

U.S. Constitutional Convention 1787 (2021
Edition)

Quill Project

Contents

Contents	i
I Sources used for this edition	3
II Delegations and Members	7
III Committee Records	19
1 The Convention	21
1.1 Monday, 14 May 1787, at 10:00 (s6188)	21
1.2 Tuesday, 15 May 1787, at 11:00 (s6189)	24
1.3 Wednesday, 16 May 1787, at 10:00 (s6190)	30
1.4 Thursday, 17 May 1787, at 13:00 (s6191)	32
1.5 Friday, 18 May 1787, at 13:00 (s6192)	34
1.6 Saturday, 19 May 1787, at 13:00 (s6193)	36
1.7 Monday, 21 May 1787, at 13:00 (s6194)	37
1.8 Tuesday, 22 May 1787, at 13:00 (s6195)	38
1.9 Wednesday, 23 May 1787, at 13:00 (s6196)	41
1.10 Thursday, 24 May 1787, at 13:00 (s6197)	43
1.11 Friday, 25 May 1787, at 10:00 (s6198)	43
1.12 Monday, 28 May 1787, at 10:00 (s6199)	62
1.13 Tuesday, 29 May 1787, at 10:00 (s6200)	77
1.14 Wednesday, 30 May 1787, at 10:00 (s6201)	97
1.15 Thursday, 31 May 1787, at 10:00 (s6202)	99
1.16 Friday, 01 June 1787, at 10:00 (s6203)	101
1.17 Saturday, 02 June 1787, at 10:00 (s6204)	103
1.18 Monday, 04 June 1787, at 11:00 (s6205)	107
1.19 Tuesday, 05 June 1787, at 11:00 (s6206)	108
1.20 Wednesday, 06 June 1787, at 11:00 (s6207)	110
1.21 Thursday, 07 June 1787, at 11:00 (s6208)	112
1.22 Friday, 08 June 1787, at 11:00 (s6209)	113
1.23 Saturday, 09 June 1787, at 11:00 (s6210)	114
1.24 Monday, 11 June 1787, at 11:00 (s6211)	115
1.25 Tuesday, 12 June 1787, at 11:00 (s6212)	116
1.26 Wednesday, 13 June 1787, at 11:00 (s6213)	117

1.27	Thursday, 14 June 1787, at 11:00 (s6214)	120
1.28	Friday, 15 June 1787, at 11:00 (s6215)	121
1.29	Saturday, 16 June 1787, at 11:00 (s6216)	125
1.30	Monday, 18 June 1787, at 11:00 (s6217)	126
1.31	Tuesday, 19 June 1787, at 11:00 (s6218)	127
1.32	Wednesday, 20 June 1787, at 11:00 (s6219)	133
1.33	Thursday, 21 June 1787, at 11:00 (s6220)	148
1.34	Friday, 22 June 1787, at 11:00 (s6221)	162
1.35	Saturday, 23 June 1787, at 11:00 (s6222)	173
1.36	Monday, 25 June 1787, at 11:00 (s6223)	184
1.37	Tuesday, 26 June 1787, at 11:00 (s6224)	209
1.38	Wednesday, 27 June 1787, at 11:00 (s6225)	227
1.39	Thursday, 28 June 1787, at 11:00 (s6226)	233
1.40	Friday, 29 June 1787, at 10:00 (s6227)	245
1.41	Saturday, 30 June 1787, at 11:00 (s6228)	260
1.42	Monday, 02 July 1787, at 11:00 (s6229)	279
1.43	Thursday, 05 July 1787, at 11:00 (s6230)	295
1.44	Friday, 06 July 1787, at 11:00 (s6231)	306
1.45	Saturday, 07 July 1787, at 11:00 (s6232)	317
1.46	Monday, 09 July 1787, at 11:00 (s6233)	323
1.47	Tuesday, 10 July 1787, at 11:00 (s6234)	332
1.48	Wednesday, 11 July 1787, at 11:00 (s6235)	339
1.49	Thursday, 12 July 1787, at 11:00 (s6236)	356
1.50	Friday, 13 July 1787, at 11:00 (s6237)	364
1.51	Saturday, 14 July 1787, at 11:00 (s6238)	371
1.52	Monday, 16 July 1787, at 11:00 (s6239)	379
1.53	Tuesday, 17 July 1787, at 11:00 (s6240)	384
1.54	Wednesday, 18 July 1787, at 11:00 (s6241)	399
1.55	Thursday, 19 July 1787, at 11:00 (s6242)	414
1.56	Friday, 20 July 1787, at 11:00 (s6243)	422
1.57	Saturday, 21 July 1787, at 11:00 (s6244)	431
1.58	Monday, 23 July 1787, at 11:00 (s6245)	441
1.59	Tuesday, 24 July 1787, at 11:00 (s6246)	453
1.60	Wednesday, 25 July 1787, at 11:00 (s6247)	463
1.61	Thursday, 26 July 1787, at 11:00 (s6248)	470
1.62	Monday, 06 August 1787, at 11:00 (s6249)	482
1.63	Tuesday, 07 August 1787, at 11:00 (s6250)	485
1.64	Wednesday, 08 August 1787, at 11:00 (s6251)	501
1.65	Thursday, 09 August 1787, at 11:00 (s6252)	515
1.66	Friday, 10 August 1787, at 11:00 (s6253)	534
1.67	Saturday, 11 August 1787, at 11:00 (s6254)	546
1.68	Monday, 13 August 1787, at 11:00 (s6255)	556
1.69	Tuesday, 14 August 1787, at 11:00 (s6256)	569
1.70	Wednesday, 15 August 1787, at 11:00 (s6257)	580
1.71	Thursday, 16 August 1787, at 11:00 (s6258)	590
1.72	Friday, 17 August 1787, at 11:00 (s6259)	599
1.73	Saturday, 18 August 1787, at 11:00 (s6260)	610
1.74	Monday, 20 August 1787, at 10:00 (s6261)	626
1.75	Tuesday, 21 August 1787, at 10:00 (s6262)	643
1.76	Wednesday, 22 August 1787, at 10:00 (s6263)	655

1.77	Thursday, 23 August 1787, at 10:00 (s6264)	670
1.78	Friday, 24 August 1787, at 10:00 (s6265)	689
1.79	Saturday, 25 August 1787, at 10:00 (s6266)	706
1.80	Monday, 27 August 1787, at 10:00 (s6267)	724
1.81	Tuesday, 28 August 1787, at 10:00 (s6268)	741
1.82	Wednesday, 29 August 1787, at 10:00 (s6269)	756
1.83	Thursday, 30 August 1787, at 10:00 (s6270)	769
1.84	Friday, 31 August 1787, at 10:00 (s6271)	783
1.85	Saturday, 01 September 1787, at 10:00 (s6272)	802
1.86	Monday, 03 September 1787, at 10:00 (s6273)	803
1.87	Tuesday, 04 September 1787, at 10:00 (s6274)	813
1.88	Wednesday, 05 September 1787, at 10:00 (s6275)	821
1.89	Thursday, 06 September 1787, at 10:00 (s6276)	834
1.90	Friday, 07 September 1787, at 10:00 (s6277)	852
1.91	Saturday, 08 September 1787, at 10:00 (s6278)	867
1.92	Monday, 10 September 1787, at 10:00 (s6279)	882
1.93	Tuesday, 11 September 1787, at 10:00 (s6280)	892
1.94	Wednesday, 12 September 1787, at 10:00 (s6281)	893
1.95	Thursday, 13 September 1787, at 10:00 (s6282)	899
1.96	Friday, 14 September 1787, at 10:00 (s6283)	907
1.97	Saturday, 15 September 1787, at 10:00 (s6284)	927
1.98	Monday, 17 September 1787, at 10:00 (s6285)	956
2	Rules Committee	967
2.1	Saturday, 26 May 1787, at 10:00 (s6286)	967
2.2	Monday, 28 May 1787, at 10:00 (s6287)	969
3	Committee of the Whole House	971
3.1	Wednesday, 30 May 1787, at 10:00 (s6288)	971
3.2	Thursday, 31 May 1787, at 10:00 (s6289)	994
3.3	Friday, 01 June 1787, at 10:00 (s6290)	1013
3.4	Saturday, 02 June 1787, at 10:00 (s6291)	1025
3.5	Monday, 04 June 1787, at 11:00 (s6292)	1040
3.6	Tuesday, 05 June 1787, at 11:00 (s6293)	1060
3.7	Wednesday, 06 June 1787, at 11:00 (s6294)	1075
3.8	Thursday, 07 June 1787, at 11:00 (s6295)	1087
3.9	Friday, 08 June 1787, at 11:00 (s6296)	1098
3.10	Saturday, 09 June 1787, at 11:00 (s6297)	1106
3.11	Monday, 11 June 1787, at 11:00 (s6298)	1116
3.12	Tuesday, 12 June 1787, at 11:00 (s6299)	1134
3.13	Wednesday, 13 June 1787, at 11:00 (s6300)	1153
3.14	Saturday, 16 June 1787, at 11:00 (s6301)	1161
3.15	Monday, 18 June 1787, at 11:00 (s6302)	1182
3.16	Tuesday, 19 June 1787, at 11:00 (s6303)	1202
4	First Committee on Representation	1211
4.1	Tuesday, 03 July 1787, at 11:00 (s6304)	1211
5	Second Committee on Representation	1221
5.1	Saturday, 07 July 1787, at 11:00 (s6305)	1221

6	Third Committee on Representation	1225
6.1	Monday, 09 July 1787, at 11:00 (s6306)	1225
7	Committee of Detail	1231
7.1	Wednesday, 25 July 1787, at 11:00 (s6307)	1231
7.2	Friday, 27 July 1787, at 11:00 (s6308)	1235
7.3	Sunday, 29 July 1787, at 11:00 (s6309)	1237
7.4	Monday, 30 July 1787, at 11:00 (s6310)	1238
7.5	Wednesday, 01 August 1787, at 11:00 (s6311)	1240
7.6	Friday, 03 August 1787, at 11:00 (s6312)	1241
7.7	Tuesday, 21 August 1787, at 10:00 (s6313)	1243
8	Committee on State Debts and Militia	1247
8.1	Monday, 20 August 1787, at 16:00 (s6314)	1247
9	Committee on Slave Trade and Navigation	1255
9.1	Thursday, 23 August 1787, at 16:00 (s6315)	1255
10	Committee on Commercial Discrimination	1261
10.1	Monday, 27 August 1787, at 15:00 (s6316)	1261
11	Committee on Interstate Comity and Bankruptcy	1267
11.1	Friday, 31 August 1787, at 15:00 (s6317)	1267
12	Committee on Postponed Matters	1271
12.1	Friday, 31 August 1787, at 15:00 (s6318)	1271
12.2	Monday, 03 September 1787, at 15:00 (s6319)	1276
12.3	Tuesday, 04 September 1787, at 15:00 (s6320)	1278
13	Committee of Style and Arrangement	1281
13.1	Saturday, 08 September 1787, at 18:00 (s6321)	1281
13.2	Monday, 10 September 1787, at 15:00 (s6322)	1283
13.3	Tuesday, 11 September 1787, at 10:00 (s6323)	1285
13.4	Wednesday, 12 September 1787, at 15:00 (s6324)	1286
14	Committee on Sumptuary Legislation	1289
14.1	Thursday, 13 September 1787, at 15:00 (s6325)	1289
IV	Index	1291

Part I

Sources used for this edition

- *McHenry's Notes (Max Farrand, 1911)*
- *Library of Congress*
- *Supplement to the Records of the Federal Convention (James Hutson, 1987)* Collection of sources from the Supplement to Max Farrand's The Records of the Federal Convention of 1787
- *Appendix B (Max Farrand, 1911) ATTENDANCE OF DELEGATES.*
The following list of delegates to the Federal Convention, with the available data of their attendance, has been compiled from the Records.
- *Appendix A (Max Farrand, 1911) Supplementary Records of Proceedings in Convention*
- *Yates's Diary (Max Farrand, 1911)* Secret Proceedings and Debates of the Convention Assembled at Philadelphia, in the year 1787.
- *2019 Editors* Lauren Davis, Kieran Hazzard
- *Committee of Detail Papers (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Pierce's Notes (Max Farrand, 1911)* First printed, 1828.
- *King's Diary (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Franklin Papers (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Paterson's Notes (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Lansing's Notes (Joseph Strayer, 1939)* From The Delegate from New York.
- *Pinckney's Notes (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Official Journal (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Wilson's Papers (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Brearley Papers (Max Farrand, 1911)* Farrand reproduced the interlinations on David Brearley's copy of the Report of the Committee of Style and Arrangement.
- *Hamilton's Notes (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.

- *Appendix D (Max Farrand, 1911)* The Pinckney Plan, from the Records of the Federal Convention, 3 vols.
- *Madison's Notes (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011)* Taken from updated analysis of Committee of Detail manuscripts in the Pennsylvania Magazine of History and Biography Vol. CXXXV, No. 3
- *National Archives*
- *Mason's Notes (Max Farrand, 1911)* From the Records of the Federal Convention, 3 vols.
- *Detail of Ayes and Noes (Max Farrand, 1911)* Tables showing the votes of individual delegations, recorded in the Official Journal.

Part II

Delegations and Members

- Massachusetts Delegation
 - Gorham, Nathaniel (27 May 1738 – 11 June 1796) Merchant and state legislator. He was a member of the Massachusetts General Court and part of the state constitutional convention. He went on to join the Congress of the Confederation, and was for a short time its President. He was a delegate to the Constitutional Convention and frequently sat as Chairman of the Committee of the Whole. He later became involved in large-scale land speculation.
 - King, Rufus (24 March 1755–29 April 1827) Lawyer, militia officer, abolitionist and diplomat. He broke off his studies at Harvard to enter the militia after the outbreak of the Revolutionary War. He ended the war as a Major and return to finish his education. He was later elected to the Massachusetts state legislature and then the Confederation Congress. Having attended the Constitutional Convention, and then acted as ambassador to Great Britain under both Washington and Jefferson. He was a New York US Senator for several years and ran unsuccessfully for Vice-President.
 - Gerry, Elbridge (17 July 1744 – 23 November 1814) Governor of Massachusetts, Congressman, and delegate to the Continental Congress. After completing his studies, Gerry settled his family business trading fish to Spain and Portugal. He signed the Declaration of Independence and attended the Constitutional Convention. During his assignment as Governor of Massachusetts, he helped to enact an electoral law that came to be known as the “Gerrymander Bill.” Massachusetts was subdivided into new senatorial districts in such a way as to consolidate the Federalist vote into a few districts, thus giving Gerry’s Democratic-Republicans an undue advantage. The shape of one electoral district on the map resembled a salamander, and one wit promptly dubbed it a “Gerrymander.”
While serving as a U.S. Senator, he introduced the motion in Congress to name Washington D.C. the site of the nation’s capital.
 - Strong, Caleb (9 January 1746 – 7 November 1819) Lawyer, abolitionist and legislator. During the Revolution he was attorney of Hampshire County, and a delegate to the Massachusetts Constitutional Convention, though he refused to attend the Continental Congress. He attended the US Constitutional Convention and afterwards became a US Senator and then Governor of Massachusetts.
- Offices of the Convention
 - Jackson, William (9 March 1759 – 17 December 1828) Major in the Continental Army during the Revolutionary War, serving on Washington’s staff as Secretary to John Laurens. Nominated as Secretary of the Constitutional Convention by Alexander Hamilton and chosen by the delegates on 25 May 1787. Afterwards practised law at the Pennsylvania Supreme Court and served for a time as personal secretary to George Washington while President. ^[1] ^[1]: [Wiki](https://en.wikipedia.org/wiki/William_Jackson_(secretary)) [American National Biography](https://doi.org/10.1093/anb/9780198606697.article.0200193)

- Shallus, Jacob (1750 – 18 April 1796) A volunteer in the Revolutionary War, Shallus became a battalion quartermaster and also assisted in the outfitting of a privateering vessel. After the war he became Assistant Clerk to the Pennsylvania General Assembly, which met at the Pennsylvania State House. At the end of the Convention he was chosen as the scribe to produce a fair copy of the Constitution, on which the delegates would sign their names. Shallus was later Assistant Secretary in the 1790 re-authoring of the State Constitution of Pennsylvania.
- Fry, Joseph Door-Keeper
- Weaver, Nicholas Messenger
- New York Delegation
 - Lansing, John (30 January 1754 – 12 December 1829?) Lawyer, judge and slave owner. As well as a lawyer he owned a large plantation, though he may not have used slave labour. Kept a handful of slaves as servants in his New York house. For a brief period during the Revolutionary War he was secretary to Philip Schuyler. Afterwards he joined the New York State Assembly and served for a time as Speaker. He was a delegate to the Confederation Congress, Mayor of Albany and Chancellor of New York. He attended the Constitutional Convention but left early due to objection to federalism.
 - Yates, Robert (27 January 1738 – 9 September 1801) Judge, legislator and slave owner. Trained as a surveyor and then lawyer, he joined the New York Provincial Congress and helped to draft the first New York state constitution. He was then appointed to the New York Supreme Court and sent as a delegate to the Constitutional Convention. He left early, opposing the conventions aims. Later ran unsuccessfully to be Governor of New York. As many a wealthy New Yorker, he owned a small number of house slaves.
 - Hamilton, Alexander (11 January c.1757 – 12 July 1804) Essayist, lawyer, officer in the Continental Army and US Treasury Secretary. A field commander and staff officer to Washington during the Revolutionary War, he was later appointed to the Confederation Congress. Having spent some time practising law, and becoming a member of the state legislature of New York he was chosen as a delegate to the Constitutional Convention. Author of many of the ‘Federalist Papers’ in defence of the new constitution. Later appointed by Washington to be US Secretary of the Treasury. Died in a duel with Aaron Burr in which he threw away his shot.
- New Jersey Delegation
 - Livingston, William (30 November 1723 – 25 July 1790) Pamphleteer and lawyer. He was a delegate to the Continental Congress and an officer in the New Jersey Militia. He was repeatedly elected Governor of New Jersey and a prolific writer of political pamphlets. He was a delegate to the Constitutional Convention, and later refused the position of Ambassador to the Dutch Republic.

- Houston, William Churchill (1746 – 12 August 1788) Scientist, lawyer and soldier. Professor of Mathematics and Natural Philosophy at the College of New Jersey (Princeton University), during the Revolutionary War he was briefly a captain within the militia. He was later a practising lawyer, member of the New Jersey legislature and a delegate to both the Continental and Confederation Congress. He was sent as a delegate to the Constitutional Convention but withdrew early due to ill health.
 - Dayton, Jonathan (16 October 1760 – 9 October 1824) Officer in the Continental Army, lawyer and merchant. Served as captain and aide-de-camp to John Sullivan during the Revolutionary War. He later entered the New Jersey Assembly, and when his father declined to attend the Constitutional Convention he went in his place. He was elected to the US House of Representatives, where he was Speaker, and then to the Senate.
 - Brearley, David (11 June 1745 – 16 August 1790) Jurist and Revolutionary War officer. He served in both the militia and Continental Army before leaving to become Chief Justice of the New Jersey Supreme Court. He was a delegate to the Constitutional Convention and chaired the Committee on Postponed Matters. After the convention he became a District Court judge for New Jersey.
 - Paterson, William (24 December 1745 – 9 September 1806) Lawyer, judge, plantation owner and slaveholder. He was secretary during the drafting of the constitution of New Jersey in 1776 and then state Attorney General. He was a delegate to the Constitutional Convention and then a US Senator. He was later Governor of New Jersey and a judge of the US Supreme Court.
- Pennsylvania Delegation
 - Ingersoll, Jared (24 October 1749 – 31 October 1822) Lawyer and judge. A Philadelphia lawyer who joined the Continental Congress in 1780. He was a delegate to the Constitutional Convention and then attorney general of Pennsylvania and US district attorney for Pennsylvania. In 1812 he ran unsuccessfully as DeWitt Clinton's running mate for the US Vice Presidency, losing to James Madison and Elbridge Gerry.
 - Franklin, Benjamin (6 January 1706 – 17 April 1790) Author, printer, political theorist, postmaster, scientist, inventor, humourist and diplomat. Having become a successful printer and author he began to devote his time to science and public life. He was elected to the Pennsylvania Assembly and for several years was based in London, emerging as a leading spokesman on American affairs. Having returned from Britain he was chosen as a delegate to the Continental Congress and helped to draw up the Declaration of Independence. He was first US Postmaster, and Ambassador to France and Sweden. He was chosen as a delegate to the Constitutional Convention and was President of Pennsylvania. Had once been a small slaveholder but had become an abolitionist before the Revolution.

– Morris, Robert (20 January 1735 – 8 May 1806) Leading merchant, financier and US finance minister. Having built up one of the largest shipping and merchant firms in Philadelphia he became interested in Revolutionary politics. He joined the Pennsylvania Provincial Assembly and the Continental Congress, where he was appointed Superintendent of Finance and Agent of Marine. He was responsible for all economic and maritime considerations in the new US executive. He also remodelled his business ventures during the war, which grew to make him one of the richest men in America. Afterwards, he was selected as a delegate to the Constitutional Convention and later elected as a US Senator. He declined Washington's offer of US Treasury Secretary, suggesting Hamilton instead. Failed land speculation deals and economic downturn in the 1790s resulted in his bankruptcy. For a time in the 1760s he had been a slave trader.

– Morris, Gouverneur (30 January 1752 – 6 November 1816) Lawyer, legislator and diplomat. Having practised law, he was elected to the New York State Assembly at the start of the Revolution and then the Continental Congress. His family were large landowners and had owned slaves, though he had become a staunch abolitionist. After moving to Philadelphia, he was selected as a delegate to the Constitutional Convention for Pennsylvania. He was later US Ambassador to France where he became caught up in the French Revolution. On his return to America he joined the US Senate, representing New York.

– Fitzsimmons, Thomas (1741 – 26 August 1811) Merchant and legislator.

A merchant involved in the West India trade, Fitzsimmons joined a number of organizations at the start of the American Revolution. He commanded a company of home guards during the war and was head of the Pennsylvania Navy Board. He later joined the Confederation Congress and became a delegate to the Constitutional Convention in 1787. He was elected to the US House of Representatives for a single term and later went into banking.

– Wilson, James (14 September 1742 – 21 August 1789) Lawyer, jurist and militia officer. He studied law under John Dickinson, and during the Revolution joined the Continental Congress and the Pennsylvania militia. Having defended loyalists in court after the recapture of Philadelphia, his house was attacked by a mob. He was selected as a delegate to the Constitutional Convention and was later part of the redrafting of the Pennsylvania constitution. He was later made a US Supreme Court judge.

– Clymer, George (16 March 1739 – 23 January 1813) Merchant, land speculator and legislator.

A Philadelphia city councillor and justice of the peace, Clymer later joined the Pennsylvania state legislature and the Continental Congress. He was a delegate to the Constitutional Convention in 1787 and then member of the US House of Representatives. He was a supervisor of revenue and then president of the Philadelphia Bank.

- Mifflin, Thomas (10 January 1744 – 20 January 1800) Merchant, Continental Army officer and legislator. Having been elected to the Pennsylvania Assembly he also became a Continental Congressman. During the Revolutionary War he served as an aide-de-camp to George Washington and the army's Quartermaster General. He became the President of the Confederation Congress and then a delegate to the Constitutional Convention. He was later President and then Governor of Pennsylvania.
- Delaware Delegation
 - Dickinson, John (8 November 1732 – 14 February 1808) Pamphleteer, planter, slave owner and lawyer. He was a militia officer during the Revolutionary War, President of Delaware, President of Pennsylvania and a Continental Congressman for both Delaware and Pennsylvania. Despite this he had refused to sign the Declaration of Independence. The owner of a number of slaves, who he gradually freed on religious grounds from 1777 onwards. Following his attendance at the Constitutional Convention he acted as president of the convention to draft the 1792 constitution of Delaware.
 - Bedford, Gunning (13 April 1747 – 30 March 1812) Lawyer and attorney general who severed in the Confederation Congress and Delaware legislature. During the Revolutionary War he acted as Muster-master-general for New York. After the Constitutional Convention he became a District Judge.
 - Basset, Richard (2 April 1745 – 16 August 1815) Lawyer, planter, slave owner, and then abolitionist. He was a principle figure in the Delaware General Assembly, framer of the Delaware Constitution and cavalry officer in the Continental Army. Following his conversion to Methodism he became a keen abolitionist and freed his own slaves in 1787. Following his attendance at the Constitutional Convention he took part in the redrafting of the Delaware Constitution, became a US Senator, judge and Governor of Delaware.
 - Read, George (18 September 1733 – 21 September 1798) Lawyer, farmer, slave owner and Continental Congressman. Though he had voted against independence, he signed the declaration and participated in the drafting of the Constitution of Delaware. He was later President of Delaware and delegate to the Constitutional Convention. He later served as served as US Senator and then Chief Justice of Delaware.
 - Broom, Jacob (17 October 1752 – 25 April 1810) Businessman, surveyor and lawyer. He served as a Justice of the Peace and member of the Delaware General Assembly. After attending the Constitutional Convention he continued to serve in local government, built a cotton mill, and several canals, roads and bridges.
- Virginia Delegation
 - Randolph, Edmund (10 August 1753 – 12 September 1813) Lawyer, slave owner, state governor and US Secretary of State. Elected to

the Virginia Convention and then the Continental Congress he also maintained an important law practice. During the Revolutionary War he acted as an aide-de-camp for Washington. After the war he became Governor of Virginia and was a delegate to the Constitutional Convention, where he introduced the Virginia Plan. Refused to sign the final document but changed his mind to support ratification. Later US Attorney General and Secretary of State.

- McClurg, James (1746 – 9 July 1823) Physician and Mayor of Richmond, Virginia. During the Revolutionary War he was a naval surgeon and then Physician General and Director of Hospitals for Virginia. When Patrick Henry refused to attend the Constitutional Convention, McClurg went in his place. He left early, but later served on Virginia's Executive Council and as Mayor of Richmond. During his life he owned a small number of slaves.
- Washington, George (11 February 1732 – 14 December 1799) Soldier, surveyor, planter, slave holder, legislator and President of the USA. Having joined the army as a young man, he was made colonel of the colonial Virginia Regiment and Virginian Commander in Chief during the French and Indian War. He joined the Virginia House of Burgesses, then the Virginia Convention and Continental Congress. He was appointed Commander in Chief of the Continental Army during the Revolutionary War. Having retired from the army, he was selected as a delegate to the Constitutional Convention, where he was elected its president. Afterwards he was elected President of the USA, a role he greatly shaped.
- Blair, John (17 April 1732 – 31 August 1800) Jurist, legislator, farmer and slaveholder. Having practised law, he joined the Virginia House of Burgesses prior to the Revolution. On its outbreak he helped to draft the Virginian constitution and the Virginia Declaration of Rights. As a judge he held several senior positions within the state's courts. He was a delegate to the Constitutional Convention and afterwards a US Supreme Court judge. He was also a farmer and owned several slaves.
- Wythe, George (1726 – 8 June 1806) Lawyer, scholar, judge, planter and slave owner. Practising lawyer and law professor at the College of William & Mary, he was also a Virginia judge. He was elected to the Continental Congress and signed the Declaration of Independence. He was later a Virginian delegate to the Constitutional Convention but left early due to the death of his wife. He chaired the Virginia ratification sessions.
- Mason, George (11 December 1725 – 7 October 1792) Planter, slave owner, militia officer and legislator. He joined the Virginia House of Burgesses and later the revolutionary Virginia Convention. He was central to the creation of the Virginia Declaration of Rights and constitution. Though he joined the Virginia legislature he refused to attend the Continental Congress. Chosen as a delegate to the Constitutional Convention but refused to sign the final document and opposed ratification. He also opposed slavery, but would not free his own slaves.

- Madison, James (5 March 1751 – 28 June 1836) Planter, slaveholder, essayist, legislator, and President of the USA.

Born the son of a leading planter, he secured election into the Virginia Convention, which produced the independent state, its new constitution, and the Virginia Declaration of Rights. He then joined the state legislature and the Confederation Congress. A principal proponent of the Constitutional Convention, he was also the author of the Virginia Plan, a faithful Convention attendee, a dedicated notetaker, and one of the Convention's most active speakers. He also authored several of the 'Federalist Papers' in defence of the new Constitution. He was a Representative for Virginia in the new U.S. Congress and a leading figure in the creation of the Bill of Rights. He was later U.S. Secretary of State and then President.

- North Carolina Delegation

- Martin, Alexander (1740 – 2 November 1807) Merchant, planter, slave owner, lawyer and infantry officer. After serving as a colonel in both the militia and Continental Army he was elected to the North Carolina Senate. He was later state Governor and a delegate to the Constitutional Convention. He remained Governor for a time before joining the US Senate.
- Spaight, Richard Dobbs (25 March 1758 – 6 September 1802) Army administrator, slave owner and legislator. Staff officer in the militia and Continental Army during the Revolutionary War, he was elected to the Confederation Congress and then the North Carolina House of Commons. He was a delegate to the Constitutional Convention and then a Governor of North Carolina, and member of the US House of Representatives.
- Davie, William Richardson (20 June 1756–05 November 1820) Lawyer, slave owner, planter and Continental Army officer. Having become a colonel in the cavalry, by the end of the Revolutionary War he was Commissary-General under Nathanael Greene. After the war he was a judge and member of the North Carolina House of Commons. He was a delegate to the Constitutional Convention and then Governor of North Carolina.
- Williamson, Hugh (5 December 1735 – 22 May 1819) Physician, scientist and legislator. A qualified doctor, he also worked on a number of scientific questions and collaborated with Benjamin Franklin to study electricity. During the Revolutionary War he was Surgeon General of North Carolina and a field surgeon in the Continental Army. Afterwards he was elected to the North Carolina legislature and then the Confederation Congress. He was a delegate to the Constitutional Convention and subsequently a member of the US House of Representatives.
- Blount, William (26 March 1749 – 21 March 1800) Land speculator, planter, slave owner, and state governor. During the Revolutionary War he was a paymaster in the militia and Continental Army. He was a North Carolina delegate to the Confederation Congress and then

the Constitutional Convention. Afterwards he became Governor of the Southwest Territory and then US Senator for Tennessee. Conspiring with the British to help them seize Louisiana, he left Congress in disgrace after being exposed. Despite this he became Speaker of the Tennessee Senate.

- South Carolina Delegation

- Butler, Pierce (11 July 1744 – 15 February 1822) One of the Founding Fathers of the U.S., planter, and officer in the Revolutionary War. He served as a delegate to the 1787 Constitutional Convention and a member of the U.S Senate. Committed to protecting the rights of states and slavery, Butler's extensive holdings included approximately one-thousand slaves.
- Rutledge, John (17 September 1739 – 23 July 1800) Lawyer, planter, slave owner, and legislator. Having been a principal figure in the Stamp Act Congress and the Continental Congress, he was elected President and then Governor of South Carolina throughout the Revolutionary War. He was a delegate to the Constitutional Convention, where he chaired the Committee of Detail. He later joined the US Supreme Court but left after a short time. He sought to return as Chief Justice, appointed by Washington, but his criticism of the Jay Treaty meant Congress refused to confirm his nomination.
- Pinckney, Charles (26 October 1757 – 29 October 1824) Planter, slaveholder, lawyer, legislator, pamphleteer and diplomat. A junior officer in the militia during the Revolutionary War, he was also a member of the South Carolina legislature. He was a delegate to the Constitutional Convention, where he submitted his own plan for consideration. He was later a US Congressman for both houses, Governor of South Carolina, and an Ambassador to Spain.
- Pinckney, Charles Cotesworth (14 February 1745 – 16 August 1825) Lawyer, planter, slave owner and army officer. At the outbreak of the Revolutionary War he joined the Continental Army and rose to the rank of Major General. Afterwards he returned to the law and the South Carolina legislature. After attending the Constitutional Convention he became US Ambassador to France and played a prominent role in the XYZ Affair. He twice stood unsuccessfully for election as President, against Jefferson and then Madison. He also stood unsuccessfully for Vice President.

- Georgia Delegation

- Baldwin, Abraham (22 November 1754 – 4 March 1807) Congregationalist minister, army chaplain during the Revolutionary War, and lawyer.
Baldwin was President of the University of Georgia, a Confederation Congressman, and delegate to the Constitutional Convention. He was elected to the US House of Representatives and then the Senate, where he became President pro tempore.

- Few, William (8 June 1748 – 16 July 1828) Farmer, lawyer, banker, surveyor, and militia officer during the Revolutionary War. From a small farming family he rose to wealth and prominence. He served in the Georgia General Assembly and Congress, before joining the Constitutional Convention. He was US Senator for Georgia before moving to New York to become president of several banks and then a legislator within the New York State Assembly.
 - Pierce, William (c.1740 – 10 December 1789) Merchant, planter and artillery officer in the Continental Army. During the Revolutionary War he rose to the position of aide-de-camp to Nathanael Greene. After the war he joined the Georgia state legislature and the Confederation Congress. Having joined the Constitutional Convention, he left early to attend to his rapidly declining business and to fight a duel. The duel, with the partner of a firm to whom he owed money, did not take place thanks to the intervention of Alexander Hamilton. He later ran, unsuccessfully, for both the Georgia legislature and governorship.
 - Houstoun, William (c.1755 – 17 March 17 1813) Planter, slave owner and lawyer. He attended the Congress of the Confederation representing Georgia and then the Constitutional Convention.
- Connecticut Delegation
 - Ellsworth, Oliver (29 April 1745 – 26 November 1807) Lawyer and judge, selected as a delegate to the Continental Congress during the Revolutionary War. After the Constitutional Convention he became a US Senator for Connecticut and then Chief Justice of the United States.
 - Johnson, William Samuel (7 October 1727 – 14 November 1819) Lawyer, Colonel in the Connecticut militia, slave owner, state legislator and judge. He rejected his election to the First Continental Congress and sought a compromise between Britain and colonists prior to independence. After the war he joined the Congress of the Confederation and then the Constitutional Convention. He later served as a US Senator for Connecticut and President of King's College (Columbia University).
 - Sherman, Roger (19 April 1721–23 July 1793) A former cordwainer, land speculator and surveyor, Sherman took up the law in 1754. He was a member of the Connecticut House of Representatives, justice of the peace, member of the Governor's Council of the Connecticut General Assembly, and Justice of the Superior Court of Connecticut. After the Constitutional Convention he was elected to the US House of Representatives and then the the Senate.
- Maryland Delegation
 - McHenry, James (16 November 1753–03 May 1816) Physician, merchant and slave owner. During the Revolutionary War he was initially a surgeon in the Continental Army, but was made assistant secretary to Washington and then aide-de-camp to Lafayette. After the

war he was elected to the Maryland legislature and the Confederation Congress. He was Secretary of War under both Washington and Adams. He kept a small number of slaves as household servants.

- Martin, Luther (20 February 1748 – 8 July 1826) Lawyer, slave owner and Attorney General of Maryland. Elected to the Confederation Congress but didn't attend due to other commitments. A prominent member of the Constitutional Convention, he returned to the law afterwards. In later years he became famous for his defence of Samuel Chase and Aaron Burr. Ran a small plantation.

- Carroll, Daniel (22 July 1730 – 7 May 1796) Plantation owner, slaveholder, and land speculator.

Elected to the Executive Council of Maryland at the start of the Revolution, he later became a state senator and a delegate to the Confederation Congress. He was later elected to the US House of Representatives and was one of three commissioners appointed to survey the new District of Columbia.

- Jenifer, Daniel of St Thomas (1723 – 16 November 1790) Planter, slave owner, and merchant. He was a member of both houses of the Maryland legislature and a delegate to the Continental Congress. He was later chosen to represent Maryland at the Constitutional Convention.

- Mercer, John Francis (17 May 1759 – 30 August 1821) Tobacco planter, slave owner and lawyer. He was an officer during the Revolutionary War, serving in both the Continental Army and Virginia militia, for a time he was aide-de-camp to Charles Lee. After the war he entered the Confederation Congress to represent Virginia. Having moved to Maryland he was appointed a delegate to the Constitutional Convention. He was later Governor of Maryland and member of the US House of Representatives.

- New Hampshire Delegation

- Langdon, John (26 June 1741 – 18 September 1819) Merchant and legislator. The owner of several merchant vessels, he helped to build warships during the Revolutionary War and was a delegate to the Continental Congress. He was speaker of the New Hampshire House of Representatives and a member of the Confederation Congress. Having been a delegate to the Constitutional Convention, he afterwards joined the US Senate, where he became President pro tempore. He was elected three times to be Governor of New Hampshire.

- Gilman, Nicholas (3 August 1755 – 2 May 1814) Officer in the Continental Army and merchant.

A Captain during the Revolutionary War, Gilman held many administrative duties and rose to the position of assistant adjutant general for the army. He was appointed as a delegate to the Confederation Congress and the Constitutional Convention. He would later be elected to both houses of the U.S. Congress.

Part III

Committee Records

Chapter 1

The Convention

The main chamber of the Constitutional Convention, consisting of all delegates.

1.1 Monday, 14 May 1787, at 10:00 (s6188)

[e672142] [Editors' note: On 14 May, Washington writes in his diary, 'This being the day appointed for the Convention to meet, such Members as were in town assembled at the State Ho[use]; but only two States being represented – viz. –Virginia and Pennsylvania–agreed to attend at the same place at 11 'Oclock to morrow' (Page 1, George Washington: Diary (James Hutson, 1987)).

Though Washington does not specify which delegates were present, he and Madison – the only confirmed Virginia delegates in Philadelphia on this day – could not have been the only ones. The Virginia credentials required three delegates to be present in order to form a quorum, so with the confirmed attendance of Washington and Madison and the knowledge that Virginia had achieved quorum, at least one more member of the Virginia delegation must have been present on this day.]

(2019 Editors)

On Monday the 14th of May. AD 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the federal-Convention appeared—but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virgina

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Monday last was the day for the meeting of the Convention. The number as yet assembled is but small. Among the few is Genl Washington who arrived on Sunday evening amidst the acclamations of the people, as well as more sober marks of the affection and veneration which continues to be felt for his character.

(Appendix A (Max Farrand, 1911), Page IX, Vol. 3, Letter from James Madison to Thomas Jefferson, dated 15 May 1787)

Washington, George, of Virginia. Attended on May 14 and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

Monday May 14th 1787 was the day fixed for the meeting of the deputies in Convention for revising the federal system of Government. On that day a small number only had assembled

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

[*e672143*] [Editors' note: Farrand writes that 'Madison, James, Jr., of Virginia. Attended on May 14 and thereafter' (Page 589, Vol. 3, Appendix B (Max Farrand, 1911)). He likely bases this assessment on a 15 May letter from Madison to Thomas Jefferson, in which the former describes to the latter the attendance at the Convention thus far.]

(2019 Editors)

Monday last was the day for the meeting of the Convention. The number as yet assembled is but small. Among the few is Genl Washington who arrived on Sunday evening amidst the acclamations of the people, as well as more sober marks of the affection and veneration which continues to be felt for his character. The Governor Messrs. Wythe & Blair, and Docr. McClurg are also here. Col. Mason is to be here in a day or two. There is a prospect of a pretty full meeting on the whole, though there is less punctuality in the outset than was to be wished. Of this the late bad weather has been the principal cause. I mention these circumstances because it is possible, this may reach you before you hear from me through any other channel, and I add no others because it is merely possible.

(Appendix A (Max Farrand, 1911), Page IX, Vol. 3, Letter from James Madison to Thomas Jefferson, 15 May 1787)

Monday May 14th 1787 was the day fixed for the meeting of the deputies in Convention for revising the federal system of Government. On that day a small number only had assembled

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

On Monday the 14th of May. AD 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the federal-Convention appeared— but, a majority of the States not being represented, the Members present adjourned from day to day until Friday

the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Monday 14th. This being the day appointed for the Convention to meet, such Members as were in town assembled at the State Ho[use]; but only two States being represented —viz.—Virginia and Pennsylvania—agreed to attend at the same place at 11 'Oclock to morrow.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 1, George Washington: Diary)

[e672144] [Editors' note: According to Farrand, only two delegates – Madison and Washington – were definitely present on 14 May. However, various pieces of miscellany provide more information about the delegates who arrived on this day. For instance, Washington notes in his 14 May journal entry that only Virginia and Pennsylvania were represented at this point, and in a letter to Thomas Shippen, William Shippen states that eight members were in attendance on this day, among them 'old Franklin' (Page 1, William Shippen to Thomas Shippen (James Hutson, 1987)). Farrand also notes that several other delegates '[a]ttended May 25, and probably before', allowing for the possibility that they were present on 14 May (Vol. 3, Appendix B (Max Farrand, 1911)). Among these delegates are the members of the Pennsylvania delegation – R. Morris, Clymer, Fitzsimons, Ingersoll, Mifflin, G. Morris, and Wilson. Farrand notes that Lansing, a delegate of New York, might have attended before 25 May, though if Washington's diary is correct that only Virginia and Pennsylvania were represented at this point, it is unlikely that he arrived on 14 May.

However, the Pennsylvania credentials required four members to be present in order to form a quorum. Washington attests that Pennsylvania achieved representation on 14 May, meaning that at least three more Pennsylvania delegates were present. This seems intuitive, given that all of the Pennsylvania delegates except for Ingersoll lived in Philadelphia.]

(2019 Editors)

On Monday the 14th of May. AD 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the federal-Convention appeared

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Monday May 14th 1787 was the day fixed for the meeting of the deputies in Convention for revising the federal system of Government. On that day a small number only had assembled

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

Monday 14th. This being the day appointed for the Convention to meet, such Members as were in town assembled at the State Ho[use]; but only two States being represented —viz.—Virginia and Pennsylvania—agreed to attend at the same place at 11 'Oclock to morrow.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 1, George Washington's Diary)

...May 14. Eight members of Convention met this morning, old Franklin first on the ground

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 1, Letter from William Shippen to Thomas Shippen)

Franklin, Benjamin, of Pennsylvania. Attended on May 28, and probably earlier, although absent on May 25.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e672145] On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672146] On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

1.2 Tuesday, 15 May 1787, at 11:00 (s6189)

[e672147] Tuesday 15th. Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to tomorrow. Govr. Randolph from Virginia came in to day.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 3, George Washington: Diary)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Randolph, Edmund, of Virginia. Attended May 15 and thereafter. He refused to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e672148] [Editors' note: In the 15 May entry of his diary, Washington writes, 'Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to tomorrow. Govr. Randolph from Virginia came in to day' (Page 3, George Washington: Diary, (James Hutson, 1987)). He notes no one arriving on 16 May, and on 17 May, he says, 'Col. Mason getting in this Evening placed all the Delegates from Virginia on the floor of the Convention.' (Page 6, George Washington: Diary (James Hutson, 1987)). It follows, then, that the rest of the Virginia delegates – Blair, McClurg, and Wythe – arrived on 15 May at the latest. On the same day, Madison writes to Thomas Jefferson that 'Governor Messrs. Wythe & Blair, and Doctr. McClurg are also here.' (Page 20, Vol. 3, James Madison to Thomas Jefferson (Max Farrand, 1911)) Given this statement, it seems likely that Blair might have been one of the Virginia delegates that constituted the Virginia quorum the day before. However, because his first confirmed date of attendance is 15 May, he is represented as joining on this day.]

(2019 Editors)

Blair, John, of Virginia. Attended as early as May 15.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672149] [Editors' note: In the 15 May entry of his diary, Washington writes, 'Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to tomorrow. Govr. Randolph from Virginia came in to day' (Page 3, George Washington: Diary (James Hutson, 1987)). He notes no one arriving on 16 May, and on 17 May, he says, 'Col. Mason getting in this Evening placed all the Delegates from Virginia on the floor of the Convention.' (Page 6, George Washington: Diary (James Hutson, 1987)). It follows, then, that the rest of the Virginia delegates – Blair, McClurg, and Wythe – arrived on 15 May at the latest. On the same day, Madison writes to Thomas Jefferson that 'Governor Messrs. Wythe & Blair, and Doctr. McClurg are also here.'

(Page 20, Vol. 3, James Madison to Thomas Jefferson (Max Farrand, 1911)) Given this statement, it seems likely that Wythe might have been one of the Virginia delegates that constituted the Virginia quorum the day before. However, because his first confirmed date of attendance is 15 May, he is represented as joining on this day.]

(2019 Editors)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Wythe, George, of Virginia. Attended as early as May 15; left Convention June 4; resigned June 16. He approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e672150] [Editors' note: Washington's diary entry from 21 May states that 'Delaware State was represented.' (Page 12, George Washington: Diary (James Hutson, 1987)). The credentials for the delegates from Delaware authorized George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, 'or any three of them', to represent Delaware at the Convention. (Page 574, Vol. 3, Appendix B (Max Farrand, 1911))

Farrand notes Broom arriving on 21 May, but in a 23 May letter to Thomas Collins, Broom says that 'Mr. Read and [himself] [were] the only Deputies who have attended from [their] State until Monday evening last, when Mr. Bassett arrived. Mr. Dickinson is not yet come on' (Page 16, Jacob Broom to Thomas Collins (James Hutson, 1987)). In other words, both Broom and Read were present before 21 May. On 15 May, Washington writes in his journal that there were members present from various states that had not yet achieved a quorum. Among these states was Delaware, which confirms that Broom was likely present as early as 15 May.]

(2019 Editors)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Delaware

The honorable George Read, Richard Basset, and Jacob Broom Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Broom, Jacob, of Delaware. Attended as early as May 21.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Tuesday, 15. — Repaired to the State Ho. at the hour appointed No more States represented, tho there were members (but not sufficient to form a quorum) from two or three others, viz., No. Carolina and Delaware, as also Jersey. Govr Randolph. of Virginia, came in to-day.

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672151] [Editors' note: Washington's diary entry from 21 May states that 'Delaware State was represented.' (Page 12, George Washington: Diary (James Hutson, 1987)). The credentials for the delegates from Delaware authorized George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, 'or any three of them', to represent Delaware at the Convention. (Page 574, Vol. 3, Appendix B (Max Farrand, 1911))

Farrand notes Broom arriving on 21 May, but in a 23 May letter to Thomas Collins, Broom says that 'Mr. Read and [himself] [were] the only Deputies who have attended from [their] State until Monday evening last, when Mr. Bassett arrived. Mr. Dickinson is not yet come on' (Page 16, Jacob Broom to Thomas Collins (James Hutson, 1987)). In other words, both Broom and Read were present before 21 May. On 15 May, Washington writes in his journal that there were members present from various states that had not yet achieved a quorum. Among these states was Delaware, which confirms that Read was likely present as early as 15 May.]

(2019 Editors)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Delaware

The honorable George Read, Richard Basset, and Jacob Broom Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Read, George, of Delaware. Attended at least as early as May 19.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

Tuesday, 15. — Repaired to the State Ho. at the hour appointed No more States represented, tho there were members (but not sufficient to form a quorum) from two or three others, viz., No. Carolina and Delaware, as also Jersey. Govr Randolph. of Virginia, came in to-day.

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672152] [Editors' note: In his diary entry for 25 May, Washington notes that 'Another Delegate coming in from the State of New Jersey gave it representation and encreased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body...' (Page 20, George Washington: Diary (James Hutson, 1987)). The credentials of the New Jersey delegates required that three delegates be present at the Convention in order to constitute

a quorum. Farrand notes the three New Jersey delegates that were present on 25 May as arriving on that day. However, Washington's account suggests that two of the delegates were already in attendance. Similarly, a 23 May letter from Broom to Thomas Collins says that at that point, six states were quorate, and there were members from another six states, including New Jersey. Even earlier, though, is Washington's 15 May journal entry stating that members from New Jersey were present on that day.

In a letter to Brearly on 19 May, Livingston – prior to his arrival at the Convention – says, 'I suspect that by the middle of next week at farthest we shall have a full representation by the attendance of Mr. Clark and Mr Patterson.' (Page 8, William Livingston to David Brearly (James Hutson, 1987)). Houston, he notes, is in an ill state of health, which might affect his attendance. This letter, along with a 19 May article in the Pennsylvania Journal and Weekly Advertiser, suggests that Brearly was already present at the Convention by 19 May, despite the fact that Farrand notes him as arriving on 25 May. As a result, he is most likely the delegate Washington and Broom are referring to in their papers.]

(2019 Editors)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

New-Jersey

The honorable David Brearly, William Churchill Houston, and William Patterson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Brearley, David, of New Jersey. Attended as early as May 25.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Saturday, May 19, 1787 . A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic* [...]

New Jersey. *David Brearly*, William Churchill Houston, William Patterson, John Neilson.

[Editors' note: Brearly's name is italicized.]

(Appendix A (Max Farrand, 1911), Pages 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

Tuesday, 15. — Repaired to the State Ho. at the hour appointed No more States represented, tho there were members (but not sufficient to form a quorum) from two or three others, viz., No. Carolina and Delaware, as also Jersey. Govr Randolph. of Virginia, came in to-day.

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672153] [Editors' note: Farrand notes in Appendix B of the Records that Spaight – a delegate of North Carolina – joined the Convention on 19 May, likely on the basis of a 19 May article in the Pennsylvania Journal and Weekly Advertiser, which listed the appointed delegates by state and specified which of them had arrived. Spaight is mentioned in this list, and this is the earliest mention of his presence at the Convention. However, it is possible (and it seems rather likely) that he arrived even earlier. Washington writes in his 15 May journal entry that although only Virginia and Pennsylvania are represented, there are members present from North Carolina. Given that Spaight is definitely the first North Carolina delegate to arrive and that the only other document testifying to his presence in Philadelphia is a 19 May article that does not provide his exact date of arrival, it is likely that he was the North Carolina delegate to whom Washington refers.]

(2019 Editors)

Spaight, Richard Dobbs, of North Carolina. Attended as early as May 19, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

North-Carolina

The honorable Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Saturday, May 19, 1787

. A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in Italic [...]

North Carolina. Alexander Martin, Willis Jones, Richard Dobbs Spaight, William Richardson Davie, William Blunt.

[Editors' note: Spaight's name is italicized.]

(Appendix A (Max Farrand, 1911), Pages 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

Tuesday, 15. — Repaired to the State Ho. at the hour appointed No more States represented, tho there were members (but not sufficient to form a quorum) from two or three others, viz., No. Carolina and Delaware, as also Jersey. Govr Randolph. of Virginia, came in to-day.

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672154] Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to morrow. Govr. Randolph from Virginia came in to day

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 3, George Washington: Diary)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672155] Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to morrow. Govr. Randolph from Virginia came in to day

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 3, George Washington: Diary)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

1.3 Wednesday, 16 May 1787, at 10:00 (s6190)

[e672156] [Editors' note: In the 15 May entry of his diary, Washington writes, 'Repaired, at the hour appointed to the State Ho[use], but no more states being represented than were yesterday (tho' several more members had come in) we agreed to meet again to tomorrow. Govr. Randolph from Virginia came in to day' (Page 3, George Washington: Diary (James Hutson, 1987)). He notes no one arriving on 16 May, and on 17 May, he says, 'Col. Mason getting in this Evening placed all the Delegates from Virginia on the floor of the Convention' (Page 6, George Washington: Diary (James Hutson, 1987)). It follows, then, that the rest of the Virginia delegates – Blair, McClurg, and Wythe – arrived on 15 May. On the same day, Madison writes to Thomas Jefferson that 'Governor Messrs. Wythe & Blair, and Docr. McClurg are also here' (Page 20, Vol. 3, James Madison to Thomas Jefferson (Max Farrand, 1911)). Given this statement, it seems possible that McClurg might have been one of the Virginia delegates that constituted the Virginia quorum the day before. However, Washington's diary entry from the following day – 16 May – says that McClurg came in on that day. This suggests that he arrived in Philadelphia after the delegates met on 15 May and that his first official attendance was on 16 May.]

(2019 Editors)

[A] majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

McClurg, James, of Virginia. Attended as early as May 15; was present July 20; and absent after August 5. Favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

Wednesday, [May] 16. — Only two States represented. Agreed to meet at — o'clock. Doctr McClurg, of Virginia, came in. Dined at Doctr Franklin's. . . .

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672157] No more than two States being yet represented, agreed till a quoram [sic] of them should be formed to alter the hour of Meeting at the State house to One oclock [sic].

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 5, George Washington: Diary)

Wednesday, [May] 16. — Only two States represented. Agreed to meet at — o'clock. Doctr McClurg, of Virginia, came in. Dined at Doctr Franklin's. . . .

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington's Journal)

[e672158] No more than two States being yet represented, agreed till a quoram [sic] of them should be formed to alter the hour of Meeting at the State house to One oclock [sic].

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 5, George Washington: Diary)

Wednesday, [May] 16. — Only two States represented. Agreed to meet at — o'clock. Doctr McClurg, of Virginia, came in. Dined at Doctr Franklin's. . . .

(Appendix A (Max Farrand, 1911), Page 20, Vol. 3, George Washington: Diary)

[e672159] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672160] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.4 Thursday, 17 May 1787, at 13:00 (s6191)

[e672161] Thursday 17th. Mr. Rutledge from Charleston and Mr. Chs. Pinkney [sic] from Congress having arrived gave a representation to So: Carolina

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 6, George Washington: Diary)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

South-Carolina

The honorable John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Rutledge, John, of South Carolina. Attended on May 17, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

Thursday, 17. — Mr. [Charles] Pinkney, of So. Carolina, coming in from New York, and Mr. Rutledge being here before, formed a representation from that State.

(Appendix A (Max Farrand, 1911), Page 20, George Washington: Diary)

[e672162] Thursday 17th. Mr. Rutledge from Charleston and Mr. Chs. Pinkney [sic] from Congress having arrived gave a representation to So: Carolina

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 6, George Washington: Diary)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

South-Carolina

The honorable John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Pinckney, Charles, of South Carolina. Attended May 17 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

Thursday, 17. — Mr. [Charles] Pinkney, of So. Carolina, coming in from New York, and Mr. Rutledge being here before, formed a representation from that State.

(Appendix A (Max Farrand, 1911), Pages 20-21, George Washington: Diary)

[e672163] Colo. Mason getting in this Evening placed all the Delegates from Virginia on the floor of the Convention

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 6, George Washington: Diary)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Virginia

His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Mason, George, of Virginia. Attended on May 17 and thereafter. Refused to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

Colonel Mason getting in this evening from Virginia, completed the whole number of this State in the delegation.

(Appendix A (Max Farrand, 1911), Pages 20-21, George Washington's
Journal, 17 May 1787)

[e672164] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672165] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.5 Friday, 18 May 1787, at 13:00 (s6192)

[e672166] Friday 18th. The representation from New York appeared on the floor to day.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 7, George Washington: Diary)

Hamilton, Alexander, of New York. Attended on May 18; left Convention June 29; was in New York after July 2; appears to have been in Philadelphia on July 13; attended Convention August 13; was in New York August 20—September 2.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

New-York

The honorable Robert Yates, and Alexander Hamilton Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Friday, [May] 18. — The State of New York was represented. . . .

(Appendix A (Max Farrand, 1911), Page 21, George Washington's Journal)

[e672167] Friday 18th. The representation from New York appeared on the floor to day.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 7, George Washington: Diary)

Yates, Robert, of New York. Attended May 18; left Convention July 10. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

New-York

The honorable Robert Yates, and Alexander Hamilton Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Friday, [May] 18. — The State of New York was represented. . . .

(Appendix A (Max Farrand, 1911), Page 21, George Washington's Journal)

[e672168] [Editors' note: Farrand says of Ingersoll's attendance, 'Attended on May 28, and probably earlier, although absent on May 25' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)). It seems likely that Ingersoll is one of the Pennsylvania delegates that was present on 14 May, because he writes to Thomas Shippen on 18 May, reporting that 'we have no news to communicate, unless that our prospects appear to become more gloomy' (Page 7, Jared Ingersoll to Thomas Shippen (James Hutson, 1987)). This letter indicates that Ingersoll experienced a frustration similar to that Washington expressed in his letter to George Augustine Washington from 17 May and which stemmed from the gathered delegates meeting day after day to learn there were not enough states represented to form a quorum.

However, because Ingersoll's presence on 14 May has not been definitively confirmed, he will be represented as joining the Convention on the first instance his attendance can be confirmed: 18 May. This 18 May letter and the fact that Washington dines with him on 19 May confirm that he was indeed in Philadelphia before 28 May, as Farrand supposes.]

(2019 Editors)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Pennsylvania

The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Dined at Mr. Ingersolls.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 8, George Washington: Diary, 19 May 1787)

[e672169] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672170] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.6 Saturday, 19 May 1787, at 13:00 (s6193)

[e672171] Few, William, of Georgia. Attended as early as May 19. Present in Congress in New York July 4—August 3. Probably returned to Convention after August 6.

[Editors' note: Farrand likely bases the record on Few's arrival on an article published on 19 May in the *Pennsylvania Journal and Weekly Advertiser*. This is the first recorded instance of Few's attendance, though since the article was published on 19 May, and the *Pennsylvania Journal and Weekly Advertiser* was a weekly periodical, it is possible he could have arrived at any point from 16 May—if Washington is correct that no members from Georgia were present up to that point—to 19 May.]

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Saturday, May 19, 1787. A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*.

[...]

Georgia. William Few, Abraham Baldwin, George Walton, William Pierce, William Houston, Nathaniel Pendelton.

[Editors' note: Few's name is printed in italics, the rest of the delegates' names are not.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, *Pennsylvania Journal and Weekly Advertiser*)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Georgia

The honorable Few Esquire.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672172] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672173] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.7 Monday, 21 May 1787, at 13:00 (s6194)

[e672174] Monday 21st. Delaware State was represented.

[Editors' note: The credentials for the delegates from Delaware authorized George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, 'or any three of them', to represent Delaware at the Convention. (Page 574, Vol. 3, Appendix B (Max Farrand, 1911))

Farrand notes Broom arriving on 21 May, but in a 23 May letter to Thomas Collins, Broom says that 'Mr. Read and [himself were] the only Deputies who have attended from [their] State until Monday evening last, when Mr. Bassett arrived. Mr. Dickinson is not yet come on' (Page 16, Jacob Broom to Thomas Collins (James Hutson, 1987)). In other words, both Broom and Read were present before 21 May, and Bassett arrived on 21 May.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 12, George Washington: Diary)

Bassett, Richard, of Delaware. Attended as early as May 21.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Delaware

The honorable George Read, Richard Basset, and Jacob Broom Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672175] [Editors' note: Farrand notes King attending 'as early as May 21' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)). Farrand's account is corroborated by a letter from Gorham to Caleb Davis, which reads, 'And no Gentleman having come forward but Mr. King and myself he is gone to Philadelphia and I continued here in order if possible to keep a Congress' (Page 14, Nathaniel Gorham to Caleb Davis (James Hutson, 1987)). Despite King's presence at the Convention, Massachusetts remained unrepresented as its credentials required that three delegates be present to constitute a quorum. Yates notes 28 May 1787 as the day Massachusetts 'becom[es] represented' at the Convention (Page 13, Vol. 1, Yates (Max Farrand, 1911)).]

(2019 Editors)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until

friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

Massachusetts

The honorable Rufus King Esquire.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672176] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672177] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.8 Tuesday, 22 May 1787, at 13:00 (s6195)

[e672178] [Editors' note: Washington's diary entry for this day states that 'The Representation from No. Carolina was compleated which made a representation for five States' (Page 14, George Washington: Diary (James Hutson, 1987)). He does not specify the delegates that arrived, but a 22 May letter from William Blount to John Gray Blount attests that W. Blount was home ill and that Williamson, Spaight, and A. Martin were at the Convention.]

(2019 Editors)

I have before informed you that I was confined to the House with the blind piles and so I am yet but they are much mended. The Complaint is hardly called Sickness but it is undoubtedly the most painful teasing Complaint that I have ever experienced and I have had great Use for what I have none of when in pain namely Patience. I am this day informed that Williamson, Spaight and Martin are at Philadelphia or I should have sat out for that place on tomorrow or next day intolerable as traveling certainly would have proved to my Breeches. At present it is uncertain when I shall go but certainly not till I am quite well unless my Colleagues should inform me of a greater Necessity for my joining that I at present conceive.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 14, William Blount to John Gray Blount)

Martin, Alexander, of North Carolina. Attended as early as May 25; left in the latter part of August.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States

not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

North-Carolina

The honorable Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672179] [Editors' note: Washington's journal entry for this day states that 'The Representation from No. Carolina was completed which made a representation for five States' (Page 14, George Washington: Diary (James Hutson, 1987)). He does not specify the delegates that arrived, but a 22 May letter from William Blount to John Gray Blount attests that W. Blount was home ill and that Williamson, Spaight, and A. Martin were at the Convention.]

(2019 Editors)

I have before informed you that I was confined to the House with the blind piles and so I am yet but they are much mended. The Complaint is hardly called Sickness but it is undoubtedly the most painful teasing Complaint that I have ever experienced and I have had great Use for what I have none of when in pain namely Patience. I am this day informed that Williamson, Spaight and Martin are at Philadelphia or I should have sat out for that place on tomorrow or next day intolerable as traveling certainly would have proved to my Breeches. At present it is uncertain when I shall go but certainly not till I am quite well unless my Colleagues should inform me of a greater Necessity for my joining that I at present conceive.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 14, Letter from William Blount to John Gray Blount)

Williamson, Hugh, of North Carolina. Attended as early as May 25, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

North-Carolina

The honorable Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672180] [Editors' note: Farrand notes Davie arriving on 22 May or 23 May. However, in Blount's letter to John Gray Blount from this day, he does not list Davie being present at the Convention on 22 May, as he does with Spaight, Williamson, and A. Martin. It is possible that Blount overlooked him, although it seems possible that Davie joined the Convention on 23 May.

Washington's diary entry from 23 May begins, 'No more States being represented...' (Page 16, George Washington: Diary (James Hutson, 1987)). This clause could be interpreted that no delegates at all arrived on this day, or that no delegates that influenced the representation of a state arrived on this day. If Davie arrived on 23 May, the latter would be true, since North Carolina achieved representation the day before.

Davie writes to James Iredell on 30 May that 'After a very fatiguing but rapid journey [he] arrived [t]here on the 22nd' (Page 31, Vol. 3, Appendix A (Max Farrand, 1911)). However, it is not clear whether Davie meant that he arrived in Philadelphia or at the Convention. It is possible that he arrived late on 22 May and did not attend the Convention until 23 May.

Because the date of his arrival at the Convention is uncertain, he will be represented as joining on the first likely day he could have arrived.]

(2019 Editors)

I have before informed you that I was confined to the House with the blind piles and so I am yet but they are much mended. The Complaint is hardly called Sickness but it is undoubtedly the most painful teasing Complaint that I have ever experienced and I have had great Use for what I have none of when in pain namely Patience. I am this day informed that Williamson, Spaight and Martin are at Philadelphia or I should have sat out for that place on tomorrow or next day intolerable as traveling certainly would have proved to my Breeches. At present it is uncertain when I shall go but certainly not till I am quite well unless my Colleagues should inform me of a greater Necessity for my joining that I at present conceive.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 14, William Blount to John Gray Blount.)

Davie, William Richardson, of North Carolina. Attended on May 22 or May 23; left on August 13. Approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of [...]

North-Carolina

The honorable Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672181] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672182] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.9 Wednesday, 23 May 1787, at 13:00 (s6196)

[e672183] [Editors' note: Up until this point in the record, none of the members of Maryland have been noted as arriving at the Convention. Farrand, adhering to the account in the official Journal, notes the first Maryland delegate as arriving on 28 May. However, several other pieces of miscellany indicate that a member of the Maryland delegation was present before 28 May. For instance, on 23 May, Broom writes to Thomas Collins, 'There are Members also from Massachusetts, Georgia, Maryland, and Jersey...' (Page 16, Jacob Broom to Thomas Collins (James Hutson, 1987)). On 25 May, Read writes to Dickinson that a delegate from Maryland arrived the day before (Page 21, George Read to John Dickinson (James Hutson, 1987)). And on 27 May, King writes to Nathan Dane that 'Maryland has one delegate present, but it is uncertain when his Colleagues will arrive' (Page 24, Rufus King to Nathan Dane (James Hutson, 1987)).

Though the official commission of the Maryland delegates was dated on 26 May, the delegates had been elected by the legislature from 23 April to 22 May (Page 586, Vol. 3, Appendix B (Max Farrand, 1911)). In an endnote to the Maryland credentials in *The Documentary History of the Ratification of the Constitution* it says, 'On 20 April the House proposed that each house, acting separately, should elect five delegates. The Senate agreed the next day. The House nominated John Henry, Charles Carroll of Carrollton, Governor William Smallwood, Robert Hanson Harrison, James McHenry, Thomas Sim Lee, Daniel of St. Thomas Jenifer, George Gale, Alexander C. Hanson, and Robert Goldsborough. The Senate nominated Thomas Johnson, William Paca, Samuel Chase, and Thomas Stone. Henry, Gale, Paca, Johnson, and Chase did not wish to serve and "their names were struck out." The legislature then elected Harrison, Carroll, Stone, McHenry, and Lee on 23 April.' After various resignations and elections, delegates were solidified on 24 May, and '[t]he engrossed act was signed into law on 26 May' (Page 223, Vol. 1, *Appointment of Convention Delegates: K. Maryland* (John P. Kaminski et. al, 2009)).

Of the Maryland delegates – Carroll, Jenifer, Martin, Mercer, and McHenry – McHenry seems most likely to be the delegate in question. On 25 May, Carroll writes to Michael Morgan O'Brien that he was appointed to the convention on 24 May. He expresses his reluctance to take up the position and says that 'it will be some time before I can enter on the execution of this Trust' (Page 21, Daniel Carroll to Michael Morgan O'Brien (James Hutson, 1987)). His arrival at the Convention is noted on 9 July in the official Journal. Jenifer's arrival on 2 June is recorded in both the official Journal and Washington's diary entry for that day. L. Martin's arrival is noted on 9 June in the Journal, which seems too far

removed from the dates of Broom's, Read's, and King's letters to suggest him. Additionally, he was not nominated for the position until 22 May and confirmed until 24 May. Mercer – nominated and appointed on the same day as L. Martin – does not attend until 6 August. McHenry, however, is elected on 23 April. It seems unlikely that any of the delegates who were appointed but later resigned could have been the delegate in question as Charles Carroll declined to serve on 26 April; Robert Hanson Harrison declined his appointment; Thomas Sim Lee resigned on 24 May (before King's and Read's letters); and Gabriel Duvall resigned on 14 May.

The convention established by the Journal for recording the attendance of the delegates is that a delegate's arrival is noted on the date of his first appearance in an official session. As the first official session was on 25 May, all the delegates who arrived in Philadelphia before this date are recorded as joining the Convention on 25 May. McHenry is noted in the Journal as arriving on 28 May. The account established in the letters of Broom, Read, and King are evidence to the claim that a Maryland delegate was present before that date. For these reasons, it seems likely that McHenry arrived before the first official session, was absent on 25 May, and first attended a session on 28 May, and that is why Jackson notes his arrival at the Convention on 28 May.

Because the earliest account of a Maryland delegate's arrival is Broom's 23 May letter, McHenry is represented as joining the Convention on this date.]

(2019 Editors)

McHenry, James, of Maryland. Commissioned May 26; attended May 28-31; left on June 1; present August 6 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

We make out Quorum today two additional So. Carolina Deputies came in Allibone's-Packet yesterday—and there is intelligence of the Arrival of to Georgia Deputies at N: York making four in the whole but one from Maryland yesterday—none as yet from Connecticut N Hampshire or Rhode Island tho the first of these three are hourly expected

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 21, Letter from George Read to John Dickinson, dated May 25 1787)

Yesterday the General Assembly appointed me one of the Deputies for his State to attend the foederal Convention in Phila. As this appointment was neither wished for, or expected by me, and I have been detained from home all last Winter and 6 weeks this Spring, it will be some time before I can enter on the execution of this Trust.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 21, Letter from George Read to John Dickinson, dated May 25 1787)

Saturday 2d. Majr, Jenifer coming in with sufficient powers for the purpose, gave a representation to Maryland; which brought all the States in the Union into the Convention except Rhode Island which had refused to send delegates thereto.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 44, George Washington's Diary)

The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland,¹ and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1, 2 June 1787)

The honorable Luther Martin Esquire One of the Deputies of the State of Maryland attended and took his Seat.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1, 9 June 1787)

The honorable John Francis Mercer Esq, One of the Deputies from the State of Maryland, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2, 6 August 1787)

[e672184] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672185] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.10 Thursday, 24 May 1787, at 13:00 (s6197)

[e672186] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

[e672187] a majority of the States not being represented, the Members present adjourned from day to day until friday [sic] the 25th of the said month

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

1.11 Friday, 25 May 1787, at 10:00 (s6198)

[e672188] when the following members appeared to wit:

viz. From Massachusetts Rufus King. N. York Robert Yates, Alexr. Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom. Virginia, George Washington, Edmund Randolph, John Blair, James Madison,

George Mason, George Wythe, James McClurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. Georgia, William Few.

[Editors' note: In his diary entry for this day, Washington notes that 'Another Delegate coming in from the State of New Jersey gave it representation and increased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body' (Page 25, George Washington: Diary (James Hutson, 1911)). The credentials of the New Jersey delegates required that three delegates be present at the Convention in order to constitute representation. Farrand notes the three New Jersey delegates that were present on 25 May as arriving on this day. However, Washington's account suggests that two of the delegates were already in attendance. In a letter to Brearly on 19 May, Livingston – prior to his arrival at the Convention – says, 'I suspect that by the middle of next week at farthest we shall have a full representation by the attendance of Mr. Clark and Mr Patterson' (Page 8, William Livingston to David Brearley (James Hutson, 1987)). Houston, he notes, is in an ill state of health, which might affect his attendance. This letter suggests that Brearly was already present at the Convention on 19 May, despite the fact that Farrand notes him as arriving on 25 May. It is clear from this letter that Patterson had not yet attended the Convention, though he is certainly present on 25 May, as is Houston. Mr. Clark refuses the appointment, so it seems likely that the delegate who arrived on 25 May was either Patterson or Houston.

Because the exact dates of Patterson's and Houston's arrivals are uncertain, they will be represented as arriving on 25 May.]

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

Friday 25th. Another Delegate coming in from the State of New Jersey gave it representation and increased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body;

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

Burlington 19 May 1787

Dear Sir The State has added to our delegates in Convention, Mr. Clark and myself. I suspect that by the middle of next weeks at farthest we shall have a full representation by the attendance of Mr. Clark and Mr. Patterson. Mr. Houston's ill state of health which I sincerely regret will I fear prevent his going tho' he told me that he intended it.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 8, William Livingston to David Brearley, 19 May 1787)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

New-Jersey The honorable David Brearly, William Churchill Houston, and William Patterson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1, 14 May 1787)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

NEW-JERSEY, David Brearly, William Churchill Houston, William Patterson.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

Houston, William Churchill, of New Jersey. Attended as early as May 25; was absent on June 6.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e672189] when the following members appeared to wit:

viz. From Massachusetts Rufus King. N. York Robert Yates, Alexr. Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom. Virginia, George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, James McClurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. Georgia, William Few.

[Editors' note: In his diary entry for this day, Washington notes that 'Another Delegate coming in from the State of New Jersey gave it representation and encreased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body' (Page 25, George Washington: Diary (James Hutson, 1911)). The credentials of the New Jersey delegates required that three delegates be present at the Convention in order to constitute representation. Farrand notes the three New Jersey delegates that were present on 25 May as arriving on this day. However, Washington's account suggests that two of the delegates were already in attendance. In a letter to Brearly on 19 May, Livingston – prior to his arrival at the Convention – says, 'I suspect that by the middle of next week at farthest we shall have a full representation by the attendance of Mr. Clark and Mr Patterson' (Page 8, William Livingston to David Brearley (James Hutson, 1987)). Houston, he notes, is in an ill state of health, which might affect his attendance. This letter suggests that Brearly was already present at the Convention on 19 May, despite the fact that Farrand notes him as arriving on 25 May. It is clear from this letter that Patterson had not yet attended the Convention, though he is certainly present on 25 May, as is Houston. Mr. Clark refuses the appointment, so it seems likely that the delegate who arrived on 25 May was either Patterson or Houston.

Because the exact dates of Patterson's and Houston's arrivals are uncertain, they will be represented as arriving on 25 May.]

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

Friday 25th. Another Delegate coming in from the State of New Jersey gave it representation and encreased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body;

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington's Diary)

Burlington 19 May 1787

Dear Sir The State has added to our delegates in Convention, Mr. Clark and myself. I suspect that by the middle of next weeks at farthest we shall have a full representation by the attendance of Mr. Clark and Mr. Patterson. Mr. Houston's ill state of health which I sincerely regret will I fear prevent his going tho' he told me that he intended it.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 8, Letter from William Livingston to David Brearley)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

New-Jersey The honorable David Brearly, William Churchill Houston, and William Patterson Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

NEW-JERSEY, David Brearly, William Churchill Houston, William Patterson.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

Paterson, William, of New Jersey. Attended as early as May 25, and thereafter until July 23. There is no evidence of his attendance after that date. August 21, Brearley wrote urging him to return. He probably returned to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e672190] when the following members appeared to wit:

viz. From Massachusetts Rufus King. N. York Robert Yates, Alexr. Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom. Virginia, George Washington, Edmund Randolph, John Blair, James Madison,

George Mason, George Wythe, James McClurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. Georgia, William Few.

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the fœderal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

South-Carolina The honorable John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

SOUTH-CAROLINA, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

Pinckney, Charles Cotesworth, of South Carolina. Attended at least as early as May 25, and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

We make our Quorum today two additional So. Carolina Deputies came in Allibone's-Packet yesterday—another is intelligence of the Arrival of two Georgia Deputies at N: York making four in the whole but one from Maryland yesterday—none as yet from Connecticut N Hampshire or Rhode Island tho the first of these three are hourly expected—You should be here at the firs opening of the Budget— Let me hear from you speedily If any Accident prevents Your Coming soon—

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 21, George Read to John Dickinson, 25 May 1787)

[e672191] when the following members appeared to wit:

viz. From Massachusetts Rufus King. N. York Robert Yates, Alexr. Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom. Virginia, George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, James McClurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. Georgia, William Few.

(Mason's Notes (Max Farrand, 1911), Page 3, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

SOUTH-CAROLINA, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

South-Carolina The honorable John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Butler, Pierce, of South Carolina. Attended as early as May 25.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

We make our Quorum today two additional So. Carolina Deputies came in Allibone's-Packet yesterday—another is intelligence of the Arrival of two Georgia Deputies at N: York making four in the whole but one from Maryland yesterday—none as yet from Connecticut N Hampshire or Rhode Island tho the first of these three are hourly expected—You should be here at the firs opening of the Budget— Let me hear from you speedily If any Accident prevents Your Coming soon—

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 21, George Read to John Dickinson, 25 May 1787)

[e672192] [Editors' note: Farrand says of G. Morris' attendance, 'Attended on May 25, and probably before; he left the Convention a few days after and was absent until July 2' (Page 589, Vol. 3, Appendix B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States

not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

Pennsylvania The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

PENNSYLVANIA, Robert Morris, Thomas Fitzsimons, James Wilson, Gouverneur Morris.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

[e672193] [Editors' note: Farrand says of R. Morris' attendance, 'Attended on May 25, and probably before' (Page 589, Vol. 3, Appendix B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

Saturday, May 19, 1787 . A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*.

[...]

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, Thomas Fitzsimons, George Clymer, Jared Ingersol, James Wilson, Gouverneur Morris.

[Editors' note: All of the names of the Pennsylvania delegates are printed in *italic*.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

PENNSYLVANIA, Robert Morris, Thomas Fitzsimons, James Wilson, Gouverneur Morris.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until

friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

Pennsylvania The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672194] [Editors' note: Farrand says of Fitzsimons' attendance, 'Attended on May 25, and probably earlier' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*.

[...]

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, Thomas Fitzsimmons, George Clymer, Jared Ingersol, James Wilson, Gouverneur Morris.

[Editors' note: All of the names of the Pennsylvania delegates are printed in *italic*.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

Pennsylvania The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

PENNSYLVANIA, Robert Morris, Thomas Fitzsimons, James Wilson, Gouverneur Morris.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

[e672195] [Editors' note: Farrand says of Wilson's attendance, 'Attended as early as May 25 (probably before) and thereafter' (Page 590, Vol. 3, Appendix

B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

Saturday, May 19, 1787

A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*.

[...]

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, Thomas Fitzsimmons, George Clymer, Jared Ingersol, James Wilson, Gouverneur Morris.

[Editors' note: All of the names of the Pennsylvania delegates are printed in *italic*.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

[...]

PENNSYLVANIA, Robert Morris, Thomas Fitzsimons, James Wilson, Gouverneur Morris.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

[...]

Pennsylvania The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

[e672196] In foederal-Convention.

On Monday the 14th of May. ad 1787. and in the eleventh year of the independence of the United States of America, at the State-House in the city of Philadelphia — in virtue of appointments from their respective States, sundry Deputies to the foederal-Convention appeared — but, a majority of the States not being represented, the Members present adjourned from day to day until friday the 25th of the said month, when, in virtue of the said appointments appeared from the States of

Massachusetts The honorable Rufus King Esquire. New-York The honorable Robert Yates, and Alexander Hamilton Esquires. New-Jersey The honorable David Brearly, William Churchill Houston, and William Patterson Esquires.

Pennsylvania The honorable Robert Morris, Thomas Fitz Simmons, James Wilson, and Gouverneur Morris Esquires. Delaware The honorable George Read, Richard Basset, and Jacob Broom Esquires. Virginia His Excellency George Washington, Esquire, His Excellency Edmund Randolph Esquire The honorable John Blair, James Madison, George Mason, George Wythe, and James McClurg Esquires. North-Carolina The honorable Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson Esquires. South-Carolina The honorable John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler Esquires. Georgia The honorable Few Esquire.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 1)

Attended the convention of the states, at the state house in Philadelphia, when the following states were represented:

NEW-YORK, Alexander Hamilton, Robert Yates. NEW-JERSEY, David Brearly, William Churchill Houston, William Patterson. PENNSYLVANIA, Robert Morris, Thomas Fitzsimons, James Wilson, Gouverneur Morris. DELAWARE, George Read, Richard Bassett, Jacob Broom. VIRGINIA, George Washington, Edmund Randolph, George Wythe, George Mason, James Madison, John Blair, James M'Clurg. NORTH-CAROLINA, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. SOUTH-CAROLINA, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

(Yates's Diary (Max Farrand, 1911), Page 5)

when the following members appeared to wit:

viz. From Massachusetts Rufus King. N. York Robert Yates, Alexr. Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom. Virginia, George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, James McClurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. Georgia, William Few.

(Madison's Notes (Max Farrand, 1911), Page 3)

[e672197] It was moved by the honorable Robert Morris Esquire, One of the Deputies from Pennsylvania, that a President be elected by ballot, which was agreed to

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

[e672198] It was moved by the honorable Robert Morris Esquire, One of the Deputies from Pennsylvania, that a President be elected by ballot, which was agreed to

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

[e672199] It was moved by the honorable Robert Morris Esquire, One of the Deputies from Pennsylvania, that a President be elected by ballot, which was agreed to — and thereupon he nominated, on the part of the said State,

His Excellency George Washington Esquire

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Mr Robert Morris informed the members assembled that by the instruction & in behalf, of the deputation of Pena. he proposed George Washington Esqr. late Commander in chief for president of the Convention. Mr. Jno. Rutledge seconded the motion; expressing his confidence that the choice would be unanimous, and observing that the presence of Genl Washington forbade any observations on the occasion which might otherwise be proper

[...]

(The nomination came with particular grace from Penna, as Docr. Franklin alone could have been thought of as a competitor. The Docr. was himself to have made the nomination of General Washington, but the state of the weather and of his health confined him to his house.

(Madison's Notes (Max Farrand, 1911), Pages 3-4, Vol 1.)

A motion by R. Morris, and seconded, that General Washington take the chair

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

[e672200] It was moved by the honorable Robert Morris Esquire, One of the Deputies from Pennsylvania, that a President be elected by ballot, which was agreed to — and thereupon he nominated, on the part of the said State,

His Excellency George Washington Esquire

The Members then proceeded to ballot on behalf of their respective States

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

A motion by R. Morris, and seconded, that General Washington take the chair

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

Mr Robert Morris informed the members assembled that by the instruction & in behalf, of the deputation of Pena. he proposed George Washington Esqr. late Commander in chief for president of the Convention. Mr. Jno. Rutledge seconded the motion; expressing his confidence that the choice would be unanimous, and observing that the presence of Genl Washington forbade any observations on the occasion which might otherwise be proper

[...]

(The nomination came with particular grace from Penna, as Docr. Franklin alone could have been thought of as a competitor. The Docr. was himself to have made the nomination of General Washington, but the state of the weather and of his health confined him to his house.

(Madison's Notes (Max Farrand, 1911), Pages 3-4, Vol 1.)

[e672201] It was moved by the honorable Robert Morris Esquire, One of the Deputies from Pennsylvania, that a President be elected by ballot, which was agreed to — and thereupon he nominated, on the part of the said State,

His Excellency George Washington Esquire

The Members then proceeded to ballot on behalf of their respective States — and, the ballots being taken, it appeared that the said George Washington was unanimously elected — and he was conducted to the chair by

The honorable Robert Morris, and John Rutledge Esquires.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Mr Robert Morris informed the members assembled that by the instruction & in behalf, of the deputation of Pena. he proposed George Washington Esqr. late Commander in chief for president of the Convention. Mr. Jno. Rutledge seconded the motion; expressing his confidence that the choice would be unanimous, and observing that the presence of Genl Washington forbade any observations on the occasion which might otherwise be proper.

General Washington was accordingly unanimously elected by ballot, and conducted to the chair by Mr. R. Morris and Mr. Rutledge

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

A motion by R. Morris, and seconded, that General Washington take the chair — unanimously agreed to.

(Yates's Diary (Max Farrand, 1911), Page 5, Vol. 1)

Friday 25th. Another Delegate coming in from the State of New Jersey gave it representation and increased the number to Seven which forming a quoram [sic] of the 13 Members present resolved to organize the body; when, by a unanimous vote I was called up to the Chair as President of the body.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672202] General Washington was accordingly unanimously elected by ballot, and conducted to the chair by Mr. R. Morris and Mr. Rutledge; from which in a very emphatic manner he thanked the Convention for the honor they had conferred on him, reminded them of the novelty of the scene of business in which he was to act, lamented his want of better qualifications, and claimed the indulgence of the House towards the involuntary errors which his inexperience might occasion.

(Madison's Notes (Max Farrand, 1911), Pages 3-4, Vol. 1)

When seated, he (Gen. Washington) declared, that as he never had been in such a situation, he felt himself embarrassed; that he hoped his errors, as they would be unintentional, would be excused.

(Yates's Diary (Max Farrand, 1911), Pages 5-6, Vol. 1)

[e672203] Mr. Wilson moved that a Secretary be appointed

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

The President then proposed to the House that they should proceed to the election of a Secretary

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

[e672204] Mr. Wilson moved that a Secretary be appointed

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

The President then proposed to the House that they should proceed to the election of a Secretary

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

[e672205] Mr. Wilson moved that a Secretary be appointed, and nominated Mr. Temple Franklin.

Col. Hamilton nominated Major Jackson.

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Mr. Hamilton, in behalf of the state of New-York, moved that Major Jackson be appointed secretary; the delegates for Pennsylvania, moved for Temple Franklin

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672206] Mr. Wilson moved that a Secretary be appointed, and nominated Mr. Temple Franklin.

Col. Hamilton nominated Major Jackson.

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Mr. Hamilton, in behalf of the state of New-York, moved that Major Jackson be appointed secretary; the delegates for Pennsylvania, moved for Temple Franklin

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672207] The President then proposed to the House that they should proceed to the election of a Secretary — and, the ballots being taken, it appeared that William Jackson Esquire was elected.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

On the ballot Majr. Jackson had 5 votes & Mr. Franklin 2 votes.

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Mr. Hamilton, in behalf of the state of New-York, moved that Major Jackson be appointed secretary; the delegates for Pennsylvania, moved for Temple Franklin: by a majority Mr. Jackson carried it — called in and took his seat.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

Majr. William Jackson was appointed Secretary

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672208] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 579-581, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672209] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672210] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Page 563, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672211] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672212] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Page 565-567, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672213] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672214] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 574-575, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672215] On reading the Credentials of the deputies it was noticed that those from Delaware were prohibited from changing the Article in the Confederation establishing an equality of votes among the States.

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

After which, the respective credentials of the seven states were read. N. B. That of Delaware restrained its delegates from assenting to an abolition of the fifth article of the confederation, by which it is declared that each state shall have one vote.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672216] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672217] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 560-563, Vol. 1)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672218] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672219] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 567-571, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672220] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672221] The following credentials were produced and read — (here insert the Credentials).

[Editors' note: Jackson, now Secretary, notes that state credentials were read. However, he does not record which credentials were read and in what order. For this reason, the editors have represented the credentials of the states present by this date by following the convention used when recording votes – starting with the northernmost state and moving south. The text for the credentials comes from Farrand's Appendix B. This description text is drawn from the Official Journal (Page 2, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 581-584, Vol. 3)

After which, the respective credentials of the seven states were read.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672222] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672223] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672224] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672225] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672226] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672227] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

[e672228] The House then appointed Nicholas Weaver Messenger, and Joseph Fry Door-Keeper.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

when, by a unanimous vote I was called up to the Chair as President of the body. Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business and after [ap]pointing door keepers the Convention adjourned till Monday, to give time to the Comee. To report the matters referred to them

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 20, George Washington: Diary)

[e672229] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 20, George Washington: Diary)

[e672230] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 20, George Washington: Diary)

[e672231] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed of

Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672232] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed of

Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 3)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672233] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed of

Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 3)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672234] And then the House adjourned 'till monday next at 10 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 3)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business and after [ap]pointing door keepers the Convention adjourned till Monday, to give time to the Comee. To report the matters referred to them

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

[e672235] And then the House adjourned 'till monday next at 10 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 3)

Door keeper and messengers being appointed, the house adjourned to Monday the 28th day of May, at ten o'clock.

(Yates's Diary (Max Farrand, 1911), Page 6, Vol. 1)

Majr. William Jackson was appointed Secretary and a Comer. Was chosen consisting of 3 Members to prepare rules & regulations for conducting the business and after [ap]pointing door keepers the Convention adjourned till Monday, to give time to the Comee. To report the matters referred to them

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 20, George Washington: Diary)

1.12 Monday, 28 May 1787, at 10:00 (s6199)

[e672236] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

[Editors' note: The Massachusetts credentials required that three of the appointed delegates be present to constitute a quorum. With the arrival of Gorham and Strong on 28 May, Massachusetts was considered represented.]

(Official Journal (Max Farrand, 1911), Page 7, Vol. 1)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elseworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

Gorham, Nathaniel, of Massachusetts. Attended on May 28.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

The representation was this day increased to nine states — Massachusetts and Connecticut becoming represented. Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672237] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

[Editors' note: The Massachusetts credentials required that three of the appointed delegates be present to constitute a quorum. With the arrival of Gorham and Strong on 28 May, Massachusetts was considered represented.]

(Official Journal (Max Farrand, 1911), Page 7, Vol. 1)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elseworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

Strong, Caleb, of Massachusetts. Attended on May 28; was present on August 15, but left before August 27. He favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

The representation was this day increased to nine states — Massachusetts and Connecticut becoming represented. Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672238] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

[Editors' note: The credentials for the Connecticut delegates states that 'the said Delegates, and in case of sickness or accident, such one or more of them as shall actually attend the said Convention, is and are hereby authorized and empowered to Represent this State therein' (Page 585, Vol. 3, Appendix B (Max Farrand, 1911)). In other words, only one delegate from Connecticut was required to be present at the Convention at any given time to represent the state, so with the arrival of Elsworth, Connecticut was considered quorate.]

(Official Journal (Max Farrand, 1911), Page 7, Vol. 1)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elsworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

Ellsworth, Oliver, of Connecticut. First attended on May 28. Was present in Convention August 23. Was in New Haven August 27. Approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

The representation was this day increased to nine states — Massachusetts and Connecticut becoming represented. Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672239] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 7, Vol. 1)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elsworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

Bedford, Gunning, of Delaware. First attendance, May 28.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e672240] [Editors' note: Farrand says of Clymer's attendance, 'Attended May 28, but probably before, although absent on May 25' (Page 587, Vol. 3, Appendix B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

Saturday, May 19, 1787 . A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*. [...]

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, Thomas Fitzimmons, George Clymer, Jared Ingersol, James Wilson, Gouverneur Morris.

[Editors' note: All of the Pennsylvania delegates' names are printed in *italics*.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elsworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

[e672241] [Editors' note: Farrand says of Mifflin's attendance, 'Attended on May 28, and probably before, although absent on May 25' (Page 589, Vol. 3, Appendix B (Max Farrand, 1911)). It is possible, however, that he was one of the Pennsylvania delegates present on 14 May. A 19 May article from the Pennsylvania Journal and Weekly Advertiser places him in Philadelphia on that date, though it is unclear whether he was actually present at the delegates' daily meetings.]

(2019 Editors)

Saturday, May 19, 1787 . A return of the Delegates appointed to the Foederal Convention: — The names of those who have already arrived in this City, are printed in *Italic*. [...]

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, Thomas Fitzimmons, George Clymer, Jared Ingersol, James Wilson, Gouverneur Morris.

[Editors' note: All of the Pennsylvania delegates' names are printed in *italics*.]

(Appendix A (Max Farrand, 1911), Page 21-22, Vol. 3, Pennsylvania Journal and Weekly Advertiser)

From Masst's Nat: Gorham & Caleb Strong. From Connecticut Oliver Elsworth. From Delaware Gunning Bedford. From Maryland James McHenry. From Penna. B. Franklin, George Clymer, Ths. Mifflin & Jared Ingersol took their seats.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

[e672242] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State

of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

The following Credentials were produced and read.

(here insert the credentials of the Deputies from the States of Massachusetts, and Connecticut, and the credentials of James McHenry Esquire from the State of Maryland)

His Excellency Benjamin Franklin Esquire, and of The honorable George Clymer, Thomas Mifflin and Jared Ingersol Esquires four of the Deputies of the State of Pennsylvania attended and took their seats

[Editors' note: The text cited above comes from the Journal and indicates that a large number of delegates attended this session (Page 7, Vol. 1, Official Journal (Max Farrand, 1911)). As this was the first session following the Convention's reaching quorum and Jackson's election as Secretary, he records the names of the delegates present as joining the session, though many had likely attended sessions prior to reaching an official quorum.

Those delegations which themselves reached quorum were permitted to vote and had their credentials read. King attended the previous session, but the Massachusetts delegation would not be quorate until it reached three delegates.

The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 584-585, Vol. 3)

[e672243] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672244] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

The following Credentials were produced and read.

(here insert the credentials of the Deputies from the States of Massachusetts, and Connecticut, and the credentials of James McHenry Esquire from the State of Maryland)

His Excellency Benjamin Franklin Esquire, and of The honorable George Clymer, Thomas Mifflin and Jared Ingersol Esquires four of the Deputies of the State of Pennsylvania attended and took their seats

[Editors' note: The text cited above comes from the Journal and indicates that a large number of delegates attended this session (Page 7, Vol. 1, Official Journal (Max Farrand, 1911)). As this was the first session following the Convention's reaching quorum and Jackson's election as Secretary, he records the names of the delegates present as joining the session, though many had likely attended sessions prior to reaching an official quorum. Those delegations which themselves reached quorum were permitted to vote and had their credentials read.

The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 585, Vol. 3)

[e672245] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672246] The Convention met agreeably to adjournment —The honorable Nathaniel Gorham, and Caleb Strong Esquires, Deputies from the State of Massachusetts, The honorable Oliver Elsworth Esq, a deputy from the State of Connecticut — The honble Gunning Bedford Esq. a Deputy from the State of Delaware and The honorable James McHenry Esquire, a Deputy from the State of Maryland, attended and took their seats.

The following Credentials were produced and read.

(here insert the credentials of the Deputies from the States of Massachusetts, and Connecticut, and the credentials of James McHenry Esquire from the State of Maryland)

His Excellency Benjamin Franklin Esquire, and of The honorable George Clymer, Thomas Mifflin and Jared Ingersol Esquires four of the Deputies of the State of Pennsylvania attended and took their seats

[Editors' note: The text cited above comes from the Journal and indicates that a large number of delegates attended this session (Page 7, Vol. 1, Official Journal (Max Farrand, 1911)). As this was the first session following the Convention's reaching quorum and Jackson's election as Secretary, he records the names of the delegates present as joining the session, though many had likely attended sessions prior to reaching an official quorum. Those delegations which themselves reached quorum were permitted to vote and had their credentials read.

The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 586, Vol. 3)

[e672247] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672248] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

Mr. Wythe from the Committee for preparing rules made a report which employed the deliberations of this day.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

A committee of three members, (whose appointment I omitted in the entry of the proceedings of Friday last,) reported a set of rules for the order of the convention

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

The convention appoint a committee to prepare and report rules for conducting business which were reported, debated, and in general agreed to on the 28th.

(McHenry's Notes (Max Farrand, 1911), Page 14, Vol. 1)

[e672249] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 8-9, Vol. 1)

A committee of three members, (whose appointment I omitted in the entry of the proceedings of Friday last,) reported a set of rules for the order of the convention; which being considered by articles, were agreed to, and additional ones proposed and referred to the same committee.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672250] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672251] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672252] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672253] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672254] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672255] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672256] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and

he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672257] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672258] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672259] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672260] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672261] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672262] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672263] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672264] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672265] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up

the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672266] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672267] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672268] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672269] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672270] [Editors' note: Madison's notes record a proposed rule that any member of the House may call for the yeas and nays and have them entered on the minutes: 'Mr. King objected to one of the rules in the Report authorising any member to call for the yeas & nays and have them entered on the minutes' (Page 10, Vol. 1, Madison's Notes (Max Farrand, 1911)). Because the rules listed in the official Journal and Madison's notes are only those that were approved, the exact wording and position within the original document of this proposed rule is unclear. It can be surmised, however, that because the proposed rule pertains to the recording of votes, it was located in the section of the document that describes the voting procedure. As the exact wording of the proposed rule is unclear, the editors have used that recorded by Madison.]

