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The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments

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Publius [James Madison]

To the People of the State of New York

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| [1] To what expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. | What is the “necessary partitions”?  Why is necessary to partition government? |
| [2] In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another...Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them. | What does Madison mean when he says each department should have a will of their own?  What are the three departments Madison is referring to? |
| [3] It is equally evident, that the members of each department should be as little dependent as possible on those of the others… Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. | Explain the suggested relationship between the departments: |
| [4] But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. **Ambition must be made to counteract ambition.** ... It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary.If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. | What does the bolded phrase mean?  What is Madison’s argument about human nature? |
| [5] This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where **the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other** -- that the private interest of every individual may be a sentinel over the public rights... | Paraphrase the bolded section: |
| [6] But it is not possible to give to each department an equal power of self-defense. In republican government, *the legislative authority necessarily predominates.* **The remedy for this inconveniency is to divide the legislature into different branches;** and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions... | Which branch of government does the Federalists support as the one that will dominate?  Opinion: Does this branch dominate national (federal) govt. today?  How was the legislative body divided into different branches? |
| [9] First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a **division of the government into distinct and separate departments**. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. **The different governments will control each other, at the same time that each will be controlled by itself.** | Why is “separation of powers” the Federalist answer to Anti-Federalist charges of a too large, abusive government? |
| [10] Second. It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority -- that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable...The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority... Justice is the end of government. It is the end of civil society. It ever has been and ever will be *pursued until it be obtained, or until liberty be lost in the pursuit.* In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful... It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self- government. And happily for the republican cause, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the federal principle. | How will a republic protect minority rights? |

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