, or to maintain one another in any matter, whether it be true or false, is indictable."

Mr. Hopkinson next cited *8 Mod. p. 11*. Wise against the journeymen tailors at Cambridge. "A conspiracy is unlawful, even though the matter might have been lawful, if done by them individually. Conspiracy is an offence at common law; therefore, indictments need not conclude *contra formam statuti*. . . .

He trusted the jury would see the present cause in this double point of view; the general policy, as it relates to the good of the community, and the flourishing state of our manufactures: the liberty of individuals, and the enjoyment of common and equal rights, secured by the constitution and laws. This case has exhibited such a tissue of infractions of personal rights by the club of journeymen shoemakers, that was our state legislature to dare to pass such laws as these men have passed, it would be a just cause of rebellion. I will go no further, and say it would produce rebellion if the legislature should say, that a man should not work under a certain sum. . . it would lead to beggary, and no man would submit to it. Then, shall a secret body exercise a power over our fellow-citizens, which the legislature itself is not invested with? The fact is, they do exercise a sort of authority the legislature dare not assume.

It now rests with the jury, under the direction of the court to say, whether we shall in the future be governed by secret clubs, instead of the constitution and laws of the state; a verdict of not guilty, will sanction combinations of the most dangerous kind; a contrary verdict will give the victory to the known and established laws of the commonwealth.

MR. FRANKLIN (for the defense) . . .Has the master the sole right of determining the wages which are to be given for the labour of his journeymen? This would be too arbitrary a power for any man to contend for; it would be an insult to your understandings to insist upon it. The real value of labour, in a country, must depend upon a variety of circumstances, which neither the master of his journeymen can in any way controul. As to the price which any particular employer may pay his workmen, that must be regulated by contract between them. If they can mutually agree upon a price to be given, the master is bound to give, and the journeymen must abide by the

sum stipulated. A different price will be given to different workmen; some deserve more than others, either on account of greater industry and application, or their greater skill and ingenuity.

But if the employer and journeyman cannot agree upon the work to be done, or the price to be paid, neither is bound to recede from his determination.

If, then, any one man has this right, has not every other man the same privilege? If one journeyman has a right to adopt measures to prevent the effects of the obstinacy or combination of the master shoemakers, may not a number unite for the same object? A purpose innocent or lawful in one man, cannot be otherwise in a society or body of men. . . .

Our constitution says that "the citizens have a right in a peaceable manner to assemble together for the common good." If the manner, therefore, in which the defendants met for the purpose of their association was peaceable, it completely destroys the foundation of the present prosecution.

To shew what parts of the common law were abrogated by the revolution, or retained by the several states when they became sovereign and independent republics, he [Hopkinson] cited Tucker's Black. pages 405 and 406. What he says of the constitution of Massachusetts is equally applicable to the law of Pennsylvania. The expressions in each are similar, and the spirit and intention precisely the same.

Here he [Franklin] read the comments of the judge on that passage of the constitution of Massachusetts which declares, "that all the laws which had been heretofore adopted, used, approved, in the province, colony, or state of Massachusetts-

bay, and usually practice on in the courts of law, shall still remain and be in full force, until altered, or repealed by the legislature; such parts only excepted, as are repugnant to the rights and liberties contained in that constitution." And he particularly requested the attention of the jury to the conclusion of his remarks. "It was therefore essential to the force and obligation of any rule of the common law, they it had been before that time actually adopted, in the colony: and further, that it should not be repugnant to the rights and liberties contained in the constitution. Otherwise, though it be found in every law treatise from Bracton, and Glanville, to Coke, Hale, Hawkins, and Blackstone; or in every reporter from the year books, to the days of lord Mansfield, it would have no more force in Massachusetts, than an edict of the emperor of China." Let us, then, be informed, by what law the defendants are punishable? It is acknowledged that there is no express statute on the subject in this country. It therefore must be by the common law or it cannot be punished at all. Where is the evidence of this common law? Is it founded on practice and usage? None can be proved! Is it founded on any legal decision? None can be produced! From the first settlement of Pennsylvania, to the present time, no instance can be produced of an indictment for a transaction of this kind. If there were such, it would have been brought forward.

It is true that precedents innumerable may be imported from Great Britain. But very different are the genius and feelings of the two countries, on the subject of criminal law; particularly that branch which relates to the present enquiry. The theory and practice of the criminal law of England, form an object of horror to every feeling and reflecting mind. . . .

Instead of being, as it ought to be, an emanation from the law of nature and morality, it has too often been avowedly and systematically the reverse. It has been a combination of the strong against the weak, of the rich against the poor, of pride and

interest against justice and humanity. Unfortunate, indeed, it is, that this has been the case; for we may truly say, that on the excellence of the criminal law, the liberty and happiness of the people chiefly depend.

In Great Britain there are statutes made particularly on the subject of confederacies: I will read some of them. . . . You will readily perceive the spirit of partiality, which breathes through their statutes . . . and the strong inclinations which they evince to favor the rich at the expence of the poor. . . the master at the expence of the servant.

If you are desirous of introducing a similar spirit of inequality into our government and laws . . . if you think the labourer and the journeyman enjoy too great a portion of liberty, and ought to be restricted in their rights . . . such disposition and opinions will lead you to convict the defendants. If, on the other hand, you are satisfied with the wise and liberal principles of our government . . . if you are contented with the blessings enjoyed under our free constitution, which secures to the citizens an equality of rights, and recognizes no distinction of classes . . . I shall look for the result of these feelings and these sentiments in a verdict of acquittal.