(2019 Editors)

[e672271] Mr. King objected to one of the rules in the Report authorising any member to call for the yeas & nays and have them entered on the minutes. He urged that as the acts of the Convention were not to bind the Constituents it was unnecessary to exhibit this evidence of the votes; and improper as changes of opinion would be frequent in the course of the business & would fill the minutes with contradictions.

Col. Mason seconded the objection; adding that such a record of the opinions of members would be an obstacle to a change of them on conviction; and in case of its being hereafter promulged must furnish handles to the adversaries of the Result of the Meeting.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

[e672272] Mr. King objected to one of the rules in the Report authorising any member to call for the yeas & nays and have them entered on the minutes. He urged that as the acts of the Convention were not to bind the Constituents it was unnecessary to exhibit this evidence of the votes; and improper as changes of opinion would be frequent in the course of the business & would fill the minutes with contradictions.

Col. Mason seconded the objection; adding that such a record of the opinions of members would be an obstacle to a change of them on conviction; and in case of its being hereafter promulged must furnish handles to the adversaries of the Result of the Meeting.

The proposed rule was rejected *nem. contradicente*.

(Madison's Notes (Max Farrand, 1911), Page 10, Vol. 1)

[e672273] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672274] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672275] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672276] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672277] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672278] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up

the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672279] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672280] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table; where the said rules were once read throughout, and then a second time one by one; and upon the question severally put thereupon two of them were disagreed to; and the rest with amendments to some of them were agreed to by the House, which rules, so agreed to, are as follow:

(Official Journal (Max Farrand, 1911), Pages 7-8, Vol. 1)

[e672281] [Editors' note: As the proposed rules have been debated and decided upon, the editors have dropped the Rules Committee's report for clarity in the timeline, as it is no longer under consideration.]

(2019 Editors)

[e672282] a [sic] letter from sundry Persons of the State of Rhode Island addressed to the honorable the Chairman of the General Convention was presented to the Chair by Mr G. Morris — and, being read, ordered that the said letter do lye upon the table for farther consideration.

[Editors' note: This description text is drawn from the Official Journal (Page 9, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Appendix A (Max Farrand, 1911), Page 19, Vol. 3, Several Gentlemen of Rhode Island to the Chairman of the General Convention, 11 May 1787)

[e672283] [Editors' note: There is no record of any discussion or procedure surrounding the letter, suggesting that it was accepted without objection.]

(2019 Editors)

[e672284] A motion was made by Mr Butler, one of the Deputies of South Carolina, that the House provide against interruption of business by absence of members, and against licentious publication of their proceedings: also

A motion was made by Mr Spaight, one of the Deputies of North-Carolina, to provide, that, on the one hand, the house, may not be precluded, by a vote upon any question, from revising the subject matter of it, when they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion.

[Editors' note: These proposals were likely drawn up into a new document of proposed additional rules and that document referred to the Rules Committee.]

(Official Journal (Max Farrand, 1911), Pages 9-10, Vol. 1)

Mr Butler moved that the house provide agst. interruption of business by absence of members, and against licentious publications of their proceedings — to which was added by — Mr. Spaight — a motion to provide that on the one hand the House might not be precluded by a vote upon any question, from revising the subject matter of it, When they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion.

(Madison's Notes (Max Farrand, 1911), Page 14, Vol. 1)

A committee of three members, (whose appointment I omitted in the entry of the proceedings of Friday last,) reported a set of rules for the order of the convention; which being considered by articles, were agreed to, and additional ones proposed and referred to the same committee.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672285] — Whereupon it was ordered that these motions be referred to the consideration of the Committee appointed to draw up the standing rules and that the Committee make report thereon.

(Madison's Notes (Max Farrand, 1911), Page 13, Vol. 1)

A committee of three members, (whose appointment I omitted in the entry of the proceedings of Friday last,) reported a set of rules for the order of the convention; which being considered by articles, were agreed to, and additional ones proposed and referred to the same committee.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

Ordered that the said motions be referred to the consideration of the Committee appointed on friday last, to draw up rules to be observed as the standing orders of the Convention; and that they do examine the matters thereof, and report thereupon to the House.

(Official Journal (Max Farrand, 1911), Page 10, Vol. 1)

[e672286] adjourned till to-morrow at 10 o'clock A. M

(Official Journal (Max Farrand, 1911), Page 10, Vol. 1)

Adj'd till to morrow 10. OClock

(Madison's Notes (Max Farrand, 1911), Page 13, Vol. 1)

Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

[e672287] adjourned till to-morrow at 10 o'clock A. M

(Official Journal (Max Farrand, 1911), Page 10, Vol. 1)

Adj'd till to morrow 10. OClock

(Madison's Notes (Max Farrand, 1911), Page 13, Vol. 1)

Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 13, Vol. 1)

1.13 Tuesday, 29 May 1787, at 10:00 (s6200)

[e672288] John Dickenson [sic], and Elbridge Gerry, the former from Delaware, the latter from Massts. took their seats

[Editors' note: On 29 May, Dickinson writes to his wife, 'I had a very pleasant Journey and am very well. My hopes of something good for our Country are strong. Virtue and Wisdom must be employed. May Heaven bless our Endeavours.' (Page 28, John Dickinson to Polly Dickinson (James Hutson, 1987)) Additionally, his copy of the Virginia Plan, proposed by Randolph on this day, has two major revisions, one to the second article and the other to the seventh article. (Page 28, John Dickinson: Revision of Virginia Plan (James Hutson, 1987))]

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

The honorable John Dickinson Esq a Deputy of the State of Delaware — and the honorable Elbridge Gerry Esquire, a Deputy from the State of Massachusetts, attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1, 29 May 1787)

Dickinson, John, of Delaware. Attended on May 29. His remarks on July 25 imply previous absence. Absent on September 15. Read signed Dickinson's name to the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e672289] John Dickenson, and Elbridge Gerry, the former from Delaware, the latter from Massts. took their seats

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

The honorable John Dickinson Esq a Deputy of the State of Delaware — and the honorable Elbridge Gerry Esquire, a Deputy from the State of Massachusetts, attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1, 29 May 1787)

Gerry, Elbridge, of Massachusetts. First attended on May 29. Absent on August 6. Refused to sign Constitution.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e672290] Mr Wythe reported, from the Committee to whom the motions made by Mr Butler and Mr Spaight were referred, that the Committee had examined the matters of the said motions, and had come to the following resolution thereupon,

resolved that it is the opinion of this Committee that provision be made for the purposes mentioned in the said motions — and to that end.

The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

(Official Journal (Max Farrand, 1911), Page 15, Vol. 1)

The following rules were added, on the report of Mr. Wythe, from the Committee

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

[e672291] Mr Wythe reported, from the Committee to whom the motions made by Mr Butler and Mr Spaight were referred, that the Committee had examined the matters of the said motions, and had come to the following resolution thereupon,

resolved that it is the opinion of this Committee that provision be made for the purposes mentioned in the said motions — and to that end.

The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

And the said rules were once read throughout and then a second time, one by one; and, on the question severally put thereupon, were, with amendments to some of them, agreed to by the House which rules so agreed to are as follow. rules.

That no member be absent from the House so as to interrupt the representation of the State without leave.

That Committees do not sit whilst the House shall be, or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without the leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published, or communicated without leave.

That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given, -on-the same day in which the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose.

Resolved that the said rules be added to the standing orders of the House.

[Editors' note: The proposed new rules were read through and then considered individually. The Journal's note that the new rules were adopted 'with amendments to some of them' (Page 15, Vol. 1, Official Journal (Max Farrand, 1911)) provides no indication of what those amendments were. Of the other records, neither Madison, Yates, McHenry, nor Paterson makes any reference to disagreements on the proposed amendments. That being said, the final proposed new rule seems likely to have been the most contentious and to have had changes made to it.]

(Official Journal (Max Farrand, 1911), Page 15-16, Vol. 1)

The following rules were added, on the report of Mr. Wythe, from the Committee

Additional rules.

That no member be absent from the House, so as to interrupt the representation of the State, without leave.

That Committees do not sit whilst the House shall be or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published or communicated without leave.

That a motion to reconsider a matter which had been determined by a majority, may be made, with leave unanimously given, on the same day on which the vote passed, but otherwise not without one day's previous notice: in which last case, if the House agree to the reconsideration, some future day shall be assigned for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672292] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

And the said rules were once read throughout and then a second time, one by one; and, on the question severally put thereupon, were, with amendments to some of them, agreed to by the House which rules so agreed to are as follow. rules.

That no member be absent from the House so as to interrupt the representation of the State without leave.

That Committees do not sit whilst the House shall be, or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without the leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published, or communicated without leave.

That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given, on the same day in which

the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose.

Resolved that the said rules be added to the standing orders of the House.

(Official Journal (Max Farrand, 1911), Page 15-16, Vol. 1)

The following rules were added, on the report of Mr. Wythe, from the Committee

Additional rules.

That no member be absent from the House, so as to interrupt the representation of the State, without leave.

That Committees do not sit whilst the House shall be or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published or communicated without leave.

That a motion to reconsider a matter which had been determined by a majority, may be made, with leave unanimously given, on the same day on which the vote passed, but otherwise not without one day's previous notice: in which last case, if the House agree to the reconsideration, some future day shall be assigned for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672293] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

And the said rules were once read throughout and then a second time, one by one; and, on the question severally put thereupon, were, with amendments to some of them, agreed to by the House which rules so agreed to are as follow.
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That no member be absent from the House so as to interrupt the representation of the State without leave.

That Committees do not sit whilst the House shall be, or ought to be, sitting.

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Resolved that the said rules be added to the standing orders of the House.

(Official Journal (Max Farrand, 1911), Page 15-16, Vol. 1)

The following rules were added, on the report of Mr. Wythe, from the Committee

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(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

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(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672295] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672296] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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[e672297] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672300] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672301] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672302] The Committee beg leave to propose that the rules written under their resolution be added to the standing orders of the House.

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(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1, 29 May 1787)

The additional rules agreed to.

(Yates's Diary (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672303] [Editors' note: Having adopted the final rule, the Convention presumably adopted the rules in their entirety.]

(2019 Editors)

[e672304] [Editors' note: As the additional rules had been debated and decided upon, the editors have dropped the Rules Committee's report for clarity in the timeline, as it was no longer under consideration.]

(2019 Editors)

[e672305] Mr. C. Pinckney moved that a Committee be appointed to superintend the minutes.

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

[e672306] Mr. Govr. Morris objected to it. The entry of the proceedings of the Convention belonged to the Secretary as their impartial officer. A committee might have an interest & bias in moulding the entry according to their opinions and wishes

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

[e672307] Mr. C. Pinckney moved that a Committee be appointed to superintend the minutes.

Mr. Govr. Morris objected to it. The entry of the proceedings of the Convention belonged to the Secretary as their impartial officer. A committee might have an interest & bias in moulding the entry according to their opinions and wishes

The motion was negatived 5 noes 4 ays.

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 1)

[e672308] Mr. Randolph then opened the main business

He expressed his regret, that it should fall to him, rather than those, who were of longer standing in life and political experience, to open the great subject of their mission. But, as the convention had originated from Virginia, and his colleagues supposed, that some proposition was expected from them, they had imposed this task on him.

He then commented on the difficulty of the crisis, and the necessity of preventing the fulfilment of the prophecies of the American downfall.

He observed that in revising the federal system we ought to inquire 1. into the properties, which such a government ought to possess, 2. the defects of the confederation, 3. the danger of our situation & 4. the remedy.

1. The character of such a governme[nt] ought to secure 1. against foreign invasion: 2. against dissensions between members of the Union, or seditious in particular states: 3. to p[ro]cure to the several States various blessings, of which an isolated situation was i[n]capable: 4. to be able to defend itself against incroachment: & 5. to be paramount to the state constitutions.

2. In speaking of the defects of the confederation he professed a high respect for its authors, and considered, them as having done all that patriots could do, in the then infancy of the science, of constitutions, & of confederacies, — when the inefficiency of requisitions was unknown — no commercial discord had arisen among any states — no rebellion had appeared as in Massts. — foreign debts had not become urgent — the havoc of paper money had not been foreseen — treaties [19] had not been violated — and perhaps nothing better could be obtained from the jealousy of the states with regard to their sovereignty.

He then proceeded to enumerate the defects: 1. that the confederation produced no security agai[nst] foreign invasion; congress not being permitted to prevent a war nor to support it by th[eir] own authority — Of this he cited many examples; most of whi[ch] tended to shew, that they could not cause infractions of treaties or of the law of nations, to be punished: that particular states might by their conduct provoke war without controul; and that neither militia nor draughts being fit for defence on such occasions, enlistments only could be successful, and these could not be executed without money.

2. that the federal government could not check the quarrels between states, nor a rebellion in any not having constitutional power Nor means to interpose according to the exigency:

3. that there were many advantages, which the U. S. might acquire, which were not attainable under the confederation — such as a productive impost — counteraction of the commercial regulations of other nations — pushing of commerce ad libitum — &c &c.

4. that the federal government could not defend itself against the incroachments from the states:

5. that it was not even paramount to the state constitutions, ratified as it was in may of the states.

3. He next reviewed the danger of our situation appealed to the sense of the best friends of the U. S. — the prospect of anarchy from the laxity of government every where; and to other considerations.

4. He then proceeded to the remedy; the basis of which he said, must be the republican principle

He proposed as conformable to his ideas the following resolutions, which he explained one by one [...]

He concluded with an exhortation, not to suffer the present opportunity of establishing general peace, harmony, happiness and liberty in the U. S. to pass away unimproved.*

*[This abstract of the Speech was furnished to J. M. by Mr. Randolph and is in his hand writing. As a report of it from him, had been relied, on, it was omitted by J. M.]

(Madison's Notes (Max Farrand, 1911), Pages 20-22, Vol. 1)

Mr Randolph, one of the Deputies of Virginia, laid before the House, for their consideration, sundry propositions, in writing, concerning the american confederation, and the establishment of a national government

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1, 29 May 1787)

His excellency Governor Randolph, a member from Virginia, got up, and in a long and elaborate speech, shewed the defects in the system of the present federal government as totally inadequate to the peace, safety and security of the confederation, and the absolute necessity of a more energetic government.

He closed these remarks with a set of resolutions, fifteen in number, which he proposed to the convention for their adoption, and as leading principles whereon to form a new government — He candidly confessed that they were not intended for a federal government — he meant a strong consolidated union, in which the idea of states should be nearly annihilated.

(Yates's Diary (Max Farrand, 1911), Pages 23-24, Vol. 1, 29 May 1787)

Governor Randolph opened the business of the convention. He observed that the confederation fulfilled none of the objects for which it was framed. 1st. It does not provide against foreign invasions. 2dly. It does not secure harmony to the States. 3d. It is incapable of producing certain blessings to the States. 4 It cannot defend itself against encroachments. 5th. It is not superior to State constitutions.

1st It does not provide against foreign invasion. If a State acts against a foreign power contrary to the laws of nations or violates a treaty, it cannot punish that State, or compel its obedience to the treaty. It can only leave the offending State to the operations of the offended power. It therefore cannot prevent a war. If the rights of an ambassador be invaded by any citizen it is only in a few States that any laws exist to punish the offender. A State may encroach on foreign possessions in its neighbourhood and Congress cannot prevent it. Disputes that respect naturalization cannot be adjusted. None of the judges in the several States under the obligation of an oath to support the confederation, in which view this writing will be made to yield to State constitutions.

Imbecility of the Confederation equally conspicuous when called upon to support a war. The journals of Congress a history of expedients. The States in arrears to the federal treasury from theto the

What reason to expect that the treasury will be better filled in future, or that money can be obtained under the present powers of Congress to support a

war. Volunteers not to be depended on for such a purpose. Militia difficult to be collected and almost impossible to be kept in the field. Draughts stretch the strings of government too violently to be adopted. Nothing short of a regular military force will answer the end of war, and this only to be created and supported by money.

2. It does not secure harmony to the States.

It cannot preserve the particular States against seditions within themselves or combinations against each other. What laws in the confederation authorise Congress to intrude troops into a State. What authority to determine which of the citizens of a State is in the right, The supporters or the opposers of the government, Those who wish to change it, or they who wish to preserve it.

No provision to prevent the States breaking out into war. One State may as it were underbid another by duties, and thus keep up a State of war.

3 Incapable to produce certain blessings.

The benefits of which we are singly incapable cannot be produced by the union. The 5 per cent impost not agreed; a blessing congress ought to be enabled to obtain.

Congress ought to possess a power to prevent emissions of bills of credit.

Under this head may be considered the establishment of great national works — the improvement of inland navigation — agriculture — manufactures — a freer intercourse among the citizens.

4 It cannot defend itself against incroachments. Not an animated existence which has not the powers of defence. Not a political existence which ought not to possess it. In every Congress there has been a party opposed to federal measures? In every State assembly there has been a party opposed to federal measures. The States have been therefore delinquent. To What expedient can congress resort, to compel delinquent States to do what is right. If force, this force must be drawn from the States, and the States may or may not furnish it.

5 Inferior to State constitutions.

State constitutions formed at an early period of the war, and by persons elected by the people for that purpose. These in general with one or two exceptions established about 1786. The confederation was formed long after this, and had its ratification not by any special appointment from the people, but from the several assemblies. No judge will say that the confederation is paramount to a State constitution.

Thus we see that the confederation is incompetent to any one object for which it was instituted. The framers of it wise and great men; but human rights were the chief knowledge of the times when it was framed so far as they applied to oppose Great Britain. Requisitions for men and money had never offered their form to our assemblies. None of those vices that have since discovered themselves were apprehended. Its defects therefore no reflexion on its contrivers.

Having pointed out its defects, let us not be affraid to view with a steady eye the perils with which we are surrounded. Look at the public countenance from New Hampshire to Georgia. Are we not on the eve of war, which is only prevented by the hopes from this convention.

Our chief danger arises from the democratic parts of our constitutions. It is a maxim which I hold incontrovertible, that the powers of government exercised by the people swallows up the other branches. None of the constitutions have provided sufficient checks against the democracy. The feeble Senate of Virginia is a phantom. Maryland has a more powerful senate, but the late distractions in

that State, have discovered that it is not powerful enough. The check established in the constitution of New York and Massachusetts is yet a stronger barrier against democracy, but they all seem insufficient.

He then submitted the following propositions which he read and commented upon seriatim. . . .

(McHenry's Notes (Max Farrand, 1911), Pages 24-27, Vol. 1, 29 May 1787)

Govr. Randolph —

Propositions founded upon republican Principles.

1. The Articles of the Confdn. should be so enlarged and corrected as to answer the Purposes of the Instn.

2. That the Rights of Suffrage shall be ascertained by the Quantum of Property or Number of Souls — This the Basis upon which the larger States can assent to any Reform.

Objn. — Sovereignty is an integral Thing — We ought to be one Nation —

3. That the national Legr. should consist of two Branches—

4. That the Members of the first Branch should be elected by the People, etc. This the democratick Branch — Perhaps, if inconvenient, may be elected by the several Legrs. —

5. Members of the 2d. Branch to be elected out of the first — to continue for a certain Length of Time, etc. To be elected by Electors appointed for that Purpose —

6. The Powers to be vested in the national Legr. — A negative upon particular acts, etc. contravening the Articles of the Union — Force —

7. A national Executive to be elected by the national Legr.

Checks upon the Legv. and Ex. Powers—

1. A Council of Revision to be selected out of the ex. and judy. Departments, etc.

2. A natl Judiciary to be elected by the natl. Legr. — To consist of an inferior and superior Tribunal — To determine Piracies, Captures, Disputes between Foreigners and Citizens, and the Citizen of one State and that of another, Revenue-matters, national Officers —

1. Provision for future States —

2. A Guary. by the United States to each State of its Territory, etc.

3. Continuation of Congress till a given Day.

4. Provision, that the Articles of national Union should be amended —

5. That the leg. ex. and judy. Officers should be bound by Oath to observe the Union.

6. That Members be elected by the People of the several States to ratify the Articles of national Union —

(Paterson's Notes (Max Farrand, 1911), Pages 27-28, Vol. 1, 29 May 1787)

Mr. Randolph

1. Congress unable to prevent War 2. Not able to support war 3. Not able to prevent internal Sedition or rebellion 4. Cant prevent dissentions of one state with another, except as to territory 5. No power to prevent encroachments of the several states on Confederacy Answer 1st To prevent war Congress must possess wealth and men. Must dispose of her wealth in fortifying herself and must be able to command wealth and money and hire men to put herself at all times in

a defensible situation. Can these objects be attained by a compulsory power in Congress to command money and men from several States? 2d To support war. Money and men answer this purpose. A compulsory power in Congress will command 3. Can prevent sedition or insurrection and rebellion. Vest Congress with power to call for troops and to send them into the states where insurrection or rebellion exists. Who to determine which party in the right rebels or the state? Vest Congress with power to determine this question on notice given to the parties. 4. Can prevent dissections of one states with another save as to territory. Vest the with this power in all cases either immediately or thro their judiciary. 5. Congress not able to prevent encroachments of the states. Let the boundary be ascertained with precision and let it be determined by the judiciary. 6. Congress can't avail themselves of imposts. Let the general regulation of trade be vested in them. 7. Congress ought to be enabled to prevent emissions of paper money. Let them be invested with such power. 8. No power to erect great works, improve navigation promote agriculture etc. They ought not to have such powers. A state has the right to avail herself of all natural advantages. To erect great works would enable them to draw money independent of the states and would end in aristocracy oligarchy and tyranny. 9. Congress ought to be paramount to state legislatures. Let Congress be empowered to negative all laws that interfere with confederation and if appeal by the state, let the question be determined in the judiciary.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 27, Gunning Bedford: Notes on Debates, 29 May 1787)

[e672309] Resolved that the House will to-morrow resolve itself into a Committee of the whole House to consider of the state of the American Union.

[Editors' note: In his notes, Robert Yates records Randolph as the proposer.]

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

It was then Resolved &c — &c — That the House will to-morrow resolve itself into a Committee of the whole House to consider of the State of the American Union, — and that the propositions moved by Mr. Randolph be referred to the said Committee.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

He [Randolph] then moved that they should be taken up in committee of the whole house.

(Yates's Diary (Max Farrand, 1911), Page 24, 29 May 1787)

The convention resolved that on to-morrow, the convention resolve itself into a committee of the whole.

to take into consideration the state of the American union.

(McHenry's Notes (Max Farrand, 1911), Page 27, Vol. 1)

[e672310] Resolved that the House will to-morrow resolve itself into a Committee of the whole House to consider of the state of the American Union.

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

It was then Resolved &c — &c — That the House will to-morrow resolve itself into a Committee of the whole House to consider of the State of the American Union, — and that the propositions moved by Mr. Randolph be referred to the said Committee.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

The house then resolved, that they would the next day form themselves into a committee of the whole, to take into consideration the state of the union.

(Yates's Diary (Max Farrand, 1911), Page 24, Vol. 1, 29 May 1787)

The convention resolved that on to-morrow, the convention resolve itself into a committee of the whole.

to take into consideration the state of the american union.

(McHenry's Notes (Max Farrand, 1911), Page 27, Vol. 1, 29 May 1787)

[e672311] It was observed by Mr. Hamilton before adjourning that it struck him as a necessary and preliminary inquiry to the propositions from Virginia whether the united States were susceptible of one government, or required a separate existence connected only by leagues offensive and defensive and treaties of commerce.

(McHenry's Notes (Max Farrand, 1911), Page 27, Vol. 1)

[e672312] Ordered that the propositions this day laid before the House, for their consideration, by Mr Randolph be referred to the said Committee.

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

It was then Resolved &c — &c — That the House will to-morrow resolve itself into a Committee of the whole House to consider of the State of the American Union, — and that the propositions moved by Mr. Randolph be referred to the said Committee.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

[e672313] Mr Charles Pinckney, one of the Deputies of South Carolina, laid before the House for their consideration, the draught of a foederal government to be agreed upon between the free and independent States of America.

[Editors' note: Pinckney's Plan was not recorded in the records of the Convention. In his Appendix D in Volume III of The Records of the Federal Convention of 1787, Farrand provides what he believed to be the best recreation of the original plan, based on the available sources.

Farrand discusses at length the difficulties in trying to discern the original plan Pinckney presented to the Convention and his methodology in recreating it (595-609). The version printed by Adams in the 1819 Journal was criticised by both King and Madison as being inaccurate, and subsequent scholarship has agreed. The main objections to this version being the original plan are, first, that it was written on paper whose watermark dates it to 1797; second,

'the document embodies several provisions that were only reached after weeks of bitter disputes'; and third, that it is strikingly similar to the Report of the Committee of Detail, produced much later in the Convention.

In order to recreate the Pinckney Plan, Farrand turns to other sources. Certain letters suggest several elements of the Plan and the constitutions that influenced it, and shortly after the Convention, Pinckney printed a pamphlet entitled 'Observations on the Plan of Government submitted to the Federal Convention'. This pamphlet, Farrand writes, 'seems to have been a speech prepared in advance to be delivered in presenting his plan to the Convention, but which never was delivered, owing probably to lack of time. This speech outlines the principal features of the plan which differ radically from the provisions of the document sent to John Quincy Adams.' (Page 602, Vol. 3, Appendix A (Max Farrand, 1911)).

Farrand also builds on the work of John Jameson in working back from the 1819 version and comparing it to the Committee of Detail Report and the snippets noted by Wilson during the drafting of the Committee Report.

The reconstructed plan shown here is still an approximation, and some parts are only an outline of what should be included, but it remains the best version of the original plan available.

Square brackets are insertions by Farrand; parts taken from the 'Observations' are placed in parentheses; quotation marks indicate extracts from Wilson's partial copy; and everything else is taken from Wilson's outline.]

(2019 Editors)

Mr. Charles Pinkney laid before the house the draught of a federal Government which he had prepared to be agreed upon between the free and independent States of America.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

Mr. C. Pinkney, a member from South-Carolina, then added, that he had reduced his ideas of a new government to a system, which he read, and confessed that it was grounded on the same principle as of the above resolutions.

(Yates's Diary (Max Farrand, 1911), Page 24, Vol. 1, 29 May 1787)

[e672314] Mr Charles Pinckney, one of the Deputies of South Carolina, laid before the House for their consideration, the draught of a foederal government to be agreed upon between the free and independent States of America.

Ordered that the said draught be referred to the Committee of the whole House appointed to consider of the state of the american Union

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

[e672315] And then the House adjourned till to-morrow morning at 10 o'clock

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

adjourned.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 24, Vol. 1, 29 May 1787)

[e672316] And then the House adjourned till to-morrow morning at 10 o'clock

(Official Journal (Max Farrand, 1911), Page 16, Vol. 1)

adjourned.

(Madison's Notes (Max Farrand, 1911), Page 23, Vol. 1, 29 May 1787)

Adjourned to next day.

(Yates's Diary (Max Farrand, 1911), Page 24, Vol. 1, 29 May 1787)

1.14 Wednesday, 30 May 1787, at 10:00 (s6201)

[e672317] The honorable Roger Sherman Esquire a Deputy of the State of Connecticut attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

Sherman, Roger, of Connecticut. Appointed May 17; attended May 30 and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

Roger Sherman (from Connecticut) took his seat.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

[e672318] The order of the day being read

The House resolved itself into a Committee of the whole House to consider of the state of the American union

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The House went into Committee of the Whole on the State of the Union.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

The convention, pursuant to order, resolved itself into a committee of the whole

(Yates's Diary (Max Farrand, 1911), Page 38, Vol. 1)

[e672319] The order of the day being read

The House resolved itself into a Committee of the whole House to consider of the state of the American union

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The House went into Committee of the Whole on the State of the Union.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

The convention, pursuant to order, resolved itself into a committee of the whole

(Yates's Diary (Max Farrand, 1911), Page 38, Vol. 1)

[e672320] Mr President resumed the chair

Mr Gorham reported from the Committee, that the Committee had made a progress in the matter to them referred; and had directed him to move that they may have leave to sit again

Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the American union

[Editors' note: According to the official Journal and various accounts of this day, the majority of the session was spent in the Committee of the Whole, which met in the time between the original decision for the House to resolve itself into the Committee of the Whole and this motion to the same effect. The orders of business for this day are not chronologically delineated in the official Journal, but Madison's notes offer a more sequential account of events, wherein (1) the House resolves itself into the Committee of the Whole; (2) Gorham is elected Chairman; (3) the Committee discusses the orders of the day; (4) Washington resumes the chair, and the plenary session continues; (5) Gorham reports on the Committee's progress; (6) the House decides to resolve itself into the Committee of the Whole on the following day.]

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The Chairman reported progress, and the House having resolved to resume the subject in Committee tomorrow

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

The Committee of the whole to sit to-morrow.

(McHenry's Notes (Max Farrand, 1911), Page 40, Vol. 1)

[e672321] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the American union

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The Chairman reported progress, and the House having resolved to resume the subject in Committee tomorrow

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

The Committee of the whole to sit to-morrow.

(McHenry's Notes (Max Farrand, 1911), Page 40, Vol. 1)

[e672322] And then the House adjourned till to-morrow at 10 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

Adjourned to 10 O'clock

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

Adjourned to to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 40, Vol. 1)

[e672323] And then the House adjourned till to-morrow at 10 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

Adjourned to 10 OClock

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

Adjourned to to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 40, Vol. 1)

1.15 Thursday, 31 May 1787, at 10:00 (s6202)

[e672324] The honorable William Pierce Esquire, a Deputy of the State of Georgia attended and took his seat

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

Pierce, William, of Georgia. Attended May 31; absent after July 1. He favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

William Pierce from Georgia took his seat.

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

Thursday, 31. — Convention representation increased by coming in of the State of Georgia, occasioned by the arrival of Maj. Pierce and Mr. Houston. . . .

(Appendix A (Max Farrand, 1911), Page 32, Vol. 3, George Washington's Journal)

[e672325] The following credentials were produced and read

(here insert the credentials of Mr Few and Mr Pierce)

[Editors' note: Jackson records that Georgia's credentials were read. Though Few had been in attendance for several days, Pierce's arrival meant that Georgia was now quorate. As a result, their credentials were read in the Convention. The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 576-578, Vol. 3)

The State of Georgia came on the Floor of the Convention to day which made a representation of ten States.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 38, George Washington: Diary, 31 May 1787)

[e672326] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]
(2019 Editors)

[e672327] The House resolved itself into a Committee of the whole House to consider of the State of the American Union

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The house went again into committee of the whole, Mr. Gorham in the chair.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

[e672328] Mr President left the Chair

Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

The house went again into committee of the whole, Mr. Gorham in the chair.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

[e672329] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the American union

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

[e672330] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the American union

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

[e672331] And then the House adjourned till to-morrow at 10 o'clock A M.

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

The Committee then rose & the House
Adjourned

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1, 31 May 1787)

[e672332] And then the House adjourned till to-morrow at 10 o'clock A M.

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

The Committee then rose & the House
Adjourned

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1, 31 May 1787)

1.16 Friday, 01 June 1787, at 10:00 (s6203)

[e672333] 'Recd an express from home that my brother lay dangerously sick in consequence of which I set out immediately for Baltimore.'

[Editors' note: There are no details about this session in the diary, so the editors have chosen to depict McHenry's departure from the Convention at this point, though exactly when he left is not certain.]

(McHenry's Notes (Max Farrand, 1911), Page 75, Vol. 1)

McHenry, James, of Maryland. Commissioned May 26; attended May 28-31; left on June 1; present August 6 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e672334] Attended on May 25, and probably before; he left the Convention a few days after and was absent until July 2.

[Editors' note: Madison notes Morris leaving a few days into the Convention, though he would return. In a letter from Jared Sparks to Madison on 30 March 1831, Sparks notes he left following the death of his mother. Richard Brookhiser, in *Gentleman Revolutionary: Gouverneur Morris, the Rake Who Wrote the Constitution* (2003), records him as leaving 1 June 1787.]

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

During the sitting of the convention G. Morris was absent several days to attend the funeral of his mother.

(Appendix A (Max Farrand, 1911), Page 498, Vol. 3, James Sparks to James Madison, 30 March 1831)

[e672335] The honorable William Houstoun, Esq a Deputy of the State of Georgia, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

Houstoun, William, of Georgia. Attended first on June 1, and probably thereafter until July 23. He probably left on July 26 or after Few's return.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

William Houston from Georgia took his seat

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 1)

[e672336] The honorable William Houstoun, Esq a Deputy of the State of Georgia, attended and took his seat.

The following credential was produced and read
(here insert Mr Houstoun's credential)

[Editors' note: Jackson records Houstoun's arrival in the Journal. The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 576, Vol. 3)

[e672337] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672338] The Order of the day being read,

The House resolved itself into a Committee of the whole House to consider of the State of the American Union —

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

[e672339] Mr President left the Chair.

Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

[e672340] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

[e672341] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

[e672342] And then the House adjourned till to-morrow at 10 o'clock. A.M.

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

The Committee then rose and the House
adjourned.

(Madison's Notes (Max Farrand, 1911), Page 70, Vol. 1, 2 June 1787)

Adjourned to the next day.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1)

[e672343] CXVIII. William Pierce: Anecdote.

When the Convention first opened at Philadelphia, there were a number of propositions brought forward as great leading principles for the new Government to be established for the United States. A copy of these propositions was given to each Member with the injunction to keep everything a profound secret. One morning, by accident, one of the Members dropt his copy of the propositions, which being luckily picked up by General Mifflin was presented to General Washington, our President, who put it in his pocket, After the debates of the Day were over, and the question for adjournment was called for, the General arose from his seat, and previous to his putting the question addressed the Convention in the following manner, —

"Gentlemen

I am sorry to find that some one Member of this Body, has been so neglectful of the secrets of the Convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this Morning. I must entreat Gentlemen to be more careful, least our transactions get into the News Papers, and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is (throwing it down on the table), let him who owns it take it." At the same time he bowed, picked up his Hat, and quitted the room with a dignity so severe that every Person seemed alarmed; for my part I was extremely so, for putting my hand in my pocket I missed my copy of the same Paper, but advancing up to the Table my fears soon dissipated; I found it to be the hand writing of another Person. When I went to my lodgings at the Indian Queen, I found my copy in a coat pocket which I had pulled off that Morning. It is something remarkable that no Person ever owned the Paper.

[Editors' note: This anecdote comes from Appendix A in Farrand's third volume. He states that dating when the story occurred has proved impossible. However, the possible date can be narrowed down, first to the dates that Pierce was at the Convention. From there, it was also likely to have been early in proceedings. The precise date is still uncertain; however, on 1 June 1787, Washington writes the following his diary:

'Friday 1st June. Attending in Convention and nothing being suffered to transpire no minutes of the proceedings has been, or will be inserted in this diary' (Page 33, Vol. 3, Appendix B (Max Farrand, 1911)).

As the rules of the Convention – namely the rule to conduct the Convention privately – had been agreed just days earlier, it is likely that something induced Washington to emphasize his omission of the minutes in his journal on 1 June, and it may well have been the anecdote cited above. As there are no other clues, the editors have placed it here.]

(Appendix A (Max Farrand, 1911), Page 86, Vol. 3)

[e672344] And then the House adjourned till to-morrow at 10 o'clock. A.M.

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1, 1 June 1787)

Adjourned to the next day.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1, 2 June 1787)

1.17 Saturday, 02 June 1787, at 10:00 (s6204)

[e672345] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland, and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

Johnson, William Samuel, of Connecticut. Attended on June 2, and thereafter.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryland — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

[e672346] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland, and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryland — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

Saturday 2d. Majr Jenifer coming in with sufficient powers for the purpose, gave representation to Maryland; which brought all the States in Union into Convention except Rhode Island which had refused to send delegates thereto.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 44, George Washington's Diary)

Jenifer, Daniel of St. Thomas, of Maryland. Commissioned on May 26; first attended on June 2.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e672347] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland, and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

[Editors' note: Farrand's record of Lansing's attendance at the Convention reads, 'First attended on June 2, though he may have been present before May 25' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)). Farrand notes the rest of the New York delegation, Hamilton and Yates, as arriving on 18 May. In his 16 May diary entry, Washington says that only two states – Pennsylvania and Virginia – are represented. His 17 May diary entry records the arrival of C. Pinckney and Rutledge giving representation to South Carolina. However, in a letter from the same day, addressed to George Augustine Washington, G. Washington says that four states – Virginia, South Carolina, Pennsylvania, and New York – are represented. According to his own notes as well as Farrand's, New York was not yet represented at this point. Presumably, Washington's letter means that delegates from only those four states were present, not that they were quorate, especially when considering that his journal entry from the following day (18 May) says that 'representation from New York appeared on

the floor to day' (Page 7, George Washington: Diary, Supplement to the Records of the Federal Convention (James Hutson, 1987)).

Given the known dates of the attendance of the New York delegates and the votes recorded in the Detail of Ayes and Noes, it seems as though New York required two delegates to be present to constitute a quorum, though their credentials do not say as much. For example, during Hamilton's absence in the middle of the Convention, New York was still represented in the votes, because two delegates were present. By the time Hamilton returns to the Convention, Yates and Lansing have left, and the subsequent votes record New York as unrepresented, despite the fact that Hamilton was present. For this reason, it seems possible that Lansing could have been present at the Convention before New York was officially represented.

On 1 June, Lansing writes to William Coxe that he is travelling to Philadelphia. The letter is dated from Bristol, Pennsylvania, which is only a short distance from Philadelphia. If Lansing was spending time or temporarily residing in Bristol, it is feasible that he could have been in Philadelphia before 25 May, that Washington was referring to him in the 17 May letter, and that he travelled to Bristol afterwards. An article from 19 May in the Pennsylvania Journal and Weekly Advertiser places Lansing in Philadelphia by this date, which strengthens the claim that he arrived before 2 June. Yates writes in a 1 June letter to Abraham Yates that Lansing arrives in Philadelphia on this day, which suggests that Lansing departed Bristol and arrived in Philadelphia on the same day and attests to the proximity between the two places. However, the wording of Lansing's letter leaves his starting point ambiguous. He says, 'I am now on my Way to Philadelphia' (Page 41, John Lansing to William Coxe, Supplement to the Records of the Federal Convention (James Hutson, 1987)). He does not write that he is departing for Philadelphia, which would suggest that Bristol is his starting point and strengthen the assumption that he was present in Philadelphia before 25 May. It suggests, rather, that he was en route from New York or some other place and stopped in Bristol for a time, mailed his letter, and continued on to Philadelphia, arriving on the same day he leaves Bristol.

Regardless, 2 June is the first entry of Lansing's notes of the Convention that was not copied from Yates.

Though it is possible that Lansing was in Philadelphia before 25 May, the record is not clear. As a result, he will be represented as joining on the day of his first confirmed appearance in an official session.]

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryland — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

[e738421] The following credentials were produced and read.

(here insert the credentials of the Deputies of the State of Maryland)

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

[e738422] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672349] The House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

The convention went into committee of the whole.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1, 2 June 1787)

Resolved into a Committee of the whole.

(Lansing's Notes (Joseph Strayer, 1939), Page 29, 2 June 1787)

[e672350] The House resolved itself into a Committee of the whole House to consider of the State of the American union.

Mr President left the Chair

Mr. Gorham took the Chair of the Committee.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

The convention went into committee of the whole.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1, 2 June 1787)

Resolved into a Committee of the whole.

(Lansing's Notes (Joseph Strayer, 1939), Page 29, 2 June 1787)

[e672351] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again

(Paterson's Notes (Max Farrand, 1911), Page 76, Vol. 1)

[e672352] Resolved that this House will on Monday again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

[e672353] And then the House adjourned till Monday next at 11 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

The motion was then postpd. the Committee rose & the House Adj.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1, 2 June 1787)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 90, Vol. 1, 2 June 1787)

[e672354] And then the House adjourned till Monday next at 11 o'clock A.M.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

The motion was then postpd. the Committee rose & the House Adj.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1, 2 June 1787)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 90, Vol. 1, 2 June 1787)

1.18 Monday, 04 June 1787, at 11:00 (s6205)

[e672355] Wythe, George, of Virginia. Attended as early as May 15; left Convention June 4; resigned June 16.

[Editors' note: On 10 June, Madison writes to James Monroe that 'All the deputies from Virga. remain except Mr. Wythe who was called away some days ago by information from Williamsburg concerning the increase of his lady's ill health' (Page 67, James Madison to James Monroe, Supplement to the Records of the Federal Convention (James Hutson, 1987)). In a 16 June letter to Edmund Randolph, Wythe writes, 'Mrs. W[ythe]'s state of health is so low and she is so emaciated, that my apprehensions are not a little inflicting, and, if the worst should not befall, she must linger, I fear, a long time. In no other circumstances would I withdraw from the employment, to which I had the honour to be appointed but, as probably I shall not return to Philadelphia, if, sir, to appoint one in my room be judged adviseable, I hereby authorize you to consider this letter as a resignation no less valid than a solemn act for that express purpose. My best wishes attend you and the other respectable personages with whom I was thought worthy to be associated' (Page 80, George Wythe to Edmund Randolph, Supplement to the Records of the Federal Convention (James Hutson, 1987)).]

(Appendix B (Max Farrand, 1911), Page 59, Vol. 3)

[e672356] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the state of the american [sic] Union.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e672357] Mr President left the Chair

Mr Gorham took the Chair of the Committee.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e672358] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e672359] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e672360] And then the House adjourned till to-morrow at 11 o'clock a. m.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

The Comme. then rose and the House
Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 105, Vol. 1)

Adjourned until to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e672361] And then the House adjourned till to-morrow at 11 o'clock a. m.

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

The Comme. then rose and the House
Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 105, Vol. 1)

Adjourned until to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

1.19 Tuesday, 05 June 1787, at 11:00 (s6206)

[e672362] His Excellency William Livingston Esquire, a Deputy of the State of New Jersey, attended and took his seat

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

Governor Livingston from New Jersey took his seat.

(Madison's Notes (Max Farrand, 1911), Page 119, Vol. 1)

[e672363] His Excellency William Livingston Esquire, a Deputy of the State of New Jersey, attended and took his seat [...]

The following credentials were then produced and read.

(here insert the credentials of His Excellency William Livingston Esquire, and the honorable Abraham Clark Esquire)

[Editors' note: Jackson records Livingston's arrival in the Journal. The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Pages 563-564, Vol. 3)

[e672364] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672365] The Order of the day being read

The House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e672366] The Order of the day being read

The House resolved itself into a Committee of the whole House to consider of the State of the American union.

[...]

Mr President left the chair

Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e672367] Mr President resumed the chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e672368] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e672369] And then the House adjourned till to-morrow at 11 o'clock. A M.

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

The Committee then rose & the House adjourned to 11 OC. tomw.

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

[e672370] And then the House adjourned till to-morrow at 11 o'clock. A M.

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

The Committee then rose & the House adjourned to 11 OC. tomw.

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

1.20 Wednesday, 06 June 1787, at 11:00 (s6207)

[e672371] [Editors' note: In a 19 May letter from Livingston to Brearley, Livingston writes, 'I suspect that by the middle of next week at farthest we shall have a full representation by the attendance of Mr. Clark and Mr. Patterson. Mr. Houston's ill state of health which I sincerely regret will I fear prevent his going tho' he told me that he intended it' (Page 8, William Livingston to David Brearley, Supplement to the Records of the Federal Convention (James Hutson, 1987)). Houston does, however, arrive at the Convention as early as the 25th (see note to e672188) and stays for about a week. He was definitely at the Convention on 1 June, which is confirmed by a letter to the Council and General Assembly of New Jersey signed by Brearly, Houston, and Patterson. He leaves the Convention some point after that (Farrand indicates 6 June), and Dayton writes to Brearley on 7 June that 'Mr. Houston has formally resigned in consequence of his ill state of health...' (Page 59, Jonathan Dayton to David Brearley, Supplement to the Records of the Federal Convention (James Hutson, 1787)). Brearley responds to the letter on 9 June saying, 'I am distressed that Mr. Houstons [sic] health is so bad as to make it necessary for him to decline. He did not hint such a thing to us when he left us; altho it was pretty certain that he could not have attended very closely' (Page 64, David Brearley to Jonathan Dayton, Supplement to the Records of the Federal Convention (James Hutson, 1987)).]

(2019 Editors)

That the Convention now sitting in Philadelphia, of which they are Members on the Part of New Jersey, have found it indispensably necessary to employ a Secretary, a Messenger, and a Doorkeeper. That to defray the wages of these Persons and the Expense of Stationary etc. some Funds will be requisite and the Convention possess none of any Kind. That as Congress have recommended the Meeting, they will no Doubt ultimately discharge the necessary Expenses attending it, but that there is little or no Prospect that they will be again in Session until sometime after the Convention rises. That the Proposition of New Jersey will be, upon a rough Estimate, about five Shillings a Day, and,

to Appearances the Convention will sit about two or three Months. The Subscribers therefore pray, that the Honourable the Legislature will authorize them to draw on the Treasury, not exceeding a certain Amount, of which they, in their wisdom, will determine, for the Purpose of paying the Wages and Expenses aforesaid as far as the Proportion of the State shall require; the Account to be settled on proper Vouchers to be taken for what is paid and disbursed.

David Brearley William Paterson William Houston

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 40, Letter from David Brearley, William Houston, William Paterson to the Council and General Assembly of New Jersey, 1 June 1787)

Houston, William Churchill, of New Jersey. Attended as early as May 25; was absent on June 6.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e672372] The Order of the day being read. The House resolved itself into a Committee of the whole House to consider of the State of the American Union

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

[e672373] The Order of the day being read.

The House resolved itself into a Committee of the whole House to consider of the State of the American Union

Mr President left the Chair.

Mr. Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

[e672374] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

[e672375] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

[e672376] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

The Come rose & the House adjd. to 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 141, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

[e672377] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

The Come rose & the House adjd. to 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 141, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

1.21 Thursday, 07 June 1787, at 11:00 (s6208)

[e672378] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the state of the American Union

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

[e672379] The House resolved itself into a Committee of the whole House to consider of the state of the American Union Mr President left the Chair Mr Gorham took the Chair of the Committee.

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

[e672380] Mr President resumed the Chair Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

[e672381] Resolved that the House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

[e672382] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

The Committee rose & The House adjd.

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 39)

[e672383] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

The Committee rose & The House adjd.

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 39)

1.22 Friday, 08 June 1787, at 11:00 (s6209)

[e672384] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the State of the American union

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

[e672385] The House resolved itself into a Committee of the whole House to consider of the State of the American union Mr President left the Chair Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

[e672386] Mr President resumed the Chair Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed Him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

[e672387] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

[e672388] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 169, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 171, Vol. 1)

[e672389] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 169, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 171, Vol. 1)

1.23 Saturday, 09 June 1787, at 11:00 (s6210)

[e672390] The honorable Luther Martin Esquire One of the Deputies of the State of Maryland attended and took his Seat.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

Martin, Luther, of Maryland. Commissioned May 26; first attended June 9; absent August 7-12; left Convention September 4. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e672391] The order of the day being read The House resolved itself into a Committee of the whole House to consider of the State of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

[e672392] Mr President left the Chair Mr Gorham took the Chair of the Committee.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

[e672393] Mr President resumed the Chair. Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

[e672394] Resolved that this House will on Monday next again resolve itself into a Committee of the whole House to consider of the State of the American union

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

[e672395] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

[e672396] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Madison's Notes (Max Farrand, 1911), Page 174, Vol. 1)

The Come. rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 180, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 183, Vol. 1)

Adjourned till Monday

(Lansing's Notes (Joseph Strayer, 1939), Page 44)

1.24 Monday, 11 June 1787, at 11:00 (s6211)

[e672397] The Honorable Abraham Baldwin Esquire, one of the Deputies of the State of Georgia, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

Baldwin, Abraham, of Georgia. Attended on June 11, and probably regularly thereafter.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e672398] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the State of the american [sic] union

(Paterson's Notes (Max Farrand, 1911), Page 192, Vol. 1)

[e672399] Mr President left the chair Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

[e672400] Mr President resumed the Chair Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred: and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

[e672401] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the American union

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

[e672402] And then the House adjourned till to-morrow at 11 o clock A. M

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

[e672403] And then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

Come. rose & House adjd.

(Madison's Notes (Max Farrand, 1911), Page 204, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 207, Vol. 1)

1.25 Tuesday, 12 June 1787, at 11:00 (s6212)

[e672404] The Order of the day being read The House resolved into a Committee of the whole House to consider of the state of the american [sic] union

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

[e672405] Mr President left the Chair Mr Gorham took the chair of the Committee

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

[e672406] Mr President resumed the Chair Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

[e672407] Resolved that this House will tomorrow again resolve itself into a Committee of the whole House to consider of the State of the american [sic] union

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

[e672408] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

The Come. then rose & the House adjourned

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

Then adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e672409] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

The Come. then rose & the House adjourned

(Madison’s Notes (Max Farrand, 1911), Page 220, Vol. 1)

Then adjourned to to-morrow morning.

(Yates’s Diary (Max Farrand, 1911), Page 222, Vol. 1)

Adjourned till to Morrow.

(Lansing’s Notes (Joseph Strayer, 1939), Page 51)

1.26 Wednesday, 13 June 1787, at 11:00 (s6213)

[e672410] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the state of the american [sic] Union.

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

[e672411] Mr President left the Chair Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

[e672412] Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee having considered and gone through the propostions offered to the House by the honorable Mr Randolph, and to them referred, were prepared to report thereon — and had directed him to submit the report to the consideration of the House.

The report was then delivered in at the Secretary’s table

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

Committee rose & Mr. Ghorum made report, which was postponed till tomorrow, to give an opportunity for other plans to be proposed, the report was in the words following.

Report of the Committee of Whole on Mr. Randolphs propositions

1. Resd. that it is the opinion of this Committee that a National Governmt. ought to be established, consisting of a supreme Legislative, Executive & Judiciary.

2. Resold. that the National Legislature ought to consist of two branches.

3. Resd. that the members of the first branch of the National Legislature ought to be elected by the people of the several States for the term of three years, to receive fixed Stipends by which they may be compensated for the devotion of their time to public service, to be paid out of the National Treasury: to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the first

branch), during the term of service, and under the national Government for the space of one year after its expiration.

4. Resd. that the members of the second branch of the Natl. Legislature ought to be chosen by the individual Legislatures, to be of the age of 30 years at least, to hold their offices for a term sufficient to ensure their independency, namely, seven years, to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury; to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the second branch) during the term of service, and under the Natl. Govt. for the space of one year after its expiration.

5. Resd. that each branch ought to possess the right of originating Acts

6. Resd. that the Natl. Legislature ought to be empowered to enjoy the Legislative rights vested in Congs. by the Confederation, and moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union, or any treaties subsisting under the authority of the Union.

7. Resd. that the rights of suffrage in the 1st. branch of the National Legislature, ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation, namely, in proportion to the whole number of white & other free citizens & inhabitants, of every age sex and condition, including those bound to servitude for a term of years, & three fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each State:

8. Resolved that the right of suffrage in the 2d. branch of the National Legislature ought to be according to the rule established for the first.

9. Resolved that a National Executive be instituted to consist of a single person, to be chosen by the Natl. Legislature for the term of seven years, with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for — to be ineligible a second time, & to be removeable on impeachment and conviction of malpractices or neglect of duty — to receive a fixed stipend by which he may be compensated for the devotion of his time to public service to be paid out of the national Treasury.

10. Resold. that the natl. Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature

11. Resold. that a Natl. Judiciary be established, to consist of one supreme tribunal, the Judges of which to be appointed by the 2d. branch of the Natl. Legislature, to hold their offices during good behaviour, & to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. Resold. that the Natl. Legislature be empowered to appoint inferior Tribunals.

13. Resd. that the jurisdiction of the Natl. Judiciary shall extend to all cases which respect the collection of the Natl. revenue, impeachments of any Natl. Officers, and questions which involve the national peace & harmony.

14. Resd. that provision ought to be made for the admission of States

lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory or otherwise, with the consent of a number of voices in the Natl. Legislature less than the whole.

15. Resd. that provision ought to be made for the continuance of Congress and their authorities and privileges untill a given day after the reform of the articles of Union shall be adopted and for the completion of all their engagements.

16. Resd. that a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States.

17. Resd. that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary.

18. Resd. that the Legislative, Executive, & Judiciary powers within the several States ought to be bound by oath to support the articles of Union

19. Resd. that the amendments which shall be offered to the confederation by the convention ought at a proper time or times after the approbation of Congs. to be submitted to an Assembly or Assemblies¹⁹ recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon.

(Madison's Notes (Max Farrand, 1911), Pages 234-237)

[e672413] It was moved by Mr. Randolph seconded by Mr Martin to postpone the farther consideration of the report till to-morrow

and on the question to postpone
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

[e672414] It was moved by Mr. Randolph seconded by Mr Martin to postpone the farther consideration of the report till to-morrow

and on the question to postpone
it passed in the affirmative.

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

[e672415] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 239, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e672416] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 223, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 239, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

1.27 Thursday, 14 June 1787, at 11:00 (s6214)

[e738726] It was moved by Mr Patterson seconded by Mr Randolph that the farther consideration of the report from the Committee of the whole House be postponed till to-morrow.

(Official Journal (Max Farrand, 1911), Page 240, Vol. 1)

Mr. Patterson, observed to the Convention that it was the wish of several deputations, particularly that of N. Jersey, that further time might be allowed them to contemplate the plan reported from the Committee of the Whole, and to digest one purely federal, and contradistinguished from the reported plan. He said they hoped to have such an one ready by tomorrow to be laid before the Convention: and the Convention adjourned that leisure might be given for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 240, Vol. 1)

Mr. Patterson moved that the further consideration of the report be postponed until to-morrow, as he intended to give in principles to form a federal system of government materially different from the system now under consideration. Postponement agreed to. [Editors' note: Yates' statement that 'Postponement agreed to.' contradicts the journal which states that 'before the question for postponement was taken. It was moved by Mr Randolph seconded by Mr Patterson that the House adjourn'. The editors' have considered the Journal the more reliable source in this instance.]

(Yates's Diary (Max Farrand, 1911), Page 240, Vol. 1)

[e738727] And before the question for postponement was taken.

It was moved by Mr Randolph seconded by Mr Patterson that the House adjourn.

[Editors' note: Adjourning the Convention caused the proposed postponement to be dropped.]

(Official Journal (Max Farrand, 1911), Page 240, Vol. 1)

Adjourned until to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 240, Vol. 1)

Met—on Motion of Mr. Patterson adjourned.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e738728] And then the House adjourned till to-morrow at 11 o'clock.

(Official Journal (Max Farrand, 1911), Page 240, Vol. 1)

Adjourned until to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 240, Vol. 1)

Met—on Motion of Mr. Patterson adjourned.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

1.28 Friday, 15 June 1787, at 11:00 (s6215)

[e672420] Mr. Patterson submitted several resolutions to the consideration of the House, which he read in his place, and afterwards delivered in at the Secretary's table — They were then read

[Editors' note: There are several extant copies of the New Jersey Plan, but Farrand concludes that Madison provides the most correct text available. For this reason, the editors have used that version of the text. Farrand notes the additional discrepancies between the various reports of the Plan's contents:

'Several copies of the New Jersey Plan are in existence, containing the usual minor differences in wording, spelling, and punctuation. But they also differ in more important particulars: — The Madison and Washington copies are practically identical, but the other copies contain two additional resolutions: a sixth, "that the legislative, executive, and judiciary powers within the several States ought to be bound by oath to support the Articles of Union;" and a ninth, "that provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual State respecting territory." Also, in the fourth resolution, the Madison and Washington copies read that the Executive shall be "removable by Congress on application by a majority of the executives of the several States," while the Brearly and Paterson copies read, "removable on impeachment and conviction for malpractice or neglect of duty by Congress on application by a majority of the executives of the several States.'" (Page 611, Vol. 3, Appendix E (Max Farrand, 1911)]

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

1. To enlarge the powers of Confed. &c
2. To authorise Congress to receive an Imp. on the Imp. of For. Goods — stamp Art. & Postage of Letters — to pass acts regulating Foreign & Domest. Commerce, to pass regulations or ordinance relative to revenue & commerce, provided that the recovery of Fines Forfitures shd. be in the common law Judiciaries of the several States wh. appeal &c
3. The rule of apportioning Requis: on the States shall be the Whites of all others — if the Req. is in arrear in any State, Congress shall have authority to devise & pass acts remedial in such case
4. Cong. to app — persons as an Executive to be in Office — years wh. fixed Salary & ineligible a secd. Time, & removable by Cong. on appln. of a majory. of the Executives of the several States, but none of the Executive personally to command any military Expedn.

5. Sup. Judl. appd. by the Executive during good behaviour to try impeachmts. of fed. Officers, & appeals from the State Judicials in all cases where Foreigns. are concernd. in the Construction of Treaties, or where the Acts of Trade & Revenue are contravened

6. The Acts Treaties &c &c to be paramount to State Laws and when any State or body of men oppose Treaties or general Laws, the Executive to call forth the force of the Union to enforce the Treaty or Law — 8 Naturalization to be the same in every State —

9 a Citizen offending in one state & belonging to another State, to be deemed Guilty of the same Offence as though the offence was committed by a Citizen of the State where the Offence was committed

(King's Diary (Max Farrand, 1911), Page 247, Vol. 1)

Mr. Patterson, pursuant to his intentions as mentioned yesterday, read a set of resolves as the basis of amendment to the confederation. (See those resolves annexed.)

He observed that no government could be energetic on paper only, which was no more than straw — that the remark applied to the one as well as to the other system, and is therefore of opinion that there must be a small standing force to give every government weight.

(Yates's Diary (Max Farrand, 1911), Page 246, Vol. 1)

Mr. Patterson, laid before the Convention the plan which he said several of the deputations wished to be substituted in place of that proposed by Mr. Randolph.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 1)

Mr. Patterson moved Resolves—which I seconded.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e672421] It was moved by Mr Madison seconded by Mr Sherman to refer the resolutions, offered by Mr Patterson, to a Committee of the whole House which passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

After some little discussion of the most proper mode of giving it a fair deliberation it was agreed that it should be referred to a Committee of the Whole

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 1)

Mr. Madison moved for the report of the committee, and the question may then come on whether the convention will postpone it in order to take into consideration the system now offered.

(Yates's Diary (Max Farrand, 1911), Page 246, Vol. 1)

Mr. Madison supposed it would be proper to commit them to a Committee of the whole House. After some desultory Debate agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e672422] It was moved by Mr Rutledge seconded by Mr Hamilton to recommit the resolutions reported from a Committee of the whole House. which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

After some little discussion of the most proper mode of giving it a fair deliberation it was agreed that it should be referred to a Committee of the Whole, and that in order to place the two plans in due comparison, the other should be recommitted.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 1)

[e733934] Butler—Moved to go into Committee immediately.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e733935] Mr. Lansing is of opinion that the two systems are fairly contrasted. The one now offered is on the basis of amending the federal government, and the other to be reported as a national government, on propositions which exclude the propriety of amendment. Considering therefore its importance, and that justice may be done to its weighty consideration, he is for postponing it a day.

(Yates's Diary (Max Farrand, 1911), Page 246, Vol. 1)

At the earnest desire of Mr. Lansing & some other gentlemen, it was also agreed that the Convention should not go into Committee of the whole on the subject till tomorrow, by which delay the friends of the plan proposed by Mr. Patterson wd. be better prepared to explain & support it, and all would have an oportuy of taking copies.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 1)

I moved for the Morning. I declared that tho I had hitherto given my Vote without joining in the Debates my Sentiments were unaltered—our sole Object ought to be federal—that these Resolutions afforded an Opportunity of fairly contrasting the Systems, but as the one had been an Object which had engaged the Attention of the Committee a considerable Time—the other recently introduced the House was not prepared to give it that Investigation which its Importance merited.

(Lansing's Notes (Joseph Strayer, 1939), Pages 52-53)

[e733936] Col. Hamilton cannot say he is in sentiment with either plan — supposes both might again be considered as federal plans, and by this means they will be fairly in committee, and be contrasted so as to make a comparative estimate of the two.

(Yates's Diary (Max Farrand, 1911), Page 246, Vol. 1)

Randolph spoke in Favor of it. Madison, Wilson, Williamson and Butler against it.

(Lansing's Notes (Joseph Strayer, 1939), Page 53)

[e733937] Thereupon it was agreed, that the report be postponed, and that the house will resolve itself into a committee of the whole, to take into consideration both propositions to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 246, Vol. 1)

Question unanimously carried.—Copies ordered.

(Lansing's Notes (Joseph Strayer, 1939), Page 53)

Resolved that this House will to-morrow resolve itself into a Committee of the whole House to consider of the state of the american [sic] union.

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

[e672428] And then the House adjourned till to-morrow at 11 o'clock. A. M.

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 245, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 53)

[e672429] And then the House adjourned till to-morrow at 11 o'clock. A. M.

(Official Journal (Max Farrand, 1911), Page 241, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 245, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 53)

1.29 Saturday, 16 June 1787, at 11:00 (s6216)

[e672430] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the state of the american [sic] union

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

[e672431] Mr. President left the Chair Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

[e672432] Mr Gorham reported from the Committee that the Committee had made a progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

[e672433] Resolved that this House will on monday [sic] next again resolve itself into a Committee of the whole House to consider of the state of the American Union.

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

[e672434] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

The Committee rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 256, Vol. 1)

Then adjourned to Monday morning.

(Yates's Diary (Max Farrand, 1911), Page 263, Vol. 1)

Adjourned.

(Lansing's Notes (Joseph Strayer, 1939), Page 58)

[e672435] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

The Committee rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 256, Vol. 1)

Then adjourned to Monday morning.

(Yates's Diary (Max Farrand, 1911), Page 263, Vol. 1)

Adjourned.

(Lansing's Notes (Joseph Strayer, 1939), Page 58)

1.30 Monday, 18 June 1787, at 11:00 (s6217)

[e672436] The Order of the day being read.

The House resolved itself into a Committee of the whole House to consider of the State of the American Union

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e672437] Mr President left the Chair

Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e672438] Mr President resumed the Chair.

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred: and had directed him to move that they may have leave to sit again

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e672439] Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the state of the american [sic] Union.

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e672440] and then the House adjourned till to-morrow at 11 oClock A. M.

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e672441] and then the House adjourned till to-morrow at 11 oClock A. M.

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

Committee rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 1)

Then adjourned to to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 301, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 68)

1.31 Tuesday, 19 June 1787, at 11:00 (s6218)

[e672442] The Order of the day being read The House resolved itself into a Committee of the whole House to consider of the state of the American Union.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

[e672443] Mr President left the Chair Mr Gorham took the Chair of the Committee

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

[e738948] Mr President resumed the chair.

Mr Gorham reported from the Committee that the Committee, having spent some time in the consideration of the propositions submitted to the House by the honorable Mr Paterson — and of the resolutions heretofore reported from a Committee of the whole House, both of which had been to them referred, were prepared to report thereon — and had directed him to report to the House that the Committee do not agree to the propositions offered by the honorable Mr Paterson — and that they again submit the resolutions, formerly reported, to the consideration of the House.

[Editors' note: The resolutions in the Virginia Plan, as amended by the Committee of the Whole House, were received back into the Convention as the final report of the Committee. These amended resolutions will be referred to as the Report of the Committee of the Whole House from this point on.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

[e672445] [Editors' note: The Convention then proceeded to take the reported resolutions into consideration.]

(2019 Editors)

[e672446] The first resolve was read.

(Yates's Diary (Max Farrand, 1911), Page 328, Vol. 1)

(Of Mr. Randolph's plan as reported from the Committee). the 1. propos: "that Natl. Govt. ought to be established consisting &c"., being taken up in the House.

(Madison's Notes (Max Farrand, 1911), Page 322, Vol. 1)

The first Resolution was then considered

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

[e672448] Mr. Wilson observed that by a Natl. Govt. he did not mean one that would swallow up the State Govts. as seemed to be wished by some gentlemen. He was tenacious of the idea of preserving the latter. He thought, contrary to the opinion of (Col. Hamilton) that they might not only subsist but subsist on friendly terms with the former. They were absolutely necessary for certain purposes which the former could not reach. All large Governments must be

subdivided into lesser jurisdictions. as Examples he mentioned Persia, Rome, and particularly the divisions & subdivisions of England by Alfred.

Col. Hamilton coincided with the proposition as it stood in the Report. He had not been understood yesterday. By an abolition of the States, he meant that no boundary could be drawn between the National & State Legislatures; that the former must therefore have indefinite authority. If it were limited at all, the rivalry of the States would gradually subvert it. Even as Corporations the extent of some of them as Va. Massts. &c. would be formidable. As States, he thought they ought to be abolished. But he admitted the necessity of leaving in them, subordinate jurisdictions. The examples of Persia & the Roman Empire, cited by (Mr Wilson) were, he thought in favor of his doctrine: the great powers delegated to the Satraps & proconsuls, having frequently produced revolts, and schemes of independence.

Mr. King, wished as everything depended on this proposition, that no objections might be improperly indulged agst. the phraseology of it. He conceived that the import of the terms "States" "Sovereignty" "national" "federal," had been often used & applied in the discussion inaccurately & delusively. The States were not "sovereigns" in the sense contended for by some. They did not possess the peculiar features of sovereignty. They could not make war, nor peace, nor alliances, nor treaties. Considering them as political Beings, they were dumb, for they could not speak to any foreign Sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war. On the other side, if the Union of the States comprises the idea of a confederation, it comprises that also of consolidation. A Union of the States is a union of the men composing them, from whence a national character results to the whole. Congs. can act alone without the States — they can act & their acts will be binding agst. the Instructions of the States. If they declare war, war is de jure declared, captures made in pursuance of it are lawful. No acts of the States can vary the situation, or prevent the judicial consequences. If the States therefore retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects — they formed a Nation in others. The Convention could clearly deliberate on & propose any alterations that Congs. could have done under ye. federal articles. and could not Congs. propose by virtue of the last article, a change in any article whatever: And as well that relating to the equality of suffrage, as any other. He made these remarks to obviate some scruples which had been expressed. He doubted much the practicability of annihilating the States; but thought that much of their power ought to be taken from them.

Mr. Martin, said he considered that the separation from G. B. placed the 13 States in a state of nature towards each other; that they would have remained in that state till this time, but for the confederation; that they entered into the confederation on the footing of equality; that they met now to amend it on the same footing, and that he could never accede to a plan that would introduce an inequality and lay 10 States at the mercy of Va. Massts. and Penna.

Mr. Wilson, could not admit the doctrine that when the Colonies became independent of G. Britain, they became independent also of each other. He read the declaration of Independence, observing thereon that the United Colonies were declared to be free & independent States; and inferring that they were

independent, not Individually but Unitedly and that they were confederated as they were independent, States.

Col. Hamilton, assented to the doctrine of Mr. Wilson. He denied the doctrine that the States were thrown into a State of nature He was not yet prepared to admit the doctrine that the Confederacy, could be dissolved by partial infractions of it. He admitted that the States met now on an equal footing but could see no inference from that against concerting a change of the system in this particular. He took this occasion of observing for the purpose of appeasing the fears of the small States, that two circumstances would render them secure under a national Govt. in which they might lose the equality of rank they now hold: one was the local situation of the 3 largest States Virga. Masts. & Pa. They were separated from each other by distance of place, and equally so by all the peculiarities which distinguish the interests of one State from those of another. No combination therefore could be dreaded. In the second place, as there was a gradation in the States from Va. the largest down to Delaware the smallest, it would always happen that ambitious combinations among a few States might & wd. be counteracted by defensive combinations of greater extent among the rest. No combination has been seen among large Counties merely as such, agst. lesser Counties. The more close the Union of the States, and the more compleat the authority of the whole; the less opportunity will be allowed the stronger States to injure the weaker.

[Editors' note: Which 'Mr. Martin' Madison and Yates refer to in their accounts of this debate is unclear.]

(Madison's Notes (Max Farrand, 1911), Pages 322-325, Vol. 1)

Mr. Wilson. I am (to borrow a sea-phrase) for taking a new departure, and I wish to consider in what direction we sail, and what may be the end of our voyage. I am for a national government, though the idea of federal is, in my view, the same. With me it is not a desirable object to annihilate the state governments, and here I differ from the honorable gentleman from New-York. In all extensive empires a subdivision of power is necessary. Persia, Turkey and Rome, under its emperors, are examples in point. These, although despots, found it necessary. A general government, over a great extent of territory, must in a few years make subordinate jurisdictions. — Alfred the great, that wise legislator, made this gradation, and the last division on his plan amounted only to ten territories. With this explanation, I shall be for the first resolve.

Mr. Hamilton. I agree to the proposition. I did not intend yesterday a total extinguishment of state governments; but my meaning was, that a national government ought to be able to support itself without the aid or interference of the state governments, and that therefore it was necessary to have full sovereignty. Even with corporate rights the states will be dangerous to the national government, and ought to be extinguished, new modified, or reduced to a smaller scale.

Mr. King. None of the states are now sovereign or independent — Many of these essential rights are vested in congress. Congress, by the confederation, possesses the rights of the United States. This is a union of the men of those states. None of the states, individually or collectively, but in congress, have the rights of peace or war. The magistracy in congress possesses the sovereignty — To certain points we are now a united people. Consolidation is already established. The confederation contains an article to make alterations — Congress

have the right to propose such alterations. The 8th article respecting the quotas of the states, has been altered, and eleven states have agreed to it. Can it not be altered in other instances? It can, excepting the guarantee of the states.

Mr. Martin. When the states threw off their allegiance on Great Britain, they became independent of her and each other. They united and confederated for mutual defence, and this was done on principles of perfect reciprocity — They will now again meet on the same ground. But when a dissolution takes place, our original rights and sovereignties are resumed. — Our accession to the union has been by states. If any other principle is adopted by this convention, he will give it every opposition.

Mr. Wilson. The declaration of independence preceded the state constitutions. What does this declare? In the name of the people of these states, we are declared to be free and independent. The power of war, peace, alliances and trade, are declared to be vested in congress.

Mr. Hamilton. I agree to Mr. Wilson's remark. — Establish a weak government and you must at times overleap the bounds. Rome was obliged to create dictators. Cannot you make propositions to the people because we before confederated on other principles? — The people can yield to them, if they will. The three great objects of government, agriculture, commerce and revenue, can only be secured by a general government.

(Yates's Diary (Max Farrand, 1911), Pages 328-329, Vol. 1)

Madison

Confedn. unanimously adopted can be dissolved only by unanimous consent — this Position is not true — A contract entered into by men or societies may be dissolved by the breach of a single Articles — this is the case in Treaties — sometimes however provision is made that the Breach of a single Article shall not dissolve the Contn. or Treaty

Georgia has declared & prosecuted a war agt. the Indians — they have treated with them — N Jersey has expressly refused a constitutional Requisition — Virginia & Maryland have formed a Contract relative to the Potomack — Pennsylvania & NYk have agreed about their boundary — Massachussets has raised an Army, & are now about to augment that Establishment —

Will a federal Govt. answer —

Amphictions — to decide between the members — to mulct offenders — command the forces, sent Embass. chose the Comr. in Chief, and used the Genl. Forces agt. the deficient —

Athenian confed. similar to the Amphictions — their fate terminated by the strength of the members

Helvetic Confed. loose & weak and not like our situation —

Germanic Confedy.

Loose & weak, the strength of individual Members exceed that of the whole

—

The Netherlands — weak — no powers —

Wilson

I dont agree that the Genl. Govt. will swallow up the states or yr. Government — I think they must be preserved they must be continued — they may live in harmony with the Genl. Government — our Country is too extensive for a single Govt. no Despot ever did govern a country so extensive — Persia is

divided into 20 subordinate Govts. Rome governed by her Proconsuls — Alfred adopted the plan and formed societies of 10, to those of 100ds towns counties, &c —

Objections to a general or national Govt.

This convention does not possess authority to propose any reform which is not purely federal —

2. If they proposed such power it wd be inexpedient to exercise it, because the small States wd. loose their State influence or equality, and because the Genius of the people is of that sort that such a Reform wd. be rejected —

Answer — The States under the confed. are not sovereign States — they can do no act but such as are of a subordinate nature or such as terminate in themselves — and even then in some instances they are restrained — Coinage. P. Office &c they are wholly incompetent to the exercise of any of the Gt. & distinguishing acts of Sovereignty — They can neither make nor receive to or from any other sovereign they have not the powers of injuring another, or of defending themselves from an Injury offered from another — they are deaf, dumb, and impotent — these Faculties are yielded up and the US in C. assd. hold and possess them, and they alone can exercise them — they are so far out of the controul of the separate States, yt. if every State in the Union was to instruct yr. Deleg. and those Delegates within ye powers of the Arts. of Union shd. do an act in violation of their Instructions it wd. nevertheless be valid If they declare a war, any giving aid & comfort to the enemy wd. be Treason; if peace any capture on the high Seas wd. be piracy.

This remark proves yt. the States are now subordinate corporations or Societies and not Sovereigns — these imperfect States are the confederates, and they are the Electors of the Magistrates who exercise the national Sovereignty — The articles of Confedn. are perpetual union, — are partly federal & partly of the nature of a constitution or form of Govt. arising from & applying to the Citizens of the US. & not from the individual States —

The only criterion of deterring what is federal and what is national is this, those acts which are for the government of the states only are purely federal, those which are for the Government of the Citizens of the individual States are national & not federal

If then the articles of Confedn. & perpetl. union have this twofold capacity, and if they provide for an alteration in a certain mode, why may not they be so altered as that the federal article may be changed to a national one and the national to a federal? I see no argument that can be objected to the authority — the 5. art. regulates the influence of the several States and makes them equal — does not the confed. authorise this alteration that instead of this Equality, that one State may have double the Influence of another — I conceive it does — and so of every Article except that wh destroys the Idea of a confedy. I think it may be proved that every article may be totally altered provided you have one guarantying to each State the right of regulating its private & internal affairs in the manner of a subordinate corporation —

But admitting that the Arts. of Confed. & Perpet. Union, or the powers of the Legis. did not extend to the proposed Reform; yet the public Expectations, & the public Danger requires it — the System proposed to be adopted is no scheme of a day, calculated to postpone the hour of Danger, & then leave it to fall with double ruin on our successors — It is no crude and undigested plan, the Child of narrow and unextensive views, brought forward und[er] the auspices of

Cowardice & Irresolution. it is a measure of Decision, it is the foundation of Freedom & of national Glory — it will draw on itself, and be able to support the severest scrutiny & Examination — It is no idle Experiment, no romantic Speculation — the measure forces itself upon wise men, and if they have not firmness to look it in the face and protect it — Farwel to the Freedom of our Government — our military Glory will be tarnished, and our boasts of Freedom will be the scorn of the Enemies of Liberty

(King's Diary (Max Farrand, 1911), Pages 329-332, Vol. 1)

Martin—before the Confederation each State had complete Sovereignty—When confederated they met so and they must remain equal.

Wilson—The Declaration of Independence declares the U. S. collectively to be vested with Power of making War and Peace—this antecedent to framing Constitutions consequently paramount.

Hamilton—agrees with Wilson—this is calculated to destroy many Heresies in Politics—How is general Government to affect Interests of smaller States?—In Agriculture, Commerce and Revenue—large States are remote from each other—Commercial Interests are not the same—on what Principle can they combine to affect agricultural Interest?

(Lansing's Notes (Joseph Strayer, 1939), Pages 69-70)

[e733959] It was then moved and seconded to postpone the consideration of the first resolution, reported from the Committee till to-morrow.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

[e733960] It was then moved and seconded to postpone the consideration of the first resolution, reported from the Committee till to-morrow. and on the question to postpone it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

[e672450] And then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 325, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 329, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

[e672451] And then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 325, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 329, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

1.32 Wednesday, 20 June 1787, at 11:00 (s6219)

[e672452] The honorable William Blount Esquire a Deputy from the State of North Carolina attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

Blount, William, of North Carolina. Attended June 20—July 2; August 7 and thereafter. He was present in Congress in New York, July 4—August 3.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Mr. William Blount from N. Carolina took his seat.

(Madison's Notes (Max Farrand, 1911), Page 335, Vol. 1)

Hawkins and myself arrived here on the 19th. He now purposes to leave this on Thursday on board a ship for Petersburg. I am not at Liberty to say what is doing in Convention and if I was the Business is so much in Embryo that I could say nothing that would be in the least satisfactory. All the Members agree that the Convention will sit at least six weekes and it is generally supposed 8 or 10 from this Time, hence the Necessity for Money to be remitted to me.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 107, Letter from William Blount to John Gray Blount, 21 June 1787)

[e672453] The honorable William Blount Esquire a Deputy from the State of North Carolina attended and took his seat.

The following credentials were then produced and read. (here insert Mr Blount's credentials)

[Editors' note: Jackson records Blount's arrival to the Convention in the Journal. The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Pages 569-570, Vol. 3)

[e672454] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e672455] It was moved by Mr Ellsworth seconded by Mr Gorham to amend the first resolution reported from the Committee of the whole House so as to read as follows — namely,

Resolved that the government of the United States ought to consist of a Supreme Legislative, Judiciary, and Executive.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

Mr. Elseworth 2ded. by Mr. Gorham moves to alter it so as to run “that the Government of the United States ought to consist of a supreme legislative, Executive and Judiciary”. This alteration he said would drop the word national, and retain the proper title “the United States.” He could not admit the doctrine that a breach of any of the federal articles could dissolve the whole. It would be highly dangerous not to consider the Confederation as still subsisting. He wished also the plan of the Convention to go forth as an amendment to the articles of Confederation, since under this idea the authority of the Legislatures could ratify it. If they are unwilling, the people will be so too. If the plan goes forth to the people for ratification several succeeding Conventions within the States would be unavoidable. He did not like these conventions. They were better fitted to pull down than to build up Constitutions.

(Madison’s Notes (Max Farrand, 1911), Page 335, Vol. 1)

Judge Elsworth. I propose, and therefore move, to expunge the word national, in the first resolve, and to place in the room of it, government of the United States —

(Yates’s Diary (Max Farrand, 1911), Page 344, Vol. 1)

Elsworth moved that first Resolve be amended so as to read that the Government of the United States ought to consist of a Supreme Legislative Judiciary and Executive.

(Lansing’s Notes (Joseph Strayer, 1939), Page 71)

[e672456] This alteration he said would drop the word national, and retain the proper title “the United States.” He [Ellsworth] could not admit the doctrine that a breach of any of the federal articles could dissolve the whole. It would be highly dangerous not to consider the Confederation as still subsisting. He wished also the plan of the Convention to go forth as an amendment to the articles of Confederation, since under this idea the authority of the Legislatures could ratify it. If they are unwilling, the people will be so too. If the plan goes forth to the people for ratification several succeeding Conventions within the States would be unavoidable. He did not like these conventions. They were better fitted to pull down than to build up Constitutions.

Mr. Randolph did not object to the change of expression, but apprised the gentleman who wished for it that he did not admit it for the reasons assigned; particularly that of getting rid of a reference to the people for ratification.

(Madison’s Notes (Max Farrand, 1911), Pages 335-336, Vol. 1)

[e672457] On the question to agree to the amendment
it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

The motion of Mr. Elsewth was acquiesed in. nem: con:

(Madison's Notes (Max Farrand, 1911), Page 336, Vol. 1)

which was agreed to, nem. con.

(Yates's Diary (Max Farrand, 1911), Page 344, Vol. 1)

Agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

[e672458] [Editors' note: After Ellsworth's amendment was adopted, the Convention moved on to consider the Second Resolution, indicating that the amended First Resolution was taken into the working document.]

(2019 Editors)

[e672459] The 2d. Resoln. "that the national Legislature ought to consist of two branches". taken up.

(Madison's Notes (Max Farrand, 1911), Page 336, Vol. 1)

The second Resolve was then considered.

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

[e737236] the word "national" struck out as of course.

(Madison's Notes (Max Farrand, 1911), Page 336, Vol. 1)

[e737237] the word "national" struck out as of course.

(Madison's Notes (Max Farrand, 1911), Page 336, Vol. 1)

[e672460] It was then moved by Mr Lansing, seconded by Mr Sherman to postpone the consideration of the second resolution reported from the Committee, in order to take up the following, namely.

Resolved that the powers of legislation be vested in the United States in Congress.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

Mr. Lansing, observed that the true queston here was, whether the Convention would adhere to or depart from the foundation of the present Confederacy; and moved instead of the 2d Resolution "that the powers of Legislation be vested in the U. States in Congress".

(Madison's Notes (Max Farrand, 1911), Page 336, Vol. 1)

Mr. Lansing then moved, that the first resolve be postponed, in order to take into consideration the following: That the powers of legislation ought to be vested in the United States in congress.

(Yates's Diary (Max Farrand, 1911), Page 344, Vol. 1)

Mr. Lansing — Resolved that the powers of legislation ought to be vested in the United States in Congress —

(Hamilton's Notes (Max Farrand, 1911), Page 350, Vol. 1)

Lansing—moved that it be postponed to take up the following—”Resolved that the Powers of Legislation be vested in the United States in Congress.” Sherman seconded Motion.

(Lansing's Notes (Joseph Strayer, 1939), Page 71)

[e672461] Mr. Lansing, observed that the true question here was, whether the Convention would adhere to or depart from the foundation of the present Confederacy; and moved instead of the 2d Resolution “that the powers of Legislation be vested in the U. States in Congress”. . He had already assigned two reasons agst. such an innovation as was proposed. 1. the want of competent powers in the Convention — 2. the state of the public mind. It had been observed by (Mr. Madison) in discussing the first point, that in two States the Delegates to Congress were chosen by the people. Notwithstanding the first appearance of this remark, it had in fact no weight, as the Delegates however chosen, did not represent the people merely as so many individuals; but as forming a sovereign State. (Mr Randolph) put it, he said, on its true footing namely that the public safety superseded the scruple arising from the review of our powers. But in order to feel the force of this consideration, the same impression must be had of the public danger. He had not himself the same impression, and could not therefore dismiss his scruple. (Mr Wilson) contended that as the Convention were only to recommend, they might recommend what they pleased. He differed much from him. any act whatever of so respectable a body must have a great effect, and if it does not succeed, will be a source of great dissensions. He admitted that there was no certain criterion of the public mind on the subject. He therefore recurred to the evidence of it given by the opposition in the States to the scheme of an Impost. It could not be expected that those possessing Sovereignty could ever voluntarily part with it. It was not to be expected from any one State, much less from thirteen. He proceeded to make some observations on the plan itself and the arguments. urged in support of it. The point of Representation could receive no elucidation from the case of England. The corruption of the boroughs did not proceed from their comparative smallness: but from the actual fewness of the inhabitants, some of them not having more than one or two. a great inequality existed in the Counties of England. Yet the like complaint of peculiar corruption in the small ones had not been made. It had been said that Congress represent the State Prejudices: will not any other body whether chosen by the Legislatures or people of the States, also represent their prejudices? It had been asserted by his Colleague (Col. Hamilton) that there was no coincidence of interests among the large States that ought to excite fears of oppression in the smaller. If it were true that such a uniformity of interests existed among the States, there was equal safety for all of them, whether the representation remained as heretofore, or were proportioned as now proposed. It is proposed that the genl. Legislature shall have a negative on the laws of the States. It is conceivable that there

will be leisure for such a task? there will on the most moderate calculation, be as many Acts sent up from the States as there are days in the year. Will the members of the general Legislature be competent Judges? Will a gentleman from Georgia be a Judge of the expediency of a law which is to operate in N. Hamshire. Such a Negative would be more injurious than that of Great Britain heretofore was. It is said that the National Govt. must have the influence arising from the grant of offices and honors. In order to render such a Government effectual he believed such an influence to be necessary. But if the States will not agree to it, it is in vain, worse than in vain to make the proposition. If this influence is to be attained, the States must be entirely abolished. Will any one say this would ever be agreed to? He doubted whether any Genl Government equally beneficial to all can be attained. That now under consideration he is sure, must be utterly unattainable. He had another objection. The system was too novel & complex. No man could foresee what its operation will be either with respect to the Genl. Govt. or the State Govts. One or other it has been surmised must absorb the whole.

Col. Mason. did not expect this point would have been reagitated. The essential differences between the two plans, had been clearly stated. The principal objections agst. that of Mr. R. were the want of power & the want of practicability. There can be no weight in the first as the fiat is not to be here, but in the people. He thought with his colleague Mr. R. that there were besides certain crises, in which all the ordinary cautions yielded to public necessity. He gave as an example, the eventual Treaty with G. B. in forming which the Commsrs of the U. S. had boldly disregarded the improvident shackles of Congs. had given to their Country an honorable & happy peace, and instead of being censured for the transgression of their powers, had raised to themselves a monument more durable than brass. The impracticability of gaining the public concurrence he thought was still more groundless. (Mr. Lansing) had cited the attempts of Congress to gain an enlargement of their powers, and had inferred from the miscarriage of these attempts, the hopelessness of the plan which he (Mr. L) opposed. He thought a very different inference ought to have been drawn; viz. that the plan which (Mr. L.) espoused, and which proposed to augment the powers of Congress, never could be expected to succeed. He meant not to throw any reflections on Congs. as a body, much less on any particular members of it. He meant however to speak his sentiments without reserve on this subject; it was a privilege of Age, and perhaps the only compensation which nature had given for, the privation of so many other enjoyments; and he should not scruple to exercise it freely. Is it to be thought that the people of America, so watchful over their interests; so jealous of their liberties, will give up their all, will surrender both the sword and the purse, to the same body, and that too not chosen immediately by themselves? They never will. They never ought. Will they trust such a body, with the regulation of their trade, with the regulation of their taxes; with all the other great powers, which are in contemplation? Will they give unbounded confidence to a secret Journal — to the intrigues — to the factions which in the nature of things appertain to such an Assembly? If any man doubts the existence of these characters of Congress, let him consult their Journals for the years, 78, 79, & 80 — It will be said, that if the people are averse to parting with power, why is it hoped that they will part with it to a National Legislature. The proper answer is that in this case they do not part with power: they only transfer it from one sett of immediate Representatives to

another sett. Much has been said of the unsettled state of the mind of the people. he believed the mind of the people of America, as elsewhere, was unsettled as to some points; but settled as to others. In two points he was sure it was well settled. 1. in an attachment to Republican Government. 2. in an attachment to more than one branch in the Legislature. Their constitutions accord so generally in both these circumstances, that they seem almost to have been preconcerted. This must either have been a miracle, or have resulted from the genius of the people. The only exceptions to the establishmt. of two branches in the Legislatures are the State of Pa. & Congs. and the latter the only single one not chosen by the people themselves. What has been the consequence? The people have been constantly averse to giving that Body further powers — It was acknowledged by (Mr. Patterson) that his plan could not be enforced without military coercion. Does he consider the force of this concession. The most jarring elements of nature; fire & water themselves are not more incompatible that such a mixture of civil liberty and military execution. Will the militia march from one State to another, in order to collect the arrears of taxes from the delinquent members of the Republic? Will they maintain an army for this purpose? Will not the citizens of the invaded State assist one another till they rise as one Man, and shake off the Union altogether. Rebellion is the only case in which the military force of the State can be properly exerted agst. its Citizens. In one point of view he was struck with horror at the prospect of recurring to this expedient. To punish the non-payment of taxes with death, was a severity not yet adopted by depotism itself: yet this unexampled cruelty would be mercy compared to a military collection of revenue, in which the bayonet could make no discrimination between the innocent and the guilty. He took this occasion to repeat. that notwithstanding his solicitude to establish a national Government, he never would agree to abolish the State Govts. or render them absolutely insignificant. They were as necessary as the Genl. Govt. and he would be equally careful to preserve them. He was aware of the difficulty of drawing the line between them, but hoped it was not insurmountable. The Convention, tho' comprising so many distinguished characters, could not be expected to make a faultless Govt. And he would prefer trusting to posterity the amendment of its defects, rather than push the experiment too far.

Mr. Luther Martin agreed with (Col Mason) as to the importance of the State Govts. he would support them at the expense of the Genl. Govt. which was instituted for the purpose of that support. He saw no necessity for two branches, and if it existed Congress might be organized into two. He considered Congs as representing the people, being chosen by the Legislatures who were chosen by the people. At any rate, Congress represented the Legislatures; and it was the Legislatures not the people who refused to enlarge their powers. Nor could the rule of voting have been the ground of objection, otherwise ten of the States must always have been ready, to place further confidence in Congs. The causes of repugnance must therefore be looked for elsewhere. — At the separation from the British Empire, the people of America preferred the Establishment of themselves into thirteen separate sovereignties instead of incorporating themselves into one: to these they look up for the security of their lives, liberties & properties: to these they must look up — The federal Govt. they formed, to defend the whole agst. foreign nations, in case of war, and to defend the lesser States agst. the ambition of the larger: they are afraid of granting powers unnecessarily, lest they should defeat the original end of the Union; lest the powers

should prove dangerous to the sovereignties of the particular States which the Union was meant to support; and expose the lesser to being swallowed up by the larger. He conceived also that the people of the States having already vested their powers in their respective Legislatures, could not resume them without a dissolution of their Governments. He was agst. Conventions in the States: was not agst. assisting States agst. rebellions subjects; thought the federal plan of Mr. Patterson did not require coercion more than the national one, as the latter must depend for the deficiency of its revenues on requisitions & quotas, and that a national Judiciary extended into the States would be ineffectual, and would be viewed with a jealousy inconsistent with its usefulness.

Mr. Sherman 2ded & supported Mr. Lansing's motion. He admitted two branches to be necessary in the State Legislatures, but saw no necessity for them in a Confederacy of States. The Examples were all, of a single Council. Congs. carried us thro' the war, and perhaps as well as any Govt. could have done. The complaints at present are not that the views of Congs. are unwise or unfaithful, but that that their powers are insufficient for the execution of their views. The national debt & the want of power somewhere to draw forth the National resources, are the great matters that press. All the States were sensible of the defect of power in Congs. He thought much might be said in apology for the failure of the State Legislatures to comply with the confederation. They were afraid of bearing too hard on the people, by accumulating taxes; no constitutional rule had been or could be observed in the quotas, — the accounts also were unsettled & every State supposed itself in advance, rather than in arrears. For want of a general system taxes to a due amount had not been drawn from trade which was the most convenient resource. As almost all the States had agreed to the recommendation of Congs. on the subject of an impost, it appeared clearly that they were willing to trust Congs. with power to draw a revenue from Trade. There is no weight therefore in the argument drawn from a distrust of Congs. for money matters being the most important of all, if the people will trust them with power as to them, they will trust them with any other necessary powers. Congs. indeed by the confederation have in fact the right of saying how much the people shall pay, and to what purpose it shall be applied: and this right was granted to them in the expectation that it would in all cases have its effect. If another branch were to be added to Congs. to be chosen by the people, it would serve to embarrass. The people would not much interest themselves in the elections, a few designing men in the large districts would carry their points, and the people would have no more confidence in their new representatives than in Congs. He saw no reason why the State Legislatures should be unfriendly as had been suggested, to Congs. If they appoint Congs. and approve of their measures, they would be rather favorable and partial to them. The disparity of the States in point of size he perceived was the main difficulty. But the large States had not yet suffered from the equality of votes enjoyed by the small ones. In all great and general points, the interests of all the States were the same. The State of Virga. notwithstanding the equality of votes, ratified the Confederation without, or even proposing, any alteration. Massts. also ratified without any material difficulty &c. In none of the ratifications is the want of two branches noticed or complained of. To consolidate the States as some had proposed would dissolve our Treaties with foreign nations, which had been formed with us, as Confederated States. He did not however suppose that the creation of two branches in the Legislature would have such an

effect. If the difficulty on the subject of representation can not be otherwise got over, he would agree to have two branches, and a proportional representation in one of them, provided each State had an equal voice in the other. This was necessary to secure the rights of the lesser States; otherwise three or four of the large States would rule the others as they please. Each State like each individual had its peculiar habits usages and manners, which constituted its happiness. It would not therefore give to others a power over this happiness, any more than an individual would do, when he could avoid it.

Mr. Wilson, urged the necessity of two branches; observed that if a proper model was not to be found in other Confederacies it was not to be wondered at. The number of them was small & the duration of some at least short. The Amphyctionic & Achæan were formed in the infancy of political Science; and appear by their History & fate, to have contained radical defects, The Swiss & Belgic Confederacies were held together not by any vital principle of energy but by the incumbent pressure of formidable neighbouring nations: The German owed its continuance to the influence of the H. of Austria. He appealed to our own experience for the defects of our Confederacy. He had been 6 years in the 12 since the commencement of the Revolution, a member of Congress and had felt all its weaknesses. He appealed to the recollection of others whether on many important occasions, the public interest had not been obstructed by the small members of the Union. The success of the Revolution was owing to other causes, than the Constitution of Congress. In many instances it went on even agst. the difficulties arising from Congs. themselves — He admitted that the large States did accede as had been stated, to the Confederation in its present form. But it was the effect of necessity not of choice. There are other instances of their yielding from the same motive to the unreasonable measures of the small States. The situation of things is now a little altered. He insisted that a jealousy would exist between the State Legislatures & the General Legislature: observing that the members of the former would have views & feelings very distinct in this respect from their constituents. A private citizen of a State is indifferent whether power be exercised by the Genl. or State Legislatures, provided it be exercised most for his happiness. His representative has an interest in its being exercised by the body to which he belongs. He will therefore view the National Legisl: with the eye of a jealous rival. He observed that the addresses of Congs. to the people at large, had always been better received & produced greater effect, than those made to the Legislatures.

(Madison's Notes (Max Farrand, 1911), Pages 336-344, Vol. 1)

Mr. Lansing then moved, that the first resolve be postponed, in order to take into consideration the following: That the powers of legislation ought to be vested in the United States in congress.

I am clearly of opinion that I am not authorized to accede to a system which will annihilate the state governments, and the Virginia plan is declarative of such extinction. It has been asserted that the public mind is not known. To some points it may be true, but we may collect from the fate of the requisition of the impost, what it may be on the principles of a national government. — When many of the states were so tenacious of their rights on this point, can we expect that thirteen states will surrender their governments up to a national plan? Rhode-Island pointedly refused granting it. Certainly she had a federal right so to do; and I hold it as an undoubted truth, as long as state distinctions

remain, let the national government be modified as you please, both branches of your legislature will be impressed with local and state attachments. The Virginia plan proposes a negative on the state laws where, in the opinion of the national legislature, they contravene the national government: and no state laws can pass unless approved by them. — They will have more than a law in a day to revise; and are they competent to judge of the wants and necessities of remote states?

