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Checks and Balances: The Mystical Equilibrium



Dear United States of America,

The founders were not idealists. They had read enough history — Greek, Roman, English — to know that republics tend to fail not from outside invasion but from within, usually when one person or one faction accumulates enough power to stop caring about the rules. Their solution was practical: divide the power. Make it so that no single branch of government can do very much on its own. The legislature writes the laws but cannot enforce them. The executive enforces them but cannot write them. The judiciary decides what they mean but controls neither the money nor the military. Each has tools to check the others — the veto, the override, the appointment process, the confirmation hearing, the impeachment, the court ruling. The result is a system designed not to be fast or elegant, but to make the abuse of power genuinely difficult.

Madison, in Federalist No. 51, put it plainly: "*Ambition must be made to counteract ambition.*" He was not appealing to the goodness of human nature. He was designing around its absence. That distinction matters.

The system has been tested many times, by presidents of every political background. Lincoln, facing the Civil War, suspended habeas corpus — the legal protection against arbitrary detention that goes back to English common law — and admitted himself it might not be entirely legal, calling it a public necessity. Congress eventually backed him through retroactive legislation. Roosevelt, in 1937, tried to pack the Supreme Court with sympathetic justices after it kept striking down his New Deal programs. Not even his own Democratic Congress would go along with it. A justice retired at a convenient moment, the immediate crisis eased, and the Court's independence held. Nixon, facing investigation into Watergate, claimed executive privilege over the evidence. The Supreme Court ruled against him unanimously. He resigned. In each case the system was slow and painful and far from pretty. In each case it worked.

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What history also shows is that it does not work automatically. The balance holds because enough people in positions of authority choose to respect it — senators who vote against their own president when they have to, judges who rule against the administration that appointed them, officials who refuse unlawful orders. Take that culture of restraint away and the mechanics alone will not save you. This is the part the Constitution cannot guarantee. Every generation has to work it out for themselves.

Today the system is under pressure again, as it has been in every consequential period of American history. The specific argument changes; the underlying tension does not. From the outside — and I write as someone watching from Vienna as much as from Charlottesville — the noise of it can look alarming. It can also look like a democracy doing exactly what democracies are supposed to do: argue, push back, correct course. The founders did not promise it would be comfortable. They promised it would be correctable. Whether the corrections always arrive in time is something history tends to answer slowly. That it has answered so far is, all things considered, the whole point.

Yours, with great admiration and transatlantic devotion,

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