MR. RODNEY (for the defense) . . . You are called to decide for the first time, in the free country, and to fix the precedent, in favour of the doctrine contained in this indictment. The prosecutors, not content with building costly mansions, rapidly amassing fortunes, aspire to lay up their plums annually, and they will do it, if you once give them the privilege of fixing the prices of those who are to work for them; to discover this does not require day light; a candle, wax taper, or a lantern will be sufficient for the purpose. . . .

The journeymen shoemakers acted merely in self defence, for the masters had entered into an association in 1789, sever years before the journeymen associated. If we had not adduced testimony of the existence of the society of master shoemakers in 1789, we should have found them on the record of a respected and learned gentleman (the father of the ingenious counsel on the part of the prosecution) Mr. Francis Hopkinson, in his account of the federal procession on the 4th of July, in that year.

Let the jury take out the book of the masters' society, and they will find ample powers vested in them to regulate and fix prices of the different articles of their trade; and to form a league to reduce the wages of their journeymen. . . .

We are told that this prosecution is brought forward from public motives, and not from personal views; when you see a formidable band of masters attending on the trial of this cause, and some of the most eminent counsel in the city employed to prosecute it; and when you see, further, that it is not taken up by any of their customers, it will require strong arguments to convince you, it done out of pure patriotic motives. . . .

My word for it, this indictment has not originated from motives of friendship for us, nor is it thus zealously supported with a view to our interest or that of their customers. Their very endeavour to impose such a belief upon you, must prove vain and fatal to their cause. Their attempt to mask their object, which they would blush to reveal; and to cover their selfish views, with the mantle of pure friendship for us; and sincere attachment to our interests; and or genuine patriotism, cannot succeed! This idle parade of merit on their part, and these hollow, empty pretensions to credit, for the disinterestedness of their conduct, will meet that fate, which they so justly deserve. This masked battery, which they have opened on us, will be turned by the jury on themselves. . . .

When I hear men who have inherited large fortunes from their ancestors, or to use a familiar expression, have been born with silver spoons in their mouths, advocating distinctions in society, and espousing measures calculated to affect and oppress the labouring classes of the community, I feel a degree of charity for the errors they commit, because they have been taught from infancy to exercise an overbearing, insulting superiority over those who are really their equals. They fancy that there is some inherent quality in themselves, which entitles them to rank and precedence above the common herd. I cannot feel the same charity for another description of men, of which, thank God, we have very few in this country. For strange as it may appear, it is nevertheless true, that we sometimes meet with an individual, who, having but the other day, as it were, fled from a country where his labour was fixed at so low a price that he could not support himself and his family, only on bread and water; and having acquired in this land of liberty, by toil and industry a handsome fortune, is loud and boisterous for reducing those who move here, in his former humble sphere, to the same state of vassalage and want, which he had to his sorrow experienced in the despotic regions from which he had been compelled by "strong necessity's supreme command," to fly. Abandoning at the same time his native soil, his relatives and friends. To my mind, such conduct is incapable of any satisfactory solution. . . .

Let me again call your attention to the volume of testimony, we have unfolded, and which affords so much for present and future reflection. You cannot be surprized, after what you have heard delivered on oath, that the master cordwainers should so rapidly grow wealthy and become opulent. It is only a matter of astonishment, that under such circumstances, they should have the hardihood to institute the present prosecution. If it be true, as they have contended, that the best, and fastest workers among the journeymen, by toiling at the last, late and early, can earn twelve dollars a week, I think that it has been satisfactorily proved, that the masters receive a clear nett profit

deducting the expence of materials, equal to the amount of wages which they pay their journeymen. From this, it must evidently appear, that those who employ twenty-four journeymen, must make near fifteen thousand dollars a year, when the best journeyman receives about six hundred, a sum scarcely adequate to the frugal maintenance of himself and his family in this city, tho' living on the simplest and cheapest fare which the market affords. When then, in the name of common sense, are they charged with avarice and extortion? The labourer is surely worthy of his hire to enable him to live comfortably. I believe there is not a single profession in this city, in which the profits are so great. Master carpenters, men of skill and science, who have obtained a fair reputation, to many of whom, men are running to get work done, and when obliged, as they frequently are, to let some of their friends have a part of their jobs, make no such sums; they are satisfied, if I am correctly informed, with a fifth of what is paid to the journeymen for building a house.

We are told, in answer to our shewing the precedency which the masters took, in forming their associations, that if they have offended, they are also punishable. . . true, but they ought to be aware of it, they will be sorry that they burnt their fingers in raking up the embers that smothered a fire which may consume themselves. They will find that the law, like the Gospel, is no respecter of persons. . . .

But to proceed with the facts: in 1799, the masters attempted to lower the rate of wages, and a turn-out was the consequence; they attempted to take the scale and compasses into their hands, and graduate the prices the journeymen were to receive, for the fabrication of several articles of their manufactory. . . . But the great offence is, that they will not work at a shop where those work who violate their rules: they say, they will not frequent a house where certain characters are entertained. But have they not a right to say for themselves, they will not work, or board, or keep company, with

this or that particular person? and because this conduct happens to interfere with the interest of some third person, does it render them criminal? If anybody is materially affected, by conduct of this nature, it must be those who keep boarding houses; and we have heard no complaint from that quarter. . . . Every man has a right to chuse where he will live, and any number may form a determination not to board in the same house with particular individuals, without incurring the slightest degree of criminality. You may with equal propriety assert, that he was guilty of an offence, who would not sleep in the same bed with another man. . . . When those who are members of the journeymen's society, agree not to work in the same shop, or board in the same house, with those who will not join an association, originating from self-defence, the first law of nature: is this rationally to be considered as duress or compulsion? if it be either, it does not, as it relates to duress, fall within the legal definition of duress or imprisonment. . . .

