

Federalist Paper No. 49



ABOUT THE SOURCE This essay, written in 1788 by James Madison under the pseudonym “Publius,” argues against calling for constitutional conventions whenever there is a dispute among the branches of government. Such a plan, Madison argues, would likely inflame the political passions of the people and undermine the constitutional system.

*As you read note the specific ways that Madison says the power of each branch of government will be limited. The following words may be new to you: **consonant, encroachments, insuperable, veneration, requisite, aggrandizement, posture.** You may want to use a dictionary to look them up.*

As the people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived, it seems strictly **consonant** to the republican theory, to recur to the same original authority, not only whenever it may be necessary to enlarge, diminish, or new-model the powers of the government, but also whenever any one of the departments may commit **encroachments** on the chartered authorities of the others . . .

But there appear to be **insuperable** objections against the proposed recurrence to the people, as a provision in all cases for keeping the several departments of power within their constitutional limits . . . In the next place, it may be considered as an objection inherent in the principle, that as every appeal to the people would carry an implication of some defect in the government, frequent appeals would, in a great measure, deprive the government of that **veneration** which time bestows on every thing, and without which perhaps the wisest and freest governments would not possess the **requisite** stability.

The danger of disturbing the public tranquility by interesting too strongly the public passions, is a still more serious objection against a frequent reference of constitutional questions to the decision of the whole society. Notwithstanding the success which has attended the revisions of our established forms of government, and which does so much honor to the virtue and intelligence of the people of America, it must be confessed that the experiments are of too ticklish a nature to be unnecessarily multiplied.

We are to recollect that all the existing constitutions were formed in the midst of a danger which repressed the passions most unfriendly to order and concord; . . . The future situations in which we must expect to be usually placed, do not present any equivalent security against the danger which is apprehended. But the greatest objection of all is, that the decisions

which would probably result from such appeals would not answer the purpose of maintaining the constitutional equilibrium of the government.

We have seen that the tendency of republican governments is to an **aggrandizement** of the legislative at the expense of the other departments. The appeals to the people, therefore, would usually be made by the executive and judiciary departments. But whether made by one side or the other, would each side enjoy equal advantages on the trial? . . . The members of the legislative department, on the other hand, are numerous [numerous]. They are distributed and dwell among the people at large. Their connections of blood, of friendship, and of acquaintance embrace a great proportion of the most influential part of the society. The nature of their public trust implies a personal influence among the people, and that they are more immediately the confidential guardians of the rights and liberties of the people . . .

In such a **posture** of things, the public decision . . . could never be expected to turn on the true merits of the question. It would inevitably be connected with the spirit of pre-existing parties, or of parties springing out of the question itself . . . It would be pronounced by the very men who had been agents in, or opponents of, the measures to which the decision would relate. The **PASSIONS**, therefore, not the **REASON**, of the public would sit in judgment. But it is the reason, alone, of the public, that ought to control and regulate the government. The passions ought to be controlled and regulated by the government.

PUBLIUS

Source: The Avalon Project, www.yale.edu/lawweb/Avalon/federal/fed49.htm

WHAT DID YOU LEARN?

1. **Recall** According to Madison, from whom is governmental power derived?

2. **Make Inferences** Why do you think Madison wrote this essay?

3. **Evaluate** Why do you think Madison believes the passions of the people are dangerous? Do you agree or disagree with his reasons?