This national government will, from their power, have great influence in the state governments; and the existence of the latter are only saved in appearance. And has it not been asserted that they expect their extinction? If this be the object, let us say so, and extinguish them at once. But remember, if we devise a system of government which will not meet the approbation of our constituents, we are dissolving the union — but if we act within the limits of our power, it will be approved of; and should it upon experiment prove defective, the people will entrust a future convention again to amend it. Fond as many are of a general government, do any of you believe it can pervade the whole continent so effectually as to secure the peace, harmony and happiness of the whole? The excellence of the British model of government has been much insisted on; but we are endeavoring to complicate it with state governments, on principles which will gradually destroy the one or the other. You are sowing the seeds of rivalry, which must at last end in ruin.

Mr. Mason. The material difference between the two plans has already been clearly pointed out. The objection to that of Virginia arises from the want of power to institute it, and the want of practicability to carry it into effect. Will the first objection apply to a power merely recommendatory? In certain seasons of public danger it is commendable to exceed power. The treaty of peace, under which we now enjoy the blessings of freedom, was made by persons who exceeded their powers. It met the approbation of the public, and thus deserved the praises of those who sent them. The impracticability of the plan is still less groundless. These measures are supported by one who, at his time of life, has little to hope or expect from any government. Let me ask, will the people entrust their dearest rights and liberties to the determination of one body of men, and those not chosen by them, and who are invested both with the sword and purse? They never will — they never can — to a conclave, transacting their business secret from the eye of the public. Do we not discover by their public journals of the years 1778-9, and 1780, that factions and party spirit had guided many of their acts? The people of America, like all other people, are unsettled in their minds, and their principles fixed to no object, except that a republican government is the best, and that the legislature ought to consist of two branches. The constitutions of the respective states, made and approved of by them, evince this principle. Congress, however, from other causes, received a different organization. What, would you use military force to compel the observance of a social compact? It is destructive to the rights of the people. Do you expect the militia will do it, or do you mean a standing army? The first will never, on such an occasion, exert any power; and the latter may turn its arms against the government which employs them. I never will consent to destroy state governments, and will ever be as careful to preserve the one as the other. If we should, in the formation of the latter, have omitted some necessary regulation, I will trust my posterity to amend it. That the one government will be productive of disputes and jealousies against the other, I believe; but it will

produce mutual safety. I shall close with observing, that though some gentlemen have expressed much warmth on this and former occasions, I can excuse it, as the result of sudden passion; and hope that although we may differ in some particular points, if we mean the good of the whole, that our good sense upon reflection, will prevent us from spreading our discontent further.

Mr. Martin. I know that government must be supported; and if the one was incompatible with the other, I would support the state government at the expense of the union — for I consider the present system as a system of slavery. Impressed with this idea, I made use, on a former occasion, of expressions perhaps rather harsh. If gentlemen conceive that the legislative branch is dangerous, divide them into two. They are as much the representatives of the states, as the state assemblies are the representatives of the people. Are not the powers which we here exercise given by the legislatures? (After giving a detail of the revolution and of state governments, Mr. M. continued.) I confess when the confederation was made, congress ought to have been invested with more extensive powers; but when the states saw that congress indirectly aimed at sovereignty, they were jealous, and therefore refused any farther concessions. The time is now come that we can constitutionally grant them not only new powers, but to modify their government, so that the state governments are not endangered. But whatever we have now in our power to grant, the grant is a state grant, and therefore it must be so organized that the state governments are interested in supporting the union. Thus systematized, there can be no danger if a small force is maintained.

Mr. Sherman. We have found during the war that though congress consisted of but one branch, it was that body which carried us through the whole war, and we were crowned with success. We closed the war, performing all the functions of a good government, by making a beneficial peace. But the great difficulty now is, how we shall pay the public debt incurred during that war. The unwillingness of the states to comply with the requisitions of congress, has embarrassed us greatly. — But to amend these defects in government I am not fond of speculation. I would rather proceed on experimental ground. We can so modify the powers of congress, that we will all be mutual supporters of one another. The disparity of the states can be no difficulty. We know this by experience — Virginia and Massachusetts were the first who unanimously ratified the old confederation. They then had no claim to more votes in congress than one. Foreign states have made treaties with us as confederated states, not as a national government. Suppose we put an end to that government under which those treaties were made, will not these treaties be void?

Mr. Wilson. The question before us may admit of the three following considerations:

1. Whether the legislature shall consist of one or two branches.
2. Whether they are to be elected by the state governments or by the people.
3. Whether in proportion to state importance, or states individually.

Confederations are usually of a short date. The amphycionian council was instituted in the infancy of the Grecian republics — as those grew in strength, the council lost its weight and power. The Achæan league met the same fate — Switzerland and Holland are supported in their confederation, not by its intrinsic merit, but the incumbent pressure of surrounding bodies. Germany is kept together by the house of Austria. True, congress carried us through the war even against its own weakness. That powers were wanting, you Mr.

President, must have felt. To other causes, not to congress, must the success be ascribed. That the great states acceded to the confederation, and that they in the hour of danger, made a sacrifice of their interest to the lesser states is true. Like the wisdom of Solomon in adjudging the child to its true mother, from tenderness to it, the greater states well knew that the loss of a limb was fatal to the confederation — they too, through tenderness sacrificed their dearest rights to preserve the whole. But the time is come, when justice will be done to their claims — Situations are altered.

Congress have frequently made their appeal to the people. I wish they had always done it — the national government would have been sooner extricated.

(Yates's Diary (Max Farrand, 1911), Pages 344-349, Vol. 1)

Mr. Lansing — Resolved that the powers of legislation ought to be vested in the United States in Congress —

— If our plan be not adopted it will produce those mischiefs which we are sent to obviate —

Principles of System — — Equality of Representation —

Dependence of members of Congress on States —

So long as state distinctions exist state prejudices will operate whether election be by states or people —

— If no interest to oppress no need of apportionment —

— Virginia 16 — Delaware 1 —

— Will General Government have liesure to examine state laws —?

— Will G Government have the necessary information?

— Will states agree to surrender?

— Let us meet public opinion & hope the progress of sentiment will make future arrangements —

— Would like my system if it could be established —

System without example —

Mr. Mason — Objection to granting power to Congress arose from their constitution.

Sword and purse in one body —

Two principles in which America are unanimous

1 attachment to Republican government

2 — to two branches of legislature—

— Military force & liberty incompatible —

— Will people maintain a standing army?

— Will endeavour to preserve state governments & draw lines — trusting to posterity to amend —

Mr Martin — General Government originally formed for the preservation of state governments —

Objection to giving power to Congress has originated with the legislatures

10 of the states interested in an equal voice — Real motive was an opinion that there ought to be distinct governments & not a general government —

If we should form a general government twould break to pieces — — —

— For common safety instituted a General government —

Jealousy of power the motive —

People have delegated all their authority to state government —
 Coertion necessary to both systems —
 Requisitions necessary upon one system as upon another —
 In their system made requisitions necessary in the first instance but left
 Congress in the second instance — to assess themselves —
 Judicial tribunals in the different states would become odious — — —
 If we always to make a change shall be always in a state of infancy — ———
 States will not be disposed hereafter to strengthen the general government.

Mr. Sherman — Confederacy carried us through the war —
 Non compliances of States owing to various embarrassment
 Why should state legislatures be unfriendly?
 State governments will always have the confidence & government of the people: if they cannot be conciliated no efficacious government can be established.
 Sense of all states that one branch is sufficient.
 If consolidated all treaties will be void.
 State governments more fit for local legislation customs habits etc

(Hamilton's Notes (Max Farrand, 1911), Pages 350-352, Vol. 1)

Mason The powers are ample; if they were not we shd. imitate the commissrs of the US who formed the Treaty of peace, who proceeded without power —

The System proposed is not impracticable — the public Mind is not agt. it
 — the reason why the Impost was opposed was because congress was a single
 Br. with Extive. Jud. & Legislative authority — they ought not to be trusted.
 the people ought not to rest satisfied with the secret Journals of a Conclave —

The people are unanimous in these points — 1st Republicanism —
 — 2d Two Br. of the Legislature

The two Brs. being so unanimously adopted must have been the Effect of miracle or a proof of a fixed character or opinion among America —

The Genl. from N. Jersey proposed a military force to carry Requisitions
 into Execution — This never can be accomplished — you can no more execute
 civil Regulations by Military Force than you can unite opposite Elements, than
 you can mingle Fire with Water — military coercion wd. punish the innocent
 with the Guilty — therefore unjust —

But I never will consent to the Abolition of the State Govts. there never
 can be a Genl. Govt. that will perform their Offices — I will go a proper length
 in favor of the Genl. Government but I will take equal care of the State Govts
 — we cannot form a perfect System — there will be faults — we can trust our
 successors with farther amendments —

Martin. Maryld. I think the Confederation was formed for [350] the protection
 & safety of the particular States & not for those of the US. I will not
 support the Genl. Govt. at the Expense of the particular States, but I will
 contend for the safety & happiness of the particular States at the Expense of
 the US —

One Br. or two Br — Sherman one is sufficient for confederated States —
 No precedent can be given of two Br. in the Govt. of confederated States —
 I am for an increase of the powers of Congress, & wish to preserve the State
 Governments, and am agt. a consolidation or Union — I think our Treaties wd.

be void if we change the nature of our Confederacy — they are all formed with the US of NH. M. &c —

Wilson The question is whether the Legislat. shall consist of one or two Brs

-
- 1 whether the Legis. of a single body
- 2 Whether it shall be elected by States or individuals —
- 3 & whether the states shall stand equal or the representation be proportionate to the Importance of the States —

The antient confedes. were formed in the infancy of politicks — they soon fell victims to the inefficacy of yr. organization — because they had but one Br. there is no reason to adopt their Example —

The Dutch & Swiss confederacys are presirved by external balances — the Germanic Confed: is preserved by the power & Dominion of the House of Austria — our equality of votes was an occasional Compact — the Great States conducted like the true mother in the controversy of the Harlots, they like her in the claim of her child gave their sovereignty to the small States rather than it shd. be destroyed by the British King —

(King's Diary (Max Farrand, 1911), Pages 349-350)

Lansing—moved that it be postponed to take up the following—”Resolved that the Powers of Legislation be vested in the United States in Congress.” Sherman seconded Motion. Explained Reasons why the Question on the Propositions from Jersey was not urged—It was brought forward to shew the general Principles on which we would determine. It was however found it could not discover Sentiments of Committee—this will bring it to a Point. I have urged two Reasons-1. Incompetency of Powers. 2. Public Mind not prep [ared?] The first—general Assertions have only been made that we have Powers—but most Gentlemen seem to have given it up—one Gentleman has offered the Mode of App[ointmen]t in two States as an Argument—Whatever Mode is adopted they are still Representatives of Sovereignties. Another Gentleman admits Incompetency of Powers but will step forward with a generous Confidence. To imitate him we must be convinced of Utility of System—We must be certain that it will secure important and equal Benefits to all. If destitute of these Convictions we should be Traitors to our Country. It is said to be unimportant because merely recommendatory. Let us examine some of Objections to vesting Powers in Congress. 1. Inequality of Representation—Britain has been instanced to prove Evils. So has R. Island. Neither of these applicable. The Boroughs contain few Inhabitants much impoverished—or the Property of some Man of large Estate. These easily corrupted but it is not from hence to be inferred that several Thousands can be corrupted with equal facility. Counties in England unequal in Extent Population and Wealth. No Complaints from that Source. Rhode Island acted without Confederation—She had a Right to deliberate and to dissent. But Congress represent State Interests and Prejudices. However Representation modified that will be the Case. One Branch appointed in same Mode—the second is intended to be composed of Men avowedly of a less liberal Turn— It has been said there can be no Inducements for large States to oppress small—If there are no seperate Interests why so solicitous ab[ou]t Represent[atio]n. The Share of Virginia to Deleware as 16 to 1 in Arithmetic Proportion—but in political as 40 to at least. This Legislature to legislate

in every Case—they cannot have the necessary Information. But Congress is more easily corrupted? To obviate this only one Observ [ation]. One appointed annually subject to recall—the other for 7 and 3 Years absolute. As long as State Sovereignities exist each much an equal Suffrage—this is equitable—it is necessary. On the new System cannot reason from Experience. Coercion—in both Systems equal as to their Objects.

Mason—Want of Power strong Objection if we could conclude. We ought to risk it—In Eventual Treaty with G. Britain our Commiss[ioners] did so—Met Approbation of their Country. No Gentleman can think Citizens of America will trust their Powers to one Set of Men—Will they trust to a Conclave, subject to Corruption— certainly not. In 1778, 79, and 80 Factions in Congress.—States have refused to give Congress Power because one Body, and not elected by the People. There will be no Coercion in this Government. He will not consent to Abolition of State Sovereignities.

Martin—The Legislatures have refused to give Congress Powers—no Objection could exist with them that People did not appoint. 10 States must be injured by App [ortionmen]t of Representation. Coercion as compleat in one System as the other. If U. S. only exercise Powers which are not Objects of Odium and leave the Residuum to the individual States they must become completely odious and the Consequence is evident.

Sherman—one Body is sufficient—the great States supposed themselves benefited by Confederacy—Virginia adopted it without a dissenting Vote— Massachusetts had no Objection. Would be content to have two Houses if one represented States.

W[ilso]n—We go contrary to the Principles of App [ortionmen]t if we submit to limit it to one Branch.

(Lansing's Notes (Joseph Strayer, 1939), Pages 71-75)

[e672462] and on the question to postpone

it passed in the negative. [Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

On the question for postponing in order to take up Mr. Lansings proposition “to vest the powers of Legislation in Congs.”

Masst. no. Cont. ay. N. Y. ay.13 N. J. ay. Pa. no. Del. ay Md. divd. Va. no. N. C. no. S. C. no. Geo. no [Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 344, Vol. 1)

Question then put on Mr. Lansing's motion and lost. — 6 states against 4 — one divided. New-York in the minority.

(Yates's Diary (Max Farrand, 1911), Page 349, Vol. 1)

On Question

6 Negative

Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia

Affirmative 4

Connecticut, New York, New Jersey, Delaware

Maryland divided

(Appendix D (Max Farrand, 1911), Page 75)

[e672463] It was then moved and seconded to adjourn.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

Upon the President's rising to put the Question on original Resolution Bedford moved an Adjournment.

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

[e672464] It was then moved and seconded to adjourn which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

Question 5 for-6 against it

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

[e672465] On motion of the Deputies of the State of Delaware the determination of the House on the second resolution reported from the Committee was postponed until to-morrow.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

The State of Delaware then put off Question—

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

[e672466] On motion of the Deputies of the State of Delaware the determination of the House on the second resolution reported from the Committee was postponed until to-morrow.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

The State of Delaware then put off Question—

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

[e737231] [T]he House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

adjd.

(Madison's Notes (Max Farrand, 1911), Page 344, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 349, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

[e737232] [T]he House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 1)

adjd.

(Madison's Notes (Max Farrand, 1911), Page 344, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 349, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 75)

1.33 Thursday, 21 June 1787, at 11:00 (s6220)

[e672467] William Paterson to Euphemia Paterson

Philada., 2d July, 1787

The Burlington court did not continue as long as I expected. I arrived here on Friday last, about 10 o'clock at night.

This letter will be handed to you by the Gov'r [Livingston], who will set out tomorrow. It is impossible to say when the Convention will rise; much remains to be done, and the work is full of labour and difficulty...

[Editors' note: It is clear from this letter that Paterson left the Convention for a short time and returned on 29 June. As the New Jersey delegation required three members to be present to be regarded as quorate, Paterson could only have left after Dayton arrived. As there is no evidence of him taking part in events at the Convention between those two dates, he has been shown as leaving at the earliest moment.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 143)

[e672468] The honorable Jonathan Dayton Esquire, a Deputy of the State of New Jersey, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

Mr. Jonathan Dayton from N. Jersey took his seat.

(Madison's Notes (Max Farrand, 1911), Page 354, Vol. 1)

[e672469] The honorable Jonathan Dayton Esquire, a Deputy of the State of New Jersey, attended and took his seat

The following credentials were produced and read.

(here insert Mr Dayton's credentials)

[Editors' note: Jackson notes Dayton's arrival at the Convention in the Journal. The text for the credentials comes from Farrand's Appendix B.]

(Appendix B (Max Farrand, 1911), Page 564, Vol. 3)

[e672470] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e738947] Doctr. Johnson. On a comparison of the two plans which had been proposed from Virginia & N. Jersey, it appeared that the peculiarity which characterized the latter was its being calculated to preserve the individuality of the States. The plan from Va. did not profess to destroy this individuality altogether, but was charged with such a tendency. One Gentleman alone (Col. Hamilton) in his animadversions on the plan of N. Jersey, boldly and decisively contended for an abolition of the State Govts. Mr. Wilson & the gentleman from Virga. who also were adversaries of the plan of N. Jersey held a different language. They wished to leave the States in possession of a considerable, tho' a subordinate jurisdiction. They had not yet however shewn how this cd. consist with, or be secured agst. the general sovereignty & jurisdiction, which they proposed to give to the national Government. If this could be shewn in such a manner as to satisfy the patrons of the N. Jersey propositions, that the individuality of the States would not be endangered, many of their objections would no doubt be removed. If this could not be shewn their objections would have their full force. He wished it therefore to be well considered whether in case the States, as was proposed, shd. retain some portion of sovereignty at least, this portion could be preserved, without allowing them to participate effectually in the Genl. Govt., without giving them each a distinct and equal vote for the purpose of defending themselves in the general Councils.

Mr. Wilson's respect for Dr. Johnson, added to the importance of the subject led him to attempt, unprepared as he was, to solve the difficulty which had been started. It was asked how the genl. Govt. and individuality of the particular States could be reconciled to each other; and how the latter could be secured agst. the former? Might it not, on the other side be asked how the former was to be secured agst. the latter? It was generally admitted that a jealousy & rivalry would be felt between the Genl. & particular Govts. As the plan now stood, tho' indeed contrary to his opinion, one branch of the Genl. — Govt. (the Senate or second branch) was to be appointed by the State Legislatures. The State Legislatures, therefore, by this participation in the Genl. Govt. would have an opportunity of defending their rights. Ought not a reciprocal opportunity to be given to the Genl. Govt. of defending itself by having an appointment of some one constituent branch of the State Govts. If a security be necessary on one side, it wd. seem reasonable to demand it on the other. But taking the matter in a more general view, he saw no danger to the States from the Genl. Govt. In case a combination should be made by the large ones it wd produce a general alarm among the rest; and the project wd. be frustrated. But there was no temptation to such a project. The States having in general a similar interest, in case of any proposition in the National Legislature to encroach on the State Legislatures, he conceived a general alarm wd. take place in the National Legislature itself, that it would communicate itself to the State Legislatures, and wd. finally spread among the people at large. The Genl. Govt. will be as ready to preserve the rights of the States as the latter are to preserve the rights of individuals; all the members of the former, having a common interest, as representatives of all the people of the latter, to

leave the State Govts. in possession of what the people wish them to retain. He could not discover, therefore any danger whatever on the side from which it had been apprehended. On the contrary, he conceived that in spite of every precaution the General Govt. would be in perpetual danger of encroachments from the State Govts.

Mr. Madison was of opinion that there was 1. less danger of encroachment from the Genl. Govt. than from the State Govts. 2. that the mischief from encroachments would be less fatal if made by the former, than if made by the latter. 1. All the examples of other confederacies prove the greater tendency in such systems to anarchy than to tyranny; to a disobedience of the members than to usurpations of the federal head. Our own experience had fully illustrated this tendency. — But it will be said that the proposed change in the principles & form of the Union will vary the tendency, that the Genl. Govt. will have real & greater powers, and will be derived in one branch at least from the people not from the Govts. of the States. To give full force to this objection, let it be supposed for a moment that indefinite power should be given to the Gen'l Legislature, and the States reduced to corporations dependent on the Genl. Legislature; why shd. it follow that the Gen'l Govt. wd. take from the States any branch of their power as far as its operation was beneficial, and its continuance desirable to the people? In some of the States, particularly in Connecticut, all the Townships are incorporated, and have a certain limited jurisdiction. Have the Representatives of the people of the Townships in the Legislature of the State ever endeavored to despoil the Townships of any part of their local authority? As far as this local authority is convenient to the people they are attached to it; and their representatives chosen by & amenable to them naturally respect their attachment to this, as much as their attachment to any other right or interest: The relation of a Genl. Govt. to State Govts. is parallel. 2. Guards were more necessary agst. encroachments of the State Govts. — on the Genl. Govt. than of the latter on the former. The great objection made agst. an abolition of the State Govts. was that the Genl. Govt. could not extend its care to all the minute objects which fall under the cognizance of the local jurisdictions. The objection as stated lay not agst. the probable abuse of the general power, but agst. the imperfect use that could be made of it throughout so great an extent of country, and over so great a variety of objects. As far as its operation would be practicable it could not in this view be improper; as far as it would be impracticable, the conveniency of the Genl. Govt. itself would concur with that of the people in the maintenance of subordinate Governments. Were it practicable for the Genl. Govt. to extend its care to every requisite object without the cooperation of the State Govts. the people would not be less free as members of one great Republic than as members of thirteen small ones. A citizen of Delaware was not more free than a citizen of Virginia: nor would either be more free than a citizen of America. Supposing therefore a tendency in the Genl. Government to absorb the State Govts. no fatal consequence could result. Taking the reverse of the supposition, that a tendency should be left in the State Govts. towards an independence on the General Govt. and the gloomy consequences need not be pointed out. The imagination of them, must have suggested to the States the experiment we are now making to prevent the calamity, and must have formed the chief motive with those present to undertake the arduous task.

(Madison's Notes (Max Farrand, 1911), Pages 354-358, Vol. 1)

Dr Johnson — It appears to me that the Jersey plan has for its principal object, the preservation of the state governments. So far it is a departure from the plan of Virginia, which although it concentrates in a distinct national government, it is not totally independent of that of the states. A gentleman from New-York, with boldness and decision, proposed a system totally different from both; and though he has been praised by every body, he has been supported by none. How can the state governments be secured on the Virginia plan? I could have wished, that the supporters of the Jersey system could have satisfied themselves with the principles of the Virginia plan and that the individuality of the states could be supported. It is agreed on all hands that a portion of government is to be left to the states. How can this be done? It can be done by joining the states in their legislative capacity with the right of appointing the second branch of the national legislature, to represent the states individually.

Mr. Wilson. If security is necessary to preserve the one, it is equally so to preserve the other. How can the national government be secured against the states? Some regulation is necessary. Suppose the national government had a component number in the state legislature? But where the one government clashed with the other, the state government ought to yield, as the preservation of the general interest must be preferred to a particular. But let us try to designate the powers of each, and then no danger can be apprehended nor can the general government be possessed of any ambitious views to encroach on the state rights.

Mr. Madison. I could have wished that the gentleman from Connecticut had more accurately marked his objections to the Virginia plan. I apprehended the greatest danger is from the encroachment of the states on the national government — This apprehension is justly founded on the experience of ancient confederacies, and our own is a proof of it.

The right of negating in certain instances the state laws, affords one security to the national government. But is the danger well founded? Have any state governments ever encroached on the corporate rights of cities? And if it was the case that the national government usurped the state government, if such usurpation was for the good of the whole, no mischief could arise. — To draw the line between the two, is a difficult task. I believe it cannot be done, and therefore I am inclined for a general government.

If we cannot form a general government, and the states become totally independent of each other, it would afford a melancholy prospect.

(Yates's Diary (Max Farrand, 1911), Pages 362-364, Vol. 1)

Johnson — The Gentleman from NYk is praised by every gentleman, but supported by no gentleman — He goes directly to ye abolition of the State Governts. and the erection of a Genl. Govt. — All other Gentlemen agree that the national or Genl. Govt. shd. be more powerful — & the State Govts. less so. Provision is made in the Virgina Project to secure the Genl. Govt: but no provision is made for the security of the State Government — The plan from N Jersey provides for the security of the State & Genl. Govt. — If the advocates for the Genl. Govt. agreeably to the Virgin. Plan can show that the State Govts. will be secure from the Genl. Govt. we may all agree —

Wilson — We have provided that the States or yr. Legislatures shall appt. a Brh. of the national Govt. let the Natl. Govt. have a reciprocal power to elect or appoint one Br. of each State Govt — I dont see how the State Govts will be endangered — what power will the states possess, which the Genl. Govt. will wish to possess? their powers if added wd. not be of any considerable consequence — the attempt, however to acquire these powers wd. alarm the Citizens, who gave them to the States individually, and never intended them for the Genl. Govt. — The people wd. not suffer it —

Madison — The history of antient Confedys. proves that there never has existed a danger of the destruction of the State Govts. by encroachments of the Genl. Govts the converse of the proposition is true — I have therefore been assiduous to guard the Genl. from the power of the State Governments — the State Govts. regulate the conduct of their Citizens, they punish offenders — they cause Justice to be administered and do those arts wh endear the Govt. to its Citizens. The Citizens will not therefore suffer the Genl. Govt. to injure the State Govts —

(King's Diary (Max Farrand, 1911), Pages 366-367, Vol. 1)

Johnson—Individuality of States ought to be preserved—you deposit Aristocratic and democratic Power in different Bodies—And we can deposit more but then let one Branch represent Sovereignities.

Wilson—As States represented Individually—their Sovereignty to be preserved—Quantum of Power preserved in smaller States as comprehensive as in larger—It will be the Interest of all to represent general Government if Interest of any—of Consequence they will co-operate. Madison—Legislature of States have not shewn Disposition to deprive Corporations of Priviledges—Why should they here.

(Lansing's Notes (Joseph Strayer, 1939), Page 76)

[e737233] It was moved and seconded to agree to the second resolution reported from the Committee, namely,

Resolved that the Legislature consist of
Two Branches.

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

[e737234] It was moved and seconded to agree to the second resolution reported from the Committee, namely,

Resolved that the Legislature consist of
Two Branches.
which passed in the affirmative. [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

On the question for resolving “that the Legislature ought to consist of two Branches”

Mass ay. Cont. ay. N. Y. no. N. Jersey no 7 Pa. ay. Del. no. Md. divid.
Va. ay. N. C. ay. S. C. ay. Geo. ay [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 1)

The 2d resolve was then put and carried — 7 states for — 3 against — one divided. New-York in the minority.

(Yates's Diary (Max Farrand, 1911), Page 364, Vol. 1)

The Convention agreed yt the Legislature shd. consist of two Brs —

(King's Diary (Max Farrand, 1911), Page 367, Vol. 1)

Question carried d[ivide]d as Yesterday.

(Lansing's Notes (Joseph Strayer, 1939), Page 76)

[e672473] The third resolution of the Report taken into consideration.

[Editors' note: In order to show how the resolution was debated and reconstructed clause by clause, the editors have added a working version of the Third Resolution.]

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 1)

The 3d resolve was then taken into consideration by the convention.

(Yates's Diary (Max Farrand, 1911), Page 364, Vol. 1)

[e672474] [Editors' note: The records indicate that the Convention took the first clause of the Third Resolution into consideration.]

(2019 Editors)

[e672475] Genl. Pinkney moved "that the 1st. branch, instead of being elected by the people, shd. be elected in such manner as the Legislature of each State should direct." He urged 1. that this liberty would give more satisfaction, as the Legislature could then accomodate the mode to the conveniency & opinions of the people. 2. that it would avoid the undue influence of large Counties which would prevail if the elections were to be made in districts as must be the mode intended by the Report of the Committee. 3. that otherwise disputed elections must be referred to the General Legislature which would be attended with intolerable expence and trouble to the distant parts of the republic.

Mr. L. Martin seconded the Motion.

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 1)

It was moved and seconded to amend the first clause of the 3rd resolution reported from the Committee so as to read

Resolved that the Members of the first branch of the Legislature ought to be appointed in such manner as the Legislature of each State shall direct

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

Mr. Pinkney. I move that the members of the first branch be appointed in such manner as the several state legislatures shall direct, instead of the mode reported. If this motion is not agreed to, the other will operate with great difficulty, if not injustice — If you make district elections and join, as I presume you must, many counties in one district, the largest county will carry the election as its united influence will give a decided majority in its favor.

(Yates's Diary (Max Farrand, 1911), Page 364, Vol. 1)

The Delegates of So. Car. moved yt. the Election of the Members of the House shd. be agreeable to such mode as the several Legislatures shd. judge proper

(King's Diary (Max Farrand, 1911), Page 367, Vol. 1)

Mr. Pinckney is of opinion that the first branch ought to be appointed in such manner as the legislatures shall direct

Impracticable for general legislature to decide contested elections —

(Hamilton's Notes (Max Farrand, 1911), Page 368, Vol. 1)

C. C. Pinkney moves that 3rd Resolve be so altered as to read ought to be appointed in such Manner as the several Legislatures shall direct—he supposes this will give greater Satisfaction to the People.

(Lansing's Notes (Joseph Strayer, 1939), Page 76)

[e672477] Col. Hamilton considered the motion as intended manifestly to transfer the election from the people to the State Legislatures, which would essentially vitiate the plan. It would increase that State influence which could not be too watchfully guarded agst. All too must admit the possibility, in case the Genl. Govt. shd. maintain itself, that the State Govts. might gradually dwindle into nothing. The system therefore shd. not be engrafted on what might possibly fail.

Mr. Mason urged the necessity of retaining the election by the people. Whatever inconveniency may attend the democratic principle, it must actuate one part of the Govt. It is the only security for the rights of the people.

Mr. Sherman, would like an election by the Legislatures, best, but is content with plan as it stands.

Mr. Rutledge could not admit the solidity of the distinction between a mediate & immediate election by the people. It was the same thing to act by oneself, and to act by another. An election by the Legislature would be more refined than an election immediately by the people: and would be more likely to correspond with the sense of the whole community. If this Convention had been chosen by the people in districts it is not to be supposed that such proper characters would have been preferred. The Delegates to Congs. he thought had also been fitter men than would have been appointed by the people at large.

Mr. Wilson considered the election of the 1st. branch by the people not only as the corner Stone, but as the foundation of the fabric: and that the difference between a mediate and immediate election was immense. The difference was particularly worthy of notice in this respect: that the Legislatures are actuated

not merely by the sentiment of the people, but have an official sentiment opposed to that of the Genl: Govt. and perhaps to that of the people themselves.

Mr. King enlarged on the same distinction. He supposed the Legislatures wd. constantly choose men subservient to their own views as contrasted to the general interest; and that they might even devise modes of election that wd. be subversive of the end in view. He remarked several instances in which the views of a State might be at variance with those of the Gen'l. Govt. and mentioned particularly a competition between the National & State debts, for the most certain & productive funds.

Genl. Pinkney was for making the State Govts. a part of the General System. If they were to be abolished, or lose their agency, S. Carolina & other States would have but a small share of the benefits of Govt.

(Madison's Notes (Max Farrand, 1911), Pages 358-360, Vol. 1)

Mr. Madison. I oppose the motion — there are difficulties, but they may be obviated in the details connected with the subject.

Mr. Hamilton. It is essential to the democratic rights of the community, that this branch be directly elected by the people. Let us look forward to probable events — There may be a time when state legislatures may cease, and such an event ought not to embarrass the national government.

Mr. Mason. I am for preserving inviolably the democratic branch of the government — True, we have found inconveniencies from pure democracies; but if we mean to preserve peace and real freedom, they must necessarily become a component part of a national government. Change this necessary principle, and if the government proceeds to taxation, the states will oppose your powers.

Mr. Sherman thought that an amendment to the proposed amendment is necessary.

Gov. Rutledge. It is said that an election by representatives is not an election by the people. This proposition is not correct. What is done by my order is done by myself. I am convinced that the mode of election by legislatures will be more refined, and better men will be sent.

Mr. Wilson. The legislature of the states by the proposed motion will have an uncontrollable sway over the general government. Election is the exercise of original sovereignty in the people — but if by representatives, it is only relative sovereignty.

Mr. King. The magistrates of the states will ever pursue schemes of their own, and this, on the proposed motion, will pervade the national government — and we know the state governments will be ever hostile to the general government.

Mr. Pinkney. All the reasoning of the gentlemen opposed to my motion has not convinced me of its impropriety. There is an esprit de corps which has made heretofore every unfederal member of congress, after his election, become strictly federal, and this I presume will ever be the case in whatever manner they may be elected.

(Yates's Diary (Max Farrand, 1911), Pages 364-365, Vol. 1)

Wilson & Madison Agt. the Election by the Legislatures and in favor of one by the People — the Election by the States will introduce a State Influence, their interest will oppose yt of the Genl. Govt: the Legislators will be not only

Electors of the members of the House, — but they will manage the affairs of the States — The mode of Election may be essential to the Election, this may be different in the several States — if the Legislatures appt. they will instruct, and thereby embarrass the Delegate — not so if the Election is by the people — there will be no difficulty in yr. Election. the Returns may be made to the Legislatures of the several States — They may judge of contested Elections

(King's Diary (Max Farrand, 1911), Page 367, Vol. 1)

Hamilton—If you permit Legislatures to elect you will have State Interests represented.

Govr. Rutlege—Legislatures of States ought to appoint—The Representation will be more refined—Whether the People elect themselves or appoint others to elect substantially the same.

Wilson—Official State Influence will defeat the Object of national Government if Election by Legislatures.

King—same Sentiment differently expressed.

(Lansing's Notes (Joseph Strayer, 1939), Pages 76-77)

[e672478] On the question to agree to the amendment

it passed in the negative [Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

On the question for Genl. Pinkney motion to substitute election of 1st branch in such mode as the Legislatures should appoint, in stead of its being elected by the people

Masst. no. Cont. ay. N. Y. no. N. J. ay. Pa. no. Del. ay. Md. divd. Va. no. N. C. no. S. C. ay Geo. no. [Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 360, Vol. 1)

Question put on Mr. Pinkney's motion and carried by 6 states against 4 — one divided.

(Yates's Diary (Max Farrand, 1911), Page 365, Vol. 1)

On the Quest. 4 ay 1 divd. 6 no —

(King's Diary (Max Farrand, 1911), Page 367, Vol. 1)

Question—Negative—Massachusetts, New York, Pennsylvania, North Carolina, Georgia.

Affirmative—Connecticut, New Jersey, Delaware, South Carolina.

Maryland divided.

N. B. Judge Yates and Colo[nel] Hamilton in Negative—I was for Affirmative.

(Lansing's Notes (Joseph Strayer, 1939), Page 77)

[e672479] Genl. Pinkney then moved that the 1st. branch be elected by the people in such mode as the Legislatures should direct; but waved it on its being hinted that such a provision might be more properly tried in the detail of the plan.

[Editors' note: There is no record of the exact text for this amendment, so the editors have recreated it using the previous amendment as a guide.]

(Madison's Notes (Max Farrand, 1911), Page 360, Vol. 1)

[e672480] Genl. Pinkney then moved that the 1st. branch be elected by the people in such mode as the Legislatures should direct; but waved it on its being hinted that such a provision might be more properly tried in the detail of the plan.

(Madison's Notes (Max Farrand, 1911), Page 360, Vol. 1)

[e733963] It was then moved and seconded to agree to the first clause of the third resolution as reported from the Committee, namely,

Resolved that the Members of the first branch of the Legislature ought to be elected by the People of the several States.

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

[e733964] It was then moved and seconded to agree to the first clause of the third resolution as reported from the Committee, namely,

Resolved that the Members of the first branch of the Legislature ought to be elected by the People of the several States.

which passed in the affirmative [Ayes — 9; noes — 1; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 1)

On the question for ye election of the 1st branch by the people”

Massts. ay. Cont. ay. N. Y. ay. N. J. no. Pa. ay. Del. ay. Md. divd. Va. ay. N. C. ay. S. C. ay Geo. ay. [Ayes — 9; noes — 1; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 360, Vol. 1)

Question then put on the resolve — 9 states for — 1 against — one divided.

(Yates's Diary (Max Farrand, 1911), Page 365, Vol. 1)

[e672482] Election of the 1st. branch “for the term of three years,” considered

(Madison's Notes (Max Farrand, 1911), Page 360, Vol. 1)

[e672483] It was moved and seconded to erase the word

“three” from the second clause of the third resolution, reported from the Committee

[Editors' note: Madison and Yates not only provide Randolph as the proposer of this motion but also record the motions to strike through 'three' and insert 'two' as being proposed together but voted on separately. The Journal notes them as being proposed separately and voted on separately, which is the most logical way to represent these changes in the timeline.]

(Official Journal (Max Farrand, 1911), Pages 353-354, Vol. 1)

[e672484] It was moved and seconded to erase the word
 “three” from the second clause of the third resolution, reported from the
 Committee
 which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Pages 353-354, Vol. 1)

On the question for striking out “three years”
 Massts. ay. Cont. ay. N. Y. no. N J. divd. Pa. ay. Del. no. Md. no. Va.
 ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 362, Vol. 1)

[e672485] It was moved and seconded to insert the word
 “Two” in the second clause of the third resolution reported from the Com-
 mittee.

(Official Journal (Max Farrand, 1911), Page 354, Vol. 1)

Mr. Randolph moved to strike out, “three years” and insert “two years”

(Madison’s Notes (Max Farrand, 1911), Page 360, Vol. 1)

Gov. Randolph. I move that in the resolve for the duration of the first branch
 of the general legislature, the word three be expunged, and the words two years
 be inserted.

(Yates’s Diary (Max Farrand, 1911), Page 365, Vol. 1)

Randolph moved to obliterate three Years and insert two.

(Lansing’s Notes (Joseph Strayer, 1939), Page 77)

[e672486] [H]e [Randolph] was sensible that annual elections were a source of
 great mischiefs in the States, yet it was the want of such checks agst. the popular
 intemperance as were now proposed, that rendered them so mischievous. He
 would have preferred annual to biennial, but for the extent of the U. S. and
 the inconveniency which would result from them to the representatives of the
 extreme parts of the Empire. The people were attached to frequency of elections.
 All the Constitutions of the States except that of S. Carolina, had established
 annual elections.

Mr. Dickenson [sic]. The idea of annual elections was borrowed from the
 antient usage of England, a country much less extensive than ours. He supposed
 biennial would be inconvenient. He preferred triennial: and in order to prevent
 the inconveniency of an entire change of the whole number at the same moment,
 suggested a rotation, by an annual election of one third.

(Madison’s Notes (Max Farrand, 1911), Pages 360-361, Vol. 1)

Mr. Dickinson. I am against the amendment. I propose that the word three
 shall remain, but that they shall be removable annually in classes.

(Yates's Diary (Max Farrand, 1911), Page 365, Vol. 1)

Dickerson — annual Elections are favorite ideas in America — it suits Eng. they are a small Country — Annual or biennial or triennial are too short for America — I wd. agree on classing the house — let the Election be for 3 yrs and go out & come in annually —

(King's Diary (Max Farrand, 1911), Page 368, Vol. 1)

[e672487] Mr. Elsworth was opposed to three years. supposing that even one year was preferable to two years. The people were fond of frequent elections and might be safely indulged in one branch of the Legislature. He moved for 1 year.

Mr. Strong seconded & supported the motion.

(Madison's Notes (Max Farrand, 1911), Page 361, Vol. 1)

Elsworth & Strong — The fixed habit throughout our country except So. Carolina is in favor of annual Elections —

(King's Diary (Max Farrand, 1911), Page 368, Vol. 1)

[e672488] Mr. Wilson being for making the 1st. branch an effectual representation of the people at large, preferred an annual election of it. This frequency was most familiar & pleasing to the people. It would be not more inconvenient to them, than triennial elections, as the people in all the States have annual meetings with which the election of the National representatives might be made to coin — side. He did not conceive that it would be necessary for the Natl. Legisl: to sit constantly; perhaps not half — perhaps not one fourth of the year.

Mr. Madison was persuaded that annual elections would be extremely inconvenient and apprehensive that biennial would be too much so: he did not mean inconvenient to the electors; but to the representatives. They would have to travel seven or eight hundred miles from the distant parts of the Union; and would probably not be allowed even a reimbursement of their expences. Besides, none of those who wished to be re-elected would remain at the seat of Governmt. confiding that their absence would not affect them. The members of Congs. had done this with few instances of disappointment. But as the choice was here to be made by the people themselves who would be much less complaisant to individuals, and much more susceptible of impressions from the presence of a Rival candidate than the Legislatures had been, it must be supposed that the members from the most distant States would travel backwards & forwards at least as often as the elections should be repeated. Much was to be said also on the time requisite for new members who would always form a large proportion, to acquire that knowledge of the affairs of the States in general without which their trust could not be usefully discharged.

Mr. Sherman preferred annual elections, but would be content with biennial. He thought the representatives ought to return home and mix with the people. By remaining at the seat of Govt. they would acquire the habits of the place which might differ from those of their Constituents.

Col. Mason observed that the States being differently situated such a rule ought to be formed as would put them as nearly as possible on a level. If

elections were annual the middle States would have a great advantage over the extreme ones. He wished them to be biennial; and the rather as in that case they would coincide with the periodical elections of S. Carolina as well as of the other States.

Coll. Hamilton urged the necessity of 3 years. there ought to be neither too much nor too little dependence, on the popular sentiments. The checks in the other branches of Govern't. would be but feeble, and would need every auxiliary principle that could be interwoven. The British House of Commons were elected septennially, yet the democratic spirit of ye Constitution had not ceased. Frequency of elections tended to make the people listless to them; and to facilitate the success of little cabals. This evil was complained of in all the States. In Virga. it had been lately found necessary to force the attendance & voting of the people by severe regulations.

(Madison's Notes (Max Farrand, 1911), Pages 361-362, Vol. 1)

Mr. Sherman. I am for one year. Our people are accustomed to annual elections. Should the members have a longer duration of service, and remain at the seat of government, they may forget their constituents, and perhaps imbibe the interest of the state in which they reside, or there may be danger of catching the esprit de corps.

Mr. Mason. I am for two years. One year is too short. — In extensive states four months may elapse before the returns can be known, Hence the danger of their remaining too long unrepresented.

Mr. Hamilton. There is a medium in every thing. I confess three years is not too long — A representative ought to have full freedom of deliberation, and ought to exert an opinion of his own. I am convinced that the public mind will adopt a solid plan — The government of New-York, although higher toned than that of any other state, still we find great listlessness and indifference in the electors; nor do they in general bring forward the first characters to the legislature. The public mind is perhaps not now ready to receive the best plan of government, but certain circumstances are now progressing which will give a different complexion to it.

(Yates's Diary (Max Farrand, 1911), Pages 365-366, Vol. 1)

Wilson — Agrees in annual Elections —

Mason — I dont see but that an annual Election will give an advantage to some States over the others — in Virginia & Georgia from the sparse and remote situation of the Inhabitants, we cd. not ascertain the persons elected under three years — The States wh are most compact will be first on the Floor and those of the extensive States will be absent — Remark let the election be previous three or 6 months to the time of meeting —

Hamilton — I prefer three years to a longer or shorter duration — three soon becomes two & two one — The Dependence is sufficient, & the independence is as little as it ought to be —

(King's Diary (Max Farrand, 1911), Page 368, Vol. 1)

Sherman—for one Year—By suffering them to remain three Years they accommodate their Sentiments to those with whom they associate—they must be

obliged to return Home every Year to remind them of what they owe their Constituents.

Mason—By having annual Elections remote States would generally be unrepresented in Beginning of Sessions.

Hamilton—The Opinion of the People is fluctuating—You must exercise your Judgment, convinced that the Pressure of unavoidable Circumstances will direct the public Mind.

Listlessness prevails in New York on Acc[oun]t of annual Election— Consequence is that Factions are represented in that Government.

(Lansing's Notes (Joseph Strayer, 1939), Pages 77-78)

[e672489] It was moved and seconded to insert the word

“Two” in the second clause of the third resolution reported from the Committee.

which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 354, Vol. 1)

The motion for “two years.” was then inserted nem. con.

(Madison's Notes (Max Farrand, 1911), Page 362, Vol. 1)

Two years duration agreed to.

(Yates's Diary (Max Farrand, 1911), Page 366, Vol. 1)

[e672490] [Editors' note: As the Convention voted to adopt Randolph's motion for three years, Ellsworth's motion for one year has been represented as dropped.]

(2019 Editors)

[e672491] [Editors' note: In the following session, the Convention moved on to consideration of the third clause of the Third Resolution. It seems, then, that the amended version of the second clause was taken into the working document.]

(2019 Editors)

[e672492] and then the House adjourned till to-morrow at 11 o'Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 354, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 362, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 366, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 78)

[e672493] and then the House adjourned till to-morrow at 11 o’Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 354, Vol. 1)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 362, Vol. 1)

Adjourned till to-morrow morning.

(Yates’s Diary (Max Farrand, 1911), Page 366, Vol. 1)

Adjourned till to Morrow.

(Lansing’s Notes (Joseph Strayer, 1939), Page 78)

1.34 Friday, 22 June 1787, at 11:00 (s6221)

[e672494] The clause in Resol. 3 “to receive fixed stipends to be paid out of the Nationl. Treasury” considered.

(Madison’s Notes (Max Farrand, 1911), Page 371, Vol. 1)

The clause of the 3d resolve, respecting the stipends, taken into consideration.

(Yates’s Diary (Max Farrand, 1911), Page 377, Vol. 1)

[e672495] It was moved and seconded to strike the following words out of the 4th clause in the 3rd resolution reported from the Committee namely

“To be paid out of the public treasury”

[Editors’ note: Madison indicates that Ellsworth moved this amendment. While Madison suggests that some different text was substituted for the words that were struck out, it is not clear what this text was. For this reason, the editors have followed the Journal’s motion – which Yates corroborates – to simply strike out the words.]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

Mr. Elseworth, moved to substitute payment by the States out of their own Treasurys

(Madison’s Notes (Max Farrand, 1911), Page 371, Vol. 1)

Judge Ellsworth. I object to this clause. I think the state legislatures ought to provide for the members of the general legislature, and as each state will have a proportionate number, it will not be burthensome to the smaller states. I therefore move to strike out the clause.

(Yates’s Diary (Max Farrand, 1911), Page 377, Vol. 1)

[e672496] Mr. Elseworth, moved to substitute payment by the States out of their own Treasuries: observing that the manners of different States were very different in the Stile of living and in the profits accruing from the exercise of like talents. What would be deemed therefore a reasonable compensation in some States, in others would be very unpopular, and might impede the system of which it made a part.

Mr. Williamson favored the idea. He reminded the House of the prospect of new States to the Westward. They would be poor — would pay little into the common Treasury — and would have a different interest from the old States. He did not think therefore that the latter ought to pay the expences of men who would be employed in thwarting their measures & interests.

Mr. Ghorum, wished not to refer the matter to the State Legislatures who were always paring down salaries in such a manner as to keep out of offices men most capable of executing the functions of them. He thought also it would be wrong to fix the compensations by the constitution, because we could not venture to make it as liberal as it ought to be without exciting an enmity agst. the whole plan. Let the Natl. Legisl: provide for their own wages from time to time; as the State Legislatures do. He had not seen this part of their power abused, nor did he apprehend an abuse of it.

Mr. Randolph feared we were going too far, in consulting popular prejudices. Whatever respect might be due to them, in lesser matters, or in cases where they formed the permanent character of the people, he thought it neither incumbent on nor honorable for the Convention, to sacrifice right & justice to that consideration. If the States were to pay the members of the Natl. Legislature, a dependence would be created that would vitiate the whole System. The whole nation has an interest in the attendance & services of the members. The National Treasury therefore is the proper fund for supporting them.

Mr. King, urged the danger of creating a dependence on the States by leavg. to them the payment of the members of the Natl. Legislature. He supposed it wd. be best to be explicit as to the compensation to be allowed. A reserve on that point, or a reference to the Natl. Legislature of the quantum, would excite greater opposition than any sum that would be actually necessary or proper.

Mr. Sherman contended for referring both the quantum and the payment of it to the State Legislatures.

Mr. Wilson was agst. fixing the compensation as circumstances would change and call for a change of the amount. He thought it of great moment that the members of the Natl. Govt. should be left as independent as possible of the State Govts. in all respects.

Mr. Madison concurred in the necessity of preserving the compensations for the Natl. Govt. independent on the State Govts. but at the same time approved of fixing them by the constitution, which might be done by taking a standard which wd. not vary with circumstances. He disliked particularly the policy suggested by Mr. Wiliamson of leaving the members from the poor States beyond the Mountains, to the precarious & parsimonious support of their constituents. If the Western States hereafter arising should be admitted into the Union, they ought to be considered as equals & as brethren. If their representatives were to be associated in the Common Councils, it was of common concern that such provisions should be made as would invite the most capable and respectable characters into the service.

Mr. Hamilton apprehended inconveniency from fixing the wages. He was

strenuous agst. making the National Council dependent on the Legislative rewards of the States. Those who pay are the masters of those who are paid. Payment by the States would be unequal as the distant States would have to pay for the same term of attendance and more days in travelling to & from the seat of the Govt. He expatiated emphatically on the difference between the feelings & views of the people — & the Governments of the States arising from the personal interest & official inducements which must render the latter unfriendly to the Genl. Govt.

(Madison's Notes (Max Farrand, 1911), Pages 371-373, Vol. 1)

Mr. Gorham. If we intend to fix the stipend, it may be an objection against the system, as the states would never adopt it. I join in sentiment to strike out the whole.

Gov. Randolph. I am against the motion. Are the members to be paid? Certainly — We have no sufficient fortunes to induce gentlemen to attend for nothing. If the state legislatures pay the members of the national council, they will controul the members, and compel them to pursue state measures. I confess the payment will not operate impartially, but the members must be paid, and be made easy in their circumstances. Will they attend the service of the public without being paid?

Mr. Sherman. The states ought to pay their members; and I judge of the approbation of the people on matters of government by what I suppose they will approve.

Mr. Wilson. — I am against going as far as the resolve. If, however, it is intended to throw the national legislature into the hand of the states, I shall be against it. It is possible the states may become unfederal, and they may then shake the national government. The members ought to be paid out of the national treasury.

Mr. Madison. Our attention is too much confined to the present moment, when our regulations are intended to be perpetual. Our national government must operate for the good of the whole, and the people must have a general interest in its support; but if you make its legislators subject to and at the mercy of the state governments, you ruin the fabric — and whatever new states may be added to the general government the expence will be equally borne.

Mr. Hamilton. I do not think the states ought to pay the members, nor am I for a fixed sum. It is a general remark, that he who pays is the master. If each state pays its own members, the burthen would be disproportionate, according to the distance of the states from the seat of government. If a national government can exist, members will make it a desirable object to attend, without accepting any stipend — and it ought to be so organized as to be efficient.

(Yates's Diary (Max Farrand, 1911), Pages 377-378, Vol. 1)

[e672497] [To strike out the 3 clause in ye 3 resolution — to substitute “their stipends to be ascertained by the Legislature to be paid out of the pub: treasury Ayes — 2; noes — 7; divided — 2.]

[Editors' note: Though Farrand places this vote at the beginning of Jackson's Journal entry for this day, both Madison and Yates attest that it took place in the midst of the discussion of whether to strike out 'to be paid out of the National-Treasury.' After this motion by Wilson was voted down, discussion

diverged from Ellsworth's original motion until Rutledge moved that a vote be taken on it.]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

Mr. Wilson moved that the salaries of the 1st. branch "be ascertained by the National Legislature," and be paid out of the Natl. Treasury.

(Madison's Notes (Max Farrand, 1911), Page 373, Vol. 1)

Mr. Wilson. I move that the stipend be ascertained by the legislature and paid out of the national treasury.

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

[e672498] Mr. Madison, thought the members of the Legisl. too much interested to ascertain their own compensation. It wd. be indecent to put their hands into the public purse for the sake of their own pockets.

(Madison's Notes (Max Farrand, 1911), Pages 373-374, Vol. 1)

Mr. Madison. I oppose this motion. Members are too much interested in the question. Besides, it is indecent that the legislature should put their hands in the public purse to convey it into their own.

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

[e672499] To strike out the 3 clause in ye 3 resolution — to substitute "their stipends to be ascertained by the Legislature to be paid out of the pub: treasury." [Ayes — 2; noes — 7; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

On this question Mas. no. Con. no. N. Y. divd. N. J. ay. Pa. ay. Del. no. Md. no. Va. no. N. C. no S. C. no Geo. divd. [Ayes — 2; noes — 7; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

Question put on Mr. Wilson's motion and negatived — 7 states against — 2 for, and 2 divided.

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

[e672500] Mr. Mason moved to change the phraseology of the resolve, that is to say, to receive an adequate compensation for their services, and to be paid out of the treasury.

[Editors' note: At this point, Madison notes the discussion returning to Ellsworth's motion. Farrand, however, notes some inconsistencies in Madison's text that are likely the result of poor copying from Yates' account. All of which leads Farrand to suggest that Madison 'missed this part of the proceedings' (Page 374, Vol. 1, Madison's Notes (Max Farrand, 1911)). The editors have judged Yates' notes more reliable in this instance.]

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

It was moved and seconded to strike the following words out of the 3rd resolution reported from the committee, namely

“to receive fixed stipends by which they may be compensated for the devotion of their time to public service” and to substitute the following clause, namely
 “to receive an adequate compensation for their services”

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

On a question for substituting “adequate compensation” in place of “fixt Stipends” it was agreed to nem. con. the friends of the latter being willing that the practicability of fixing the compensation should be considered hereafter in forming the details.

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e672501] On the question to agree to the amendment
 it passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

On a question for substituting “adequate compensation” in place of “fixt Stipends” it was agreed to nem. con. the friends of the latter being willing that the practicability of fixing the compensation should be considered hereafter in forming the details.

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

This motion was agreed to.

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

[e672502] Mr. Rutledge. I move that the question be taken on these words, to be paid out of the national treasury.

(Yates's Diary (Max Farrand, 1911), Page 378, Vol. 1)

[e672503] On the question for striking out “Natl. Treasury” as moved by Mr. Ellsworth

[Editors' note: Though there is no record of a vote, the Convention resumed discussion of Ellsworth's motion, and a vote was soon held. The editors therefore assume that Rutledge's motion was agreed.]

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e672504] Mr. Hamilton. It has been often asserted, that the interests of the general and of the state legislatures are precisely the same. This cannot be true. The views of the governed are often materially different from those who govern. The science of policy is the knowledge of human nature. A state government will ever be the rival power of the general government. It is therefore highly improper that the state legislatures should be the paymasters of the members

of the national government. All political bodies love power, and it will often be improperly attained.

Judge Elsworth. If we are so exceedingly jealous of state legislatures, will they not have reason to be equally jealous of us. If I return to my state and tell them, we made such and such regulations for a general government, because we dared not trust you with any extensive powers, will they be satisfied? nay, will they adopt your government? and let it ever be remembered, that without their approbation your government is nothing more than a rope of sand.

Mr. Wilson. I am not for submitting the national government to the approbation of the state legislatures. I know that they and the state officers will oppose it. I am for carrying it to the people of each state.

(Yates's Diary (Max Farrand, 1911), Pages 378-379, Vol. 1)

Mr. Hamilton renewed his opposition to it. He pressed the distinction between State Govts. & the people. The former wd. be the rivals of the Gen'l Govt. The State legislatures ought not therefore to be the pay masters of the latter.

Mr. Elsworth. If we are jealous of the State Govts. they will be so of us. If on going home I tell them we gave the Gen: Govt. such powers because we cd. not trust you. — will they adopt it. & wihth. yr. approbation it is a nullity.

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e672505] Mr. Rutledge's motion was then put — 4 states for the clause — 5 against — 2 states divided. New-York divided.

(Yates's Diary (Max Farrand, 1911), Page 379, Vol. 1)

On the question to strike out the words
it passed in the negative [Ayes — 4; noes — 5; divided — 2]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

Masts. ay. Cont. ay. N. Y. divd. N. J. no. Pena. no. Del. no. Md. no. Va. no, N. C. ay. S. C. ay. Geo. divd. [Ayes — 4; noes — 5; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e737265] It was then moved and seconded to take the vote of the House on the whole proposition namely

“To receive an adequate compensation for their services, to be paid out of the public Treasury.”

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

It was then moved by Mr. Butler that a question be taken on both points jointly; to wit “adequate compensation to be paid out of the Natl. Treasury.”

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e672506] It was then moved and seconded to take the vote of the House on the whole proposition namely

“To receive an adequate compensation for their services, to be paid out of the public Treasury.”

An objection of order being taken to this motion — it was submitted to the House.

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

It was then moved by Mr. Butler that a question be taken on both points jointly; to wit “adequate compensation to be paid out of the Natl. Treasury.” It was objected to as out of order, the parts having been separately decided on. The Presidt. referd. the question of order to the House

(Madison’s Notes (Max Farrand, 1911), Page 374, Vol. 1)

[e672507] On the question is the motion in order

it passed in the affirmative. [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 369, Vol. 1)

The Presidt. referd. the question of order to the House, and it was determined to be in order. Con. N. J. Del. Md. N. C. — ay — N. Y. Pa. Va. Geo. no — Mass: divided.

(Madison’s Notes (Max Farrand, 1911), Pages 374-375, Vol. 1)

[e737280] The determination of the House on the whole proposition was, on motion of the Deputies of the State of South Carolina, postponed till to-morrow.

(Official Journal (Max Farrand, 1911), Pages 369-370, Vol. 1)

The question on the sentence was then postponed by S. Carolina in right of the State.

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 1)

[e737283] The determination of the House on the whole proposition was, on motion of the Deputies of the State of South Carolina, postponed till to-morrow.

(Official Journal (Max Farrand, 1911), Pages 369-370, Vol. 1)

The question on the sentence was then postponed by S. Carolina in right of the State.

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 1)

[e672509] It was moved and seconded to add the following clause to the 3rd resolution

to be of the age of 25 years at least.

[Editors’ note: Both Madison and Yates record Mason as the proposer.]

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

Col. Mason moved to insert “twenty five years of age as a qualification for the members of the 1st. branch”.

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 1)

Mr. Mason moved that after the words, two years, be added, and to be of the age of 25 years.

(Yates’s Diary (Max Farrand, 1911), Page 379, Vol. 1)

[e672510] He [Mason] thought it absurd that a man to day should not be permitted by the law to make a bargain for himself, and tomorrow should be authorized to manage the affairs of a great nation. It was the more extraordinary as every man carried with him in his own experience a scale for measuring the deficiency of young politicians; since he would if interrogated be obliged to declare that his political opinions at the age of 21. were too crude & erroneous to merit an influence on public measures. It had been said that Congs. had proved a good school for our young men. It might be so for any thing he knew but if it were, he chose that they should bear the expence of their own education.

Mr. Wilson was agst. abridging the rights of election in any shape. It was the same thing whether this were done by disqualifying the objects of choice, or the persons chusing. The motion tended to damp the efforts of genius, and of laudable ambition. There was no more reason for incapacitating youth than age, when the requisite qualifications were found. Many instances might be mentioned of signal services rendered in high stations to the public before the age of 25: The present Mr. Pitt and Lord Bolingbroke were striking instances.

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 1)

[e672511] It was moved and seconded to add the following clause to the 3rd resolution

to be of the age of 25 years at least.

which passed in the affirmative. Ayes — 7; noes — 3; divided — 1.

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

On the question for inserting “25 years of age”

Massts. no. Cont. ay. N. Y. divd. N. J. ay. Pa. no. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 7; noes — 3; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 1)

Mr. Mason moved that after the words, two years, be added, and to be of the age of 25 years.

Question put and agreed to — 7 ayes — 3 noes. New-York divided.

(Yates’s Diary (Max Farrand, 1911), Page 379, Vol. 1)

[e672512] [Editors’ note: At this point, the Convention began to debate and amend the last clause of the Third Resolution, a lengthy clause relating to ineligibility to public office.]

(2019 Editors)

[e672513] Mr. Ghorum moved to strike out the last member of 3 Resol: concerning ineligibility of members of 1st branch to offices, during the term of their membership & for one year after. He considered it as unnecessary & injurious. It was true abuses had been displayed in G. B. but no one cd. say how far they might have contributed to preserve the due influence of the Gov't nor what might have ensued in case the contrary theory had been tried.

(Madison's Notes (Max Farrand, 1911), Pages 375-376, Vol. 1)

It was moved and seconded to strike out the following words in the last clause of the 3rd resolution

"and under the national government for the space of One year after it's expiration"

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

Mr. Gorham. I move that after the words, 'and under the national government for one year after its expiration', be struck out.

(Yates's Diary (Max Farrand, 1911), Page 379, Vol. 1)

[e672514] Mr. Ghorum moved to strike out the last member of 3 Resol: concerning ineligibility of members of 1st branch to offices, during the term of their membership & for one year after. He considered it as unnecessary & injurious. It was true abuses had been displayed in G. B. but no one cd. say how far they might have contributed to preserve the due influence of the Gov't nor what might have ensued in case the contrary theory had been tried.

Mr. Butler opposed it. this precaution agst. intrigue was necessary. He appealed to the example of G. B. where men got into Parlt. that they might get offices for themselves or their friends. This was the source of the corruption that ruined their Govt.

Mr. King, thought we were refining too much. Such a restriction on the members would discourage merit. It would also give a pretext to the Executive for bad appointments, as he might always plead this as a bar to the choice he wished to have made.

Mr. Wilson was agst. fettering elections, and discouraging merit. He suggested also the fatal consequence in time of war, of rendering perhaps the best Commanders ineligible: appealing to our situation during the late war, and indirectly leading to a recollection of the appointment of the Commander in Chief out of Congress.

Col. Mason was for shutting the door at all events agst. corruption. He enlarged on the venality and abuses in this particular in G. Britain: and alluded to the multiplicity of foreign Embassiess by Congs. The disqualification he regarded as a corner stone in the fabric.

Col. Hamilton. There are inconveniences on both sides. We must take man as we find him, and if we expect him to serve the public must interest his passions in doing so. A reliance on pure patriotism had been the source of many of our errors. He thought the remark of Mr. Ghorum a just one. It was impossible to say what wd. be effect in G. B of such a reform as had been urged. It was known that one of the ablest politicians (Mr Hume) had pronounced all that influence on the side of the crown, which went under the name of corruption, an essential part of the weight which maintained the equilibrium of the Constitution.

(Madison's Notes (Max Farrand, 1911), Pages 375-376, Vol. 1)

Mr. King for the motion. It is impossible to carry the system of exclusion so far; and in this instance we refine too much by going to utopian lengths. It is a mere cobweb.

Mr. Butler. We have no way of judging of mankind but by experience. Look at the history of the government of Great Britain, where there is a very flimsy exclusion — Does it not ruin their government? A man takes a seat in parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption.

Mr. Wilson. I am for striking out the words moved for. Strong reasons must induce me to disqualify a good man from office. If you do, you give an opportunity to the dependent or avaricious man to fill it up, for to them offices are objects of desire. If we admit there may be cabal and intrigue between the executive and legislative bodies, the exclusion of one year will not prevent the effects of it. But we ought to hold forth every honorable inducement for men of abilities to enter the service of the public. — This is truly a republican principle. Shall talents, which entitle a man to public reward, operate as a punishment? While a member of the legislature, he ought to be excluded from any other office, but no longer. Suppose a war breaks out and a number of your best military characters were members; must we lose the benefit of their services? Had this been the case in the beginning of the war, what would have been our situation? — and what has happened may happen again.

Mr. Madison. Some gentlemen give too much weight and others too little to this subject. If you have no exclusive clause, there may be danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature.

Mr. Mason. It seems as if it was taken for granted, that all offices will be filled by the executive, while I think many will remain in the gift of the legislature. In either case, it is necessary to shut the door against corruption. If otherwise, they may make or multiply offices, in order to fill them. Are gentlemen in earnest when they suppose that this exclusion will prevent the first characters from coming forward? Are we not struck at seeing the luxury and venality which has already crept in among us? If not checked we shall have ambassadors to every petty state in Europe — the little republic of St. Marino not excepted. We must in the present system remove the temptation. I admire many parts of the British constitution and government, but I detest their corruption. — Why has the power of the crown so remarkably increased the last century? A stranger, by reading their laws, would suppose it considerably diminished; and yet, by the sole power of appointing the increased officers of government, corruption pervades every town and village in the kingdom. If such a restriction should abridge the right of election, it is still necessary, as it will prevent the people from ruining themselves; and will not the same causes here produce the same effects? I consider this clause as the corner-stone on which our liberties depend — and if we strike it out we are erecting a fabric for our destruction.

Mr. Gorham. The corruption of the English government cannot be applied to America. This evil exists there in the venality of their boroughs: but even

this corruption has its advantage, as it gives stability to their government. We do not know what the effect would be if members of parliament were excluded from offices. The great bulwark of our liberty is the frequency of elections, and their great danger is the septennial parliaments.

Mr. Hamilton. In all general questions which become the subjects of discussion, there are always some truths mixed with falsehoods. I confess there is danger where men are capable of holding two offices. Take mankind in general, they are vicious — their passions may be operated upon. We have been taught to reprobate the danger of influence in the British government, without duly reflecting how far it was necessary to support a good government. We have taken up many ideas upon trust, and at last, pleased with our own opinions, establish them as undoubted truths. Hume's opinion of the British constitution confirms the remark, that there is always a body of firm patriots, who often shake a corrupt administration. Take mankind as they are, and what are they governed by? Their passions. There may be in every government a few choice spirits, who may act from more worthy motives. One great error is that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions, in order to make them subservient to the public good — for these ever induce us to action. Perhaps a few men in a state, may, from patriotic motives, or to display their talents, or to reap the advantage of public applause, step forward; but if we adopt the clause we destroy the motive. I am therefore against all exclusions and refinements, except only in this case; that when a member takes his seat, he should vacate every other office. It is difficult to put any exclusive regulation into effect. We must in some degree submit to the inconvenience.

(Yates's Diary (Max Farrand, 1911), Pages 379-382, Vol. 1)

[e672515] On the question to strike out the words
it passed in the negative. [Ayes — 4; noes — 4; divided — 3.]

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

On Mr. Ghorum's Motion for striking out "ineligibility".
Masts. ay. Cont. no. N. Y. divd. N. J. ay. Pa. divd. Del. divd. Mard. no.
Va. no. N. C. ay. S — C. no — Geo ay
[Ayes — 4; noes — 4; divided — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 376-377, Vol. 1)

The question was then put for striking out — 4 ayes — 4 noes — 3 states divided. New-York of the number.

(Yates's Diary (Max Farrand, 1911), Page 382, Vol. 1)

[e672516] Then the House adjourned till to-morrow at 11 o'Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

adjd.

(Madison's Notes (Max Farrand, 1911), Page 377, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 382, Vol. 1)

[e672517] Then the House adjourned till to-morrow at 11 o'Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 370, Vol. 1)

adjd.

(Madison's Notes (Max Farrand, 1911), Page 377, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 382, Vol. 1)

1.35 Saturday, 23 June 1787, at 11:00 (s6222)

[e734004] It was moved and seconded to agree to the proposition, which was postponed yesterday, on motion of the Deputies of the State of South Carolina, namely,

To receive an adequate compensation for their services, to be paid out of the Public Treasury.

[Editors' note: Yates notes Gorham as the proposer.]

(Official Journal (Max Farrand, 1911), Page 383, Vol. 1)

Mr. Gorham. I move that the question which was yesterday proposed on the clause, to be paid out of the national treasury, be now put.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

[e734005] On the question to agree to the proposition

it passed in the negative [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 383, Vol. 1)

Question put — 5 ayes — 5 noes — one state divided. So the clause was lost.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

On Question yesterday postponed by S. Carol: for agreeing to the whole sentence "for allowing an adequate compensation to be paid out of the Treasury of the U. States"

Masts. ay. Cont. no. N. Y. no. N. J. ay. Pena. ay Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. divided. [Ayes — 5; noes — 5; divided — 1.] So the question was lost, & the sentence not inserted.

(Madison's Notes (Max Farrand, 1911), Page 385, Vol. 1)

3rd Resolve—to be paid out of the public Treasury Question—five Ayes—five Noes—1 divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 78)

[e672519] Genl. Pinkney moves to strike out the ineligibility of members of the 1st. branch to offices established “by a particular State.” He argued from the inconviency to which such a restriction would expose both the members of the 1st. branch, and the States wishing for their services; from the smallness of the object to be attained by the restriction.

It wd. seem from the ideas of some that we are erecting a Kingdom to be divided agst. itself, he disapproved such a fetter on the Legislature.

Mr Sherman seconds the motion. It wd. seem that we are erecting a Kingdom at war with itself. The Legislature ought not to be fettered in such a case.

[Editors' note: Yates notes this motion as being proposed by 'Mr. Pinkney'. Because Yates rarely distinguishes between the two Pinckneys at the Convention, it is likely that Madison's account that it was C.C. Pinckney who proposed the amendment is correct.]

(Madison's Notes (Max Farrand, 1911), Pages 385-386, Vol. 1)

It was moved and seconded to strike out the following words in the third resolution reported from the Committee namely “by a particular State”

(Official Journal (Max Farrand, 1911), Page 383, Vol.1)

Mr. Pinkney moved that that part of the clause which disqualifies a person from holding an office in the state, be expunged, because the first and best characters in a state may thereby be deprived of a seat in the national council.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

C. C. Pinkney moves to strike out by a particular State or.

(Lansing's Notes (Joseph Strayer, 1939), Page 78)

[e672520] Mr. Wilson. I perceive that some gentlemen are of opinion to give a bias in favor of state governments — This question ought to stand on the same footing.

Mr. Sherman. By the conduct of some gentlemen, we are erecting a kingdom to act against itself. The legislature ought to be free and unbiassed.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

Wilson—If you strike out these Words you confirm Attachments to particular States and give that Attachment a Direction injurious to a general Government.

Sherman—If State and general Governments have separate Interests their Jealousies will be mutual and they already operate very powerfully— hence you must leave the Individual States much Power.

Gorham—It is necessary to give general Government Energy—prevailing Opinions are too democratic.

(Lansing's Notes (Joseph Strayer, 1939), Page 78)

[e672521] On the question to strike out the words
it passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 383, Vol.1)

Masts. no. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. no. Md. ay. Va. ay.
N. C. ay. S. C. ay. Geo. ay [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 386, Vol. 1)

Question put to strike out the words moved for, and carried — 8 ayes, 3 noes.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

Question—Ay 8—No 3.

(Lansing's Notes (Joseph Strayer, 1939), Page 79)

[e672522] Mr. M adison renewed his motion yesterday made & waved to render the members of the 1st. branch “ineligible during their term of service, & for one year after — to such offices only as should be established, or the emoluments thereof, augmented by the Legislature of the U. States during the time of their being members.” He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, & that if the door was shut agst. them, it might properly be left open for the appointt. of members to other offices as an encouragmt. to the Legislative service.

Mr. Alex: Martin seconded the motion.

[Editors' note: Madison, Yates, and the Detail and Ayes and Noes all show that Madison proposed the motion. Madison's account says that he proposed it on the previous day and renewed it here. That he proposed this motion in the prior session is not supported by any of the other sources or by his own notes from that day.]

(Madison's Notes (Max Farrand, 1911), Page 386, Vol. 1)

It was moved and seconded to amend the third resolution by striking out the following words namely “or under the authority of the United States during the term of service, and under the national government for the space of one year after it's expiration” — and inserting the following clause, after the word “established” namely

“or the emoluments whereof shall have been augmented by the Legislature of the United States during the time of their being members thereof, and until they shall have ceased to be Members for the space of one year”

(Official Journal (Max Farrand, 1911), Page 383, Vol.1)

Mr. Madison then moved, that after the word established, be added, or the emoluments whereof shall have been augmented by the legislature of the United States, during the time they were members thereof, and for one year thereafter.

(Yates's Diary (Max Farrand, 1911), Page 391, Vol. 1)

Madison moves after established insert or Emoluments whereof shall have been augmented by the Legislature of the United States during the Time they have been Members or within one Year thereafter—He wishes Executive to have App[ointmen]t of Officers—He thinks it necessary to hold out Inducements to Men of first Fortune to become Members.

(Lansing's Notes (Joseph Strayer, 1939), Page 79)

[e672523] Mr. Butler. The proposed amendment does not go far enough. How easily may this be evaded. What was the conduct of George the second to support the pragmatic sanction? To some of the opposers he gave pensions — others offices, and some, to put them out of the house of commons, he made lords. The great Montesquieu says, it is unwise to entrust persons with power, which by being abused operates to the advantage of those entrusted with it.

Governor Rutledge was against the proposed amendment. No person ought to come to the legislature with an eye to his own emolument in any shape.

Mr. Mason. I differ from my colleague in his proposed amendment. Let me state the practice in the state where we came from. There, all officers are appointed by the legislature. Need I add, that many of their appointments are most shameful. Nor will the check proposed by this amendment be sufficient. It will soon cease to be any check at all. It is asserted that it will be very difficult to find men sufficiently qualified as legislators without the inducement of emolument. I do believe that men of genius will be deterred unless possessed of great virtues. We may well dispense with the first characters when destitute of virtue — I should wish them never to come forward — But if we do not provide against corruption, our government will soon be at an end: nor would I wish to put a man of virtue in the way of temptation. Evasions, and caballing would evade the amendment. Nor would the danger be less, if the executive has the appointment of officers. The first three or four years we might go on well enough; but what would be the case afterwards? I will add, that such a government ought to be refused by the people — and it will be refused.

Mr. Madison. My wish is that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support its members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconveniency.

Mr. King. The intimate association of offices will produce a vigorous support to your government. To check it would produce no good consequences. Suppose connections are formed? Do they not all tend to strengthen the government under which they are formed? Let therefore preferment be open to all men. We refine otherwise too much — nor is it possible we can eradicate the evil.

Mr. Wilson. I hope the amendment will be adopted. By the last vote it appears that the convention have no apprehension of danger of state appointments. It is equally imaginary to apprehend any from the national government.

That such officers will have influence in the legislature, I readily admit; but I would not therefore exclude [sic] them. If any ill effects were to result from it, the bargain can as well be made with the legislature as with the executive. We ought not to shut the door of promotion against the great characters in the public councils, from being rewarded by being promoted. If otherwise, will not these gentlemen be put in the legislatures to prevent them from holding offices, by those who wish to enjoy them themselves? Mr. Sherman. If we agree to this amendment, our good intentions may be prostrated by changing offices to avoid or evade the rule.

Mr. Gerry. This amendment is of great weight, and its consequences ought to be well considered. At the beginning of the war we possessed more than Roman virtue. It appears to me it is now the reverse. We have more land and stock-jobbers than any place on earth. It appears to me, that we have constantly endeavored to keep distinct the three great branches of government; but if we agree to this motion, it must be destroyed by admitting the legislators to share in the executive, or to be too much influenced by the executive, in looking up to him for offices.

Mr. Madison. This question is certainly of much moment. There are great advantages in appointing such persons as are known. The choice otherwise will be chance. How will it operate on the members themselves? Will it not be an objection to become members when they are to be excluded from office? For these reasons I am for the amendment.

Mr. Butler. These reasons have no force. Characters fit for offices will always be known.

Mr. Mason. It is said it is necessary to open the door to induce gentlemen to come into the legislature. This door is open, but not immediately. A seat in the house will be the field to exert talents, and when to a good purpose they will in due time be rewarded.

Mr. Jenifer. Our senators are appointed for 5 years and they can hold no other office. This circumstance gives them the greatest confidence of the people.

(Yates's Diary (Max Farrand, 1911), Pages 391-394, Vol. 1)

Mr. Butler. The amendt. does not go far eno' & wd. be easily evaded

Mr. Rutledge, was for preserving the Legislature as pure as possible, by shutting the door against appointments of its own members to offices, which was one source of its corruption.

Mr. Mason. The motion of my colleague is but a partial remedy for the evil. He appealed to him as a witness of the shameful partiality of the Legislature of Virginia to its own members. He enlarged on the abuses & corruption in the British Parliament, connected with the appointment of its members. He cd. not suppose that a sufficient number of Citizens could not be found who would be ready, without the inducement of eligibility to offices, to undertake the Legislative service. Genius & virtue it may be said, ought to be encouraged. Genius, for aught he knew, might, but that virtue should be encouraged by such a species of venality, was an idea, that at least had the merit of being new.

Mr. King remarked that we were refining too much in this business; and that the idea of preventing intrigue and solicitation of offices was chimerical. You say that no member shall himself be eligible to any office. Will this restrain him from availing himself of the same means which would gain appointments for himself, to gain them for his son, his brother, or any other object of his partiality.

We were losing therefore the advantages on one side, without avoiding the evils on the other.

Mr. Wilson supported the motion. The proper cure he said for corruption in the Legislature was to take from it the power of appointing to offices. One branch of corruption would indeed remain, that of creating unnecessary offices, or granting unnecessary salaries, and for that the amendment would be a proper remedy. He animadverted on the impropriety of stigmatizing with the name of venality the laudable ambition of rising into the honorable offices of the Government; an ambition most likely to be felt in the early & most incorrupt period of life, & which all wise & free Govts. had deemed it sound policy, to cherish, not to check. The members of the Legislature have perhaps the hardest & least profitable task of any who engage in the service of the state. Ought this merit to be made a disqualification?

Mr. Sherman, observed that the motion did not go far enough. It might be evaded by the creation of a new office, the translation to it of a person from another office, and the appointment of a member of the Legislature to the latter. A new Embassy might be established to a new court & an ambassador taken from another, in order to create a vacancy for a favorite member. He admitted that inconveniencies lay on both sides. He hoped there wd. be sufficient inducements to the public service without resorting to the prospect of desirable offices, and on the whole was rather agst. the motion of Mr. Madison.

Mr. Gerry thought there was great weight in the objection of Mr. Sherman. He added as another objection agst. admitting the eligibility of members in any case that it would produce intrigues of ambitious men for displacing proper officers, in order to create vacancies for themselves. In answer to Mr. King he observed that although members, if disqualified themselves might still intrigue & cabal for their sons, brothers &c, yet as their own interest would be dearer to them, than those of their nearest connections, it might be expected they would go greater lengths to promote it.

Mr. Madison had been led to this motion as a middle ground between an eligibility in all cases, and an absolute disqualification. He admitted the probable abuses of an eligibility of the members, to offices, particularly within the gift of the Legislature He had witnessed the partiality of such bodies to their own members, as had been remarked of the Virginia assembly by his colleague (Col. Mason). He appealed however to him in turn to vouch another fact not less notorious in Virginia, that the backwardness of the best citizens to engage in the legislative service gave but too great success to unfit characters. The question was not to be viewed on one side only. The advantages & disadvantages on both ought to be fairly compared. The objects to be aimed at were to fill all offices with the fittest — characters, & to draw the wisest & most worthy citizens into the Legislative service. If on one hand, public bodies were partial to their own members; on the other they were as apt to be misled by taking characters on report, or the authority of patrons and dependents. All who had been concerned in the appointment of strangers on these recommendations must be sensible of this truth. Nor wd. the partialities of such Bodies be obviated by disqualifying their own members. Candidates for office would hover round the seat of Govt. or be found among the residents there, and practise all the means of courting the favor of the members. A great proportion of the appointments made by the States were evidently brought about in this way. In the general Govt. the evil must be still greater, the characters of distant states,

being much less known throughout the U. States than those of the distant parts of the same State. The elections by Congress had generally turned on men living at the seat of the fedl Govt. or in its neighbourhood. — As to the next object, the impulse to the Legislative service, was evinced by experience to be in general too feeble with those best qualified for it. This inconveniency wd. also be more felt in the Natl. Govt. than in the State Govts as the sacrifices reqd. from the distant members wd. be much greater, and the pecuniary provisions, probably, more disproportionate. It wd. therefore be impolitic to add fresh objections to the Legislative service by an absolute disqualification of its members. The point in question was whether this would be an objection with the most capable citizens. Arguing from experience he concluded that it would. The Legislature of Virga would probably have been without many of its best members, if in that situation, they had been ineligible to Congs. to the Govt. & other honorable offices of the State.

Mr. Butler thought Characters fit for office wd. never be unknown.

Col. Mason. If the members of the Legislature are disqualified, still the honors of the State will induce those who aspire to them, to enter that service, as the field in which they can best display & improve their talents, & lay the train for their subsequent advancement.

Mr. Jenifer remarked that in Maryland, the Senators chosen for five years, cd. hold no other office & that this circumstance gained them the greatest confidence of the people.

(Madison's Notes (Max Farrand, 1911), Pages 386-390)

Butler—Executive may be as corrupt as Legislature—It would place too pervading an Influence in him.

Rutlege—We ought not to wish to have place Hunters in Legislature— No Incentives ought to be held out to Men of that Description—Honesty will probably predominate in lower House Ability in the upper.

Mason—He has experienced in Virginia that whenever a Man of the first Character who was not a Member of the Legislature was opposed to a despicable one who was a Member—the latter uniformly succeeded. If the Restriction is continued a Seat in the Legislature will lead the Way to first Offices—this sufficient Inducement—he is against Amendment.

Madison—Men of Ability are not found [?] in Virginia to step forward in Public. Persons of other Descriptions press for Admission.

King—Venality may be as successfully applied in the Appointment of Relations of Members as Members themselves.

Wilson—Selfish Characters will endeavor to place Men of a generous Turn of thinking and Men of Abilities in a Situation not to be appointed—Executive ought to have app[ointmen]t.

(Lansing's Notes (Joseph Strayer, 1939), Pages 79-80)

[e672524] On the question to agree to the amendment
it passed in the negative [Ayes — 2; noes — 8; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 383, Vol.1)

On the question for agreeing to the motion of Mr. Madison. Massts. divid. Ct. ay. N. Y. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

The question was put on Mr. Madison's amendment, and lost — 8 noes — 2 ayes — one state divided.

(Yates's Diary (Max Farrand, 1911), Page 394, Vol. 1)

Question 2 Ayes 8 Noes—Maryland divided, Jersey and Connecticut ay.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672525] It was moved and seconded to add after the words "ineligible to" the words

"and incapable of holding"

[Editors' note: Madison records Sherman as the proposer.]

(Official Journal (Max Farrand, 1911), Page 383, Vol.1)

Mr. Sherman movd. to insert the words "and incapable of holding" after the words "eligible to offices"

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

Sherman moves after ineligible to insert and incapable of holding.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672526] It was moved and seconded to add after the words "ineligible to" the words

"and incapable of holding"

which passed in the affirmative

[Editors' note: Madison's account says that the motion was 'agreed to without opposition.']

(Official Journal (Max Farrand, 1911), Pages 383-384, Vol. 1)

Mr. Sherman movd. to insert the words "and incapable of holding" after the words "eligible to offices" wch. was agreed to without opposition.

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

Unanimously agreed.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672527] It was moved and seconded to strike the words

"national government"

out of the third resolution

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

The word “established” & the words “Natl. Govt.” were struck out of Resolution 3d;

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672528] It was moved and seconded to strike the words
“national government”
out of the third resolution
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

The word “established” & the words “Natl. Govt.” were struck out of Resolution 3d;

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672529] It was moved and seconded to strike the word “established” out of the 3rd resolution

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

The word “established” & the words “Natl. Govt.” were struck out of Resolution 3d;

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672530] It was moved and seconded to strike the word “established” out of the 3rd resolution
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

The word “established” & the words “Natl. Govt.” were struck out of Resolution 3d;

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672531] It was moved and seconded to add after the word “service” in the third resolution, the words
“of the first branch”.

[Editors’ note: The Journal is the only account that mentions this motion.]

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

[e672532] It was moved and seconded to add after the word “service” in the third resolution, the words
“of the first branch”
which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

[e672533] Mr. Spaight called for a division of the question, in consequence of which it was so put, as that it turned in the first member of it, “on the ineligibility of the members during the term for which they were elected”

[Editors’ note: At this point, the clause was split into parts, which were then voted on separately. For this reason, the original final clause is shown as being dropped and two sub-clauses subsequently proposed.]

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672534] Mr. Spaight called for a division of the question, in consequence of which it was so put, as that it turned in the first member of it, “on the ineligibility of the members during the term for which they were elected”

[Editors’ note: It is noteworthy that though the words ‘of the first branch’ were just agreed upon, they do not appear in the language that was put up for a vote.]

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672535] To agree to the last clause in the 3rd resolution as far as the word service inclusive Ayes — 8; noes — 2; divided — 1.

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

whereon the States were, Massts. divd. Ct. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no.

[Ayes — 8; noes — 2; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

Question on the clause as amended before. Carried — 8 ayes — 2 noes — one state divided.

(Yates’s Diary (Max Farrand, 1911), Page 394, Vol. 1)

[e672536] It was then moved and seconded to agree to the words
“and for the space of one year after its expiration”.

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

On the 2d. member of the sentence extending ineligibility of members to one year after the term for which they were elected

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 1)

The question was next on the latter part of the clause.

(Yates’s Diary (Max Farrand, 1911), Page 394, Vol. 1)

The Question was then put on the Words for the Space of one Year after its Expiration.

(Lansing’s Notes (Joseph Strayer, 1939), Page 80)

[e672537] Mr. Mason. We must retain this clause, otherwise evasions may be made. The legislature may admit of resignations and thus make members eligible — places may be promised at the close of their duration, and that a dependency may be made.

Mr. Gerry. And this actually has been the case in congress — a member resigned to obtain an appointment, and had it failed he would have resumed it.

Mr. Hamilton. The clause may be evaded many ways. Offices may be held by proxy — they may be procured by friends, &c.

Mr. Rutledge. I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible.

(Yates's Diary (Max Farrand, 1911), Page 394, Vol. 1)

On the 2d. member of the sentence extending ineligibility of members to one year after the term for which they were elected Col. Mason thought this essential to guard agst — evasions by resignations, and stipulations for office to be fulfilled at the expiration of the legislative term. Mr. Gerry had known such a case. Mr. Hamilton. Evasions cd. not be prevented ÷ as by proxies - by friends holding for a year. and them opening the way &c. Mr. Rutledge admitted the possibility of evasions but was for contracting them as possible.

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

[e672538] On the question to agree to these words

it passed in the negative [ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

Mas. no. Ct. no. N. Y. ay. N. J. no. Pa. divd. Del. ay. Mard. ay. Va. no
N. C. no. S. C. ay. Geo no

[Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

The question was then put on this clause, to wit: and for the space of one year after its expiration — and negatived.

(Yates's Diary (Max Farrand, 1911), Page 394, Vol. 1)

4 Ayes—6 Noes—1 divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672539] [Editors' note: By this point, the Convention had finished debating the language in the Third Resolution, and as it would go on to consider the Fourth Resolution in the next session, the last two votes are taken as evidence that the Convention adopted the Third Resolution as amended.]

(2019 Editors)

[e672540] Then the House adjourned till monday [sic] next at 11 o'clock, A. M.

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

Then adjourned to Monday morning.

(Yates's Diary (Max Farrand, 1911), Page 394, Vol. 1)

Adjourned till Monday.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672541] Then the House adjourned till monday [sic] next at 11 o'clock, A. M.

(Official Journal (Max Farrand, 1911), Page 384, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 390, Vol. 1)

Then adjourned to Monday morning.

(Yates's Diary (Max Farrand, 1911), Page 394, Vol. 1)

Adjourned till Monday.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

1.36 Monday, 25 June 1787, at 11:00 (s6223)

[e672542] Resolution 4. being taken up.

(Madison's Notes (Max Farrand, 1911), Page 397, Vol. 1)

4th Resolve.

(Lansing's Notes (Joseph Strayer, 1939), Page 80)

[e672543] Mr. Pinkney spoke as follows. — The efficacy of the System will depend on this article. In order to form a right judgment. in the case it will be proper to examine the situation of this Country more accurately than it has yet been done. The people of the U. States are perhaps the most singular of any we are acquainted with. Among them there are fewer distinctions of fortune & less of rank, than among the inhabitants of any other nation. Every freeman has a right to the same protection & security; and a very moderate share of property entitles them to the possession of all the honors and privileges the public can bestow: hence arises a greater equality, than is to be found among the people of any other country, and an equality which is more likely to continue — I say this equality is likely to continue, because in a new Country, possessing immense tracts of uncultivated lands, where every temptation is offered to emigration & where industry must be rewarded with competency, there will be few poor, and few dependent — Every member of the Society almost, will enjoy an equal

power of arriving at the supreme offices & consequently of directing the strength & sentiments of the whole Community. None will be excluded by birth, & few by fortune, from voting for proper persons to fill the offices of Government — the whole community will enjoy in the fullest sense that kind of political liberty which consists in the power the members of the State reserve to themselves, of arriving at the public offices, or at least, of having votes in the nomination of those who fill them.

If this State of things is true & the prospect of its continuing probable, it is perhaps not politic to endeavour too close an imitation of a Government calculated for a people whose situation is, & whose views ought to be extremely different

Much has been said of the Constitution of G. Britain. I will confess that I believe it to be the best constitution in existence; but at the same time I am confident it is one that will not or can not be introduced into this Country, for many centuries. — If it were proper to go here into a historical dissertation on the British Constitution, it might easily be shewn that the peculiar excellence, the distinguishing feature of that Governmt. can not possibly be introduced into our System — that its balance between the Crown & the people can not be made a part of our Consttution. — that we neither have or can have the members to compose it, nor the rights, privileges & properties of so distinct a class of Citizens to guard. — that the materials for forming this balance or check do not exist, nor is there a necessity for having so permanent a part of our Legislative, until the Executive power is so constituted as to have something fixed & dangerous in its principle — By this I mean a sole, hereditary, though limited Executive.

That we cannot have a proper body for forming a Legislative balance between the inordinate power of the Executive and the people, is evident from a review of the accidents & circumstances which give rise to the peerage of Great. Britain — I believe it is well ascertained that the parts which compose the British Constitution arose immediately from the forests of Germany; but the antiquity of the establishment of nobility is by no means clearly defined. Some authors are of opinion that the dignity denoted by the titles of dux et comes, was derived from the old Roman to the German Empire; while others are of opinion that they existed among the Germans long before the Romans were acquainted with them. The institution however of nobility is immemorial among the nations who may probably be termed the ancestors of Britain. — At the time they were summoned in England to become a part of the National Council, and the circumstances which have contributed to make them a constituent part of that constitution, must be well known to all gentlemen who have had industry & curiosity enough to investigate the subject — The nobles with their possessions & dependents composed a body permanent in their nature and formidable in point of power. They had a distinct interest both from the King and the people; an interest which could only be represented by themselves, and the guardianship could not be safely intrusted to others. — At the time they were originally called to form a part of the National Council, necessity perhaps as much as other cause, induced the Monarch to look up to them. It was necessary to demand the aid of his subjects in personal & pecuniary services. The power and possessions of the Nobility would not permit taxation from any assembly of which they were not a part: & the blending the deputies of the Commons with them, & thus forming what they called their parler-ment was perhaps as

much the effect of chance as of any thing else. The Commons were at that time completely subordinate to the nobles, whose consequence & influence seem to have been the only reasons for their superiority; a superiority so degrading to the Commons that in the first Summons we find the peers are called upon to consult, the commons to consent. From this time the peers have composed a part of the British Legislature, and notwithstanding their power and influence have diminished & those of the Commons have increased, yet still they have always formed an excellent balance agst. either the encroachments of the crown or the people.

I have said that such a body cannot exist in this Country for ages, and that untill the situation of our people is exceedingly changed no necessity will exist for so permanent a part of the Legislature. To illustrate this I have remarked that the people of the United States are more equal in their circumstances than the people of any other Country — that they have very few rich men among them, — by rich men I mean those whose riches may have a dangerous influence, or such as are esteemed rich in Europe — perhaps there are not one hundred such on the Continent: that it is not probable this number will be greatly increased: that the genius of the people, their mediocrity of situation & the prospects which are afforded their industry in a country which must be a new one for centuries are unfavorable to the rapid distinction of ranks. The destruction of the right of primogeniture & the equal division of the property of Intestates will also have an effect to preserve this mediocrity: for laws invariably affect the manners of a people. On the other hand that vast extent of unpeopled territory which opens to the frugal & industrious a sure road to competency & independence will effectually prevent for a considerable time the increase of the poor or discontented, and be the means of preserving that equality of condition which so eminently distinguishes us.

If equality is as I contend the leading feature of the U. States, where then are the riches & wealth whose representation & protection is the peculiar province of this permanent body. Are they in the hands of the few who may be called rich; in the possession of less than a hundred citizens? certainly not. They are in the great body of the people, among whom there are no men of wealth, and very few of real poverty. — Is it probable that a change will be created, and that a new order of men will arise? If under the British Government, for a century no such change was probable, I think it may be fairly concluded it will not take place while even the semblance of Republicanism remains. How is this change to be effected? Where are the sources from whence it is to flow? From the landed interest? No. That is too unproductive & too much divided in most of the States. From the Monied interest? If such exists at present, little is to be apprehended from that source. Is it to spring from commerce? I believe it would be the first instance in which a nobility sprang from merchants. Besides, Sir, I apprehend that on this point the policy of the U. States has been much mistakem. We have unwisely considered ourselves as the inhabitants of an old instead of a new country. We have adopted the maxims of a State full of people & manufactures & established in credit. We have deserted our true interest, and instead of applying closely to those improvements in domestic policy which would have ensured the future importance of our commerce, we have rashly & prematurely engaged in schemes as extensive as they are imprudent. This however is an error which daily corrects itself & I have no doubt that a few more severe trials will convince us, that very different commercial principles ought to

govern the conduct of these States.

The people of this country are not only very different from the inhabitants of any State we are acquainted with in the modern world; but I assert that their situation is distinct from either the people of Greece or Rome, or of any State we are acquainted with among the antients. — Can the orders introduced by the institution of Solon, can they be found in the United States? Can the military habits & manners of Sparta be resembled to our habits & manners? Are the distinctions of Patrician & Plebeian known among us? Can the Helvetic or Belgic confederacies, or can the unwieldy, unmeaning body called the Germanic Empire, can they be said to possess either the same or a situation like ours? I apprehend not. — They are perfectly different, in their distinctions of rank, their Constitutions, their manners & their policy.