No person is compelled to join the society, and it would be as novel a definition of the term, compulsion, as it would be preposterous in an individual, to contend that he was compelled to join a society, because, otherwise the members would not associate with him. If this be styled compulsion, what is that to be called which the poor journeymen have experienced, arrested and bound over by recognizance, at the instance of the master cordwainers?

. . . They are said to be a self-created society. There was once a considerable noise made in this country about self-created societies; it had its day, and is now hushed forever in the silent tomb. This society had as much right to create itself, as the associations to promote commerce, agriculture, the arts, or any other object.

They assert, as soon as an immigrant journeyman arrives in this city, he is asked to join the society. What then? He has the right to accept or decline the offer; the thing is perfectly optional. If he declines, we only say, we will not work or board with you. This is no force: if he comes, it is his voluntary act. When you become a member of any institution, you engage to obey its rules. This complaint ought to be made of sterner stuff, it is too flimsy to shelter the prosecution. Those who are declared against the present body, may form a new one, and enter into similar regulations; the masters may join them, and when a journeyman asks for work, they may enquire to which society he belongs? If to the old, they may answer, we will not employ you; if to the new, we will give you work; you shall be supported. There would be nothing criminal in this conduct, they neither offend the law or the commandments. So the body-men have a right to say, we will work only where we please, and at what price we please; and we know that no earthly power can in this free country compel us. But give a verdict against the defendants, and farewell to the dearest privilege which they enjoy! The masters may then dictate where they shall work, with whom, and at what prices. . . .

Having thus reviewed the facts, and considered the subject, on the reason and policy of the measure, . . . let us next advert to the law which he has adduced to support his prosecution. If I understood the gentleman, he stated, . . . that he did not dispute the right of any individual to fix the price of his own labour. This is sound orthodox doctrine, but he undertakes to say, that notwithstanding it is lawful for one, that whenever two or three attempt it, it is not lawful for them. . . . It is the combination, he says, renders that criminal which would otherwise be perfectly innocent. This doctrine sounds strangely in my ears. . . .

I apprehend, there can be no suitable distinction drawn between one lawful act and another. Some, to be sure, may be more laudable than the rest, but all not prohibited or

forbidden by law are equally lawful. To make myself perfectly understood, I presume it is admitted that a single journeyman shoemaker, may as lawfully ask any price for his work, as he may do the most meritorious act; this being understood let us proceed to investigate the principle which renders the joint act of two, criminal, though the same act would be lawful for either of them separately to perform.

One method of reasoning, is by analogy. We will, therefore, adopt it. A single merchant may lawfully embark in trade to any amount: the avocations of commerce are so various and extensive, that it is very common, for several persons to enter into partnership, with a view of promoting their respective interests. There are, at this very moment, in this city, firms composed of three, four, or half a dozen individuals, who jointly set their prices on every article they sell. Agreeably to the gentleman's doctrine, they are guilty of a conspiracy. It would be perfectly lawful, no doubt, for any member of the concern, to engage in the same business; but it is a crime in such a number, tho' innocent in one!

Mr. Hopkinson and myself, were once members of a law society, intended to prepare us, like the manoeuvres of a parade day, to discipline the military, for the real action of the war. It was a very lawful object in any individual to fit himself for the active sciences of his profession, but for such a number to associate, was absolutely incompatible with his present principles. We could expel any member who violated our rules, this would have excluded him from the society. Was this criminal in us? If not, why is it charged as a crime against the defendants?

The Cliosophic and whig societies of Princeton college (the school in which many of the first characters of our country have received their education) are founded on the same laudable principles. Would the members of either of those bodies be considered

amenable in a court of criminal justice, for uniting in an act of expulsion or refusing to associate with the member when expelled?

There are many persons delighted with the entertainment, which the theatre affords. Any gentleman may lawfully frequent that place of amusement, but for a number to join and take a box, would be highly criminal.

Dancing is very fashionable and a very pleasing recreation; though according to the principle of my learned friends, a country dance would be criminal, a cotillion unlawful, even a minuet a conspiracy; and nothing but a hornpipe or a solo would be stepped with impunity!

To be more serious: the alarm of fire is given. No man will say it is not unlawful to extinguish it. I step out of my door: I am called on to assist in moving an engine: I answer, if one can drag the heavy machine along, it is very well, for if I assist it will be a conspiracy; and this beautiful city must be destroyed by the conflagration, or those who put out the blaze must be consumed in the flames of the common law! Let the fire companies and hose companies of this town, take warning by the issue of the present prosecution. I do not know any of them are incorporated. Many of them surely are not. By the same rule that might prevent people, from going to church or meeting, a practice so truly commendable. An individual who was not able to take a whole pew would be deterred lest he would be guilty of a conspiracy, from joining with a friend, whose resources would be adequate to the object. May I suppose, when this new code, now promulgated for the first time in America, goes into actual effective operation, we shall be afraid to join in the last solemn act of humanity, burying the corpse of a deceased friend. This afflicting duty must be confided to the hands of the lonely undertaker, as

not even the nearest connections can unite in following their departed kinsman to the tomb!

