

The great French historian, Alexis de Tocqueville (1805-1859), wrote *The Ancient Regime and the French Revolution* between 1852 and 1856 in order to show how the old system in France had set the stage for the new. Instead of viewing the French Revolution simply as a sharp break with the past, which in important respects it was, Tocqueville emphasizes the continuity of revolutionary government with the old monarchy. While the privileges of the French nobles and clergy were abolished and replaced with a social equality that affected all of Europe, the continuities with the French past were pronounced. These included: centralized and arbitrary government administration; the presence of military police; the dominance of Paris; nascent individualism; the priority of reform over rights; a low view of property rights; and unfair judicial proceedings. Tocqueville's book is unsurpassed in conveying the complexities, contradictions, nuances, and looming violence of the French Revolution. The following excerpt comes from Book Three, Chapter 6, of *The Ancient Regime and the French Revolution*.

### **The Old Regime's Revolutionary Education of the Common People**

(paraphrased from *The Ancient Regime and the French Revolution* by Alexis de Tocqueville, translated and edited by Gerald Bevan, with an introduction by Hugh Brogan, Penguin Books, 2008, pages 185-189.)

For a long time the government itself had been instilling and establishing in the people's minds several of the ideas now considered "revolutionary," which were hostile to the individual citizen, in opposition to private rights, and fomenting violence.

The king was the first to show with what contempt the oldest and apparently the most firmly established institutions could be treated. Louis XV shook the monarchy and hastened on the Revolution as much by his innovative ideas as by his failings, by his energy as by his weakness. When the common people saw the collapse and disappearance of the French Parlement [provincial high courts]—an institution almost as old as royalty and which up until then had seemed as unshakeable as royalty itself—they vaguely understood that they were drawing near to those times of violence and uncertainty during which everything becomes possible and there is scarcely anything so old that it needs to be respected or so new that it cannot be tried out.

Throughout his reign, Louis XVI did nothing but speak about reforms. There were few institutions whose imminent downfall he did not predict before the Revolution came along to destroy them for real. He removed and replaced several of the worst features of the code of law; it could be said that he wished only to disturb their roots, leaving to others the bother of knocking them to the ground.

As to the reforms he enacted suddenly and without adequate preparation, some changed ancient and respected habits and some violated rights already in place. These reforms prepared the way for the Revolution less by knocking down obstacles than by showing the common people how they might go about doing things themselves. What increased the evil was precisely the pure and unselfish intention that inspired the king and his ministers in the first place, for there is no more dangerous example than violence motivated by goodness and exercised by people of goodwill.

Years earlier, Louis XVI in his edicts had publicly proclaimed the theory that all the lands of the kingdom had originally been granted conditionally by the state [nation], which was thus the only true landowner, while any other landowners were in possession under terms that remained disputable and under law that was defective. This doctrine had its roots in feudal law but was proclaimed in France at the moment when feudalism was dying and had never been approved by the courts. The idea is the mother of modern socialism. It is strange to see it first taking root in royal despotism.

During the monarchies that came after Louis XIV, the government taught the common people everyday, well within their scope to understand, the contempt it was proper to feel for privately owned property. When, in the second half of the eighteenth century, the desire for public works and especially roads began to expand, the government did not find it at all difficult to seize all the land it needed and to tear down houses that obstructed it. From then on the management of the Highways Department was besotted with the geometrical beauty of straight lines which we have seen since; it took great care to steer clear of existing roads if they curved ever so slightly; rather than make a short detour it carved a way through a thousand inheritances. Estates thus laid waste or destroyed were always compensated at an arbitrary rate, after an indefinite delay and frequently not at all.

When the provincial assembly of Lower Normandy took over the administration from the Intendant [high-ranking government official], it recorded that the price of all the land officially seized for roads was still due to be paid. The debt thus contracted and not yet settled by the state in this small corner of France had risen to 250,000 livres. The number of major landowners affected in this way was limited, but the number of small landowners hurt was large because their land was already sub-divided. Each one of them had learned from his own experience how little heed was paid to the rights of the individual whenever public interest needed to violate them—a doctrine they were careful not to overlook when it was a question of applying it to others for their own profit.

Formerly, in a very considerable number of parishes, charitable institutions had existed which, in the intentions of their founders, had had as their aim to help inhabitants in certain situations and in a way specified by the donor's will. Most of these institutions were destroyed in the last years of the monarchy or diverted from their original objectives by simple decrees of the Royal Council, which is to say by the purely arbitrary acts of government. Usually the sums thus given to the villages were seized to finance nearby hospitals. In its turn the ownership of these hospitals was transferred for purposes not envisaged by the founder and which he doubtless would not have implemented. An edict of 1780 authorized all these establishments to sell the properties left them and allowed them to forward the proceeds from the sale to the state, which was obliged to pay interest on the money. The government said this was to make better use of their ancestors' charity than they had made themselves. It was forgotten that the best way to teach men to violate the individual rights of the living is to take no account of the wishes of the dead. The contempt expressed by the administration of the Ancient Regime toward the latter has not been surpassed by any of the revolutionary governments that followed.

Compulsory purchase, the compulsory sale of commodities, and the setting of maximum prices were government measures that had precedence in the Ancient Regime. In times of food shortage I have seen administrations fix the price of produce that peasant farmers brought to market and, if the latter, out of fear of arrest, did not turn up, they issued orders to force attendance under threat of fines.

But nothing was more revealing than certain practices pursued by the criminal law when it came to dealing with the lower classes. The poor citizen was actually better protected than one might imagine against the onslaughts of a richer or more powerful person, but if he had dealings with the state [national government] he encountered special courts, biased judges, a rapid or sham trial, and executive decrees without appeal. 'The Provost and lieutenant of the mounted militia are appointed to recognize public disturbances and assemblies that might occur because of the grain supply; they are ordered to oversee the trial, judged by the Provost to its completion as a final court of appeal; his Majesty forbids any judicial courts from taking any jurisdiction over these courts.' This order in Council was in force throughout the eighteenth century. We can see from the mounted militia reports that, in such circumstances, suspect villages were surrounded at night, houses were invaded before daybreak, and peasants informed against were arrested without a warrant. A man arrested in this way often stayed a long while in prison before being able to talk to his counsel: edicts, nevertheless, laid down that anyone accused should be interrogated within twenty-four hours. This procedure was no different from how it is today.

So it happened that a mild and well established government gave daily instruction to the lower classes about the code of criminal law best suited to revolutionary times and most adapted to tyranny; this "school" was always open. The Ancient Regime gave the lower classes this dangerous education right to the end. In this matter, everyone, right up to Turgot himself, faithfully imitated his predecessors. When in 1775 his new legislation about the grain trade gave rise to resistance in the Parlement and riots in the countryside, he obtained a royal command that removed the jurisdiction from the ordinary courts and handed the rioters over to the Provost's court, 'which is designed principally to repress popular outbursts and when it is expedient to make speedy examples of them.'

It is also true that in this eighteenth-century monarchy, if the formal procedures were frightening, the punishments were almost always moderated. The judges typically preferred to frighten those convicted rather than hurt them, but summary justice grew even more widespread. The lighter the punishment, the more easily people forgot the way it was pronounced. The mildness of the sentence concealed the horror of the procedure.

I venture to state, because I have the facts in my grasp, that a great number of the methods used by the revolutionary government had their precedents and models in the measures taken with respect to the lower classes during the last two centuries of the monarchy. The Ancient Regime provided the Revolution with several of its procedures; the latter simply added the savagery of its own personality.