Our true situation appears to me to be this. — a new extensive Country containing within itself the materials for forming a Government capable of extending to its citizens all the blessings of civil & religious liberty — capable of making them happy at home. This is the great end of Republican Establishments. We mistake the object of our government, if we hope or wish that it is to make us respectable abroad. Conquest or superiority among other powers is not or ought not ever to be the object of republican systems. If they are sufficiently active & energetic to rescue us from contempt & preserve our domestic happiness & security, it is all we can expect from them, — it is more than almost any other Government ensures to its citizens.

I believe this observation will be found generally true: that no two people are so exactly alike in their situation or circumstances as to admit the exercise of the same Government with equal benefit: that a system must be suited to the habits & genius of the People it is to govern, and must grow out of them.

The people of the U. S. may be divided into three classes — Professional men who must from their particular pursuits always have a considerable weight in the Government while it remains popular — Commercial men, who may or may not have weight as a wise or injudicious commercial policy is pursued. — If that commercial policy is pursued which I conceive to be the true one, the merchants of this Country will not or ought not for a considerable time to have much weight in the political scale. — The third is the landed interest, the owners and cultivators of the soil, who are and ought ever to be the governing spring in the system. — These three classes, however distinct in their pursuits are individually equal in the political scale, and may be easily proved to have but one interest. The dependence of each on the other is mutual. The merchant depends on the planter. Both must in private as well as public affairs be connected with the professional men; who in their turn must in some measure depend on them. Hence it is clear from this manifest connection, & the equality which I before stated exists, & must for the reasons then assigned, continue, that after all there is one, but one great & equal body of citizens composing the inhabitants of this Country among whom there are no distinctions of rank, and very few or none of fortune.

For a people thus circumstanced are we then to form a Government & the question is what kind of Government is best suited to them.

Will it be the British Govt.? No. Why? Because G. Britain contains three orders of people distinct in their situation, their possessions & their principles. — These orders combined form the great body of the Nation, And as in national expences the wealth of the whole community must contribute, so ought each

component part to be properly & duly represented. — No other combination of power could form this due representation, but the one that exists. — Neither the peers or the people could represent the royalty, nor could the Royalty & the people form a proper representation for the Peers. — Each therefore must of necessity be represented by itself, or the sign of itself; and this accidental mixture has certainly formed a Government admirably well balanced.

But the U. States contain but one order that can be assimilated to the British Nation. — this is the order of Commons. They will not surely then attempt to form a Government consisting of three branches, two of which shall have nothing to represent. They will not have an Executive & Senate (hereditary) because the King & Lords of England are so. The same reasons do not exist and therefore the same provisions are not necessary.

We must as has been observed suit our Governmt. to the people it is to direct. These are I believe as active, intelligent & susceptible of good Governmt. as any people in the world. The Confusion which has produced the present relaxed State is not owing to them. It is owing to the weakness & (defects) of a Govt. incapable of combining the various interests it is intended to unite, and destitute of energy. — All that we have to do then is to distribute the powers of Govt. in such a manner, and for such limited periods, as while it gives a proper degree of permanency to the Magistrate, will reserve to the people, the right of election they will not or ought not frequently to part with. — I am of opinion that this may be easily done; and that with some amendments the propositions before the Committee will fully answer this end.

No position appears to me more true than this; that the General Govt. can not effectually exist without reserving to the States the possession of their local rights. — They are the instruments upon which the Union must frequently depend for the support & execution of their powers, however immediately operating upon the people, and not upon the States.

Much has been said about the propriety of abolishing the distinction of State Governments, & having but one general System. Suffer me for a moment to examine this question.

(The residue of this speech was not furnished) like the above by Mr. Pinckney.

(Madison's Notes (Max Farrand, 1911), Pages 397-404, Vol. 1)

Mr. C. Pinkney. On the question upon the second branch of the general legislature, as reported by the committee in the fourth resolve, now under consideration, it will be necessary to enquire into the true situation of the people of this country. Without this we can form no adequate idea what kind of government will secure their rights and liberties. There is more equality of rank and fortune in America than in any other country under the sun; and this is likely to continue as long as the unappropriated western lands remain unsettled. They are equal in rights, nor is extreme of poverty to be seen in any part of the union. If we are thus singularly situated, both as to fortune and rights, it evidently follows, that we cannot draw any useful lessons from the examples of any of the European states or kingdoms; much less can Great Britain afford us any striking institution, which can be adapted to our own situation — unless we indeed intend to establish an hereditary executive, or one for life. Great Britain drew its first rude institutions from the forests of Germany, and with it that of its nobility. These having originally in their hands the property of the

state, the crown of Great Britain was obliged to yield to the claims of power which those large possessions enabled them to assert. The commons were then too contemptible to form part of the national councils. Many parliaments were held, without their being represented, until in process of time, under the protection of the crown, and forming distinct communities, they obtained some weight in the British government. From such discordant materials brought casually together, those admirable checks and balances, now so much the boast of the British constitution, took their rise. — But will we be able to copy from this original? I do not suppose that in the confederation, there are one hundred gentlemen of sufficient fortunes to establish a nobility; and the equality of others as to rank would never admit of the distinctions of nobility. I lay it therefore down as a settled principle, that equality of condition is a leading axiom in our government. It may be said we must necessarily establish checks, lest one rank of people should usurp the rights of another. Commerce can never interfere with the government, nor give a complexion to its councils. Can we copy from Greece or Rome? Have we their nobles or patricians? With them offices were open to few — The different ranks in the community formed opposite interests and produced unceasing struggles and disputes. Can this apply equally to the free yeomanry of America? We surely differ from the whole. Our situation is unexampled, and it is in our power, on different grounds, to secure civil and religious liberty; and when we secure these we secure every thing that is necessary to establish happiness. We cannot pretend to rival the European nations in their grandeur or power; nor is the situation of any two nations so exactly alike as that the one can adopt the regulations or government of the other. If we have any distinctions they may be divided into three classes.

1. Professional men. 2. Commercial men. 3. The landed interest. The latter is the governing power of America, and the other two must ever be dependent on them — Will a national government suit them? No. The three orders have necessarily a mixed interest, and in that view, I repeat it again, the United States of America compose in fact but one order. The clergy and nobility of Great Britain can never be adopted by us. Our government must be made suitable to the people, and we are perhaps the only people in the world who ever had sense enough to appoint delegates to establish a general government. I believe that the propositions from Virginia, with some amendments, will satisfy the people. But a general government must not be made dependent on the state governments.

The United States include a territory of about 1500 miles in length, and in breadth about 400; the whole of which is divided into states and districts. While we were dependent on the crown of Great Britain, it was in contemplation to have formed the whole into one — but it was found impracticable. No legislature could make good laws for the whole, nor can it now be done. It would necessarily place the power in the hands of the few, nearest the seat of government. State governments must therefore remain, if you mean to prevent confusion. The general negative powers will support the general government. Upon these considerations I am led to form the second branch differently from the report. Their powers are important and the number not too large, upon the principle of proportion. I have considered the subject with great attention; and I propose this plan (reads it) and if no better plan is proposed, I will then move its adoption.

(Yates's Diary (Max Farrand, 1911), Pages 410-412, Vol. 1)

C. Pinkney—We are peculiarly situated—We have no Distinction of Ranks—When Executive hereditary or elective for Life Peers necessary. Not above 100 Men in the United States so rich as to be dangerous—these cannot be considered as a distinct Class on a national Scale—three Classes—professional Commercial and agricultural—there Interests now generally resolvable into the last. He is therefore for something like the Virginia System, but State Sovereignities must be retained.

The United States too extensive to furnish a general Legislature competent to the Management of domestic Concerns. States ought to be divided into five Classes—to have from one to five Votes.

(Lansing's Notes (Joseph Strayer, 1939), Pages 80-81)

Our true situation appears to me to be this.—a new, extensive country containing within itself, the materials of forming a government capable of extending to its citizens all the blessings of civil & religious liberty,—capable of making them happy at home.— This is the great end of republican establishments. We mistake the object of our government, if we hope or wish that it is to make us respectable abroad.—Conquest or superiority among other powers is not or ought not ever to be the object of republican systems.—If they are sufficiently active & energetic to rescue us from contempt & preserve our domestic happiness & security, it is all we can expect from them.—It is more than almost any other government ensures to its citizens.

I believe this observation will be found generally true.—that no two people are so exactly alike in their situation or circumstances as to admit the exercise of the same government with equal benefit.—that a system must be suited to the habits & genius of the people it is to govern & must grow out of them.

The people of the U. S. may be divided into three classes. Professional men who must from their particular pursuits always have a considerable weight in the government while it remains popular.—Commercial men, who may or may not have a weight as a wise or injudicious commercial policy is pursued.—If that commercial policy is pursued which I conceive to be the true one, the merchants of this country will not or ought not for a considerable time to have much weight in the political scale.

The third is the landed interest, the owners of & cultivators of the soil who are & ought ever to be the governing principle in the system—.

These three classes however distinct in their pursuits are individually equal in the political scale, & may be clearly proved to have but one interest.—The dependence of each on the other is mutual?—the merchant depends on the planter—both must in private as well as public affairs be connected with the professional men—who in their turn must in some measure depend upon them.— Hence it is that from this manifest connection & the equality which I before stated exists, & must for the reasons then assigned continue, that after all there is one but one great & equal body of citizens, composing the inhabitants of this country among whom there are no distinctions of rank & very few of fortune.

For a people thus circumstanced, are we then to form a government & the question is, what kind of system is best suited to them.

Will the British government.—no!—why? because Great Britain contains three orders of people distinct in their situation their passions & principles.—These orders combined form the great body of the nation & as in national expenses & accounts the wealth & resources of the whole community must contribute so ought each component part to be properly & duly represented.—No other combination of power could form this due representation but the one that exists.—Neither the peers or the people could represent the royalty, nor could the royalty & the people form a proper representation for the peers.—Each therefore must of necessity be represented by itself or the sign of itself & this accidental mixture certainly has formed a government admirably balanced.

But the United States contain but one order that can be assimilated to the British nation this is the order of commons.—they will not surely then attempt to form a government consisting of three branches two of which shall have nothing to represent . . . they will not have an Executive & Senate hostile because the King & Lords of England are so.—The same reason do not exist & therefore the same provisions are not necessary.

We must as has been observed suit our government to the people it is to direct.—These are I believe as active, intelligent & susceptible of good government as any people in the world.—The confusion which has produced the present relaxed state is not owing to them.—It is owing to the weakness & impropriety of a government incapable of combining the various interests it is intended to unite & support & destitute of energy—

The people of the U. S. are perhaps the most singular of any we are acquainted with.—Among them there are fewer distinctions of fortune & less of rank; than among the inhabitants of any other nation.—Every freeman has a right to the same protection & security and a very moderate share of property entitles them to the possession of all the honors & privileges the public can bestow.—Hence arises a greater equality, than is to be found among the people of any other country, and an equality which is more likely to continue. I say this equality is likely to continue; because in a new country, possessing immense tracts of uncultivated lands—where every temptation is offered to emigration & where industry must be rewarded with competency, there will be few poor & few dependent.—Every member of the society almost, will enjoy an equal power of arriving at the supreme offices & consequently of directing the strength & sentiments of the community.—None will be excluded by birth, & few by fortune from a power of voting for proper persons to fill the offices of government— the whole community will enjoy in the fullest sense that kind of political Liberty which consists in the power which the members of the state reserve to themselves of arriving at the public offices, or at least of the having votes in the nomination of those who fill them—

If this state of things is true & the prospect of its continuing, probable, it is perhaps not politic to endeavour too close an imitation of a government calculated for a people whose political situation is, & whose views ought to be extremely different Much has been said of the constitution of Great Britain.—I will confess That I believe it to be the best constitution in existence, but at the same time I am confident, it is one that will not suit or cannot be introduced into this country for many centuries.—If it were proper to go here into a historical dissertation of the British constitution, it might easily be shewn that The peculiar excellence, the distinguishing feature of that government cannot possibly be introduced into our system.—that it's balance between the crown &

the people cannot be made a part of our constitution.— that we neither have, or can have the members to compose it.—nor the rights, privileges & properties of so distinct a class of citizens to guard.— that the materials for forming this balance or check do not exist, nor is there a necessity for having so permanent a part of our legislative until the Executive power is so constituted as to have something fixed & dangerous in it's principle.—by this I mean a sole, hereditary, tho' limited Executive—

That we cannot have a proper body for forming a legislative balance, between the inordinate power of the Executive or the people is evident from a review of the accidents & circumstances, which gave rise to the peerage of Great Britain.—I believe it is well ascertained that the parts which compose the British constitution arose immediately from the forests of Germany, but the antiquity of the establishment of nobility is by no means clearly defined.—Some authors are of opinion that the dignity denoted by the titles of dux et comes was derived from the old roman to the German Empire, while others are of opinion that they existed among the germans long before the romans were acquainted with them.—the institution however of nobility is immemorial among the nations who may properly be termed the Ancestors of Britain.—At the time they were summoned in England to become a part of the national council & the circumstances which have contributed to make them a constituent part of that constitution, must be well known to all gentlemen who have either had industry or curiosity to investigate the subject.—The nobles with their possessions [?] & dependants composed a body permanent in their nature & formidable in respect of their powers.—They had a distinct interest either from the king or people—an interest which could only be represented by themselves, & the guardianship of which could not be safely intrusted to others.—At the time they were originally called to form a part of the national counsel, necessity perhaps as much as any other cause induced the monarch to look up to them.—It was necessary to demand the aid of his subjects in personal & pecuniary services,—the power & possessions [?] of the nobility would not permit taxation from any assembly of which they were not a part & the blending the deputies of the commons with them, & thus forming, what they called their parler-ment was perhaps as much the Effect of accident as of any thing else.—The commons were at that time compleatly subordinate to the nobility whose consequences & influence seem to have been the only reason for them that superiority.—a superiority so degrading to the commons—that in the first summons, we find, the freemen called upon to consult the commons to consent—from this time the peers have composed a part of the British legislature & notwithstanding their power & influence have deminished & the commons increased yet still they have been found always, an excellent balance against either the incroachments of the crown or the people.

. . .—

I have said that such a body cannot exist in this country for ages & that until the situation of your people is exceedingly changed no necessity will exist for so permanent a part of the legislature.—To illustrate this I have remarked that the people of the U. S. are more equal in their circumstances than the people of any other country.—that they have few very few rich men among them?—by rich men, I mean those whose riches may have a dangerous influence, or such as are esteemed rich in Europe.—perhaps there are not 100 on the continent.—that it is not probable this number will be greatly increased.—that the genius of the people, their mediocre situation & the prospects which are afforded their

industry in a country which, must be a new one for centuries are unfavorable to the rapid distinction of ranks.—The distinction of the right of primogeniture & the equal division of the property of intestates will also have an effect to preserve this mediocrity.—for laws invariably affect the manners of a people.—On the other hand that vast extent of unpeopled territory which opens to the frugal [?] & industrious a sure road to competency & independence will effectually prevent for a considerable time that increase of the poor or discontented & be the means of preserving that equality of condition which so eminently distinguishes us.

If Equality is as I contend the leading feature of the U. S. where then are the riches & the wealth whose representation & protection is the peculiar province of this permanent body.—Are they in the hands of the few who may be called rich, in the possession of less than 100 citizens.— certainly not—they are in the great body of the people among whom there are no men of wealth & very few of real property—is it probable, that a change will, be created, & that a new order of men will arise.—If under the British Government, for a century, no such change was probable, I think it may be fairly concluded it will not take place while even the semblance of republicanism remains.—How Is this change to be effected.—Where are the sources from whence it is to flow.—From the landed interest.—no—they are too unproductive & equally divided in the majority of the States.—From the monied interest if such exists at present, little is to be apprehended.—Are they to spring from Commerce I believe it will be the first Nobility that ever sprung from merchants.—Besides Sir I apprehend upon this point the policy of the U. States has been much mistaken, We have unwisely considered as the inhabitants of an old instead of a new country.—We have adopted the maxims of a state full of people & manufactures & established in credit.—We have deserted our true interests & instead of applying closely to those improvements in domestic policy which would have insured the future importance of our commerce We have rashly & prematurely engaged in schemes as extensive as they are imprudent—This however is an error which daily corrects itself & I have no doubt that a few more severe trials will convince us, that very different commercial principles ought to govern the conduct of these states.

The people of this Country are not only very different from the inhabitants of any State we are acquainted with in the modern world, but I assert that their political situation is distinct from either the people of Greece or Rome or of any state we are acquainted with among the Antients.—Can the orders introduced by the institution of Solon, can they be found in the U. S.—can the military habits & manners of Sparta be assimilated to our habits & manners.—Are the distinctions of patrician & plebian known among us?—Can the helvetic or belgic confederacies, or can the unwieldy, unmeaning body called the Germanic Empire can they be said to possess either the perfection or a situation like ours.—I apprehend not they are perfectly different, either in their distinctions of rank, their constitutions their manners & their policy. All that we have to do then is to distribute the powers of government in such manner & for such limited periods as while it gives a proper degree of permanency to the magistrate will reserve to the people the right of election they will not or ought not frequently to part with—

I am of opinion that this may be easily done & that with some amendments the propositions before the committee will fully answer this end—

No position appears to me more true than this that the general government cannot effectually exist without retaining the states in the possession of their

local rights.—They are the instruments upon which the Union must frequently depend for the support & execution of their powers however immediately operating upon the people & not upon the states.

Much has been said about the propriety of removing the distinction of state governments, & having but one general system, suffer me for a moment to examine this Question.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Pages 113-118, Charles Pinckney: Draft Speech)

[e672544] It was moved and seconded to erase the word “national” and to substitute the words

“United States” (in the fourth resolution)

[Editors’ note: The word ‘national’ appears several times; it has been erased each time it appears.]

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

The mode of constituting the 2d. branch being under consideration

The word “national” was struck out and “United States” inserted.

(Madison’s Notes (Max Farrand, 1911), Page 404, Vol. 1)

[e672545] It was moved and seconded to erase the word “national” and to substitute the words

“United States” (in the fourth resolution)

which passed in the affirmative.

[Editors’ note: Neither the Journal nor Madison records a vote count.]

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

The mode of constituting the 2d. branch being under consideration

The word “national” was struck out and “United States” inserted.

(Madison’s Notes (Max Farrand, 1911), Page 404, Vol. 1)

[e672546] [Editors’ note: The Convention now debated the Fourth Resolution clause by clause. In order to mimic this procedure, the editors have dropped the Fourth Resolution in its ‘whole’ form and created a working version, onto which amendments the individual clauses are proposed.]

(2019 Editors)

[e672547] Mr. Randolph moved that the 4th resolve be divided, in the same manner as the 3d resolve.

(Yates’s Diary (Max Farrand, 1911), Page 412, Vol. 1)

[e672548] Mr. Gorham moved the question on the first resolve.

[Editors’ note: The Convention took up consideration of the first clause of the fourth resolution.]

(Yates’s Diary (Max Farrand, 1911), Page 412, Vol. 1)

[e672549] Mr. Ghorum, inclined to a compromise as to the rule of proportion. He thought there was some weight in the objections of the small States. If Va. should have 16 votes & Delre. with several other States together 16. those from Virga. would be more likely to unite than the others, and would therefore have an undue influence. This remark was applicable not only to States, but to Counties or other districts of the same State. Accordingly the Constitution of Massts. had provided that the representatives of the larger districts should not be in an exact ratio to their numbers. And experience he thought had shewn the provision to be expedient.

Mr. Read. The States have heretofore been in a sort of partnership. They ought to adjust their old affairs before they open a new account. He brought into view the appropriation of the common interest in the Western lands, to the use of particular States. Let justice be done on this head; let the fund be applied fairly & equally to the discharge of the general debt, and the smaller States who had been injured would listen then perhaps to those ideas of just representation which had been held out.

Mr. Ghorum. did not see how the Convention could interpose in the case. Errors he allowed had been committed on the Subject. But Congs. were now using their endeavors to rectify them. The best remedy would be such a Government as would have vigor enough to do justice throughout. This was certainly the best chance that could be afforded to the smaller States.

(Madison's Notes (Max Farrand, 1911), Pages 404-406, Vol. 1)

Mr. Gorham moved the question on the first resolve. Sixteen members from one state will certainly have greater weight, than the same number of members from different states. We must therefore depart from this rule of apportionment in some shape or other — perhaps on the plan Mr. Pinkney has suggested.

Mr. Read. Some gentlemen argue, that the representation must be determined according to the weight of each state — That we have heretofore been partners in trade, in which we all put in our respective proportions of stock — That the articles of our co-partnership were drawn in forming the confederation — And that before we make a new co-partnership, we must first settle the old business. But to drop the allusion — we find that the great states have appropriated to themselves the common lands in their respective states — These lands having been forfeited as heretofore belonging to the king, ought to be applied to the discharge of our public debts. Let this still be done, and then if you please, proportion the representation, and we shall not be jealous of one another — A jealousy, in a great measure, owing to the public property appropriated by individual states — and which, as it has been gained by the united power of the confederation, ought to be appropriated to the discharge of the public debts.

Mr. Gorham. This motion has been agitated often in congress; and it was owing to the want of power, rather than inclination, that it was not justly settled. Great surrenders have been made by the great states, for the benefit of the confederation.

(Yates's Diary (Max Farrand, 1911), Pages 412-414, Vol. 1)

Reed—The Confederacy similar to Articles of Co-partnership—Articles insufficient—before they are revised adjust old Accounts—apply all Lands acquired and protected by common Arms to discharge public Debt—this done we may make another Agreement.

(Lansing's Notes (Joseph Strayer, 1939), Page 81)

[e734056] Wilson—The System of Hen. IV to unite Europe as a Republic had trifling Objects to those we are now engaged in attaining—The Happiness of the Globe involved in it—he has distinct Ideas of State and general Government—has Objection to any Part of Legislature being elected by the State Legislatures—it will perpetuate local Prejudices—States are not intended as component Parts of general Government—they need not be represented—The Objects of national Government will be—Commerce—War—Treaties Coins and other great national Concerns. On those Occasions the Proportions of Representation so as to give each State a proper Weight in the Government may be preserved, in the second Branch as well as the first. If both Branches are elected from same Source they will have same Interests. Moves that the second Branch be elected 'by Electors to be elected by the Citizens of the United States.'

(Lansing's Notes (Joseph Strayer, 1939), Pages 81-82)

Mr. Wilson. The question now before us is, whether the second branch of the general legislature shall or shall not be appointed by the state legislatures. In every point of view it is an important question. The magnitude of the object is indeed embarrassing. The great system of Henry the IVth of France, aided by the greatest statesmen, is small when compared to the fabric we are now about to erect — In laying the stone amiss we may injure the superstructure; and what will be the consequence, if the corner-stone should be loosely placed? It is improper that the state legislatures should have the power contemplated to be given them. A citizen of America may be considered in two points of view — as a citizen of the general government, and as a citizen of the particular state, in which he may reside. We ought to consider in what character he acts in forming a general government. I am both a citizen of Pennsylvania and of the United States. I must therefore lay aside my state connections and act for the general good of the whole. We must forget our local habits and attachments. The general government should not depend on the state governments. This ought to be a leading distinction between the one and the other; nor ought the general government to be composed of an assemblage of different state governments — We have unanimously agreed to establish a general government — That the powers of peace, war, treaties, coinage and regulating of commerce, ought to reside in that government. And if we reason in this manner, we shall soon see the impropriety of admitting the interference of state governments into the general government. Equality of representation can not be established, if the second branch is elected by the state legislatures. When we are laying the foundation of a building, which is to last for ages, and in which millions are interested, it ought to be well laid. If the national government does not act upon state prejudices, state distinctions will be lost. I therefore move, that the second branch of the legislature of the national government be elected by electors chosen by the people of the United States.

(Yates's Diary (Max Farrand, 1911), Pages 413-414, Vol. 1)

Wilson — Every man will possess a double Character, that of a Citizen of the US. & yt. of a Citizen of an individl. State — The national Legis. will apply to ye. former Charactr — it ought then to be elected or appointed by the Citizens

of the US, and not by the Legislatures of the indivl States; Because they are characters peculiarly of a state feature & partaking of the State Citizenship rather yn. of that of the US — The State Legislrs. have no interest in the Genl. Govt. but the Citizens of every State have an important interest — this Distinction points out the Difference which shd. govern us in the appointment of the Natl. Govt. The natil. Govt. is one & yt. of the states another — Commerce, War, Peace, Treaties, &c are peculiar to the former — certain inferior and local Qualities are the province of the Latter — there is a line of separation; where ever the prerogatives lies on the side of the Genl. Govt. we are citizens of the nation or of the US — (although I think we shd. use a term in the singular Number), and so on the other side — We must not then refer ourselves to the States or yr. Legislatures, but must proceed on the basis of the people; the Senate shd. be elected by Electors appointed by the people.

(King's Diary (Max Farrand, 1911), Pages 416-417, Vol. 1)

Mr. Wilson. the question is shall the members of the 2d. branch be chosen by the Legislatures of the States? When he considered the amazing extent of country — the immense population which is to fill it, the influence which the Govt. we are to form will have, not only on the present generation of our people & their multiplied posterity, but on the whole Globe, he was lost in the magnitude of the object. The project of Henry the 4th. & his Statesmen 10 was but the picture in miniature of the great portrait to be exhibited. He was opposed to an election by the State Legislatures. In explaining his reasons it was necessary to observe the twofold relation in which the people would stand. 1. as Citizens of the Gen'l Gov't. 2. as Citizens of their particular State. The Genl. Govt. was meant for them in the first capacity; the State Govts. in the second. Both Govts. were derived from the people — both meant for the people — both therefore ought to be regulated on the same principles. The same train of ideas which belonged to the relation of the Citizens to their State Govts. were applicable to their relations to the Genl. Govt. and in forming the latter, we ought to proceed, by abstracting as much as possible from the idea of State Govts.¹¹ With respect to the province & objects of the Gen'l Govt. they should be considered as having no existence. The election of the 2d. branch by the Legislatures, will introduce & cherish local interests & local prejudices. The Genl. Govt. is not an assemblage of States, but of individuals for certain political purposes — it is not meant for the States, but for the individuals composing them: the individuals therefore not the States, ought to be represented in it: A proportion in this representation can be preserved in the 2d. as well as in the 1st. branch; and the election can be made by electors chosen by the people for that purpose. He moved an amendment to that effect, which was not seconded.

(Madison's Notes (Max Farrand, 1911), Pages 405-406, Vol. 1)

Mr. Willson. Because a State Government ought to elect a general Government the general Government ought as well to appoint the State Governments. He objects to the state Governments having anything to do in electing the general Governments. The general Government is not to be considered as composed from different States. Commerce, he says must be common.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 118, Pierce Butler: Notes on Debate)

[*e734057*] [Wilson:] A proportion in this representation can be preserved in the 2d. as well as in the 1st. branch; and the election can be made by electors chosen by the people for that purpose. He moved an amendment to that effect, which was not seconded.

[Editors' note: As Wilson's motion was not seconded, it has been represented as immediately dropped.]

(Madison's Notes (Max Farrand, 1911), Page 406, Vol. 1)

On Question on Wilson's Motion—lost.

[Editors' note: This appears to be a mistake, it is more likely that Wilson's amendment did not have a second, as Madison writes, as none of the other sources record a vote.]

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[*e734058*] Mr. Elsworth saw no reason for departing from the mode contained in the Report. Whoever chooses the member, he will be a citizen of the State he is to represent & will feel the same spirit and act the same part whether he be appointed by the people or the Legislature. Every State has its particular views & prejudices, which will find their way into the general councils, through whatever channel they may flow. Wisdom was one of the characteristics which it was in contemplation to give the second branch. Would not more of it issue from the Legislatures; than from an immediate election by the people. He urged the necessity of maintaining the existence & agency of the States. Without their co-operation it would be impossible to support a Republican Govt. over so great an extent of Country. An army could scarcely render it practicable. The largest States are the Worst Governed. Virga. is obliged to acknowledge her incapacity to extend her Govt. to Kentucky. Masts can not keep the peace one hundred miles from her capitol and is now forming an army for its support. How long Pena. may be free from a like situation can not be foreseen. If the principles & materials of our Govt. are not adequate to the extent of these single States; how can it be imagined that they can support a single Govt. throughout the U. States. The only chance of supporting a Genl. Govt. lies in engrafting it on that of the individual States.

Docr. Johnson urged the necessity of preserving the State Govts — which would be at the mercy of the Genl. Govt. on Mr. Wilson's plan.

Mr. Madison thought it wd. obviate difficulty if the present resol: were postponed. & the 8th. taken up. which is to fix the right of suffrage in the 2d. branch.

(Madison's Notes (Max Farrand, 1911), Pages 406-407, Vol. 1)

Judge Elsworth. I think the second branch of the general legislature ought to be elected agreeable to the report. The other way, it is said, will be more the choice of the people — The one mode is as much so as the other. No doubt every citizen of every state is interested in the state governments; and elect him in whatever manner you please, whenever he takes a seat in the general

government, it will prevail in some shape or other. The state legislatures are more competent to make a judicious choice, than the people at large. Instability pervades their choice. In the second branch of the general government we want wisdom and firmness. As to balances, where nothing can be balanced, it is a perfect utopian scheme. But still great advantages will result in having a second branch endowed with the qualifications I have mentioned. Their weight and wisdom may check the inconsiderate and hasty proceedings of the first branch.

I cannot see the force of the reasoning in attempting to detach the state governments from the general government. In that case, without a standing army, you cannot support the general government, but on the pillars of the state governments. Are the larger states now more energetic than the smaller? Massachusetts cannot support a government at the distance of one hundred miles from her capital, without an army; and how long Virginia and Pennsylvania will support their governments it is difficult to say. Shal we proceed like unskilful workmen, and make use of timber, which is too weak to build a first rate ship? We know that the people of the states are strongly attached to their own constitutions. If you hold up a system of general government, destructive of their constitutional rights, they will oppose it. Some are of opinion that if we cannot form a general government so as to destroy state governments, we ought at least to balance the one against the other. On the contrary, the only chance we have to support a general government is to graft it on the state governments. I want to proceed on this ground, as the safest, and I believe no other plan is practicable. In this way, and in this way only, can we rely on the confidence and support of the people.

Dr. Johnson. The state governments must be preserved: but this motion leaves them at the will and pleasure of the general government.

Mr. Madison. I find great differences of opinion in this convention on the clause now under consideration. Let us postpone it in order to take up the 8th resolve, that we may previously determine the mode of representation.

(Yates's Diary (Max Farrand, 1911), Pages 414-415, Vol. 1)

Elsworth — We must build our Genl. Govt. upon the vigour & strength of the State Govts — the Genl. Govt. could not proceed without them, or a large standing Army; Mass. cannot maintain her Republican Govt. without an Army — Pennsylvania will soon want it — Virginia can not & does not govern Kentucke — each of these States is too large for a Republican System — I am therefore for proceeding on the continuation of the States — let the 2d Br. or the Senate be elected by the State Legislatures —

Johnson — When the Question of State Security or State Individuality was presented — it was sd. by Mr. Wilson & Mr. Madison that the States were secured by the right of yr. Legislatures to appt. the members of the Senate or 2d. Br. of the Genl. Legislature. If Mr. Wilson's present plan of appointing the Senate obtains, the State individuality is insecure —

(King's Diary (Max Farrand, 1911), Page 417, Vol. 1)

Elsworth—Every Representative will have local Ideas however elected. No existing and distinct Interests to form Ballances—Republican Governments cannot exist throughout U. S. but by support of individual States. Virginia cannot

give Law to Kentuckey. Massachusetts cannot extend her Government 100 Miles from Capital. These are strong Instances against an Extension of Republican Government on a general Scale—but the Inhabitants of every State are warmly attached to their several Constitutions this another Reason.

Johnson—Individuality of States ought to be preserved.

Mason—If Self Defence necessary to general Government it will be as necessary to individual States—.this can only be done by representing the States.

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e672551] Docr. Williamson professed himself a friend to such a system as would secure the existence of the State Govts. The happiness of the people depended on it. He was at a loss to give his vote, as to the Senate untill he knew the number of its members. In order to ascertain this, he moved to insert these words after "2d. branch of Natl. Legislature" — "who shall bear such proportion to the no. of the 1st. branch as 1 to" He was not seconded.

(Madison's Notes (Max Farrand, 1911), Page 407, Vol. 1)

[e672552] Docr. Williamson professed himself a friend to such a system as would secure the existence of the State Govts. The happiness of the people depended on it. He was at a loss to give his vote, as to the Senate untill he knew the number of its members. In order to ascertain this, he moved to insert these words after "2d. branch of Natl. Legislature" — "who shall bear such proportion to the no. of the 1st. branch as 1 to" He was not seconded.

[Editors' note: As Williamson's motion was not seconded, it has been represented as immediately dropped.]

(Madison's Notes (Max Farrand, 1911), Page 407, Vol. 1)

[e672553] Mr. Mason. It has been agreed on all hands that an efficient Govt. is necessary that to render it such it ought to have the faculty of self-defence, that to render its different branches effectual each of them ought to have the same power of self defence. He did not wonder that such an agreement should have prevailed in these points. He only wondered that there should be any disagreement about the necessity of allowing the State Govts. the same self-defence. If they are to be preserved as he conceived to be essential, they certainly ought to have this power, and the only mode left of giving it to them, was by allowing them to appoint the 2d. branch of the Natl. Legislature.

(Madison's Notes (Max Farrand, 1911), Page 407, Vol. 1)

Mr. Mason. All agree that a more efficient government is necessary. It is equally necessary to preserve the state governments, as they ought to have the means of self-defence. On the motion of Mr. Wilson, the only means they ought to have would be destroyed.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

Mason — The Executive negatives both Brs of the Legislatr and each Br. has a negative on the other — and the Genl. Gov. have a neg. on the State Legislature — these regulations are necessary on the principles of self Defence

— it is an instinctive principle in nature, and in a proper degree every being professes this power. If the State Legislatures are deprived of the Election of the 2d. or 1st Br. of the natil. Legislature the States are destitute of this principle of self protection — I wish them to continue & I shall not agree to deprive them of the power of a constitutional self Protection —

(King's Diary (Max Farrand, 1911), Page 417, Vol. 1)

[e672554] Mr. Butler observing that we were put to difficulties at every step by the uncertainty whether an equality or a ratio of representation wd. prevail finally in the 2d. branch. moved to postpone the 4th. Resol: & to proceed to the Resol: on that point. Mr. M adison seconded him.

(Madison's Notes (Max Farrand, 1911), Page 407, Vol. 1)

It was moved and seconded to postpone the consideration of the first clause of the fourth resolution in order to take up the eighth resolution reported from the Committee.

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

The question was put for postponing, in order to take into consideration the 8th resolve

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672555] Mr. Butler observing that we were put to difficulties at every step by the uncertainty whether an equality or a ratio of representation wd. prevail finally in the 2d. branch. moved to postpone the 4th. Resol: & to proceed to the Resol: on that point. Mr. M adison seconded him.

On the question

Massts. no. Cont. no. N. Y. ay. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N C. no. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Pages 407-408, Vol. 1)

It was moved and seconded to postpone the consideration of the first clause of the fourth resolution in order to take up the eighth resolution reported from the Committee.

On the question to postpone

it passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

The question was put for postponing, in order to take into consideration the 8th resolve, and lost — 7 noes — 4 ayes.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672556] It was moved and seconded to postpone the consideration of the fourth in order to take up the seventh resolution

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On a question to postpone the 4 and take up the 7. Resol

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

[e672557] It was moved and seconded to postpone the consideration of the fourth in order to take up the seventh resolution

On the question to postpone

it passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On a question to postpone the 4 and take up the 7. Resol: Ays — Mard. Va. N. C. S. C. Geo. — Noes. Mas. Ct. N. Y. N. J. Pa. Del:

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

[e734006] It was moved and seconded to agree to the first clause of the fourth resolution, namely

“Resolved that the Members of the second branch of the Legislature of the United States ought to be chosen by the individual Legislatures”

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On the question to agree “that the members of 2d. branch be chosen by the indivl. Legislatures”

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

Question on the 1st clause in the 4th resolve

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

Question on Election by Legislature. 9 Ayes—2 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e734007] On the question to agree it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On the question to agree “that the members of 2d. branch be chosen by the indivl. Legislatures”

Masts. ay. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

[Editors' note: Madison includes an explanatory note while recording this vote, which is shown below. Farrand indicates that it was probably later addition.

'It must be kept in view that the largest States particularly Pennsylvania & Virginia always considered the choice of the 2d. Branch by the State Legislatures as opposed to a proportional Representation to which they were attached as a fundamental principle of just Government. The smaller States who had opposite views, were reenforced by the members from the large States most anxious to secure the importance of the State Governments.']

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

Question on the 1st clause in the 4th resolve — 9 states for — 2 against it.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

Question on Election by Legislature. 9 Ayes—2 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e672559] It was moved and seconded to agree to the second clause of the fourth resolution, namely

“to be of the age of thirty years at least”.

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On a question on the clause requiring the age of 30 years at least”

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

The age of the senators (30 years) agreed to.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672560] It was moved and seconded to agree to the second clause of the fourth resolution, namely

“to be of the age of thirty years at least”
which passed unanimously in the affirmative.

(Official Journal (Max Farrand, 1911), Page 395, Vol. 1)

On a question on the clause requiring the age of 30 years at least” — it was agreed to unanimously:

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

The age of the senators (30 years) agreed to.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672561] Duration of Senate then considered—seven Years.

[Editors' note: The Convention took the Third Clauses, regarding Senators' term lengths, into consideration.]

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e672562] It was moved and seconded to erase the words

“sufficient to ensure their independency” from the third clause of the fourth resolution.

(Official Journal (Max Farrand, 1911), Pages 395-396, Vol. 1)

On a question to strike out — the words “sufficient to ensure their independency” after the word “term”

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

Agreed to expunge 'sufficient to ensure their Independence.'

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e672563] It was moved and seconded to erase the words
"sufficient to ensure their independency" from the third clause of the fourth
resolution

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Pages 395-396, Vol. 1)

On a question to strike out — the words "sufficient to ensure their independency" after the word "term" it was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

Agreed to expunge sufficient to ensure their Independence. 7 Ayes—4 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 82)

[e672564] Mr. Ghorum suggests a term of "4 years", one quarter to be elected every year.

[Editors' note: This amendment occupies the same place in the timeline in both Madison's and Yates's notes; it also appears in the Journal, but slightly later. The sequence of proposals and votes that follows is extremely complex, and the Journal, Madison, and Yates each record a different sequence of events. The editors have largely followed Madison's account, as it appears to have the most complete record. His timeline also seems most reliable, showing neither the Journal's tendency to tidy the events into blocks (proposal followed immediately by vote), nor Yates's omission of key events. Where possible, however, the Journal's amendment and resolution text has been used.]

(Madison's Notes (Max Farrand, 1911), Page 408, Vol. 1)

It was moved and seconded to amend the clause so as to read
"for four years, one fourth to go out annually"

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Mr. Gorham proposed that the senators be classed, and to remain 4 years in office; otherwise great inconveniences may arise if a dissolution should take place at once.

(Yates's Diary (Max Farrand, 1911), Page 415, Vol. 1)

Gorham—wished the upper House to be formed into Classes.

[Editors' note: While Lansing does not record Gorham making an amendment here later in his notes he includes a vote on it: 'Gorham moved 6 Years—5 Ayes—5 Noes—1 divided. (H [amilton] and myself voted Neg. on Question.)']

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672565] Mr. Randolph. supported the idea of rotation, as favorable to the wisdom & stability of the Corps, which might possibly be always sitting, and aiding the executive.

And moves after “7 years” to add, “to go out in fixt proportion”.

[Editors’ note: Madison and Yates both note Randolph as the proposer. While the Journal, like Madison, records the proposed language being inserted after ‘seven years’, Yates notes ‘seven years’ as being struck out by Randolph’s amendment. Madison and the Journal have been followed here. Madison also has Randolph’s amendment being immediately adopted by the Convention. Farrand suggests that this is a mistake and that the Journal’s record (that no vote was taken) is more likely correct.]

(Madison’s Notes (Max Farrand, 1911), Page 408, Vol. 1)

It was moved and seconded to add after the words “seven years,” in the fourth resolution, the words

“to go out in fixed proportions”

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Gov. Randolph. This body must act with firmness. They may possibly always sit — perhaps to aid the executive. The state governments will always attempt to counteract the general government. They ought to go out in classes: therefore I move, that they go out of office in fixed proportions of time, instead of the words, seven years.

(Yates’s Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672566] Mr Williamson suggests “6 years,” as more convenient for Rotation than 7 years.

Mr Sherman seconds him.

[Editors’ note: Farrand suggests that Madison added this note at a later date. Yates also notes Williamson proposing a six-year term; the Journal includes the proposal further along in the timeline.]

(Madison’s Notes (Max Farrand, 1911), Pages 408-409, Vol. 1)

It was moved and seconded to insert the word “six” instead of “seven”

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Mr. Williamson moved that they remain in office for six years.

(Yates’s Diary (Max Farrand, 1911), Page 415, Vol. 1)

[e672567] Mr. Read moved (though not seconded) that they ought to continue in office during good behaviour.

[Editors’ note: This proposal appears in Madison’s notes but not in the Journal. Madison notes the proposal as being seconded by Robert Morris. Yates’s record is more compelling; it seems likely that the Journal did not include the proposal because it had not been seconded, as Yates describes.]

(Yates’s Diary (Max Farrand, 1911), Page 415, Vol. 1)

Mr Reed proposed that they sd. hold their offices “during good” behaviour. Mr. R. Morris seconds him.

(Madison’s Notes (Max Farrand, 1911), Page 409, Vol. 1)

Reed—good Behaviour would be more effectual—If Mr. Hamilton would make the Motion he will second him.

[...]

Morris moved that the Senate should be elected for and continue in Office during good Behaviour. Not Seconded.

[Editors’ note: In Lansing’s notes Morris’s amendment comes just before adjournment. However, it seems likely that it refers to the same amendment that Yates records as being made by Read.]

(Lansing’s Notes (Joseph Strayer, 1939), Page 83)

[e672568] [Editors’ note: Since Yates emphasizes that Read’s motion was not seconded, and no vote is recorded, it has been represented here as immediately dropped.]

(2019 Editors)

[e672569] Genl. Pinkney [sic] proposed “4 years”. A longer term wd. fix them at the seat of Govt. They wd. acquire an interest there, perhaps transfer their property & lose sight of the States they represent. Under these circumstances the distant States wd. labour under great disadvantages.

[Editors’ note: This motion does not appear in the Journal, as it was apparent included in Gorham’s motion. However, Pinckney’s proposal is corroborated by Yates and Lansing.]

(Madison’s Notes (Max Farrand, 1911), Page 409, Vol. 1)

Mr. Pinkney. I am for four years. Longer time would give them too great attachment to the states, where the general government may reside. They may be induced, from the proposed length of time, to sell their estates, and become inhabitants near the seat of government.

(Yates’s Diary (Max Farrand, 1911), Page 415, Vol. 1)

C. C. Pinkney—thinks 4 Years sufficient—otherwise Representatives might be induced to become Inhabitants of State in which Seat of Government established.

(Lansing’s Notes (Joseph Strayer, 1939), Page 83)

[e672570] Mr. Madison. We are proceeding in the same manner that was done when the confederation was first formed — Its original draft was excellent, but in its progress and completion it became so insufficient as to give rise to the present convention. By the vote already taken, will not the temper of the state legislatures transfuse itself into the senate? Do we create a free government?

(Yates’s Diary (Max Farrand, 1911), Pages 415-416, Vol. 1)

Madison—this will weaken it too much.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672571] No determination being taken on the three last motions

It was moved and seconded to erase the word "seven" from the 3rd clause of the fourth resolution.

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Mr. Sherman moved to strike out " years" in order to take questions on the several propositions.

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

On Question on striking out seven Years.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672572] It was moved and seconded to erase the word "seven" from the 3rd clause of the fourth resolution

which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

On the question to strike out "seven"

Masts. ay. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. no. Md. divd. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

Question on Gov. Randolph's motion — 7 ayes — 3 noes — one divided.

[Editors' note: Yates misattributes the motion.]

(Yates's Diary (Max Farrand, 1911), Page 416, Vol. 1)

On Question on striking out seven Years. 7 Ayes-3 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672573] It was moved and seconded to fill up the blank in the 3rd clause of the fourth resolution with the word "six"

which passed in the negative [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

On the question to insert "6 years, which failed 5 Sts. being ay. 5. no. & 1: divided.

Masts. no. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. divd. Va. ay. N. C. ay. S. C. no. Geo. no.

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

Motion to fix the term of service at six years — 5 ayes — 5 noes — one divided.

(Yates's Diary (Max Farrand, 1911), Page 416, Vol. 1)

Gorham moved 6 Years—5 Ayes—5 Noes—1 divided. (H [amilton] and myself voted Neg. on Question.)

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672574] To adjourn

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

On a motion to adjourn

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

[e672575] To adjourn Ayes — 5; noes — 5; divided — 1.

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

On a motion to adjourn, the votes were 5 for 5 agst. it & 1 divided. — Con. N. J. Pa. — Del. Va. — ay — Masts. N. Y. N. C. S. C. Geo: no. Maryd. divided.

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

[e672576] It was moved and seconded to fill up the blank in the 3rd clause of the fourth resolution with the word "five".

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

[e672577] It was moved and seconded to fill up the blank in the 3rd clause of the fourth resolution with the word "five"

which passed in the negative [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

On the question for "5 years" it was lost

Masts. no. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. divid. Va. ay. N. C. ay. S. C. No. Geo. No. [Ayes — 5; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

Do. for 5 years — 5 ayes — 5 noes — one divided.

(Yates's Diary (Max Farrand, 1911), Page 416, Vol. 1)

On Question five Years. 5 Ayes—5 Noes—1 divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672578] To adjourn

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

The question for 4 years was not put; and the convention adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 416, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

[e672579] [To adjourn Ayes — 7; noes — 4.]

And then the House adjourned till to-morrow at 11 o'clock. A. M.

(Official Journal (Max Farrand, 1911), Page 396, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 409, Vol. 1)

The question for 4 years was not put; and the convention adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 416, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 83)

1.37 Tuesday, 26 June 1787, at 11:00 (s6224)

[e672580] It was then moved and seconded to amend the third clause of the fourth resolution so as to read

“for six years, one third to go out biennially”.

[Editors' note: For the sake of tidiness, the Journal orders this motion as the second of the session, whereas Madison and Yates agree that it was the first. Madison writes that the motion was put by Nathaniel Gorham and seconded by James Wilson.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

Mr. Ghorum moved to fill the blank with “six years”. one third of the members to go out every second year.

Mr Wilson 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 421, Vol. 1)

Mr. Gorham. My motion for 4 years' continuance, was not put yesterday. I am still of opinion that classes will be necessary, but I would alter the time. I therefore move that the senators be elected for 6 years, and that the rotation be triennial.

(Yates's Diary (Max Farrand, 1911), Page 430, Vol. 1)

Gorham moves six Years one third to go out biennially.

[Editors' note: Lansing records this amendment as taking place after Read's.]

(Lansing's Notes (Joseph Strayer, 1939), Page 85)

[e672581] Genl. Pinkney [sic] opposed six years in favor of four years. The States he said had different interests. Those of the Southern, and of S. Carolina in particular were different from the Northern. If the Senators should be appointed for a long term, they wd. settle in the State where they exercised their functions; and would in a little time be rather the representatives of that than of the State appoint'g them.

(Madison's Notes (Max Farrand, 1911), Page 421, Vol. 1)

Mr. Pinkney. I oppose the time, because of too long a continuance. The members will by this means be too long separated from their constituents, and will imbibe attachments different from that of the state; nor is there any danger that members, by a shorter duration of office, will not support the interest of the union, or that the states will oppose the general interest. The state of South Carolina was never opposed in principle to congress, nor thwarted their views in any case, except in the requisition of money, and then only for want of power to comply — for it was found there was not money enough in the state to pay their requisition.

(Yates's Diary (Max Farrand, 1911), Page 430, Vol. 1)

[e672582] Mr. Read movd. that the term be nine years. This wd. admit of a very convenient rotation, one third going out triennially. He wd. still prefer "during good behaviour," but being little supported in that idea, he was willing to take the longest term that could be obtained.

Mr. Broome 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 421, Vol. 1)

It was moved and seconded to amend the third clause of the fourth resolution reported from the Committee so as to read as follows, namely

"for nine years, one third to go out triennially"

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

Mr. Read moved that the term of nine years be inserted, in triennial rotation.

(Yates's Diary (Max Farrand, 1911), Page 430, Vol. 1)

Reed moved to insert nine Years in the Blank.

(Lansing's Notes (Joseph Strayer, 1939), Page 84)

[e672583] Mr. Madison. In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people agst. their rulers: secondly to protect the people agst. the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of Govt. most likely to secure their happiness, would first be aware, that those chargd. with the public happiness, might betray their trust. An obvious precaution agst. this danger wd. be to divide the trust between different bodies of men, who might watch & check each other. In this they wd. be governed by the same prudence which has prevailed in organizing the subordinate departments of Govt. where all business liable to abuses is made to pass thro' separate hands, the one being a check on the other. It wd. next occur to such a people, that they themselves were liable to temporary errors, thro' want of information as to their true interest, and that men chosen for a short term, & employed but a small portion of that in public affairs, might err from the same cause. This reflection wd. naturally suggest that the Govt. be so constituted, as that one of its branches might have an oppy. of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, wd. be tha they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence agst. this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose agst. impetuous counsels. It ought finally to occur to a people deliberating on a Govt. for themselves, that as different interests necessarily result from the liberty meant to be secured, the major interest might under sudden impulses be tempted to commit injustice on the minority. In all civilized Countries the people fall into different classes havg. a real or supposed difference of interests. There will be creditors & debtors, farmers, merchts. & manufacturers. There will be particularly the distinction of rich & poor. It was true as had been observd. (by Mr Pinkney) we had not among us those hereditary distinctions, of rank which were a great source of the contests in the ancient Govts. as well as the modern States of Europe, nor those extremes of wealth or poverty which characterize the latter. We cannot however be regarded even at this time, as one homogeneous mass, in which every thing that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we shd. not lose sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will labour under all the hardships of life, & secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this Country, but symptoms of a leveling spirit, as we have understood, have sufficiently appeared in a certain quarters to give notice of the future danger. How is this danger to be guarded agst. on republican principles? How is the danger in all cases of interested co-alitions to oppress the minority to be guarded agst.? Among other means by the establishment of a body in the Govt. sufficiently respectable for its wisdom & virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale. Such being the objects of the second branch in the proposed Govt. he thought a considerable duration ought to be given to it. He did not conceive

that the term of nine years could threaten any real danger; but in pursuing his particular ideas on the subject, he should require that the long term allowed to the 2d. branch should not commence till such a period of life as would render a perpetual disqualification to be re-elected little inconvenient either in a public or private view. He observed that as it was more than probable we were now digesting a plan which in its operation wd. decide forever the fate of Republican Govt we ought not only to provide every guard to liberty that its preservation cd. require, but be equally careful to supply the defects which our own experience had particularly pointed out.

Mr. Sherman. Govt. is instituted for those who live under it. It ought therefore to be so constituted as not to be dangerous to their liberties. The more permanency it has the worse if it be a bad Govt. Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the Government, by preserving that good behavior, because it ensures their re-election. In Connecticut elections have been very frequent, yet great stability & uniformity both as to persons & measures have been experienced from its original establishmt. to the present time; a period of more than 130 years. He wished to have provision made for steadiness & wisdom in the system to be adopted; but he thought six or four years would be sufficient. He shd. be content with either.

Mr. Read wished it to be considered by the small States that it was their interest that we should become one people as much as possible, that State attachments shd. be extinguished as much as possible, that the Senate shd. be so constituted as to have the feelings of citizens of the whole.

Mr. Hamilton. He did not mean to enter particularly into the subject. He concurred with Mr. Madison in thinking we were now to decide for ever the fate of Republican Government; and that if we did not give to that form due stability and wisdom, it would be disgraced & lost among ourselves, disgraced & lost to mankind for ever. He acknowledged himself not to think favorably of Republican Government; but addressed his remarks to those who did think favorably of it, in order to prevail on them to tone their Government as high as possible. He professed himself to be as zealous an advocate for liberty as any man whatever, and trusted he should be as willing a martyr to it though he differed as to the form in which it was most eligible. — He concurred also in the general observations of (Mr. Madison) on the subject, which might be supported by others if it were necessary. It was certainly true that nothing like an equality of property existed: that an inequality would exist as long as liberty existed, and that it would unavoidably result from that very liberty itself. This inequality of property constituted the great & fundamental distinction in Society. When the Tribunitial power had levelled the boundary between the patricians & plebeians what followed? The distinction between rich & poor was substituted. He meant not however to enlarge on the subject. He rose principally to remark that (Mr. Sherman) seemed not to recollect that one branch of the proposed Govt. was so formed, as to render it particularly the guardians of the poorer orders of citizens; nor to have adverted to the true causes of the stability which had been exemplified in Cont. Under the British system as well as the federal, many of the great powers appertaining to Govt. particularly all those relating to foreign Nations were not in the hands of the Govt there. Their internal affairs also were extremely simple, owing to sundry causes many of which were peculiar to that Country. Of late the Governmt. had entirely given way to the people, and

had in fact suspended many of its ordinary functions in order to prevent those turbulent scenes which had appeared elsewhere. He asks Mr S. whether the State at this time, dare impose & collect a tax on ye people? To those causes & not to the frequency of elections, the effect, as far as it existed ought to be chiefly ascribed.

Mr. Gerry. wished we could be united in our ideas concerning a permanent Govt. All aim at the same end, but there are great differences as to the means. One circumstance He thought should be carefully attended to. There were not 11000 part of our fellow citizens who were not agst. every approach towards Monarchy. Will they ever agree to a plan which seems to make such an approach. The Convention ought to be extremely cautious in what they hold out to the people. Whatever plan may be proposed will be espoused with warmth by many out of respect to the quarter it proceeds from as well as from an approbation of the plan itself. And if the plan should be of such a nature as to rouse a violent opposition, it is easy to foresee that discord & confusion will ensue, and it is even possible that we may become a prey to foreign powers. He did not deny the position of Mr. — Madison. that the majority will generally violate justice when they have an interest in so doing; But did not think there was any such temptation in this Country. Our situation was different from that of G. Britain: and the great body of lands yet to be parcelled out & settled would very much marked the difference. Notwithstanding the symptoms of injustice which had marked many of our public Councils, they had not proceeded so far as not to leave hopes, that there would be a sufficient sense of justice & virtue for the purpose of Govt. He admitted the evils arising from a frequency of elections: and would agree to give the Senate a duration of four or five years. A longer term would defeat itself. It never would be adopted by the people.

Mr. Wilson did not mean to repeat what had fallen from others, but wd. add an observation or two which he believed had not yet been suggested. Every nation may be regarded in two relations 1 to its own citizens. 2 to foreign nations. It is therefore not only liable to anarchy & tyranny within but has wars to avoid & treaties to obtain from abroad. The Senate will probably be the depositary of the powers concerning the latter objects. It ought therefore to be made respectable in the eyes of foreign nations. The true reason why G. Britain has not yet listened to a commercial treaty with us has been, because she had no confidence in the stability or efficacy of our Government. 9 years with a rotation, will provide these desirable qualities; and give our Govt. an advantage in this respect over Monarchy itself. In a monarchy much must always depend on the temper of the man. In such a body, the personal character will be lost in the political. He wd. add another observation. The popular objection agst. appointing any public body for a long term was that it might by gradual encroachments prolong itself first into a body for life, and finally become a hereditary one. It would be a satisfactory answer to this objection that as would go out triennially, there would be always three divisions holding their places for unequal terms, and consequently acting under the influence of different views, and different impulses —

(Madison's Notes (Max Farrand, 1911), Pages 421-426, Vol. 1)

Mr Madison. We are now to determine whether the republican form shall be the basis of our government — I admit there is weight in the objection of the gentleman from South Carolina; but no plan can steer clear of objections.

That great powers are to be given, there is no doubt; and that those powers may be abused is equally true. It is also probable that members may lose their attachments to the states which sent them — Yet the first branch will control them in many of their abuses. But we are now forming a body on whose wisdom we mean to rely, and their permanency in office secures a proper field in which they may exert their firmness and knowledge. Democratic communities may be unsteady, and be led to action by the impulse of the moment. — Like individuals they may be sensible of their own weakness, and may desire the counsels and checks of friends to guard them against the turbulency and weakness of unruly passions. Such are the various pursuits of this life, that in all civilized countries, the interest of a community will be divided. There will be debtors and creditors, and an unequal possession of property, and hence arises different views and different objects in government. This indeed is the ground-work of aristocracy; and we find it blended in every government, both ancient and modern. Even where titles have survived property, we discover the noble beggar haughty and assuming.

The man who is possessed of wealth, who lolls on his sofa or rolls in his carriage, cannot judge of the wants or feelings of the day laborer. The government we mean to erect is intended to last for ages. The landed interest, at present, is prevalent; but in process of time, when we approximate to the states and kingdoms of Europe; when the number of landholders shall be comparatively small, through the various means of trade and manufactures, will not the landed interest be overbalanced in future elections, and unless wisely provided against, what will become of your government? In England, at this day, if elections were open to all classes of people, the property of the landed proprietors would be insecure. An agrarian law would soon take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority. The senate, therefore, ought to be this body; and to answer these purposes, they ought to have permanency and stability. Various have been the propositions; but my opinion is, the longer they continue in office, the better will these views be answered.

Mr. Sherman. The two objects of this body are permanency and safety to those who are to be governed. A bad government is the worse for being long. Frequent elections give security and even permanency. In Connecticut we have existed 132 years under an annual government; and as long as a man behaves himself well, he is never turned out of office. Four years to the senate is quite sufficient when you add to it the rotation proposed.

Mr. Hamilton. This question has already been considered in several points of view. We are now forming a republican government. Real liberty is neither found in despotism or the extremes of democracy, but in moderate governments.

Those who mean to form a solid republican government, ought to proceed to the confines of another government. As long as offices are open to all men, and no constitutional rank is established, it is pure republicanism. But if we incline too much to democracy, we shall soon shoot into a monarchy. The difference of property is already great amongst us. Commerce and industry will still increase the disparity. Your government must meet this state of things, or combinations will in process of time, undermine your system. What was the tribunitial power

of Rome? It was instituted by the plebeans as a guard against the patricians. But was this a sufficient check? No — The only distinction which remained at Rome was, at last, between the rich and poor. The gentleman from Connecticut forgets that the democratic body is already secure in a representation. As to Connecticut, what were the little objects of their government before the revolution? Colonial concerns merely. They ought now to act on a more extended scale, and dare they do this? Dare they collect the taxes and requisitions of congress? Such a government may do well, if they do not tax, and this is precisely their situation.

Mr. Gerry. It appears to me that the American people have the greatest aversion to monarchy, and the nearer our government approaches to it, the less chance have we for their approbation. Can gentlemen suppose that the reported system can be approved of by them? Demagogues are the great pests of our government, and have occasioned most of our distresses. If four years are insufficient, a future convention may lengthen the time.

Mr. Wilson. The motion is now for nine years, and a triennial rotation. Every nation attends to its foreign intercourse — to support its commerce — to prevent foreign contempt and to make war and peace. Our senate will be possessed of these powers, and therefore ought to be dignified and permanent. What is the reason that Great Britain does not enter into a commercial treaty with us? Because congress has not the power to enforce its observance. But give them those powers, and give them the stability proposed by the motion, and they will have more permanency than a monarchical government. The great objection of many is, that this duration would give birth to views inconsistent with the interests of the union. This can have no weight, if the triennial rotation is adopted; and this plan may possibly tend to conciliate the minds of the members of the convention on this subject, which have varied more than on any other question.

(Yates's Diary (Max Farrand, 1911), Pages 430-432, Vol. 1)

Madison—The Advantages of Government cannot be extended equally to all—Those remote from Seat of Government cannot be placed in a Situation equally advantageous with such as near it—Distinctions will always exist—that of Debtor and Creditor—Property had made Distinctions in Europe before a Nobility was created—Inequality of Property will produce the same Distinctions here—The Man in affluent Circumstances has different Feelings from the man who daily toils for a Subsistence. The landed Interest has now the Supreme Power—a Century hence the commercial may prevail—The Government ought to be so organized as to give a Balance to it and protect one Order of Men from the predominating Influence of the other.—The Senate ought to represent the opulent Minority —If this is not done the System cannot be durable.

Sherman—Permanency and Security appear the great Objects of pursuit—In Connecticut have had annual Elections for 135 years—It has protected Property effectually and no Imputations of Instability on it.

Hamilton—We are now considering the Cause of Democracy—he is attached to a free Government and would cheerfully become a Martyr to it—The occasional Violence of Democracy and the uniform Tyranny of a Despot are productive of the same Consequences—to prevent them he is for tuning the Government high—In the ordinary Progress of Things we must look to a Period as not very

remote when Distinctions arising from Property will be greater—You must devise a Repository of the Rights of the wealthy—At Rome after the Institution of the tribunitian Power greater Distinctions arose from the unequal Distribution of Riches and Rich and Poor were more oppressive Distinctions than patrician and plebeian. Under the Colonial Government of Connecticut its Objects were contracted—but we have taken a new Station—Its Powers ought to be enlarged in Proportion to the Magnitude of the Objects it is intended to embrace. He will therefore go beyond any of the Ideas advocated by either Party.—Is for nine Years.

Wilson—Foreigners in making Treaties will naturally be inclined to wish a permanent Body to treat with—This will give their Measures Respect and Permanency—Great Britain will not make Treaty with us because Congress instable.—2nd Branch have that [?] Power.

(Lansing's Notes (Joseph Strayer, 1939), Pages 84-85)

Maddison. Each Interest ought to be represented. Property ought to be defended against the will of even the Majority. If we do not give it a just ballance or proportion of power, the Government can not last.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 120, Pierce Butler: Notes on Debate)

[e672584] It was moved and seconded to amend the third clause of the fourth resolution reported from the Committee so as to read as follows, namely

“for nine years, one third to go out triennially”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

On the question for 9 years. to go out triennially

Massts no. Cont. no. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 8; noes — 3.]

[Editors' note: The voting record shows that the Official Record's account is correct and that the numbers attributed to the Ayes and Noes have been switched here.]

(Madison's Notes (Max Farrand, 1911), Page 426, Vol. 1)

The question was then put on Mr. Read's motion, and lost, 8 noes — 3 ayes.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

On Question Delaware Georgia and Pennsylvania Aye-8 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 85)

[e672585] It was then moved and seconded to amend the third clause of the fourth resolution so as to read

“for six years, one third to go out biennially”

On the question to agree to the amendment it passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

On the question for 6 years to go out biennially
Massts. ay. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay.
N. C. ay. S. C. no. Geo. no. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 426, Vol. 1)

The question on 5 years, and a biennial rotation, was carried — 7 ayes — 4 noes. New-York in the minority.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

7 Ayes—4 Noes—New York New Jersey South Carolina and Georgia No.

(Lansing's Notes (Joseph Strayer, 1939), Page 85)

[e672586] [Editors' note: The term length having been decided, the other proposals on this clause became redundant.

The confused text seen here is a result of the Quill platform being unable to represent the amendment due to the number of subsequent changes after its proposal. The original text can be found in the previous session.]

(2019 Editors)

[e672587] [Editors' note: The term length having been decided, the other proposals on this clause became redundant and have therefore been represented as 'dropped'.]

(2019 Editors)

[e672588] [Editors' note: The term length having been decided, the other proposals on this clause became redundant and have therefore been represented as 'dropped'.

The confused text seen here is a result of the Quill platform being unable to represent the amendment due to the number of subsequent changes after its proposal. The original text can be found in the previous session.]

(2019 Editors)

[e672589] [Editors' note: As the Convention moved on to discuss the fourth clause, the third clause as amended was taken into the working document.]

(2019 Editors)

[e672590] "To receive fixt stipends by which they may be compensated for their services". considered

(Madison's Notes (Max Farrand, 1911), Page 426, Vol. 1)

[e672591] General Pinkney [sic] proposed “that no Salary should be allowed”. As this (the Senatorial) branch was meant to represent the wealth of the Country, it ought to be composed of persons of wealth; and if no allowance was to be made the wealthy alone would undertake the service. He moved to strike out the Clause.

Doctr: Franklin seconded the motion. He wished the Convention to stand fair with the people. There were in it a number of young men who would probably be of the Senate. If lucrative appointments should be recommended we might be chargeable with having carved out places for ourselves.

(Madison’s Notes (Max Farrand, 1911), Pages 426-427, Vol. 1)

[to strike the following clause out of the resolution “to receive fixed stipends by which they may be compensated for the devotion of their time to public service

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

Mr. Pinkney. I move that the clause for granting stipends be stricken out.

(Yates’s Diary (Max Farrand, 1911), Page 433, Vol. 1)

C. C. Pinkney—moves that to receive fixed Stipends be struck out—It is the prevailing Idea that 2nd Branch ought to represent the Wealth of the Nation—If so they ought to serve without Compensation. Franklin—Is of the same Opinion—We will always be able to command the Attendance of a sufficient Number of Men, whose Wealth will enable them to serve Gratis

(Lansing’s Notes (Joseph Strayer, 1939), Pages 85-86)

[e672592] To strike the following clause out of the 4 resolution “to receive fixed stipends by which they may be compensated for the devotion of their time to public service”: Ayes — 5; noes — 6.

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

On the question. —

Masts. Connecticut Pa. Md. S. Carolina Ay.

N. Y. N. J. Del. Virga. N. C. Geo. no.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 1)

Question put — 5 ayes — 6 noes.

(Yates’s Diary (Max Farrand, 1911), Page 433, Vol. 1)

—On Question 5 Ayes—6 Noes.

(Lansing’s Notes (Joseph Strayer, 1939), Page 86)

[e672593] It was moved and seconded to amend the fourth clause of the fourth resolution so as to read

“to receive a compensation for the devotion of their time to the public service”.

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

Mr. Williamson moved to change the expression into these words to wit. “to receive a compensation for the devotion of their time to the public Service”. The motion was seconded by Mr. Elseworth.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 1)

[e672594] It was moved and seconded to amend the fourth clause of the fourth resolution so as to read

“to receive a compensation for the devotion of their time to the public service”

which passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

And was agreed to by all the States except S. Carola. It seemed to be meant only to get rid of the word “fixt” and leave greater room for modifying the provision on this point.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 1)

On the amendment to the question, to receive a compensation — 10 ayes — 1 no.

(Yates’s Diary (Max Farrand, 1911), Page 433, Vol. 1)

[e672595] [Editors’ note: The Convention moved on to the consideration of subsequent clauses, and the compensation clause was taken into the working document.]

(2019 Editors)

[e672596] [Editors’ note: The Convention moved on to discuss which body would pay the national legislators.]

(2019 Editors)

[e672597] It was moved and seconded to erase the following words from the fourth resolution, namely

“out of the national Treasury,”

and to substitute the following namely

“by their respective States”.

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

Mr. Elseworth moved to strike out “to be paid out of the natil. Treasury” and insert “to be paid by their respective States”. If the Senate was meant to strengthen the Govt. it ought to have the confidence of the States. The States will have an interest in keeping up a representation and will make such provision for supporting the members as will ensure their attendance.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 1)

Judge Elsworth. I move that the words, out of the national treasury, be stricken out, and the words, the respective state legislatures, be inserted.

If you ask the states what is reasonable, they will comply — but if you ask of them more than is necessary to form a good government, they will grant you nothing.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

Elsworth moves To be paid out of the State Treasurys.

(Lansing's Notes (Joseph Strayer, 1939), Page 86)

[e672598] Mr. Madison, considered this a departure from a fundamental principle, and subverting the end intended by allowing the Senate a duration of 6 years. They would if this motion should be agreed to, hold their places during pleasure; during the pleasure of the State Legislatures. One great end of the institution was, that being a firm, wise and impartial body, it might not only give stability to the Genl. Govt. in its operations on individuals, but hold an even balance among different States. The motion would make the Senate like Congress, the mere Agents & Advocates of State interests & views, instead of being the impartial umpires & Guardians of justice and general Good. Congs. had lately by the establishment of a board with full powers to decide on the mutual claims between the U. States & the individual States, fairly acknowledged themselves to be unfit for discharging this part of the business referred to them by the Confederation.

Mr. Dayton considered the payment of the Senate by the States as fatal to their independence. He was decided for paying them out of the Natl Treasury.

(Madison's Notes (Max Farrand, 1911), Pages 427-428, Vol. 1)

Capt. Dayton. The members should be paid from the general treasury, to make them independent.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

Madison—by making Elections six Years distant from each other we evince a Disposition to make them independent.—This can only be done by a Payment from national Treasury.

Strong—If you fix the Provision it will not comport with oeconomical Ideas of the Day—It will alarm the Public—Let Legislature provide for themselves.

(Lansing's Notes (Joseph Strayer, 1939), Page 86)

[e672599] It was moved and seconded to erase the following words from the fourth resolution, namely

“out of the national Treasury,”

and to substitute the following namely

“by their respective States”

which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

On the question for payment of the Senate to be left to the States as moved by Mr. Elseworth

Massts. no. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. ay. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 428, Vol. 1)

The question was put on the amendment and lost — 5 ayes — 6 noes.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

On Question 5 Ayes-6 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 86)

[e672600] Col. Mason. He did not rise to make any motion, but to hint an idea which seemed to be proper for consideration. One important object in constituting the Senate was to secure the rights of property. To give them weight & firmness for this purpose, a considerable duration in office was thought necessary. But a longer term than 6 years, would be of no avail in this respect, if needy persons should be appointed. He suggested therefore the propriety of annexing to the office a qualification of property. He thought this would be very practicable; as the rules of taxation would supply a scale for measuring the degree of wealth possessed by every man.

(Madison's Notes (Max Farrand, 1911), Page 428, Vol. 1)

Mr. Mason. I make no motion, but throw out for the consideration of the convention, whether a person in the second branch ought not to be qualified as to property?

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

Mason—The second Branch is intended as a Check to the democratic Spirit—Would it not be best to insert a Qualification of Estate?

(Lansing's Notes (Joseph Strayer, 1939), Page 86)

[e734069] It was moved and seconded to agree to the following clause in the fourth resolution namely

“to be paid out of the public Treasury”

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

[e734070] It was moved and seconded to agree to the following clause in the fourth resolution namely

“to be paid out of the public Treasury”

which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 418, Vol. 1)

A question was then taken whether the words “to be paid out of the public treasury.” should stand” Mast. ay. Cont no. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 428, Vol. 1)

The question was then put on the clause, and lost — 5 ayes — 6 noes.

(Yates's Diary (Max Farrand, 1911), Page 433, Vol. 1)

On Question 5 Ayes-6 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 86)

[e672602] [Editors' note: The Convention took the final clause of the Fourth Resolution into consideration.]

(2019 Editors)

[e672603] It was moved and seconded to postpone the consideration of the last clause in the fourth resolution, as reported from the Committee, in order to take up the following proposition, offered as a substitute, namely

“to be ineligible to, and incapable of holding any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected”.

[Editors' note: Madison writes, 'Mr. Butler moved to strike out the ineligibility of Senators to State offices.

Mr. Williamson seconded the motion.' (Page 428, Vol. 1, Madison's Notes (Max Farrand, 1911)).

Striking out this text would provide the same language as the proposition above and is supported by Yates. The Journal's voting record suggests that Williamson was the first to move this new language, but the editors have recorded both proposers here.]

(Official Journal (Max Farrand, 1911), Pages 418-419, Vol. 1)

It was moved to strike out the clause, to be ineligible to any state office.

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

[e672604] Mr. Madison. Congress heretofore depended on state interests — we are now going to pursue the same plan.

Mr. Wilson. Congress has been ill managed, because particular states controlled the union. In this convention, if a proposal is made promising independency to the general government, before we have done with it, it is so modified and changed as to amount to nothing. In the present case, the states may say, although I appoint you for six years, yet if you are against the state, your table will be unprovided. Is this the way you are to erect an independent government?

Mr. Butler. This second branch I consider as the aristocratic part of our government; and they must be controlled by the states, or they will be too independent.

Mr. Pinkney [sic]. The states and general government must stand together. On this plan have I acted throughout the whole of this business. I am therefore for expunging the clause. Suppose a member of this house was qualified to be a state judge, must the state be prevented from making the appointment?

[Editors' note: Yates has the most complete record of the discussion. In comparing his account with Madison's, it becomes clear that the 'Mr Pinkney' Yates refers to is C.C. Pinckney.]

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

Mr. Wilson remarked the additional dependence this wd. create in the Senators on the States. The longer the time he observed allotted to the officer, the more compleat will be the dependance, if it exists at all.

Genl. Pinkney was for making the States as much as could be conveniently done a part of the Genl. Gov't: If the Senate was to be appointed by the States, it ought in pursuance of the same idea to be paid by the States: and the States ought not to be barred from the opportunity of calling members of it into offices at home. Such a restriction would also discourage the ablest men from going into the Senate.

(Madison's Notes (Max Farrand, 1911), Pages 428-429, Vol. 1)

[e672605] On the question to postpone
it passed in the affirmative. [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

On the question to postpone in order to consider Williamson's Resoln: Masts. no. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 3.]

[Editors' note: Farrand writes that 'Detail of Ayes and Noes, Vote 100, makes South Carolina and Georgia both negative.']

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

[e672606] It was then moved and seconded to add after the word "elected" the words

"and for One year thereafter".

[Editors' note: Madison writes that he and Elbridge Gerry proposed this amendment. As he places Gerry in front, it seems that he was the proposer and Madison the seconder.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

Mr. Gerry & Mr. M adison — move to add to Mr. Williamsons 1. quest: "and for 1 year thereafter."

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

'Or United States during the Time for which they were elected and for one Year thereafter.'

[Editors' note: The text enclosed in quotation marks is originally italicized in Strayer's edition of Lansing's notes, The Delegate from New York.]

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672607] It was then moved and seconded to add after the word "elected" the words

"and for One year thereafter"

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

On this amendt.

Masts. no. Cont. ay N. Y. ay. N. J. no. P. no. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

On Question—Unanimously affirmative.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e734071] It was then moved and seconded to agree to the proposition as amended namely

“to be ineligible to, and incapable of holding any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter”

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

[e734072] It was then moved and seconded to agree to the proposition as amended namely

“to be ineligible to, and incapable of holding any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter”

which passed in the affirmative. [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

On Mr. Will—son's 1 Question as amended. vz. inelig: & incapable &c. &c. for 1 year &c. agd. unanimously.

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

Question put for striking out — 8 ayes — 3 noes.

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

G. Mason begs the favor of Maj. Jackson to correct the following Resolution, in the manner it hath been agreed to by the Convention.

4. Resolved, That the members of the second branch of the legislature of the United States ought to be chosen by the individual legislatures, to be of the age of thirty years at least, to hold their offices for the term of six years, one third to go out biennially; to be ineligible to and incapable of holding any office under the authority of the United States, except those peculiarly belong to the functions of the second branch, during the term for which they were chosen and for one year thereafter.

[Editors' note: It is unclear where this document fits in the timeline as it is undated. It is added here as this event shows the adoption of the clause in question.]

(Mason's Notes (Max Farrand, 1911), Page 435)

[e672610] It was moved and seconded to add the following clause to the fourth resolution, namely

“and to be ineligible and incapable of holding any office under a particular State”.

[Editors' note: Madison records this Williamson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

Mr. Wiliamson moved a resolution so penned as to admit of the two following questions. 1. whether the members of the Senate should be ineligible to & incapable of holding offices under the U. States

2. whether &c. under the particular States.

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

[e672611] It was moved and seconded to add the following clause to the fourth resolution, namely

“and to be ineligible and incapable of holding any office under a particular State”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

On the 2. question as to ineligibility &c. to State offices.

Mas. ay. Ct. no. N. Y. no. N. J. no. P. ay. Del. no. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

[e672612] [Editors' note: The Convention now moved on to the Fifth Resolution, and the amended Fourth Resolution was taken into the working document.]

(2019 Editors)

[e672613] It was moved and seconded to agree to the fifth resolution reported from the Committee namely,

“Resolved that each Branch ought to possess the right of originating acts.”

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

The 5 Resol: “that each branch have the right of originating acts” was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

The 5th resolve, that each house have the right of originating bills, was taken into consideration

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

5th Resolve—carried unanimously without Debate.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e734073] It was moved and seconded to agree to the fifth resolution reported from the Committee namely.

“Resolved that each Branch ought to possess the right of originating acts”

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

[e734074] It was moved and seconded to agree to the fifth resolution reported from the Committee namely.

“Resolved that each Branch ought to possess the right of originating acts”
which passed unanimously in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

The 5 Resol: “that each branch have the right of originating acts” was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

The 5th resolve, that each house have the right of originating bills, was taken into consideration, and agreed to.

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

5th Resolve—carried unanimously without Debate.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672615] [A]nd then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672616] [A]nd then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 419, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 429, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 434, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

1.38 Wednesday, 27 June 1787, at 11:00 (s6225)

[e672617] It was moved and seconded to postpone the consideration of the sixth resolution reported from the Committee in order to take up the seventh and eighth resolutions.

[Editors' note: Madison records Rutledge as the proposer.]

(Official Journal (Max Farrand, 1911), Page 436, Vol. 1)

Mr. Rutledge moved to postpone the 6th. Resolution, defining the powers of Congs. : in order to take up the 7 & 8 which involved the most fundamental points; the rules of suffrage in the 2 branches

(Madison's Notes (Max Farrand, 1911), Page 436, Vol. 1)

The 6th resolve was postponed, in order to take into consideration the 7th and 8th resolves.

(Yates's Diary (Max Farrand, 1911), Page 438, Vol. 1)

Rutlege moves that 6th Resolve be postponed to take up 7th and 8th.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672618] On the question to postpone it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 436, Vol. 1)

Mr. Rutledge moved to postpone the 6th. Resolution, defining the powers of Congs. : in order to take up the 7 & 8 which involved the most fundamental points; the rules of suffrage in the 2 branches which was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 436, Vol. 1)

The 6th resolve was postponed, in order to take into consideration the 7th and 8th resolves.

(Yates's Diary (Max Farrand, 1911), Page 438, Vol. 1)

Rutlege moves that 6th Resolve be postponed to take up 7th and 8th.— Agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672619] [Editors' note: The Convention now began to debate the Seventh Resolution clause by clause.]

(2019 Editors)

[e672620] It was moved and seconded to agree to the first clause of the seventh resolution namely

“Resolved that the right of suffrage in the first branch of the national Legislature ought not to be according to the rule established in the articles of confederation.”

[Editors' note: It becomes clear later in the debate that the 'first clause' referred to here included the phrase 'but according to some equitable ratio of representation'.]

(Official Journal (Max Farrand, 1911), Page 436, Vol. 1)

A question being proposed on Resol: 7 declaring that the suffrage in the first branch sd. be according to an equitable ratio

(Madison's Notes (Max Farrand, 1911), Page 436, Vol. 1)

The first clause of the 7th was proposed for consideration, which respected the suffrage of each state in the first branch of the legislature.

(Yates's Diary (Max Farrand, 1911), Page 438, Vol. 1)

7th Article—the Words 'ought not to be according to the Rule established by the Confederation' first to be considered.

(Lansing's Notes (Joseph Strayer, 1939), Page 87)

[e672621] Mr L. Martin contended at great length and with great eagerness that the General Govt. was meant merely to preserve the State Governts: not to govern individuals: that its powers ought to be kept within narrow limits; that if too little power was given to it, more might be added; but that if too much, it could never be resumed: that individuals as such have little to do but with their own States; that the Genl. Govt. has no more to apprehend from the States composing the Union while it pursues proper measures, than a Govt. over individuals has to apprehend from its subjects: that to resort to the Citizens at large for their sanction to a new Govern. will be throwing them back into a State of Nature: that the dissolution of the State Govts. is involved in the nature of the process: that the people have no right to do this without the consent of those to whom they have delegated their power for State purposes; through their tongue only they can speak, through their ears, only, can hear: that the States have shewn a good disposition to comply with the Acts, of Congs. weak, contemptibly weak as that body has been; and have failed through inability alone to comply: that the heaviness of the private debts, and the waste of property during the war, were the chief causes of this inability; that he did not conceive the instances mentioned by Mr. Madison of compacts between Va. & Md. between Pa. & N. J. or of troops raised by Masses. for defence against the Rebels, to be violations of the articles of confederation — that an equal vote in each State was essential to the federal idea, and was founded in justice & freedom, not merely in policy: that tho' the States may give up this right of sovereignty, yet they had not, and ought not: that the States like individuals were in a State of nature equally sovereign & free. In order to prove that individuals in a State of nature are equally free & independent he read passages from Locke, Vattel, Lord Summers — Priestly. To prove that the case is the same with States till they surrender their equal sovereignty, he read other passages in Locke & Vattel, and also Rutherford: that the States being equal cannot treat or confederate so as to give up an equality of votes without giving up their liberty: that the propositions on the table were a system of slavery for 10 States: that as Va. Mass. & Pa. have 4290 of the votes they can do as they please without a miraculous Union of the other ten: that they will have nothing to do, but to gain over one of the ten to make them compleat masters of the rest, that they can then appoint an Execute: &

Judiciary & legislate for them as they please: that there was & would continue a natural predilection & partiality in men for their own States; that the States, particularly the smaller, would never allow a negative to be exercised over their laws: that no State in ratifying the Confederation had objected to the equality of votes; that the complaints at present run not agst. this equality but the want of power; that 16 members from Va. would be more likely to act in concert than a like number formed of members from different States; that instead of a junction of the small States as a remedy, he thought a division of the large States would be more eligible. — This was the substance of a speech which was continued more than three hours. He was too much exhausted he said to finish his remarks, and reminded the House that he should tomorrow, resume them.

(Madison's Notes (Max Farrand, 1911), Pages 436-438, Vol. 1)

(Mr. Martin, the attorney general from Maryland, spoke on this subject upwards of three hours. As his arguments were too diffuse, and in many instances desultory, it was not possible to trace him through the whole, or to methodize his ideas into a systematic or argumentative arrangement. I shall therefore only note such points as I conceive merit most particular notice.)

The question is important, (said Mr. Martin,) and I have already expressed my sentiments on the subject. My opinion is, that the general government ought to protect and secure the state governments — others, however, are of a different sentiment, and reverse the principle.

The present reported system is a perfect medley of confederated and national government, without example and without precedent. Many who wish the general government to protect the state governments, are anxious to have the line of jurisdiction well drawn and defined, so that they may not clash. This suggests the necessity of having this line well detailed — possibly this may be done. If we do this, the people will be convinced that we meant well to the state governments; and should there be any defects, they will trust a future convention with the power of making further amendments.

A general government may operate on individuals in cases of general concern, and still be federal. This distinction is with the states, as states, represented by the people of those states. States will take care of their internal police and local concerns. The general government has no interest, but the protection of the whole. Every other government must fail. We are proceeding in forming this government as if there were no state governments at all. The states must approve, or you will have none at all. I have never heard of a confederacy having two legislative branches. Even the celebrated Mr. Adams, who talks so much of checks and balances, does not suppose it necessary in a confederacy. Public and domestic debts are our great distress. The treaty between Virginia and Maryland about the navigation of the Chesapeake and Potomac, is no infraction of the confederacy. The corner-stone of a federal government is equality of votes. States may surrender this right; but if they do, their liberties are lost. If I err on this point, it is the error of the head, not of the heart.

The first principle of government is founded on the natural rights of individuals, and in perfect equality. Locke, Vattel, Lord Somers, and Dr. Priestly, all confirm this principle. This principle of equality, when applied to individuals, is lost in some degree, when he becomes a member of a society, to which it is transferred; and this society, by the name of state or kingdom, is, with respect

to others, again on a perfect footing of equality — a right to govern themselves as they please. Nor can any other state, of right, deprive them of this equality. If such a state confederates, it is intended for the good of the whole; and if it again confederate, those rights must be well guarded. Nor can any state demand a surrender of any of those rights; if it can, equality is already destroyed. We must treat as free states with each other, upon the same terms of equality that men originally formed themselves into societies. Vattel, Rutherford and Locke, are united in support of the position, that states, as to each other, are in a state of nature.

Thus, says Mr. Martin, have I travelled with the most respectable authorities in support of principles, all tending to prove the equality of independent states. This is equally applicable to the smallest as well as the largest states, on the true principles of reciprocity and political freedom.

Unequal confederacies can never produce good effects. Apply this to the Virginia plan. Out of the number 90, Virginia has 16 votes, Massachusetts 14, Pennsylvania 12 — in all 42. Add to this a state having four votes, and it gives a majority in the general legislature. Consequently a combination of these states will govern the remaining nine or ten states. Where is the safety and independency of those states? Pursue this subject farther. The executive is to be appointed by the legislature, and becomes the executive in consequence of this undue influence. And hence flows the appointment of all your officers, civil, military and judicial. The executive is also to have a negative on all laws. Suppose the possibility of a combination of ten states — he negatives a law — it is totally lost, because those states cannot form two thirds of the legislature. I am willing to give up private interest for the public good — but I must be satisfied first, that it is the public interest — and who can decide this point? A majority only of the union.

The Lacedemonians insisted, in the amphictionic council to exclude some of the smaller states from a right to vote, in order that they might tyrannize over them. If the plan now on the table be adopted three states in the union have the controul, and they may make use of their power when they please.

If there exists no separate interests, there is no danger of an equality of votes; and if there be danger, the smaller states cannot yield. If the foundation of the existing confederation is well laid, powers may be added — You may safely add a third story to a house where the foundation is good. Read then the votes and proceedings of congress on forming the confederation — Virginia only was opposed to the principle of equality — The smaller states yielded rights, not the large states — They gave up their claim to the unappropriated lands with the tenderness of the mother recorded by Solomon — they sacrificed affection to the preservation of others. — New-Jersey and Maryland rendered more essential services during the war than many of the larger states. The partial representation in congress is not the cause of its weakness, but the want of power. I would not trust a government organized upon the reported plan, for all the slaves of Carolina or the horses and oxen of Massachusetts. Price says, that laws made by one man or a set of men, and not by common consent, is slavery — And it is so when applied to states, if you give them an unequal representation. What are called human feelings in this instance are only the feelings of ambition and the lust of power.

(Yates's Diary (Max Farrand, 1911), Pages 438-441, Vol. 1)

Martin I think that the proposed Reform of the confedn. must rest upon the State Govts: the reform ought to be for yr. safety and protection — whatever is of an external & merely general nature shall belong to the US. Whatever is internal and existing between the separate states & individuals shall belong to the particular States. if there shall be occasion for farther powers being given to the US. a future convention may propose ym. if you give more than enough, it never can be reclaimed — It is said if the Genl. Govt. legislates for individuals & not for States, the Govt. is not federal — but if the object of this Legislation is of an external nature, the Govt. is federal — Our Reform must be federal — The States are equal & must have equal Influence and equal votes — I will proceed on first principls. every man out of society is equal, in Freedom, & every other quality of man — Lock, Vattel, & others prove this position —

Martin —

The States all agree to the equality of Votes except Virgin. & N. Car. the latter of wh. was divided — Remark. admit the Fact, yet the rule of Taxation was fixed — Congress could not raise a penny except agreeably to Rule of Taxation in the 8th Art — not even from the Post Office — But now we are to tax the people by any Rule the Legislat. may prefer — now then it is necessary to apportion the Representatives — 3 States will have 42 out of 90 votes. they will tyrannize — 10 States will be slaves.

Remark — The laws will be general and apply to the whole — 7. States may now combine — they are the lawful majority, and every one is bound —

The principles are right but cannot be carried into effect.

[Editors' note: Farrand observes that the notes from 'Martin —' onwards 'might be ascribed to June 28, but it is uncertain.']

(King's Diary (Max Farrand, 1911), Pages 442-443, Vol. 1)

Have those who upon the present plan hold 113 part of the Votes, a 13th part of the weight, — certainly not — upon this plan they sink to nothing

The Individual right of Citizens is given up in the State Govts. they cannot exercise it again in the Genl. Government.

It has never been complained of in Congress — the complaint there is the want of proper powers.

(Paterson's Notes (Max Farrand, 1911), Page 443, Vol. 1)

Martin—general Government only intended to protect State Governments. National Objects for Legislative and Executive Exertion ought to be defined and much contracted. If after the greatest Caution defective, it may be revised by a future Convention. While national Government acts for general Good in the Sphere prescribed for it—no hostility to be apprehended from individual States—it will receive their Patronage and Protection. The Respect shewn to a general Government weak to Excess evinces the amicable Disposition of the Individual States to it. Virginia and Maryland made Convention for settling Navigation in Chesapeake and Potowmack—this is no Breach of Confederation. The Troops of Massachusetts were drawn out to quell Rebellion—Neither of those Instances prove a Disrespect to Articles of Union. In every Confederation Equality of Suffrage indispensable. The larger States have more to protect and their superior Wealth and Strength give them a proportionate Influence. The

three larger States can carry the most injurious Points to the other States—unless the others miraculously combine. The Executive and Judicial will be from them. The Executive has a Right to subject Laws to a Revision—this will protect them effectually. But what is to prevent them from making decided Arrangements to assume all the Power of general Government? Athens—Sparta and Thebes pursued same Line of Conduct. From the Journals of Congress it appears that Virginia was sole for apportioning Representation by Numbers or Contribution—She has gained many Proselytes since. The smaller States gave up their Share to the common Territory acquired by their joint Exertions—this was an important Sacrifice. Jersey Maryland and several other States have contributed as essentially to repel the Enemy as the large States who now suppose themselves entitled to Preeminence—he would not trust a Legislature so constituted to legislate for Carolinian Slaves or Massachusetts oxen. the one was to form Part of Rule for Representation—He cannot give his Assent to subject the Rights of Freemen to them. It has been observed that great States have great Objects, which they will not permit the small States to thwart—If those Objects are directed to general Good they will be pursued by all—if not, it would be right to defeat them.

(Lansing's Notes (Joseph Strayer, 1939), Pages 87-89)

[e672622] Before a determination was taken on the clause, the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 436, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 441, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 89)

[e672623] Before a determination was taken on the clause, the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 436, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 441, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 89)

1.39 Thursday, 28 June 1787, at 11:00 (s6226)

[e672624] It was moved and seconded to amend the seventh resolution reported from the Committee so as to read as follows, namely

”Resolved that the right of suffrage in the first branch of the Legislature of the United States ought to be in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each State.”

[Editors’ note: This amendment is not mentioned in the notes kept by Madison, Yates, King, or Paterson. As it is not mentioned again, it has been represented as ‘dropped’.]

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

[e672625] It was moved and seconded to amend the seventh resolution reported from the Committee so as to read as follows, namely

”Resolved that the right of suffrage in the first branch of the Legislature of the United States ought to be in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each State.”

[Editors’ note: This amendment is not mentioned in the notes kept by Madison, Yates, King, or Paterson. As it is not mentioned again, it has been represented as ‘dropped’.]

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

[e672626] Mr. Martin in continuation.

On federal grounds, it is said, that a minority will govern a majority — but on the Virginia plan a minority would tax a majority. In a federal government, a majority of states must and ought to tax. In the local government of states, counties may be unequal — still numbers, not property, govern. What is the government now forming, over states or persons? As to the latter, their rights cannot be the object of a general government — These are already secured by their guardians, the state governments. The general government is therefore intended only to protect and guard the rights of the states as states.

This general government, I believe, is the first upon earth which gives checks against democracies or aristocracies. The only necessary check in a general government ought to be a restraint to prevent its absorbing the powers of the state governments. Representation on federal principles can only flow from state societies. Representation and taxation are ever inseparable — not according to the quantum of property, but the quantum of freedom.

Will the representatives of a state forget state interests? The mode of election cannot change it. These prejudices cannot be eradicated — Your general government cannot be just or equal upon the Virginia plan, unless you abolish state interests. If this cannot be done, you must go back to principles purely federal.

On this latter ground, the state legislatures and their constituents will have no interests to pursue different from the general government, and both will be interested to support each other. Under these ideas can it be expected that the people can approve the Virginia plan? But it is said, the people, not the state legislatures, will be called upon for approbation — with an evident design to separate the interest of the governors from the governed. What must be the consequence? Anarchy and confusion. We lose the idea of the powers with which we are entrusted. The legislatures must approve. By them it must, on your own plan, be laid before the people. How will such a government, over so many great states, operate? Wherever new settlements have been formed in large states, they immediately want to shake off their independency. Why? Because the government is too remote for their good. The people want it nearer home.

The basis of all ancient and modern confederacies is the freedom and the independency of the states composing it. The states forming the amphictionic council were equal, though Lacedemon, one of the greatest states, attempted the exclusion of three of the lesser states from this right. The plan reported, it is true, only intends to diminish those rights, not to annihilate them — It was the ambition and power of the great Grecian states which at last ruined this respectable council. The states as societies are ever respectful. Has Holland or Switzerland ever complained of the equality of the states which compose their respective confederacies? Bern and Zurich are larger than the remaining eleven cantons — so of many of the states of Germany; and yet their governments are not complained of. Bern alone might usurp the whole power of the Helvetic confederacy, but she is contented still with being equal.

The admission of the larger states into the confederation, on the principles of equality, is dangerous — But on the Virginia system, it is ruinous and destructive. Still it is the true interest of all the states to confederate — It is their joint efforts which must protect and secure us from foreign danger, and give us peace and harmony at home.

(Here Mr. Martin entered into a detail of the comparative powers of each state, and stated their probable weakness and strength.)

At the beginning of our troubles with Great Britain, the smaller states were attempted to be cajoled to submit to the views of that nation, lest the larger states should usurp their rights. We then answered them — your present plan is slavery, which, on the remote prospect of a distant evil, we will not submit to.

I would rather confederate with any single state, than submit to the Virginia plan. But we are already confederated, and no power on earth can dissolve it but by the consent of all the contracting powers — and four states, on this floor, have already declared their opposition to annihilate it. Is the old confederation dissolved, because some of the states wish a new confederation?