. . . We have heard it asserted, that in this country we have no rules of self government, but the laws prescribed by the legislature, and the constitution ordained by the people. I have ever understood, that when any persons thinks proper to become a member of a particular society, he is bound by its regulations. It is well settled, that an action may be maintained for any sum incurred under the bye-laws of a corporation. Marsh companies and others frequently exercise extensive authority, and proceed in a summary way to enforce obedience to their rules; a man is not compelled to enter a society, but if he once voluntarily becomes a member, it cannot be disputed that he is bound by its rules, whether incorporated or not.

This prosecution, I understand, is to be supported on the principles of the common law. Such it appears to be from the face of the indictment, and the learned counsel have explicitly avowed it.

With respect to the civil part of that celebrated system, there is much to applaud. . . . Of the criminal code, I have uniformly entertained a very different opinion. It is so sanguinary, that it resembles the law of Draco. From high treason to petit larceny, the punishment is death. . . . In Pennsylvania, this sanguinary system has been changed. Our penal code had been revised and ameliorated. An enlightened policy has dictated the salutary plan which we have adopted. In the rude gothic castle of the common law, there is no apartment dedicated to the reformation of an offender. How different from the fair fabric Pennsylvania has raised, in which numerous places are provided to reform the manners and morals of an unfortunate criminal, and to restore him, a new man, to society. . . .

I shall contend, however, that by the common law, independent of statutes, the acts which we have done would not subject us to prosecution and punishment; and I deny, that even if they would, we have adopted in Pennsylvania, this particular part of that sanguinary code. . . .

When our forefathers landed in this country, then a wilderness, they brought over with them, according to the most respectable authorities, only so much of the common law, as was suited to their situation and circumstances: neither the civil or criminal part of that code was adopted *en masse*, at any subsequent period. . . .

By an act, passed soon after we had unfurled the banners of independence, the common law and statute law, which had before been in force in the province, are declared to be binding and obligatory. I call, then, on the learned counsel to shew, prior to the passage of that act, a similar prosecution. I believe it new, not only in the instance, but novel in principle. If they will be so good as to produce a single case, where an indictment has been maintained against any class of labourers or mechanics, either journeymen taylor, cobblers, or tinkers, for uniting in a resolution fixing the prices of their labour, I will give up the defence. . . .

In Pennsylvania, I repeat, there is no legislative scale established, by which the wages of journeymen of any description are graduated and adjusted. We have no legal barometer in which to weigh their services, and without such an act of assembly, unless those British statutes . . . have been extended to this country, . . . we are not liable to an indictment as at common law. . . .

The determination of any number, not to lodge in the same boarding house with particular individuals, surely cannot be considered as a confederation wrongfully to injure them, let it proceed from whim, caprice, or any other motive. The old proverb says, a man is known by the company he keeps; and you must permit everybody to choose their associates. Should you establish the contrary principle by your verdict, I beg you to contemplate the consequences. The masters, I suppose, will then select at pleasure the houses in which we must board. They may order us to lodge in the hospital or the bettering house, if they receive us. If you give them the right to choose where we shall live, they will have equal authority to say how. They may fix our diet, and declare, whether we shall dine on turtle soup and roast beef, or on barley broth and the legs of frogs. They may direct us to live on vegetable or an animal food, on fish or flesh, or to eat off the same plate or dish, drink out of the same tumbler or mug, and to use the same spoon or ladle. . . .

I acknowledge, the journeymen are not as opulent as the master cordwainers, but it is neither a sin nor a crime to be poor. They are represented, however, as mere birds of passage, who can at any moment flock and depart in a body. So can the masters it suits their interest. They can follow them the next day, if they find it to their advantage. It is true, they own houses and possess large capital. Of the former they can conveniently dispose, and thought their capital may now lay deposited in bars of silver or wedges of gold, in the cells of the different banks of this city, secured by iron doors and bolts, nothing can more readily escape, or is of more easy transportation. With wings of paper, more faithful than those of the son of Dedalus, it can fly across the sea, wider than the Icarian, or alight on some eligible spot in the United States, where it will be the most productive. Recollect how much of the capital of this city has already flown to other places, where it is actively and profitably employed, and you will believe me without hesitation.

Temptations are held out, to procure a conviction; to allure you, into a verdict of guilty. You are told that you will get your cossacks and slippers made cheaper by convicting the defendants! Are you credulous enough to believe this promise will be performed? If you are, you can be persuaded that a stale six-penny brown loaf is a shoulder of mutton. . . . Rest assured, they will not fox a boot, or hell-tap a shoe, one farthing cheaper for a conviction. . . . If you banish from this place, (as it is morally certain you will,) a great number of the best workmen, by a verdict of guilty, can you reasonably expect, that labour will be cheaper. Will it not rise in value, in exact proportion to the scarcity of hands, and the demand for boots and shoes, like every other article in the market?

. . . You have all heard, gentlemen, of the fable of the hen and the golden egg. I fear it will be verified in the conduct of the masters. They grasp at too much! . . .they may destroy the source from whence the golden streams flow. . . . For your own interests, for theirs, and for the sake of the community, I beg and entreat you to arrest the arm of vengeance. They know not what they do. If you do not protect us by your verdict, the court must and will punish us. Their judgement may render us infamous. Those workmen who are not chained to the spot, will fly the city; and we who are bound, like victims to the altar, would prefer banishment, to a sentence that may consign us to a prison for years, and deprive of us credit and character for life!

