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## 22. *The Constitution and Limited Monarchy*

To Roger Sherman

*Richmond Hill, July 18, 1789*

. . . Let us . . . consider what our constitution is, and see whether any other name can with propriety be given it than that of a monarchical republic, or, if you will, a limited monarchy. The duration of our president is neither perpetual nor for life; it is only for four years; but his power during those four years is much greater than that of an avoyer, a consul, a podestà, a doge, a stadtholder; nay, than a king of Poland; nay, than a king of Sparta. I know of no first magistrate in any republican government, excepting England and Neuchâtel, who possesses a constitutional dignity, authority, and power comparable to his. The power of sending and receiving ambassadors, of raising and commanding armies and navies, of nominating and appointing and commissioning all officers, of managing the treasurers, the internal and external affairs of the nation; nay, the whole executive power, coextensive with the legislative power, is vested in him, and he has the right, and his is the duty, to take care that the laws be faithfully executed. These rights and duties, these prerogatives and dignities, are so transcendent that they must naturally and necessarily excite in the nation all the jealousy, envy, fears, apprehen-

sions, and opposition, that are so constantly observed in England against the crown.

That these powers are necessary, I readily admit. That the laws cannot be executed without them; that the lives, liberties, properties, and characters of the citizens cannot be secure without their protection, is most clear. But it is equally certain, I think, that they ought to have been still greater, or much less. The limitations upon them in the cases of war, treaties, and appointments to office, and especially the limitation on the president's independence as a branch of the legislative, will be the destruction of this constitution, and involve us in anarchy, if not amended. I shall pass over all particulars for the present, except the last; because that is now the point in dispute between you and me. Longitude, and the philosopher's stone, have not been sought with more earnestness by philosophers than a guardian of the laws has been studied by legislators from Plato to Montesquieu; but every project has been found to be no better than committing the lamb to the custody of the wolf, except that one which is called a *balance of power*. A simple sovereignty in one, a few, or many, has no balance, and therefore no laws. A divided sovereignty without a balance, or, in other words, where the division is unequal, is always at war, and consequently has no laws. In our constitution the sovereignty—that is, the legislative power—is divided into three branches. The house and senate are equal, but the third branch, though essential, is not equal. The president must pass judgment upon every law; but in some cases his judgment may be overruled. These cases will be such as attack his constitutional power; it is, therefore, certain he has not equal power to defend himself, or the constitution, or the judicial power, as the senate and house have.

Power naturally grows. Why? Because human passions are insatiable. But that power alone can grow which already is too great; that which is unchecked; that which has no equal power to control it. *The legislative power, in our constitution, is greater than the executive; it will, therefore, encroach, because both aristocratical and democratical passions are insatiable. The legislative power will increase, the executive will diminish. In the legislature, the monarchical power is not equal either to the aristocratical or democratical; it will, therefore, decrease, while the other will increase. Indeed, I think the aristocratical power is greater than either the monarchical or democratical. That will, therefore, swallow up the other two. . . .*