(Yates's Diary (Max Farrand, 1911), Pages 453-455, Vol. 1)

Mr. L. Martin resumed his discourse, contending that the Genl. Govt. ought to be formed for the States, not for individuals: that if the States were to have votes in proportion to their numbers of people, it would be the same thing whether their representatives were chosen by the Legislatures or the people; the smaller States would be equally enslaved; that if the large States have the same interest with the smaller as was urged, there could be no danger in giving them

an equal vote; they would not injure themselves, and they could not injure the large ones on that supposition without injuring themselves and if the interests were not the same the inequality of suffrage wd — be dangerous to the smaller States. : that it will be in vain to propose any plan offensive to the rulers of the States, whose influence over the people will certainly prevent their adopting it: that the large States were weak at present in proportion to their extent: & could only be made formidable to the small ones, by the weight of their votes; that in case a dissolution of the Union should take place, the small States would have nothing to fear from their power; that if in such a case the three great States should league themselves together, the other ten could do so too: & that he had rather see partial Confederacies take place, than the plan on the table. This was the substance of the residue of his discourse which was delivered with much diffuseness & considerable vehemence.

(Madison's Notes (Max Farrand, 1911), Pages 444-445, Vol. 1)

Mr. Martin resumed his argument.

The Genl. Govt. is not to regulate the rights of Individuals, but that of States. The Genl. Govt. is to Govern Sovereignties. then where the propriety of the several Branches — they cannot exist — there can be no such checks.

Amphictyonick Council of Greece represented by two from each town — who were notwithsg. the dispn. of the Towns equal — Rollins Ancient Hist. 4 Vol. pa. 79.

All the Ancient and Modern Confedns. and Leagues were as equals notwithstanding the vast disproportions in size and wealth.

If the large States, who have got a Majority, will adhere to their plan, we cannot help it, but we will publish to the world our plan and our principles, and leave it to judge.

(Paterson's Notes (Max Farrand, 1911), Page 459, Vol. 1)

Martin—It is in State Capacities we are taxed—The Majority of States ought to tax. In arguing it has been said that Protection ought to be extended to rich and poor—they ought only to protect States. Daily Experience shews the Genius of People is in Favor of small Governments—they are for seperating whenever they are remote from its Seat. In Amphictionic Council each State had two Votes. Sparta attempted to exclude three Cities. Destruction of Confederacy owing to large States. In the Dutch and Swiss Confederacies each has one. Berne and Zurich are equal to all the Rest—each has one Vote. Happiness is preferable to the Splendors of a national Government. Admission of large States into the Confederation dangerous to the others if they are admitted on Principles of perfect Equality—but more so if they have a constitutional Predominance. There is no Danger of not having another Convention unless the Conduct of the present prevents it. The greater States as now circumstanced are not Objects of Terror. Massachusetts convulsed—Pennsylvania Commerce in the Power of Jersey and Delaware—Virginia weak and divided. It is as much their Interest to confederate as any of the smaller States—If they will not do it on the Footing of Equality let them take their own Course.

(Lansing's Notes (Joseph Strayer, 1939), Pages 89-90)

[e672627] It was moved and seconded to erase the word “not” from the first clause of the seventh resolution so as to read

”Resolved that the right of suffrage in the second branch of the Legislature of the United States ought to be according to the rule established in the articles of confederation.”

[Editors’ note: Madison writes that Lansing and Dayton moved the amendment. Yates lists Lansing first, which suggests that it was likely Lansing who proposed the motion and Dayton who seconded it.]

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

Mr. Lansing & Mr. Dayton moved to strike out “not.” so that the 7 art: might read that the rights of suffrage in the 1st branch ought to be according to the rule established by the Confederation”

(Madison’s Notes (Max Farrand, 1911), Page 445, Vol. 1)

Mr. Lansing. I move that the word not be struck out of the resolve, and then the question will stand on its proper ground — and the resolution will read thus: ‘that the representation of the first branch be according to the articles of the confederation’; and the sense of the convention on this point will determine the question of a federal or national government.

[Editors’ note: The text enclosed in quotation marks is originally italicized in Farrand’s *The Records of the Federal Convention of 1787*]

(Yates’s Diary (Max Farrand, 1911), Page 455, Vol. 1)

Lansing—moved that Word not be struck out.

[Editors’ note: Lansing records moving his amendment after debate from Madison, Williamson, and Wilson.]

(Lansing’s Notes (Joseph Strayer, 1939), Page 91)

[e672628] Mr. Dayton expressed great anxiety that the question might not be put till tomorrow; Governr. Livingston being kept away by indisposition, and the representation of N. Jersey thereby suspended.

Mr. Williamson. thought that if any political truth could be grounded on mathematical demonstration, it was that if the states were equally sovereign now, and parted with equal proportions of sovereignty, that they would remain equally sovereign. He could not comprehend how the smaller States would be injured in the case, and wished some gentleman would vouchsafe a solution of it. He observed that the small States, if they had a plurality of votes would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new States from the Westward might be kept in view. They would be small States, they would be poor States, they would be unable to pay in proportion to their numbers; their distance from market rendering the produce of their labour less valuable; they would consequently be tempted to combine for the purpose of laying burdens on commerce & consumption which would fall with greatest weight on the old States.

Mr. Madison sd. he was much disposed to concur in any expedient not inconsistent with fundamental principles, that could remove the difficulty concerning the rule of representation. But he could neither be convinced that the rule contended for was just, nor necessary for the safety of the small States agst. the large States. That it was not just, had been conceded by Mr. Breerly & Mr. Patterson themselves. The expedient proposed by them was a new partition of the territory of the U. States. The fallacy of the reasoning drawn from the equality of Sovereign States in the formation of compacts, lay in confounding mere Treaties, in which were specified certain duties to which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority was created paramount to the parties, & making laws for the government of them. If France, England & Spain were to enter into a Treaty for the regulation of commerce &c. with the Prince of Monacho & 4 or 5 other of the smallest sovereigns of Europe, they would not hesitate to treat as equals, and to make the regulations perfectly reciprocal. Wd. the case be the same if a Council were to be formed of deputies from each with authority and discretion, to raise money, levy troops, determine the value of coin &c? Would 30 or 40. million of people submit their fortunes into the hands, of a few thousands? If they did it would only prove that they expected more from the terror of their superior force, than they feared from the selfishness of their feeble associates Why are Counties of the same States represented in proportion to their numbers? Is it because the representatives are chosen by the people themselves? so will be the representatives in the National. Legislature. Is it because, the larger have more at stake than the smaller? The case will be the same with the larger & smaller States. Is it because the laws are to operate immediately on their persons & properties? The same is the case in some degree as the articles of confederation stand; the same will be the case in a far greater degree under the plan proposed to be substituted. In the cases of captures, of piracies, and of offenses in a federal army, the property & persons of individuals depend on the laws of Congs. By the plan proposed a compleat power of taxation, the highest prerogative of supremacy is proposed to be vested in the National Govt. Many other powers are added which assimilate it to the Govt. of individual States. The negative on the State laws proposed, will make it an essential branch of the State Legislatures & of course will require that it should be exercised by a body established on like principles with the other branches of those Legislatures. — That it is not necessary to secure the small States agst. the large ones he conceived to be equally obvious: Was a combination of the large ones dreaded? this must arise either from some interest common to Va. Masts. & Pa. & distinguishing them from the other States or from the mere circumstance of similarity of size. Did any such common interest exist? In point of situation they could not have been more effectually separated from each other by the most jealous citizen of the most jealous State. In point of manners, Religion and the other circumstances, which sometimes beget affection between different communities, they were not more assimilated than the other States. — In point of the staple productions they were as dissimilar as any three other States in the Union.

The Staple of Masts. was fish, of Pa. flower, of Va. Tobo. Was a Combination to be apprehended from the mere circumstance of equality of size? Experience suggested no such danger. The journals of Congs. did not present any peculiar association of these States in the votes recorded. It had never been

seen that different Counties in the same State, conformable in extent, but disagreeing in other circumstances, betrayed a propensity to such combinations. Experience rather taught a contrary lesson. Among individuals of superior eminence & weight in society, rivalships were much more frequent than coalitions. Among independent nations preeminent over their neighbours, the same remark was verified. Carthage & Rome tore one another to pieces instead of uniting their forces to devour the weaker nations of the Earth. The Houses of Austria & France were hostile as long as they remained the greatest powers of Europe. England & France have succeeded to the pre-eminence & to the enmity. To this principle we owe perhaps our liberty. A coalition between those powers would have been fatal to us. Among the principal members of antient & modern confederacies, we find the same effect from the same cause. The contentions, not the coalitions of Sparta, Athens & Thebes, proved fatal to the smaller members of the Amphyctionic Confederacy. The contentions, not the combinations of Prussia & Austria, have distracted & oppressed the Germanic empire. Were the large States formidable singly to their smaller neighbours? On this supposition the latter ought to wish for such a general Govt. as will operate with equal energy on the former as on themselves. The more lax the band, the more liberty the larger will have to avail themselves of their superior force. Here again Experience was an instructive monitor. What is ye situation of the weak compared with the strong in those stages of civilization in which the violence of individuals is least controuled by an efficient Government? The Heroic period of Antient Greece the feudal licentiousness of the middle ages of Europe, the existing condition of the American Savages, answer this question. What is the situation of the minor sovereigns in the great society of independent nations, in which the more powerful are under no controul but the nominal authority of the law of Nations? Is not the danger to the former exactly in proportion to their weakness. But there are cases still more in point. What was the condition of the weaker members of the Amphyctionic Confederacy. Plutarch (life of Themistocles) will inform us that it happened but too often that the strongest cities corrupted & awed the weaker, and that Judgment went in favor of the more powerful party. What is the condition of the lesser States in the German Confederacy? We all know that they are exceedingly trampled upon and that they owe their safety as far as they enjoy it, partly to their enlisting themselves, under the rival banners of the preeminent members, partly to alliances with neighbouring Princes which the Constitution of the Empire does not prohibit. What is the state of things in the lax system⁷ of the Dutch Confederacy? Holland contains about $\frac{1}{2}$ the people, supplies about $\frac{1}{2}$ of the money, and by her influence, silently & indirectly governs the whole Republic. In a word; the two extremes before us are a perfect separation⁸ & a perfect incorporation, of the 13 States. In the first case they would be independent nations subject to no law, but the law of nations. In the last, they would be mere counties of one entire republic, subject to one common law. In the first case the smaller states would have every thing to fear from the larger. In the last they would have nothing to fear. The true policy of the small States therefore lies in promoting those principles & that form of Govt. which will most approximate the States to the condition of Counties. Another consideration may be added. If the Genl. Govt. be feeble, the large States distrusting its continuance, and foreseeing that their importance & security may depend on their own size & strength, will never submit to a partition. Give to the Genl. Govt. sufficient energy & permanency,

& you remove the objection. Gradual partitions of the large, & junctions of the small States will be facilitated, and time may effect that equalization, which is wished for by the small States, now, but can never be accomplished at once.

Mr. Wilson. The leading argument of those who contend for equality of votes among the States is that the States as such being equal, and being represented not as districts of individuals, but in their political & corporate capacities, are entitled to an equality of suffrage. According to this mode of reasoning the representation of the burroughs in Engl which has been allowed on all hands to be the rotten part of the Constitution, is perfectly right & proper. They are like the States represented in their corporate capacity like the States therefore they are entitled to equal voices, old Sarum to as many as London. And instead of the injury supposed hitherto to be done to London, the true ground of complaint lies with old Sarum; for London instead of two which is her proper share, sends four representatives to Parliament.

Mr. Sherman. The question is not what rights naturally belong to men; but how they may be most equally & effectually guarded in Society. And if some give up more than others in order to obtain this end, there can be no room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into Society along with the poor man, gives up more than the poor man. yet with an equal vote he is equally safe. Were he to have more votes than the poor man in proportion to his superior stake, the rights of the poor man would immediately cease to be secure. This consideration prevailed when the articles of confederation were formed.

(Madison's Notes (Max Farrand, 1911), Pages 445-450, Vol. 1)

Mr. Madison. I am against the motion. I confess the necessity of harmonizing, and if it could be shown that the system is unjust or unsafe, I would be against it. There has been much fallacy in the arguments advanced by the gentleman from Maryland. He has, without adverting to many manifest distinctions, considered confederacies and treaties as standing on the same basis. In the one, the powers act collectively, in the other individually. Suppose, for example, that France, Spain and some of the smaller states in Europe, should treat on war or peace, or on any other general concern, it would be done on principles of equality; but if they were to form a plan of general government, would they give, or are the greater states obliged to give, to the lesser, the same and equal legislative powers? Surely not. They might differ on this point, but no one can say that the large states were wrong in refusing this concession. Nor can the gentleman's reasoning apply to the present powers of congress; for they may and do, in some cases, affect property, and in case of war, the lives of the citizens. Can any of the lesser states be endangered by an adequate representation? Where is the probability of a combination? What the inducements? Where is the similarity of customs, manners or religion? If there possibly can be a diversity of interest, it is the case of the three large states. Their situation is remote, their trade different. The staple of Massachusetts is fish, and the carrying trade — of Pennsylvania, wheat and flour — of Virginia, tobacco. Can states thus situated in trade, ever form such a combination? Do we find those combinations in the larger counties in the different state governments to produce rivalships? Does not the history of the nations of the earth verify it? Rome rivalled Carthage, and could not be satisfied before she was destroyed. The houses

of Austria and Bourbon acted on the same view — and the wars of France and England have been waged through rivalry; and let me add, that we, in a great measure, owe our independency to those national contending passions, France, through this motive, joined us. She might, perhaps, with less expense, have induced England to divide America between them. In Greece the contention was ever between the larger states. Sparta against Athens — and these again, occasionally, against Thebes, were ready to devour each other. Germany presents the same prospect — Prussia against Austria. Do the greater provinces in Holland endanger the liberties of the lesser? And let me remark, that the weaker you make your confederation, the greater the danger to the lesser states. They can only be protected by a strong federal government. Those gentlemen who oppose the Virginia plan do not sufficiently analyze the subject. Their remarks, in general, are vague and inconclusive.

Captain Dayton. On the discussion of this question the fate of the state governments depend.

Mr. Williamson. If any argument will admit of demonstration, it is that which declares, that all men have an equal right in society. Against this position, I have heard, as yet, no argument, and I could wish to hear what could be said against it. What is tyranny? Representatives of representatives, if you give them the power of taxation. From equals take equals, and the remainder is equal. What process is to annihilate smaller states, I know not. But I know it must be tyranny, if the smaller states can tax the greater, in order to ease themselves. A general government cannot exercise direct taxation. Money must be raised by duties and imposts, &c. and this will operate equally. It is impossible to tax according to numbers. Can a man over the mountains, where produce is a drug, pay equal with one near the shore?

Mr. Wilson. I should be glad to hear the gentleman from Maryland explain himself upon the remark of Old Sarum, when compared with the city of London. This he has allowed to be an unjust proportion; as in the one place one man sends two members, and in the other one million are represented by four members. I would be glad to hear how he applies this to the larger and smaller states in America; and whether the borough, as a borough, is represented, or the people of the borough.

Mr. Martin rose to explain. Individuals, as composing a part of the whole of one consolidated government, are there represented.

(Yates's Diary (Max Farrand, 1911), Pages 455-457, Vol. 1)

Madison — The Gentlemen who oppose the plan of a representation founded on Numbers, do not distinguish accurately — they use general terms — speake of Tyranny — of the small states being swallowed up by large ones. of combinations between Mass. Penn. & Virgin. no circumstance of Religion, Habits, manners, mode of thinking, course of Business, manufactures, commerce, or natural productions establishes a common interest between them exclusive of all the other States — If this was the case, there is no Fact in ye. History of man or nations that authorities the Jealousy. Engld. & France might have divid America — The great States, of Athens & Sparta members of the Amphictionic Council never combined to oppress the other Cities — they were Rivals and fought each other — The larger members of the Helvetic Union never combined agt. the small states — Those of the Netherlands never entered into such a

combination — In Germany the large Members have been at war wh. each other, but never combined agt. the inferior members —

These Facts are founded in an inherent principle in the Nature of man & Nations who are but an aggregate of men — When Men or Nations are large, strong, and also nearly equal, they immediately become Rivals — The Jealousy of each other prevents their Union —

Pinckney. Cs.

Remarks that the honors & Emoluments of the Union may be the object of Combination.

Remark — The advocates for a confederation purely applying to States — agree that the plan of Representation in proportion to Numbers will have the men free but the states will be degraded their sovereignty will be degraded —

(King's Diary (Max Farrand, 1911), Pages 458-459, Vol. 1)

Mr. Madison

Have we seen the Great Powers of Europe combining to oppress the small —18

Yes — the division of Poland.

Mr. Williamson

They talk in vague Terms of the great States combining etc

Wants to know how it is possible that the large States can oppress the small18

The rule to tax the States according to their numbers would be cruel and unjust — it would Create a war.

Mr. Madison.

If you form the present Government, the States will be satisfied — and they will divide and sub-divide so as to become nearly equal —

(Paterson's Notes (Max Farrand, 1911), Page 459, Vol. 1)

Madison—Fallacy of Argument owing to a Connection of Legislative Ideas with Right of making Treaties. Are the larger States congenial to each other by Proximity common Interests or Similarity of Pursuits?—They are not—they are so situated as to perpetuate Diversity of Interests. The Staple of Massachusetts is Fish and she has carrying Trade—that of Pennsylvania Wheat and Virginia Tobacco. Equality will uniformly excite Jealousy—Did Rome and Carthage combine to destroy their Neighbours? This Question will determine whether we shall confederate at all or partial Confederations shall be formed.

Williamson—Mathematically Demonstrable that Representation ought to be proportioned to Individuals. If the Taxes are laid by smaller States what would prevent them from surcharging the greater?

Wilson—Is it not unjust that old Sarum should send two Members and London only four? If this admitted it applies forcibly to the present Case.

Lansing—moved that Word not be struck out.

Madison—Efficient Government can only be formed by apportioning Representation. The States may be equalized by general Government. The State of New Jersey being unrepresented by the Indisposition of Governor Livingston the Question was put off by New York.

[Editors' note: It is indicated by Madison, Yates, and Paterson's notes that the debate found on either side of Lansing's motion was actually continuous. Therefore, Madison's second speech has been included in this debate event.]

(Lansing's Notes (Joseph Strayer, 1939), Pages 90-92)

Williamson. States Cannot be taxed according to Numbers. Sherman. It will not be reasonable that the Interior States should pay as much as the Commercial States.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 126, Pierce Butler: Notes on Debates)

[e672630] The determination of the House on the motion for erasing the word "not" from the first clause of the seventh resolution was postponed, at the request of the Deputies of the State of New-York till tomorrow.

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

The determination of the question from striking out the word "not" was put off till to morrow at the request of the Deputies of N. York.

(Madison's Notes (Max Farrand, 1911), Page 450, Vol. 1)

The further consideration of the question was postponed.

(Yates's Diary (Max Farrand, 1911), Page 457, Vol. 1)

[e672631] Mr. Sherman. In society, the poor are equal to the rich in voting, although one pays more than the other. This arises from an equal distribution of liberty amongst all ranks; and it is, on the same grounds, secured to the states in the confederation — for this would not even trust the important powers to a majority of the states. Congress has too many checks, and their powers are too limited. A gentleman from New-York thinks a limited monarchy the best government, and no state distinctions. The plan now before us gives the power to four states to govern nine states. As they will have the purse, they may raise troops, and can also make a king when they please.

Mr. Madison. There is danger in the idea of the gentleman from Connecticut. Unjust representation will ever produce it. In the United Netherlands, Holland governs the whole, although she has only one vote. The counties in Virginia are exceedingly disproportionate, and yet the smaller has an equal vote with the greater, and no inconvenience arises.

(Yates's Diary (Max Farrand, 1911), Page 457, Vol. 1)

[e672632] Dr. Franklin.

Mr. President

The small progress we have made after 4 or five weeks close attendance & continual reasonings with each other — our different sentiments on almost every question, several of the last producing as many noes as ayes, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of Government, and examined the different forms of those Republics which having been formed with the seeds of their own dissolution now no longer exist. And we have viewed

Modern States all round Europe, but find none of their Constitutions suitable to our circumstances.

In this situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the Contest with G. Britain, when we were sensible of danger we had daily prayer in this room for the divine protection. — Our prayers, Sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a Superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? or do we imagine that we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth — that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings, that “except the Lord build the House they labour in vain that build it.” I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall become a reproach and by word down to future ages. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human Wisdom and leave it to chance, war and conquest.

I therefore beg leave to move — that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service —

Mr. Sharman seconded the motion.

(Madison’s Notes (Max Farrand, 1911), Pages 450-452, Vol. 1)

Governor Franklin read some remarks, acknowledging the difficulties of the present subject. Neither ancient or modern history, (said Gov. Franklin,) can give us light. As a sparrow does not fall without Divine permission, can we suppose that governments can be erected without his will? We shall, I am afraid, be disgraced through little party views. I move that we have prayers every morning.

(Yates’s Diary (Max Farrand, 1911), Pages 457-458, Vol. 1)

[e672633] Mr. Hamilton & several others expressed their apprehensions that however proper such a resolution might have been at the beginning of the convention, it might at this late day, 1. bring on it some disagreeable animadversions. & 2. lead the public to believe that the embarrassments and dissensions within the convention, had suggested this measure. It was answered by Doctr. F. Mr. Sherman & others, that the past omission of a duty could not justify a further omission — that the rejection of such a proposition would expose the Convention to more unpleasant animadversions than the adoption of it: and

that the alarm out of doors that might be excited for the state of things within. would at least be as likely to do good as ill.

Mr. Williamson, observed that the true cause of the omission could not be mistaken. The Convention had no funds.

(Madison's Notes (Max Farrand, 1911), Page 452, Vol. 1)

[e672634] Mr. Randolph proposed in order to give a favorable aspect to ye. measure, that a sermon be preached at the request of the convention on 4th of July, the anniversary of Independence, — & thenceforward prayers be used in ye Convention every morning. Dr. Frankn. 2ded. this motion. After several unsuccessful attempts for silently postponing the matter by adjourng. the adjournment was at length carried, without any vote on the motion.

(Madison's Notes (Max Farrand, 1911), Page 452, Vol. 1)

[e672635] After several unsuccessful attempts for silently postponing the matter by adjourng. the adjournment was at length carried, without any vote on the motion.

(Madison's Notes (Max Farrand, 1911), Page 452, Vol. 1)

And then the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 458, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 92)

[e672636] After several unsuccessful attempts for silently postponing the matter by adjourng. the adjournment was at length carried, without any vote on the motion.

(Madison's Notes (Max Farrand, 1911), Page 452, Vol. 1)

And then the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Page 444, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 458, Vol. 1)

Adjourned till to Morrow

(Lansing's Notes (Joseph Strayer, 1939), Page 92)

1.40 Friday, 29 June 1787, at 10:00 (s6227)

[e672637] Doctr. Johnson. The controversy must be endless whilst Gentlemen differ in the grounds of their arguments; Those on one side considering the States as districts of people composing one political Society; those on the other considering them as so many political societies. The fact is that the States do exist as political Societies, and a Govt. is to be formed for them in their political capacity, as well as for the individuals composing them. Does it not seem to follow, that if the States as such are to exist they must be armed with some power of self-defence. This is the idea of (Col. Mason) who appears to have looked to the bottom of this matter. Besides the Aristocratic and other interests, which ought to have the means of defending themselves, the States have their interests as such, and are equally entitled to like means. On the whole he thought that as in some respects the States are to be considered in their political capacity, and in others as districts of individual citizens, the two ideas embraced on different sides, instead of being opposed to each other, ought to be combined; that in one branch the people, ought to be represented; in the other, the States.

Mr. Ghorum. The States as now confederated have no doubt a right to refuse to be consolidated, or to be formed into any new system. But he wished the small States which seemed most ready to object, to consider which are to give up most, they or the larger ones. He conceived that a rupture of the Union wd. be an event unhappy for all, but surely the large States would be least unable to take care of themselves, and to make connections with one another. The weak therefore were most interested in establishing some general system for maintaining order. If among individuals, composed partly of weak, and partly of strong, the former most need the protection of law & Government, the case is exactly the same with weak & powerful States. What would be the situation of Delaware (for these things he found must be spoken out, & it might as well be done first as last) what wd. be the situation of Delaware in case of a separation of the States? Would she not lie at the mercy of Pennsylvania? would not her true interest lie in being consolidated with her, and ought she not now to wish for such a union with Pa. under one Govt. as will put it out of the power of Penna. to oppress her? Nothing can be more ideal than the danger apprehended by the States, from their being formed into one nation. Massts. was originally three colonies, viz old Massts. — Plymouth — & the province of Mayne. These apprehensions existed then. An incorporation took place; all parties were safe & satisfied; and every distinction is now forgotten. The case was similar with Connecticut & Newhaven. The dread of Union was reciprocal; the consequence of it equally salutary and satisfactory. In like manner N. Jersey has been made one society out of two parts. Should a separation of the States take place, the fate of N. Jersey wd. be worst of all. She has no foreign commerce & can have but little. Pa. & N. York will continue to levy taxes on her consumption. If she consults her interest she wd. beg of all things to be annihilated. The apprehensions of the small States ought to be appeased by another reflection. Massts. will be divided. The province of Maine is already considered as approaching the term of its annexation to it; and Pa. will probably not increase, considering the present state of her population, & other events that may happen. On the whole he considered a Union of the States as necessary to their happiness, & a firm Genl. Govt. as necessary to their Union. He shd. consider it as his duty if

his colleagues viewed the matter in the same light he did to stay here as long as any other State would remain with them, in order to agree on some plan that could with propriety be recommended to the people.

Mr. Elseworth, did not despair. He still trusted that some good plan of Govt. wd. be devised & adopted.

Mr. Read. He shd. have no objection to the system if it were truly national, but it has too much of a federal mixture in it. The little States he thought had not much to fear. He suspected that the large States felt their want of energy, & wished for a genl. Govt. to supply the defect. Massts. was evidently labouring under her weakness and he believed Delaware wd. not be in much danger if in her neighbourhood. Delaware had enjoyed tranquillity & he flattered himself wd. continue to do so. He was not however so selfish as not to wish for a good Genl. Govt. In order to obtain one the whole States must be incorporated. If the States remain, the representatives of the large ones will stick together, and carry every thing before them. The Executive also will be chosen under the influence of this partiality, and will betray it in his administration. These jealousies are inseparable from the scheme of leaving the States in Existence. They must be done away. The ungranted lands also which have been assumed by particular States must also be given up. He repeated his approbation of the plan of Mr. Hamilton, & wished it to be substituted in place of that on the table.

Mr. Madison agreed with Doctr. Johnson, that the mixed nature of the Govt. ought to be kept in view; but thought too much stress was laid on the rank of the States as political societies. There was a gradation, he observed from the smallest corporation, with the most limited powers, to the largest empire with the most perfect sovereignty. He pointed out the limitations on the sovereignty of the States. as now confederated; their laws in relation to the paramount law of the Confederacy were analogous to that of bye laws to the supreme law, within a State. Under the proposed Govt. the powers of the States will be much farther reduced. According to the views of every member, the Genl. Govt. will have powers far beyond those exercised by the British Parliament when the States were part of the British Empire. It will in particular have the power, without the consent of the State Legislatures, to levy money directly on the people themselves; and therefore not to divest such unequal portions of the people as composed the several States, of an equal voice, would subject the system to the reproaches & evils which have resulted from the vicious representation in G. B.

He entreated the gentlemen representing the small States to renounce a principle wch. was confessedly unjust, which cd. never be admitted, & if admitted must infuse mortality into a Constitution which we wished to last forever. He prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. It had been sd. that the want of energy in the large states wd. be a security to the small. It was forgotten that this want of energy proceeded from the supposed security of the States agst. all external danger. Let each State depend on itself for its security, & let apprehensions arise of danger from distant powers or from neighbouring States, & the languishing condition of all the States, large as well as small, wd. soon be transformed into vigorous & high toned Govts. His great fear was that their Govts. wd. then have too much energy, that these might not only be formidable in the large to the small States, but fatal to the internal liberty of all. The same causes which have rendered the old world the Theatre of incessant wars, & have banished liberty from the face of it, wd. soon

produce the same effects here. The weakness & jealousy of the small States wd. quickly introduce some regular military force agst. sudden danger from their powerful neighbours. The example wd. be followed by others, and wd. soon become universal. In time of actual war, great discretionary powers are constantly given to the Executive Magistrate. Constant apprehension of War, has the same tendency to render the head too large for the body. A standing military force, with an overgrown Executive will not long be safe companions to liberty. The means of defence agst. foreign danger, have been always the instruments of tyranny at home. Among the Romans it was a standing maxim to excite a war, whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the people. It is perhaps questionable, whether the best concerted system of absolute power in Europe cd. maintain itself, in a situation, where no alarms of external danger cd. tame the people to the domestic yoke. The insular situation of G. Britain was the principal cause of her being an exception to the general fate of Europe. It has rendered less defence necessary, and admitted a kind of defence wch. cd. not be used for the purpose of oppression. — These consequences he conceived ought to be apprehended whether the States should run into a total separation from each other, or shd. enter into partial confederacies. Either event wd. be truly deplorable; & those who might be accessory to either, could never be forgiven by their Country, nor by themselves.

Mr. Hamilton observed that individuals forming political Societies modify their rights differently, with regard to suffrage. Examples of it are found in all the States. In all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the States the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property, to vote for a member in another branch of the Legislature, a higher quantum of property is required. In like manner States may modify their right of suffrage differently, the larger exercising a larger, the smaller a smaller share of it. But as States are a collection of individual men which ought we to respect most, the rights of the people composing them, or of the artificial beings resulting from the composition. Nothing could be more preposterous or absurd than to sacrifice the former to the latter. It has been sd. that if the smaller States renounce their equality, they renounce at the same time their liberty. The truth is it is a contest for power, not for liberty. Will the men composing the small States be less free than those composing the larger. The State of Delaware having 40,000 souls will lose power, if she has 110 only of the votes allowed to Pa. having 400,000: but will the people of Del: be less free, if each citizen has an equal vote with each citizen of Pa. He admitted that common residence within the same State would produce a certain degree of attachment; and that this principle might have a certain influence in public affairs. He thought however that this might by some precautions be in a great measure excluded: and that no material inconvenience could result from it, as there could not be any ground for combination among the States whose influence was most dreaded. The only considerable distinction of interests, lay between the carrying & non-carrying States, which divide instead of uniting the largest States. No considerable inconvenience had been found from the division of the State of N. York into different districts, of different sizes.

Some of the consequences of a dissolution of the Union, and the establishment of partial confederacies, had been pointed out. He would add another

of a most serious nature. Alliances will immediately be formed with different rival & hostile nations of Europe, who will foment disturbances among ourselves, and make us parties to all their own quarrels. Foreign nations having American dominions are & must be jealous of us. Their representatives betray the utmost anxiety for our fate, & for the result of this meeting, which must have an essential influence on it. — It had been said that respectability in the eyes of foreign Nations was not the object at which we aimed; that the proper object of republican Government was domestic tranquillity & happiness. This was an ideal distinction. No Government could give us tranquillity & happiness at home, which did not possess sufficient stability and strength to make us respectable abroad. This was the critical moment for forming such a government. We should run every risk in trusting to future amendments. As yet we retain the habits of union. We are weak & sensible of our weakness. Henceforward the motives will become feebler, and the difficulties greater. It is a miracle that we were now here exercising our tranquil & free deliberations on the subject. It would be madness to trust to future miracles. A thousand causes must obstruct a reproduction of them.

Mr. Peirce considered the equality of votes under the Confederation as the great source of the public difficulties. The members of Congress were advocates for local advantages. State distinctions must be sacrificed as far as the general good required: but without destroying the States. Tho' from a small State he felt himself a Citizen of the U. S.

Mr. Gerry, urged that we never were independent States, were not such now, & never could be even on the principles of the Confederation. The States & the advocates for them were intoxicated with the idea of their sovereignty. He was a member of Congress at the time the federal articles were formed. The injustice of allowing each State an equal vote was long insisted on. He voted for it, but it was against his Judgment, and under the pressure of public danger, and the obstinacy of the lesser States. The present confederation he considered as dissolving. The fate of the Union will be decided by the Convention. If they do not agree on something, few delegates will probably be appointed to Congress. If they do Congress will probably be kept up till the new System should be adopted — He lamented that instead of coming here like a band of brothers, belonging to the same family, we seemed to have brought with us the spirit of political negociators.

Mr. L. Martin. remarked that the language of the States being Sovereign & independent, was once familiar & understood; though it seemed now so strange & obscure. He read those passages in the articles of Confederation, which describe them in that language.

[Editors' note: The contents of several of these speeches, particularly those of Madison and Hamilton, are controversial. Mary Sarah Bilder, in *Madison's Hand* (2015), has suggested that Madison's account of his speech was a later addition to his notes, which may not reflect the speech actually he gave. Yates, King, and Lansing give different accounts of his speech which can help to clarify his intentions.]

(Madison's Notes (Max Farrand, 1911), Pages 461-468, Vol. 1)

Dr. Johnson. As the debates have hitherto been managed, they may be spun out to an endless length; and as gentlemen argue on different grounds,

they are equally conclusive on the points they advance, but afford no demonstration either way. States are political societies. For whom are we to form a government? for the people of America, or for those societies? Undoubtedly for the latter. They must, therefore, have a voice in the second branch of the general government, if you mean to preserve their existence. The people already compose the first branch. This mixture is proper and necessary. For we cannot form a general government on any other ground.

Mr. Gorham. I perceive no difficulty in supposing a union of interest in the different states. Massachusetts formerly consisted of three distinct provinces — they have been united into one, and we do not find the least trace of party distinctions arising from their former separation. Thus it is that the interest of the smaller states will unite in a general government. It is thus they will be supported. Jersey, in particular, situated between Philadelphia and New-York, can never become a commercial state. It would be her interest to be divided, and part annexed to New-York and part to Pennsylvania — or otherwise the whole to the general government. Massachusetts cannot long remain a large state. The province of Maine must soon become independent of her. Pennsylvania can never become a dangerous state — her western country must at some period become separated from her, and consequently her power will be diminished. If some states will not confederate on a new plan, I will remain here, if only one state will consent to confederate with us.

Judge Elsworth. I do not despair but that we shall be so fortunate as to devise and adopt some good plan of government.

Judge Read. I would have no objection, if the government was more national — but the proposed plan is so great a mixture of both, that it is best to drop it altogether. A state government is incompatible with a general government. If it was more national, I would be for a representation proportionate to population. The plan of the gentleman from New-York is certainly the best — but the great evil is the unjust appropriation of the public lands. If there was but one national government, we would be all equally interested.

Mr. Madison. Some gentlemen are afraid that the plan is not sufficiently national, while others apprehend that it is too much so. If this point of representation was once well fixed, we would come nearer to one another in sentiment. The necessity would then be discovered of circumscribing more effectually the state governments and enlarging the bounds of the general government. Some contend that states are sovereign, when in fact they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The states never possessed the essential rights of sovereignty. These were always vested in congress. Their voting, as states, in congress, is no evidence of sovereignty. The state of Maryland voted by counties — did this make the counties sovereign? The states, at present, are only great corporations, having the power of making by-laws, and these are effectual only if they are not contradictory to the general confederation. The states ought to be placed under the control of the general government — at least as much so as they formerly were under the king and British parliament. The arguments, I observe, have taken a different turn, and I hope may tend to convince all of the necessity of a strong energetic government, which would equally tend to give energy to, and protect the state governments. What was the origin of the military establishments of Europe? It was the jealousy which one state or kingdom entertained of another. This jealousy was ever productive of evil. In Rome the

patricians were often obliged to excite a foreign war to divert the attention of the plebeians from encroaching on the senatorial rights. In England and France, perhaps, this jealousy may give energy to their governments, and contribute to their existence. But a state of danger is like a state of war, and it unites the various parts of the government to exertion. May not our distractions, however, invite danger from abroad? If the power is not immediately derived from the people, in proportion to their numbers, we may make a paper confederacy, but that will be all. We know the effects of the old confederation, and without a general government this will be like the former.

Mr. Hamilton. The course of my experience in human affairs might perhaps restrain me from saying much on this subject. I shall, however, give birth to some of the observations I have made during the course of this debate. The gentleman from Maryland has been at great pains to establish positions which are not denied. Many of them, as drawn from the best writers on government, are become almost self-evident principles. But I doubt the propriety of his application of those principles in the present discussion. He deduces from them the necessity that states entering into a confederacy must retain the equality of votes — this position cannot be correct — Facts plainly contradict it. The parliament of Great Britain asserted a supremacy over the whole empire, and the celebrated Judge Blackstone labors for the legality of it, although many parts were not represented. This parliamentary power we opposed as contrary to our colonial rights. With that exception, throughout that whole empire, it is submitted to. May not the smaller and greater states so modify their respective rights as to establish the general interest of the whole, without adhering to the right of equality? Strict representation is not observed in any of the state governments. The senate of New-York are chosen by persons of certain qualifications, to the exclusion of others. The question, after all is, is it our interest in modifying this general government to sacrifice individual rights to the preservation of the rights of an artificial being, called states? There can be no truer principle than this — that every individual of the community at large has an equal right to the protection of government. If therefore three states contain a majority of the inhabitants of America, ought they to be governed by a minority? Would the inhabitants of the great states ever submit to this? If the smaller states maintain this principle, through a love of power, will not the larger, from the same motives, be equally tenacious to preserve their power? They are to surrender their rights — for what? for the preservation of an artificial being. We propose a free government — Can it be so if partial distinctions are maintained? I agree with the gentleman from Delaware, that if the state governments are to act in the general government, it affords the strongest reason for exclusion. In the state of New-York, five counties form a majority of representatives, and yet the government is in no danger, because the laws have a general operation. The small states exaggerate their danger, and on this ground contend for an undue proportion of power. But their danger is increased, if the larger states will not submit to it. Where will they form new alliances for their support? Will they do this with foreign powers? Foreigners are jealous of our encreasing greatness, and would rejoice in our distractions. Those who have had opportunities of conversing with foreigners respecting sovereigns in Europe, have discovered in them an anxiety for the preservation of our democratic governments, probably for no other reason, but to keep us weak. Unless your government is respectable, foreigners will invade your rights; and to maintain

tranquility it must be respectable — even to observe neutrality you must have a strong government. — I confess our present situation is critical. We have just finished a war which has established our independency, and loaded us with a heavy debt. We have still every motive to unite for our common defence — Our people are disposed to have a good government, but this disposition may not always prevail. It is difficult to amend confederations — it has been attempted in vain, and it is perhaps a miracle that we are now met — We must therefore improve the opportunity, and render the present system as perfect as possible. Their good sense, and above all, the necessity of their affairs, will induce the people to adopt it.

Mr. Pierce. The great difficulty in congress arose from the mode of voting. Members spoke on the floor as state advocates, and were biassed by local advantages. — What is federal? No more than a compact between states; and the one heretofore formed is insufficient. We are now met to remedy its defects, and our difficulties are great, but not, I hope, insurmountable. State distinctions must be sacrificed so far as the general government shall render it necessary — without, however, destroying them altogether. Although I am here as a representative from a small state, I consider myself as a citizen of the United States, whose general interest I will always support.

Mr. Gerry. It appears to me that the states never were independent — they had only corporate rights. Confederations are a mongrel kind of government, and the world does not afford a precedent to go by. Aristocracy is the worst kind of government, and I would sooner submit to a monarchy. We must have a system that will execute itself.

(Yates's Diary (Max Farrand, 1911), Pages 470-474, Vol. 1)

Johnson — The two sides of the house reason in such a manner that we can never meet — Those who contend for an equality of Votes among the States, define a State to be a mere association of men & then say these Associations are equal — on the other hand those who contend for a Representation in proportion to numbers, Define a State to be a District of Country with a certain Number of Inhabitants, like a parish or County, and then say, these districts shd. have an influence in proportion to their Number of Inhabitants — both reason justly from yr. premises — we must then compromise — let both parties be gratified — let one House or Branch be formed by one Rule & the other by another

Madison — We are vague in our Expressions — we speak of the sovereignty of the States — they are not sovereign — there is a regular gradation from the lowest Corporation, such as the incorporation of mechanicks to the most perft. Sovereignty — The last is the true and only Sovereignty — the states are not in that high degree Sovereign — they are Corporations with power of Bye Laws

—
Hamilton

Men are naturally equal — societies or Nations are equal when independent — it is as reasonable that States shd. inter into a League departing from the Equality of States, as that men shd. inter into the Social Compact and agree to depart from the natural Equality of man — This is done in every Society — property goes into the Confederation, age, & minority are admitted — A man shall not be Elector or Elected, unless he is of a given Age, & possesses the adventitious circumstance of property — We propose that the people shd.

be reprinted in proportion to yr. numbers, the people then will be free — the avenues to every Office are equally open to every man; and the Laws are to be formed by a majority of the People — yet it is said the States will be destroyed & therefore the people will be slaves — The consequence is not true. The people are free, at the expense of a mere ideal & artificial being —

(King's Diary (Max Farrand, 1911), Page 476-477, Vol. 1)

Doct. Johnson

If the States are represented as States — they must be represented as Individuals.

Mr. Gorham —

New-Jersey ought not to oppose the plan, as she at present pays the Taxes of Penn. and N. York, from which she would be relieved.

Mr. Madison

Will have the States considered as so many great Corporations, and not otherwise.

Col. Hamilton

That States have equal rights to vote, is not true It is estabd. by the Law of Nations that they have equal votes — but does it follow that they can not contract upon a different footing —

That the Genl. Governmt. will act, not only, upon the States, but upon Individuals.

As long as the State influence is kept up there will be danger — but the influence will not be as great as is apprehended.

The small States have had a lesson of State Honesty

It is a contest for power in the weaker States.

Mr. Pierce

Gentlemen of Congress when they vote always connect with them the State views and politicks — and therefore —

Mr. Gerry.

That upon Tryal it has been found that the Articles of Confn. are not adequate —

That the small States have abused their power, and instanced Rho. Island.

(Paterson's Notes (Max Farrand, 1911), Page 479, Vol. 1)

Johnson—Must unite Ideas of States with Districts of Country containing a certain Number of Inhabitants.

Gorham—three Members of Massachusetts are Descendants of Persons who resided in three different Provinces now united in Massachusetts— this Circumstance does not influence their Measures. If all the States go off excepting one—Massachusetts will stay with that one and recommend System.

Reed—Has no Doubt resp [ectin]g it—will agree to Report so far as respects this Point. Hamilton—In the Course of his Experience he has found it difficult to convince Persons who have been in certain Habits of thinking. Some desultory Remarks may not be improper. We can modify Representation as we think proper. The Question simply is, what is general Interest. Larger States may submit to an Inequality of Representation to their Prejudice for a short Time—but it cannot be durable. This is a Contest for Power—the People of all the States have an Inequality of Representation. So long as State Governments

prevail State Influence will be perpetuated. There may be a Distinction of Interests but it arises merely from the carrying and noncarrying States. Those Persons who have had frequent Opportunities of conversing with the Representatives of European Sovereignities know they are very anxious to perpetuate our Democracies. This is easily accounted for—Our weakness will make us more manageable. Unless your Government is respectable abroad your Tranquility cannot be preserved. This is a critical Moment of American Liberty—We are still too weak to exist without Union. It is a Miracle that we have met—they seldom occur. We must devise a System on the Spot—It ought to be strong and nervous, hoping that the good Sense and principally the Necessity of our Affairs will reconcile the People to it.

Pierce—The Difficulty of carrying on Business in Congress is owing to local Prejudices and Interests. Must sacrifice States Distinctions.

Madison—Examine Journals of Congress—see whether States have been influenced by Magnitude. Small States have embarrassed us—Embargo agreed to by twelve States during the War—Deleware declined it.

(Lansing's Notes (Joseph Strayer, 1939), Pages 92-92)

[e672638] It was moved and seconded to strike the word “not” out of the first clause of the seventh resolution reported from the Committee

On the question to strike out it passed in the negative [Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

On the question as moved by Mr. Lansing. Shall the word “not” be struck out.

Massts. no. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. divd. Va. no. N. C. no. S. C. no. Geo. no [Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 1)

The question was then put on Mr. Lansing's motion, and lost — 4 ayes — 6 noes — one state divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 474, Vol. 1)

On Question whether not should be struck out. Massachusetts Pennsylvania Virginia North Carolina South Carolina and Georgia—Noes.

New York—New Jersey. Connecticut and Deleware—Ayes. Maryland divided.

Question put on Resolve carried—6 Ayes—4 Noes—1 divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 94)

[e734143] It was moved and seconded to agree to the first clause of the seventh resolution, as reported from the Committee namely.

”Resolved that the right of suffrage in the first branch of the Legislature of the United States ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation”

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

On the motion to agree to the clause as reported. “that the rule of suffrage in the 1st. branch ought not to be according to that established by the Articles of Confederation.

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 1)

[e734144] It was moved and seconded to agree to the first clause of the seventh resolution, as reported from the Committee namely.

”Resolved that the right of suffrage in the first branch of the Legislature of the United States ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation”

On the question to agree it passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

On the motion to agree to the clause as reported. “that the rule of suffrage in the 1st. branch ought not to be according to that established by the Articles of Confederation. Mass. ay. Cont. no N. Y. no. N. J. no. Pa. ay. Del. no. Md. divid. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 4; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 1)

Question on the clause — 6 ayes — 4 noes — and one state divided.

(Yates’s Diary (Max Farrand, 1911), Page 474, Vol. 1)

On the Question shall the rule of Confederation be departed with for a more equitable Ratio of Representation —

Cont. NYk. : N Jersey: & Delaware No

MarylandDivd.

Mass. Penn. Virgin. NC. SC. & Georg. Ay

(King’s Diary (Max Farrand, 1911), Page 477, Vol. 1)

[e672640] [Editors’ note: The Convention moved on to the consideration of the second clause.]

(2019 Editors)

[e734145] It was moved and seconded to postpone the farther consideration of the seventh in order to take up the eighth resolution

[Editors’ note: Madison writes that Johnson and Ellsworth proposed this motion.]

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

Docr. Johnson & Mr. Elseworth moved to postpone the residue of the clause, and take up — ye 8 — Resol

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 1)

Judge Elsworth. I move that the consideration of the 8th resolve be postponed.

[Editors' note: The 7th resolve is the section under consideration for postponement.]

(Yates's Diary (Max Farrand, 1911), Page 474, Vol. 1)

Elsworth—moves to postpone Remainder of 7th Resolve to take up the 8th.

(Lansing's Notes (Joseph Strayer, 1939), Page 94)

[e734146] It was moved and seconded to postpone the farther consideration of the seventh in order to take up the eighth resolution which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

Docr. Johnson & Mr. Elsworth moved to postpone the residue of the clause, and take up — ye 8 — Resol:

On question

Mass. no. Cont. ay. N. Y. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 1)

Judge Elsworth. I move that the consideration of the 8th resolve be postponed.

Carried — 9 ayes — 2 noes.

[Editors' note: The 7th resolve is the section under consideration for postponement.]

(Yates's Diary (Max Farrand, 1911), Page 474, Vol. 1)

Elsworth—moves to postpone Remainder of 7th Resolve to take up the 8th. Question 9 Ayes—2 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 94)

[e672642] [Editors' note: The first clause of the Seventh Resolution was taken into the working document, though the remainder was still undecided. These other clauses will later be referred to a committee.

The Journal on 2 July records that 'the eighth resolution, and so much of the seventh resolution, reported from the Committee of the whole House, as has not been decided upon should be referred.' (Page 509, Vol. 1, Madison's Notes (Max Farrand, 1911))]

(2019 Editors)

[e672643] [Editors' note: The Convention moved on to the consideration of the Eighth Resolution.]

(2019 Editors)

[e672644] It was moved and seconded to amend the eighth resolution reported from the Committee so as to read as follows namely

”Resolved that in the second branch of the Legislature of the United States each State shall have an equal vote.”

[Editors’ note: King, Madison, and Yates note Ellsworth as the proposer of this amendment.]

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

Mr. Elsworth moved that the rule of suffrage in the 2d. branch be the same with that established by the articles of confederation”.

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 1)

[Elsworth:] I now move the following amendment to the resolve — that in the second branch each state have an equal vote.

(Yates’s Diary (Max Farrand, 1911), Page 474, Vol. 1)

Elsworth — moves that in the second Br, or ye Senate, each State shd. have one vote & no more —

(King’s Diary (Max Farrand, 1911), Page 477, Vol. 1)

Elsworth—In first Branch you draw Representation from Numbers— the Individuals will have their Rights protected here. He will move that ‘each State have an equal Vote in second Branch.’

[Editors’ note: The text enclosed in quotation marks is originally italicized in Strayer’s edition of Lansing’s notes, The Delegate from New York.]

(Lansing’s Notes (Joseph Strayer, 1939), Page 95)

[e672645] Judge Elsworth. I now move the following amendment to the resolve — that in the second branch each state have an equal vote. I confess that the effect of this motion is, to make the general government partly federal and partly national. This will secure tranquility, and still make it efficient; and it will meet the objections of the larger states. In taxes they will have a proportional weight in the first branch of the general legislature — If the great states refuse this plan, we will be for ever separated. Even in the executive the larger states have ever had great influence. — The provinces of Holland ever had it. If all the states are to exist they must necessarily have an equal vote in the general government. Small communities when associating with greater, can only be supported by an equality of votes. I have always found in my reading and experience, that in all societies the governors are ever gradually rising into power.

The large states, although they may not have a common interest for combination, yet they may be partially attached to each other for mutual support and advancement. This can be more easily effected than the union of the remaining small states to check it; and ought we not to regard antecedent plighted faith to the confederation already entered into, and by the terms of it declared to be perpetual? And it is not yet obvious to me that the states will depart from this ground. When in the hour of common danger we united as equals, shall it now be urged by some that we must depart from this principle when the danger is

over? Will the world say that this is just? We then associated as free and independent states, and were well satisfied — To perpetuate that independence, I wish to establish a national legislature, executive and judiciary, for under these we shall I doubt not preserve peace and harmony — nor should I be surprised (although we made the general government the most perfect in our opinion,) that it should hereafter require amendment — But at present this is as far as I possibly can go — If this convention only chalk out lines of a good government we shall do well.

Mr. Baldwin. It appears to be agreed that the government we should adopt ought to be energetic and formidable, yet I would guard against the danger of becoming too formidable. The second branch ought not to be elected as the first. Suppose we take the example of the constitution of Massachusetts, as it is commended for its goodness: There the first branch represents the people, and the second its property.

Mr. Madison. I would always exclude inconsistent principles in framing a system of government. The difficulty of getting its defects amended are great and sometimes insurmountable. The Virginia state government was the first which was made, and though its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend their system without success. The few alterations made in it were by tumult and faction, and for the worse. If there was real danger, I would give the smaller states the defensive weapons — But there is none from that quarter. The great danger to our general government is the great southern and northern interests of the continent, being opposed to each other. Look to the votes in congress, and most of them stand divided by the geography of the country, not according to the size of the states.

Suppose the first branch granted money, may not the second branch, from state views, counteract the first? In congress, the single state of Delaware prevented an embargo, at the time that all the other states thought it absolutely necessary for the support of the army. Other powers, and those very essential, besides the legislative, will be given to the second branch — such as the negating all state laws. I would compromise on this question, if I could do it on correct principles, but otherwise not — if the old fabric of the confederation must be the ground-work of the new, we must fail.

[Editors' note: Madison omits his speech from the notes but alludes to it in reporting Ellsworth's speech, which he does in more detail than others. King's and Lansing's entries for the day suggest the substance recorded in Yates is largely correct.]

(Yates's Diary (Max Farrand, 1911), Pages 474-476, Vol. 1)

Mr. Elseworth moved that the rule of suffrage in the 2d. branch be the same with that established by the articles of confederation". He was not sorry on the whole he said that the vote just passed, had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the 2d. branch. We were partly national; partly federal. The proportional representation in the first branch was conformable to the national principle & would secure the large States agst. the small. An equality of voices was conformable to the federal principle and was necessary to secure the Small States agst. the large. He trusted that on this middle ground a compromise would take place. He did not see that it could on any other. And if no compromise should

take place, our meeting would not only be in vain but worse than in vain. To the Eastward he was sure Massts. was the only State that would listen to a proposition for excluding the States as equal political Societies, from an equal voice in both branches. The others would risk every consequence rather than part with so dear a right. An attempt to deprive them of it, was at once cutting the body of America in two, and as he supposed would be the case, somewhere about this part of it. The large States he conceived would notwithstanding the equality of votes, have an influence that would maintain their superiority. Holland, as had been admitted (by Mr. Madison) had, notwithstanding a like equality in the Dutch Confederacy, a prevailing influence in the public measures. The power of self-defence was essential to the small States. Nature had given it to the smallest insect of the creation. He could never admit that there was no danger of combinations among the large States. They will like individuals find out and avail themselves of the advantage to be gained by it. It was true the danger would be greater, if they were contiguous and had a more immediate common interest. A defensive combination of the small States was rendered more difficult by their greater number. He would mention another consideration of great weight. The existing confederation was founded on the equality of the States in the article of suffrage: was it meant to pay no regard to this antecedent plighted faith. Let a strong Executive, a Judiciary & Legislative power be created; but Let not too much be attempted; by which all may be lost. He was not in general a half-way man, yet he preferred doing half the good we could, rather than do nothing at all. The other half may be added, when the necessity shall be more fully experienced.

Mr. Baldwin would have wished that the powers of the General Legislature had been defined, before the mode of constituting it had been agitated. He should vote against the motion of Mr. Elseworth, tho' he did not like the Resolution as it stood in the Report of the Committee of the whole. He thought the second branch ought to be the representation of property, and that in forming it therefore some reference ought to be had to the relative wealth of their Constituents, and to the principles on which the Senate of Massts. was constituted. He concurred with those who thought it wd. be impossible for the Genl. Legislature to extend its cares to the local matters of the States.

(Madison's Notes (Max Farrand, 1911), Pages 468-470, Vol. 1)

The first Br. or the Democratic Br. will represent the people, the 2d. that of the States — the people will be secured, and the States will be protected —

if we don't agree in this measure, we have met in vain — None of the Eastern States except Mass. will ever agree to adopt the plan wh. abolishes the States — If the Southern States contend for this plan of a popular instead of State Representation we shall separate; the political body must be cut asunder at the Delaware — This mode of forming the Senate will secure the small states, and as the members of the large states although they can give but one vote will have more Influence than those of the small ones, they will not be injured — Holland has one voice only in the States General, yet her Influence is more than any two of the States — there is danger from the combination of the larger overpowering the small States — The Danger is not so great since the large States are separated, but yet there is danger — they will have the power to do it — if they have the power there is Danger — three or four States can more easily combine, than Nine or Ten States —

Madison — The Gentleman from Connecticut has proposed doing as much at this Time as is prudent, and leavg. future amendments to posterity — this a dangerous Doctrine — the Defects of the Amphictionick League were acknowledged, but they never cd. be reformed. The U Netherlands have attempted four several Times to amend their Confederation, but have failed in each Attempt — The fear of Innovation, and the Hue & Cry in favor of the Liberty of the people will prevent the necessary Reforms — If the States have equal, influence, and votes in the Senate, we are in the utmost Danger — Delaware during the War opposed and defeated an Embargo agreed to by 12. States; and continued to supply the Enemy with provisions during the war.

(King's Diary (Max Farrand, 1911), Pages 477-478, Vol. 1)

Elsworth—In first Branch you draw Representation from Numbers— the Individuals will have their Rights protected here. He will move that 'each State have an equal Vote in second Branch.' This will preserve State Sovereignities— In any Community select a fifth, a tenth, or any other Proportion from all the different Classes of Citizens—give them an exclusive Right of governing—they will become a distinct Order and oppress the Rest. So it will be with the States. It will be much easier for the three States to confederate than the others to join to defend themselves.

Baldwin—wishes Powers to be modified—but Property ought to be represented in one Branch—

Madison—If there was any Difference of Interests would agree to equal Representation. Let Gentleman recollect the Experiments that have been made to amend Confederation—they always miscarried. The Dutch Republics made four several Experiments all ineffectual.

[Editors' note: The text enclosed in quotation marks is originally italicized in Strayer's edition of Lansing's notes, The Delegate from New York.]

(Lansing's Notes (Joseph Strayer, 1939), Page 95)

Ellsworth. The second Branch to be a Check on the first. To Establish a National Legislature that shall reach property. If We do not go upon a system that shall establish bad habits.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 128, Pierce Butler: Notes on Debate)

[e672646] Before the determination of the House was taken on the last motion, the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 470, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 476, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 95)

[e672647] Before the determination of the House was taken on the last motion, the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Page 460, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 470, Vol. 1)

Adjourned till to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 476, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 95)

1.41 Saturday, 30 June 1787, at 11:00 (s6228)

[e672648] [Editors' note: According to Madison, Hamilton left the convention temporarily after the session on 29 June.

Farrand records the following: 'Attended on May 18; left Convention June 29; was in New York after July 2; appears to have been in Philadelphia on July 13; attended Convention August 13; was in New York August 20—September 2' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)).

Lansing notes on 30 June that 'Mr. Hamilton left Town this Morning' (Page 96, Lansing's Notes (Joseph Strayer, 1939)).]

(2019 Editors)

[e672649] William Paterson to Euphemia Paterson
Philada., 2d July, 1787

The Burlington court did not continue as long as I expected. I arrived here on Friday last, about 10 o'clock at night.

This letter will be handed to you by the Gov'r [Livingston], who will set out tomorrow. It is impossible to say when the Convention will rise; much remains to be done, and the work is full of labour and difficulty...

[Editors' note: It is clear from this letter that Paterson left the Convention for a short time and returned to Philadelphia on 29 June 1787. The first session after his late return was on 30 June.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 143)

[e672650] The following resolution was moved and seconded namely

Resolved that the President be requested to write to the supreme Executive of the State of New Hampshire and inform him that the business before the Convention is of such a nature as to require the immediate attendance of the Gentlemen appointed by that State to this Convention.

(Official Journal (Max Farrand, 1911), Page 480, Vol. 1)

Mr. Brearly moved that the Presidt. write to the Executive of N. Hamshire, informing it that the business depending before the Convention was of such a nature as to require the immediate attendance of the deputies of that State. In support of his motion he observed that the difficulties of the subject and the diversity of opinions called for all the assistance we could possibly obtain. (it was well understood that the object was to add N. Hamshire to the no. of States opposed to the doctrine of proportional representation, which it was presumed from her relative size she must be adverse to).

Mr. Patterson seconded the motion

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 1)

Judge Brearsley moved that the president be directed to write to the executive of New-Hampshire, requesting the attendance of its delegates.

(Yates's Diary (Max Farrand, 1911), Page 494, Vol. 1)

Brearly—moves that President write to Executive of New Hampshire to send Delegation.

(Lansing's Notes (Joseph Strayer, 1939), Page 96)

[e672651] Mr. Rutledge could see neither the necessity nor propriety of such a measure. They are not unapprized of the meeting, and can attend if they choose. Rho. Island might as well be urged to appoint & send deputies. Are we to suspend the business until the deputies arrive? if we proceed he hoped all the great points would be adjusted before the letter could produce its effect.

Mr. King. said he had written more than once as a private correspondent, & the answers gave him every reason to expect that State would be represented very shortly, if it shd. be so at all. Circumstances of a personal nature had hitherto prevented it. A letter cd. have no effect.

Mr. Wilson wished to know whether it would be consistent with the rule or reason of secrecy, to communicate to N. Hamshire that the business was of such a nature as the motion described. It wd. spread a great alarm. Besides he doubted the propriety of soliciting any State on the subject; the meeting being merely voluntary

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 1)

[e672652] On the question to agree to the resolution it passed in the negative. [Ayes — 2; noes — 5; divided — 1.]

[Editors' note: Delaware, Georgia, and Pennsylvania were not quorate during this vote, which put the number of voting delegations at eight.]

(Official Journal (Max Farrand, 1911), Page 480, Vol. 1)

Massts. no. Cont. no. N. Y. ay. N. J. ay. Pa. not on ye. floor. Del not on floor. Md. divid. Va. no. N. C. no. S. C. no. Geo. not on floor. [Ayes — 2; noes — 5; divided — 1; absent — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 481-482, Vol. 1)

Negatived — 2 ayes — 5 noes — one state divided.

(Yates's Diary (Max Farrand, 1911), Page 494, Vol. 1)

Question. New York and New Jersey Ayes-5 Noes I divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 96)

[e739199] It was then moved and seconded to take up the resolution submitted to the consideration of the House yesterday. namely.

Resolved that in the second Branch of the Legislature of the United States each State shall have an equal vote.

(Official Journal (Max Farrand, 1911), Page 480, Vol. 1)

[e739200] [Editors' note: As the convention proceeds to debate Ellsworth's amendment it can be assumed that this motion passed in the affirmative, despite no vote being recorded.]

(2019 Editors)

[e672653] The motion of Mr. Elseworth resumed for allowing each State an equal vote in ye 2d branch

Mr. Wilson did not expect such a motion after the establishment of ye. contrary principle in the 1st. branch; and considering the reasons which would oppose it, even if an equal vote had been allowed in the 1st. branch. The Gentleman from Connecticut (Mr. Elseworth) had pronounced that if the motion should not be acceded to, of all the States North of Pena. one only would agree to any Genl. Government. He entertained more favorable hopes of Connt. and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a Country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen on better grounds. The votes of yesterday agst. the just principle of representation, were as 22 to 90 of the people of America. Taking the opinions to be the same on this point, and he was sure if there was any room for change it could not be on the side of the majority, the question will be shall less than $\frac{1}{4}$ of the U. States withdraw themselves from the Union, or shall more than $\frac{3}{4}$ renounce the inherent, indisputable, and unalienable rights of men, in favor of the artificial systems of States. If issue must be joined, it was on this point he would chuse to join it, The gentleman from Connecticut in supposing that the preponderancy secured to the majority in the 1st. branch had removed the objections to an equality of votes in the 2d. branch for the security of the minority narrowed the case extremely. Such an equality will enable the minority to controul in all cases whatsoever, the sentiments and interests of the majority. Seven States will controul six: seven States according to the estimates that had been used, composed 2490. of the whole people. It would be in the power then of less than to overrule whenever a question should happen to divide the States in that manner. Can we forget for whom we are forming a Government? Is it for men, or for the imaginary beings called States?

Will our honest Constituents be satisfied with metaphysical distinctions? Will they, ought they to be satisfied with being told that the one third, compose the greater number of States. The rule of suffrage ought on every principle to be the same in the 2d. as in the 1st. branch. If the Government be not laid on this foundation, it can be neither solid nor lasting, any other principle will be local, confined & temporary. This will expand with the expansion, and grow with the growth of the U. States. — Much has been said of an imaginary combination of three States. Sometimes a danger of monarchy, sometimes of aristocracy has been charged on it. No explanation however of the danger has been vouchsafed. It would be easy to prove both from reason & history that rivalships would be more probable than coalitions; and that there are no coinciding interests that could produce the latter. No answer has yet been given to the observations of (Mr. Madison) — on this subject. Should the Executive Magistrate be taken from one of the large States would not the other two be thereby thrown into the scale with the other States? Whence then the danger of monarchy? Are the people of the three large States more aristocratic than those of the small ones? Whence then the danger of aristocracy from their influence? It is all a mere illusion of names. We talk of States, till we forget what they are composed of. Is a real & fair majority, the natural hot-bed of aristocracy? It is a part of the definition of this species of Govt. or rather of tyranny, that the smaller number governs the greater. It is true that a majority of States in the 2d. branch can not carry a law agst. a majority of the people in the 1st. But this removes half only of the objection. Bad Governts. are of two sorts. 1. that which does too little. 2. that which does too much: that which fails thro' weakness; and that which destroys thro' oppression. Under which of these evils do the U. States at present groan? under the weakness and inefficiency of its Governnt. To remedy this weakness we have been sent to this Convention. If the motion should be agreed to, we shall leave the U. S. fettered precisely as heretofore; with the additional mortification of seeing the good purposes of ye fair representation of the people in the 1st. branch, defeated in 2d. Twenty four will still controul sixty six. He lamented that such a disagreement should prevail on the point of representation, as he did not foresee that it would happen on the other point most contested, the boundary between the Genl. & the local authorities. He thought the States necessary & valuable parts of a good system.

Mr. Elseworth. The capital objection of Mr. Wilson “that the minority will rule the majority” is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British Constitution the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who form so small a proportion of the nation a negative on the laws, as a necessary defence of their peculiar rights agst the encroachments of the Commons. No instance of a Confederacy has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are razing the foundations of the building. When we need only repair the roof. No salutary measure has been lost for want of a majority of the States, to favor it. If security be all that the great States wish for the 1st. branch secures them. The danger of combinations among them is not imaginary. Altho' no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. But

he could easily conceive cases in which they might result from such combinations. Suppose that in pursuance of some commercial treaty or arrangement, three or four free ports & no more were to be established would not combinations be formed in favor of Boston, Philada. & & some port in Chesapeak? A like concert might be formed in the appointment of the great officers. He appealed again to the obligations of the federal pact which was still in force, and which had been entered into with so much solemnity, persuading himself that some regard would still be paid to the plighted faith under which each State small as well as great, held an equal right of suffrage in the general Councils. His remarks were not the result of partial or local views. The State he represented (Connecticut) held a middle rank.

Mr. Madison did justice to the able and close reasoning of Mr. E. but must observe that it did not always accord with itself. On another occasion, the large States were described by him as the Aristocratic States, ready to oppress the small. Now the small are the House of Lords requiring a negative to defend them agst the more numerous Commons. Mr. E. had also erred in saying that no instance had existed in which confederated States had not retained to themselves a perfect equality of suffrage. Passing over the German system in which the K. of Prussia has nine voices, he reminded Mr. E. of the Lycian confederacy, in which the component members had votes proportioned to their importance, and which Montesquieu recommends as the fittest model for that form of Government. Had the fact been as stated by Mr. E. it would have been of little avail to him, or rather would have strengthened the arguments agst. him; The History & fate of the several Confederacies modern as well as Antient, demonstrating some radical vice in their structure. In reply to the appeal of Mr. E. to the faith plighted in the existing federal compact, he remarked that the party claiming from others an adherence to a common engagement ought at least to be guiltless itself of a violation. Of all the States however Connecticut was perhaps least able to urge this plea. Besides the various omissions to perform the stipulated acts from which no State was free, the Legislature of that State had by a pretty recent vote positively refused to pass a law for complying with the Requisitions of Congs. and had transmitted a copy of the vote to Congs. It was urged, he said, continually that an equality of votes in the 2d. branch was not only necessary to secure the small, but would be perfectly safe to the large ones whose majority in the 1st. branch was an effectual bulwark. But notwithstanding this apparent defence, the Majority of States might still injure the majority of people. 1. they could obstruct the wishes and interests of the majority. 2. they could extort measures, repugnant to the wishes & interest of the majority. 3. They could impose measures adverse thereto; as the 2d branch will probly exercise some great powers, in which the 1st will not participate. He admitted that every peculiar interest whether in any class of citizens, or any description of States, ought to be secured as far as possible. Wherever there is danger of attack there ought to be given a constitutional power of defence. But he contended that the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: it lay between the Northern & Southern. and if any defensive power were necessary, it ought to be mutually given to these two interests. He was so strongly impressed

with this important truth that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was that instead of proportioning the votes of the States in both branches, to their respective numbers of inhabitants computing the slaves in the ratio of 5 to 3. they should be represented in one branch according to the number of free inhabitants only; and in the other according to the whole no. counting the slaves as if free. By this arrangement the Southern Scale would have the advantage in one House, and the Northern in the other. He had been restrained from proposing this expedient by two considerations; one was his unwillingness to urge any diversity of interests on an occasion when it is but too apt to arise of itself — the other was the inequality of powers that must be vested in the two branches, and which wd. destroy the equilibrium of interests.

Mr. Elseworth assured the House that whatever might be thought of the Representatives of Connecticut the State was entirely federal in her disposition. He appealed to her great exertions during the War, in supplying both men & money. The muster rolls would show she had more troops in the field than Virga. If she had been delinquent, it had been from inability, and not more so than other States.

Mr. Sherman. Mr. M. adison had animadverted on the delinquency of the States, when his object required him to prove that the Constitution of Congs. was faulty. Congs. is not to blame for the faults of the States. Their measures have been right, and the only thing wanting has been, a further power in Congs. to render them effectual.

Mr. Davy was much embarrassed and wished for explanations. The Report of the Committee allowing the Legislatures to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will according to this rule be ninety members in the outset, and the number will increase as new States are added. It was impossible that so numerous a body could possess the activity and other qualities required in it. Were he to vote on the comparative merits of the report as it stood, and the amendment, he should be constrained to prefer the latter. The appointment of the Senate by electors chosen by the people for that purpose was he conceived liable to an insuperable difficulty. The larger Counties or districts thrown into a general district, would certainly prevail over the smaller Counties or districts, and merit in the latter would be excluded altogether. The report therefore seemed to be right in referring the appointment to the Legislatures, whose agency in the general System did not appear to him objectionable as it did to some others. The fact was that the local prejudices & interests which could not be denied to exist, would find their way into the national Councils whether the Representatives should be chosen by the Legislatures or by the people themselves. On the other hand, if a proportional representation was attended with insuperable difficulties, the making the Senate the Representative of the States, looked like bringing us back to Congs. again, and shutting out all the advantages expected from it. Under this view of the subject he could not vote for any plan for the Senate yet proposed. He thought that in general there were extremes on both sides. We were partly federal, partly national in our Union. And he did not see why the Govt. might not in some respects operate on the States, in others on the people.

Mr Wilson admitted the question concerning the number of Senators, to be embarrassing. If the smallest States be allowed one, and the others in proportion, the Senate will certainly be too numerous. He looked forward to the time

when the smallest States will contain 100,000 souls at least. Let there be then one Senator in each for every 100,000 souls, and let the States not having that no. of inhabitants be allowed one. He was willing himself to submit to this temporary concession to the small States: and threw out the idea as a ground of compromise.

(Madison's Notes (Max Farrand, 1911), Pages 482-488, Vol. 1)

The discussion of yesterday resumed.

Mr. Wilson. The question now before us is of so much consequence, that I cannot give it a silent vote — Gentlemen have said, that if this amendment is not agreed to, a separation to the north of Pennsylvania may be the consequence. — This neither staggers me in my sentiments or my duty. If a minority should refuse their assent to the new plan of a general government, and if they will have their own will, and without it, separate the union, let it be done; but we shall stand supported by stronger and better principles. The opposition to this plan is as 22 is to 90, in the general scale — not quite a fourth part of the union — Shall three fourths of the union surrender their rights for the support of that artificial being, called state interest? If we must join issue I am willing. I cannot consent that one fourth shall controul the power of three fourths.

If the motion is adopted, seven states will controul the whole, and the lesser seven compose 24 out of 90. One third must controul two thirds — 24 overrule 66. For whom do we form a constitution, for men, or for imaginary beings called states, a mere metaphysical distinction? Will a regard to state rights justify the sacrifice of the rights of men? If we proceed on any other foundation than the last, our building will neither be solid nor lasting. Weight and numbers is the only true principle — every other is local, confined or imaginary. Much has been said of the danger of the three larger states combining together to give rise to monarchy, or an aristocracy. Let the probability of this combination be explained, and it will be found that a rivalship rather than a confederacy will exist among them. Is there a single point in which this interest coincides? Supposing that the executive should be selected from one of the larger states, can the other two be gratified? Will not this be a source of jealousy amongst them, and will they not separately court the interest of the smaller states, to counteract the views of a favorite rival? How can an aristocracy arise from this combination more than amongst the smaller states? On the contrary, the present claims of the smaller states lead directly to the establishment of an aristocracy, which is the government of the few over the many, and the Connecticut proposal, removes only a small part of the objection. There are only two kinds of bad governments — the one which does too much, and therefore oppressive, and the other which does too little, and therefore weak. — Congress partakes of the latter, and the motion will leave us in the same situation and as much fettered as ever we were. The people see its weakness, and would be mortified in seeing our inability to correct it.

The gentleman from Georgia has his doubts how to vote on this question, and wishes some qualification of it to be made, — I admit there ought to be some difference as to the numbers in the second branch; and perhaps there are other distinctions which could, with propriety, be introduced — such for example as the qualifications of the elected, &c. However, if there are leading principles in the system which we adopt, much may be done in the detail. We all aim at giving the general government more energy. The state governments

are necessary and valuable — No liberty can be obtained without them. On this question depends the essential rights of the general government and of the people.

Judge Elsworth. I have the greatest respect for the gentleman who spoke last. I respect his abilities, although I differ from him on many points — He asserts that the general government must depend on the equal suffrage of the people. But will not this put it in the power of few states to controul the rest? It is a novel thing in politics that the few controul the many. In the British government, the few, as a guard, have an equal share in the government. The house of lords, although few in number, and sitting in their own right, have an equal share in their legislature. They cannot give away the property of the community, but they can prevent the commons from being too lavish in their gifts. Where is or was a confederation ever formed, where equality of voices was not a fundamental principle? Mankind are apt to go from one extreme to another, and because we have found defects in the confederation, must we therefore pull down the whole fabric, foundation and all, in order to erect a new building totally different from it, without retaining any of its materials? What are its defects? It is said equality of votes has embarrassed us; but how? Would the real evils of our situation have been cured, had not this been the case? Would the proposed amendment in the Virginia plan, as to representation, have relieved us? I fancy not. Rhode-Island has been often quoted as a small state, and by its refusal once defeated the grant of the impost. Whether she was right in so doing is not the question; but was it a federal requisition? And if it was not, she did not, in this instance, defeat a federal measure.

If the larger states seek security, they have it fully in the first branch of the general government. But can we turn the tables and say that the lesser states are equally secure? In commercial regulations they will unite. If policy should require free ports, they would be found at Boston, Philadelphia and Alexandria. In the disposition of lucrative offices they would unite. But I ask no surrender of any of the rights of the great states, nor do I plead duress in the makers of the old confederation, nor suppose they soothed the danger, in order to resume their rights when the danger was over. No; small states must possess the power of self-defence or be ruined. Will any one say there is no diversity of interests in the states? And if there is, should not those interests be guarded and secured? But if there is none, then the large states have nothing to apprehend from an equality of rights. And let it be remembered, that these remarks are not the result of partial or local views. The state I represent is respectable, and in importance holds a middle rank.

Mr. Madison. Notwithstanding the admirable and close reasoning of the gentleman who spoke last, I am not yet convinced that my former remarks are not well founded. I apprehend he is mistaken as to the fact on which he builds one of his arguments. He supposes that equality of votes is the principle on which all confederacies are formed — that of Lycia, so justly applauded by the celebrated Montesquieu, was different. He also appeals to our good faith for the observance of the confederacy. We know we have found one inadequate to the purposes for which it was made — Why then adhere to a system which is proved to be so remarkably defective? I have impeached a number of states for the infraction of the confederation, and I have not even spared my own state, nor can I justly spare his. Did not Connecticut refuse her compliance to a federal requisition? Has she paid, for the two last years, any money into the continental

treasury? And does this look like government, or the observance of a solemn compact? Experience shows that the confederation is radically defective, and we must in a new national government, guard against those defects. Although the large states in the first branch have a weight proportionate to their population, yet as the smaller states have an equal vote in the second branch, they will be able to controul and leave the larger without any essential benefit. As peculiar powers are intended to be granted to the second branch, such as the negating state laws, &c. unless the larger states have a proportionate weight in the representation, they cannot be more secure.

Judge Elsworth. My state has always been strictly federal, and I can with confidence appeal to your excellency (the president) for the truth of it, during the war. The musterrolls will show that she had more troops in the field than even the state of Virginia. We strained every nerve to raise them; and we neither spared money or exertions to complete our quotas. This extraordinary exertion has greatly distressed and impoverished us, and it has accumulated our state debts — We feel the effects of it even to this day. But we defy any gentleman to shew that we ever refused a federal requisition. We are constantly exerting ourselves to draw money from the pockets of our citizens, as fast as it comes in; and it is the ardent wish of the state to strengthen the federal government. If she has proved delinquent through inability only, it is not more than others have been, without the same excuse.

Mr. Sherman. I acknowledge there have been failures in complying with the federal requisition. Many states have been defective, and the object of our convention is to amend these defects.

Col. Davie. I have great objection to the Virginia plan as to the manner the second branch is to be formed. It is impracticable. The number may, in time, amount to two or three hundred. This body is too large for the purposes for which we intend to constitute it. I shall vote for the amendment. Some intend a compromise. — This has been hinted by a member from Pennsylvania, but it still has its difficulties. The members will have their local prejudices. The preservation of the state societies must be the object of the general government. It has been asserted that we were one in war, and one in peace. Such we were as states; but every treaty must be the law of the land as it affects individuals. The formation of the second branch, as it is intended by the motion, is also objectionable. We are going the same round with the old confederation — No plan yet presents sufficient checks to a tumultuary assembly, and there is none therefore which yet satisfies me.

Mr. Wilson. On the present motion it was not proper to propose another plan. I think the second branch ought not to be numerous. I will propose an expedient — Let there be one member for every 100,000 souls, and the smallest states not less than one member each. This would give about twenty-six members. I make this proposal not because I belong to a large state, but in order to pull down a rotten house, and lay a foundation for a new building. To give additional weight to an old building is to hasten its ruin.

(Yates's Diary (Max Farrand, 1911), Pages 494-498, Vol. 1)

Question how shall the senate be formed, on the plan of an equal vote among the States or on that of a Representation of the people.

Wilson — The vote for the representation in the first Br. according to Numbers was opposed by abt. 22 out of 90 taking that number to represent the

whole people of the US. The motion for an equality of Votes among the States will authorise a minority to controul the majority — Seven of the States united make but 2490th of the whole — this minority will govern or controul 6690ths — this wd. prove a fundamental Defect in the constitution

The Gentm. from Cont. (Elswth) says if the Senate is founded on the principles of a Representation of Numbers, we shall introduce a Monarchy or an Aristocracy — the three or four larger states will combine for Monarchy — if not this, yet for an aristocracy — 4 States will Govn. 9 States — But the Danger of a combination is not greater nor so great in the large States as in the small — The 7. States are only 2490, if they govern as is proposed An aristocracy govern because 24. govern or control 66 —

(King's Diary (Max Farrand, 1911), Pages 502-503, Vol. 1)

Wilson. Did not expect this Question at this Stage of the Business.

Member of Connecticut said, not more than one State to Eastward would accede.

Sense of Duty.

This as to Contribn. 21a 22 out of 90 — not $\frac{1}{4}$ —

Artificial Systems of States —

Easy to correct it. The voice of the Minority will vote away the Property of the Majority —

A Solecism.

7 States can control the 6.

States imaginary Beings abstracted from Men —

No other Foundation will be solid —

The 3 large States combined. Wt. He wants the Principles of the Comb. — they will be Rivals.

Their Interests are different.

24 out of 90 carry more of an Aristocracy.

Why wish for an Union of the lesser States — 2 Kinds of bad Govt. — 1. That Govt. which does not do enough — and 2. that which does too much — Be as we were before we met.

Yes — but then the 2 Systems oppose each other. The System of Virginia and the System of Jersey agree as to the Powers —

Govt. by the States necessary. There can be no Difficulty as to this Point.

Mr. Elsworth. Objn. A Minority will govern a Majority. You put it in the Power of a few to prevent the Oppression of the many.

Political Societies are to govern —

In the Br. Constn. the few has a Check upon the many; and one upon both

—

The House must be demolished — but it only wants a Shingle —

If Congress had voted by a Majority, all Evils would have been cured —

Rhode-Island — The Power not in Congress.

Are not the large States safe now —

Suppose the large States should agree that 4 free Ports should be established.

Suppose lucrative Offices —

Self-Preservation.

No Unity of Interests —

Mr. Maddison. The Confedn. inadequate to its Purposes.

Resoln. of Cont. refusing to comply with a federal Reqn.
 Lycia. Germanick Body. Reported Violations in every State.
 The Rule of Confdn. obtained by the Necessity of the Times —
 The large States will not be secure by the lower Branch.
 2d. Branch may possess a Negative over the Laws of the State-Legs.
 Mr. Elsworth. Cont. has furnished more thn. her Quota as to Men —
 Mr. Sherman. Mr. Wilson asks, why the Interests of the lesser States cannot
 be as safe in the Hands of the larger States as in their own —
 Mr. Davie — The Resoln. as reported by the Comee. is impracticable — is
 too large —
 The 2d. Branch being executive must sit constantly.
 Mr. Wilson — Not necessary to sit constantly —
 Each State should have one Senator — 1 Member in the second for every
 100,000 People; and 1 for the smallest State.
 This a Compromise on the Part of the large States.
 He will not insist upon small Matters — if the great Principles can be es-
 tablished —
 Govt. placed upon a false Basis.

(Paterson's Notes (Max Farrand, 1911), Pages 503-505, Vol. 1)

'Each State shall have equal Vote.'—

Wilson—Gentlemen have declared the Reluctance of Eastern States to ac-
 ceed to national Government.—If a Minority are inclined to separate it never
 can be on stronger or better Principles. State of Votes now as 22 to go—
 Shall the one fourth controul the Remainder. Can we forget for whom we form
 Governments—for Men not imaginary Beings called States.

Elsworth—On this Occasion each State has only a preventive Vote— the
 Minority is not to govern but to prevent its own Destruction—this is not novel—
 it is useful. It is said the Equality of Suffrage has embarrassed us—Can Gentle-
 man Instance salutary Measure being lost by not having a Majority of States in
 its Favor. Rhode Island did not defeat Impost under Confederation. If Security
 be the principal Object of the great States they have it here. All the Reason
 in favor of national Government founded on Ideas of State Interests having too
 powerful Operation—as they are permitted to exist they must still influence.

Madison—Equality of Representation was dictated by the Necessity of the
 Times. The larger States cannot be safe unless they have a greater Share in
 Government. Connecticut has shewn a Disregard to her foederal Compact—She
 has declined complying with Requisition.

Elsworth—That Connecticut has not complied with Requisition is owing
 to her superior Exertions during the War—to keep her Regiments compleat
 she incurred an enormous Expence—She was exhausted—that was Reason of
 Delinquency.

Sherman—That Legislature of Connecticut did not comply with Requisition
 is no Impeachment of Congress. If the Argument is to have any Weight shew
 that the State frustrated it in Congress.

Davie—90 Members are proposed for Senate—As States accede the Numbers
 will be much increased—this will embarrass—they ought to be less. The Preser-
 vation of the State Governments is the only Object of Confederation. but if each
 State has a single Vote it will defeat the whole System.

Wilson—he subscribes to Justice of Davies Remark—the Senate ought to consist of a few. In apportioning Representation he will agree that every 100,000 Persons shall be represented by one Member and that every State having less should have one.

(Lansing's Notes (Joseph Strayer, 1939), Pages 96-98)

Mr. Wilson—Waters of Bitterness have flowed from unequal Representation Men or States cant confederate wont participate with same Rights True—but they may—what they will part with—a party in [one word undecipherable] under Sanction of Compact.

Mr. Wilson—Smaller states cant be injured, but protected by Executive—doubtfull—Is there no other Mode of Injury. On this Proposal, every Man may give his Vote, and therefore may be equally represented—answer—Here is a substantiation of every Reason on which our objection is founded, i.e., the Representatives chosen in Virginia will carry into the public councils that Momentum of Attention to Virginia which animated their Electors. This can only be counteracted by a supposition that the Citizens of Virginia are as ardently attached to the Interests of New Hampshire or Delaware as to those of Virginia a supposition which the Honorable Gentleman will not make especially as two Interests may sometimes be opposite.

[Editors' note: In his Supplement, Hutson attributes these notes to June 30. Hutson writes that they are 'So dated because a list of states, their quotas of taxes, and their delegate strength proportioned thereupon—identical to that printed by Farrand at June 9 (I:190)—appears at the head of the document with the addition of the assignment of one to four senators to each state, the basis of apportionment being one senator per 100,00 inhabitants, as James Wilson proposed on June 30 (I:488). Also, Dickinson's brief notes on Wilson's speech appear to fit Wilson's remarks of June 30, especially those in which he argued that an executive chosen from one of the large states could provoke the opposition of the other larger states and that the ensuing tension would protect the small states (I:483).' Hutson does, however, also concede that a case can be made for dating these notes to June 9.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 133, John Dickinson: Notes on Debate)

[e672654] [Editors' note: Though his speech was an intervention in the debate on the Eighth Resolution, Franklin's proposed plan would alter several resolutions. The editors have therefore represented it as the submission of a new document.

Yates' and Lansing's accounts can help clarify the contents of this speech, though the following speech text in support of his proposal comes from Madison's notes:

'Docr. Franklin The diversity of opinions turns on two points. If a proportional representation takes place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say their money will be in danger. When a broad table is to be made, and the edges of planks do not fit the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in

order that they may join in some accomodating [sic] proposition. He had prepared one which he would read, that it might lie on the table for consideration. The proposition was in the words following”

”That the Legislatures of the several States shall choose & send an equal number of Delegates, namely_____ who are to compose the 2d. branch of the General Legislature —

That in all cases or questions wherein the Sovereignty of individual States may be affected, or whereby their authority over their own Citizens may be diminished, or the authority of the General Government within the several States augmented, each State shall have equal suffrage.

That in the appointment of all Civil Officers of ye. Genl. Govt. in the election of whom the 2d. branch may by the Constitution have part, each State shall have equal suffrage.

That in fixing the salaries of such officers, and in all allowances for public services, and generally in all appropriations & dispositions of money to be drawn out of the General Treasury; and in all laws for supplying that Treasury, the Delegates of the several States shall have suffrage in proportion to the Sums which their respective States do actually contribute to the treasury ’Where a ship had many owners this was the rule of deciding on her expedition. He had been one of the ministers from this Country to France during the joint war and wd. have been very glad if allowed a vote in distributing the money to carry it on.’ ” (Pages 488-489, Vol. 1, Madison’s Notes (Max Farrand, 1911)).]

(Franklin Papers (Max Farrand, 1911), Pages 507-508, Vol. 1)

Governor Franklin. The smaller states, by this motion, would have the power of giving away the money of the greater states. There ought to be some difference between the first and second branches. Many expedients have been proposed, and I am sorry to remark, without effect. A joiner, when he wants to fit two boards, takes off with his plane the uneven parts from each side, and thus they fit. Let us do the same — we are all met to do something.

I shall propose an expedient: Let the senate be elected by the states equally — in all acts of sovereignty and authority, let the votes be equally taken — the same in the appointment of all officers, and salaries; but in passing of laws, each state shall have a right of suffrage in proportion to the sums they respectively contribute. Amongst merchants, where a ship has many owners, her destination is determined in that proportion. I have been one of the ministers to France from this country during the war, and we should have been very glad, if they would have permitted us a vote in the distribution of the money to carry on the war.

(Yates’s Diary (Max Farrand, 1911), Pages 498-499, Vol. 1)

Doctr. Franklin. The lesser States afraid of their Liberties; the larger States afraid of their Money.

Treaty between France and the U. S. the latter had no Disposition over the Treasury of the former.

(Paterson’s Notes (Max Farrand, 1911), Page 505, Vol. 1)

Franklin—We must do like a Joiner in making a Table—take off the Protuberances—pare the different Opinions to a common Standard. He has prepared a Proposition with that Intention—Each State ought to have a certain Number of Votes

in Senate. On some Occasions an Equality of Suffrage to be admitted in States, in others to be apportioned. but thinks Equality is inequitable. In the last War the U. States and King of France had not an equal Vote in the Disposition of the Money expended for common Defence!

(Lansing's Notes (Joseph Strayer, 1939), Pages 98-99)

[e672655] [Editors' note: Franklin's proposal seems to have not been seconded or attracted any discussion, so it has been represented as 'dropped'.]

(2019 Editors)

[e672656] Mr. Martin. Mr. Wilson's motion or plan would amount to nearly the same kind of inequality.

Mr. King. The Connecticut motion contains all the vices of the old confederation. It supposes an imaginary evil — the slavery of state governments. And should this convention adopt the motion, our business here is at an end.

Capt. Dayton. Declamation has been substituted for argument. Have gentlemen shewn, or must we believe it, because it is said, that one of the evils of the old confederation was unequal representation? We, as distinct societies, entered into the compact. Will you now undermine the thirteen pillars that support it?

Mr. Martin. If we cannot confederate on just principles, I will never confederate in any other manner.

Mr. Madison. I will not answer for supporting chimerical objects — but has experience evinced any good in the old confederation? I know it never can answer, and I have therefore made use of bold language against it. I do assert, that a national senate, elected and paid by the people, will have no more efficiency than congress; for the states will usurp the general government. I mean, however to preserve the state rights with the same care, as I would trials by jury; and I am willing to go as far as my honorable colleague.

Mr. Bedford. That all the states at present are equally sovereign and independent, has been asserted from every quarter of this house. Our deliberations here are a confirmation of the position; and I may add to it, that each of them act from interested, and many from ambitious motives. Look at the votes which have been given on the floor of this house, and it will be found that their numbers, wealth and local views, have actuated their determinations; and that the larger states proceed as if our eyes were already perfectly blinded. Impartiality, with them, is already out of the question — the reported plan is their political creed, and they support it, right or wrong. Even the diminutive state of Georgia has an eye to her future wealth and greatness — South Carolina, puffed up with the possession of her wealth and negroes, and North Carolina, are all, from different views, united with the great states. And these latter, although it is said they can never, from interested views, form a coalition, we find closely united in one scheme of interest and ambition, notwithstanding they endeavor to amuse us with the purity of their principles and the rectitude of their intentions, in asserting that the general government must be drawn from an equal representation of the people. Pretences to support ambition are never wanting. Their cry is, where is the danger? and they insist that altho' the powers of the general government will be increased, yet it will be for the good of the whole; and

although the three great states form nearly a majority of the people of America, they never will hurt or injure the lesser states. I do not, gentlemen, trust you. If you possess the power, the abuse of it could not be checked; and what then would prevent you from exercising it to our destruction? You gravely alledge that there is no danger of combination, and triumphantly ask, how could combinations be effected? "The larger states," you say, "all differ in productions and commerce; and experience shows that instead of combinations, they would be rivals, and counteract the views of one another." This, I repeat, is language calculated only to amuse us. Yes, sir, the larger states will be rivals, but not against each other — they will be rivals against the rest of the states. But it is urged that such a government would suit the people, and that its principles are equitable and just. How often has this argument been refuted, when applied to a federal government. The small states never can agree to the Virginia plan; and why then is it still urged? But it is said that it is not expected that the state governments will approve the proposed system, and that this house must directly carry it to the people for their approbation! Is it come to this, then, that the sword must decide this controversy, and that the horrors of war must be added to the rest of our misfortunes? But what have the people already said? "We find the confederation defective — go, and give additional powers to the confederation — give to it the imposts, regulation of trade, power to collect the taxes, and the means to discharge our foreign and domestic debts." Can we not then, as their delegates, agree upon these points? As their ambassadors, can we not clearly grant those powers? Why then, when we are met, must entire, distinct, and new grounds be taken, and a government, of which the people had no idea, be instituted? And are we to be told, if we wont agree to it, it is the last moment of our deliberations? I say, it is indeed the last moment, if we do agree to this assumption of power. The states will never again be entrapped into a measure like this. The people will say the small states would confederate, and grant further powers to congress; but you, the large states, would not. Then the fault will be yours, and all the nations of the earth will justify us. But what is to become of our public debts if we dissolve the union? Where is your plighted faith? Will you crush the smaller states, or must they be left unmolested? Sooner than be ruined, there are foreign powers who will take us by the hand. I say not this to threaten or intimidate, but that we should reflect seriously before we act. If we once leave this floor, and solemnly renounce your new project, what will be the consequence? You will annihilate your federal government, and ruin must stare you in the face. Let us then do what is in our power — amend and enlarge the confederation, but not alter the federal system. The people expect this, and no more. We all agree in the necessity of a more efficient government — and cannot this be done? Although my state is small, I know and respect its rights, as much, at least, as those who have the honor to represent any of the larger states.

Judge Elsworth I am asked by my honorable friend from Massachusetts, whether by entering into a national government, I will not equally participate in national security? I confess I should; but I want domestic happiness, as well as general security. A general government will never grant me this, as it cannot know my wants or relieve my distress. My state is only as one out of thirteen. Can they, the general government, gratify my wishes? My happiness depends as much on the existence of my state government, as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to

give.

Mr. King. I am in sentiment with those who wish the preservation of state governments; but the general government may be so constituted as to effect it. Let the constitution we are about forming be considered as a commission under which the general government shall act, and as such it will be the guardian of the state rights. The rights of Scotland are secure from all danger and encroachments, although in the parliament she has a small representation. May not this be done in our general government? Since I am up, I am concerned for what fell from the gentleman from Delaware — “Take a foreign power by the hand”! I am sorry he mentioned it, and I hope he is able to excuse it to himself on the score of passion. Whatever may be my distress, I never will court a foreign power to assist in relieving myself from it.

(Yates’s Diary (Max Farrand, 1911), Pages 499-502, Vol. 1)

Mr. King observed that the simple question was whether each State should have an equal vote in the 2d. branch; that it must be apparent to those gentlemen who liked neither the motion for this equality, nor the report as it stood, that the report was as susceptible of melioration as the motion; that a reform would be nugatory & nominal only if we should make another Congress of the proposed Senate: that if the adherence to an equality of votes was fixed & unalterable, there could not be less obstinacy on the other side, & that we were in fact cut insunder already, and it was in vain to shut our eyes against it: that he was however filled with astonishment that if we were convinced that every man in America was secured in all his rights, we should be ready to sacrifice this substantial good to the phantom of State sovereignty: that his feelings were more harrowed & his fears more agitated for his Country than he could express, that he conceived this to be the last opportunity of providing for its liberty & happiness: that he could not therefore but repeat his amazement that when a just Governmt. founded on a fair representation of the people of America was within our reach, we should renounce the blessing, from an attachment to the ideal freedom & importance of States: that should this wonderful illusion continue to prevail, his mind was prepared for every event, rather than sit down under a Govt. founded in a vicious principle of representation and which must be as shortlived as it would be unjust. He might prevail on himself to accede to some such expedient as had been hinted by Mr. Wilson: but he never could listen to an equality of votes as proposed in the motion.