MR. LEVY (the Judge) . . . One man determines not to work under a certain price and it may be individually the opinion of all: in such a case it would be lawful in each to refuse to do so, for it each stands, alone, either may extract from his determination when he pleases. In the turn-out of last fall, if each member of the body had stood alone, fettered by no promises to the rest, many of them might have changed their opinion as to the

price of wages and gone to work; but it has been given to you in evidence, that they were bound down by their agreement, and pledged my mutual engagements, to persist in it, however contrary to their own judgment. The continuance in improper conduct may therefore well be attributed to the combination. The good sense of those individuals was prevented by this agreement, from having its free exercise.

Considering it in this point of view, let us take a look at the cases which have been compared to this by the defendants counsel. Is this like the formation of a society for the promotion of the general welfare of the community, such as to advance the interests of religion, or to accomplish acts of charity and benevolence? Is it like the society for extinguishing fires? or those for the promotion of literature and the fine arts, or the meeting of the city wards to nominate candidates for the legislature or the executive? These are for the benefit of third persons in the society in question to promote the selfish purposes of the members. The mere mention of them is an answer to all, that has been said on that point. There is no comparison between the two; they are as distinct as light and darkness. How can these cases be considered on an equal footing? The journeymen shoemakers have not asked for an encreased price of work for an individual of their body; but they say that no one shall work, unless he receives the wages they have fixed. They could not go farther than saying, no one would work unless they all got the wages demanded by the majority; is this freedom? Is it not restraining, instead of promoting, the spirit of '76 when men expected to have no law but the constitution, and the laws adopted by it or enacted by the legislature in conformity to it? Was it the spirit of '76, that either masters or journeymen, in regulating the prices of commodities should set up a rule contrary to the law of their country? General and individual liberty was the spirit of '76. It is our first blessing. It has been obtained and will be maintained. . . we will not leave it to follow an *ignis fatius*, calculated only to mislead our judgement. It is not a questions, whether we shall have an *imperium in imperio*, whether we shall have, besides our state legislature a new

legislature consisting of journeymen shoemakers. It is of no consequence, whether the prosecutors are two or three, or whether the defendants are ten thousand, their numbers are not to prevent the execution of the laws. . . though we acknowledge it is the hard hand of labour that promise the wealth of a nation, though we acknowledge the usefulness of such a large body of tradesmen and agree they should have every thing to which they are legally entitled; yet we conceive they ought to ask nothing more. They should neither be slaves nor the governors of the community. . . .

The jury found the defendants "guilty of combination to raise their wages." The defendants were fined eight dollars each, and costs. A similar case was tried three years later in Baltimore. There, the courts found for the journeymen. In New York in 1809, however, the journeyman cordwainers were tried for conspiracy and found guilty.

These trials helped to forge distinctions among voluntary associations, as well as helping to clarify their relation to the state. The emerging criterion distinguishing illegal conspiracies from legitimate associations seemed to be, as Recorder Levy argued, the extent to which organizations promoted "the general welfare of a community." In practice, the safest way of assuring that this was so seemed to be requiring that organizations, rather than being "self-created," be formally incorporated by the legislature -- which could, presumably, speak with some authority on the question of whether or not the purposes of an organization were consistent with law and public policy.

Needless to say, however, formal incorporation by special legislative act posed its own problems. It inevitably politicized the question of what constituted the common good. Recorder Levy's comments notwithstanding, the mere advancement of the interests of religion was not -- in states like Connecticut at least -- sufficiently public-

spirited, unless the organization seeking a charter happened to be Congregationalist. On the other hand, in states like Virginia, for the state to incorporate a religious body was regarded as an improper establishment of religion by government.

Because of the broad spectrum of political views in conflict, as well the variety of jurisdictions involved, the distinctions between public, private, and mutual benefit associations would never achieve clear definition. Even at the turn of the century, for example, states like Massachusetts would continue to treat fraternal organizations as charitable, according them the same benefits granted to churches, schools, and other eleemosynary entities.

Finally, decisions like those in the Philadelphia Cordwainers Conspiracy case, which restricted laborers' ability to use voluntary associations to pursue their ends, had the effect of pushing workers into the electoral arena. Although American workers would continue in their efforts to organize unions (with varying degrees of success), political associations would become the characteristic agencies of laboring class activities for most of the century. Civil associations, on the other hand, would increasingly be the domain of the wealthy, learned, and respectable.

In making his observations of American society in the late 1820s, Alexis De Tocqueville was least sanguine about the prospects of workers and artisans. On the one hand, he saw the rapidly growing economy and the fluid society providing incentives for individual craftsmen to become entrepreneurs. (Thus, the transformation of master shoemakers into capitalists described in the Philadelphia Conspiracy case). On the other hand, he saw the new conditions of production disenfranchising craftsmen as a group.

Tocqueville's comments can be read in several ways. In one reading, he seems to anticipate Marx in describing the alienation and oppression of labor under conditions of capitalist production. Read another way, he seems to say that neither the traditional guild organization of the crafts nor the newer idea of workers as a class had any relevance in a setting where individuals were constantly rising and falling according to their merits. It may well be that he was saying both things and that, his overall optimism about the American experiment notwithstanding, he -- like Jefferson -- viewed the capacity of individuals to accumulate wealth as a very real threat to the future of democracy.

However one chooses to read him, his comments on the social and political implications of the emerging industrial economy are a necessary backdrop for understanding his comments on the use of voluntary associations by Americans. Quite clearly, the wealthy were in a better position to create and use voluntary associations than the poor. However, the very fact of their wealth diminished their electoral strength. Thus, Tocqueville seemed to suggest, the realm of voluntary associations would tend to be bifurcated between "civil associations," through which minorities like the rich would seek to influence the public, and "political associations," through which the masses would seek to influence government.

