

Montesquieu en Amérique : un héritage contesté

Fondation Saint-Omer

Paris, 26/04/2022

Hugo Toudic
PhD Candidate

SND SCIENCES
NORMES
DÉMOCRATIE
SORBONNE UNIVERSITÉ/LETTRES



“
The Federalist is an excellent
book, which ought to be
familiar to the statesman of
all countries, although it
especially concerns America.

Tocqueville, *Democracy in America*, I- 8

”



Questions

1. Qu'est-ce qu'une fédération ?

2. Qu'est-ce que la séparation des pouvoirs ?

3. Le pouvoir judiciaire est-il nul ?

“

It is natural to a republic to have only a small territory, otherwise it cannot long subsist. [...] In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected.

”

Fédération

The opponents of the plan proposed have, with great assiduity, cited and circulated the observations of Montesquieu on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, nor to have adverted to the consequences of the principle to which they subscribe with such ready acquiescence.

Hamilton, FP 9.

Fédération

So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States, that he explicitly treats of a confederate republic as the expedient for extending the sphere of popular government, and reconciling the advantages of monarchy with those of republicanism.

Hamilton, FP 9.

Séparation des pouvoirs

The oracle who is always consulted and cited on this subject is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying and recommending it most effectually to the attention of mankind. That we may be sure then not to mistake his meaning in this case, let us recur to the source from which the maxim was drawn.

Madison, FP 47.

Séparation des pouvoirs

*It may clearly be inferred that, in saying “There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates,”[i] or, “if the power of judging be not separated from the legislative and executive powers,” he did not mean that these departments ought to have no **PARTIAL AGENCY** in, or no **CONTROL** over, the acts of each other.*

Madison, FP 47.

Pouvoir judiciaire

This simple view of the matter suggests several important consequences. It proves incontestably, that the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter.

Hamilton, FP 78.

Pouvoir judiciaire

To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest - possessing a general superintendance, and authorised to settle and declare in the last resort, a uniform rule of civil justice.

Hamilton, FP 78.

The Europeanist





Corporate needs you to find the differences between this picture and this picture.



@memesdephilo

They're the same picture.

Thank you!

Hugo Toudic
PhD Candidate

SND SCIENCES
NORMES
DÉMOCRATIE
SORBONNE UNIVERSITÉ/LETTRES

