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James Monroe: Some Observations on the Constitution c. 25 May 1788 (excerpt)

... The right of impeachment and the mode of trial are of the first importance in this government. The former, if with the people or even the states themselves, would never be exerted or greatly abused; it should therefore belong to the house of representatives. And the latter should be vested in a court of that high confidence and respectability of character, as to partake of none of those passions that sway the bulk of mankind. Unconnected by office, and of course no way interested in the event; unacquainted with the crime except as it might appear before them by satisfactory testimony, they should hear calmly and judge dispassionately upon the merits of the cause. From their decision the guilty would receive a fair condemnation, or the innocent be restored again to the confidence of their country, and the people return satisfied that their passions had been awakened, and their fears alarmed without any just foundation. The sentence should be final, and not shifted off to another tribunal. A further prosecution may appear odious, and the just resentments of the people calm away, and totally subside. For these reasons the senate should form the court of impeachment.

But although the legislative branch shall be elected by the people, and amenable to them alone for their conduct, yet as the state sovereignties though qualified, will still remain, and of course the state spirit, in contradiction to a federal one, from necessity be more or less influential in its councils, we should turn our attention to the other branches of the government, as our firm resource. The Executive is that upon which, in many respects, we should rest our hopes, for an equal, a federal, and a wise administration. Every possible effort should therefore be used to expell from the hearts of those who fill it, a preference of one part of the community to another. The experience of other governments hath taught us, it is possible to devise checks, which from motives of policy and private interest, will even make bad men faithful public servants. The prospect of reward and the fear of punishment, as has already been observed, are the most powerful incentives to virtuous action. It should therefore be so organized, as to give every quarter indeed every man of the union, under the influence of these principles, as to those who fill it, an equal access to the human heart, whenever this equipoise is destroyed, and this high character taught to look up to this, or that state, or combination of states for the smiles or the frowns of government, from that moment will its oppression be felt, and a dreadful anarchy insue. And if you take from those whom the choice of their country hath called forth to this high station, the hope of further favour, and mark to them the extent of service, after the completion of which the door shall be forever closed upon them, in that degree will you deprive yourself of one of

the principal instruments by which you are to preserve the equilibrium, and secure the public safety. Discharged forever from the service of the United States, will not the approbation of the union, cease to be the ruling passion, and an accommodation to state interests take its place and influence many of the public measures? For these reasons I could wish to see the right of impeachment, extended upon as liberal ground as possible, given for instance to the representatives of one third of the confederacy; and I could likewise wish to see the citizen at the head of this department, capable of re-election at the expiration of his service which should be at the end of every three or four years, so long as he should merit the confidence of his country.

The mode of election should also be a fundamental in the organization of this branch. If the command of this office was placed within the reach of court influence, the most alarming consequences were to be apprehended from it. If the ultimate decision should happen at the metropolis, it is easy to be perceived what an opportunity this would present for venality and corruption. It must be a great object particularly for either France or Britain to have the friend of their respective courts in this office, possessed of such extensive powers and which might dispense such important favours to them. The influence of the presiding magistrate himself, especially within the town in which he had for some time resided, and to whose citizens he had rendered many substantial services, and who of course would be averse to the introduction of a *novus homo* among them, would not be inconsiderable. In addition to which it is to be observed, that it forms a departure from a principle which should prevail through the whole, but particularly in the organization of this branch, a dependance of this officer, for every thing estimable among mankind, upon the people of America. By the people therefore should the appointment be made, not in person, but by the means of electors chosen for the purpose. To prevent the possibility of any interference, or bias on their free election, that of the electors by the people, should be on the same day in every state, and that of the President by the electors likewise on the same day and at some specified place in each, unless an invasion, or other extraordinary circumstance should prevent it; in which case perhaps the electors themselves, or the executive of the state might appoint some other. Whatever time might be employed in this mode of election is immaterial; it is of the first importance, and should never be dispensed with, that he be thus appointed. . . .

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