IN WHAT SPIRIT AMERICANS CULTIVATE THE ARTS (1840)

. . . It commonly happens that in the ages of privilege the practice of almost all the arts becomes a privilege, and that every profession is a separate sphere of action, into which it is not allowable for everyone to enter. Even when productive industry is free, the fixed character that belongs to aristocratic nations gradually segregates all the persons who practice the same art till they form a distinct class, always composed of the same families, whose members are all known to each other and among whom a public opinion of their own and a species of corporate pride soon spring up. IN a class or guild

of this kind each artisan has not only his fortune to make, but his reputation to preserve. He is not exclusively swayed by his own interest or even by that of his customer, but by that of the body to which he belongs; and the interest of that body is that each artisan should produce the best possible workmanship. In aristocratic ages the object of the arts is therefore to manufacture as well as possible, not with the greatest speed or the lowest cost. When, on the contrary, every profession is open to all, when a multitude of persons are constantly embracing and abandoning it, and when its several members are strangers, indifferent to and because of their numbers hardly seen by each other, the social tie is destroyed, and each workman standing alone, endeavors simply to gain the most money at the least cost. The will of the customer is then his only limit. But at the same time a corresponding change takes place in the customer also. In countries in which riches as well as power are concentrated and retained in the hands of a few, the use of the greater part of this world's goods belongs to a small number of individuals, who are always the same. Necessity, public opinion, or moderate desires exclude all other from the enjoyment of them. As this aristocratic class remains fixed at the pinnacle of greatness on which it stands, without diminution or increase, it is always acted upon by the same wants and affected by them in the same manner. The men of whom it is composed naturally derive from their superior and hereditary position a taste for what is extremely well made and lasting. This affects the general way of thinking of the nation in relation to the arts. It often occurs among such a people that even the peasant will rather go without objects he covets than procure them in a state of imperfection. In aristocracies, then, the handicraftsmen work for only a limited number of fastidious customers; the profit they hope to make depends principally on the perfection of their workmanship.

Such is no longer the case when, all privileges being abolished, ranks are intermingled and men are forever rising or sinking in the social scale. Among a

democratic people a number of citizens always exists whose patrimony is divided and decreasing. They have contracted, under more prosperous circumstances, certain wants, which remain after the means of satisfying such wants are gone; and they are anxiously looking out for some surreptitious method of providing for them. On the other hand, there is always in democracies a large number of men whose fortune is on the increase, but whose desires grow much faster than their fortunes, and who gloat upon the gifts of wealth in anticipation, long before they have the means to obtain them. Such men are eager to find some short cut to these gratifications, already almost within their reach. From the combination of these two causes the result is that in democracies there is always a multitude of persons whose wants are above their means and who are very willing to take up with imperfect satisfaction rather than abandon the object of their desires altogether.

The artisan readily understands these passions, for he himself partakes in them. In an aristocracy he would seek to sell his workmanship at a high price to the few; he now conceives that the more expeditious way of getting rich is to sell them at a low price to all. But there are only two ways of lowering the price of commodities. The first is to discover some better, shorter, and more ingenious method of producing them; the second is to manufacture a larger quantity of goods, nearly similar, but of less value. Among a democratic population all the intellectual faculties of the workman are directed to these two objects: he strives to invent methods that may enable him not only to work better, but more quickly and cheaply; or if he cannot succeed in that, to diminish the intrinsic quality of the thing he makes without rendering it wholly unfit for the use for which it is intended. When one but the wealthy had watches, they were almost all very good ones; few are made now that are worth much, but everyone has one in his pocket. Thus the democratic principle not only tends to direct the mind to the

useful arts, but it induces the artisan to produce with great rapidity many imperfect commodities, and the consumer to content himself with these commodities.

Not that in democracies the arts are incapable, in case of need, of producing wonders. This may occasionally be so if customers appear who are ready to pay for time and trouble. In this rivalry of every kind of industry, in the midst of this immense competition and these countless experiments, some excellent workmen are formed who reach the utmost limits of their craft. But they rarely have an opportunity of showing what they can do; they are scrupulously sparing of showing their powers; they remain in a state of accomplished mediocrity, which judges itself, and, though well able to shoot beyond the mark before it, aims only at what it hits. In aristocracies, on the contrary, workmen always do all they can; and when they stop, it is because they have reached the limit of their art.

When I arrive in a country where I find some of the finest productions of the arts, I learn from this fact nothing of the social condition or of the political constitution of the country. But if I perceive that the productions of the arts are of an inferior quality, very abundant, and very cheap, I am convinced that among the people where this occurs privilege is on the decline and that ranks are beginning to intermingle and will soon become one.

The handicraftsmen of democratic ages not only endeavor to bring their useful productions within the reach of the whole community, but strive to give to all their commodities attractive qualities that they do not in reality possess. In the confusion of all ranks everyone hopes to appear what he is not, and makes great exertions to succeed in this object. This sentiment, indeed, which is only too natural to the heart of men, does not originate in the democratic principle; but that principle applies it to

material objects. The hypocrisy of virtue is of every age, but the hypocrisy of luxury belongs more particularly to the ages of democracy. . . .

WHAT CAUSES ALMOST ALL AMERICANS TO FOLLOW INDUSTRIAL CALLINGS

Agriculture is perhaps, of all the useful arts, that which improves most slowly among democratic nations. Frequently, indeed, it would seem to be stationary, because other arts are making rapid strides towards perfection. On the other hand, almost all the tastes and habits that equality of condition produces naturally lead men to commercial and industrial occupations.

