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A Freeholder

Virginia Independent Chronicle, 9 April 1788
(Extraordinary) (excerpts)

... And as judges, above all men, should be free from prejudice or partiality; should have a thorough knowledge of the law, and every possible inducement to judge uprightly, what other men in the United States can be so likely to answer this description of judges as the senate? Where can a more enlightened body of men be found—of an higher sense of honor; where men better acquainted with the laws by which they are to judge; or with the fact and persons on whom they are to pass sentence, than the senate? Instead of being tried by men of the same state, the offender will be tried by two of each state; by judges who, as they had a share in framing the laws must understand them; who as they are entrusted to execute them, must be anxious to bring the violators of them to justice; but yet as being entrusted also with the business of judging the offenders against their laws, must feel a delicacy and sense of honor which will impel them to judge with the utmost integrity and impartiality. Even when they sit in judgment on one of their own body, may I not ask where else could judges be found so capable of judging of the fact and of the general conduct and disposition of the person impeached? And if we think it an excellency in criminal cases, to let the prisoner be tried by the jury of his neighbours, who surely would be as likely to be partial to, or prejudiced against the prisoner as the senate possibly can be with respect to one of their members, where is the impropriety of this mode of trial? Where indeed can any other be found approaching nearer to the trial by jury, yet having evident advantages over juries? Excellent however as this mode of trial is, in the case of impeachments in the name of the United States, there would be no propriety in making the senate of Virginia judges in such cases in Virginia, for they are not elected with so much judgment, nor are they bound by such ties of honor as the senate of the United States; nor is it of so much consequence that they should be so free from all influence, nor do they come equally two and two from every county from whence prisoners may be brought for trial, as *those* do, from their respective states—so that here is another instance in which an objection may be good against a similar circumstance in a single government, and yet be utterly void of weight when applied to that by which the United States should be regulated. It is well observed too that it is impolitic to entrust any body of men, and much less an individual, with great powers for any length of time; and therefore many good men have been alarmed at the length of time for which the senate and president are elected—but when it is considered that the former might be too dependent on the will and fluctuating opinions of annual Assemblies, if they were not elected for a time which would not only give them

experience, but confidence to exercise their own judgments, when evidently in the right, without fear of being recalled by their constituents; and that the duration of their powers, and of the president's, may be essential to give stability to government, and uniformity to the execution of the laws; as well as to give foreign ministers the necessary confidence in government, when they negotiate treaties, on which the welfare, very possibly the existence of the states may depend; I say when this is considered, it must be acknowledged, that here is another instance, in which a general rule of politicians, and statesmen, will not apply to the plan of the fœderal constitution — In short, let the freeholder remember the old saying that there is no general rule without an exception, and let him have so good an opinion of the members of the convention as to suppose that they considered well the plan before them, and saw where the general rules could be applied and where they failed—but to return to the third class of objectors which we meet with, it was observed, is composed of those who are filled with republican jealousies, viewing the constitution in the most unfavorable light; but let the honest freeholder make himself easy, these jealous republicans will soon acknowledge that their fears were groundless, and that what at first alarmed them, is their only hope and confidence, the only means of securing them against the dangers of monarchy, or aristocracy. They will see when they will look calmly and without prejudice into the constitution, that though it furnishes government in cases of emergency with all the resources of the energetic government of Britain; it is free from its defects. We shall then have the energy secrecy and dispatch of monarchy, without its expence, tyranny and corruption; the wisdom of an aristocracy, without its insolence, and the freedom of a democracy, without its instability, and licentiousness; and they will see, that the bodies which represent these several forms, of government, are all elected by the people directly, or by their deputies; so as to be consistent with pure democratical principles; and wisely calculated to preserve the interests of the people to [the] latest ages. . . .

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