

# Democracy In America

by George W. Shanks, 2007–08 Senior Lawyers Conference President



It is again the season of the race for the presidency. The political show reveals the genius of our democratic system. One of our system's earliest keen observers is still considered among the best: Count Alexis de Tocqueville. Tocqueville was a lawyer by training. He came to America from France to study the prison systems in Philadelphia and Auburn, New York, that employed the then-new concept of productive inmate work to promote rehabilitation.

Tocqueville's legacy of that visit — his insightful book *Democracy in America* — is a reminder of the importance of lawyers in the development of this country. It also is a reminder to members of the Senior Lawyers Conference to share their experience and wisdom with their communities.

Tocqueville traveled through the United States during Andrew Jackson's presidency in 1831. He came away with a profound respect for the democratic model our forefathers created.

He listed conditions and circumstances that make American democracy enduring: He found Americans to value literacy for its functional benefits; he found America to have a passion for trade; he found Americans to be both religious and moral; he was impressed with the breadth of America's middle class.

And he found that lawyers were considered to be of the first rank of importance in local communities and in government at all levels.

Tocqueville saw the foundations of democracy in local government. He saw the moderating of passions and ideas in their public expression in town meetings, nonpolitical civic organizations, and the public square. To his mind, the right of assembly and the free exchange of ideas and sentiments allowed democracy to flourish instead of descending into the tyranny of the majority.

The individuals at the center of that process and, in Tocqueville's view, largely responsible for its intellectual order, were lawyers. Indeed, Tocqueville observed that, in a nation that abjured royalty, lawyers were America's aristocracy, preferred at all levels of elective office.

Tocqueville has been seen as a visionary with respect to the forces that would assail American democracy. His book is a description of the way this country was in the 1830s, and it reminds us of what we must consider each time change is called for. We also should reflect on his confidence in the American experiment while its stewardship lay in the hands of its lawyers.

I am appalled at the general decline in the number of lawyers in elective office. As Tocqueville observed, "There is hardly a political question in the United States which does not sooner or later turn into a judicial one." Developing good policy requires more than a desire to be of public service. It demands clear and concise thinking, an understanding of the law and its procedures and processes, and a sense of history and

precedent for the innovative ideas that worked and those that failed.

It is the duty of all members of our profession to involve themselves in the community, whether through elected office, political or nonpolitical organizations, or religious or charitable groups. We have much to share. Those of us who have seen decades pass have the time to share it with our neighbors.

If you share these beliefs, I have a suggestion: Spearhead an effort by your local bar association to sponsor a Senior Law Day program. Use the Senior Lawyers Conference flagship publication, the *Senior Citizens Handbook* ([www.vsb.org/publications/senior](http://www.vsb.org/publications/senior)) and the blueprint prepared by SLC past-chair Bill Wilson ([www.vsb.org/slc/attorney/newsletters.html](http://www.vsb.org/slc/attorney/newsletters.html), Spring 2007, page 6). For your audience, contact your community's churches and local clergy association, agency on aging, rest homes, and nursing homes. You will be astounded at the enthusiasm displayed for such a presentation.

And you will be gratified that you are contributing to the successful continuation of our grand adventure of democracy in America.