Suppose an active, enlightened, and free man, enjoying a competency, but full of desires; he is too poor to live in idleness, he is rich enough to feel himself protected from immediate fear of want, and he thinks how he can better his condition. This man has conceived a taste for physical gratifications, which thousands of his fellow men around him indulge in; he has himself begun to enjoy these pleasures, and he is eager to increase his means of satisfying these tastes more completely. But life is slipping away, time is urgent; to what is he to turn? The cultivation of the ground promises an almost certain result to his exertions, but a slow one; men are not enriched by it without patience and toil. Agriculture is therefore only suited to those who already have great superfluous wealth or to those whose penury bids them seek only a bare subsistence. The choice of such a man as we have supposed is soon made; he sells his plot of ground, leaves his dwelling, and embarks on some hazardous but lucrative calling.

Democratic communities abound in men of this kind; and in proportion as the equality of conditions becomes greater, their multitude increases. Thus, democracy not only swells the number of working-men, but leads men to prefer one kind of labor to

another; and while it diverts them from agriculture, it encourages their tastes for commerce and manufactures.

This spirit may be observed even among the richest members of the community. In democratic countries, however opulent a man is supposed to be, he is almost always discontented with his fortune because he finds that he is less rich than his father was, and he fears that his sons will be less rich than himself. Most rich men in democracies are therefore constantly haunted by the desire of obtaining wealth, and they naturally turn their attention to trade and manufactures, which appear to offer the readiest and most efficient means of success. In this respect they share the instinct of the poor without feeling the same necessities, that of not sinking in the world. . . .

In democratic countries, where money does not lead those who possess it to political power, but often removes them from it, the rich do not know how to spend their leisure. They are driven into active life by the disquietude and the greatness of their desires, by the extent of their resources, and by the taste for what is extraordinary, which is almost always felt by those who rise, by whatever means, above the crowd. Trade is the only road open to them. In democracies nothing is greater or more brilliant than commerce; it attracts the attention of the public and fills the imagination of the multitude; all energetic passions are directed towards it. Neither their own prejudices nor those of anybody else can prevent the rich from devoting themselves to it. The wealthy members of democracies never form a body which has manners and regulations of its own; the opinions peculiar to their class do not restrain them, and the common opinions of their country urge them on. Moreover, as all the large fortunes that are found in a democratic community are of commercial growth, many generations must succeed one another before their possessors can have entirely laid aside their habits of business.

Circumscribed within the narrow space that politics leaves them, rich men in democracies eagerly embark in commercial enterprise; there they can extend and employ their natural advantages, and, indeed, it is even by the boldness and the magnitude of their industrial speculations that we may measure the slight esteem in which productive industry would have been held by them if they had been born in an aristocracy. . . .

The United States of America has only been emancipated for half a century from the state of colonial dependence in which it stood to Great Britain; the number of large fortunes there is small and capital is still scarce. Yet no people in the world have made such rapid progress in trade and manufactures as the Americans; they constitute at the present day the second maritime nation in the world, and although their manufactures have to struggle with almost insurmountable natural impediments, they are not prevented from making great and daily advances.

In the United States the greatest undertakings and speculations are executed without difficulty, because the whole population are engaged in productive industry, and because the poorest as well as the most opulent members of the commonwealth are ready to combine their efforts for these purposes. . . .

The Americans make immense progress in productive industry, because they all devote themselves to it at once; and for this same reason they are exposed to unexpected and formidable embarrassments. As they are all engaged in commerce, their commercial affairs are affected by such various and complex causes that it is impossible to foresee what difficulties may arise. As they are all more or less engaged in productive industry, at the least shock given to business, all private fortunes are put

in jeopardy at the same time, and the state is shaken. I believe that the return of these commercial panics is an endemic disease of the democratic nations of our age. It may be rendered less dangerous, but it cannot be cured, because it does not originate in accidental circumstances, but in the temperament of these nations.

HOW AN ARISTOCRACY MAY BE CREATED BY MANUFACTURES

I have show how democracy favors the growth of manufactures and increases without limit the numbers of the manufacturing classes; we shall now see by what side-road manufacturers may possibly, in their turn, bring men back to aristocracy.

It is acknowledged that when a workman is engaged every day upon the same details, the whole commodity is produced with greater ease, speed, and economy. It is likewise acknowledged that the cost of production of manufactured goods is diminished by the extent of the establishment in which they are made and by the amount of capital employed or of credit. These truths had long been imperfectly discerned, but in our time that have been demonstrated. They have been already applied to many very important kinds of manufactures, and the humblest will gradually be governed by them. I know of nothing in politics that deserves to fix the attention of the legislator more than these two axioms of the science of manufactures.

When a workman is unceasingly and exclusively engaged in the fabrication of one thing, he ultimately does his work with singular dexterity; but at the same time he loses the general faculty of applying his mind to the direction of the work. He every day becomes more adroit and less industrious; so that it may be said of him that in proportion as the workman improves, the man is degraded. What can be expected of a man who has spent twenty years of his life in making heads for pins? And to what can that mighty human intelligence which has so often stirred the world be applied in him

except it be to investigate the best method of making pins' heads? When a workman has spent a considerable portion of his existence in this manner, his thoughts are forever set upon the object of his daily toil; his body has contracted certain fixed habits, which it can never shake off; in a word, he no longer belongs to himself, but to the calling that he has chosen. It is in vain that laws and manners have been at pain to level all the barriers round such a man and to open to him on every side a thousand different paths to fortune; a theory of manufactures more powerful than customs and laws binds him to a craft, and frequently to a spot, which he cannot leave; it assigns to him a certain place in society, beyond which he cannot go; in the midst of universal movement it has rendered him stationary.