Mr. Dayton. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect however eloquently spoken. It should have been shewn that the evils we have experienced have proceeded from the equality now objected to: and that the seeds of dissolution for the State Governments are not sown in the Genl. Government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never would be recd. by the people.

Mr. Martin wd. never confederate if it could not be done on just principles

Mr Madison would acquiesce in the concession hinted by Mr. Wilson, on condition that a due independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the States. The Senate therefore is only another edition of Congs. He knew the faults of that Body & had used a bold language agst. it. Still he wd. preserve the State rights, as carefully as the trials by jury.

Mr. Bedford, contended that there was no middle way between a perfect consolidation and a mere confederacy of the States. The first is out of the question, and in the latter they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large States evidently seeking to aggrandize themselves at the expense of the small? They think no doubt that they have right on their side, but interest had blinded their eyes. Look at Georgia. Though a small State at present, she is actuated by the prospect of soon being a great one. S. Carolina is actuated both by present interest & future prospects. She hopes too to see the other States cut down to her own dimensions. N. Carolina has the same motives of present & future interest. Virga. follows. Maryland is not on that side of the Question. Pennsylvania has a direct and future interest. Massachusetts has a decided and palpable interest in the part she takes. Can it be expected that the small States will act from pure disinterestedness. Look at G. Britain. Is the Representation there less unequal? But we shall be told again that that is the rotten part of the Constitution. Have not the boroughs however held fast their constitutional rights? and are we to act with greater purity than the rest of mankind. An exact proportion in the Representation is not preserved in any one of the States. Will it be said that an inequality of power will not result from an inequality of votes. Give the opportunity, and ambition will not fail to abuse it. The whole history of mankind proves it. The three large States have a common interest to bind them together in commerce. But whether a combination as we suppose, or a competition as others suppose, shall take place among them, in either case, the smaller States must be ruined. We must like Solon make such a Government. as the people will approve. Will the smaller States ever agree to the proposed degradation of them. It is not true that the people will not agree to enlarge the powers of the present Congress. The Language of the people has been that Congress ought to have the power of collecting an impost, and of coercing the States when it may be necessary. On the first point they have been explicit & in a manner, unanimous in their declarations. And must they not agree to this & similar measures if they ever mean to discharge their engagements. The little States are willing to observe their engagements, but will meet the large ones on no ground but that of the Confederation. We have been told with a dictatorial air that this is the last moment for a fair trial in favor of a good Government. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the confederation. If they do the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice. He did not mean by this to intimidate or alarm. It was a natural consequence; which ought to be avoided by Enlarging the federal powers not annihilating the federal system. This is what the people expect. All agree in the necessity of a more efficient Government. and why not make such an one; as they desire.

Mr. Elseworth, Under a National Government, he should participate in the National Security, as remarked by (Mr. King) but that was all. What he wanted was domestic happiness. The National Government could not descend to the local objects on which this depended. It could only embrace objects of a general nature. He

turned his eyes therefore for the preservation of his rights to the State Govts. From these alone he could derive the greatest happiness he expects in this life.

His happiness depends on their existence, as much as a newborn infant on its mother for nourishment . If this reasoning was not satisfactory, he had nothing to add that could be so.

Mr. King was for preserving the States in a subordinate degree, and as far as they could be necessary for the purposes stated by Mr. Elsewth. He did not think a full answer had been given to those who apprehended a dangerous encroachment on their jurisdictions. Expedients might be devised as he conceived that would give them all the security the nature of things would admit of. In the establishment of Societies the Constitution was to the Legislature what the laws were to individuals. As the fundamental rights of individuals are secured by express provisions in the State Constitutions; why may not a like security be provided for the Rights of States in the National Constitution. The articles of Union between Engld. & Scotland furnish an example of such a provision in favor of sundry rights of Scotland. When that Union was in agitation, the same language of apprehension which has been heard from the smaller States, was in the mouths of the Scotch patriots. The articles however have not been violated and the Scotch have found an increase of prosperity & happiness. He was aware that this will be called a mere paper security. He thought it a sufficient answer to say that if fundamental articles of compact, are no sufficient defence against physical power, neither will there be any safety agst. it if there be no compact. He could not sit down, without taking some notice of the language of the honorable gentleman from Delaware (Mr Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who with a vehemence unprecedented in that House, had declared himself ready to turn his hopes from our common Country, and court the protection of some foreign hand — This too was the language of the Honbl member, himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. The gentleman cd. only excuse it to himself on the score of passion. For himself whatever might be his distress, he wd. never court relief from a foreign power.

(Madison's Notes (Max Farrand, 1911), Pages 489-493, Vol. 1)

Mr. King. Equality is the Vice of the present System.

Captn. Dayton.

Mr. Maddison. The Amt. is Congress in a new Form; servile to the States. No Disposn. in Cl. Rep. or Corporations to swallow up the Rest.

Mr. Bedford — Purity of Principle —

Mr. King. Magna Charta of England. Certain constl. Principles to be observed.

This a Consolidn. Union of England and Scotland.

The King Bribe. Power in the Magy. to prevent a Violation of fundamental Principles.

France — Ireland. Govt. a progressive Force.

(Paterson's Notes (Max Farrand, 1911), Page 505, Vol. 1)

King—Every Vice of the present System will be perpetuated by adopting Amendment—We subject our minds to imaginary Evils—Is much affected—has heard no Arguments in Favor of it.

Dayton—If Gentlemen will substitute Declamation for Argument it is not surprising that they are unattended to—A Number of Reasons forcible in their Nature have been assigned in Favor of Amendment—they have not been answered. He is convinced this can never receive Approbation of the People.

Bedford—Will rather agree to consolidate Government than apportion Representation unequally. Ambition and Avarice influences us—We represent the different Interests of our States—the larger States wish to aggrandize themselves at the Expence of the others. The Language of the greater States is give us Power we will exert it for your Benefit. If a Combination does not destroy us a Rivalship of the large States will. The smaller States are entrapped—you get a Representation under one View you give into another. Is a Breach of the Union so trifling as to be told with a Smile—that a few States will confederate—they dare not—It is only calculated to intimidate. The People expect an Amendment of the Confederation—they will be surprised at our System—they are not ripe for it.

King—When Scotland and England united the same Arguments were adduced—Their Rights however still exist. If there is a Power which from its Prevalence may absorb all others, it will have that Effect whether you confederate or not.

(Lansing's Notes (Joseph Strayer, 1939), Pages 99-100)

[e672657] After some time passed in debate [it was moved to adjourn]

(Official Journal (Max Farrand, 1911), Page 480, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 493, Vol. 1)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 502, Vol. 1)

Adjourned till Monday next.

(Lansing's Notes (Joseph Strayer, 1939), Page 100)

[e672658] [To adjourn Ayes — 11; noes — 0.]

The House adjourned till Monday next at 11 oClock a. m.

(Official Journal (Max Farrand, 1911), Page 480, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 493, Vol. 1)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 502, Vol. 1)

Adjourned till Monday next.

(Lansing's Notes (Joseph Strayer, 1939), Page 100)

1.42 Monday, 02 July 1787, at 11:00 (s6229)

[e672659] Pierce, William, of Georgia. Attended May 31; absent after July 1.

[Editors' note: Pierce left Philadelphia on 1 July, but as the Convention was not in session that day, his departure has been recorded here, at the earliest subsequent session. Pierce left due to business troubles, which resulted in a misunderstanding with John Auldjo, to whom he owed money, and led Pierce to issue a challenge for a duel. The parties convened on New York with Alexander Hamilton acting as Auldjo's second. Hamilton successfully mediated the affair, which concluded without a duel. Hamilton's final letter to Auldjo reads:

'New York, July 26, 1787.

I have delivered the paper you committed to me, as it stood altered, to Major Peirce [sic], from whose conduct I am to conclude the affair between you is at an end. He informs me that he is shortly to set out on a jaunt up the North River.

As you intimate a wish to have my sentiments in writing on the transaction, I shall with pleasure declare that the steps you have taken in consequence of Mr. Peirce's challenge have been altogether in conformity to my opinion of what would be prudent, proper and honorable on your part. They seem to have satisfied Mr. Peirce's scruples arising from what he apprehended in some particulars to have been your conduct to him, and I presume we are to hear nothing further of the matter.' (Page 64, Vol. 3, Appendix A (Max Farrand, 1911))

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e672660] He had just returned from N. Y. havg. left ye. Convention a few days after it commenced business.

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 1)

[e734147] It was moved and seconded to agree to the following resolution. namely.

Resolved that in the second Branch of the Legislature of the United States each State shall have an equal vote.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

On the question for allowing each State one vote in the Second branch as moved by Mr. Elseworth.

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 1)

[e734148] On the question for allowing each State one vote in the Second branch as moved by Mr. Elseworth.

Massts. no. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Mr. Jenifer being not present Mr. Martin alone voted Va. no. N. C. no. S. C. no. Geo. divid. Mr. Houston no Mr Baldwin ay [Ayes — 5; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 1)

It was moved and seconded to agree to the following resolution. namely.

Resolved that in the second Branch of the Legislature of the United States each State shall have an equal vote.

which passed in the negative [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The question was then put on Mr. Elsworth's motion. 5 ayes — 5 noes — one state divided. So the question, as to the amendment, was lost.

(Yates's Diary (Max Farrand, 1911), Page 516, Vol. 1)

On Question for Equality of Suffrage—Massachusetts Pennsylvania Virginia North Carolina—South Carolina for Affirmative and Connecticut New York New Jersey Delaware and Maryland Negative. Georgia divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 100)

[e672662] On this question, Mr. Martin was the only delegate for Maryland present, which circumstance secured the State a negative. Immediately after the question had been taken, and the President had declared the votes, Mr. Jenifer came into the convention, when Mr. King, from Massachusetts, valuing himself on Mr. Jenifer to divide the State of Maryland on this question, as he had on the former, requested of the President that the question might be put again; however, the motion was too extraordinary in its nature to meet with success.

[Editors' note: This motion is reported only in Luther Martin's 'Genuine Information'. The motion request seems likely to have been rejected without a vote, either by decision of the President or by the strong opposition from the other delegates.]

(Appendix A (Max Farrand, 1911), Page 188, Vol. 3)

[e672663] On this question, Mr. Martin was the only delegate for Maryland present, which circumstance secured the State a negative. Immediately after the question had been taken, and the President had declared the votes, Mr. Jenifer came into the convention, when Mr. King, from Massachusetts, valuing himself on Mr. Jenifer to divide the State of Maryland on this question, as he had on the former, requested of the President that the question might be put again; however, the motion was too extraordinary in its nature to meet with success.

[Editors' note: This motion is reported only in Luther Martin's 'Genuine Information'. The motion request seems likely to have been rejected without a vote, either by decision of the President or by the strong opposition from the other delegates.]

(Appendix A (Max Farrand, 1911), Page 188, Vol. 3)

[e672664] Mr. Pinkney thought an equality of votes in the 2d. branch inadmissible. At the same time candor obliged him to admit that the large States would feel a partiality for their own Citizens & give them a preference, in appointments: that they might also find some common points in their commercial

interests, and promote treaties favorable to them. There is a real distinction the Northern & Southn. interests. N. Carola. S. Carol: & Geo. in their Rice & Indigo had a peculiar interest which might be sacrificed. How then shall the larger States be prevented from administering the Genl. Govt. as they please, without being themselves unduly subjected to the will of the smaller? By allowing them some but not a full proportion. He was extremely anxious that something should be done, considering this as the last appeal to a regular experiment. Congs. have failed in almost every effort for an amendment of the federal System. Nothing has prevented a dissolution of it, but the appointment of this Convention; & he could not express his alarms for the consequences of such an event. He read his motion to form the States into classes, with an apportionment of Senators among them, (see art. 4 of his plan.)

[Editors' note: The text for this amendment is found in James Wilson's papers, which Farrand believed to be a copy of Pinckney's renewed proposal. It is a reworking of his earlier plan, which reads as follows:

'For the forming of the Senate the United States to be divided into four great districts, (so apportioned as to give to each its due weight). The Senate to be elected by the House of Delegates either from among themselves or the people at large. When so formed, the Senate to be divided into four classes, — to serve by Rotation of four years.' (Page 605, Vol. 3, Appendix D (Max Farrand, 1911))]

(Madison's Notes (Max Farrand, 1911), Pages 510-511, Vol. 1)

Mr. Pinkney. As a professional man, I might say, that there is no weight in the argument adduced in favor of the motion on which we were divided; but candor obliges me to own, that equality of suffrage in the states is wrong. Prejudices will prevail, and they have an equal weight in the larger as in the smaller states. There is a solid distinction as to interest between the southern and northern states — To destroy the ill effects thereof, I renew the motion which I made in the early stage of this business. (See the plan of it before mentioned.)

(Yates's Diary (Max Farrand, 1911), Pages 516-517, Vol. 1)

Resolved

That the second Branch of the national Legislature shall be elected in the following manner — that the States be divided into Districts; the first to comprehend the States of _____ the second to comprehend the States of _____ the third to comprehend the States of _____ the fourth to comprehend the States of _____ and &c.

— that the Members shall be elected by the said Districts in the Proportion following, in the first District

Resolved

That the Members of the second Branch be elected for _____ Years, and that immediately after the first Election they be divided by Lot into Classes; that the Seats of the Members of the first Class shall be vacated at the Expiration of the first Year, that the second the second Year, and so on continually; to the End that the Part of the second Branch, as nearly as possible may be annually chosen

Resolved

That it shall be in the Power of the national Legislature, for the Convenience and Advantage of the good People of the United States, to divide them into such further and other Districts for the Purposes aforesaid, as to the said Legislature shall appear necessary

[Editors' note: Farrand observes that these papers appear to be a copy of Pinckney's proposal renewed on this day.]

(Wilson's Papers (Max Farrand, 1911), Pages 520-521, Vol. 1)

C. Pinkney—He is one of those who believes that if Proportion is adjusted in both Branches as in first it will operate in the Mode stated by Minority. North Carolina South Carolina and Georgia have Interests different from great States—their Staples are Indigo and Rice.—Must make a Compromise so as to preserve all. Proposes 4 Classes—States to have from one to four Votes.

(Lansing's Notes (Joseph Strayer, 1939), Pages 100-101)

[e672665] General Pinkney. was willing the motion might be considered. He did not entirely approve it. He liked better the motion of Dr. Franklin (which see Saturday June 30). Some compromise seemed to be necessary: the States being exactly divided on the question for an equality of votes in the 2d. branch. He proposed that a Committee consisting of a member from each State should be appointed to devise & report some compromise.

[Editors' note: Madison originally wrote that CC Pinckney 'seconded the motion in order that it might be considered', but changed it for the phrasing contained in angled brackets in the text. There is no record in the official Journal of a vote, so there is no certainty that this amendment was formally voted upon. It has therefore been represented as dropped.]

(Madison's Notes (Max Farrand, 1911), Pages 510-511, Vol. 1)

[e672666] General Pinkney. was willing the motion might be considered. He did not entirely approve it. He liked better the motion of Dr. Franklin (which see Saturday June 30). Some compromise seemed to be necessary: the States being exactly divided on the question for an equality of votes in the 2d. branch. He proposed that a Committee consisting of a member from each State should be appointed to devise & report some compromise.

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 1)

Gen. Pinkney moved for a select committee, to take into consideration both branches of the legislature.

(Yates's Diary (Max Farrand, 1911), Page 517, Vol. 1)

[e672667] Mr: L. Martin had no objection to a Commitment, but no modifications whatever could reconcile the Smaller States to the least diminution of their equal Sovereignty.

Mr. Sharman. We are now at a full stop, and nobody he supposed meant that we shd. break up without doing something. A Committee he thought most likely to hit on some expedient.

Mr. Govr. Morris. thought a Come. advisable as the Convention had been equally divided. He had a stronger reason also. The mode of appointing the 2d. branch tended he was sure to defeat the object of it. What is this object? to check the precipitation, changeableness, and excesses of the first branch. Every man of observation had seen in the democratic branches of the State Legislatures, precipitation — in Congress changeableness. in every department excesses agst. personal liberty private property & personal safety. What qualities are necessary to constitute a check in this case? Abilities and virtue, are equally necessary in both branches. Something more then is wanted. 1. the Checking branch must have a personal interest in checking the other branch. one interest must be opposed to another interest. Vices as they exist, must be turned agst. each other. 2. It must have great personal property, it must have the aristocratic spirit; it must love to lord it thro' pride, pride is indeed the great principle that actuates both the poor & the rich. It is this principle which in the former resists, in the latter abuses authority. 3. It should be independent. In Religion the Creature is apt to forget its Creator. That it is otherwise in political affairs. The late debates here are an unhappy proof. The aristocratic body, should be as independent & as firm as the democratic. If the members of it are to revert to a dependence on the democratic choice. The democratic scale will preponderate. All the guards contrived by America have not restrained the Senatorial branches of the Legislatures from a servile complaisance to the democratic. If the 2d. branch is to be dependent we are better without it. To make it independent, it should be for life. It will then do wrong, it will be said. He believed so: He hoped so. The Rich will strive to establish their dominion & enslave the rest. They always did. They always will. The proper security agst them is to form them into a separate interest. The two forces will then controul each other. Let the rich mix with the poor and in a Commercial Country, they will establish an Oligarchy. Take away commerce, and the democracy will triumph. Thus it has been all the world over. So it will be among us. Reason tells us we are but men: and we are not to expect any particular interference of Heaven in our favor. By thus combining & setting apart, the aristocratic interest, the popular interest will be combined agst. it. There will be a mutual check and mutual security. 4. An independence for life, involves the necessary permanency. If we change our measures no body will trust us: and how avoid a change of measures, but by avoiding a change of men. Ask any man if he confides in Congs. if he confides in the State of Pena. if he will lend his money or enter into contract? He will tell you no. He sees no stability. He can repose no confidence. If G. B. were to explain her refusal to treat with us, the same reasoning would be employed. — He disliked the exclusion of the 2d. branch from holding offices. It is dangerous. It is like the imprudent exclusion of the military officers during the war, from civil appointments. It deprives the Executive of the principal source of influence. If danger be apprehended from the Executive what a lift-handed way is this of obviating it? If the son, the brother or the friend can be appointed, the danger may be even increased, as the disqualified father &c. can then boast of a disinterestedness which he does not possess. Besides shall the best, the most able, the most virtuous citizens not be permitted to hold offices? Who then are to hold them? He was also agst. paying the Senators. They will pay themselves if they can. If they can not they will be rich and can do without it. of such the 2d. branch ought to consist; and none but such can compose it if they are not to be paid — He contended that

the Executive should appoint the Senate & fill up vacancies. Thi gets rid of the difficulty in the present question. You may begin with any ratio you please; it will come to the same thing. The members being independt. & for life, may be taken as well from one place as from another. — It should be considered too how the scheme could be carried through the States. He hoped there was strength of mind eno' in this House to look truth in the face. He did not hesitate therefore to say that loaves & fishes must bribe the Demagogues. They must be made to expect higher offices under the general than the State Govts. A Senate for life will be a noble bait. Without such captivating prospects, the popular leaders will oppose & defeat the plan. He perceived that the 1st. branch was to be chosen by the people of the States: the 2d. by those chosen by the people. Is not here a Govt. by the States. A Govern. by Compact between Virga. in the 1st. & 2d. branch; Massts. in the 1st & 2d. branch &c. This is going back to mere treaty. It is no Govt. at all. It is altogether dependent — on the States, and will act over again the part which Congs. has acted. A firm Govern. alone can protect our liberties. He fears the influence of the rich. They will have the same effect here as elsewhere if we do not by such a Govt. keep them within their proper sphere. We should remember that the people never act from reason alone. The rich will take advantage of their passions and make these the instruments for oppressing them. The Result of the Contest will be a violent aristocracy, or a more violent despotism. The schemes of the Rich will be favored by the extent of the Country. The people in such distant parts can not communicate & act in concert. They will be the dupes of those who have more Knowledge & intercourse. The only security agst. encroachments will be a select & sagacious body of men, instituted to watch agst. them on all sides. He meant only to hint these observations, without grounding any motion on them

Mr. Randolph favored the commitment though he did not expect much benefit from the expedient. He animadverted on the warm & rash language of Mr. Bedford on Saturday; reminded the small States that if the large States should combine some danger of which he did not deny there would be a check in the revisionary power of the Executive, and intimated that in order to render this still more effectual, he would agree that in the choice of the Executive each State should have an equal vote. He was persuaded that two such opposite bodies as Mr. Morris had planned could never long co-exist. Dissentions would arise as has been seen even between the Senate and H. of Delegates in Maryland, appeals would be made to the people; and in a little time commotions would be the result — He was far from thinking the large States could subsist of themselves any more than the small; an avulsion would involve the whole in ruin, and he was determined to pursue such a scheme of Government as would secure us agst. such a calamity.

Mr. Strong was for the Commitment; and hoped the mode of constituting both branches would be referred. If they should be established on different principles, contentions would prevail and there would never be a concurrence in necessary measures.

Docr. Williamson. If we do not concede on both sides, our business must soon be at an end. He approved of the commitment, supposing that as the Come. wd. be a smaller body, a compromise would be pursued with more coolness

Mr. Wilson objected to the Committee, because it would decide according to that very rule of voting which was opposed on one side. Experience in Congs.

had also proved the inutility of Committees consisting of members from each State

Mr. Lansing wd. not oppose the Commitment, though expecting little advantage from it.

Mr. Madison opposed the commitment. He had rarely seen any other effect than delay from such Committees in Congs. Any scheme of compromise that could be proposed in the Committee might as easily be proposed in the House; and the report of the Committee when it contained merely the opinion of the Come. would neither shorten the discussion, nor influence the decision of the House.

Mr. Gerry was for the commitmt. Something must be done, or we shall disappoint not only America, but the whole world. He suggested a consideration of the State we should be thrown into by the failure of the Union. We should be without an Umpire to decide controversies and must be at the mercy of events. What too is to become of our treaties — what of our foreign debts, what of our domestic? We must make concessions on both sides. Without these the constitutions of the several States would never have been formed.

(Madison's Notes (Max Farrand, 1911), Page 511-515, Vol. 1)

Mr. Martin. It is again attempted to compromise. — You must give each state an equal suffrage, or our business is at an end.

Mr. Sherman. It seems we have got to a point, that we cannot move one way or the other. Such a committee is necessary to set us right.

Mr. Morris. The two branches, so equally poised, cannot have their due weight. It is confessed, on all hands, that the second branch ought to be a check on the first — for without its having this effect it is perfectly useless. — The first branch, originating from the people, will ever be subject to precipitancy, changeability, and excess. Experience evinces the truth of this remark without having recourse to reading. This can only be checked by ability and virtue in the second branch. On your present system, can you suppose that one branch will possess it more than the others? The second branch ought to be composed of men of great and established property — an aristocracy. Men, who from pride will support consistency and permanency; and to make them completely independent they must be chosen for life, or they will be a useless body. Such an aristocratic body will keep down the turbulence of democracy. But if you elect them for a shorter period, they will be only a name, and we had better be without them. Thus constituted, I hope they will shew us the weight of aristocracy.

History proves, I admit, that the men of large property will uniformly endeavor to establish tyranny. How then shall we ward off this evil? Give them the second branch, and you secure their weight for the public good. They become responsible for their conduct, and this lust of power will ever be checked by the democratic branch, and thus form a stability in your government. But if we continue changing our measures by the breath of democracy, who will confide in our engagements? Who will trust us? Ask any person whether [518] he reposes any confidence in the government of congress, or that of the state of Pennsylvania — he will readily answer you, no. Ask him the reason, and he will tell you, it is because he has no confidence in their stability.

You intend also that the second branch shall be incapable of holding any office in the general government. — It is a dangerous expedient. They ought to

have every inducement to be interested in your government. Deprive them of this right, and they will become inattentive to your welfare. The wealthy will ever exist; and you never can be safe unless you gratify them as a body, in the pursuit of honor and profit. Prevent them by positive institutions, and they will proceed in some left-handed way. A son may want a place — you mean to prevent him from promotion — They are not to be paid for their services — they will in some way pay themselves; nor is it in your power to prevent it. It is good policy that men of property be collected in one body, to give them one common influence in your government. Let vacancies be filled up as they happen, by the executive. Besides it is of little consequence, on this plan, whether the states are equally represented or not. If the state governments have the division of many of the loaves and fishes, and the general government few, it cannot exist. This senate would be one of the baubles of the general government. If you choose them for seven years, whether chosen by the people or the states; whether by equal suffrage or in any other proportion, how will they be a check? They will still have local and state prejudices. — A government by compact is no government at all. You may as well go back to your congressional federal government, where, in the character of ambassadors, they may form treaties for each state.

I avow myself the advocate of a strong government, still I admit that the influence of the rich must be guarded; and a pure democracy is equally oppressive to the lower orders of the community. This remark is founded on the experience of history. We are a commercial people, and as such will be obliged to engage in European politics. Local government cannot apply to the general government. These latter remarks I throw out only for the consideration of the committee who are to be appointed.

Gov. Randolph. I am in favor of appointing a committee; but considering the warmth exhibited in debate on Saturday, I have, I confess, no great hopes that any good will arise from it. Cannot a remedy be devised? If there is danger to the lesser states, from an unequal representation in the second branch, may not a check be found in the appointment of one executive, by electing him, by an equality of state votes? He must have the right of interposing between the two branches, and this might give a reasonable security to the smaller states. — Not one of the lesser states can exist by itself; and a dissolution of the confederation, I confess, would produce conventions, as well in the larger as in the smaller states. The principle of self-preservation induces me to seek for a government that will be stable and secure.

Mr. Strong moved to refer the 7th resolve to the same committee.

Mr. Wilson. I do not approve of the motion for a committee. I also object to the mode of its appointment — a small committee is the best.

Mr. Lansing. I shall not oppose the appointment, but I expect no good from it.

Mr. Madison. I have observed that committees only delay business; and if you appoint one from each state, we shall have in it the whole force of state prejudices. The great difficulty is to conquer former opinions. The motion of the gentleman from South Carolina can be as well decided here as in committee.

Mr. Gerry. The world at large expect something from us. If we do nothing, it appears to me we must have war and confusion — for the old confederation would be at an end. Let us see if no concession can be made. Accommodation is absolutely necessary, and defects may be amended by a future convention.

(Yates's Diary (Max Farrand, 1911), Pages 517-519, Vol. 1)

G. Morris—2nd Branch is Check on the first—to correct Precipitancy, Changeableness and Excess—all these have marked Acts of Congress—2nd Branch must be Men of great Property—composed of those Men who are disposed to lord it over the Rest. —We ought to contrive that Men of established Property should fill it—they must be chosen for Life—Aristocracy should keep down Democracy.—It is objected they will immediately do wrong—he believes so—he hopes so—that will form Ballance.— they ought not to be paid they will pay themselves. The Executive should fill second Branch. If our Establishments are good they must be supported and will take a proper Direction—If the State Governments have Distribution of Loaves and Fishes the general Government cannot prevail—2—You must give them Disposition of Offices and Baubles—The Senatorship will operate as a Lure.

Governor Randolph—Warmth has formed a Barrier to Conviction—A Security may be offered to smaller States—Executive may correct it by giving him additional Powers—Give second Branch an Equality of Vote in his Election—in Distribution of Offices and in determining on Impeachments—the Executive will be obliged to interpose in Favor of 2d Branch. If however every Attempt to make a general Confederation is inefficient it would influence him to seek elsewhere.

(Lansing's Notes (Joseph Strayer, 1939), Pages 101-102)

[e672668] [Editors' note: As the result of the debate, CC Pinckney's motion was modified and voted on in two parts. The original version has therefore been represented as dropped.]

(2019 Editors)

[e672669] It was moved and seconded to appoint a Committee consisting of a Deputy from each State to whom the eighth resolution, and so much of the seventh resolution, reported from the Committee of the Whole House, as has not been decided upon should be referred

[Editors' note: Following debate on CC Pinckney's motion for a committee, a new motion was drawn up to take into account Strong's request that the undecided parts of the Seventh Resolution be referred to the Committee as well. The motion was then divided into several questions, which were decided upon separately. The Journal's voting records show two votes were taken, one on appointing a committee, and the other on the committee consisting of a member from each state.]

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

[e737585] [Editors' note: The motion to create a committee was then divided into two questions, one on appointing a committee, and the other on the committee consisting of a member from each state. These questions were decided upon separately. Because of this division, the original motion is implicitly dropped.]

(2019 Editors)

[e672670] On the question “for committing” generally

[Editors’ note: Madison records that ‘the question ”for committing [sic]”’ the Eighth Resolution and the remainder of the Seventh Resolution was voted on first.

As a result of deciding to send the Eighth Resolution to the Committee, the debate on the resolution was postponed.]

(Madison’s Notes (Max Farrand, 1911), Page 515, Vol 1)

The motion was then put to appoint a committee on the 8th resolve, and so much of the 7th as was not agreed to.

(Yates’s Diary (Max Farrand, 1911), Page 519-520, Vol. 1)

Some desultory Conversation then took Place the Result of which was the Appointment of a Committee of a Member from each State to try to settle Representation

(Lansing’s Notes (Joseph Strayer, 1939), Page 102)

[e672671] “To appoint a Committee”, Ayes — 9; noes — 2; (Vote 111, Detail of Ayes and Noes.)

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

On the question “for committing” generally

Massts. ay. Cont. ay. N. Y. ay. N. J. no. P. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 515-516, Vol. 1)

The motion was then put to appoint a committee on the 8th resolve, and so much of the 7th as was not agreed to. Carried — 9 states against 2.

(Yates’s Diary (Max Farrand, 1911), Pages 519-520, Vol. 1)

Some desultory Conversation then took Place the Result of which was the Appointment of a Committee of a Member from each State to try to settle Representation

(Lansing’s Notes (Joseph Strayer, 1939), Page 102)

[e672672] [Editors’ note: As a result of agreeing to commit the matter of representation, the Convention created a report for the Committee’s consideration. For ease of understanding, those parts of the Seventh Resolution which had already been discussed and agreed to by the Convention have been included here in square brackets.]

(2019 Editors)

[e672673] Committee [was] to consist of a member from each State.

[Editors' note: Madison says the Convention then considered 'the question for committing "to a member from each State"' (Page 516, Vol. 1, Madison's Notes (Max Farrand, 1911)).

The proviso to include one member per state was a change from the usual procedure of appointing committees. The exact process that would have been followed as a result is uncertain. The section of the Convention's Rules pertaining to the selection of committees reads as follows:

'That Committees shall be appointed by ballot; and that the members who have the greatest number of ballots, although not a majority of the votes present, be the Committee. When two or more Members have an equal number of votes, the Member standing first on the list in the order of taking down the ballots shall be preferred.' (Page 9, Vol. 1, Official Journal (Max Farrand, 1911)).

Following debate on CC Pinckney's motion for a committee, a new motion was drawn up to take into account Strong's request that the undecided parts of the Seventh Resolution be referred to the Committee as well. The motion was then divided into several questions, which were decided upon separately. The acceptance of this final sub-motion would signify the acceptance of the whole motion.]

(Detail of Ayes and Noes (Max Farrand, 1911), Page 510, Vol. 1)

Some desultory Conversation then took Place the Result of which was the Appointment of a Committee of a Member from each State to try to settle Representation

(Lansing's Notes (Joseph Strayer, 1939), Page 102)

[e672674] "The Committee to consist of a member from each State", Ayes — 10; noes — 1;

(Detail of Ayes and Noes (Max Farrand, 1911), Page 510, Vol. 1)

On the question for committing "to a member from each State"

Massts. ay. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo — ay. [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

Some desultory Conversation then took Place the Result of which was the Appointment of a Committee of a Member from each State to try to settle Representation

(Lansing's Notes (Joseph Strayer, 1939), Page 102)

[e672675] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672676] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672677] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672678] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672679] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Ellsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672680] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Ellsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Ellsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672681] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Ellsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Ellsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672682] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672683] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elseworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elseworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672684] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672685] a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e672686] [Editors' note: Once the Convention had appointed a committee, it referred the proposals in question to the Committee for its consideration.]

(2019 Editors)

[e672687] And then the House adjourned till Thursday next at 11 o'Clock A.M

[Editors' note: Madison writes that the decision to adjourn until the next Thursday was so 'that time might be given to the Committee, and to such as chose to attend to the celebration on the anniversary of Independence, the Convention adjourned till Thursday.' (Page 516, Vol. 1, Madison's Notes (Max Farrand, 1911))]

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The convention then adjourned to Thursday, the 5th of July.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

Adjourned till Thursday 5th July.

(Lansing's Notes (Joseph Strayer, 1939), Page 103)

[e672688] And then the House adjourned till Thursday next at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

That time might be given to the Committee, and to such as chose to attend to the celebration on the anniversary of Independence, the Convention adjourned till Thursday.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

The convention then adjourned to Thursday, the 5th of July.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

Adjourned till Thursday 5th July.

(Lansing's Notes (Joseph Strayer, 1939), Page 103)

1.43 Thursday, 05 July 1787, at 11:00 (s6230)

[e672689] William Paterson to Euphemia Paterson

Philada., 2d July, 1787 The Burlington court did not continue as long as I expected. I arrived here on Friday last, about 10 o'clock at night. This letter will be handed to you by the Gov'r [Livingston], who will set out tomorrow. It is impossible to say when the Convention will rise; much remains to be done, and the work is full of labour and difficulty...

[Editors' note: This letter confirms that Livingston left Philadelphia on 3 July. As this is the first session after his departure, he has been recorded as leaving here.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 143)

Livingston, William, of New Jersey. First attended on June 5; absent on June 28, and July 3-19.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[*e672690*] Few, William, of Georgia. Attended as early as May 19. Present in Congress in New York July 4—August 3. Probably returned to Convention after August 6.

[Editors' note: To be in New York on 4 July, the latest Few could have left the Convention is after the session on 2 July. He has therefore been shown as leaving on the first session after 2 July.]

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[*e672691*] Blount, William, of North Carolina. Attended June 20—July 2; August 7 and thereafter. He was present in Congress in New York, July 4—August 3.

[Editors' note: Blount left to attend Congress in New York, likely alongside Few. He too would have had to leave after 2 July, and so has been shown as leaving on the first session afterwards.]

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[*e672692*] The honorable Mr Gerry reported from the Committee, to whom were referred the eighth resolution and such part of the seventh resolution as had not already been decided on by the House, that the Committee had directed him to submit the following report to the consideration of the House, — and the same being delivered in at the Secretary's table was read once throughout, and then by paragraphs and is as follows. namely.

The Committee to whom were referred the eighth resolution reported from the Committee of the whole House, and so much of the seventh as hath not been decided on submit the following report.

“That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted.

1st That in the first branch of the Legislature each of the States now in the Union be allowed one Member for every forty thousand inhabitants of the description reported in the seventh resolution of the Committee of the whole House. That each State not containing that number shall be allowed one Member — That all Bills for raising or appropriating money and for fixing the salaries of the Officers of the Government of the United States, shall originate in the first Branch of the Legislature, and shall not be altered or amended by the second Branch — and that no money shall be drawn from the public Treasury but in pursuance of appropriations to be originated by the first Branch.

2ndly That in the second Branch of the Legislature each State shall have an equal Vote.”

(Official Journal (Max Farrand, 1911), Page 524, Vol. 1)

Mr. Gerry delivered in from the Committee appointed on Monday last the following Report.

“The Committee to whom was referred the 8th Resol. of the Report from the Committee of the whole House, and so much of the 7th. as has not been decided on submit the following Report: That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted.

1. that in the 1st. branch of the Legislature each of the States now in the Union shall be allowed 1 member for every 40,000 inhabitants of the description reported in the 7th Resolution of the Come. of the whole House: that each State not containing that number shall be allowed 1 member: that all bills for raising or appropriating money, and for fixing the Salaries of the Officers of the Govern. of the U. States shall originate in the 1st branch of the Legislature, and shall not be altered or amended by the 2d branch: and that no money shall be drawn from the public Treasury, but in pursuance of appropriations to be originated in the 1st branch” II. that in the 2d branch each State shall have an equal vote”

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 1)

The report of the committee was read.

(Yates’s Diary (Max Farrand, 1911), Page 535, Vol. 1)

Mr. Gerry reports from Committee that each State shall have a vote in 2d Branch, provided it is generally agreed that every 40,000 shall send one Member in the first. Money Bills to originate exclusively in lower House.

(Lansing’s Notes (Joseph Strayer, 1939), Page 103)

[e672693] Mr. Ghorum observed that as the report consisted of propositions mutually conditional he wished to hear some explanations touching the grounds on which the conditions were estimated.

Mr. Gerry. The Committee were of different opinions as well as the Deputations from which the Come. were taken, and agreed to the Report merely in order that some ground of accommodation might be proposed. Those opposed to the equality of votes have only assented conditionally; and if the other side do not generally agree will not be under any obligation to support the Report.

Mr. Wilson. thought the Committee had exceeded their powers.

Mr. Martin was for taking the question on the whole report.

Mr. Wilson was for a division of the question: otherwise it wd. be a leap in the dark.

Mr. Madison. could not regard the exclusive privilege of originating money bills as any concession on the side of the small States. Experience proved that it had no effect. If seven States in the upper branch wished a bill to be originated, they might surely find some member from some of the same States in the lower branch who would originate it. The restriction as to amendments was of as little consequence. Amendments could be handed privately by the Senate to members in the other house. Bills could be negatived that they might be sent up in the desired shape. If the Senate should yield to the obstinacy of the 1st. branch the use of that body as a check would be lost. If the 1st. branch should yield to that of the Senate, the privilege would be nugatory. Experience had also shewn both in G. B. and the States having a similar regulation that it was a source of frequent & obstinate altercations. These considerations had produced a rejection of a like motion on a former occasion when judged by its own merits. It could not therefore be deemed any concession on the present, and left in force all the objections which had prevailed agst. allowing each State an equal voice. He conceived that the Convention was reduced to the

alternative of either departing from justice in order to conciliate the smaller States, and the minority of the people of the U. S. or of displeasing these by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. The Convention with justice & the majority of the people on their side, had nothing to fear. With injustice and the minority on their side they had every thing to fear. It was in vain to purchase concord in the Convention on terms which would perpetuate discord among their Constituents. The Convention ought to pursue a plan which would bear the test of examination, which would be espoused & supported by the enlightened and impartial part of America, & which they could themselves vindicate & urge. It should be considered that altho' at first many may judge of the system recommended, by their opinion of the Convention, yet finally all will judge of the Convention by the system. The merits of the system alone can finally & effectually obtain the public suffrage. He was not apprehensive that the people of the small States would obstinately refuse to accede to a Govt. founded on just principles, and promising them substantial protection. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather than submit to such a Govt: much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives (Mr. Bedford) had suggested, or if she shd. that any foreign nation wd. be so rash as to hearken to the overture. As little could he suspect that the people of N. Jersey notwithstanding the decided tone of the gentlemen from that State, would choose rather to stand on their own legs, and bid defiance to events, than to acquiesce under an establishment founded on principles the justice of which they could not dispute, and absolutely necessary to redeem them from the exactions levied on them by the commerce of the neighbouring States. A review of other States would prove that there was as little reason to apprehend an inflexible opposition elsewhere. Harmony in the Convention was no doubt much to be desired. Satisfaction to all the States, in the first instance still more so. But if the principal States comprehending a majority of the people of the U. S. should concur in a just & judicious plan, he had the firmest hopes that all the other States would by degrees accede to it.

Mr. Butler said he could not let down his idea of the people of America so far as to believe they, would from mere respect to the Convention adopt a plan evidently unjust. He did not consider the privilege concerning money bills as of any consequence. He urged that the 2d. branch ought to represent the States according to their property.

Mr. Govr. Morris. thought the form as well as the matter of the Report objectionable. It seemed in the first place to render amendments impracticable. In the next place, it seemed to involve a pledge to agree to the 2d. part if the 1st. shd. be agreed to. He conceived the whole aspect of it to be wrong. He came here as a Representative of America; he flattered himself he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If he were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular States. He can — not descend to think that any gentlemen are really actuated by these views. We must look forward

to the effects of what we do. These alone ought to guide us. Much has been said of the sentiments of the people. They were unknown. They could not be known. All that we can infer is that if the plan we recommend be reasonable & right; all who have reasonable minds and sound intentions will embrace it, notwithstanding what had been said by some Gentlemen. Let us suppose that the larger States shall agree; and that the smaller refuse: and let us trace the consequences. The opponents of the system in the smaller States will no doubt make a party, and a noise for a time, but the ties of interest, of kindred & of common habits which connect them with the other States will be too strong to be easily broken. In N. Jersey particularly he was sure a great many would follow the sentiments of Penna. & N. York. This Country must be united. If persuasion does not unite it, the sword will. He begged that this consideration might have its due weight. The scenes of horror attending civil commotion can not be described, and the conclusion of them will be worse than the term of their continuance. The stronger party will then make traytors of the weaker; and the Gallows & Halter will finish the work of the sword. How far foreign powers would be ready to take part in the confusions he would not say. Threats that they will be invited have it seems been thrown out. He drew the melancholy picture of foreign intrusions as exhibited in the History of Germany, and urged it as a standing lesson to other nations. He trusted that the Gentlemen who may have hazarded such expressions, did not entertain them till they reached their own lips. But returning to the Report he could not think it in any respect calculated for the public good. As the 2d. branch is now constituted, there will be constant disputes & appeals to the States which will undermine the Genl. Government & controul & annihilate the 1st branch. Suppose that the Delegates from Massts. & Rho I. in the upper House disagree, and that the former are outvoted. What Results? they will immediately declare that their State will not abide by the decision, and make such representations as will produce that effect — The same may happen as to Virga. & other States. Of what avail then will be what is on paper. State attachments, and State importance have been the bane of this Country. We cannot annihilate; but we may perhaps take out the teeth of the serpents. He wished our ideas to be enlarged to the true interest of man, instead of being circumscribed within the narrow compass of a particular Spot. And after all how little can be the motive yielded by selfishness for such a policy. Who can say whether he himself, much less whether his children, will the next year be an inhabitant of this or that State.

Mr. Bedford. He found that what he had said as to the small States being taken by the hand, had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid & interposition of foreign powers. He meant that they would not consider the federal compact as dissolved untill it should be so by the acts of the large States. In this case the consequence of the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign nations having demands on this Country would find it their interest to take the small States by the hand, in order to do themselves justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural & sometimes necessary. But is there not an apology in what was said by (Mr. Govr. Morris) that the sword is to unite: by Mr. Ghorum that Delaware must be annexed to Penna. and N. Jersey

divided between Pena. and N. York. To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen — As to the propositions of the Committee, the lesser States have thought it necessary to have a security somewhere. This has been thought necessary for the Executive Magistrate of the proposed Govt. who has a sort of negative on the laws; and is it not of more importance that the States should be protected, than that the Executive branch of the Govt. shd. be protected. In order to obtain this, the smaller States have conceded as to the constitution of the first branch, and as to money bills. If they be not gratified by correspondent concessions as to the 2d. branch is it to be supposed they will ever accede to the plan; and what will be the consequence if nothing should be done! The condition of the U. States requires that something should be immediately done. It will be better that a defective plan should be adopted, than that none should be recommended. He saw no reason why defects might not be supplied by meetings 10, 15 or 20 years hence.

Mr. Elseworth said he had not attended the proceedings of the Committee, but was ready to accede to the compromise they had reported. Some compromise was necessary; and he saw none more convenient or reasonable.

Mr. Williamson hoped that the expressions of individuals would not be taken for the sense of their colleagues, much less of their States which was not & could not be known. He hoped also that the meaning of those expressions would not be misconstrued or exaggerated. He did not conceive that (Mr. Govr. Morris) meant that the sword ought to be drawn agst. the smaller States. He only pointed out the probable consequences of anarchy in the U. S. A similar exposition ought to be given of the expressions (of Mr. Ghorum). He was ready to hear the Report discussed; but thought the propositions contained in it, the most objectionable of any he had yet heard.

Mr. Patterson said that he had when the Report was agreed to in the Come. reserved to himself the right of freely discussing it. He acknowledged that the warmth complained of was improper; but he thought the Sword & the Gallows as little calculated to produce conviction. He complained of the manner in which Mr. M — & Mr. Govr. Morris had treated the small States.

Mr. Gerry. Tho' he had assented to the Report in the Committee, he had very material objections to it. We were however in a peculiar situation. We were neither the same Nation nor different Nations. We ought not therefore to pursue the one or the other of these ideas too closely. If no compromise should take place what will be the consequence. A secession he foresaw would take place; for some gentlemen seem decided on it; two different plans will be proposed, and the result no man could foresee. If we do not come to some agreement among ourselves some foreign sword will probably do the work for us.

Mr. Mason. The Report was meant not as specific propositions to be adopted, but merely as a general ground of accomodation. There must be some accomodation on this point, or we shall make little further progress in the work. Accomodation was the object of the House in the appointment of the Committee; and of the Committee in the Report they had made. And however liable the Report might be to objections, he thought it preferable to an appeal to the world by the different sides, as had been talked of by some Gentlemen. It could not be more inconvenient to any gentleman to remain absent from his private affairs, than it was for him: but he would bury his bones in this city rather than expose his Country to the Consequences of a dissolution of the Convention

without any thing being done.

(Madison's Notes (Max Farrand, 1911), Pages 526-533, Vol. 1)

Mr. Gorham. I call for an explanation of the principles on which it is grounded.

Mr. Gerry, the chairman, explained the principles.

Mr. Martin. The one representation is proposed as an expedient for the adoption of the other.

Mr. Wilson. The committee has exceeded their powers.

Mr. Martin proposed to take the question on the whole of the report.

Mr. Wilson. I do not chuse to take a leap in the dark. I have a right to call for a division of the question on each distinct proposition.

Mr. Madison. I restrain myself from animadverting on the report, from the respect I bear to the members of the committee. But I must confess I see nothing of concession in it.

The originating money bills is no concession on the part of the smaller states, for if seven states in the second branch should want such a bill, their interest in the first branch will prevail to bring it forward — it is nothing more than a nominal privilege.

The second branch, small in number, and well connected, will ever prevail. The power of regulating trade, imposts, treaties, &c. are more essential to the community than raising money, and no provision is made for those in the report—We are driven to an unhappy dilemma. Two thirds of the inhabitants of the union are to please the remaining one third by sacrificing their essential rights.

When we satisfy the majority of the people in securing their rights, we have nothing to fear; in any other way, every thing. The smaller states, I hope will at last see their true and real interest. — And I hope that the warmth of the gentleman from Delaware will never induce him to yield to his own suggestion of seeking for foreign aid.

(Yates's Diary (Max Farrand, 1911), Page 535, Vol. 1)

Maddison.

The Interest of the smaller States to come into the Measure — Delaware — foreign Power — New-Jersey. Single and unconnected.

Butler.

The People will not agree to it.

G. Morris.

Suppose the larger States agree — the smaller States must come in.

Jersey would follow the Opinions of New York and Pennsylv.

The Sword must decide —

The strongest Party will make the weaker Traitors and hang them — foreign Power.

Should be open to Conviction —

— The larger States must prevail — they must decide; they are most powerful.

Not Members of a Synod, or Conventicle —

(Paterson's Notes (Max Farrand, 1911), Page 537, Vol. 1)

Maddison. By giving Negative to the 2nd Branch they will finally govern the Republick.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 150, Pierce Butler: Notes on Debates)

Sherman—as we are pretty equally divided, it is best to put Question on the whole.

Wilson—We are not to be mislead by Sounds—there is no equal Division—More than 23ds of one Sentiment.

Madison—Altho' the House was equally divided on the 2nd Branch—on the first there was a considerable Majority for departing from Equality—All the Concessions are on one Side—We are reduced to the Alternative of displeasing Minority or Majority—by deciding for the latter we have Nothing to fear—the former every Thing.—He would rather have a System received by three or four States than none.

G. Morris—If the smaller States persist, if Argument is unavailing, the Sword will determine it.—To overturn the States is impracticable—but you may extract the Teeth of the Serpents.—We have been too warm.

Bedford—He has been warm—that not owing to a Want of Respect—but while he acknowledges that he was apparently warm, he cannot help remarking that he has Reason to be so—The Language of Intemperance is by no Means peculiar to himself.—Gentlemen have threatened in Terms very indelicate, tho' they have generally moderated their Voices when they did so. one Gentleman has declared the smaller States must agree another that two-thirds ought to give the Law and a third has pointedly declared that Force must be used—Do those Gentlemen suppose that Sentiments of that Kind can produce any other Effect than a Smile—they are mistaken if they do ; we know their Language is calculated to make Impressions in favor of their System—but it cannot have that Effect—We know the States who have Recourse to it are impotent.

Patterson—same Sentiments differently expressed.

(Lansing's Notes (Joseph Strayer, 1939), Pages 103-104)

[e672694] The 1st. proposition in the Report for fixing the representation in the 1st. branch, one member for every 40,000 inhabitants, being taken up.

[Editors' note: At this point, the Convention began to consider the propositions and clauses in the Report of the First Committee on Representation separately. The editors have introduced a blank document to replicate the process of separately considering each proposition.]

(Madison's Notes (Max Farrand, 1911), Page 533, Vol. 1)

[e672695] [Editors' note: The Convention considered the First Proposition clause by clause.]

(2019 Editors)

[e672696] The 1st. proposition in the Report for fixing the representation in the 1st. branch, one member for every 40,000 inhabitants, being taken up.

(Madison's Notes (Max Farrand, 1911), Page 533, Vol. 1)

[e672697] It was moved and seconded to postpone the consideration of the First Proposition contained in the report, in order to take up the Second.

(Official Journal (Max Farrand, 1911), Pages 524-525, Vol. 1)

[e672698] On the question to postpone.

it passed in the negative [Ayes — 2; noes — 8.]

[Editors' note: The Journal does not record a vote for New Jersey. The delegation may not have been quorate at the time.]

(Official Journal (Max Farrand, 1911), Page 525, Vol. 1)

[e672699] Mr. Govr. Morris objected to that scale of apportionment. He thought property ought to be taken into the estimate as well as the number of inhabitants. Life and liberty were generally said to be of more value, than property. An accurate view of the matter would nevertheless prove that property was the main object of Society. The savage State was more favorable to liberty than the Civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was only renounced for the sake of property which could only be secured by the restraints of regular Government. These ideas might appear to some new, but they were nevertheless just. If property then was the main object of Govt. certainly it ought to be one measure of the influence due to those who were to be affected by the Governmt. He looked forward also to that range of New States which wd. soon be formed in the west. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the National Councils. The new States will know less of the public interest than these, will have an interest in many respects different, in particular will be little scrupulous of involving the Community in wars the burdens & operations of which would fall chiefly on the maritime States. Provision ought therefore to be made to prevent the maritime States from being hereafter outvoted by them. He thought this might be easily done by irrevocably fixing the number of representatives which the Atlantic States should respectively have, and the number which each new State will have. This wd. not be unjust, as the western settlers wd. previously know the conditions on which they were to possess their lands. It would be politic as it would recommend the plan to the present as well as future interest of the States which must decide the fate of it.

Mr. Rutledge. The gentleman last up had spoken some of his sentiments precisely. Property was certainly the principal object of Society. If numbers should be made the rule of representation, the Atlantic States will be subjected to the Western. He moved that the first proposition in the report be postponed in order to take up the following viz. "that the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each State respectively; that an apportionment of suffrages, according to the ratio aforesaid shall be made and regulated at the end of years from the 1st. meeting of the Legislature of the U. S. and at the end of every _____ years but that for the present, and until the period above mentioned, the suffrages shall be for N. Hampshire Massachs.&c —

(Madison's Notes (Max Farrand, 1911), Pages 533-534, Vol. 1)

Gr. Morris. On a question reported by a Grand Comee. that in the popular Br. every 40,000 Inhabitants shd. be entitled to send one Member — Observed that Numbers ought not to be the rule — admit that they now are, yet when the Western Country is settled it may not be so — We must take care that we don't establish a Rule wh. will enable the poor but numerous Inhabs. of the western Country to destroy the Atlantic States — Men don't unite for liberty or Life, they possess both in the savage state in the highest perfection they unite for the protection of property

Govr. Rutledge — I agree with Mr. Morris Property is the object of Society, I propose that the representation shd. be in proportion to the Taxes paid in a given District — I wish the property to be represented — I do not think numbers are a proper Index of Wealth now, it will be much less so hereafter —
Randolph

(King's Diary (Max Farrand, 1911), Pages 536-537, Vol. 1)

[e672700] It was then moved and seconded to postpone the first clause of the report in order to take up the following namely.

That the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the General Revenue by the inhabitants of each State respectively — That an apportionment of suffrages, according to the ratio aforesaid, shall be made and regulated at the end of years from the first Meeting of the Legislature of the United-States — and so from time to time at the end of every years thereafter — but that for the present, and until the period first above mentioned shall have one suffrage &ca

[Editors' note: John Rutledge termed his motion a postponement, though his intention was to replace the first clause of the First Proposition.]

(Official Journal (Max Farrand, 1911), Page 525, Vol. 1)

Proposition by Mr. Rutledge That the Sufrages of the several States be regulated and proportioned according to the sums to be payd towards Revenue, by the Inhabitants of each state respectively. That an apportionment of suffrages according to the ratio aforesaid shall be made and regulated at the End of — Years from the first meeting of the Legislature of the U. S. and so from time to time at the end of every — Years thereafter but that for the present and untill the end 1st above mentioned Delaware shall have one suffrage.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 150, John Rutledge: Motion)

He [Rutlidge] moved × that the first proposition in the report be postponed in order to take up the following viz. “that the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each State respectively; that an apportionment of suffrages, according to the ratio aforesaid shall be made and regulated at the end of years from the 1st. meeting of the Legislature of the U. S. and at the end of every years but that for the present, and until the period above mentioned, the suffrages shall be for N. HampshireMassachts.&c —

(Madison's Notes (Max Farrand, 1911), Page 534, Vol. 1)

Rutlege moves that Representation in the first Branch be in proportion to Contribution.

Butler seconds it—You may either take this Rule or whole 'Number of Whites and Slaves'.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e739224] Col. Mason said the case of new States was not unnoticed in the Committee; but it was thought and he was himself decidedly of opinion that if they made a part of the Union, they ought to be subject to no unfavorable discriminations. Obvious considerations required it.

Mr. Radolph concurred with Col. Mason.

(Madison's Notes (Max Farrand, 1911), Page 534, Vol. 1)

[e672701] and on the question to postpone

it passed in the negative [Ayes — 1; noes — 8.]

[Editors' note: Madison records that the delegation from Georgia was not quorate during this part of the session. The Journal suggests the same was true for New Jersey, though Madison records that the New Jersey delegation voted in the negative.]

(Official Journal (Max Farrand, 1911), Page 525, Vol. 1)

On question on Mr. Rutlidges motion.×

Masts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. no. Maryd. no. Va. no. N. C. no. S. C. ay. Geo. not on floor [Ayes — 1; noes — 9; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 534, Vol. 1)

[e672702] and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 525, Vol. 1)

[e672703] and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 525, Vol. 1)

adjd.

(Madison's Notes (Max Farrand, 1911), Page 534, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

1.44 Friday, 06 July 1787, at 11:00 (s6231)

[e672704] It was moved and seconded to refer the first clause of the first proposition reported from the grand Committee to a special Committee

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

Mr. Govr. Morris moved to commit so much of the Report as relates to “1 member for every 40,000 inhabitants” His view was that they might absolutely fix the number for each State in the first instance; leaving the Legislature at liberty to provide for changes in the relative importance of the States, and for the case of new States.

Mr. Wilson 2ded. the motion; but with a view of leaving the Committee under no implied shackles.

(Madison’s Notes (Max Farrand, 1911), Page 540, Vol. 1)

After a Repetition of Sentiments frequently urged before by several Gentlemen it was agreed on Motion of Mr. G. Morris to refer the first Proposition in Report of Committee to a Committee of five

(Lansing’s Notes (Joseph Strayer, 1939), Page 105)

[e672705] Mr. Ghorum apprehended great inconveniency from fixing directly the number of Representatives to be allowed to each State. He thought the number of Inhabitants the true guide; tho’ perhaps some departure might be expedient from the full proportion. The States also would vary in their relative extent, by separations of parts of the largest States. A part of Virga. is now on the point of a separation. In the province of Mayne a Convention is at this time deliberating on a separation from Masts. In such events, the number of representatives ought certainly to be reduced. He hoped to see all the States made small by proper divisions, instead of their becoming formidable as was apprehended, to the Small States. He conceived that let the Genl. Government be modified as it might, there would be a constant tendency in the State Governmts. to encroach upon it: it was of importance therefore that the extent of the States shd. be reduced as much & as fast as possible. The stronger the Govt. shall be made in the first instance the more easily will these divisions be effected; as it will be of less consequence in the opinion of the States whether they be of great or small extent.

Mr. Gerry did not think with his Colleague that the large States ought to be cut up. This policy has been inculcated by the middling and smaller States, ungenerously & contrary to the spirit of the Confederation. Ambitious men will be apt to solicit needless divisions, till the States be reduced to the size of Counties. If this policy should still actuate the small States, the large ones cou’d not confederate safely with them; but would be obliged to consult their safety by confederating only with one another. He favored the Commitment and thought that Representation ought to be in the Combined ratio of numbers of Inhabitants and of wealth, and not of either singly.

Mr. King wished the clause to be committed chiefly in order to detach it from the Report with which it had no connection. He thought also that the Ratio of Representation proposed could not be safely fixed, since in a century & a half

our computed increase of population would carry the number of representatives to an enormous excess; that ye. number of inhabitants was not the proper index of ability & wealth; that property was the primary object of Society; and that in fixing a ratio this ought not to be excluded from the estimate. With regard to New States, he observed that there was something peculiar in the business which had not been noticed. The U. S. were now admitted to be proprietors of the Country, N. West of the Ohio. Congs. by one of their ordinances have implicitly laid it out into ten States, and have made it a fundamental article of compact with those who may become settlers, that as soon as the number in any one State shall equal that of the smallest of the 13 original States, it may claim admission into the Union. Delaware does not contain it is computed more than 35,000 souls, and for obvious reasons will not increase much for a considerable time. It is possible then that if this plan be persisted in by Congs. 10 new votes may be added, without a greater addition of inhabitants than are represented by the single vote of Pena. The plan as it respects one of the new States is already irrevocable, the sale of the lands having commenced, and the purchasers & settlers will immediately become entitled to all the privileges of the compact.

Mr. Butler agreed to the Commitment if the Committee were to be left at liberty. He was persuaded that the more the subject was examined, the less it would appear that the number of inhabitants would be a proper rule of proportion. If there were no other objection the changeableness of the standard would be sufficient. He concurred with those who thought some balance was necessary between the old & New States. He contended strenuously that property was the only just measure of representation. This was the great object of Govern: the great cause of war, the great means of carrying it on.

Mr. Pinkney saw no good reason for committing. The value of land had been found on full investigation to be an impracticable rule. The contributions of revenue including imports & exports, must be too changeable in their amount; too difficult to be adjusted; and too injurious to the noncommercial States. The number of inhabitants appeared to him the only just & practicable rule. He thought the blacks ought to stand on an equality with whites: But wd. — agree to the ratio settled by Congs. He contended that Congs. had no right under the articles of Confederation to authorize the admission of new States; no such case having been provided for.

Mr. Davy, was for committing the clause in order to get at the merits of the question arising on the Report. He seemed to think that wealth or property ought to be represented in the 2d. branch; and numbers in the 1st. branch.

(Madison's Notes (Max Farrand, 1911), Pages 540-542, Vol. 1)

[e672706] It was moved and seconded to refer the first clause of the first proposition reported from the grand Committee to a special Committee which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

On the motion for committing as made by Mr. Govr. Morris.

Masts. ay — Cont. ay. N. Y. no. N. J. no. Pa ay. Del. no. Md. divd. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

After a Repetition of Sentiments frequently urged before by several Gentlemen it was agreed on Motion of Mr. G. Morris to refer the first Proposition in Report of Committee to a Committee of five—The Motion was carried 9 States against 2.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672707] It was moved and seconded to refer the first clause of the first proposition reported from the grand Committee to a special Committee

which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

[Editors' note: The record implies that, as a result of agreeing to refer the first clause of the First Proposition from the First Committee on Representation, the Convention created a report for the consideration of the Second Committee on Representation. This description text is drawn from the Journal (Page 538, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 524, Vol. 1, 5 July 1787)

[e672708] It was moved and seconded that the Committee consist of five members.

[Editors' note: The five members of the Committee were appointed by ballot, per the Rules of the Convention:

'That Committees shall be appointed by ballot; and that the members who have the greatest number of ballots, although not a majority of the votes present, be the Committee. When two or more Members have an equal number of votes, the Member standing first on the list in the order of taking down the ballots shall be preferred' (Page 9, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

[e672709] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot.

[Editors' note: The five members of the Committee were appointed by ballot, per the Rules of the Convention:

'That Committees shall be appointed by ballot; and that the members who have the greatest number of ballots, although not a majority of the votes present, be the Committee. When two or more Members have an equal number of votes, the Member standing first on the list in the order of taking down the ballots shall be preferred' (Page 9, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

[e672710] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot of

Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. Mr. Randolph. Mr. Rutlidge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672711] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot of

Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. Mr. Randolph. Mr. Rutlidge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672712] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot of

Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. Mr. Randolph. Mr. Rutlidge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672713] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot of

Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. Mr. Randolph. Mr. Rutledge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672714] It was moved and seconded that the Committee consist of five members.

which was unanimously agreed to — and a Committee was appointed by ballot of

Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. Mr. Randolph. Mr. Rutledge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e734059] Mr. Wilson signified that his view in agreeing to the Commitmt. was that the Come might consider the propriety of adopting a scale similar to that established by the Constitution of Masts. which wd give an advantage to ye. small States without substantially departing from a rule of proportion.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1)

[e672715] [Editors' note: Once the Committee had been formed, the Convention referred the proposals in question for the Committee's consideration.]

(2019 Editors)

[e672716] [Editors' note: The Convention considered the second clause of the First Proposition.]

(2019 Editors)

[e734064] It was moved and seconded to postpone the remainder of the first proposition in order to take up the second.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

Mr. Wilson & Mr. Mason moved to postpone the clause relating to money bills in order to take up the clause relating to an equality of votes in the second branch.

(Madison's Notes (Max Farrand, 1911), Pages 542-543, Vol. 1)

[e734065] It was moved and seconded to postpone the remainder of the first proposition in order to take up the second.

which passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

Mr. Wilson & Mr. Mason moved to postpone the clause relating to money bills in order to take up the clause relating to an equality of votes in the second branch.

On the question Masts. no. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. ay. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 542-543, Vol. 1)

[e672718] The clause relating to equality of votes being under consideration

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e672719] Docr. Franklin observed that this question could not be properly put by itself, the Committee having reported several propositions as mutual conditions of each other. He could not vote for it if separately taken, but should vote for the whole together.

Col. Mason perceived the difficulty & suggested a reference of the rest of the Report to ye Committee just appointed, that the whole might be brought into one view.

Mr. Randolph disliked ye. reference to that Committee, as it consisted of members from States opposed to the wishes of the smaller States, and could not therefore be acceptable to the latter.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e734066] It was moved and seconded to postpone the consideration of the second proposition

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

Mr. Martin & Mr. Jenifer moved to postpone the clause till the Come. last appointed should report.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e734067] Mr. M adison observed that if the uncommitted part of the Report was connected with the part just committed, it ought also, to be committed; if not connected, it need not be postponed till report should be made.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e734068] It was moved and seconded to postpone the consideration of the second proposition

which passed in the affirmative [Ayes — 6; noes — 3; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

On the question for postponing moved by Mr. Martin & Mr. Jennifer
Cont. N. J. Del. Md. Va. Geo., ay. Pa. N. C. S. C. no Mas. N. Y. divided

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e672721] It was moved and seconded to resume the consideration of the second clause of the first proposition, which had been postponed in order to take up the second proposition

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The 1st. clause relating to the originating of money bills was then resumed.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e672722] It was moved and seconded to resume the consideration of the second clause of the first proposition, which had been postponed in order to take up the second proposition

which passed in the affirmative

[Editors' note: None of the sources provides a voting record.]

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1)

The 1st. clause relating to the originating of money bills was then resumed.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 1)

[e672723] Mr. Governr. Morris was opposed to a restriction of this right in either branch, considered merely in itself and as unconnected with the point of representation in the 2d. branch. It will disable the 2d. branch from proposing its own money plans, and giving the people an opportunity of judging by comparison of the merits of those proposed by the 1st. branch.

Mr. Wilson could see nothing like a concession here on the part of the smaller States. If both branches were to say yes or no, it was of little consequence which should say yes or no first, which last. If either was indiscriminately to have the right of originating, the reverse of the Report. would he thought be most proper; since it was a maxim that the least numerous body was the fittest for deliberation; the most numerous for decision. He observed that this discrimination had been transcribed from the British into several American constitutions. But he was persuaded that on examination of the American experiment, it would be found to be a trifle light as air. Nor could he ever discover the advantage of it in the parliamentary history of G. Britain. He hoped if there was any advantage in the privilege, that it would be pointed out.

Mr. Williamson thought that if the privilege were not common to both branches it ought rather to be confined to the 2d. as the bills in that case would be more narrowly watched, than if they originated with the branch having most of the popular confidence.

Mr. Mason. The consideration which weighed with the Committee was that the 1st. branch would be the immediate representatives of the people, the 2d. would not. Should the latter have the power of giving away the peoples

money, they might soon forget the Source from whence they received it. We might soon have an aristocracy. He had been much concerned at the principles which had been advanced by some gentlemen, but had the satisfaction to find they did not generally prevail. He was a friend to proportional representation in both branches; but supposed that some points must be yielded for the sake of accomodation.

Mr. Wilson. If he had proposed that the 2d. branch should have an independent disposal of public money, the observations of (Col. Mason) would have been a satisfactory answer. But nothing could be farther from what he had said. His question was how is the power of the 1st. branch increased or that of the 2d. diminished by giving the proposed privilege to the former? Where is the difference, in which branch it begins if both must concur, in the end?

Mr. Gerry would not say that the concession was a sufficient one on the part of the small States. But he could not but regard it in the light of a concession. It wd. make it a constitutional principle that the 2d. branch were not possessed of the Confidence of the people in money matters, which wd. lessen their weight & influence. In the next place if the 2d. branch were dispossessed of the privilege, they wd. be deprived of the opportunity which their continuance in office 3 times as long as the 1st. branch would give them of make'g three successive essays in favor of a particular point.

Mr. Pinkney thought it evident that the Concession was wholly on one side, that of the large States, the privilege of originating money bills being of no account.

Mr. Govr. Morris had waited to hear the good effects of the restriction. As to the alarm sounded, of an aristocracy, his creed was that there never was, nor ever will be a civilized Society without an Aristocracy. His endeavor was to keep it as much as possible from doing mischief. The restriction if it has any real operation will deprive us of the services of the 2d. branch in digesting and proposing money bills of which it will be more capable than the 1st. branch, It will take away the responsibility of the 2d branch, the great security for good behavior. It will always leave a plea as to an obnoxious money bill that it was disliked, but could not be constitutionally amended; nor safely rejected. It will be a dangerous source of disputes between the two Houses. We should either take the British Constitution altogether or make one for ourselves. The Executive there has dissolved two Houses as the only cure for such disputes. Will our Executive be able to apply such a remedy? Every law directly or indirectly takes money out of the pockets of the people. Again what use may be made of such a privilege in case of great emergency? Suppose an enemy at the door, and money instantly & absolutely necessary for repelling him, may not the popular branch avail itself of this duress, to extort concessions from the Senate destructive of the Constitution itself. He illustrated this danger by the example of the Long Parliament's expedts. for subverting the H. of Lords: concluding on the whole that the restriction would be either useless or pernicious.

Docr. Franklin did not mean to go into a justification of the Report; but as it had been asked what would be the use of restraining the 2d. branch from meddling with money bills, he could not but remark that it was always of importance that the people should know who had disposed of their money, & how it had been disposed of. It was a maxim that those who feel, can best judge. This end would, he thought, be best attained, if money affairs were to be confined to the immediate representatives of the people. This was his

inducement to concur in the report. As to the danger or difficulty that might arise from a negative in the 2d. where the people wd. not be proportionally represented, it might easily be got over by declaring that there should be no such Negative: or if that will not do, by declaring that there shall be no such branch at all.

Mr. Martin said that it was understood in the Committee that the difficulties and disputes which had been apprehended, should be guarded agst. in the detailing of the plan.

Mr. Wilson. The difficulties & disputes will increase with the attempts to define & obviate them. Queen Anne was obliged to dissolve her Parliamt. in order to terminate one of these obstinate disputes between the two Houses. Had it not been for the mediation of the Crown, no one can say what the result would have been. The point is still sub judice in England. He approved of the principles laid down by the Honble President (Docr. Franklin) his Colleague, as to the expediency of keeping the people informed of their money affairs. But thought they would know as much, and be as well satisfied, in one way as in the other.

Genl. Pinkney was astonished that this point should have been considered as a concession. He remarked that the restriction to money bills had been rejected on the merits singly considered, by 8 States agst. 3. and that the very States which now called it a concession, were then agst. it as nugatory or improper in itself.

(Madison's Notes (Max Farrand, 1911), Pages 543-546, Vol. 1)

[e672724] On the question shall the following clause stand as part of the report, namely.

“That all Bills for raising or appropriating money, and for fixing the salaries of the Officers of the Government of the United States, shall originate in the first branch of the Legislature, and shall not be altered or amended by the second Branch — and that no money shall be drawn from the Public Treasury but in pursuance of appropriations to be originated by the first Branch.”

it passed in the affirmative [Ayes — 5; noes — 3; divided — 3.]

(Official Journal (Max Farrand, 1911), Page 538-539, Vol. 1)

On the question whether the clause relating to money bills in the Report of the Come. consisting of a member from each State, shd. stand as part of the Report —

Massts. dividd. Cont. ay. N. Y. divid. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. divid. [Ayes—5; noes — 3; divided — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 546-547, Vol. 1)

Before the Appointment of the Committee Question was put on Part of Report which had in Object conferring the exclusive Right of originating Money Bills in the first Branch.

On which Question there were five Ayes, three Noes—and 3 States divided—New York Massachusetts and Georgia divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

[e672725] [Editors' note: Though the first clause of the First Proposition had been sent to the Second Committee on Representation for consideration, the vote to accept the second clause means that the Convention had decided to accept the First Proposition in principle, though the final shape was yet to be decided.]

(2019 Editors)

[e796100] [Editors' note: Lansing's notes show that following the vote on the second clause of the First Proposition, 'a dispute arose whether it was carried in Affirmative – Some Debate on Subject' (Page 105, Lansing's Notes (Joseph Strayer, 1939)).

Madison writes that 'A question was then raised whether the question was carried in the affirmative: there being but 5 ays out of 11 States present. The words of the rule are" (see May 28)' (Page 547, Vol. 1, Madison's Notes (Max Farrand, 1911)).

There does not appear to be anything in the Rules about how divided state votes were to be counted. But the Rules do say:

'That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given,-on-the same day in which the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose' (Pages 15-16, Vol. 1, Official Journal (Max Farrand, 1911)).

However, Madison records that 'in several preceding instances like votes had sub silentio been entered as decided in the affirmative' (Page 547, Vol. 1, Madison's Notes (Max Farrand, 1911)).]

(2019 Editors)

A Dispute arose whether it was carried in Affirmative—Some Debate on Subject—postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

A question was then raised whether the question was carried in the affirmative: there being but 5 ays out of 11 States present. The words of the rule are" (see May 28)

On the question: Mas. Cont. N. J. Pa. Del. Md. N. C.
S. C. Geo. ay
N. Y. Va. no

(In several preceding instances like votes had sub silentio been entered as decided in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 547, Vol. 1)

That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given,-on-the same day in which the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose.

(Official Journal (Max Farrand, 1911), Pages 15-16, Vol. 1)

[e796103] [Editors' note: Lansing's notes show that following the vote on the second clause of the First Proposition, 'a dispute arose whether it was carried in Affirmative – Some Debate on Subject' (Page 105, Lansing's Notes (Joseph Strayer, 1939)).

Madison writes that 'A question was then raised whether the question was carried in the affirmative: there being but 5 ays out of 11 States present. The words of the rule are" (see May 28)' (Page 547, Vol. 1, Madison's Notes (Max Farrand, 1911)).

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However, Madison records that 'in several preceding instances like votes had sub silentio been entered as decided in the affirmative' (Page 547, Vol. 1, Madison's Notes (Max Farrand, 1911)).]

(2019 Editors)

[e672727] and then the House adjourned till to-morrow at 11 o'Clock

(Official Journal (Max Farrand, 1911), Page 539, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 547, Vol. 1)

[e672728] and then the House adjourned till to-morrow at 11 o'Clock

(Official Journal (Max Farrand, 1911), Page 539, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 105)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 547, Vol. 1)

1.45 Saturday, 07 July 1787, at 11:00 (s6232)

[e672729] A letter from W. Rawle, Secretary to the Library company of Philadelphia, addressed to His Excellency the President of the Convention, enclosing a resolve of that company granting the use of their books to the Members of the Convention, being read.

(Official Journal (Max Farrand, 1911), Page 548, Vol. 1)

[e672730] On motion

Resolved that the Secretary, by letter, present the thanks of the Convention to the Directors of the Library Company for their polite attention.

(Official Journal (Max Farrand, 1911), Page 548, Vol. 1)

[e672731] Resolved that the Secretary, by letter, present the thanks of the Convention to the Directors of the Library Company for their polite attention.

(Official Journal (Max Farrand, 1911), Page 548, Vol. 1)

Philadelphia July 7 1787

Sir,

In obedience to a vote of the Convention, I do myself the honour to request that you will be pleased to communicate the thanks of that honourable Body to the Directors of the Library Company of Philadelphia for the polite attention, expressed in the resolve, which your letter enclosed to His Excellency the president.

I have the honour to be, very respectfully, Sir, your obedient humble Servant,
W. Jackson Secretary

[Editors' note: This is a copy of the letter sent in reply to the letter from the Library Company of Philadelphia.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 154-155)

[e672732] Whether the last vote was determined in the affirmative

Ayes — 9; noes — 2.

[Editors' note: Farrand notes that there is some confusion in the Journal and Madison's notes on the timing of this confirmatory vote. Madison and the Journal record it taking place on both days. Madison corrected his notes to show it on 6 July, rather than 7 July as he has originally written, after examining the Journal (which records it twice). Lansing records it as happening on 7 July. Therefore, the weight of evidence suggests that the vote most likely took place at the start of the session of 7 July 1787 rather than the end of the previous day.]

(Official Journal (Max Farrand, 1911), Page 548, Vol. 1)

Question whether the last Question was carried in Affirmative.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672733] Whether the last vote was determined in the affirmative

Ayes — 9; noes — 2.

[Editors' note: Farrand notes that there is some confusion in the Journal and Madison's notes on the timing of this confirmatory vote. Madison and the Journal record it taking place on both days. Madison corrected his notes to show it on 6 July, rather than 7 July as he has originally written, after examining the Journal (which records it twice). Lansing records it as happening on 7 July. Therefore, the weight of evidence suggests that the vote most likely took place at the start of the session of 7 July 1787 rather than the end of the previous day.]

(Official Journal (Max Farrand, 1911), Page 548, Vol. 1)

Question whether the last Question was carried in Affirmative. 9 Ayes—2 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672734] "Shall the clause allowing each State one vote in the 2d. branch. stand as part of the Report"? being taken up —

Mr. Gerry. This is the critical question. He had rather agree to it than have no accomodation. A Govern. short of a proper national plan if generally acceptable, would be preferable to a proper one which if it could be carried at all, would operate on discontented States. He thought it would be best to suspend the question till the Comme. yesterday appointed, should make report.

Mr. Sherman Supposed that it was the wish of every one that some Genl. Govt. should be established. An equal vote in the 2d. branch would, he thought, be most likely to give it the necessary vigor. The small States have more vigor in their Govts. than the large ones, the more influence therefore the large ones have, the weaker will be the Govt. In the large States it will be most difficult to collect the real & fair sense of the people. Fallacy & undue influence will be practiced with most success: and improper men will most easily get into office. If they vote by States in the 2d. branch, and each State has an equal vote, there must be always a majority of States as well as a majority of the people on the side of public measures, & the Govt. will have decision and efficacy. If this be not the case in the 2d. branch there may be a majority of the States agst. public measures, and the difficulty of compelling them to abide by the public determination, will render the Government feebler than it has ever yet been.

Mr. Wilson was not deficient in a conciliating temper, but firmness was sometimes a duty of higher obligation. Conciliation was also misapplied in this instance. It was pursued here rather among the Representatives, than among the Constituents; and it wd. be of little consequence, if not established among the latter; and there could be little hope of its being established among them if the foundation should not be laid in justice and right.

(Madison's Notes (Max Farrand, 1911), Pages 549-550, Vol. 1)

It was moved and seconded that the second proposition reported from the grand Committee stand part of the report namely

"That in the second Branch of the Legislature each State shall have an equal vote"

(Official Journal (Max Farrand, 1911), Pages 548-549, Vol. 1)

Question shall the States have an equal vote in the 2d Br. or Senate —

Gerry — I am in favor of the measure provided that the 1st Br. shall originate money Bills & appropriate Monies — we must consult the prejudices & Interest of the States — 2 or 3 thousand Men are in Office in the several States — their Influence will be in favor of the Equality of Votes among the States.

Wilson —

Madison An Equality of votes in ye. Senate will enable a minority to hold the Majority — they will compel the majority to submit to their particular Interest or they will withhold their Assent to essential & necessary measures — I have known one man where his State was represented by only two & were divided oppose Six States in Cong. on an import. occasion for 3 days, and finally compelled ym. to gratify his Caprice in order to obtain his suffrage — the Senate will possess certain exclusive powers, such as the appointment to Offices &c — If the States have equal votes — a minority of the people or an Aristocracy will appt. the Gt. Officers. Besides ye. small States will be near the Seat of Govt. a Quorum of the first Br. may be easily assembled they may carry a measure in yt. Br. agt. the sense of the Majority if present, & the Senate may confirm it — Virgin. has objected to every addition of powers to those of Congress, because they made but 113 of the Legislature when they ought to have — Patterson — I hope the Question will be taken. If we do not agree that the Senate be composed of Delegates from the several States, each state having an equal Vote, the smaller States agreeing that Money Bills & money appropriations shall originate in the first Br. to be composed on the principles of a Repn. of the People — If we cannot agree in this, the small states will never agree on any other Terms — we had better divide & lose no longer Time —

I think I shall vote agt. the Report because I think the exclusive origination of money Bills & ye appropn of Money being vested in the 1. Br. is giving up too much on ye part of the small States

Gov Morris — Let us examine what the small States call the consideration wh. they give for the privilege of an equal Vote in the 2. Br. or Senate — How did it happen originally that the Votes were equal — when G. Britain pressed us, the small states said go on in your opposition without us, or give us an equal Vote — they obtained it — they now say there is a sacred Compact — But we are proposing new & farther powers — the Gt. states may now say the present Confed. is defective our Convention proves it — we will not now agree to strengthen the Union unless you let us in in proportion our Interest —

Unless we can form a vigorous general Govt. we must expect vigorous State Govts: & a weak general Govt. Although Germany has an Emperor & a powerful one a common language, Religion, Customs, Interest, and Habits, yet the Glory of her princes, and of free Cities are preferred to that of a peaceful & powerful whole and the Imperial Honors are less regarded than those of the subordinate princes. In this plan we shall have an aulic Council without An Emperor to execute their Decrees.

(King's Diary (Max Farrand, 1911), Pages 553-555, Vol. 1)

Gerry.

About 2,000 Men in the smaller States, who compose the Executives, Legislatives, and Judiciaries; all interested in opposing the present Plan, because it tends to annihilate the State-Governments.

Sherman —

If a Majority of the lesser states be agt. the Laws of the national Governmt.; those Laws cannot be executed — There must then be a Branch immediately from the States.

Wilson —

An Agreemt. elsewhere cannot be expected unless the Representation be fair —

Madison.

1. The Upper Branch may put a Veto upon the Acts of the lower Branch.
2. May extort a Concurrence. The smaller States near the Centre; they may compose a Majority of the Quorum.

Gerry —

The larger States will have more Influence; they have in Congress; this from the Nature of Things.

G. Morris —

Great Care will be taken to lessen the Powers of the 2d. Branch — Corporations to be protected.

Separate colonial Existences —

Corporations — The small States — go on and fight out the Revn. or give us an equal Vote.

The small States say, that they will have greater Rights as Citizens —

Must have such a Govt. as will give Safety —

State-Policy not a proper Object for a vigorous Governmt.

In Proportion to the Vigour and Strength of the State Governmts. will be the Febleness of the general Governmt. —

We must have it in View eventually to lessen and destroy the State Limits and Authorities —

The Germanick Constn. — The Emperor has never been able to collect them — the separate Parts were too independant —

(Paterson's Notes (Max Farrand, 1911), Pages 555-556, Vol. 1)

Equality of Suffrage. After some Debate in which Nothing new was offered the Question was put and carried—6 Ayes—3 Noes—2 divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672735] It was moved and seconded that the second proposition reported from the grand Committee stand part of the report namely

“That in the second Branch of the Legislature each State shall have an equal vote”

which passed in the affirmative [Ayes — 6; noes — 3; divided — 2.]

(Official Journal (Max Farrand, 1911), Pages 548-549, Vol. 1)

On Question shall the words stand as part of the Report?

Massts. divd. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. divd. [Ayes — 6; noes — 3; divided — 2.]

(Note. several votes were given here in the affirmative or were divd. because another final question was to be taken on the whole report.)

(Madison's Notes (Max Farrand, 1911), Pages 550-551, Vol. 1)

Equality of Suffrage. After some Debate in which Nothing new was offered the Question was put and carried—6 Ayes—3 Noes—2 divided. Ayes—Connecticut—New York—New Jersey—Deleware—Maryland and North Carolina. Noes—Pennsylvania—Virginia and South Carolina—Divided—Massachusetts and Georgia.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672736] Mr. Gerry thought it would be proper to proceed to enuerate & define the powers to be vested in the Genl. Govt. before a question on the report should be taken as to the rule of representation in the 2d. branch.

Mr. Madison, observed that it wd. be impossible to say what powers could be safely & properly vested in the Govt. before it was known, in what manner the States were to be represented in it. He was apprehensive that if a just representation were not the basis of the Govt. it would happen, as it did when the articles of Confederation were depending, that every effectual prerogative would be withdrawn or withheld, and the New Govt. wd. be rendered as impotent and as short lived as the old.

Mr. Patterson would not decide whether the privilege concerning money bills were a valuable consideration⁵ or not: But he considered the mode & rule of representation in the 1st. branch as fully so, and that after the establishment of that point, the small States would never be able to defend themselves without an equality of votes in the 2d. branch. There was no other ground of accommodation. His resolution was fixt. He would meet the large States on that Ground and no other. For himself he should vote agst. the Report, because it yielded too much.

Mr. Govr. Morris. He had no resolution unalterably fixed except to do what should finally appear to him right. He was agst. the Report because it maintained the improper Constitution of the 2d. branch. It made it another Congress, a mere whisp of straw. It had been sd. (by Mr. Gerry) that the new Governnt. would be partly national, partly federal; that it ought in the first quality to protect individuals; in the second, the States. But in what quality was it to protect the aggregate interest of the whole. Among the many provisions which had been urged, he had seen none for supporting the dignity and splendor of the American Empire. It had been one of our greatest misfortunes that the great objects of the nation had been sacrificed constantly to local views; in like manner as the general interests of States had been sacrificed to those of the Counties. What is to be the check in the Senate? none; unless it be to keep the majority of the people from injuring particular States. But particular States ought to be injured for the sake of a majority of the people, in case their conduct should deserve it. Suppose they should insist on claims evidently unjust, and pursue them in a manner detrimental to the whole body. Suppose they should give themselves up to foreign influence. Ought they to be protected in such cases. They were originally nothing more than colonial corporations. On the declaration of Independence, a Governnt. was to be formed. The small States aware of the necessity of preventing anarchy, and taking advantage of the moment, extorted from the large ones an equality of votes. Standing now on that ground, they demand under the new system greater rights as men, than

their fellow Citizens of the large States. The proper answer to them is that the same necessity of which they formerly took advantage does not now exist, and that the large States are at liberty now to consider what is right, rather than what may be expedient. We must have an efficient Govt. and if there be an efficiency in the local Govts. the former is impossible. Germany alone proves it. Notwithstanding their common diet, notwithstanding the great prerogatives of the Emperor as head of the Empire, and his vast resources as sovereign of his particular dominions, no union is maintained: foreign influence disturbs every internal operation, & there is no energy whatever in the general Governmt. Whence does this proceed? From the energy of the local authorities; from its being considered of more consequence to support the Prince of Hesse, than the Happiness of the people of Germany. Do Gentlemen wish this to be ye case here. Good God, Sir, is it possible they can so delude themselves. What if all the Charters & Constitutions of the States were thrown into the fire, and all their demagogues into the ocean. What would it be to the happiness of America. And will not this be the case here if we pursue the train in wch. the business lies. We shall establish an Aulic Council without an Emperor to execute its decrees. The same circumstances which unite the people here, unite them in Germany. They have there a common language, a common law, common usages and manners — and a common interest in being united; yet their local jurisdictions destroy every tie. The case was the same in the Grecian States. The United Netherlands are at this time torn in factions. With these examples before our eyes shall we form establishments which must necessarily produce the same effects. It is of no consequence from what districts the 2d. branch shall be drawn, if it be so constituted as to yield an asylum agst. these evils. As it is now constituted he must be agst. its being drawn from the States in equal portions. But shall he was ready to join in devising such an amendment of the plan, as will be most likely to secure our liberty & happiness.

(Madison's Notes (Max Farrand, 1911), Pages 551-553, Vol. 1)

[e734077] It was then moved and seconded to postpone the consideration of the report from the grand Committee until the special Committee report.

(Official Journal (Max Farrand, 1911), Page 549, Vol. 1)

Mr. Sherman & Mr. Elseworth moved to postpone the Question on the Report from the Committee of a member from each State, in order to wait for the Report from the come. of 5 last appointed.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 1)

[e734078] It was then moved and seconded to postpone the consideration of the report from the grand Committee until the special Committee report.

which passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 549, Vol. 1)

Mr. Sherman & Mr. Elseworth moved to postpone the Question on the Report from the Committee of a member from each State, in order to wait for the Report from the come. of 5 last appointed. —

Masts. ay. Cont. ay. N. Y. no. N. J. ay Pa. ay. Del. ay. Maryland ay Va. no. N. C. no. S. C—no. Geo. no. [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 1)

[e672738] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 549, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 1)

Adjourned till Monday next.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672739] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 549, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 1)

Adjourned till Monday next.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

1.46 Monday, 09 July 1787, at 11:00 (s6233)

[e672740] The honorable Daniel Carrol Esquire One of the Deputies from the State of Maryland attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 557, Vol. 1)

Carroll, Daniel, of Maryland. First attended on July 9.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Mr. Daniel Carroll from Maryland took his Seat.

(Madison's Notes (Max Farrand, 1911), Page 559, Vol. 1)

[e672741] The honorable Mr G. Morris, from the Committee to whom was referred the first clause of the first proposition reported from the grand Committee, informed the House that the Committee were prepared to report — He then read the report in his place, and the same being delivered in at the Secretary's table was read once throughout, and then by paragraphs

(Official Journal (Max Farrand, 1911), Page 557, Vol. 1)

Mr. Govr. Morris delivered a report from the Come. of 5 members to whom was committed the clause in the Report of the Come. consisting of a member from each State, stating the proper ratio of Representatives in the 1st. branch, to be as 1 to every 40,000 inhabitants, as follows viz

“The Committee to whom was referred the 1st. clause of the 1st. proposition reported from the grand Committee, beg leave to report I.¶ that in the 1st. meeting of the Legislature the 1st. branch thereof consist of 56. members of which Number N. Hamshire shall have 2. Massts. 7. R.Id.1. Cont. 4. N. Y. 5. N. J. 3. Pa. 8. Del. 1. Md. 4. Va. 9. N. C. 5, S. C. 5. Geo. 2. II¶ —. But as the present situation of the States may probably alter as well in point of wealth as in the number of their inhabitants, that the Legislature be authorized from time to time to augment ye. number of Representatives. And in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the Legislature shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principles of their wealth and number of inhabitants.”

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 1)

Report of Comee.

(Paterson’s Notes (Max Farrand, 1911), Page 562, Vol. 1)

The Committee of five reported the following Apportionment of Representation in first Branch of Legislature for first Meeting consisting of 56 Viz.

New Hampshire	2	Massachusetts	7	Rhode Island	1
Connecticut	4	New York	5	New Iersey	3
Delaware	1	Maryland	4	Pennsylvania	8
Virginia	9	North Carolina	5	South Carolina	5
Georgia	2				

(Lansing’s Notes (Joseph Strayer, 1939), Page 106)

[e672742] Mr. Sherman wished to know on what principles or calculations the Report was founded. It did not appear to correspond with any rule of numbers, or of any requisition hitherto adopted by Congs.

Mr. Gorham. Some provision of this sort was necessary in the outset. The number of blacks & whites with some regard to supposed wealth was the general guide Fractions could not be observed. The Legislre. is to make alterations from time to time as justice & propriety may require, Two objections prevailed agst. the rate of 1 member for every 40,000. inhts. The 1st. was that the Representation would soon be too numerous: the 2d. that the Westn. States who may have a different interest, might if admitted on that principal by degrees, out-vote the Atlantic. Both these objections are removed. The number will be small in the first instance and may be continued so, and the Atlantic States having ye. Govt. in their own hands, may take care of their own interest, by dealing out the right of Representation in safe proportions to the Western States. These were the views of the Committee.

Mr. L Martin wished to know whether the Come. were guided in the ratio, by the wealth or number of inhabitants of the States, or by both; noting its variations from former apportionments by Congs.

(Madison's Notes (Max Farrand, 1911), Pages 559-560, Vol. 1)

Necessary, that the Atlantic States should take Care of themselves; the Western States will soon be very numerous.

(Paterson's Notes (Max Farrand, 1911), Page 562)

The Rule of Adjustment was required to be explained—It was answered it was a combined Ratio of Numbers and Property.

(Lansing's Notes (Joseph Strayer, 1939), Page 106)

[e672743] [Editors' note: At this point, the Convention began to severally consider the propositions and clauses in the Report of the Second Committee on Representation.]

(2019 Editors)

[e672744] Mr. Govr. Morris & Mr. Rutlidge moved to postpone the 1st. paragraph relating to the number of members to be allowed each State in the first instance, and to take up the 2d. paragraph authorizing the Legislrre to alter the number from time to time according to wealth & inhabitants.

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

[e734086] Mr. Govr. Morris & Mr. Rutlidge moved to postpone the 1st. paragraph relating to the number of members to be allowed each State in the first instance, and to take up the 2d. paragraph authorizing the Legislrre to alter the number from time to time according to wealth & inhabitants.

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

It was moved and seconded to postpone the consideration of the first paragraph of the report in order to take up the second.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

This was postponed to take up the subsequent Part of Report in these Words—

”But as the present Situation of the States may probably alter as well in point of Wealth as in the Number of Inhabitants that the Legislature be authorized from Time to Time to augment the Number of Representatives and in Case any of the States shall hereafter be divided or any two or more States united or any new States created within the Limits of the United States the Legislature Shall possess Authority to regulate the Number of Representatives in any of the foregoing Cases upon the Principles of their Wealth and Number of Inhabitants.”

(Lansing's Notes (Joseph Strayer, 1939), Pages 106-107)

[e734087] Mr. Govr. Morris & Mr. Rutlidge moved to postpone the 1st. paragraph relating to the number of members to be allowed each State in the first instance, and to take up the 2d. paragraph authorizing the Legislrre to alter the number from time to time according to wealth & inhabitants. The motion was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

It was moved and seconded to postpone the consideration of the first paragraph of the report in order to take up the second.
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

[e672746] On Question on the 2d. parag. taken without any debate

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

On the question to agree to the second paragraph of the report

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

This was postponed to take up the subsequent Part of Report in these Words—

"But as the present Situation of the States may probably alter as well in point of Wealth as in the Number of Inhabitants that the Legislature be authorized from Time to Time to augment the Number of Representatives and in Case any of the States shall hereafter be divided or any two or more States united or any new States created within the Limits of the United States the Legislature Shall possess Authority to regulate the Number of Representatives in any of the foregoing Cases upon the Principles of their Wealth and Number of Inhabitants."

(Lansing's Notes (Joseph Strayer, 1939), Pages 106-107)

[e672747] On the question to agree to the second paragraph of the report
it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

On Question on the 2d. parag. taken without any debate

Masts. ay. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay.
N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

This was postponed to take up the subsequent Part of Report in these Words—

"But as the present Situation of the States may probably alter as well in point of Wealth as in the Number of Inhabitants that the Legislature be authorized from Time to Time to augment the Number of Representatives and in Case any of the States shall hereafter be divided or any two or more States united or any new States created within the Limits of the United States the Legislature Shall possess Authority to regulate the Number of Representatives in any of the foregoing Cases upon the Principles of their Wealth and Number of Inhabitants."

Question—9 Ayes—2 Noes—New York No.

(Lansing's Notes (Joseph Strayer, 1939), Pages 106-107)

[e672748] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

Mr. Sherman moved to refer the 1st. part apportioning the Representatives to a Comme. of a member from each State.

Mr. Govr. Morris seconded the motion; observing that this was the only case in which such Committees were useful.

(Madison's Notes (Max Farrand, 1911), Page 560, Vol. 1)

It was then moved to refer the Apportionment of Representation to a Committee of 11.—a Member from each State.

(Lansing's Notes (Joseph Strayer, 1939), Page 107)

[e672749] Mr. Williamson. thought it would be necessary to return to the rule of numbers. but that the Western States stood on different footing. If their property shall be rated as high as that of the Atlantic States, then their representation ought to hold a like proportion. Otherwise if their property was not to be equally rated.

Mr Govr. Morris. The Report is little more than a guess. Wealth was not altogether disregarded by the Come. Where it was apparently in favor of one State whose nos. were superior to the numbers of another, by a fraction only, a member extraordinary was allowed to the former: and so vice versa. The Committee meant little more than to bring the matter to a point for the consideration of the House.

Mr. Reed asked why Georgia was allowed 2 members, when her number of inhabitants had stood below that of Delaware.

Mr. Govr. Morris. Such is the rapidity of the population of that State, that before the plan takes effect, it will probably be entitled to 2 Representatives

Mr. Randolph disliked the report of the Come. but had been unwilling to object to it. He was apprehensive that as the number was not to be changed till the Natl. Legislature should please, a pretext would never be wanting to postpone alterations, and keep the power in the hands of those possessed of it. He was in favor of the commitmt. to a member from each State

Mr. Patterson considered the proposed estimate for the future according to the Combined rule of numbers and wealth, as too vague. For this reason N. Jersey was agst. it. He could regard negroes slaves in no light but as property. They are no free agents, have no personal liberty, no faculty of acquiring property, but on the contrary are themselves property, & like other property entirely at the will of the Master. Has a man in Virga. a number of votes in proportion to the number of his slaves? and if Negroes are not represented in the States to which they belong, why should they be represented in the Genl. Govt. What is the true principle of Representation? It is an expedient by which an assembly of certain individs. chosen by the people is substituted in place of the inconvenient meeting of the people themselves. If such a meeting of the people was actually to take place, would the slaves vote? they would not. Why then shd. they be represented. He was also agst. such an indirect encouragement. of the slave trade; observing that Congs. in their act relating to the change of the 8 art: of Confedn. had been ashamed to use the term "Slaves" & had substituted a description.

Mr. Madison, reminded Mr. Patterson that his doctrine of Representation which was in its principle the genuine one, must for ever silence the pretensions

of the small States to an equality of votes with the large ones. They ought to vote in the same proportion in which their citizens would do, if the people of all the States were collectively met. He suggested as a proper ground of compromise, that in the first branch the States should be represented according to their number of free inhabitants; And in the 2d. which had for one of its primary objects the guardianship of property, according to the whole number, including slaves.

Mr. Butler urged warmly the justice & necessity of regarding wealth in the apportionment of Representation.

Mr. King had always expected that as the Southern States are the richest, they would not league themselves with the Northn. unless some respect were paid to their superior wealth. If the latter expect those preferential distinctions in Commerce & other advantages which they will derive from the connection they must not expect to receive them without allowing some advantages in return. Eleven out of 13 of the States had agreed to consider Slaves in the apportionment of taxation; and taxation and Representation ought to go together.

(Madison's Notes (Max Farrand, 1911), Pages 560-562, Vol. 1)

[e672750] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State,

which passed in the affirmative [Ayes — 9; noes — 2.]

and a Committee was appointed by ballot

[Editors' note: The Convention agreed to conduct a ballot to appoint the eleven members of the Committee.

To appoint one delegate per state is a departure from the usual procedure of appointing committees. The exact process that would be followed as a result is uncertain. The rule pertaining to the selection of committees is as follows:

'That Committees shall be appointed by ballot; and that the members who have the greatest number of ballots, although not a majority of the votes present, be the Committee. When two or more Members have an equal number of votes, the Member standing first on the list in the order of taking down the ballots shall be preferred' (Page 9, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

On the question for committing the first paragraph of the Report to a member from each State.

Masts. ay. Cont. ay. N. Y. no. N. J. ay. Pa. ay. Del. ay. Md ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

It was then moved to refer the Apportionment of Representation to a Committee of 11.—a Member from each State.

Agreed to and Committee appointed accordingly.

(Lansing's Notes (Joseph Strayer, 1939), Page 107)

[e672751] [Editors' note: That the Convention agreed to refer the First Proposition from the Second Committee on Representation implies the creation of a report for the Third Committee of Representation's consideration.]

(Official Journal (Max Farrand, 1911), Page 557, Vol. 1)

[e672752] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672753] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672754] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672755] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672756] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672757] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672758] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672759] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672760] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672761] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672762] a Committee was appointed by ballot of.

The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely, Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e672763] [Editors' note: Following the creation of the Third Committee on Representation, the Convention referred the proposals in question to the Committee.]

(2019 Editors)

[e672764] then the House adjourned until to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 107)

[e672765] then the House adjourned until to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 107)

1.47 Tuesday, 10 July 1787, at 11:00 (s6234)

[e672766] The honorable Mr King from the grand Committee to whom was referred the first paragraph of the report of a Committee [sic] consisting of Mr G. Morris, Mr Gorham, Mr Randolph, Mr Rutledge, and Mr King, informed the House that the Committee were prepared to report — He then read the report in his place, and the same being delivered in at the Secretary's table was again read,

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1)

Mr. King reported from the Com. yesterday appointed that the States at the 1st. meeting of the General Legislature, should be represented by 65 members in the following proportions, to wit. N. Hamshire by 3, Masts. 8. R. Isd. 1. Cont. 5. N. Y. 6. N. J. 4. Pa. 8. Del. 1. Md. 6. Va. 10. N:C. 5. S. C. 5, Georgia 3.

(Madison's Notes (Max Farrand, 1911), Page 566, Vol. 1)

Mr. Randolph moved as an amendment to the report of the Comme. of five "that in order to ascertain the alterations in the population & wealth of the several States the Legislature should be required to cause a census, and estimate to be taken within one year after its first meeting; and everyyears thereafter — and that the Legislr. arrange the Representation accordingly."

(Madison's Notes (Max Farrand, 1911), Pages 570-571, Vol. 1)

[e672767] It was moved and seconded to amend the report by striking out the word "Three" in the apportionment of representation to New Hampshire, and inserting the word "Two"

[Editors' note: Madison records Rutledge as the proposer and CC Pinckney as the seconder.]

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1)

Mr. Rutlidge moved that N. Hampshire be reduced from 3 to 2. members. Her numbers did not entitle her to 3 and it was a poor State.

Genl. Pinkney seconds the motion.

(Madison's Notes (Max Farrand, 1911), Page 566, Vol. 1)

[e672768] Mr. King. N. Hamshire has probably more than 120,000 Inhabts. and has an extensive country of tolerable fertility. Its inhabts therefore may be expected to increase fast. He remarked that the four Eastern States having 800,000 souls, have fewer representatives than the four Southern States, having not more than 700,000 souls rating the blacks, as 5 for 3. The Eastern people will advert to these circumstances, and be dissatisfied. He believed them to be very desirous of uniting with their Southern brethren but did not think it prudent to rely so far on that disposition as to subject them to any gross inequality. He was fully convinced that the question concerning a difference of interests did not lie where it had hitherto been discussed, between the great & small States; but between the Southern & Eastern. For this reason he had been ready to yield something in the proportion of representatives for the security of the Southern. No principle would justify the giving them a majority. They were brought as near an equality as was possible. He was not averse to giving them a still greater security, but did not see how it could be done.

Genl. Pinkney. The Report before it was committed was more favorable to the S. States than as it now stands. If they are to form so considerable a minority, and the regulation of trade is to be given to the Genl. Government, they will be nothing more than overseers for the Northern States. He did not expect the S. States to be raised to a majority of representatives, but wished them to have something like an equality. At present by the alterations of the Come. in favor of the N. States they are removed farther from it than they were before. One member had indeed been added to Virga. which he was glad of as he considered her as a Southern State. He was glad also that the members of Georgia were increased.

Mr. Williamson was not for reducing N. Hamshire from 3 to 2. but for reducing some others. The Southn. Interest must be extremely endangered by the present arrangement. The Northn. States are to have a majority in the first instance and the means of perpetuating it.

Mr. Dayton observed that the line between the Northn. & Southern interest had been improperly drawn: that Pa. was the dividing State, there being six on each side of her.

Genl. Pinkney urged the reduction, dwelt on the superior wealth of the Southern States, and insisted on its having its due weight in the Government.

Mr. Govr. Morris regretted the turn of the debate. The States he found had many Representatives on the floor. Few he fears were to be deemed the Representatives of America. He thought the Southern States have by the report more than their share of representation. Property ought to have its weight; but but not all the weight. If the Southn. States are to supply money. The Northn. States are to spill their blood. Besides, the probable Revenue to be expected from the S. States has been greatly overated. He was agst. reducing N. Hamshire.

Mr. Randolph was opposed to a reduction of N. Hamshire, not because she had a full title to three members: but because it was in his contemplation 1. to make it the duty instead of leaving it in the discretion of the Legislature to regulate the representation by a periodical census. 2. to require more than a bare majority of votes in the Legislature in certain cases, & particularly in commercial cases.

(Madison's Notes (Max Farrand, 1911), Pages 566-568, Vol. 1)

[e672769] It was moved and seconded to amend the report by striking out the word "Three" in the apportionment of representation to New Hampshire, and inserting the word "Two"

which passed in the negative. [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1)

On the question for reducing N. Hamshire from 3 to 2 Represents. it passed in the negative

Masts. no. Cont. no. N. J. no. Pa. no. Del. no. Md. no. Va. no. N. C. ay. S. C. ay. Geo. no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672770] It was moved and seconded to amend the report by striking out the word "five" in the apportionment of representation to North Carolina, and inserting the word "six"

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1)

Genl. Pinkney & Mr. Alexr. Martin moved that 6 Reps. instead of 5 be allowed to N. Carolina

(Madison's Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672771] It was moved and seconded to amend the report by striking out the word "five" in the apportionment of representation to North Carolina, and inserting the word "six"

which passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1)

Genl. Pinkney & Mr. Alexr. Martin moved that 6 Reps. instead of 5 be allowed to N. Carolina

On the question, it passed in the negative

Masts. no. Cont. no. N. J. no. Pa. no. Del. no. Md. no. Va. no. N. C. ay. S. C. ay Geo. ay. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672772] It was moved and seconded to amend the report by striking out the word "five" in the apportionment of representation to South Carolina and inserting the word "six"

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Genl. Pinkney & Mr. Butler made the same motion in favor of S. Carolina

(Madison's Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672773] It was moved and seconded to amend the report by striking out the word “five” in the apportionment of representation to South Carolina and inserting the word “six”

which passed in the negative. [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Genl. Pinkney & Mr. Butler made the same motion in favor of S. Carolina
On the Question it passed in the negative

Masts. no. Cont. no. N. Y. no. 5 N. J. no. Pa. no. Del. ay. Md. no. Va.
no. N. C. ay. S. C. ay. Geo. ay [Ayes — 4; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672774] It was moved and seconded to amend the report by striking out the word “Three” in the apportionment of representation to Georgia and inserting the word “four”

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Genl. Pinkney & Mr. Houston moved that Georgia be allowed 4 instead of 3 Reprs. urging the unexampled celerity of its population.

(Madison’s Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672775] It was moved and seconded to amend the report by striking out the word “Three” in the apportionment of representation to Georgia and inserting the word “four”

which passed in the negative. [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Genl. Pinkney & Mr. Houston moved that Georgia be allowed 4 instead of 3 Reprs. urging the unexampled celerity of its population. On the Question, it passed in the Negative

Masts. no. Cont. no. N. Y. no 5 N. J. no. Pa. no. Del. no. Md. no. Va.
ay. N: C. ay. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672776] It was moved and seconded to double the number of representatives, in the first branch of the Legislature of the United States, apportioned by the report of the grand Committee to each State.

[Editors’ note: Madison records himself as the proposer.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Mr. M adison moved that the number allowed to each State be doubled.

(Madison’s Notes (Max Farrand, 1911), Page 568, Vol. 1)

[e672777] Mr. Madison moved that the number allowed to each State be doubled. A majority of a Quorum of 65 members, was too small a number to represent the whole inhabitants of the U. States; They would not possess enough of the confidence of the people, and wd. be too sparsely taken from the people, to bring with them all the local information which would be frequently wanted. Double the number will not be too great even with the future additions from New States. The additional expence was too inconsiderable to be regarded in so important a case. And as far as the augmentation might be unpopular on that score, the objection was over-balanced by its effect on the hopes of a greater number of the popular Candidates.

Mr. Elseworth urged the objection of expence, & that the greater the number, the more slowly would the business proceed; and the less probably be decided as it ought, at last — He thought the number of Representatives too great in most of the State Legislatures: and that a large number was less necessary in the Genl. Legislature than in those of the States, as its business would relate to a few great, national Objects only.

Mr. Sherman would have preferred 50 to 65. The great distance they will have to travel will render their attendance precarious and will make it difficult to prevail on a sufficient number of fit men to undertake the service. He observed that the expected increase from New States also deserved consideration.

Mr. Gerry was for increasing the number beyond 65. The larger the number the less the danger of their being corrupted. The people are accustomed to & fond of a numerous representation, and will consider their rights as better secured by it. The danger of excess in the number may be guarded agst. by fixing a point within which the number shall always be kept.

Col. Mason admitted that the objection drawn from the consideration of expence, had weight both in itself, and as the people might be affected by it. But he thought it outweighed by the objections agst. the smallness of the number. 38, will he supposes, as being a majority of 65, form a quorum. 20 will be a majority of 38. This was certainly too small a number to make laws for America. They would neither bring with them all the necessary information relative to various local interests nor possess the necessary confidence of the people. After doubling the number, the laws might still be made by so few as almost to be objectionable on that account.

Mr. Read was in favor of the motion. Two of the States (Del. & R. I.) would have but a single member if the aggregate number should remain at 65. and in case of accident to either of these one State wd. have no representative present to give explanations or informations of its interests or wishes. The people would not place their confidence in so small a number. He hoped the objects of the Genl. Govt. would be much more numerous than seemed to be expected by some gentlemen, and that they would become more & more so. As to New States the highest number of Reprs. for the whole might be limited, and all danger of excess thereby prevented.

Mr. Rutledge opposed the motion. The Representatives were too numerous in all the States. The full number allotted to the States may be expected to attend & the lowest possible quorum shd. not therefore be considered — The interests of their Constituents will urge their attendance too strongly for it to be omitted: and he supposed the Genl. Legislature would not sit more than 6 or 8 weeks in the year.

(Madison's Notes (Max Farrand, 1911), Pages 568-570, Vol. 1)

[e672778] It was moved and seconded to double the number of representatives, in the first branch of the Legislature of the United States, apportioned by the report of the grand Committee to each State.

which passed in the negative. [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

On the question for doubling the number, it passed in the negative.

Mas. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 570, Vol. 1)

[e672779] On the question to agree to the report of the grand Committee.

it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

On the question for agreeing to the apportionment of Reprs. as amended by the last committee it passed in the affirmative ,

Mas. ay. Cont. ay. N. Y. ay. N. J. ay. Pa. ay. Del ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 570, Vol. 1)

[e672780] On the question to agree to the report of the grand Committee.

it passed in the affirmative [Ayes — 9; noes — 2.]

[Editors' note: The Committee agreed to the recommendations made by the Third Committee, and those recommendations replaced the Second Committee's First Proposition.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

On the question for agreeing to the apportionment of Reprs. as amended by the last committee it passed in the affirmative ,

Mas. ay. Cont. ay. N. Y. ay. N. J. ay. Pa. ay. Del ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 570, Vol. 1)

[e672781] [Editors' note: The Committee agreed to the recommendations made by the Third Committee, and those recommendations replaced the Second Committee's First Proposition.]

(2019 Editors)

[e672782] [Editors' note: The Committee agreed to the recommendations made by the Third Committee, and those recommendations replaced the Second Committee's First Proposition.]

As the Second Proposition was already agreed, the amended propositions of the Second Committee on Representation were also agreed by this vote.]

(2019 Editors)

[e739674] [Editors' note: Despite adopting the second proposition of the Report, the Convention proceeded to debate and amend the proposition. In order to replicate this process the editors have introduced a motion to reconsider the second proposition.]

(2019 Editors)

[e739676] [Editors' note: Despite adopting the second proposition of the Report, the Convention proceeded to debate and amend the proposition. In order to replicate this process the editors have introduced a motion to reconsider the second proposition.]

(2019 Editors)

[e672783] Mr. Broom gave notice to the House that he had concurred with a reserve to himself of an intention to claim for his State an equal voice in the 2d. branch: which he thought could not be denied after this concession of the small States as to the first branch.

(Madison's Notes (Max Farrand, 1911), Page 570, Vol. 1)

[e739690] It was moved and seconded to add the following amendment after the second paragraph of the report from the Committee consisting of Mr Morris, Mr Gorham, Mr Randolph, Mr Rutledge and Mr King. —

“That in order to ascertain alterations in the population and wealth of the States the Legislature of the United States be required to cause a proper census and estimate to be taken once in every term of ____ years.”

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

[e739691] Mr Govr. Morris opposed it as fettering the Legislature too much. Advantage may be taken of it in time of war or the apprehension of it, by new States to extort particular favors. If the mode was to be fixed for taking a census, it might certainly be extremely inconvenient; if unfixed the Legislature may use such a mode as will defeat the object: and perpetuate the inequality. He was always agst. such Shackles on the Legisre. They had been found very pernicious in most of the State Constitutions. He dwelt much on the danger of throwing such a preponderancy into the Western Scale, suggesting that in time the Western people wd. outnumber the Atlantic States. He wished therefore to put it in the power of the latter to keep a majority of votes in their own hands. It was objected he said that if the Legisre. are left at liberty, they will never readjust the Representation. He admitted that this was possible, but he did not think it probable unless the reasons agst. a revision of it were very urgent & in this case, it ought not to be done.

(Madison's Notes (Max Farrand, 1911), Page 571, Vol. 1)

[e739694] It was moved and seconded to postpone the consideration of the last motion in order to take up the following. namely

“That the Committee of eleven, to whom was referred the report of the Committee of five on the subject of representation, be requested to furnish the Convention with the principles on which they grounded the report.”

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

It was moved to postpone the proposition of Mr. Randolph in order to take up the following, viz. “that the Committee of Eleven, to whom was referred the report of the Committee of five on the subject of Representation, be requested to furnish the Convention with the principles on which they grounded the Report,”

(Madison’s Notes (Max Farrand, 1911), Page 571, Vol. 1)

[e739696] It was moved and seconded to postpone the consideration of the last motion in order to take up the following. namely

“That the Committee of eleven, to whom was referred the report of the Committee of five on the subject of representation, be requested to furnish the Convention with the principles on which they grounded the report.”

which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

It was moved to postpone the proposition of Mr. Randolph in order to take up the following, viz. “that the Committee of Eleven, to whom was referred the report of the Committee of five on the subject of Representation, be requested to furnish the Convention with the principles on which they grounded the Report,” which was disagreed to: S. C. only voting in the affirmative.

(Madison’s Notes (Max Farrand, 1911), Page 571, Vol. 1)

[e672788] [To adjourn Ayes — 10; noes — 1.]

And then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 571, Vol. 1)

[e672789] [To adjourn Ayes — 10; noes — 1.]

And then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 564, Vol. 1)

Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 571, Vol. 1)

1.48 Wednesday, 11 July 1787, at 11:00 (s6235)

[e672790] Yates, Robert, of New York. Attended May 18; left Convention July 10. Opposed to the Constitution.

[Editors’ note: Yates and Lansing were present during the session on 10 July, as their votes were recorded throughout the day. With Hamilton already absent, their departure meant that from this point on, New York had no representative at the Convention.

On leaving, the two men drafted a letter to George Clinton, the Governor of New York, which reads as follows:

'Sir, We do ourselves the honor to advise your excellency, that in pursuance of concurrent resolutions of the honorable senate and assembly, we have, together with Mr. Hamilton, attended the convention, appointed for revising the articles of confederation, and reporting amendments to the same.

It is with the sincerest concern we observe, that, in the prosecution of the important objects of our mission, we have been reduced to the disagreeable alternative, of either exceeding the powers delegated to us, and giving our assent to measures which we conceive destructive to the political happiness of the citizens of the United States, or opposing our opinions to that of a body of respectable men, to whom those citizens had given the most unequivocal proofs of confidence. — Thus circumstanced, under these impressions, to have hesitated, would have been to be culpable; we, therefore, gave the principles of the constitution, which has received the sanction of a majority of the convention, our decided and unreserved dissent; but we must candidly confess, that we should have been equally opposed to any system, however modified, which had in object the consolidation of the United States into one government.

We beg leave, briefly, to state some cogent reasons, which, among others, influenced us to decide against a consolidation of the states. These are reducible into two heads.

1st. The limited and well-defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude, as to assent to a general constitution, in subversion of that of the state.

2d. A conviction of the impracticability of establishing a general government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the sole and express purpose of revising the articles of confederation, and reporting such alterations and provisions therein, as should render the federal constitution adequate to the exigencies of government, and the preservation of the union.

From these expressions, we were led to believe, that a system of consolidated government could not in the remotest degree, have been in contemplation of the legislature of this state? for that so important a trust, as the adopting measures which tended to deprive the state government of its most essential rights of sovereignty, and to place it in a dependent situation, could not have been confided by implication; and the circumstance, that the acts of the convention were to receive a state approbation in the last resort, forcibly corroborated the opinion, that our powers could not involve the subversion of a constitution, which being immediately derived from the people, could only be abolished by their express consent, and not by a legislature, possessing authority vested in them for its preservation. Nor could we suppose, that if it had been the intention of the legislature, to abrogate the existing confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea.

Reasoning in this manner, we were of opinion, that the leading feature of every amendment, ought to be the preservation of the individual states, in their uncontroled constitutional rights, and that in reserving these, a mode might have been devised of granting to the confederacy, the monies arising from a general system of revenue; the power of regulating commerce, and enforcing the

observance of foreign treaties, and other necessary matters of less moment.

Exclusive of our objections originating from the want of power, we entertained an opinion, that a general government, however guarded by declarations of rights, or cautionary provisions, must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it: by reason of the extensive territory of the United States, the dispersed situation of its inhabitants, and the insuperable difficulty of controuling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of government; and who from their remoteness from their constituents and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that however wise and energetic the principles of the general government might be, the extremities of the United States could not be kept in due submission and obedience to its laws, at the distance of many hundred miles from the seat of government; that if the general legislature was composed of so numerous a body of men, as to represent the interests of all the inhabitants of the United States, in the usual and true ideas of representation, the expence of supporting it would become intolerably burdensome; and that if a few only were vested with a power of legislation, the interests of a great majority of the inhabitants of the United States, must necessarily be unknown; or if known, even in the first stages of the operations of the new government, unattended to.

These reasons were, in our opinion, conclusive against any system of consolidated government: to that recommended by the convention, we suppose most of them very forcibly apply.

It is not our intention to pursue this subject farther, than merely to explain our conduct in the discharge of the trust which the honorable the legislature reposed in us. — Interested, however, as we are, in common with our fellow citizens, in the result, we cannot forbear to declare, that we have the strongest apprehensions, that a government so organized, as that recommended by the convention, cannot afford that security to equal and permanent liberty, which we wished to make an invariable object of our pursuit.

We were not present at the completion of the new constitution; but before we left the convention, its principles were so well established, as to convince us, that no alteration was to be expected, to conform it to our ideas of expediency and safety. A persuasion, that our further attendance would be fruitless and unavailing, rendered us less solicitous to return.

We have thus explained our motives for opposing the adoption of the national constitution, which we conceived it our duty to communicate to your excellency, to be submitted to the consideration of the honorable legislature.

We have the honor to be, With the greatest respect, Your excellency's Most obedient, and Very humble servants,

Robert Yates, John Lansing, Jun.' (Pages 244-247, Vol. 3, Appendix A (Max Farrand, 1911))]

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e672791] Lansing, John, of New York. First attended on June 2, though he may have been present before May 25; left on July 10. Opposed to the Constitution.

[Editors' note: Yates and Lansing were present during the session on 10 July, as their votes were recorded throughout the day. With Hamilton already absent,

their departure meant that from this point on, New York had no representative at the Convention.

On leaving, the two men drafted a letter to George Clinton, the Governor of New York, which reads as follows:

'Sir, We do ourselves the honor to advise your excellency, that in pursuance of concurrent resolutions of the honorable senate and assembly, we have, together with Mr. Hamilton, attended the convention, appointed for revising the articles of confederation, and reporting amendments to the same.

It is with the sincerest concern we observe, that, in the prosecution of the important objects of our mission, we have been reduced to the disagreeable alternative, of either exceeding the powers delegated to us, and giving our assent to measures which we conceive destructive to the political happiness of the citizens of the United States, or opposing our opinions to that of a body of respectable men, to whom those citizens had given the most unequivocal proofs of confidence. — Thus circumstanced, under these impressions, to have hesitated, would have been to be culpable; we, therefore, gave the principles of the constitution, which has received the sanction of a majority of the convention, our decided and unreserved dissent; but we must candidly confess, that we should have been equally opposed to any system, however modified, which had in object the consolidation of the United States into one government.

We beg leave, briefly, to state some cogent reasons, which, among others, influenced us to decide against a consolidation of the states. These are reducible into two heads.

1st. The limited and well-defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude, as to assent to a general constitution, in subversion of that of the state.

2d. A conviction of the impracticability of establishing a general government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the sole and express purpose of revising the articles of confederation, and reporting such alterations and provisions therein, as should render the federal constitution adequate to the exigencies of government, and the preservation of the union.

From these expressions, we were led to believe, that a system of consolidated government could not in the remotest degree, have been in contemplation of the legislature of this state? for that so important a trust, as the adopting measures which tended to deprive the state government of its most essential rights of sovereignty, and to place it in a dependent situation, could not have been confided by implication; and the circumstance, that the acts of the convention were to receive a state approbation in the last resort, forcibly corroborated the opinion, that our powers could not involve the subversion of a constitution, which being immediately derived from the people, could only be abolished by their express consent, and not by a legislature, possessing authority vested in them for its preservation. Nor could we suppose, that if it had been the intention of the legislature, to abrogate the existing confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea.

Reasoning in this manner, we were of opinion, that the leading feature of every amendment, ought to be the preservation of the individual states, in their uncontrolled constitutional rights, and that in reserving these, a mode might

have been devised of granting to the confederacy, the monies arising from a general system of revenue; the power of regulating commerce, and enforcing the observance of foreign treaties, and other necessary matters of less moment.

Exclusive of our objections originating from the want of power, we entertained an opinion, that a general government, however guarded by declarations of rights, or cautionary provisions, must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it: by reason of the extensive territory of the United States, the dispersed situation of its inhabitants, and the insuperable difficulty of controuling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of government; and who from their remoteness from their constituents and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that however wise and energetic the principles of the general government might be, the extremities of the United States could not be kept in due submission and obedience to its laws, at the distance of many hundred miles from the seat of government; that if the general legislature was composed of so numerous a body of men, as to represent the interests of all the inhabitants of the United States, in the usual and true ideas of representation, the expence of supporting it would become intolerably burdensome; and that if a few only were vested with a power of legislation, the interests of a great majority of the inhabitants of the United States, must necessarily be unknown; or if known, even in the first stages of the operations of the new government, unattended to.

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It is not our intention to pursue this subject farther, than merely to explain our conduct in the discharge of the trust which the honorable the legislature reposed in us. — Interested, however, as we are, in common with our fellow citizens, in the result, we cannot forbear to declare, that we have the strongest apprehensions, that a government so organized, as that recommended by the convention, cannot afford that security to equal and permanent liberty, which we wished to make an invariable object of our pursuit.

We were not present at the completion of the new constitution; but before we left the convention, its principles were so well established, as to convince us, that no alteration was to be expected, to conform it to our ideas of expediency and safety. A persuasion, that our further attendance would be fruitless and unavailing, rendered us less solicitous to return.

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We have the honor to be, With the greatest respect, Your excellency's Most obedient, and Very humble servants,

Robert Yates,

John Lansing, Jun.' (Pages 244-247, Vol. 3, Appendix A (Max Farrand, 1911))]

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e739695] Mr. Randolph's motion requiring the Legislature to take a periodical census for the purpose of redressing inequalities in the Representation was resumed.

Mr. Sherman was agst. Shackling the Legislature too much. We ought to choose wise & good men, and then confide in them.

Mr. Mason. The greater the difficulty we find in fixing a proper rule of Representation, the more unwilling ought we to be, to throw the task from ourselves, on the Genl. Legislature. He did not object to the conjectural ratio which was to prevail in the outset; but considered a Revision from time to time according to some permanent & precise standard as essential to ye. fair representation required in the 1st. branch. According to the present population of America, the Northn. part of it had a right to preponderate, and he could not deny it. But he wished it not to preponderate hereafter when the reason no longer continued. From the nature of man we may be sure, that those who have power in their hands will not give it up while they can retain it. On the Contrary we know they will always when they can rather increase it. If the S. States therefore should have $\frac{3}{4}$ of the people of America within their limits, the Northern will hold fast the majority of Representatives. $\frac{1}{4}$ will govern the $\frac{3}{4}$. The S. States will complain: but they may complain from generation to generation without redress. Unless some principle therefore which will do justice to them hereafter shall be inserted in the Constitution, disagreeable as the declaration was to him, he must declare he could neither vote for the system here nor support it, in his State. Strong objections had been drawn from the danger to the Atlantic interests from new Western States. Ought we to sacrifice what we know to be right in itself, lest it should prove favorable to States which are not yet in existence. If the Western States are to be admitted into the Union as they arise, they must, he wd. repeat, be treated as equals, and subjected to no degrading discriminations. They will have the same pride & other passions which we have, and will either not unite with or will speedily revolt from the Union, if they are not in all respects placed on an equal footing with their brethren. It has been said they will be poor, and unable to make equal contributions to the general Treasury. He did not know but that in time they would be both more numerous & more wealthy than their Atlantic brethren. The extent & fertility of their soil, made this probable; and though Spain might for a time deprive them of the natural outlet for their productions, yet she will, because she must, finally yield to their demands. He urged that numbers of inhabitants; though not always a precise standard of wealth was sufficiently so for every substantial purpose.

Mr. Williamson was for making it the duty of the Legislature to do what was right & not leaving it at liberty to do or not do it. He moved that Mr. Randolph's proposition be postponed in order to consider the following "that in order to ascertain the alterations that may happen in the population & wealth of the several States, a census shall be taken of the free white inhabitants and ths of those of other descriptions on the 1st year after this Government shall have been adopted and every ____ year thereafter; and that the Representation be regulated accordingly."

Mr. Randolph agreed that Mr. Williamson's proposition should stand in the place of his. He observed that the ratio fixt for the 1st. meeting was a mere conjecture, that it placed the power in the hands of that part of America, which could not always be entitled to it, that this power would not be voluntarily

renounced; and that it was consequently the duty of the Convention to secure its renunciation when justice might so require; by some constitutional provisions. If equality between great & small States be inadmissible, because in that case unequal numbers of Constituents wd. be represented by equal number of votes; was it not equally inadmissible that a larger & more populous district of America should hereafter have less representation, than a smaller & less populous district. If a fair representation of the people be not secured, the injustice of the Govt. will shake it to its foundations. What relates to suffrage is justly stated by the celebrated Montesquieu, as a fundamental article in Republican Govts. If the danger suggested by Mr. Govr. Morris be real, of advantage being taken of the Legislature in pressing moments, it was an additional reason, for tying their hands in such a manner that they could not sacrifice their trust to momentary considerations. Congs. have pledged the public faith to New States, that they shall be admitted on equal terms. They never would nor ought to accede on any other. The census must be taken under the direction of the General Legislature. The States will be too much interested to take an impartial one for themselves.

(Madison's Notes (Max Farrand, 1911), Pages 578-580, Vol. 1)

[e739697] The amendment offered to the second paragraph of the report from the Committee, consisting of Mr G. Morris, Mr Gorham, Mr Randolph Mr Rutledge and Mr King, being withdrawn — It was moved and seconded to substitute the following resolution, namely.

“Resolved That in order to ascertain the alterations that may happen in the population and wealth of the several States a census shall be taken of the free inhabitants of each State, and three fifths of the inhabitants of other description on the first year after this form of Government shall have been adopted — and afterwards on every term of ____ years; and the Legislature shall alter or augment the representation accordingly”

[Editors' note: Williamson's proposal was to add an additional resolution rather than amend the second proposition. Randolph agreed and dropped his amendment.]

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

Mr. Williamson was for making it the duty of the Legislature to do what was right & not leaving it at liberty to do or not do it. He moved that Mr. Randolph's proposition be postponed. in order to consider the following “that in order to ascertain the alterations that may happen in the population & wealth of the several States, a census shall be taken of the free white inhabitants and ths of those of other descriptions on the 1st year after this Government shall have been adopted and every year thereafter; and that the Representation be regulated accordingly.”

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(Madison's Notes (Max Farrand, 1911), Pages 579-580, Vol. 1)

[e672794] The amendment offered to the second paragraph of the report from the Committee, consisting of Mr G. Morris, Mr Gorham, Mr Randolph Mr Rutledge and Mr King, being withdrawn — It was moved and seconded to substitute the following resolution, namely.

“Resolved That in order to ascertain the alterations that may happen in the population and wealth of the several States a census shall be taken of the free inhabitants of each State, and three fifths of the inhabitants of other description on the first year after this form of Government shall have been adopted — and afterwards on every term of ____ years; and the Legislature shall alter or augment the representation accordingly”

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

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the Legislature in pressing moments, it was an additional reason, for tying their hands in such a manner that they could not sacrifice their trust to momentary considerations. Congs. have pledged the public faith to New States, that they shall be admitted on equal terms. They never would nor ought to accede on any other. The census must be taken under the direction of the General Legislature. The States will be too much interested to take an impartial one for themselves.

(Madison's Notes (Max Farrand, 1911), Pages 579-580, Vol. 1)

[e672795] It was moved and seconded to strike out the words
"three fifths of"

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

Mr. Butler & Genl. Pinkney insisted that blacks be included in the rule of Representation, equally with the Whites: and for that purpose moved that the words "three fifths" be struck out.

(Madison's Notes (Max Farrand, 1911), Page 580, Vol. 1)

[e672796] Mr Gerry thought that of them was to say the least the full proportion that could be admitted.

Mr. Ghorum. This ratio was fixed by Congs. as a rule of taxation. Then it was urged by the Delegates representing the States having slaves that the blacks were still more inferior to freemen. At present when the ratio of representation is to be established, we are assured that they are equal to freemen. The arguments on ye. former occasion had convinced him that was pretty near the just proportion and he should vote according to the same opinion now.

Mr. Butler insisted that the labour of a slave in S. Carola. was as productive & valuable as that of a freeman in Massts., that as wealth was the great means of defence and utility to the Nation they are equally valuable to it with freemen; and that consequently an equal representation ought to be allowed for them in a Government which was instituted principally for the protection of property, and was itself to be supported by property.

Mr. Mason. could not agree to the motion, notwithstanding it was favorable to Virga. because he thought it unjust. It was certain that the slaves were valuable, as they raised the value of land, increased the exports & imports, and of course the revenue, would supply the means of feeding & supporting an army, and might in cases of emergency become themselves soldiers. As in these important respects they were useful to the community at large, they ought not to be excluded from the estimate of Representation. He could not however regard them as equal to freemen and could not vote for them as such. He added as worthy of remark, that the Southern States have this peculiar species of property, over & above the other species of property common to all the States.

Mr. Williamson reminded Mr. Ghorum that if the Southn. States contended for the inferiority of blacks to whites when taxation was in view, the Eastern States on the same occasion contended for their equality. He did not however either then or now, concur in either extreme, but approved of the ratio of .

(Madison's Notes (Max Farrand, 1911), Pages 580-581, Vol. 1)

[e672797] It was moved and seconded to strike out the words
 “three fifths of”
 which passed in the negative. [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

On Mr. Butlers motion for considering blacks as equal to Whites in the
 apportionmt. of Representation

Massts. no. Cont. no. (N. Y. not on floor.) N. J. no. Pa. no. Del. ay. Md.
 no. Va no N. C. no. S. C. ay. Geo. ay. [Ayes — 3; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 581, Vol. 1)

[e672798] Mr. Govr. Morris said he had several objections to the proposition
 of Mr. Williamson. 1. It fettered the Legislature too much. 2. it would exclude
 some States altogether who would not have a sufficient number to entitle them
 to a single Representative. 3. it will not consist with the Resolution passed
 on Saturday last authorizing the Legislature to adjust the Representation from
 time to time on the principles of population & wealth or with the principles of
 equity. If slaves were to be considered as inhabitants, not as wealth, then the sd.
 Resolution would not be pursued: If as wealth, then why is no other wealth but
 slaves included? These objections may perhaps be removed by amendments. His
 great objection was that the number of inhabitants was not a proper standard of
 wealth. The amazing difference between the comparative numbers & wealth of
 different Countries, rendered all reasoning superfluous on the subject. Numbers
 might with greater propriety be deemed a measure of stregh, than of wealth,
 yet the late defence made by G. Britain agst. her numerous enemies proved in
 the clearest manner, that it is entirely fallacious even in this respect.

Mr. King thought there was great force in the objections of Mr. Govr. Mor-
 ris: he would however accede to the proposition for the sake of doing something.

(Madison’s Notes (Max Farrand, 1911), Pages 581-582, Vol. 1)

[e672799] It was moved and seconded to postpone the consideration of the
 resolution proposed in order to take up the following namely.

Resolved That at the end of ____ years from the meeting of the Legislature
 of the United-States and at the expiration of every ____ years thereafter the
 Legislature of the United States be required to apportion the representation of
 the several States according to the principles of their wealth and population.

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

Mr. Rutledge contended for the admission of wealth in the estimate by which
 Representation should be regulated. The Western States will not be able to con-
 tribute in proportion to their numbers, they shd. not therefore be represented
 in that proportion. The Atlantic States will not concur in such a plan. He
 moved that “at the end of years after the 1st. meeting of the Legislature, and
 of every years thereafter, the Legislature shall proportion the Representation
 according to the principles of wealth & population”

(Madison’s Notes (Max Farrand, 1911), Page 582, Vol. 1)

[e672800] Mr. Sherman thought the number of people alone the best rule for measuring wealth as well as representation; and that if the Legislature were to be governed by wealth, they would be obliged to estimate it by numbers. He was at first for leaving the matter wholly to the discretion of the Legislature; but he had been convinced by the observations of (Mr. Randolph & Mr. Mason) that the periods & the rule of revising the Representation ought to be fixt by the Constitution

Mr. Reid thought the Legislature ought not to be too much shackled. It would make the Constitution like Religious Creeds, embarrassing to those bound to conform to them & more likely to produce dissatisfaction and Scism, than harmony and union.

Mr. Mason objected to Mr. Rutledge motion, as requiring of the Legislature something too indefinite & impracticable, and leaving them a pretext for doing nothing.

Mr. Wilson had himself no objection to leaving the Legislature entirely at liberty. But considered wealth as an impracticable rule.

Mr. Ghorum. If the Convention who are comparatively so little biased by local views are so much perplexed, How can it be expected that the Legislature hereafter under the full bias of those views, will be able to settle a standard. He was convinced by the arguments of others & his own reflections, that the Convention ought to fix some standard or other.

Mr. Govr. Morris. The argts. of others & his own reflections had led him to a very different conclusion. If we can't agree on a rule that will be just at this time, how can we expect to find one that will be just in all times to come. Surely those who come after us will judge better of things present, than we can of things future. He could not persuade himself that numbers would be a just rule at any time. The remarks of (Mr Mason) relative to the Western Country had not changed his opinion on that head. Among other objections it must be apparent they would not be able to furnish men equally enlightened, to share in the administration of our common interests. The Busy haunts of men not the remote wilderness, was the proper School of political Talents. If the Western people get the power into their hands they will ruin the Atlantic interests. The Back members are always most averse to the best measures He mentioned the case of Pena. formerly. The lower part of the State had ye. power in the first instance. They kept it in yr. own hands. & the country was ye. better for it. Another objection with him agst admitting the blacks into the census, was that the people of Pena. would revolt at the idea of being put on a footing with slaves. They would reject any plan that was to have such an effect. Two objections had been raised agst. leaving the adjustment of the Representation from time to time, to the discretion of the Legislature. The 1. was they would be unwilling to revise it at all. The 2 that by referring to wealth they would be bound by a rule which if willing, they would be unable to execute. The 1st. objn. distrusts their fidelity. But if their duty, their honor & their oaths will not bind them, let us not put into their hands our liberty, and all our other great interests. let us have no Govt. at all. 2. If these ties will bind them. we need not distrust the practicability of the rule. It was followed in part by the Come. in the apportionment of Representatives yesterday reported to the House. The best course that could be taken would be to leave the interests of the people to the Representatives of the people.

Mr. Madison was not a little surprised to hear this implicit confidence

urged by a member who on all occasions, had inculcated so strongly, the political depravity of men, and the necessity of checking one vice and interest by opposing to them another vice & interest. If the Representatives of the people would be bound by the ties he had mentioned, what need was there of a Senate? What of a Revisionary power? But his reasoning was not only inconsistent with his former reasoning, but with itself. at the same time that he recommended this implicit confidence to the Southern States in the Northern Majority, he was still more zealous in exhorting all to a jealousy of a Western majority. To reconcile the gentln. with himself it must be imagined that he determined the human character by the points of the compass. The truth was that all men having power ought to be distrusted⁷ to a certain degree. The case of Pena. had been mentioned where it was admitted that those who were possessed of the power in the original settlement, never admitted the new settlmts. to a due share of it. England was a still more striking example. The power there had long been in the hands of the boroughs, of the minority; who had opposed & defeated every reform which had been attempted. Virga. was in a lesser degree another example. With regard to the Western States, he was clear & firm in opinion that no unfavorable distinctions were admissible either in point of justice or policy. He thought also that the hope of contributions to the Treasury. from them had been much underrated. Future contributions it seemed to be understood on all hands would be principally levied on imports and exports. The extent & fertility of the Western Soil would for a long time give to agriculture a preference over manufactures. Trials would be repeated till some articles could be raised from it that would bear a transportation to places where they could be exchanged for imported manufactures. Whenever the Mississipi should be opened to them, which would of necessity be ye. case as soon as their their population would subject them to any considerable share of the public burdin, imposts on their trade could be collected with less expense & greater certainty, than on that of the Atlantic States. In the meantime, as their supplies must pass thro' the Atlantic States their contributions would be levied in the same manner with those of the Atlantic States. — He could not agree that any substantial objection lay agst. fixig numbers for the perpetual standard of Representation. It was said that Representation & taxation were to go together; that taxation & wealth ought to go together, that population and wealth were not measures of each other. He admitted that in different climates, under different forms of Govt. and in different stages of civilization the inference was perfectly just. He would admit that in no situation numbers of inhabitants were an accurate measure of wealth. He contended however that in the U. States it was sufficiently so for the object in contemplation. Altho' their climate varied considerably, yet as the Govts. the laws, and the manners of all were nearly the same, and the intercourse between different parts perfectly free, population, industry, arts, and the value of labour, would constantly tend to equalize themselves. The value of labour, might be considered as the principal criterion of wealth and ability to support taxes; and this would find its level in different places where the intercourse should be easy & free, with as much certainty as the value of money or any other thing. Wherever labour would yield most, people would resort, till the competition should destroy the inequality. Hence it is that the people are constantly swarming from the more to the less populous places — from Europe to Ama from the Northn. & middle parts of the U. S. to the Southern & Western. They go where land is cheaper, because there labour is

dearer. If it be true that the same quantity of produce raised on the banks of the Ohio is of less value than on the Delaware, it is also true that the same labor will raise twice or thrice, the quantity in the former, that it will raise in the latter situation.

Col. Mason, Agreed with Mr. Govr. Morris that we ought to leave the interests of the people to the Representatives of the people: but the objection was that the Legislature would cease to be the Representatives of the people. It would continue so no longer than the States now containing a majority of the people should retain that majority. As soon as the Southern & Western population should predominate, which must happen in a few years, the power wd be in the hands of the minority, and would never be yielded to the majority, unless provided for by the Constitution

(Madison's Notes (Max Farrand, 1911), Pages 582-586, Vol. 1)

[e672801] It was moved and seconded to postpone the consideration of the resolution proposed in order to take up the following namely.

Resolved That at the end of ____ years from the meeting of the Legislature of the United-States and at the expiration of every ____ years thereafter the Legislature of the United States be required to apportion the representation of the several States according to the principles of their wealth and population.

On the question to postpone, it passed in the negative

[Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 575, Vol. 1)

On the question for postponing Mr. Williamson's motion, in order to consider that of Mr. Rutledge it passed in the negative. Massts. ay. Cont. no. N. J. no. Pa. ay. Del. ay. Md. no. Va. no. N. C. no. S. C. ay. Geo — ay. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 586, Vol. 1)

[e672802] [Editors' note: The Convention decided to divide Williamson's resolution and consider it clause by clause. To mimic this process, the 'whole' version of the resolution has been dropped.]

(2019 Editors)

[e672803] [Editors' note: The Convention decided to divide Williamson's resolution and consider it clause by clause.]

(2019 Editors)

[e672804] It was moved and seconded to agree to the first clause of the resolution, namely.

“That in order to ascertain the alterations that may happen in the population and wealth of the several States a Census shall be taken of the free inhabitants of each State”

(Official Journal (Max Farrand, 1911), Pages 575-576, Vol. 1)

On the question on the first clause of Mr. Williamson's motion as to taking a census of the free inhabitants.

(Madison's Notes (Max Farrand, 1911), Page 586, Vol. 1)

[e672805] It was moved and seconded to agree to the first clause of the resolution, namely.

“That in order to ascertain the alterations that may happen in the population and wealth of the several States a Census shall be taken of the free inhabitants of each State”

which passed in the affirmative [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Pages 575-576, Vol. 1)

On the question on the first clause of Mr. Williamson's motion as to taking a census of the free inhabitants. it passed in the affirmative Masts. ay. Cont. ay. N. J. ay. Pa. ay. Del. no. Md. no. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 586, Vol. 1)

[e672806] [To adjourn. Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

[e672807] [To adjourn. Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

[e672808] It was moved and seconded to agree to the following clause of the resolution, namely

“and three fifths of the inhabitants of other description”

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

the next clause as to of the negroes considered

(Madison's Notes (Max Farrand, 1911), Page 586, Vol. 1)

[e672809] Mr. King. being much opposed to fixing numbers as the rule of representation, was particularly so on account of the blacks. He thought the admission of them along with Whites at all, would excite great discontents among the States having no slaves. He had never said as to any particular point that he would in no event acquiesce in & support it; but he wd. say that if in any case such a declaration was to be made by him, it would be in this. He remarked that in the temporary allotment of Representatives made by the Committee, the Southern States had received more than the number of their white & three fifths of their black inhabitants entitled them to.

Mr. Sherman. S. Carola. had not more beyond her proportion than N. York & N. Hampshire, nor either of them more than was necessary in order to avoid fractions or reducing them below their proportion. Georgia had more; but the rapid growth of that State seemed to justify it. In general the allotment might not be just, but considering all circumstances, he was satisfied with it.

Mr. Ghorum. supported the propriety of establishing numbers as the rule. He said that in Massts. estimates had been taken in the different towns, and that persons had been curious enough to compare these estimates with the

respective numbers of people; and it had been found even including Boston, that the most exact proportion prevailed between numbers & property. He was aware that there might be some weight in what had fallen from his colleague, as to the umbrage which might be taken by the people of the Eastern States. But he recollected that when the proposition of Congs for changing the 8th. art: of Confedn. was before the Legislature of Massts. the only difficulty then was to satisfy them that the negroes ought not to have been counted equally with whites instead of being counted in the ratio of three fifths only.

Mr. Wilson did not well see on what principle the admission of blacks in the proportion of three fifths could be explained. Are they admitted as Citizens? Then why are they not admitted on an equality with White Citizens? Are they admitted as property? then why is not other property admitted into the computation? These were difficulties however which he thought must be overruled by the necessity of compromise. He had some apprehensions also from the tendency of the blending of the blacks with the whites, to give disgust to the people of Pena. as had been intimated by his colleague (Mr Govr. Morris). But he differed from him in thinking numbers of inhabts. so incorrect a measure of wealth. He had seen the Western settlemts. of Pa. and on a comparison of them with the City of Philada. could discover little other difference, than that property was more unequally divided among individuals here than there. Taking the same number in the aggregate in the two situations he believed there would be little difference in their wealth and ability to contribute to the public wants.

Mr. Govr. Morris was compelled to declare himself reduced to the dilemma of doing injustice to the Southern States or to human nature, and he must therefore do it to the former. For he could never agree to give such encouragement to the slave trade as would be given by allowing them a representation for their negroes, and he did not believe those States would ever confederate on terms that would deprive them of that trade.

(Madison's Notes (Max Farrand, 1911), Pages 586-588, Vol. 1)

[e672810] It was moved and seconded to agree to the following clause of the resolution, namely

“and three fifths of the inhabitants of other description”
which passed in the negative. [Ayes — 4; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

On Question for agreeing to include of the blacks
Masts. no. Cont. ay N. J. no. Pa. no. Del. no. Mard. no. Va. ay. N. C.
ay. S. C. no. Geo. ay [Ayes — 6; noes — 4.]

[Editors' note: Madison mistakenly records 6 ayes and 4 noes, but the voting record he includes is consistent with the 4 ayes and 6 noes recorded in the Official Journal.]

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672811] It was moved and seconded to agree to the following clause of the resolution, namely

“On the first year after this form of government shall have been adopted”

[Editors' note: It would seem from subsequent motions that the phrase '— and afterwards on every term of ____ years' was also included in the text of this motion.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

On the question as to taking census the first year after meeting of the Legislature

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672812] It was moved and seconded to agree to the following clause of the resolution, namely

“On the first year after this form of government shall have been adopted”
which passed in the affirmative [Ayes — 7; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

On the question as to taking census the first year after meeting of the Legislature”

Masts. ay. Cont. no. N. J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. ay. S. ay. Geo. no. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672813] It was moved and seconded to fill up the blank with the word “fifteen”

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

On filling the blank for the periodical census with 15 years”.

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672814] It was moved and seconded to fill up the blank with the word “fifteen” which passed unanimously in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

On filling the blank for the periodical census with 15 years”. agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672815] Mr. Madison moved to add after “15 years,” the words “at least” that the Legislature might anticipate when circumstances were likely to render a particular year inconvenient.

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 1)

It was moved and seconded to add after the words fifteen years the words “at least”

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

[e672816] It was moved and seconded to add after the words fifteen years the words “at least”

which passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

Mr. Madison moved to add after “15 years,” the words “at least” that the Legislature might anticipate when circumstances were likely to render a particular year inconvenient.

On this motion for adding “at least”, it passed in the negative the States being equally divided.

Mas. ay. Cont. no. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 5; noes — 5.]

(Madison’s Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672817] It was moved and seconded to agree to the following clause of the resolution namely

“and the Legislature shall alter or augment the representation accordingly”

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

A change of the phraseology of the other clause so as to read; “and the Legislature shall alter or augment the representation accordingly”

(Madison’s Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672818] It was moved and seconded to agree to the following clause of the resolution namely

“and the Legislature shall alter or augment the representation accordingly” which passed unanimously in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

A change of the phraseology of the other clause so as to read; “and the Legislature shall alter or augment the representation accordingly” was agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 588, Vol. 1)

[e672819] On the question to agree to the resolution as amended it passed unanimously in the negative. [Ayes — 0; noes — 10.]

[Editors’ note: Having voted on all clauses and amendments, the Convention voted to reject the entire proposition. Madison’s notes differ from the Journal in that they do not record a vote for Pennsylvania. He writes:

’On the question on the whole resolution of Mr. Williamson as amended.

Mas. no. Cont. no. N. J. no. Del. no. Md. no. Va. no. N. C. no. S. C. no — Geo — no [Ayes — 0; noes — 9.]’ (Page 589, Vol. 1, Madison’s Notes (Max Farrand, 1911)).

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

[e672820] and then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

[e672821] and then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 576, Vol. 1)

1.49 Thursday, 12 July 1787, at 11:00 (s6236)

[e739700] It was moved and seconded to add the following clause to the last resolution agreed to by the House, respecting the representation in the first branch of the Legislature of the U. S. — namely.

“Provided always that direct Taxation ought to be proportioned according to representation”

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

Mr. Govr. Morris moved to add to the clause empowering the Legislature to vary the Representation according to the principles of wealth & number of inhabts. a “proviso that taxation shall be in proportion to Representation”.

(Madison’s Notes (Max Farrand, 1911), Pages 591-592, Vol. 1)

[e739703] Mr Butler contended again that Representation sd. be according to the full number of inhabts. including all the blacks; admitting the justice of Mr. Govr. Morris’s motion. Mr. Mason also admitted the justice of the principle, but was afraid embarrassments might be occasioned to the Legislature by it. It might drive the Legislature to the plan of Requisitions. Mr. Govr. Morris, admitted that some objections lay agst. his motion, but supposed they would be removed by restraining the rule to direct taxation. With regard to indirect taxes on exports & imports & on consumption, the rule would be inapplicable. Notwithstanding what had been said to the contrary he was persuaded that the imports & consumption were pretty nearly equal throughout the Union. General Pinkney liked the idea. He thought it so just that it could not be objected to. But foresaw that if the revision of the census was left to the discretion of the Legislature, it would never be carried into execution. The rule must be fixed, and the execution of it enforced by the Constitution. He was alarmed at what was said yesterday, By Mr Govr Morris concerning the Negroes. He was now again alarmed at what had been thrown out concerning the taxing of exports. S. Carola. has in one year exported to the amount of £600,000 Sterling all which was the fruit of the labor of her blacks. Will she be represented in proportion to this amount? She will not. Neither ought she then to be subject to a tax on it. He hoped a clause would be inserted in the system restraining the Legislature from a taxing Exports. Mr. Wilson approved the principle, but could not see how it could be carried into execution; unless restrained to direct taxation.

(Madison’s Notes (Max Farrand, 1911), Pages 591-592, Vol. 1)

[e739705] Mr. Govr. Morris having so varied his motion by inserting the word “direct”.

(Madison’s Notes (Max Farrand, 1911), Page 592, Vol. 1)

[e739706] It was moved and seconded to add the following clause to the last resolution agreed to by the House, respecting the representation in the first branch of the Legislature of the U. S. — namely.

“Provided always that direct Taxation ought to be proportioned according to representation”

which passed unanimously in the affirmative.

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

Mr. Govr. Morris having so varied his motion by inserting the word “direct”. It passd. nem. con. as follows — ‘provided always that direct taxation ought to be proportioned to representation”.

(Madison’s Notes (Max Farrand, 1911), Pages 592-593, Vol. 1)

[e739707] It was moved and seconded to add the following clause to the last resolution agreed to by the House, respecting the representation in the first branch of the Legislature of the U. S. — namely.

“Provided always that direct Taxation ought to be proportioned according to representation”

which passed unanimously in the affirmative.

[Editors’ note: The vote on Morris’s amended motion on direct taxation was taken as a single vote on the whole amendment. However, for clarity, the editors have represented it as two votes.]

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

Mr. Govr. Morris having so varied his motion by inserting the word “direct”. It passd. nem. con. as follows — ‘provided always that direct taxation ought to be proportioned to representation”.

(Madison’s Notes (Max Farrand, 1911), Pages 592-593, Vol. 1)

[e672827] Mr. Davie, said it was high time now to speak out. He saw that it was meant by some gentlemen to deprive the Southern States of any share of Representation for their blacks. He was sure that N. Carola. would never confederate on any terms that did not rate them at least as . If the Eastern States meant therefore to exclude them altogether the business was at an end.

Dr. Johnson, thought that wealth and population were the true, equitable rule of representation; but he conceived that these two principles resolved themselves into one; population being the best measure of wealth. He concluded therefore that ye. number of people ought to be established as the rule, and that all descriptions including blacks equally with the whites, ought to fall within the computation. As various opinions had been expressed on the subject, he would move that a Committee might be appointed to take them into consideration and report thereon.

Mr. Govr. Morris. It has been said that it is high time to speak out. As one member, he would candidly do so. He came here to form a compact for the good of America. He was ready to do so with all the States: He hoped & believed that all would enter into such a Compact. If they would not he was ready to join with any States that would. But as the Compact was to be voluntary, it is in vain for the Eastern States to insist on what the Southn States will never agree to. It is equally vain for the latter to require what the other States can never admit; and he verily belived the people of Pena. will never agree to a representation of Negroes. What can be desired by these States more than has been already proposed; that the Legislature shall from time to time regulate Representation according to population & wealth.

Gen. Pinkney desired that the rule of wealth should be ascertained and not left to the pleasure of the Legislature; and that property in slaves should not be exposed to danger under a Govt. instituted for the protection of property.

(Madison's Notes (Max Farrand, 1911), Pages 593-594, Vol. 1)

[e739231] It was moved and seconded to postpone the consideration of the first clause in the report from the first grand Committee

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

[e739232] It was moved and seconded to postpone the consideration of the first clause in the report from the first grand Committee
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

The first clause in the Report of the first Grand Committee was postponed

(Madison's Notes (Max Farrand, 1911), Page 594, Vol. 1)

[e739709] It was moved and seconded to add the following amendment to the last clause adopted by the House namely

"and that the rule of contribution by direct taxation for the support of the government of the United States shall be the number of white inhabitants, and three fifths of every other description in the several States, until some other rule that shall more accurately ascertain the wealth of the several States can be devised and adopted by the Legislature"

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

Mr. Elseworth. In order to carry into effect the principle established, moved to add to the last clause adopted by the House the words following "and that the rule of contribution by direct taxation for the support of the Government of the U. States shall be the number of white inhabitants, and three fifths of every other description in the several States, until some other rule that shall more accurately ascertain the wealth of the several States can be devised and adopted by the Legislature" Mr. Butler seconded the motion in order that it might be committed.

(Madison's Notes (Max Farrand, 1911), Page 594, Vol. 1)

[e739899] Mr. Randolph was not satisfied with the motion. The danger will be revived that the ingenuity of the Legislature may evade or pervert the rule so as to perpetuate the power where it shall be lodged in the first instance. He proposed in lieu of Mr. Elseworth's motion, "that in order to ascertain the alterations in Representation that may be required from time to time by changes in the relative circumstances of the States, a census shall be taken within two years from the 1st. meeting of the Genl. Legislature of the U. S. , and once within the term of every year afterwards, of all the inhabitants in the manner & according to the ratio recommended by Congress in their resolution of the 18th day of Apl. 1783; (rating the blacks at of their number) and that the Legislature of the U. S. shall arrange the Representation accordingly."

—He urged strenuously that express security ought to be provided for including slaves in the ratio of Representation. He lamented that such a species of property existed. But as it did exist the holders of it would require this security.

It was perceived that the design was entertained by some of excluding slaves altogether; the Legislature therefore ought not to be left at liberty.

[Editors' note: Madison records that the second blank in the motion was filled in with the text, 'the 18th day of Apl. 1783'. He remarks that this text referred to 'rating the blacks at of their number'. However, much of this text is a later addition, possibly changed as a result of Wilson's subsequent motion. As a result, the editors have used the text of Randolph's motion as recorded in the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 594, Vol. 1)

The last amendment being withdrawn — it was moved and seconded to substitute the following, namely.

"And in order to ascertain the alteration in the representation which may be required from time to time by the changes in the relative circumstances of the States — Resolved that a Census be taken within two years from the first meeting of the Legislature of the United States, and once within the term of every ____ years afterwards of all the inhabitants of the United States in the manner, and according to the ratio recommended by Congress in their resolution of. _____ and that the Legislature of the United States shall arrange the representation accordingly."

(Official Journal (Max Farrand, 1911), Page 589, Vol. 1)

[e739900] Mr. Elseworth withdraws his motion & seconds that of Mr. Randolph.

(Madison's Notes (Max Farrand, 1911), Page 594, Vol. 1)

It was moved and seconded to add the following amendment to the last clause adopted by the House namely

"and that the rule of contribution by direct taxation for the support of the government of the United States shall be the number of white inhabitants, and three fifths of every other description in the several States, until some other rule that shall more accurately ascertain the wealth of the several States can be devised and adopted by the Legislature

The last amendment being withdrawn

(Official Journal (Max Farrand, 1911), Page 589, Vol 1)

[e739901] It was moved and seconded so to alter the last clause adopted by the House that together with the amendment proposed the whole should read as follows namely "Provided always that representation ought to be proportioned according to direct Taxation, and in order to ascertain the alteration in the direct Taxation which may be required from time to time by the changes in the relative circumstances of the States — Resolved that a Census be taken within two years from the first meeting of the Legislature of the United States, and once within the term of everyyears afterwards of all the inhabitants of the United States in the manner and according to the ratio recommended by Congress in their resolution of April 18. 1783 — and that the Legislature of the United States shall proportion the direct Taxation accordingly"

(Official Journal (Max Farrand, 1911), Pages 589-590, Vol. 1)

Mr. Wilson observed that less umbrage would perhaps be taken agst. an admission of the slaves into the Rule of representation, if it should be so expressed as to make them indirectly only an ingredient in the rule, by saying that they should enter into the rule of taxation: and as representation was to be according to taxation, the end would be equally attained. He accordingly moved & was 2ded so to alter the last clause adopted by the House, that together with the amendment proposed the whole should read as follows — provided always that the representation ought to be proportioned according to direct taxation, and in order to ascertain the alterations in the direct taxation which may be required from time to time by the changes in the relative circumstances of the States. Resolved that a census be taken within two years from the first meeting of the Legislature of the U. States, and once within the term of everyyears afterwards of all the inhabitants of the U. S. in the manner and according to the ratio recommended by Congress in their Resolution of April 18 1783; and that the Legislature of the U. S. shall proportion the direct taxation accordingly”

(Madison’s Notes (Max Farrand, 1911), Page 595, Vol. 1)

[e739904] Mr. King. Altho’ this amendment varies the aspect somewhat, he had still two powerful objections agst. tying down the Legislature to the rule of numbers. 1. they were at this time an uncertain index of the relative wealth of the States. 2. if they were a just index at this time it can not be supposed always to continue so. He was far from wishing to retain any unjust advantage whatever in one part of the Republic. If justice was not the basis of the connection it could not be of long duration. He must be short sighted indeed who does not foresee that whenever the Southern States shall be more numerous than the Northern, they can & will hold a language that will awe them into justice. If they threaten to separate now in case injury shall be done them, will their threats be less urgent or effectual, when force shall back their demands. Even in the intervening period there will no point of time at which they will not be able to say, do us justice or we will separate. He urged the necessity of placing confidence to a certain degree in every Govt. and did not conceive that the proposed confidence as to a periodical readjustment of the representation exceeded that degree.

(Madison’s Notes (Max Farrand, 1911), Pages 595-596, Vol. 1)

But if after the taking of the Census, experience shall evince that the foregoing Rule of Taxation is not in a just proportion to the relative Wealth and population of the several States, that the Legislature be authorised to devise & adopt such other Rule or Ratio, as may bear a more direct proportion to the relative Wealth & population of the States in Union —

(King’s Diary (Max Farrand, 1911), Page 597, Vol. 1)

[e739916] It was moved and seconded to strike out the words “in the manner and according to the ratio recommended by Congress in their recommendation of April 18. 1783 — and to substitute the following namely “of every description and condition”

[Editors’ note: From this point onwards, there is disagreement between the Journal and Madison’s notes on the details of events. It was probably a heated

and disjointed session. Madison says that this motion was put forward before CC Pinckney's but voted on later. The Journal only records the moment of the vote. However, Madison suggests that it was an amendment aimed at Randolph's, whereas the Journal suggests it was aimed at Wilson's. The account represented here seems most likely.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

Mr. Pinkney moved to amend Mr. Randolph's motion so as to make "blacks equal to the whites in the ratio of representation". This he urged was nothing more than justice. The blacks are the labourers, the peasants of the Southern States: they are as productive of pecuniary resources as those of the Northern States. They add equally to the wealth, and considering money as the sinew of war, to the strength of the nation. It will also be politic with regard to the Northern States as taxation is to keep pace with Representation.

(Madison's Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739917] It was moved and seconded to strike out the word "Two" and insert the word "Six"

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

Genl. Pinkney moves to insert 6 years instead of two, as the period computing from 1st meeting of ye Legis — within which the first census should be taken.

(Madison's Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739918] It was moved and seconded to strike out the word "Two" and insert the word "Six"

which passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

Genl. Pinkney moves to insert 6 years instead of two, as the period computing from 1st meeting of ye Legis — within which the first census should be taken. On this question for "inserting six instead of two" in the proposition of Mr. Wilson, it passed in the affirmative

Masts. no. Ct. ay. N. J. ay. Pa. ay. Del. divid. Mayd. ay. Va. no. N. C. no. S. C. ay. Geo. no. [Ayes — 5; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739919] On a question for filling the blank for ye. periodical census with 20 years

(Madison's Notes (Max Farrand, 1911), Page 596, Vol. 1)

To fill up the blank with the number "Twenty" in taking the Census.

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

[e739920] To fill up the blank with the number “Twenty” in taking the Census. Ayes — 3; noes — 7.

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

On a question for filling the blank for ye. periodical census with 20 years, it passed in the negative

Masts. no. Ct. ay. N. J. ay. P. ay. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739921] It was moved and seconded to fill up the blank with the word “Ten”

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

On a question for 10 years

(Madison’s Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739922] It was moved and seconded to fill up the blank with the word “Ten” which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

On a question for 10 years, it passed in the affirmative.

Mas. ay. Cont. no. N. J. no. P. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e672842] The question being about to be put upon the clause as amended — The previous question was called for

[Editors’ note: This procedural motion was an effort to end Pinckney’s attempt to remove the ‘Three Fifths Clause’ without holding a vote. It would also end further amendment to Wilson’s proposal for a census and bring about a vote on the proposal as it now stood.

Thomas Jefferson’s ‘Manual of Parliamentary Practice for the Use of the Senate of the United States’ (1801), says that ‘[34.1] When any question is before the House, any member may move a Previous Question “Whether that question (called the Main Question) shall now be put?” If it pass in the affirmative, then the Main Question is to be put immediately, and no man may speak any thing further to it, either to add or alter.’

Farrand suggests that the motion for the previous question happened after the vote on Pinckney’s motion and the subsequent debate. This order would be strange, as it would mean the Convention rejected putting Wilson’s amendment to a vote moments before holding that very vote. It makes more sense that this procedural motion was moved moments prior to holding a vote on Pinckney’s amendment and that the Secretary, having already recorded the amendment to be voted upon, simply recorded the procedural motion in the Journal after the vote.

Though neither the Journal nor Madison records who moved this motion, it likely came from the New Jersey delegation, as they were the only one to vote for it.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

[e672843] The question being about to be put upon the clause as amended —
The previous question was called for,
and passed in the negative. [Ayes — 1; noes — 8; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

[e739923] It was moved and seconded to strike out the words “in the manner and according to the ratio recommended by Congress in their recommendation of April 18. 1783 — and to substitute the following namely “of every description and condition”
which passed in the negative. [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 590, Vol. 1)

On Mr. Pinkney’s motion for rating blacks as equal to whites instead of as

Mas. no. Cont. no. (Dr Johnson ay) N. J. no. Pa. no. (3 agst. 2) Del. no.
Md. no. Va. no. N. C. no. S. C. ay. Geo — ay.
[Ayes — 2; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 596, Vol. 1)

[e739924] Mr. Randolph’s proposition as varied by Mr. Wilson being read for question on the whole.

Mr. Gerry, urged that the principle of it could not be carried into execution as the States were not to be taxed as States. With regard to taxes in imports, he conceived they would be more productive — Where there were no slaves than where there were; the consumption being greater —

Mr. Elseworth. In case of a poll tax there wd. be no difficulty. But there wd. probably be none. The sum allotted to a State may be levied without difficulty according to the plan used by the State in raising its own supplies.

(Madison’s Notes (Max Farrand, 1911), Pages 596-597, Vol. 1)

[e739925] On the question to agree to the clause, as amended, namely

“Provided always that representation ought to be proportioned according to direct Taxation and in order to ascertain the alteration in the direct Taxation which may be required from time to time by the changes in the relative circumstances of the States — Resolved that a Census be taken within six years from the first meeting of the Legislature of the United States and once within the term of every Ten years afterwards of all the inhabitants of the United States in the manner and according to the ratio recommended by Congress in their resolution of April 18. 1783 — and that the Legislature of the U. S. shall proportion the direct Taxation accordingly

[Ayes — 6; noes — 2; divided — 2.]

(Official Journal (Max Farrand, 1911), Pages 590-591, Vol. 1)

On the question on ye. whole proposition; as proportioning representation to direct taxation & both to the white & of black inhabitants, & requiring a census within six years — & within every ten years afterwards.

Mas. divd. Cont. ay. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. divd. Geo. ay. [Ayes — 6; noes — 2; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 597, Vol. 1)

[e739926] [Editors' note: After adopting the amended census clause, the Convention took the proposal into the propositions of the Second Committee on Representation.]

(2019 Editors)

[e672848] And then the House adjourned until to-morrow at 11 o'Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 591, Vol. 1)

[e672849] And then the House adjourned until to-morrow at 11 o'Clock. A. M.

(Official Journal (Max Farrand, 1911), Page 591, Vol. 1)

1.50 Friday, 13 July 1787, at 11:00 (s6237)

[e736412] It was moved and seconded to postpone the consideration of that clause in the report of the grand Committee, which respects the originating of money bills in the first Branch — in order to take up the following, namely “That in the second branch of the Legislature of the United-States each State shall have an equal vote” [Editors' note: This clause had already been agreed; however, it had clearly been tabled for renewed debate in light of the decisions made on the propositions of the Second Committee on Representation.]

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

It being moved to postpone the clause in the Report of the Committee of Eleven as to the originating of money bills in the first branch, in order to take up the following — “that in the 2d branch each State shall have an equal voice.”

(Madison's Notes (Max Farrand, 1911), Page 600, Vol. 1)

[e736413] It was moved and seconded to postpone the consideration of that clause in the report of the grand Committee, which respects the originating of money bills in the first Branch — in order to take up the following, namely

“That in the second branch of the Legislature of the United-States each State shall have an equal vote”

[Editors' note: This clause had already been agreed; however, it had clearly been tabled for renewed debate in light of the decisions made on the propositions of the Second Committee on Representation.]

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

It being moved to postpone the clause in the Report of the Committee of Eleven as to the originating of money bills in the first branch, in order to take up the following — “that in the 2d branch each State shall have an equal voice.”

(Madison’s Notes (Max Farrand, 1911), Page 600, Vol. 1)

[e739929] It was moved and seconded to add the following amendment to the last clause agreed to by the House, namely

“That from the first meeting of the Legislature of the United States until a Census shall be taken, all monies to be raised for supplying the public Treasury by direct Taxation shall be assessed on the inhabitants of the several States according to the number of their representatives respectively in the first Branch

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

Mr. Gerry, moved to add as an amendment to the last clause agreed to by the House “That from the first meeting of the Legislature of the U. S till a census shall be taken all monies to be raised for supplying the public Treasury by direct taxation, shall be assessed on the inhabitants of the several States, according to the number of their Representatives respectively in the 1st. branch.” He said this would be as just before as after the Census: according to the general principle that taxation & Representation ought to go together.

(Madison’s Notes (Max Farrand, 1911), Pages 600-601, Vol. 1)

[e739930] Mr. Williamson feared that N. Hamshire will have reason to complain. 3 members were allotted to her as a liberal allowance for this reason among others, that she might not suppose any advantage to have been taken of her absence. As she was still absent, and had no opportunity of deciding whether she would chuse to retain the number on the condition, of her being taxed in proportion to it, he thought the number ought to be reduced from three to two, before the question on Mr. G’s motion

Mr. Read could not approve of the proposition. He had observed he said in the Committee a backwardness in some of the members from the large States, to take their full proportion of Representatives. He did not then see the motive. He now suspects it was to avoid their due share of taxation. He had no objection to a just & accurate adjustment of Representation & taxation to each other.

Mr. Govr. Morris & Mr. M. adison answered that the charge itself involved an acquittal, since notwithstanding the augmentation of the number of members allotted to Masts. & Va. the motion for proportioning the burdens thereto was made by a member from the former State & was approved by Mr. M from the latter who was on the Come. Mr. Govr. Morris said that he thought Pa. had her due share in 8 members; and he could not in candor ask for more. Mr. M. said that having always conceived that the difference of interest in the U. States lay not between the large & small, but the N. & Southn. States, and finding that the number of members allotted to the N. States was greatly superior, he should have preferred, an addition of two members to the S. States, to wit one to N & 1 to S. Carla. rather than of one member to Virga. He liked the present motion, because it tended to moderate the views both of the opponents & advocates for rating very high, the negroes.

Mr. Elseworth hoped the proposition would be withdrawn. It entered too much into detail. The general principle was already sufficiently settled. As fractions can not be regarded in apportioning the no. of representatives, the rule will be unjust until an actual census shall be made. after that taxation may be precisely proportioned according to the principle established, to the number of inhabitants.

Mr. Wilson hoped the motion would not be withdrawn. If it shd. it will be made from another quarter. The rule will be as reasonable & just before, as after a Census. As to fractional numbers, the Census will not destroy, but ascertain them. And they will have the same effect after as before the Census: for as he understands the rule, it is to be adjusted not to the number of inhabitants, but of Representatives.

Mr. Sherman opposed the motion. He thought the Legislature ought to be left at liberty: in which case they would probably conform to the principles observed by Congs.

Mr. Mason did not know that Virga. would be a loser by the proposed regulation, but had some scruple as to the justice of it. He doubted much whether the conjectural rule which was to precede the census, would be as just, as it would be rendered by an actual census.

[Editors' note: Madison originally notes that Read had 'alluded to the satisfaction expressed by Mr Govr. Morris at the number of 8 first allotted to Pena. and the desire expressed by Mr. Madison, that instead of augmenting the no of Va. N. Carol. & S. Carol. might receive an augmentation. The augmentation of the no of Masts. from 7 to 8 was made in ye. Come. at the instance of Mr. King, tho' Mr. Read seemed to have supposed the contrary.' (Page 601, Vol. 1, Madison's Notes (Max Farrand, 1911)). However, he crosses this out at some later point.]

(Madison's Notes (Max Farrand, 1911), Pages 601-602, Vol. 1)

[e739931] Mr. Elseworth & Mr. Sherman moved to postpone the motion of Mr. Gerry

(Madison's Notes (Max Farrand, 1911), Page 602, Vol. 1)

[e739932] It was moved and seconded to postpone the consideration of the amendment

which passed in the negative [Ayes — 4; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

Mr. Elseworth & Mr. Sherman moved to postpone the motion of Mr. Gerry, on ye. question, it passed in the negative

(Madison's Notes (Max Farrand, 1911), Page 602, Vol. 1)

[e739933] On the question to agree to the amendment

it passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

Question on Mr. Gerry's motion, it passed in the negative, the States being equally divided.

Mas. ay. Cont. no. N. J. no. Pa. ay. Del. no. Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Pages 602-603, Vol. 1)

[e739934] Mr. Gerry finding that the loss of the question had proceeded from an objection with some, to the proposed assessment of direct taxes on the inhabitants of the States, which might restrain the legislature to a poll tax, moved his proposition again, but so varied as to authorize the assessment on the States, which wd. leave the mode to the Legislature viz "that from the 1st meeting of the Legislature of the U. S. untill a census shall be taken, all monies for supplying the public Treasury by direct taxation shall be raised from the several States according to the number of their representatives respectively in the 1st. branch"

[Editors' note: The exact wording for this motion is taken from the Journal, from which Madison amended his notes. Farrand notes that 'this amendment is not included in the compromise adopted on July 16 [...] but it is among the Resolutions referred to the Committee of Detail' (Page 598, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 603, Vol. 1)

It was moved and seconded to agree to the following amendment namely

That from the first meeting of the Legislature of the United States until a Census shall be taken, all monies for supplying the public Treasury by direct Taxation shall be raised from the several States according to the number of their representatives respectively in the first Branch

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

[e739935] It was moved and seconded to agree to the following amendment namely

That from the first meeting of the Legislature of the United States until a Census shall be taken, all monies for supplying the public Treasury by direct Taxation shall be raised from the several States according to the number of their representatives respectively in the first Branch

which passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 598, Vol. 1)

On this varied question it passed in the affirmative

Mas. ay. Cont. no. N. J. no. Pa. divd. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 5; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 603, Vol. 1)

[e672858] It was moved and seconded to reconsider the second clause of the report from the Committee of five — entered on the Journal of the 9th inst

(Official Journal (Max Farrand, 1911), Pages 598-599, Vol. 1)

On the motion of Mr. Randolph, the vote of saturday last authorizing the Legislre. to adjust from time to time, the representation upon the principles of wealth & numbers of inhabitants was reconsidered by common consent

(Madison's Notes (Max Farrand, 1911), Page 603, Vol. 1)

[e672859] It was moved and seconded to reconsider the second clause of the report from the Committee of five — entered on the Journal of the 9th inst which was unanimously agreed to.

(Official Journal (Max Farrand, 1911), Pages 598-599, Vol. 1)

On the motion of Mr. Randolph, the vote of saturday last authorizing the Legislre. to adjust from time to time, the representation upon the principles of wealth & numbers of inhabitants was reconsidered by common consent

(Madison's Notes (Max Farrand, 1911), Page 603, Vol. 1)

[e739936] It was moved and seconded to alter the second clause reported from the Committee of five, entered on the Journal of the 9th instant, so as to read as follows namely

“But as the present situation of the States may probably alter in the number of their inhabitants that the Legislature of the United States be authorised from time to time to apportion the number of representatives: and in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the Legislature of the U. S. shall possess authority to regulate the number of representatives in any of the foregoing cases upon the principle of their number of inhabitants, according to the provisions hereafter mentioned —

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

On the motion of Mr. Randolph, the vote of saturday last authorizing the Legislre. to adjust from time to time, the representation upon the principles of wealth & numbers of inhabitants was reconsidered by common consent in order to strike out “Wealth” and adjust the resolution to that requiring periodical revisions according to the number of whites & three fifths of the blacks: the motion was in the words following — “But as the present situation of the States may probably alter in the number of their inhabitants, that the Legislature of the U. S. be authorized from time to time to apportion the number of representatives: and in case any of the States shall hereafter be divided or any two or more States united or new States created within the limits of the U. S. the Legislature of U. S. shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principle of their number of inhabitants; according to the provisions hereafter mentioned.”

(Madison's Notes (Max Farrand, 1911), Page 603, Vol. 1)

[e739937] Mr. Govr. Morris opposed the alteration as leaving still an incoherence. If Negroes were to be viewed as inhabitants, and the revision was to proceed on the principle of numbers of inhabts. they ought to be added in their entire number, and not in the proportion of 85. If as property, the word wealth

was right, and striking it out would produce the very inconsistency which it was meant to get rid of. — The train of business & the late turn which it had taken, had led him he said, into deep meditation on it, and He wd. candidly state the result. A distinction had been set up & urged, between the Nn. & Southn. States. He had hitherto considered this doctrine as heretical. He still thought the distinction groundless. He sees however that it is persisted in; and that the Southn. Gentleman will not be satisfied unless they see the way open to their gaining a majority in the public Councils. The consequence of such a transfer of power from the maritime to the interior & landed interest will he foresees be such an oppression of commerce, that he shall be obliged to vote for ye. vicious principle of equality in the 2d. branch in order to provide some defence for the N. States agst. it. But to come now more to the point, either this distinction is fictitious or real: if fictitious let it be dismissed & let us proceed with due confidence. If it be real, instead of attempting to blend incompatible things, let us at once take a friendly leave of each other. There can be no end of demands for security if every particular interest is to be entitled to it. The Eastern States may claim it for their fishery, and for other objects, as the Southn. States claim it for their peculiar objects. In this struggle between the two ends of the Union, what part ought the Middle States in point of policy to take: to join their Eastern brethren according to his ideas. If the Southn. States get the power into their hands, and be joined as they will be with the interior Country they will inevitably bring on a war with Spain for the Mississippi. This language is already held. The interior Country having no property nor interest exposed on the sea, will be little affected by such a war. He wished to know what security the Northn. & middle States will have agst. this danger. It has been said that N. C. S. C. and Georgia only will in a little time have a majority of the people of America. They must in that case include the great interior Country, and every thing was to be apprehended from their getting the power into their hands.

Mr. Butler. The security the Southn. States want is that their negroes may not be taken from them which some gentlemen within or without doors, have a very good mind to do. It was not supposed that N. C. S. C & Geo. would have more people than all the other States, but many more relatively to the other States than they now have. The people & strength of America are evidently bearing Southwardly & S. westwdly.

Mr. Wilson. If a general declaration would satisfy any gentleman he had no indisposition to declare his sentiments. Conceiving that all men wherever placed have equal rights and are equally entitled to confidence, he viewed without apprehension the period when a few States should contain the superior number of people. The majority of people wherever found ought in all questions to govern the minority. If the interior Country should acquire this majority they will not only have the right, but will avail themselves of it whether we will or no. This jealousy misled the policy of G. Britain with regard to America. The fatal maxims espoused by her were that the Colonies were growing too fast, and that their growth must be stinted in time. What were the consequences? first. enmity on our part, then actual separation. Like consequences will result on the part of the interior settlements, if like jealousy & policy be pursued on ours. Further. if numbers be not a proper rule, why is not some better rule pointed out. No one has yet ventured to attempt it. Congs. have never been able to discover a better. No State as far as he had heard, has suggested any other. In

1783, after elaborate discussion of a measure of wealth all were satisfied then as they are now that the rule of numbers, does not differ much from the combined rule of numbers & wealth. Again he could not agree that property was the sole or the primary object of Governmt. & Society. The cultivation & improvement of the human mind was the most noble object. With respect to this object, as well as to other personal rights, numbers were surely the natural & precise measure of Representation. And with respect to property, they could not vary much from the precise measure. In no point of view however could the establishmt. of numbers as the rule of representation in the 1st. branch vary his opinion as to the impropriety of letting a vicious principle into the 2d. branch.

(Madison's Notes (Max Farrand, 1911), Pages 603-606, Vol. 1)

[e739938] It was moved and seconded to alter the second clause reported from the Committee of five, entered on the Journal of the 9th instant, so as to read as follows namely

“But as the present situation of the States may probably alter in the number of their inhabitants that the Legislature of the United States be authorised from time to time to apportion the number of representatives: and in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the Legislature of the U. S. shall possess authority to regulate the number of representatives in any of the foregoing cases upon the principle of their number of inhabitants, according to the provisions hereafter mentioned —

On the question to agree to the clause as amended

it passed in the affirmative [Ayes — 9; noes — 0; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

On the question to strike out wealth & to make the change as moved by Mr. Randolph, it passed in the affirmative —

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. divd. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 0; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 1)

[e739939] Mr Reed moved to insert after the word — “divided,” “or enlarged by addition of territory”

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 1)

It was moved and seconded to add after the word “divided” the following words, namely

“or enlarged by addition of territory”

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

[e739940] It was moved and seconded to add after the word “divided” the following words, namely

“or enlarged by addition of territory”

which passed unanimously in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

On the question to strike out wealth & to make the change as moved by Mr. Randolph, it passed in the affirmative —

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. divd. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 0; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 1)

[e739944] [Editors' note: Read's amendment on representation is the last point at which the Convention amends the second proposition of the Report of the Second Committee on Representation individually from the rest of the report. In order for the second proposition to appear in the report document, the editors have added a decision to adopt the second proposition.]

(2019 Editors)

[e672865] [To adjourn Ayes — 6; noes — 4.]

and then the House adjourned until to-morrow at 11 o'Clock A M.

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 1)

[e672866] [To adjourn Ayes — 6; noes — 4.]

and then the House adjourned until to-morrow at 11 o'Clock A M.

(Official Journal (Max Farrand, 1911), Page 599, Vol. 1)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 1)

1.51 Saturday, 14 July 1787, at 11:00 (s6238)

[e739945] [Editors' note: Madison says that, at the opening of the session, 'Mr. L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2d. branch.' (Page 2, Vol. 2, Madison's Notes (Max Farrand, 1911)). From the Convention's subsequent actions, it is clear that they had finished amending the Propositions of the Second Committee on Representation and had accepted them as the revised first clause offered by the First Committee on Representation. The Second Committee on Representation report was therefore accepted and integrated.]

(2019 Editors)

[e672868] [Editors' note: Madison says that, at the opening of the session, 'Mr. L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2d. branch.' (Page 2, Vol. 2, Madison's Notes (Max Farrand, 1911)).

From the Convention's subsequent actions, it is clear that they had finished amending the Propositions of the Second Committee on Representation and had accepted them as the revised first clause offered by the First Committee on Representation. The Second Committee on Representation report was therefore accepted and integrated.]

(2019 Editors)

[*e672869*] [Editors' note: Madison says that, at the opening of the session, 'Mr. L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2d. branch.' (Page 2, Vol. 2, Madison's Notes (Max Farrand, 1911)).

From the Convention's subsequent actions, it is clear that they had finished amending the Propositions of the Second Committee on Representation and had accepted them as the revised first clause offered by the First Committee on Representation. The Second Committee on Representation report was therefore accepted and integrated.]

(2019 Editors)

[*e672870*] It was moved and seconded to agree to the following proposition, namely.

That to secure the liberties of the States already confederated, the number of representatives in the first branch from the States which shall hereafter be established, shall never exceed the representatives from such of the thirteen United States as shall accede to this Confederation.

(Official Journal (Max Farrand, 1911), Page 1, Vol. 2)

Mr. Gerry. wished before the question should be put, that the attention of the House might be turned to the dangers apprehended from Western States. He was for admitting them on liberal terms, but not for putting ourselves into their hands. They will if they acquire power like all men, abuse it. They will oppress commerce, and drain our wealth into the Western Country. To guard agst. these consequences, he thought it necessary to limit the number of new States to be admitted into the Union, in such a manner, that they should never be able to outnumber the Atlantic States. He accordingly moved "that in order to secure the liberties of the States already confederated, the number of Representatives in the 1st. branch of the States which shall hereafter be established shall never exceed in number, the Representatives from such of the States as shall accede to this confederation.

Mr. King. seconded the motion.

(Madison's Notes (Max Farrand, 1911), Pages 2-3, Vol. 2)

[*e672871*] Mr. Sherman, thought there was no probability that the number of future States would exceed that of the Existing States. If the event should ever happen, it was too remote to be taken into consideration at this time. Besides We are providing for our posterity, for our children & our grand Children, who would be as likely to be citizens of new Western States, as of the old States. On this consideration alone, we ought to make no such discrimination as was proposed by the motion.

Mr. Gerry. If some of our children should remove, others will stay behind, and he thought it incumbent on us to provide for their interests. There was a rage for emigration from the Eastern States to the Western Country and he did not wish those remaining behind to be at the mercy of the Emigrants. Besides foreigners are resorting to that Country, and it is uncertain what turn things may take there.

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 2)

[e672872] It was moved and seconded to agree to the following proposition, namely.

That to secure the liberties of the States already confederated, the number of representatives in the first branch from the States which shall hereafter be established, shall never exceed the representatives from such of the thirteen United States as shall accede to this Confederation.

On the question to agree to the proposition
it passed in the negative [Ayes — 4; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 1, Vol. 2)

On the question for agreeing to the Motion of Mr. Gerry, it passed in the negative.

Mas. ay. Cont. ay. N. J. no Pa. divd. Del: ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 2)

[e672873] It was moved and seconded to reconsider the two propositions reported from the grand Committee, and agreed by the House to stand part of the report — entered on the Journal of the 6. instant

(Official Journal (Max Farrand, 1911), Page 1, Vol. 2)

Mr. Rutledge proposed to reconsider the two propositions touching the originating of money bills in the first & the equality of votes in the second branch.

(Madison's Notes (Max Farrand, 1911), Page 3, Vol. 1)

[e672874] Mr. Sherman was for the question on the whole at once. It was he said a conciliatory plan, it had been considered in all its parts, a great deal of time had been spent on it, and if any part should now be altered, it would be necessary to go over the whole ground again.

Mr. L. Martin urged the question on the whole. He did not like many parts of it. He did not like having two branches, nor the inequality of votes in the 1st. branch. He was willing however to make trial of the plan, rather than do nothing.

Mr. Wilson traced the progress of the Report through its several stages, remarking yt when on the question concerning an equality of votes, the House was divided, our Constituents had they voted as their representatives did, would have stood as agst. the equality, and only in favor of it. This fact would ere long be known, and it will appear that this fundamental point has been carried

by agst. . What hopes will our Constituents entertain when they find that the essential principles of justice have been violated in the outset of the Governmt. As to the privilege of originating money bills, it was not considered by any as of much moment, and by many as improper in itself. He hoped both clauses wd. be reconsidered. The equality of votes was a point of such critical importance, that every opportunity ought to be allowed, for discussing and collecting the mind of the Convention on it.

Mr. L. Martin denies that there were agst. the equality of votes. The States that please to call themselves large, are the weekest in the Union. Look at Masts. Look at Virga. Are they efficient States? He was for letting a separation take place if they desired it. He had rather there should be two Confederacies, than one founded on any other principle than an equality of votes in the 2d branch at least.

Mr Wilson was not surprised that those who say that a minority does more than the majority should say that that minority is stronger than the majority. He supposed the next assertion will be that they are richer also, though he hardly expected it would be persisted in when the States shall be called on for taxes & troops —

Mr. Gerry also animadverted on Mr. L. Martins remarks on the weakness of Masts. He favored the reconsideration with a view not of destroying the equality of votes; but of providing that the States should vote per capita. which he said would prevent the delays & inconveniences that had been experienced in Congs. and would give a national aspect & Spirit to the management of business. He did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner stone of the accomodation. If any member of the Convention had the exclusive privilege of making propositions, would any one say that it would give him no advantage over other members. The Report was not altogether to his mind. But he would agree to it as it stood rather than throw it out altogether.

(Madison's Notes (Max Farrand, 1911), Pages 3-5, Vol. 2)

[e672875] The reconsideration being tacitly agreed to

(Madison's Notes (Max Farrand, 1911), Page 5, Vol. 2)

It was moved and seconded to reconsider the two propositions reported from the grand Committee, and agreed by the House to stand part of the report — entered on the Journal of the 6. instant

(Official Journal (Max Farrand, 1911), Page 1, Vol. 2)

[e672876] It was moved and seconded to postpone the second clause of the report from the grand Committee, entered on the Journals of the 6 instant, in order to take up the following. namely

That the second branch of the Legislature shall have Thirty six Members of which number

New Hampshire shall have ...2. Massachusetts ...4 Rhode Island ...1 Connecticut ...3 New York ...3 New Jersey ...2 Pennsylvania ...4 Delaware ...1 Maryland ...3 Virginia ...5 No Carolina ...3 So Carolina ...3 Georgia ...2.

(Official Journal (Max Farrand, 1911), Pages 1-2, Vol. 2)

Mr. Pinkney moved that instead of an equality of votes the States should be represented in the 2d branch as follows: N. H. by 2. members. Mas 4. R. I. 1. Cont. 3. N. Y. 3. N. J. 2. Pa. 4. Del 1. Md. 3. Virga. 5. N. C. 3. S. C. 3. Geo. 2. making in the whole 36.

Mr. Wilson seconds the motion

(Madison's Notes (Max Farrand, 1911), Page 5, Vol. 2)

[e672877] Mr. Dayton. The smaller States can never give up their equality. For himself he would in no event yield that security for their rights.

Mr. Sherman urged the equality of votes not so much as a security for the small States; as for the State Govts. which could not be preserved unless they were represented & had a negative in the Genl. Government. He had no objection to the members in the 2d b. voting per capita, as had been suggested by (Mr. Gerry)

Mr — Madison concurred in the motion of Mr. Pinkney as a reasonable compromise.

Mr. Gerry said he should like the motion, but could see no hope of success. An accomodation must take place, and it was apparent from what had been seen that it could not do so on the ground of the motion. He was utterly against a partial confederacy, leaving other States to accede or not accede; as had been intimated.

Mr. King said it was always with regret that he differed from his colleagues, but it was his duty to differ from (Mr Gerry) on this occasion. He considered the proposed Government as substantially and formally, a General and National Government over the people of America. There never will be a case in which it will act as a federal Government on the States and not on the individual Citizens. And is it not a clear principle that in a free Govt. those who are to be the objects of a Govt. ought to influence the operations of it? What reason can be assigned why the same rule of representation sd. not prevail in the 2d. branch as in the 1st.? He could conceive none. On the contrary, every view of the subject that presented itself, seemed to require it. Two objections had been raised agst. it, drawn 1. from the terms of the existing compact. 2. from a supposed danger to the smaller States. — As to the first objection he thought it inapplicable. According to the existing confederation, the rule by which the public burdens is to be apportioned is fixed, and must be pursued. In the proposed Govermt. it cannot be fixed, because indirect taxation is to be substituted. The Legislature therefore will have full discretion to impose taxes in such modes & proportions as they may judge expedient. As to the 2d. objection, he thought it of as little weight. The Genl. Governt. can never wish to intrude on the State Governts. There could be no temptation. None had been pointed out. In order to prevent the interference of measures which seemed most likely to happen, he would have no objection to throwing all the State debts into the federal debt, making one aggregate debt of about 70,000,000, of dollars, and leaving it to be discharged by the Genl. Govt. — According to the idea of securing the State Govts. there ought to be three distinct legislative branches. The 2d. was admitted to be necessary, and was actually meant, to check the 1st. branch, to give more wisdom, system, & stability to the Govt. and ought clearly as it was to operate on the people to be proportioned to them. For the third purpose of securing the States, there ought then to be a 3d.

branch, representing the States as such and guarding by equal votes their rights & dignities. He would not pretend to be as thoroughly acquainted with his immediate Constituents as his colleagues, but it was his firm belief that Masters would never be prevailed on to yield to an equality of votes. In N. York (he was sorry to be obliged to say any thing relative to that State in the absence of its representatives, but the occasion required it), in N. York he had seen that the most powerful argument used by the considerate opponents to the grant of the Impost to Congress, was pointed agst. the vicious constitution of Congress with regard to representation & suffrage. He was sure that no Govt. could last that was not founded on just principles. He preferred the doing of nothing, to an allowance of an equal vote to all the States. It would be better he thought to submit to a little more confusion & convulsion, than to submit to such an evil. It was difficult to say what the views of different Gentlemen might be. Perhaps there might be some who thought no Government co-extensive with the U. States could be established with a hope of its answering the purpose. Perhaps there might be other fixed opinions incompatible with the object we were pursuing. If there were, he thought it but candid that Gentlemen would speak out that we might understand one another.

Mr. Strong. The Convention had been much divided in opinion. In order to avoid the consequences of it, an accommodation had been proposed. A Committee had been appointed; and though some of the members of it were averse to an equality of votes, a Report has been made in favor of it. It is agreed on all hands that Congress are nearly at an end. If no Accommodation takes place, the Union itself must soon be dissolved. It has been suggested that if we can not come to any general agreement the principal States may form & recommend a scheme of Government. But will the small States in that case ever accede it. Is it probable that the large States themselves will under such circumstances embrace and ratify it. He thought the small States had made a considerable concession in the article of money bills, and that they might naturally expect some concessions on the other side. From this view of the matter he was compelled to give his vote for the Report taken all together.

Mr. Madison expressed his apprehensions that if the proper foundation of Government was destroyed, by substituting an equality in place of a proportional Representation, no proper superstructure would be raised. If the small States really wish for a Government armed with the powers necessary to secure their liberties, and to enforce obedience on the larger members as well as on themselves he could not help thinking them extremely mistaken in their means. He reminded them of the consequences of laying the existing confederation on improper principles. All the principal parties to its compilation, joined immediately in mutilating & fettering the Government in such a manner that it has disappointed every hope placed on it. He appealed to the doctrine & arguments used by themselves on a former occasion. It had been very properly observed by Mr. Patterson that Representation was an expedient by which the meeting of the people themselves was rendered unnecessary; and that the representatives ought therefore to bear a proportion to the votes which their constituents if convened, would respectively have. Was not this remark as applicable to one branch of the Representation as to the other? But it had been said that the Government would in its operation be partly federal, partly national; that altho' in the latter respect the Representatives of the people ought to be in proportion to the people: yet in the former it ought to be according to the number

of States. If there was any solidity in this distinction he was ready to abide by it, if there was none it ought to be abandoned. In all cases where the Genl. Govern. is to act on the people, let the people be represented and the votes be proportional. In all cases where the Govern. is to act on the States as such, in like manner as Cong. now act on them, let the States be represented & the votes be equal. This was the true ground of compromise if there was any ground at all. But he denied that there was any ground. He called for a single instance in which the Genl. Govt. was not to operate on the people individually. The practicability of making laws, with coercive sanctions, for the States as political bodies, had been exploded on all hands. He observed that the people of the large States would in some way or other secure to themselves a weight proportioned to the importance accruing from their superior numbers. If they could not effect it by a proportional representation in the Govt. they would probably accede to no Govt. which did not in great measure depend for its efficacy on their voluntary cooperation; in which case they would indirectly secure their object. The existing confederacy proved that where the acts of the Genl. Govt. were to be executed by the particular Govts the latter had a weight in proportion to their importance. No one would say that either in Cong. or out of Cong. Delaware had equal weight with Pennsylva. If the latter was to supply ten times as much money as the former, and no compulsion could be used, it was of ten times more importance, that she should furnish voluntarily the supply. In the Dutch Confederacy the votes of the Provinces were equal. But Holland, which supplies about half the money, governed the whole republic. He enumerated the objections agst an equality of votes in the 2d. branch, notwithstanding the proportional representation in the first. 1. the minority could negative the will of the majority of the people. 2. they could extort measures by making them a condition of their assent to other necessary measures. 3. they could obtrude measures on the majority by virtue of the peculiar powers which would be vested in the Senate. 4. the evil instead of being cured by time, would increase with every new State that should be admitted, as they must all be admitted on the principle of equality. 5. the perpetuity it would give to the preponderance of the Northn. agst. the Southn. Scale was a serious consideration. It seemed now to be pretty well understood that the real difference of interests lay, not between the large & small but between the N. & Southn. States. The institution of slavery & its consequences formed the line of discrimination. There were 5 States on the South, 8 on the Northn. side of this line. Should a proportl. representation take place it was true, the N. side would still outnumber the other: but not in the same degree, at this time; and every day would tend towards an equilibrium.

Mr. Wilson would add a few words only. If equality in the 2d. branch was an error that time would correct, he should be less anxious to exclude it being sensible that perfection was unattainable in any plan: but being a fundamental and a perpetual error, it ought by all means to be avoided. A vice in the Representation, like an error in the first concoction, must be followed by disease, convulsions, and finally death itself. The justice of the general principle of proportional representation has not in argument at least been yet contradicted. But it is said that a departure from it so far as to give the States an equal vote in one branch of the Legislature is essential to their preservation. He had considered this position maturely, but could not see its application. That the States ought to be preserved he admitted. But does it follow that an equality of

votes is necessary for the purpose? Is there any reason to suppose that if their preservation should depend more on the large than on the small States, the security of the States agst. the Genl. Government would be diminished? Are the large States less attached to their existence, more likely to commit suicide, than the small? An equal vote then is not necessary as far as he can conceive: and is liable, among other objections to this insuperable one: The great fault of the existing Confederacy is its inactivity. It has never been a complaint agst. Congs. that they governed overmuch. The complaint has been that they have governed too little. To remedy this defect we were sent here. Shall we effect the cure by establishing an equality of votes, as is proposed? no; this very equality carries us directly to Congress: to the system which it is our duty to rectify. The small States cannot indeed act, by virtue of this equality, but they may controul the Govt. as they have done in Congs. This very measure is here prosecuted by a minority of the people of America. Is then the object of the Convention likely to be accomplished in this way? Will not our Constituents say? we sent you to form an efficient Govt and you have given us one more complex indeed, but having all the weakness of the former Governnt. He was anxious for uniting all the States under one Governnt. He knew there were some respectable men who preferred three confederacies, united by offensive & defensive alliances. Many things may be plausibly said, some things may be justly said, in favor of such a project. He could not however concur in it himself; but he thought nothing so pernicious as bad first principles.

Mr. Elseworth asked two questions one of Mr. Wilson, whether he had ever seen a good measure fail in Congs. for want of a majority of States in its favor? He had himself never known such an instance: the other of Mr. Madison whether a negative lodged with a majority of the States even the smallest, could be more dangerous than the qualified negative proposed to be lodged in a single Executive Magistrate, who must be taken from some one State?

Mr. Sherman, signified that his expectation was that the Genl. Legislature would in some cases act on the federal principle, of requiring quotas. But he thought it ought to be empowered to carry their own plans into execution, if the States should fail to supply their respective quotas.

(Madison's Notes (Max Farrand, 1911), Pages 5-11, Vol. 2)

[e672878] On the question for agreeing to Mr Pinkney's motion for allowing N. H. 2. Mas. 4. &c — it passed in the negative

Mas. no. Mr. King ay. Mr. Ghorum absent. Cont. no. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. ay Geo. no. [Ayes — 4; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 12, Vol. 2)

on the question to agree to this apportionment, instead of the equality (Mr. Gorham being absent) Mass. Con. N Jer. Del. N Car & Georg. No —

Penn. Mar. Virg. & S Car. Ay —

This Question was taken and to my mortification by the Vote of Mass lost on the 14th. July

(King's Diary (Max Farrand, 1911), Page 12, Vol. 2, 15 July 1787)

On the question to postpone, it passed in the negative. [Ayes — 4; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 2, Vol. 2)

[e672879] and then the House adjourned till Monday

(Official Journal (Max Farrand, 1911), Page 2, Vol. 2)

Adjourned,

(Madison's Notes (Max Farrand, 1911), Page 11, Vol. 2)

[e672880] and then the House adjourned till Monday

(Official Journal (Max Farrand, 1911), Page 2, Vol. 2)

Adjourned,

(Madison's Notes (Max Farrand, 1911), Page 11, Vol. 2)

1.52 Monday, 16 July 1787, at 11:00 (s6239)

[e672881] The question being taken on the whole of the report from the grand Committee as amended

[Editors' note: Jackson evidently draws up a new version of the propositions of the First Committee on Representation to reflect the amendments incorporated from the two subsequent committees on representation. He records the document text opposite in the Journal, perhaps to allow the delegates to see a complete document prior to the vote. Regardless, in doing so, he makes several grammatical changes to the agreed texts and reformats the document slightly.

In the Journal, he makes mistakenly omits Gerry's amendment on taxation prior to a census being held. However, this issue was evidently considered by the Committee of Detail, so the editors assume that it was part of the report that was committed. It is therefore included here. The text in question reads,

'That from the first meeting of the Legislature of the United States until a Census shall be taken, all monies for supplying the public Treasury by direct Taxation shall be raised from the several States according to the number of their representatives respectively in the first Branch.'

(Official Journal (Max Farrand, 1911), Page 13, Vol. 2)

On the question for agreeing to the whole Report as amended & including the equality of votes in the 2d. branch.

(Madison's Notes (Max Farrand, 1911), Page 16, Vol. 2)

[e672882] The question being taken on the whole of the report from the grand Committee as amended

[Editors' note: The vote to accept the amended propositions means that Jackson's redrafted version was tacitly agreed to.]

(Official Journal (Max Farrand, 1911), Page 13, Vol. 2)

[e672883] On the question for agreeing to the whole Report as amended & including the equality of votes in the 2d. branch. it passed in the Affirmative

Mas. divided Mr. Gerry, Mr. Strong. ay. Mr. King Mr. Ghorum no. Cont. ay. N. J. ay. Pena. no. Del. ay. Md. ay. Va. no. N. C. ay. Mr. Spaight no S. C. no. Geo. no. [Ayes — 5; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 15, Vol. 2)

The question being taken on the whole of the report from the grand Committee as amended

it passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 13, Vol. 1)

[e672884] [Editors' note: As the Convention agreed the amended propositions of the First Committee on Representation, the original report was dropped from consideration.]

(2019 Editors)

[e672885] [Editors' note: As the Convention adopted the amended committee propositions, the original second clause of the Seventh Resolution was dropped.]

(2019 Editors)

[e672886] [Editors' note: As the Convention adopted the amended committee propositions, the original Eighth Resolution was dropped.]

(2019 Editors)

[e672887] [Editors' note: Following the Convention adopting the Report of the First Committee on Representation, the amended propositions were re-incorporated into the main resolutions from the Convention as numbers seven and eight.]

(2019 Editors)

[e672888] [Editors' note: Following the Convention adopting the Report of the First Committee on Representation, the amended propositions were re-incorporated into the main resolutions from the Convention as numbers seven and eight.]

(2019 Editors)

[e672889] The 6th. Resol: in the Report from the Come. of the whole House, which had been postponed in order to consider the 7 & 8th. Resol'ns; was now resumed.

(Madison's Notes (Max Farrand, 1911), Page 16, Vol. 2)

[e672890] It was moved and seconded to agree to the first clause of the sixth resolution reported from the Committee of the whole House namely

“That the national Legislature ought to possess the legislative rights vested in Congress by the confederation”

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

The 1s. member “That the Natl. Legislature ought to possess the Legislative Rights vested in Congs. by the Confederation.”

(Madison’s Notes (Max Farrand, 1911), Pages 16-17, Vol. 2)

[e737582] It was moved and seconded to agree to the first clause of the sixth resolution reported from the Committee of the whole House namely

“That the national Legislature ought to possess the legislative rights vested in Congress by the confederation”

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

[e737583] It was moved and seconded to agree to the first clause of the sixth resolution reported from the Committee of the whole House namely

“That the national Legislature ought to possess the legislative rights vested in Congress by the confederation”

which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

The 1s. member “That the Natl. Legislature ought to possess the Legislative Rights vested in Congs. by the Confederation.” was Agreed to nem. Con.

(Madison’s Notes (Max Farrand, 1911), Pages 16-17, Vol. 2)

[e672892] The next “And moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation,” being read for a question

(Madison’s Notes (Max Farrand, 1911), Page 17, Vol. 2)

The next “And moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation,” being read for a question

(Madison’s Notes (Max Farrand, 1911), Page 17, Vol. 2)

[e672893] Mr. Butler calls for some explanation of the extent of this power; particularly of the word incompetent. The vagueness of the terms rendered it impossible for any precise judgment to be formed.

Mr. Ghorum. The vagueness of the terms constitutes the propriety of them. We are now establishing general principles, to be extended hereafter into details which will be precise & explicit.

(Madison’s Notes (Max Farrand, 1911), Page 17, Vol. 2)

[e672894] It was moved and seconded to commit the second clause of the Sixth resolution reported from the Committee of the whole House

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

Mr. Rutledge, urged the objection started by Mr. Butler and moved that the clause should be committed to the end that a specification of the powers comprised in the general terms, might be reported.

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 2)

[e672895] It was moved and seconded to commit the second clause of the Sixth resolution reported from the Committee of the whole House which passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

On the question for a commitment, the States were equally divided
 Mas. no. Cont. ay. N. J. no. Pa. no. Del. no. Md. ay. Va. ay. N. C. no.
 S. C. ay. Geo. ay: So it was lost. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 17, Vol. 2)

[e672896] Mr. Randolph. The vote of this morning (involving an equality of suffrage in 2d. branch) had embarrassed the business extremely. All the powers given in the Report from the Come. of the whole, were founded on the supposition that a Proportional representation was to prevail in both branches of the Legislature — When he came here this morning his purpose was to have offered some propositions that might if possible have united a great majority of votes, and particularly might provide agst. the danger suspected on the part of the smaller States, by enumerating the cases in which it might lie, and allowing an equality of votes in such cases. But finding from the preceding vote that they persist in demanding an equal vote in all cases, that they have succeeded in obtaining it, and that N. York if present would probably be on the same side, he could not but think we were unprepared to discuss this subject further. It will probably be in vain to come to any final decision with a bare majority on either side For these reasons he wished the Convention might adjourn, that the large States might consider the steps proper to be taken in the present solemn crisis of the business, and that the small States might also deliberate on the means of conciliation.

[Editors' note: Madison later records that Paterson seconded the motion.]

(Madison's Notes (Max Farrand, 1911), Pages 17-18, Vol. 2)

To adjourn

(Official Journal (Max Farrand, 1911), Page 14, Vol. 1)

[e672897] [Editors' note: Madison says that on 10 July 1787, Randolph gave him a plan to propose as an alternative to equal votes in the Senate (Madison Papers, XII, p. 60, and printed in Documentary History of the Constitution, V, pp. 437-38).

It was this plan that Randolph had intended to present to the Convention on 16 July, but due to the previous vote, decided to drop.]

(Appendix A (Max Farrand, 1911), Pages 55-56, Vol. 3)

[e672898] But finding from the preceding vote that they persist in demanding an equal vote in all cases, that they have succeeded in obtaining it, and that N. York if present would probably be on the same side, he could not but think we were unprepared to discuss this subject further.

(Madison's Notes (Max Farrand, 1911), Pages 17-18, Vol. 2)

[e672899] Mr. Patterson, thought with Mr. R. that it was high time for the Convention to adjourn that the rule of secrecy ought to be rescinded, and that our Constituents should be consulted. No conciliation could be admissible on the part of the smaller States on any other ground than that of an equality of votes in the 2d. branch. If Mr Randolph would reduce to form his motion for an adjournment sine die, he would second it with all his heart.

Genl. Pinkney wished to know of Mr R. whether he meant an adjournment sine die, or only an adjournment for the day. If the former was meant, it differed much from his idea He could not think of going to S. Carolina, and returning again to this place. Besides it was chimerical to suppose that the States if consulted would ever accord separately, and beforehand.

Mr. Randolph, had never entertained an idea of an adjournment sine die; & was sorry that his meaning had been so readily & strangely misinterpreted. He had in view merely an adjournment till tomorrow in order that some conciliatory experiment might if possible be devised, and that in case the smaller States should continue to hold back, the larger might then take such measures, he would not say what, as might be necessary.

Mr. Patterson seconded the adjournment till tomorrow, as an opportunity seemed to be wished by the larger States to deliberate further on conciliatory expedients.

(Madison's Notes (Max Farrand, 1911), Page 18, Vol. 2)

[e672900] On the question for adjourning till tomorrow, the States were equally divided.

Mas. no. Cont. no. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. So it was lost. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Pages 18-19, Vol. 2)

To adjourn Ayes — 5; noes — 5.

(Official Journal (Max Farrand, 1911), Page 14, Vol. 2)

[e672901] Mr. Broome thought it his duty to declare his opinion agst. an adjournment sine die, as had been urged by Mr. Patterson. Such a measure he thought would be fatal. Something must be done by the Convention tho' it should be by a bare majority. Mr. Broome thought it his duty to declare his opinion agst. an adjournment sine die, as had been urged by Mr. Patterson. Such a measure he thought would be fatal. Something must be done by the Convention tho' it should be by a bare majority.

Mr. Gerry observed that Masts. was opposed to an adjournment, because they saw no new ground of compromise. But as it seemed to be the opinion of so many States that a trial shd be made, the State would now concur in the adjournmt.

Mr. Rutledge could see no need of an adjournment. because he could see no chance of a compromise. The little States were fixt. They had repeatedly & solemnly declared themselves to be so. All that the large States then had to do, was to decide whether they would yield or not. For his part he conceived that altho' we could not do what we thought best, in itself, we ought to do something. Had we not better keep the Govt. up a little longer, hoping that another Convention will supply our omissions, than abandon every thing to hazard. Our Constituents will be very little satisfied with us if we take the latter course.

(Madison's Notes (Max Farrand, 1911), Page 19, Vol. 2)

[e672902] [To adjourn Ayes — 7; noes — 2; divided — 1.]

And then the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Pages 14-15, Vol. 2)

Mr. Randolph & Mr. King renewed the motion to adjourn till tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 19, Vol. 2)

[e672903] [To adjourn Ayes — 7; noes — 2; divided — 1.]

And then the House adjourned till to-morrow at 11 o'Clock A. M

(Official Journal (Max Farrand, 1911), Pages 14-15, Vol. 2)

Mr. Randolph & Mr. King renewed the motion to adjourn till tomorrow.

On the question Mas. ay. Cont. no. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. divid. [Ayes — 7; noes — 2; divided — 1.]

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 19, Vol. 2)

1.53 Tuesday, 17 July 1787, at 11:00 (s6240)

[e740065] Mr. Governr. Morris moved to reconsider the whole Resolution agreed to yesterday concerning the constitution of the 2 branches of the Legislature. His object was to bring the House to a consideration in the abstract of the powers necessary to be vested in the general Government. It had been said, Let us know how the Govt. is to be modelled, and then we can determine what powers can be properly given to it. He thought the most eligible course was, first to determine on the necessary powers, and then so to modify the Governr. as that it might be justly & properly enabled to administer them. He feared if we proceeded to a consideration of the powers, whilst the vote of yesterday including an equality of the States in the 2d. branch, remained in force, a reference to it, either mental or expressed, would mix itself with the merits of every question concerning the powers. — this motion was not seconded. (It was probably approved by several members, who either despaired of success, or were apprehensive that the attempt would inflame the jealousies of the smaller States.)

(Madison's Notes (Max Farrand, 1911), Page 25, Vol. 2)

[e740066] this motion was not seconded. (It was probably approved by several members, who either despaired of success, or were apprehensive that the attempt would inflame the jealousies of the smaller States.)

[Editors' note: The motion was dropped for lack of a second.]

(Madison's Notes (Max Farrand, 1911), Page 25, Vol. 2)

[e672906] The 6th. Resoln. in the Report of the Come. of the whole relating to the powers, which had been postponed in order to consider the 7 & 8th. relating to the Constitution of the, Natl. Legislature, was now resumed —

Mr. Sherman observed that it would be difficult to draw the line between the powers of the Genl. Legislatures, and those to be left with the States; that he did not like the definition contained in the Resolution, and proposed in place of the words "of individual legislation" line 4 inclusive, to insert "to make laws binding on the people of the United States in all cases which may concern the common interests of the Union ; but not to interfere with the Government of the individual States in any matters of internal police which respect the Govt. of such States only, and wherein the General welfare of the U. States is not concerned."

Mr. Wilson 2ded. the amendment as better expressing the general principle.

[Editors' note: The exact wording of the motion comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 26, Vol. 2)

It was moved and seconded to postpone the considn of the second clause of the Sixth resolution reported from the Committee of the whole House in order to take up the following

"To make laws binding on the People of the United States in all cases which may concern the common interests of the Union: but not to interfere with the government of the individual States in any matters of internal police which respect the government of such States only, and wherein the general welfare of the United States is not concerned."

(Official Journal (Max Farrand, 1911), Page 21, Vol. 2)

[e672907] Mr Govr Morris opposed it. The internal police, as it would be called & understood by the States ought to be infringed in many cases, as in the case of paper money & other tricks by which Citizens of other States may be affected.

Mr. Sherman, in explanation of his ideas read an enumeration of powers, including the power of levying taxes on trade, but not the power of direct taxation.

Mr. Govr. Morris remarked the omission, and inferred that for the deficiencies of taxes on consumption, it must have been the meaning of Mr. Sherman, that the Genl. Govt. should recur to quotas & requisitions, which are subversive of the idea of Govt.

Mr. Sherman acknowledged that his enumeration did not include direct taxation. Some provision he supposed must be made for supplying the deficiency of other taxation, but he had not formed any.

(Madison's Notes (Max Farrand, 1911), Page 26, Vol. 2)

[e672908] It was moved and seconded to postpone the considn of the second clause of the Sixth resolution reported from the Committee of the whole House in order to take up the following

“To make laws binding on the People of the United States in all cases which may concern the common interests of the Union: but not to interfere with the government of the individual States in any matters of internal police which respect the government of such States only, and wherein the general welfare of the United States is not concerned.”

which passed in the negative [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 21, Vol. 2)

On Question on Mr. Sherman’s motion, it passed in the negative

Mas. no. Cont. ay. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 26, Vol. 2)

[e672909] Mr. Bedford moved that the 2d. member of Resolution 6. be so altered as to read “ and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent,” or in which the harmony of the U. States may be interrupted by the exercise of individual Legislation”.

Mr. Govr. Morris 2ds. the motion.

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 26, Vol. 2)

It was moved and seconded to alter the second clause of the 6th esolution so as to read as follows, namely

“and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation

(Official Journal (Max Farrand, 1911), Page 21, Vol. 2)

[e672910] Mr. Randolph. This is a formidable idea indeed. It involves the power of violating all the laws and constitutions of the States, and of intermeddling with their police. The last member of the sentence is also superfluous, being included in the first.

Mr. Bedford. It is not more extensive or formidable than the clause as it stands: no State being separately competent to legislate for the general interest of the Union.

(Madison’s Notes (Max Farrand, 1911), Pages 26-27, Vol. 2)

[e672911] It was moved and seconded to alter the second clause of the 6th esolution so as to read as follows, namely

“and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation

which passed in the affirmative [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 21, Vol. 2)

On question for agreeing to Mr. Bedford's motion. it passed in the affirmative.

Mas. ay. Cont. no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. no. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 27, Vol. 2)

[e672912] [To agree to the second clause of the 6. resolution as amended. Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 21, Vol. 2)

On the sentence as amended, it passed in the affirmative.

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 27, Vol. 2)

[e672913] On the question to agree to the following clause of the sixth resolution reported from the Committee of the whole House, namely,

“to negative all laws passed by the several States contravening in the opinion of the national legislature, the articles of union, or any treaties subsisting under the authority of the Union”

(Official Journal (Max Farrand, 1911), Pages 21-22, Vol. 2)

The next. — “To negative all laws passed by the several States contravening in the opinion of the Nat: Legislature the articles of Union, or any treaties subsisting under the authority of ye Union”

(Madison's Notes (Max Farrand, 1911), Page 27, Vol. 2)

[e672914] Mr. Govr. Morris opposed this power as likely to be terrible to the States, and not necessary, if sufficient Legislative authority should be given to the Genl. Government.

Mr. Sherman thought it unnecessary, as the Courts of the States would not consider as valid any law contravening the Authority of the Union, and which the legislature would wish to be negatived.

Mr. L. Martin considered the power as improper & inadmissable. Shall all the laws of the States be sent up to the Genl. Legislature before they shall be permitted to operate?

Mr. Madison, considered the negative on the laws of the States as essential to the efficacy & security of the Genl. Govt. The necessity of a general Govt. proceeds from the propensity of the States to pursue their particular interests in opposition to the general interest. This propensity will continue to disturb the system, unless effectually controuled. Nothing short of a negative, on their laws will controul it. They can pass laws which will accomplish their injurious objects before they can be repealed by the Genl Legisre. or be set aside by the National Tribunals. Confidence can not be put in the State Tribunals as guardians of the National authority and interests. In all the States these are

more or less dependt. on the Legislatures. In Georgia they are appointed annually by the Legislature. In R. Island the Judges who refused to execute an unconstitutional law were displaced, and others substituted, by the Legislature who would be willing instruments of the wicked & arbitrary plans of their masters. A power of negating the improper laws of the States is at once the most mild & certain means of preserving the harmony of the system. Its utility is sufficiently displayed in the British System. Nothing could maintain the harmony & subordination of the various parts of the empire, but the prerogative by which the Crown, stifles in the birth every Act of every part tending to discord or encroachment. It is true the prerogative is sometimes misapplied thro' ignorance or a partiality to one particular part of ye. empire: but we have not the same reason to fear such misapplications in our System. As to the sending all laws up to the Natl. Legisl: that might be rendered unnecessary by some emanation of the power into the States, so far at least, as to give a temporary effect to laws of immediate necessity.

Mr. Govr. Morris was more & more opposed to the negative. The proposal of it would disgust all the States. A law that ought to be negated will be set aside in the Judiciary department. and if that security should fail; may be repealed by a National. law.

Mr. Sherman. Such a power involves a wrong principle, to wit, that a law of a State contrary to the articles of the Union, would if not negated, be valid & operative.

Mr. Pinkney urged the necessity of the Negative.

(Madison's Notes (Max Farrand, 1911), Pages 27-28, Vol. 2)

[e672915] On the question to agree to the following clause of the sixth resolution reported from the Committee of the whole House, namely,

“to negative all laws passed by the several States contravening in the opinion of the national legislature, the articles of union, or any treaties subsisting under the authority of the Union”

it passed in the negative [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Pages 21-22, Vol. 2)

On the question for agreeing to the power of negating laws of States &c.” it passed in the negative.

Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 28, Vol. 2)

[e672916] It was moved and seconded to agree to the following resolution namely.

Resolved that the legislative acts of the United States made by virtue and in pursuance of the articles of Union and all Treaties made and ratified under the authority of the United States shall be the supreme law of the respective States as far as those acts or Treaties shall relate to the said States, or their Citizens and Inhabitants — and that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding

[Editors' note: Madison records Luther Martin as the proposer.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

Mr. Luther Martin moved the following resolution “that the Legislative acts of the U. S. made by virtue & in pursuance of the articles of Union, and all treaties made & ratified under the authority of the U. S. shall be the supreme law of the respective States, as far as those acts or treaties shall relate to the said States, or their Citizens and inhabitants — & that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding”

(Madison’s Notes (Max Farrand, 1911), Pages 28-29, Vol. 2)

[e672917] It was moved and seconded to agree to the following resolution namely.

Resolved that the legislative acts of the United States made by virtue and in pursuance of the articles of Union and all Treaties made and ratified under the authority of the United States shall be the supreme law of the respective States as far as those acts or Treaties shall relate to the said States, or their Citizens and Inhabitants — and that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding

which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

Mr. Luther Martin moved the following resolution “that the Legislative acts of the U. S. made by virtue & in pursuance of the articles of Union, and all treaties made & ratified under the authority of the U. S. shall be the supreme law of the respective States, as far as those acts or treaties shall relate to the said States, or their Citizens and inhabitants — & that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding” which was agreed to nem: con:.

(Madison’s Notes (Max Farrand, 1911), Pages 28-29, Vol. 2)

[e672918] [Editors’ note: As Martin’s final amendment was agreed, the Sixth Resolution was adopted, and the Convention moved on to consider the Ninth Resolution.]

(2019 Editors)

[e672919] [Editors’ note: The Convention considered the Committee of the Whole’s Ninth Resolution clause by clause.]

(2019 Editors)

[e672920] On the question to agree to the first clause of the 9th resolution reported from the Committee of the whole House namely “That a national Executive be instituted to consist of a Single Person”

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

9th. Resol: “that Natl. Executive consist of a single person.”

(Madison's Notes (Max Farrand, 1911), Page 29, Vol. 2)

[e672921] On the question to agree to the first clause of the 9th resolution reported from the Committee of the whole House namely "That a national Executive be instituted to consist of a Single Person"

it passed unanimously in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

9th. Resol: "that Natl. Executive consist of a single person." Agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 29, Vol. 2)

[e672922] "To be chosen by the National Legisl:"

(Madison's Notes (Max Farrand, 1911), Page 29, Vol. 2)

[e672923] Mr. Governr. Morris was pointedly agst. his being so chosen. He will be the mere creature of the Legisl: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country. That difficulties attend this mode, he admits. But they have been found superable in N. Y. & in Cont. and would he believed be found so, in the case of an Executive for the U. States. If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction: it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment. He moved to strike out "National Legislature" & insert "citizens of U. S"

(Madison's Notes (Max Farrand, 1911), Page 29, Vol. 2)

[e672924] It was moved and seconded to strike the words

"national legislature" out of the second clause of the 9th resolution, reported from the Committee of the whole House and to insert the words

"the Citizens of the United States"

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

He moved to strike out "National Legislature" & insert "citizens of U. S"

(Madison's Notes (Max Farrand, 1911), Page 29, Vol. 2)

[e672925] Mr. Sherman thought that the sense of the Nation would be better expressed by the Legislature, than by the people at large. The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the Legislr. A majority of voices may be made necessary to constitute an election.

Mr. Wilson. two arguments have been urged agst. an election of the Executive Magistrate by the people. 1 the example of Poland where an Election of the supreme Magistrate is attended with the most dangerous commotions.

The cases he observed were totally dissimilar. The Polish nobles have resources & dependents which enable them to appear in force, and to threaten the Republic as well as each other. In the next place the electors all assemble in one place: which would not be the case with us. The 2d. argt. is that a majority of the people would never concur. It might be answered that the concurrence of a majority of people is not a necessary principle of election, nor required as such in any of the States. But allowing the objection all its force, it may be obviated by the expedient used in Masts. where the Legislature by majority of voices, decide in case a majority of people do not concur in favor of one of the candidates. This would restrain the choice to a good nomination at least, and prevent in a great degree intrigue & cabal. A particular objection with him agst. an absolute election by the Legislre. was that the Exec: in that case would be too dependent to stand the mediator between the intrigues & sinister views of the Representatives and the general liberties & interests of the people.

Mr. Pinkney did not expect this question would again have been brought forward; An Election by the people being liable to the most obvious & striking objections. They will be led by a few active & designing men. The most populous States by combining in favor of the same individual will be able to carry their points. The Natl. Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of a fit man to carry them properly into execution.

Mr. Govr. Morris. It is said that in case of an election by the people the populous States will combine & elect whom they please. Just the reverse. The people of such States cannot combine. If there be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men. This might happen in a small district. It can never happen throughout the continent. In the election of a Govr. of N. York, it sometimes is the case in particular spots, that the activity & intrigues of little partizans are successful, but the general voice of the State is never influenced by such artifices. It is said the multitude will be uninformed. It is true they would be uninformed of what passed in the Legislative Conclave, if the election were to be made there; but they will not be uninformed of those great & illustrious characters which have merited their esteem & confidence. If the Executive be chosen by the Natl. Legislature, he will not be independent on it; and if not independent, usurpation & tyranny on the part of the Legislature will be the consequence. This was the case in England in the last Century. It has been the case in Holland, where their Senates have engrossed all power. It has been the case every where. He was surprised that an election by the people at large should ever have been likened to the polish election of the first Magistrate. An election by the Legislature will bear a real likeness to the election by the Diet of Poland. The great must be the electors in both cases, and the corruption & cabal wch are known to characterize the one would soon find their way into the other. Appointments made by numerous bodies, are always worse than those made by single responsible individuals, or by the people at large.

Col. Mason. It is curious to remark the different language held at different times. At one moment we are told that the Legislature is entitled to thorough confidence, and to indefinite power. At another, that it will be governed by intrigue & corruption, and cannot be trusted at all. But not to dwell on this inconsistency he would observe that a Government which is to last ought at least to be practicable. Would this be the case if the proposed election should

be left to the people at large. He conceived it would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates. —

Mr Wilson. could not see the contrariety stated (by Col. Mason) The Legislre. might deserve confidence in some respects, and distrust in others. In acts which were to affect them & yr. Constituents precisely alike confidence was due. In others jealousy was warranted. The appointment to great offices, when the Legislre might feel many motives, not common to the public confidence was surely misplaced. This branch of business it was notorious, was most corruptly managed of any that had been committed to legislative bodies.

Mr. Williamson, conceived that there was the same difference between an election in this case, by the people and by the legislature, as between an appt. by lot, and by choice. There are at present distinguished characters, who are known perhaps to almost every man. This will not always be the case. The people will be sure to vote for some man in their own State, and the largest State will be sure to succede. This will not be Virga. however. Her slaves will have no suffrage. As the Salary of the Executive will be fixed, and he will not be eligible a 2d. time, there will not be such a dependence on the Legislature as has been imagined.

(Madison's Notes (Max Farrand, 1911), Pages 29-32, Vol. 2)

[e672926] It was moved and seconded to strike the words
 “national legislature” out of the second clause of the 9th resolution, reported from the Committee of the whole House and to insert the words
 “the Citizens of the United States”
 which passed in the negative [Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

Question on an election by the people instead of the Legislature; which passed in the negative.

Mas. no. Cont. no. N. J. no. Pa. ay. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672927] It was moved and seconded to alter the second clause of the 9th resolution reported from the Committee of the whole House so as to read

“To be chosen by Electors to be appointed by the several Legislatures of the individual States”

[Editors' note: Madison records Luther Martin as the proposer and Broom as the seconder.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

Mr. L. Martin moved that the Executive be chosen by Electors appointed by the several Legislatures of the individual States.

Mr. Broome 2ds.

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672928] It was moved and seconded to alter the second clause of the 9th resolution reported from the Committee of the whole House so as to read

“To be chosen by Electors to be appointed by the several Legislatures of the individual States”

which passed in the negative [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

Mr. L. Martin moved that the Executive be chosen by Electors appointed by the several Legislatures of the individual States.

Mr. Broome 2ds. On the Question, it passed in the negative.

Mas. no. Cont. no. N. J. no. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672929] It was moved and seconded to agree to the following clause namely

“to be chosen by the national Legislature

which passed unan: in the affirmative. [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 22, Vol. 2)

On the question on the words “to be chosen by the Nationl. Legislature” it passed unanimously in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672930] “For the term of seven years”

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e734238] It was moved and seconded to postpone the consideration of the following clause

for the term of seven years”

(Official Journal (Max Farrand, 1911), Pages 22-23, Vol. 2)

“For the term of seven years” — postponed nem. con. on motion of Mr. Houston & Gov. Morris.

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e734239] It was moved and seconded to postpone the consideration of the following clause

for the term of seven years”

which was unanimously agreed to

(Official Journal (Max Farrand, 1911), Pages 22-23, Vol. 2)

“For the term of seven years” — postponed nem. con. on motion of Mr. Houston & Gov. Morris.

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672932] On the question to agree to the following clause namely
 “with power to carry into effect the national laws”

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

“to carry into execution the nationl. laws”

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672933] On the question to agree to the following clause namely
 “with power to carry into effect the national laws”
 it passed unanimously in ye affirmative

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

“to carry into execution the nationl. laws” — agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672934] On the question to agree to the following clause namely
 “to appoint to offices in cases not otherwise provided for”

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

“to appoint to offices in cases not otherwise provided for”

(Madison's Notes (Max Farrand, 1911), Page 32, Vol. 2)

[e672935] On the question to agree to the following clause namely
 “to appoint to offices in cases not otherwise provided for”
 it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

“to appoint to offices in cases not otherwise provided for”. — agreed to nem.
 con.

(Madison's Notes (Max Farrand, 1911), Pages 32-33, Vol. 2)

[e672936] “to be ineligible a second time”

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

[e672937] “to be ineligible a second time” — Mr. Houston moved to strike out
 this clause.

Mr. Sherman 2ds. the motion.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

It was moved and seconded to strike out the following words namely
 “to be ineligible a second time”

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

[e672938] Mr. Govr. Morris espoused the motion. The ineligibility proposed by the clause as it stood tended to destroy the great motive to good behavior, the hope of being rewarded by a re-appointment. It was saying to him, make hay while the sun shines.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

[e672939] It was moved and seconded to strike out the following words namely "to be ineligible a second time" which passed in the affirmative [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

On the question for striking out as moved by Mr. Houston, it passed in the affirmative.

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. ay. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

[e672940] [Editors' note: The decision to accept Houstoun's motion is, in effect, a rejection of the Sixth Clause.]

(2019 Editors)

[e672941] Mr. Broom was for a shorter term since the Executive Magistrate was now to be re-eligible. Had he remained ineligible a 2d. time, he should have preferred a longer term.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

[e672942] Doctr. McClurg moved to strike out 7 years, and insert "during good behavior". By striking out the words declaring him not re-eligible, he was put into a situation that would keep him dependent for ever on the Legislature; and he conceived the independence of the Executive to be equally essential with that of the Judiciary department.

Mr. Govr. Morris 2ded. the motion.

The probable object of this motion was merely to enforce the argument against the re-eligibility of the Executive Magistrate, by holding out a tenure during good behaviour as the alternative for keeping him independent of the Legislature.

[Editors' note: The Journal's version of the amendment text omits the word 'during'.]

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 2)

It was moved and seconded to strike out the words "seven years" and to insert the words "good behaviour."

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

[e672943] Mr. Govr. Morris 2ded. the motion. He expressed great pleasure in hearing it. This was the way to get a good Government. His fear that so valuable an ingredient would not be attained had led him to take the part he had done. He was indifferent how the Executive should be chosen, provided he held his place by this tenure.

Mr. Broome highly approved the motion. It obviated all his difficulties.

Mr. Sherman considered such a tenure as by no means safe or admissible. As the Executive Magistrate is now re-eligible, he will be on good behavior as far as will be necessary. If he behaves well he will be continued; if otherwise, displaced on a succeeding election.

Mr. Madison. If it be essential to the preservation of liberty that the Legislat: Execut: & Judiciary powers be separate, it is essential to a maintenance of the separation, that they should be independent of each other. The Executive could not be independent of the Legislature, if dependent on the pleasure of that branch for a re-appointment. Why was it determined that the Judges should not hold their places by such a tenure? Because they might be tempted to cultivate the Legislature, by an undue complaisance, and thus render the Legislature the virtual expositor, as well the maker of the laws. In like manner a dependence of the Executive on the Legislature, would render it the Executor as well as the maker of laws; & then according to the observation of Montesquieu, tyrannical laws may be made that they may be executed in a tyrannical manner. There was an analogy between the Executive & Judiciary departments in several respects. The latter executed the laws in certain cases as the former did in others. The former expounded & applied them for certain purposes, as the latter did for others. The difference between them seemed to consist chiefly in two circumstances — 1. The collective interest & security were much more in the power belonging to the Executive than to the Judiciary department. 2. in the administration of the former much greater latitude is left to opinion and discretion than in the administration of the latter. But if the 2d. consideration proves that it will be more difficult to establish a rule sufficiently precise for trying the Execut: than the Judges, & forms an objection to the same tenure of office, both considerations prove that it might be more dangerous to suffer a Union between the Executive & Legislat: powers, than between the Judiciary & Legislative powers. He conceived it to be absolutely necessary to a well constituted Republic that the two first shd. be kept distinct & independent of each other. Whether the plan proposed by the motion was a proper one was another question, as it depended on the practicability of instituting a tribunal for impeachmts. as certain & as adequate in the one case as in the other. On the other hand, respect for the mover entitled his proposition to a fair hearing & discussion, until a less objectionable expedient should be applied for guarding agst. a dangerous union of the Legislative & Executive departments.

The view here taken of the subject was meant to aid in parrying the animadversions likely to fall on the motion of Dr. McClurg, for whom J. M. had a particular regard. The Doctr. though possessing talents of the highest order, was modest & unaccustomed to exert them in public debate.

Col. Mason. This motion was made some time ago, & negatived by a very large majority. He trusted that it wd. be again negatived. It wd. be impossible to define the misbehaviour in such a manner as to subject it to a proper trial; and perhaps still more impossible to compel so high an offender holding his office by such a tenure to submit to a trial. He considered an Executive during

good behavior as a softer name only for an Executive for life. And that the next would be an easy step to hereditary Monarchy. If the motion should finally succeed, he might himself live to see such a Revolution. If he did not it was probable his children or grandchildren would. He trusted there were few men in that House who wished for it. No state he was sure had so far revolted from Republican principles as to have the least bias in its favor.

Mr. Madison, was not apprehensive of being thought to favor any step towards monarchy. The real object with him was to prevent its introduction. Experience had proved a tendency in our governments to throw all power into the Legislative vortex. The Executives of the States are in general little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable. The preservation of Republican Govt. therefore required some expedient for the purpose, but required evidently at the same time that in devising it, the genuine principles of that form should be kept in view.

Mr. Govr. Morris was as little a friend to monarchy as any gentleman. He concurred in the opinion that the way to keep out monarchical Govt. was to establish such a Repub. Govt. as wd. make the people happy and prevent a desire of change.

Docr. McClurg was not so much afraid of the shadow of monarchy as to be unwilling to approach it; nor so wedded to Republican Govt. as not to be sensible of the tyrannies that had been & may be exercised under that form. It was an essential object with him to make the Executive independent of the Legislature; and the only mode left for effecting it, after the vote destroying his ineligibility a second time, was to appoint him during good behavior.

(Madison's Notes (Max Farrand, 1911), Pages 33-36, Vol. 2)

[e672944] It was moved and seconded to strike out the words "seven years" and to insert the words "good behaviour."

which passed in the negative. [Ayes — 4; noes — 6.]

[Editors' note: Madison writes,

'This vote is not to be considered as any certain index of opinion, as a number in the affirmative probably had it chiefly in view to alarm those attached to a dependence of the Executive on the Legislature, & thereby facilitate some final arrangement of a contrary tendency. The avowed friends of an Executive, "during good behaviour" were not more than three or four nor is it certain they would finally have adhered to such a tenure. An independence of the three great departments of of each other, as far as possible, and the responsibility of all to the will of the community seemed to be generally admitted as the true basis of a well constructed government.' (Page 36, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

On the question for inserting "during good behavior" in place of 7 years (with a re-eligibility) it passed in the negative.

Mas. no. Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no.* [Ayes — 4; noes — 6.]

* This vote is not to be considered as any certain index of opinion, as a number in the affirmative probably had it chiefly in view to alarm those attached to a dependence of the Executive on the Legislature, & thereby facilitate some final arrangement of a contrary tendency. The avowed friends of an Executive, “during good behaviour” were not more than three or four nor is it certain they would finally have adhered to such a tenure. An independence of the three great departments of each other, as far as possible, and the responsibility of all to the will of the community seemed to be generally admitted as the true basis of a well constructed government.

(Madison’s Notes (Max Farrand, 1911), Page 36, Vol. 2)

[e672945] It was moved and seconded to strike out the words
“seven years”

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

On the motion “to strike out seven years”

(Madison’s Notes (Max Farrand, 1911), Page 36, Vol. 2)

[e672946] It was moved and seconded to strike out the words
“seven years”

which passed in the negative [Ayes — 4; noes — 6.]

[Editors’ note: Madison writes,

‘There was no debate on this motion the apparent object of many in the affirmative was to secure the reeligibility by shortening the term, and of many in the negative to embarrass the plan of referring the appointment & dependence of the Executive to the Legislature.’ (Page 36, Vol. 2, Madison’s Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

On the motion “to strike out seven years” it passed in the negative.

Mas. ay. Ct. no. N. J. no. Pa. ay. Del. ay. Md. no. Va. no. N. C. ay. S. C. no. Geo. no.

(Madison’s Notes (Max Farrand, 1911), Page 36, Vol. 2)

[e672947] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 36, Vol. 2)

[e672948] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 23, Vol. 2)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 36, Vol. 2)

1.54 Wednesday, 18 July 1787, at 11:00 (s6241)

[e672949] To reconsider the clause which makes the Executive reeligible Ayes — 8; noes — 0.

[Editors' note: Madison notes Luther Martin as the proposer.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

On motion of Mr. L. Martin to fix tomorrow for reconsidering the vote concerning "eligibility of Executive. a 2d time"

(Madison's Notes (Max Farrand, 1911), Page 40, Vol. 2)

[e672950] To reconsider the clause which makes the Executive reeligible Ayes — 8; noes — 0.

[Editors' note: Madison records the vote count as, 'Mas. ay. Cont. ay. N. J. absent. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C ay. Geo absent. [Ayes — 8; noes — 0; absent — 2.]' (Pages 40-41, Vol. 2, Madison's Notes (Max Farrand, 1911)).

The Georgia and New Jersey delegations were absent or not quorate for this vote, though Georgia would regain representation later in the the session. At this point only two delegates from Georgia were in Philadelphia; it is likely that either Baldwin, Houstoun, or both were absent for the earlier part of the session. Either absence would have brought them below the quorum for Georgia. It is uncertain which out of the three New Jersey delegates were missing, as their state required three delegates to be quorate.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

On motion of Mr. L. Martin to fix tomorrow for reconsidering the vote concerning "eligibility of Executive. a 2d time" it passed in the affirmative.

Mas. ay. Cont. ay. N. J. absent. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C ay. Geo absent. [Ayes — 8; noes — 0; absent — 2.]

(Madison's Notes (Max Farrand, 1911), Pages 40-41, Vol. 2)

[e672951] To reconsider immediately Ayes — 6; noes — 2.

[Editors' note: The rules of the Convention state,

'That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given, on the same day in which the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose' (Pages 15-16, Vol. 1, Official Journal (Max Farrand, 1911)).

The wording can be interpreted to mean that a vote to reconsider must take place the same day as the original vote in order for a recount to take place immediately. However, the Convention evidently interpreted the rule to mean that a vote to reconsider could be had at any time, but for the recount to be held immediately, that vote would need to be unanimous.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

[e672952] To reconsider immediately Ayes — 6; noes — 2.

[Editors' note: As the vote was not unanimous, the motion was rejected. The rules of the Convention state,

'That a motion to reconsider a matter, which had been determined by a majority, may be made, with leave unanimously given, on the same day in which the vote passed, but otherwise, not without one days previous notice; in which last case, if the House agree to the reconsideration some future day shall be assigned for that purpose' (Pages 15-16, Vol. 1, Official Journal (Max Farrand, 1911)).

The wording can be interpreted to mean that a vote to reconsider must take place the same day as the original vote in order for a recount to take place immediately. However, the Convention evidently interpreted the rule to mean that a vote to reconsider could be had at any time, but for the recount to be held immediately, that vote would need to be unanimous.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

[e672953] To reconsider the clause to-morrow Ayes — 8; noes — 0.

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

On motion of Mr. L. Martin to fix tomorrow for reconsidering the vote concerning "eligibility of Executive. a 2d time"

(Madison's Notes (Max Farrand, 1911), Page 40, Vol. 2)

[e672954] To reconsider the clause to-morrow Ayes — 8; noes — 0.

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

On motion of Mr. L. Martin to fix tomorrow for reconsidering the vote concerning "eligibility of Executive. a 2d time" it passed in the affirmative.

Mas. ay. Cont. ay. N. J. absent. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C ay. Geo absent. [Ayes — 8; noes — 0; absent — 2.]

(Madison's Notes (Max Farrand, 1911), Page 40, Vol. 2)

[e734241] It was moved and seconded to postpone the consideration of the following clause in the 9th resolution reported from the Committee of the whole House namely

for the term of seven years"

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

The residue of Resol. 9. concerning the Executive was postpd. till tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e734242] It was moved and seconded to postpone the consideration of the following clause in the 9th resolution reported from the Committee of the whole House namely

for the term of seven years"

which passed unanimously in ye affirmative

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

The residue of Resol. 9. concerning the Executive was postpd. till tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672956] Resol. 10. that Executive shl. have a right to negative legislative acts not afterwards passed by of each branch.

[Editors' note: Once the Convention agreed to revisit the sixth clause and to postpone the third clause of the Ninth Resolution, there was evidently some awareness that the rest of the Ninth Resolution would prove difficult to agree on. The Tenth Resolution was probably considered at this point, prior to its postponement.]

Both the Ninth and Tenth Resolutions are about the role and power of the executive, so it follows that the next proposal was to postpone both.]

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672957] It was moved and seconded to postpone the consideration of the remaining clause of the 9th and the 10th resolution in order to take up the 11th resolution.

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Resol. 10. that Executive shl. have a right to negative legislative acts not afterwards passed by of each branch. Agreed to nem. con.

[Editors' note: This is an error as Resolution 10 is not agreed to till July 21.]

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672958] It was moved and seconded to postpone the consideration of the remaining clause of the 9th and the 10th resolution in order to take up the 11th resolution.

which passed in the affirmative [Ayes — 4; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

[e672959] Resol. 11.

[Editors' note: Once it had voted to postpone the Ninth and Tenth Resolutions, the Convention began to consider the Eleventh Resolution clause by clause.]

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672960] On the question to agree to the following clause of the 11th resolution namely

“That a national Judiciary be established”

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Resol. 11. “that a Natl. Judiciary be establd. to consist of one supreme tribunal.”

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672961] On the question to agree to the following clause of the 11th resolution namely

“That a national Judiciary be established”
it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Resol. 11. “that a Natl. Judiciary be estabd. to consist of one supreme tribunal.” agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672962] On the question to agree to the following clause of the 11th resolution namely

“To consist of One supreme Tribunal

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Resol. 11. “that a Natl. Judiciary be estabd. to consist of one supreme tribunal.”

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672963] On the question to agree to the following clause of the 11th resolution namely

“To consist of One supreme Tribunal
it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Resol. 11. “that a Natl. Judiciary be estabd. to consist of one supreme tribunal.” agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672964] “The Judges of which to be appointd. by the 2d. branch of the Natl. Legislature.”

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672965] Mr. Ghorum, wd. prefer an appointment by the 2d branch to an appointmt. by the whole Legislature; but he thought even that branch too numerous, and too little personally responsible, to ensure a good choice. He suggested that the Judges be appointed by the Execuve. with the advice & consent of the 2d branch, in the mode prescribed by the constitution of Masts. This mode had been long practised in that country, & was found to answer perfectly well.

Mr. Wilson, still wd. prefer an an appointmt. by the Executive; but if that could not be attained, wd. prefer in the next place, the mode suggested by Mr. Ghorum. He thought it his duty however to move in the first instance “that the Judges be appointed by the Executive.” Mr. Govr. Morris 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672966] It was moved and seconded to strike out the words

“second branch of the national Legislature” and to insert the words “national executive” in the 11. resolution

[Editors' note: Madison records Wilson as the proposer and Gouverneur Morris as the seconder.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

Mr. Wilson, still wd. prefer an an appointmt. by the Executive; but if that could not be attained, wd. prefer in the next place, the mode suggested by Mr. Ghorum. He thought it his duty however to move in the first instance “that the Judges be appointed by the Executive.” Mr. Govr. Morris 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 41, Vol. 2)

[e672967] Mr. L. Martin was strenuous for an appt. by the 2d. branch. Being taken from all the States it wd. be best informed of characters & most capable of making a fit choice.

Mr. Sherman concurred in the observations of Mr. Martin, adding that the Judges ought to be diffused, which would be more likely to be attended to by the 2d. branch, than by the Executive.

Mr Mason. The mode of appointing the Judges may depend in some degree on the mode of trying impeachments, of the Executive. If the Judges were to form a tribunal for that purpose, they surely ought not to be appointed by the Executive. There were insuperable objections besides agst. referring the appointment to the Executive. He mentioned as one, that as the seat of Govt. must be in some one State, and the Executive would remain in office for a considerable time, for 4, 5, or 6 years at least he would insensibly form local & personal attachments within the particular State that would deprive equal merit elsewhere, of an equal chance of promotion.

Mr. Ghorum. As the Executive will be responsible in point of character at least, for a judicious and faithful discharge of his trust, he will be careful to look through all the States for proper characters. — The Senators will be as likely to form their attachments at the seat of Govt where they reside, as the Executive. If they can not get the man of the particular State to which they may respectively belong, they will be indifferent to the rest. Public bodies feel no personal responsibly and give full play to intrigue & cabal. Rh. Island is a full illustration of the insensibility to character produced by a participation of numbers, in dishonorable measures, and of the length to which a public body may carry wickedness & cabal.

Mr. Govr. Morris supposed it would be improper for an impeachmt. of the Executive to be tried before the Judges. The latter would in such case be drawn into intrigues with the Legislature and an impartial trial would be frustrated. As they wd. be much about the seat of Govt they might even be previously consulted & arrangements might be made for a prosecution of the Executive. He thought therefore that no argument could be drawn from the probability of such a plan of impeachments agst. the motion before the House.

Mr. M adison , suggested that the Judges might be appointed by the Executives with the concurrence of at least of the 2d. branch. This would unite

the advantage of responsibility in the Executive with the security afforded in the 2d. branch agst. any incautious or corrupt nomination by the Executive.

Mr. Sherman, was clearly for an election by the Senate. It would be composed of men nearly equal to the Executive, and would of course have on the whole more wisdom. They would bring into their deliberations a more diffusive knowledge of characters. It would be less easy for candidates to intrigue with them, than with the Executive Magistrate. For these reasons he thought there would be a better security for a proper choice in the Senate than in the Executive.

Mr. Randolph. It is true that when the appt. of the Judges was vested in the 2d. branch an equality of votes had not been given to it. Yet he had rather leave the apptmt. there than give it to the Executive. He thought the advantage of personal responsibility might be gained in the Senate by requiring the respective votes of the members to be entered on the Journal. He thought too that the hope of receiving appts. would be more diffusive if they depended on the Senate, the members of which wd. be diffusively known, than if they depended on a single man who could not be personally known to a very great extent; and consequently that opposition to the System, would be so far weakened

Mr. Bedford thought there were solid reasons agst. leaving the appointment to the Executive. He must trust more to information than the Senate. It would put it in his power to gain over the larger States, by gratifying them with a preference of their Citizens. The responsibility of the Executive so much talked of was chimerical. He could not be punished for mistakes.

Mr. Ghorum remarked that the Senate could have no better information than the Executive They must like him, trust to information from the members belonging to the particular State where the Candidate resided. The Executive would certainly be more answerable for a good appointment, as the whole blame of a bad one would fall on him alone. He did not mean that he would be answerable under any other penalty than that of public censure, which with honorable minds was a sufficient one.

(Madison's Notes (Max Farrand, 1911), Pages 41-43 Vol. 2)

[e672968] It was moved and seconded to strike out the words "second branch of the national Legislature" and to insert the words "national executive" in the 11. resolution which passed in the negative. [Ayes — 2; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 37, Vol. 2)

On the question for referring the appointment of the Judges to the Executive, instead of the 2d. branch

Mas. ay. Cont. no. Pa. ay. Del. no. Md. no Va. no. N. C. no. S. C. no — Geo. absent. [Ayes — 2; noes — 6; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 43-44, Vol. 2)

[e672969] Mr. Ghorum moved "that the Judges be nominated and appointed by the Executive, by & with the advice & consent of the 2d branch & every such nomination shall be made at least days prior to such appointment" . This mode he said had been ratified by the experience of 140 years in Massachussts.

If the appt. should be left to either branch of the Legislature, it will be a mere piece of jobbing.

Mr. Govr. Morris 2ded. & supported the motion.

[Editors' note: The exact text of the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

It was moved and seconded to alter the 3rd cause [sic] of the 11th resolution so as to read as follows, namely,

"The Judges of which shall be nominated and appointed by the Executive by and with the advice and consent of the second Branch of the Legislature of the United States — and every such nomination shall be made at least days prior to such appointment"

(Official Journal (Max Farrand, 1911), Pages 37-38, Vol. 2)

[e672970] Mr. Sherman thought it less objectionable than an absolute appointment by the Executive; but disliked it as too much fettering the Senate.

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672971] It was moved and seconded to alter the 3rd cause of the 11th resolution so as to read as follows, namely,

The Judges of which shall be nominated and appointed by the Executive by and with the advice and consent of the second Branch of the Legislature of the United States — and every such nomination shall be made at least _____ days prior to such appointment

which passed in the negative [Ayes — 4; noes — 4.]

(Official Journal (Max Farrand, 1911), Pages 37-38, Vol. 2)

Question on Mr. Ghorum's motion

Mas. ay. Con. no. Pa ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. absent. [Ayes — 4; noes — 4; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672972] It was moved and seconded to alter the 3rd clause of the 11th resolution so as to read as follows namely

That the Judges shall be nominated by the Executive and such nomination shall become an appointment if not disagreed to within days by two thirds of the second branch of the Legislature.

[Editors' note: Madison names himself as the proposer and G. Morris as the seconder.]

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

Mr. Mr adison moved that the Judges should be nominated by the Executive, & such nomination should become an appointment if not 8 disagreed to within days by of the 2d. branch. Mr. Govr. Morris 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e734243] It was moved and seconded to postpone the consideration of the last amendment

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

By common consent the consideration of it was postponed till tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e734244] It was moved and seconded to postpone the consideration of the last amendment

which was unanimously agreed to

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

By common consent the consideration of it was postponed till tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672974] On the question to agree to the following clause of the 11th resolution namely "to hold their Offices during good behaviour"

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

" To hold their offices during good behavior"

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672975] On the question to agree to the following clause of the 11th resolution namely "to hold their Offices during good behaviour"

it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

" To hold their offices during good behavior" & "to receive fixed salaries" agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672976] On the question to agree to the following clause of the eleventh resolution namely

"to receive, punctually, at stated times a fixed compensation for their services"

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

" To hold their offices during good behavior" & "to receive fixed salaries"

(Madison's Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672977] On the question to agree to the following clause of the eleventh resolution namely

"to receive, punctually, at stated times a fixed compensation for their services"

it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

“ To hold their offices during good behavior” & “to receive fixed salaries”
agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672978] ”In which (salaries of Judges) no increase or diminution shall be
made, so as to affect the persons at the time in office.’ ”

[Editors’ note: The amendment text comes from the committee report.]

(Madison’s Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672979] It was moved and seconded to strike the words

“Encrease or” out of the eleventh resolution

[Editors’ note: Madison attributes the motion to G. Morris.]

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

Mr. Govr. Morris moved to strike out “or increase”. He thought the Legis-
lature ought to be at liberty to increase salaries as circumstances might require,
and that this would not create any improper dependence in the Judges.

(Madison’s Notes (Max Farrand, 1911), Page 44, Vol. 2)

[e672980] Mr. Govr. Morris moved to strike out “or increase”. He thought the
Legislature ought to be at liberty to increase salaries as circumstances might
require, and that this would not create any improper dependence in the Judges.

Docr. Franklin was in favor of the motion , Money may not only become
plentier, but the business of the department may increase as the Country be-
comes more populous.

Mr. Madison. The dependence will be less if the increase alone should be
permitted, but it will be improper even so far to permit a dependence Whenever
an increase is wished by the Judges, or may be in agitation in the legislature, an
undue complaisance in the former may be felt towards the latter. If at such a
crisis there should be in Court suits to which leading members of the Legislature
may be parties, the Judges will be in a situation which ought not to suffered,
if it can be prevented. The variations in the value of money, may be guarded
agst. by taking for a standard wheat or some other thing of permanent value.
The increase of business will be provided for by an increase of the number who
are to do it. An increase of salaries may be easily so contrived as not to effect
persons in office.

Mr. Govr. Morris. The value of money may not only alter but the State
of Society may alter. In this event the same quantity of wheat, the same value
would not be the same compensation. The Amount of salaries must always be
regulated by the manners & the style of living in a Country. The increase of
business can not be provided for in the supreme tribunal in the way that has
been mentioned. All the business of a certain description whether more or less
must be done in that single tribunal — Additional labor alone in the Judges
can provide for additional business. Additional compensation therefore ought
not to be prohibited.

(Madison's Notes (Max Farrand, 1911), Pages 44-45, Vol. 2)

[e672981] It was moved and seconded to strike the words
 "Encrease or" out of the eleventh resolution
 which passed in the affirmative [Ayes — 6; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

On the question for striking out "or increase"
 Mas. ay. Cont. ay. Pa. ay. Del. ay. Md. ay. Va. no. N. C. no. S. C. ay.
 Geo. absent [Ayes — 6; noes — 2; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 45, Vol. 2)

[e672982] On the question to agree to the clause as amended namely "to receive,
 punctually, at stated times, a fixed compensation for their services in which no
 diminution shall be made so as to affect the Persons actually in Office at the
 time of such diminution"

it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

The whole clause as amended was then agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 45, Vol. 2)

[e672983] On the question to agree to the 12th resolution namely
 "That the national Legislature be empowered to appoint inferior Tribunals"

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

12. Resol: "that Natl. Legislature be empowered to appoint inferior tri-
 bunals"

(Madison's Notes (Max Farrand, 1911), Page 45, Vol. 2)

[e672984] Mr. Butler could see no necessity for such tribunals. The State
 Tribunals might do the business.

Mr. L. Martin concurred. They will create jealousies & oppositions in the
 State tribunals, with the jurisdiction of which they will interfere.

Mr. Ghorum. There are in the States already federal Courts with jurisdic-
 tion for trial of piracies &c. committed on the Seas. no complaints have been
 made by the States or the Courts of the States. Inferior tribunals are essential
 to render the authority of the Natl. Legislature effectual

Mr. Randolph observed that the Courts of the States can not be trusted
 with the administration of the National laws. The objects of jurisdiction are
 such as will often place the General & local policy at variance.

Mr. Govr. Morris urged also the necessity of such a provision

Mr. Sherman was willing to give the power to the Legislature but wished
 them to make use of the State Tribunals whenever it could be done. with safety
 to the general interest.

Col. Mason thought many circumstances might arise not now to be foreseen,
 which might render such a power absolutely necessary.

(Madison's Notes (Max Farrand, 1911), Pages 45-46, Vol. 2)

[e672985] On the question to agree to the 12th resolution namely
"That the national Legislature be empowered to appoint inferior Tribunals"
it passed unanimously in the affirmative [Ayes — 9; noes — 0.]
[Editors' note: By this time, the Georgia delegation had become quorate.]

(Official Journal (Max Farrand, 1911), Page 38, Vol. 2)

On question for agreeing to 12. Resol: empowering the National Legislature to appoint "inferior tribunals". Agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672986] [Editors' note: The Convention considered the Thirteenth Resolution.]

(2019 Editors)

[e672987] It was moved and seconded to strike the words
"impeachments of national Officers" out of the 13th resolution

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

13. Resol: "Impeachments of national officers" were struck out "on motion for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672988] It was moved and seconded to strike the words
"impeachments of national Officers" out of the 13th resolution
which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

13. Resol: "Impeachments of national officers" were struck out "on motion for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672989] It was moved and seconded to alter the 13th resolution so as to read as follows namely

That the jurisdiction of the national Judiciary shall extend to cases arising under laws passed by the general Legislature, and to such other questions as involve the National peace and harmony

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

"The jurisdiction of Natl. Judiciary". Several criticisms having been made on the definition; it was proposed by Mr Madison so to alter as to read thus — "that the jurisdiction shall extend to all cases arising under the Natl. laws: And to such other questions as may involve the Natl. peace & harmony."

(Madison's Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672990] It was moved and seconded to alter the 13th resolution so as to read as follows namely

That the jurisdiction of the national Judiciary shall extend to cases arising under laws passed by the general Legislature, and to such other questions as involve the National peace and harmony

which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

“The jurisdiction of Natl. Judiciary”. Several criticisms having been made on the definition; it was proposed by Mr Madison so to alter as to read thus — “that the jurisdiction shall extend to all cases arising under the Natl. laws: And to such other questions as may involve the Natl. peace & harmony.” which was agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672991] [Editors’ note: The Convention adopted the Thirteenth Resolution as amended.]

(2019 Editors)

[e672992] On the question to agree to the 14 resolution namely

Resolved That provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise with the consent of a number of voices in the national Legislature less than the whole.

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

Resol. 14. providing for the admission of new States

(Madison’s Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672993] On the question to agree to the 14 resolution namely

Resolved That provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise with the consent of a number of voices in the national Legislature less than the whole.

it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

Resol. 14. providing for the admission of new States Agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672994] Resol. 15. that provision ought to be made for the continuance of Congs. &c. & for the completion of their engagements.”

(Madison’s Notes (Max Farrand, 1911), Page 46, Vol. 2)

[e672995] Mr. Govr. Morris thought the assumption of their engagements might as well be omitted; and that Congs. ought not to be continued till all the States should adopt the reform; since it may become expedient to give effect to it whenever a certain number of States shall adopt it.

Mr. Madison the clause can mean nothing more than that provision ought to be made for preventing an interregnum; which must exist in the interval between the adoption of the New Govt. and the commencement of its operation, if the old Govt. should cease on the first of these events.

Mr. Wilson did not entirely approve of the manner in which the clause relating to the engagements of Congs. was expressed; but he thought some provision on the subject would be proper in order to prevent any suspicion that the obligations of the Confederacy might be dissolved along with the Governmt. under which they were contracted.

(Madison's Notes (Max Farrand, 1911), Pages 46-47, Vol. 2)

[e672996] On the question to agree to the first clause of the 15th resolution reported from the Committee of the whole House

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

On the question on the 1st part-relating to continuance of Congs."

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e672997] On the question to agree to the first clause of the 15th resolution reported from the Committee of the whole House

it passed in the negative [Ayes — 2; noes — 7.]

[Editors' note: Madison records the vote differently, with South Carolina voting in favour.]

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

On the question on the 1st part-relating to continuance of Congs."

Mass. no-Cont. no. Pa. no. Del-no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 3; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e672998] On the question to agree to the last clause of the 15th resolution

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

The 2d. part as to completion of their engagements.

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e672999] On the question to agree to the last clause of the 15th resolution

it passed unanimously in the negative

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

The 2d. part as to completion of their engagements. disagd. to. nem. con.

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e673000] [Editors' note: As both clauses of the Fifteenth Resolution were separately rejected, the whole resolution was therefore struck out.]

(2019 Editors)

[e673001] Resol. 16. "That a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States."

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e673002] Mr. Govr. Morris — thought the Resol: very objectionable. He should be very unwilling that such laws as exist in R. Island should be guaranteed.

Mr. Wilson. The object is merely to secure the States agst. dangerous commotions, insurrections and rebellions.

Col. Mason. If the Genl Govt. should have no right to suppress rebellions agst. particular States, it will be in a bad situation indeed. As Rebellions agst. itself originate in & agst. individual States, it must remain a passive Spectator of its own subversion.

Mr. Randolph. The Resoln. has 2. Objects. 1. to secure Republican Government. 2. to suppress domestic commotions. He urged the necessity of both these provisions.

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 2)

[e673003] Mr. Madison moved to substitute "that the Constitutional authority of the States shall be guaranteed to them respectively agst. domestic as well as foreign violence."

Docr. McClurg seconded the motion.

(Madison's Notes (Max Farrand, 1911), Pages 47-48, Vol. 2)

[e673004] Mr. Houston was afraid of perpetuating the existing Constitutions of the States. That of Georgia was a very bad one, and he hoped would be revised & amended. It may also be difficult for the Genl. Govt. to decide between contending parties each of which claim the sanction of the Constitution.

Mr. L. Martin was for leaving the States to suppress Rebellions themselves.

Mr. Ghorum thought it strange that a Rebellion should be known to exist in the Empire, and the Genl. Govt. shd. be restrained from interposing to subdue it, At this rate an enterprising Citizen might erect the standard of Monarchy in a particular State, might gather together partizans from all quarters, might extend his views from State to State, and threaten to establish a tyranny over the whole & the Genl. Govt. be compelled to remain an inactive witness of its own destruction. With regard to different parties in a State; as long as they confine their disputes to words they will be harmless to the Genl. Govt. & to each other. If they appeal to the sword it will then be necessary for the Genl. Govt., however difficult it may be to decide on the merits of their contest, to interpose & put an end to it.

Mr. Carrol. Some such provision is essential. Every State ought to wish for it. It has been doubted whether it is a casus federis at present. And no room ought to be left for such a doubt hereafter.

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 2)

[e673005] Mr. Randolph moved to add as amendt. to the motion; "and that no State be at liberty to form any other than a Republican Govt." Mr. Madison seconded the motion

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 2)

[e673006] Mr. Rutledge thought it unnecessary to insert any guarantee. No doubt could be entertained but that Congs. had the authority if they had the means to co-operate with any State in subduing a rebellion. It was & would be involved in the nature of the thing.

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 2)

[e673007] It was moved and seconded to alter the sixteenth resolution so as to read as follows namely

That a republican form of Government shall be guaranteed to each State — and that each State shall be protected against foreign and domestic violence

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

Mr. Wilson moved as a better expression of the idea, "that a Republican form of Governmt. shall be guarantied to each State & that each State shall be protected agst. foreign & domestic violence.

(Madison's Notes (Max Farrand, 1911), Pages 48-49, Vol. 2)

[e673008] Mr. Wilson moved as a better expression of the idea, "that a Republican form of Governmt. shall be guarantied to each State & that each State shall be protected agst. foreign & domestic violence.

This seeming to be well received, Mr. Madison & Mr. Randolph withdrew their propositions

(Madison's Notes (Max Farrand, 1911), Pages 48-49, Vol. 2)

[e673009] It was moved and seconded to alter the sixteenth resolution so as to read as follows namely

That a republican form of Government shall be guaranteed to each State — and that each State shall be protected against foreign and domestic violence

which passed in the affirmative

[Editors' note: Madison records that this amendment was agreed to unanimously.]

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

This seeming to be well received, Mr. Madison & Mr. Randolph withdrew their propositions & on the Question for agreeing to Mr. Wilson's motion it passed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 49, Vol. 2)

[e673010] [To agree to the 16th resolution as amended Ayes — 9; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

[e673011] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 49, Vol. 2)

[e673012] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 39, Vol. 2)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 49, Vol. 2)

1.55 Thursday, 19 July 1787, at 11:00 (s6242)

[e737710] On reconsideration of the vote rendering the Executive re-eligible a 2d. time,

Mr. Martin moved to reinstate the words “to be ineligible a 2d. time”.

(Madison’s Notes (Max Farrand, 1911), Pages 51-52, Vol. 2)

[e737711] On reconsideration of the vote rendering the Executive re-eligible a 2d. time,

Mr. Martin moved to reinstate the words “to be ineligible a 2d. time”.

[Editors’ note: It was agreed to reconsider presidential re-eligibility on the 18 July, so this motion is implicitly agreed to.]

(Madison’s Notes (Max Farrand, 1911), Pages 51-52, Vol. 2)

[e673013] Mr. Gouverneur Morris. It is necessary to take into one view all that relates to the establishment of the Executive; on the due formation of which must depend the efficacy & utility of the Union among the present and future States. It has been a maxim in political Science that Republican Government is not adapted to a large extent of Country, because the energy of the Executive Magistracy can not reach the extreme parts of it. Our Country is an extensive one. We must either then renounce the blessings of the Union, or provide an Executive with sufficient vigor to pervade every part of it. This subject was of so much importance that he hoped to be indulged in an extensive view of it. One great object of the Executive is to controul the Legislature. The Legislature will continually seek to aggrandize & perpetuate themselves; and will seize those critical moments produced by war, invasion or convulsion for that purpose. It is necessary then that the Executive Magistrate should be the guardian of the people, even of the lower classes, agst. Legislative tyranny, against the Great & the wealthy who in the course of things will necessarily compose — the Legislative body. Wealth tends to corrupt the mind & to nourish its love of power, and to stimulate it to oppression. History proves this to be the spirit of the opulent.

The check provided in the 2d. branch was not meant as a check on Legislative usurpations of power, but on the abuse of lawful powers, on the propensity in the 1st. branch to legislate too much to run into projects of paper money & similar expedients. It is no check on Legislative tyranny. On the contrary it may favor it, and if the 1st. branch can be seduced may find the means of success. The Executive therefore ought to be so constituted as to be the great protector of the Mass of the people. — It is the duty of the Executive to appoint the officers & to command the forces of the Republic: to appoint 1. ministerial officers for the administration of public affairs. 2. Officers for the dispensation of Justice — Who will be the best Judges whether these appointments be well made? The people at large, who will know, will see, will feel the effects of them — Again who can judge so well of the discharge of military duties for the protection & security of the people, as the people themselves who are to be protected & secured? He finds too that the Executive is not to be re-eligible. What effect will this have? 1. it will destroy the great incitement to merit public esteem by taking away the hope of being rewarded with a reappointment. It may give a dangerous turn to one of the strongest passions in the human breast. The love of fame is the great spring to noble & illustrious actions. Shut the Civil road to Glory & he may be compelled to seek it by the sword. 2. It will tempt him to make the most of the Short space of time allotted him, to accumulate wealth and provide for his friends. 3. It will produce violations of the very constitution it is meant to secure. In moments of pressing danger the tried abilities and established character of a favorite Magistrate will prevail over respect for the forms of the Constitution. The Executive is also to be impeachable. This is a dangerous part of the plan. It will hold him in such dependence that he will be no check on the Legislature, will not be a firm guardian of the people and of the public interest. He will be the tool of a faction, of some leading demagogue in the Legislature. These then are the faults of the Executive establishment as now proposed. Can no better establishmt. be devised? If he is to be the Guardian of the people let him be appointed by the people? If he is to be a check on the Legislature let him not be impeachable. Let him be of short duration, that he may with propriety be re-eligible.—It has been said that the candidates for this office will not be known to the people. If they be known to the Legislature, they must have such a notoriety and eminence of Character, that they cannot possibly be unknown to the people at large. It cannot be possible that a man shall have sufficiently distinguished himself to merit this high trust without having his character proclaimed by fame throughout the Empire. As to the danger from an unimpeachable magistrate he could not regard it as formidable. There must be certain great officers of State; a minister of finance, of war, of foreign affairs &c. These he presumes will exercise their functions in subordination to the Executive, and will be amenable by impeachment to the public Justice. Without these ministers the Executive can do nothing of consequence. He suggested a biennial election of the Executive at the time of electing the 1st. branch, and the Executive to hold over, so as to prevent any interregnum in the Administration. An election by the people at large throughout so great an extent of country could not be influenced, by those little combinations and those momentary lies which often decide popular elections within a narrow sphere. It will probably, be objected that the election will be influenced by the members of the Legislature; particularly of the 1st. branch, and that it will be nearly the same thing with an election by the Legislature itself. It could not be

denied that such an influence would exist. But it might be answered that as the Legislature or the candidates for it would be divided, the enmity of one part would counteract the friendship of another; that if the administration of the Executive were good, it would be unpopular to oppose his re-election, if bad it ought to be opposed & a reappointment prevented; and lastly that in every view this indirect dependence on the favor of the Legislature could not be so mischievous as a direct dependence for his appointment. He saw no alternative for making the Executive independent of the Legislature but either to give him his office for life, or make him eligible by the people. — Again, it might be objected that two years would be too short a duration. But he believes that as long as he should behave himself well, he would be continued in his place. The extent of the Country would secure his re-election agst the factions & discontents of particular States. It deserved consideration also that such an ingredient in the plan would render it extremely palatable to the people. These were the general ideas which occurred to him on the subject, and which led him to wish & move that the whole constitution of the Executive might undergo reconsideration.

Mr. Randolph urged the motion of Mr. L. Martin for restoring the words making the Executive ineligible a 2d. time. If he ought to be independent, he should not be left under a temptation to court a re-appointment. If he should be re-appointable by the Legislature, he will be no check on it. His revisionary power will be of no avail. He had always thought & contended as he still did that the danger apprehended by the little States was chimerical, but those who thought otherwise ought to be peculiarly anxious for the motion. If the Executive be appointed, as has been determined, by the Legislature, he will probably be appointed either by joint ballot of both houses, or be nominated by the 1st. and appointed by the 2d. branch. In either case the large States will preponderate. If he is to court the same influence for his re-appointment, will he not make his revisionary power. and all the other functions of his administration subservient to the views of the large States. Besides — is there not great reason to apprehend that in case he should be re-eligible, a false complaisance in the Legislature might lead them to continue an unfit man in office in preference to a fit one. It has been said that a constitutional bar to reappointment will inspire unconstitutional endeavours to perpetuate himself. It may be answered that his endeavour can have no effect unless the people be corrupt to such a degree as to render all precautions hopeless: to which may be added that this argument supposes him to be more powerful & dangerous, than other arguments which have been used, admit, and consequently calls for stronger fetters on his authority. He thought an election by the Legislature with an incapacity to be elected a second time would be more acceptable to the people than the plan suggested by Mr. Govr. Morris.

Mr. King. did not like the ineligibility. He thought there was great force in the remark of Mr. Sherman, that he who has proved himself to be most fit for an Office, ought not to be excluded by the constitution from holding it. He would therefore prefer any other reasonable plan that could be substituted. He was much disposed to think that in such cases the people at large would chuse wisely. There was indeed some difficulty arising from the improbability of a general concurrence of the people in favor of any one man. On the whole he was of opinion that an appointment by electors chosen by the people for the purpose, would be liable to fewest objections.

Mr. Patterson's ideas nearly coincided he said with those of Mr. King. He

proposed that the Executive should be appointed by Electors to be chosen by the States in a ratio that would allow one elector to the smallest and three to the largest States.

Mr. Wilson. It seems to be the unanimous sense that the Executive should not be appointed by the Legislature, unless he be rendered in-eligible a 2d. time: he perceived with pleasure that the idea was gaining ground, of an election mediately or immediately by the people.

Mr. Madison If it be a fundamental principle of free Govt. that the Legislative, Executive & Judiciary powers should be separately exercised; it is equally so that they be independently exercised. There is the same & perhaps greater reason why the Executive shd. be independent of the Legislature, than why the Judiciary should: A coalition of the two former powers would be more immediately & certainly dangerous to public liberty. It is essential then that the appointment of the Executive should either be drawn from some source, or held by some tenure, that will give him a free agency with regard to the Legislature. This could not be if he was to be appointable from time to time by the Legislature. It was not clear that an appointment in the 1st. instance even with an ineligibility afterwards would not establish an improper connection between the two departments. Certain it was that the appointment would be attended with intrigues and contentions that ought not to be unnecessarily admitted. He was disposed for these reasons to refer the appointment to some other Source. The people at large was in his opinion the fittest in itself. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for some Citizen whose merits had rendered him an object of general attention & esteem. There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections.

Mr. Gerry. If the Executive is to be elected by the Legislature he certainly ought not to be re-eligible. This would make him absolutely dependent. He was agst. a popular election. The people are uninformed, and would be misled by a few designing men. He urged the expediency of an appointment of the Executive by Electors to be chosen by the State Executives. The people of the States will then choose the 1st. branch: The legislatures of the States the 2nd. branch of the National Legislature, and the Executives of the States, the National Executive — This he thought would form a strong attachment. in the States to the National System. The popular mode of electing the chief Magistrate would certainly be the worst of all. If he should be so elected & should do his duty, he will be turned out for it like Govr Bowdoin in Masss & President Sullivan in N. Hampshire.

(Madison's Notes (Max Farrand, 1911), Pages 51-57, Vol. 2)

[e673014] It was moved and seconded to reconsider the several clauses of the 9th resolution which respect the appointment, duration, and eligibility of the National Executive.

[Editors' note: Madison indicates that this was Morris's motion. Luther Martin's motion on the previous day asked the Convention to reconsider only

the sixth clause of the Ninth Resolution. This motion was to reconsider the whole resolution.]

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

On the question on Mr Govr. Morris motion to reconsider generally the Constitution of the Executive —

(Madison's Notes (Max Farrand, 1911), Page 57, Vol. 2)

[e673015] It was moved and seconded to reconsider the several clauses of the 9th resolution which respect the appointment, duration, and eligibility of the National Executive.

and unanimously agreed to reconsider immediately

[Ayes — 10; noes — 0.]

[Editors' note: Farrand comments that North Carolina had initially voted against the motion. However, as a unanimous decision was necessary to reconsider immediately, the delegation changed their vote to accommodate the other delegates' preference.]

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

On the question on Mr Govr. Morris motion to reconsider generally the Constitution of the Executive —

Mas. ay. Ct. ay. N. J. ay. & all the others ay.

(Madison's Notes (Max Farrand, 1911), Page 57, Vol. 2)

[e673016] It was moved and seconded to agree to the following proposition, namely,

"to be chosen by Electors appointed for that purpose by the Legislatures of the States, in the following proportion

One person from each State whose numbers, according to the ratio fixed in the resolution, shall not exceed 100,000 — Two from each of the others, whose numbers shall not exceed 300,000 — and Three from each of the rest."

[Editors' note: Madison records Ellsworth as the proposer and Broom as the seconder. Madison also writes that Ellsworth proposed one elector for each state exceeding 200,000 inhabitants, instead of the Journal's 100,000.]

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

Mr. Elseworth moved to strike out the appointmt. by the Natl. Legislature, and insert "to be chosen by electors appointed by the Legislatures of the States in the following ratio; towit—one for each State not exceeding 200,000¹⁰ inhabts. two for each above yt. number & not exceeding 300,000. and, three for each State exceeding 300,000. — Mr. Broome 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 57, Vol. 2)

[e673017] Mr Rutledge was opposed to all the modes except the appointmt. by the Natl. Legislature. He will be sufficiently independent, if he be not re-eligible

Mr. Gerry preferred the motion of Mr. Elseworth to an appointmt. by the Natl. Legislature, or by the people; tho' not to an appt. by the State Executives.

He moved that the electors proposed by Mr. E. should be 25 in number, and allotted in the following proportion. to N. H. 1. to Mas. 3. to R. I. 1. to. Cont. 2-to N. Y. 2-N. J. 2. Pa. 3. Del. 1. Md. 2. Va. 3. N. C. 2. S. C. 2. Geo. 1.

[Editors' note: There is no record of Gerry's proposal receiving a second or being considered by the Convention at this point. However, his proposal would be considered the next day in a slightly altered form.]

(Madison's Notes (Max Farrand, 1911), Page 57-58, Vol. 2)

[e673018] The question as moved by Mr. Ellsworth being divided

[Editors' note: The Convention decided to split up Ellsworth's proposal into separate clauses, so the original motion in its 'whole' form has been represented as dropped.]

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

[e673019] The question as moved by Mr. Ellsworth being divided, on the 1st. part shall ye. Natl. Executive be appointed by Electors?

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

On the question to agree to the following clause namely

"To be chosen by electors appointed for that purpose by the Legislatures of the States"

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673020] The question as moved by Mr. Ellsworth being divided, on the 1st. part shall ye. Natl. Executive be appointed by Electors?

Mas-divd. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay- N. C. no. S. C. no. Geo. no. [Ayes — 6; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

On the question to agree to the following clause namely

"To be chosen by electors appointed for that purpose by the Legislatures of the States"

it passed in the affirmative. [Ayes — 6; noes—3; divided—1.

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673021] On 2d. part shall the Electors be chosen by State Legislatures?

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

On the question to agree to the following clause namely

"To be chosen by electors appointed for that purpose by the Legislatures of the States"

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673022] On 2d. part shall the Electors be chosen by State Legislatures?

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. ay. [Ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673023] The part relating to the ratio in which the States sd. chose electors was postponed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

It was agreed to postpone the consideration of the remainder of the proposition.

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673024] The part relating to the ratio in which the States sd. chose electors was postponed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

It was agreed to postpone the consideration of the remainder of the proposition.

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673025] Mr. L. Martin moved that the Executive be ineligible a 2d. time. Mr. Williamson 2ds. the motion.

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

On the question to restore the words
"to be ineligible a second time"

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

[e673026] Mr. Williamson...He had no great confidence in the Electors to be chosen for the special purpose. They would not be the most respectable citizens; but persons not occupied in the high offices of Govt. They would be liable to undue influence, which might the more readily be practiced as some of them will probably be in appointment 6 or 8 months before the object of it comes on.

Mr. Elseworth supposed any persons might be appointed Electors, excepting solely, members of the Natl. Legislature.

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

[e673027] On the question shall he be ineligible a 2d. time?

Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. no. N. C. ay. S. C. ay. Geo. no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 58, Vol. 2)

On the question to restore the words
"to be ineligible a second time"

it passed in the negative. [Ayes — 2; noes — 8].

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

[e673028] It was moved and seconded to agree to the following clause, namely,
 “for the term of seven years”
 which passed in the negative [Ayes — 3; noes — 5; divided — 2.]
 [Editors’ note: Madison records the votes differently:
 ’Mas. divd. Cont. ay. N — J. no. Pa. no. Del. no. Md. no. Va. no.
 N. C. divd. S. C. ay. Geo. ay. [Ayes — 3; noes — 5; divided — 2.] In the
 printed Journal Cont. no. N. Jersey ay ’ (Page 58, Vol. 2, Madison’s Notes
 (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 50, Vol. 2)

[e673029] Mr. King was afraid we shd. shorten the term too much.

Mr. Govr Morris was for a short term, in order to avoid impeachts. which wd. be otherwise necessary.

Mr. Butler was agst. a frequency of the elections. Geo & S. C. were too distant to send electors often.

Mr. Elseworth was for 6 years. If the elections be too frequent, the Executive will not be firm eno’. There must be duties which will make him unpopular for the moment. There will be outs as well as ins. His administration therefore will be attacked and misrepresented.

Mr. Williamson was for 6 years. The expence will be considerable & ought not to be unnecessarily repeated. If the Elections are too frequent, the best men will not undertake the service and those of an inferior character will be liable to be corrupted.

(Madison’s Notes (Max Farrand, 1911), Pages 58-59, Vol. 2)

[e673030] On the question to agree to the following clause namely

“for the term of six years”

[Editors’ note: Madison records Ellsworth as the proposer and Williamson as the seconder.]

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

Mr. Elseworth was for 6 years. If the elections be too frequent, the Executive will not be firm eno’. There must be duties which will make him unpopular for the moment. There will be outs as well as ins. His administration therefore will be attacked and misrepresented.

Mr. Williamson was for 6 years. The expence will be considerable & ought not to be unnecessarily repeated. If the Elections are too frequent, the best men will not undertake the service and those of an inferior character will be liable to be corrupted.

On question for 6 years?

(Madison’s Notes (Max Farrand, 1911), Page 59, Vol. 2)

[e673031] On the question to agree to the following clause namely

“for the term of six years”

it passed in the affirmative [Ayes — 9; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

On question for 6 years?

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 59, Vol. 2)

[e673032] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 59, Vol. 2)

[e673033] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 51, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 59, Vol. 2)

1.56 Friday, 20 July 1787, at 11:00 (s6243)

[e673034] 20th. Set out at 8 O'clock in the Mail Stage with Judge Sherman &c.

...

[Editors' note: This excerpt from Johnson's diary notes Sherman and Johnson temporarily leaving Philadelphia on 20 July. The instructions from Connecticut empowered the delegation to act even if only one member was present, so their departure did not result in the loss of state representation.]

(Appendix A (Max Farrand, 1911), Page 553, Vol. 3, William Samuel Johnson's Diary)

[e673035] 20th. Set out at 8 O'clock in the Mail Stage with Judge Sherman &c.

...

[Editors' note: This excerpt from Johnson's diary notes Sherman and Johnson temporarily leaving Philadelphia on 20 July. The instructions from Connecticut empowered the delegation to act even if only one member was present, so their departure did not result in the loss of state representation.]

(Appendix A (Max Farrand, 1911), Page 553, Vol. 3, William Samuel Johnson's Diary)

[e673036] The postponed Ratio of Electors for appointing the Executive; to wit 1 for each State whose inhabitants do not exceed 100,000, &c. being taken up.

Mr. Madison observed that this would make in time all or nearly all the the States equal. Since there were few that would not in time contain the number of inhabitants entitling them to 3 Electors; that this ratio ought either to be made temporary, or so varied as that it would adjust itself to the growing population of the States.

(Madison's Notes (Max Farrand, 1911), Page 63, Vol. 2)

[e673037] It was moved and seconded to postpone the consideration of the clause, respecting the number of Electors, entered on the Journal yesterday in order to take up the following namely,

Resolved that for the first election of the supreme Executive the proportion of Electors shall be as follows, namely

New Hampshire ...1 Delaware ...1 Massachusetts ...3 Maryland ...2 Rhode Island ...1 Virginia ...3 Connecticut ...2 North Carolina ...2 New York ...2 South Carolina ...2 New Jersey ...2 Georgia ...1 Pennsylvania ...3 in all 25. Electors.

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

Mr. Gerry moved that in the 1st. instance the Electors should be allotted to the States in the following ratio: to N. H. 1. Mas. 3. R. I. 1. Cont. 2. N. Y. 2. N. J. 2. Pa. 3. Del. 1. Md. 2. Va. 3. N. C. 2. S. C. 2. Geo. 1.

(Madison's Notes (Max Farrand, 1911), Page 63, Vol. 2)

[e673038] On the question to postpone
it passed in the affirmative [Ayes—6; noes—4.]

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

Mr. Gerry moved that in the 1st. instance the Electors should be allotted to the States in the following ratio: to N. H. 1. Mas. 3. R. I. 1. Cont. 2. N. Y. 2. N. J. 2. Pa. 3. Del. 1. Md. 2. Va. 3. N. C. 2. S. C. 2. Geo. 1.6

On the question to postpone in order to take up this motion of Mr. Gerry. It passed in the affirmative.

Mas. ay. Cont. no. N. J. no. Pa. ay. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 63, Vol. 2)

[e673039] Mr. Elseworth moved that 2 Electors be allotted to N. H. Some rule ought to be pursued; and N. H. has more than 100,000 inhabitants. He thought it would be proper also to allot 2. to Georgia.

[...]

Mr. Houston 2ded. the motion of Mr. Elseworth to add another Elector to N. H. & Georgia.

(Madison's Notes (Max Farrand, 1911), Page 63, Vol. 2)

It was moved and seconded to add one Elector to the States of New Hampshire and Georgia.

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

[e673040] It was moved and seconded to refer the last motion to a Committee

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

Mr. Broom & Mr. Martin moved to postpone Mr. Gerry's allotment of Electors, leaving a fit ratio to be reported by the Committee to be appointed for detailing the Resolutions.

(Madison's Notes (Max Farrand, 1911), Pages 63-64, Vol. 2)

[e673041] It was moved and seconded to refer the last motion to a Committee which passed in the negative. [Ayes—3; noes—7.]

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

On this motion.

Mas-no. Ct. no. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673042] It was moved and seconded to add one Elector to the States of New Hampshire and Georgia.

which passed in the affirmative. [Ayes—6; noes—4.]

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

[e737712] The last motion having been misunderstood, it was moved and seconded that it be put again

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

[e737713] The last motion having been misunderstood, it was moved and seconded that it be put again

[Editors' note: As the convention proceeds to take the vote again it is implied that this motion was agreed to.]

(Madison's Notes (Max Farrand, 1911), Page 60, Vol. 2)

[e673043] The last motion having been misunderstood, it was moved and seconded that it be put again — and on the question to give an additional Elector to each of the States of New Hampshire and Georgia

it passed in the negative. [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 60, Vol. 2)

Mr. Houston 2ded. the motion of Mr. Elseworth to add another Elector to N. H. & Georgia. On the Question:

Mas. no. Ct ay. N. J. no. Pa. no. Del. no. Md no. Va. no. N. C. no. S. C.-ay-Geo-ay. [Ayes — 3; noes — 7.]

[Editors' note: Madison does not record the first vote, only that the amendment was passed in the negative.]

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673044] Mr. Williamson moved as an amendment to Mr. Gerry's allotment of Electors in the 1st. instance that in future elections of the Natl. Executive, the number of Electors to be appointed by the several States shall be regulated by their respective numbers of Representatives in the 1st. branch pursuing as nearly as may be the present proportions.

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673045] [Editors' note: This motion was not mentioned again. For this reason, it has been represented here as dropped.]

(2019 Editors)

[e673046] On the question to agree to the above resolution respecting the first election of the supreme Executive

it passed in the affirmative. [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

On question on Mr. Gerry's ratio of Electors

Mas. ay. Ct ay. N. J. no. Pa. ay. Del. no. Md. no. Va. ay-N. C. ay. S. C. ay. Geo. no. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673047] It was moved and seconded to agree to the following clause of the 9th resolution reported from the Committee of the whole House namely

“To be removable on impeachment and conviction of malpractice or neglect of duty”

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

“to be removeable on impeachment and conviction for malpractice or neglect of duty”. See Resol: 9:

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673048] Mr. Pinkney & Mr Govr. Morris moved to strike out this part of the Resolution. Mr P. observd. he ought not to be impeachable whilst in office

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 2)

[e673049] Mr. Davie. If he be not impeachable whilst in office, he will spare no efforts or means whatever to get himself re-elected. He considered this as an essential security for the good behaviour of the Executive.

Mr Wilson concurred in the necessity of making the Executive impeachable whilst in office.

Mr. Govr. Morris. He can do no criminal act without Coadjutors who may be punished. In case he should be re-elected, that will be sufficient proof of his innocence. Besides who is to impeach? Is the impeachment to suspend his functions. If it is not the mischief will go on. If it is the impeachment will be nearly equivalent to a displacement, and will render the Executive dependent on those who are to impeach

Col. Mason. No point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice? When great crimes were committed he was for punishing the principal as well as the Coadjutors. There had been much debate & difficulty as to the mode of chusing the Executive. He approved of that which had been adopted at first, namely of

referring the appointment to the Natl. Legislature. One objection agst. Electors was the danger of their being corrupted by the Candidates: & this furnished a peculiar reason in favor of impeachments whilst in office. Shall the man who has practised corruption & by that means procured his appointment in the first instance, be suffered to escape punishment, by repeating his guilt?

Docr. Franklin was for retaining the clause as favorable to the executive. History furnishes one example only of a first Magistrate being formally brought to public Justice. Every body cried out agst this as unconstitutional. What was the practice before this in cases where the chief Magistrate rendered himself obnoxious? Why recourse was had to assassination in wch. he was not only deprived of his life but of the opportunity of vindicating his character. It wd. be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused.

Mr. Govr Morris admits corruption & some few other offences to be such as ought to be impeachable; but thought the cases ought to be enumerated & defined:

Mr. