Publius: The Federalist 66, New York *Independent Journal*, 8 March 1788

A fourth objection to the senate, in the capacity of a court of impeachments, is derived from their union with the executive in the power of making treaties. This, it has been said, would constitute the senators their own judges, in every case of a corrupt or perfidious execution of that trust. After having combined with the executive in betraying the interests of the nation in a ruinous treaty, what prospect, it is asked, would there be of their being made to suffer the punishment, they would deserve, when they were themselves to decide upon the accusation brought against them for the treachery of which they had been guilty?

This objection has been calculated with more earnestness and with greater show of reason, than any other which has appeared against this part of the plan; and yet I am deceived if it does not rest upon an erroneous foundation.

The security essentially intended by the constitution against corruption and treachery in the formation of treaties, is to be sought for in the numbers and characters of those who are to make them. The joint agency of the chief magistrate of the union, and of two-thirds of the members of a body selected by the collective wisdom of the legislatures of the several states, is designed to be the pledge for the fidelity of the national councils in this particular. The convention might with propriety have meditated the punishment of the executive, for a deviation from the instructions of the senate, or a want of integrity in the conduct of the negociations committed to him: They might also have had in view the punishment of a few leading individuals in the senate, who should have prostituted their influence in that body, as the mercenary instruments of foreign corruption: But they could not with more or with equal propriety have contemplated the impeachment and punishment of two-thirds of the senate, consenting to an improper treaty, than of a majority of that or of the other branch of the national legislature, consenting to a pernicious or unconstitutional law: a principle which I believe has never been admitted into any government. How in fact could a majority of the house of representatives impeach themselves? Not better, it is evident, than two-thirds of the senate might try themselves. And yet what reason is there, that a majority of the house of representatives, sacrificing the interests of the society, by an unjust and tyrannical act of legislation, should escape with impunity more than two-thirds of the senate, sacrificing the same interests in an injurious treaty with a foreign power? The truth is, that in all such cases it is essential to the freedom and to the necessary independence of the deliberations of the body, that the members of it should be exempt from punishment for acts done in a collective capacity; and the security to the society must depend on the care which is taken to confide the trust to proper hands, to make it their interest to execute it with fidelity, and to make it as difficult as possible for them to combine in any interest opposite to that of the public good.

So far as might concern the misbehaviour of the executive in perverting the instructions, or contravening the views of the senate, we need not be apprehensive of the want of a disposition in that body to punish the abuse of their confidence, or to vindicate their own authority. We may thus far count upon their pride, if not upon their virtue. And so

far even as might concern the corruption of leading members, by whose arts and influence the majority may have been inveigled into measures odious to the community; if the proofs of that corruption should be satisfactory, the usual propensity of human nature will warrant us in concluding, that there would be commonly no defect of inclination in the body, to divert the public resentment from themselves, by a ready sacrifice of the authors of their mismanagement and disgrace.

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