In proportion as the principle of the division of labor is more extensively applied, the workman becomes more weak, more narrow-minded, and more depended. The art advances, the artisan recedes. On the other hand, in proportion as it becomes more manifest that the productions of manufactures are by so much the cheaper and better as the manufacture is larger and the amount of capital employed more considerable, wealthy and educated men come forward to embark in manufactures, which were heretofore abandoned to poor or ignorant handicraftsmen. The magnitude of the efforts required and the importance of the results to be obtained attract them. Thus at the very time at which the science of manufactures lowers the class of workmen, it raises the class of masters.

While the workman concentrates his faculties more and more upon the study of a single detail, the master surveys an extensive whole, and the mind of the latter is enlarged in proportion as that of the former is narrowed. In a short time the one will require nothing but physical strength without intelligence; the other stands in need of

science, and almost of genius, to ensure success. This man resembles more and more the administrator of a vast empire; that man, a brute.

The master and the workman have then here no similarities, and their differences increase every day. They are connected only like the two rings at the extremities of a long chain. Each of them fills the station which is made for him, and which he does not leave; the one is continually, closely, and necessarily dependent upon the other and seems as much born to obey as that other is to command. What is this but aristocracy?

As the conditions of men constituting the nation become more and more equal, the demand for manufactured commodities becomes more general and extensive, and the cheapness that places these objects within the reach of slender fortunes becomes a great element of success. Hence there are every day more men of great opulence and education who devote their wealth and knowledge to manufactures and who seek, by opening large establishments and by strict division of labor, to meet the fresh demands which are made on all sides. Thus, in proportion as the mass of the nation turns to democracy, that particular class which is engaged in manufactures becomes more aristocratic. Men grow more alike in the one, more different in the other; and inequality increases in the less numerous class in the same ratio in which it decreases in the community. Hence it would appear, on searching to the bottom, that aristocracy should naturally spring out of the bosom of democracy.

But this kind of aristocracy by no means resembles those kinds which preceded it. It will be observed at once that, as it applies exclusively to manufactures and to some manufacturing callings, it is a monstrous exception in the general aspect of society. The small aristocratic societies that are formed by some manufacturers in the midst of the immense democracy of our age contain, like the great aristocratic societies of former

ages, some men who are very opulent and a multitude who are wretchedly poor. The poor have few means of escaping from their condition and becoming rich, but the rich are constantly becoming poor, or they give up business when they have realized a fortune. Thus the elements of which the class of the poor is composed are fixed, but the elements of which the class of the rich is composed are not so. To tell the truth, though there are rich men, the class of rich men does not exist; for these rich individuals have no feelings or purposes, no traditions or hopes, in common; there are individuals, therefor, but no definite class.

Not only are the rich not compactly united among themselves, but there is no real bond between them and the poor. Their relative position is not a permanent one; they are constantly drawn together or separated by their interests. The workman is generally dependent on the master, but not on any particular master; these two men meet in the factory, but do not know each other elsewhere; and while they come into contact on one point, they stand very far apart on all others. The manufacturer asks nothing of the workman but his labor; the workman expects nothing from him but his wages. The one contracts no obligation to protect nor the other to defend, and they are not permanently connected either by habit or by duty. The aristocracy created by business rarely settles itself in the midst of the manufacturing population which it directs; the object is not to govern that population, but to use it. An aristocracy thus constituted can have no great hold upon those whom it employs, and even if it succeeds in retaining them at one moment, they escape the next; it knows not how to will, and it cannot act.

The territorial aristocracy of former ages was either bound by law, or thought of itself as bound by usage, to come to the relief of its serving-men and to relieve their distresses. But the manufacturing aristocracy of our age first impoverishes and debases

the men who serve it and then abandons them to be supported by the charity of the public. This is a natural consequence of what has been said before. Between the workman and the master there are frequent relations, but no real association.

I am of the opinion, on the whole, that the manufacturing aristocracy which is growing up under our eyes is one of the harshest that ever existed in the world; but at the same time it is one of the most confined and least dangerous. Nevertheless, the friends of democracy should keep their eyes anxiously fixed in this direction; for if ever a permanent inequality of conditions and aristocracy again penetrates into the world, it may be predicted that this is the gate by which they will enter.

Sources:

John R. Commons, et al., eds., A Documentary History of American Industrial Society (Cleveland: The Arthur H. Clark Company, 1910), III, 59-250.

Alexis de Tocqueville, Democracy in America, Henry Reeve translation (New York: Vintage Books, 1945), II: 50-55, 163-171.

Additional Readings:

Alan Dawley, Class and Community: The Industrial Revolution in Lynn (Cambridge, 1976).

Oscar and Mary Flug Handlin, Commonwealth -- A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861 (Cambridge, 1969).

Louis Hartz, Economic Policy and Democratic Thought: Pennsylvania, 1776-1860 (Cambridge, 1948).

Morton J. Horowitz, The Transformation of American Law, 1780-1860 (Cambridge, 1977).

Bruce Laurie, Artisans into Workers: Labor in Nineteenth Century America (New York, 1989).

William E. Nelson, Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760-1830 (Cambridge, 1975).

Howard B. Rock, Artisans of the New Republic: The Tradesmen of New York City in the Age of Jefferson (New York, 1979).

Sam Bass Warner, The Private City: Philadelphia in Three Periods of Its Growth (Philadelphia, 1968).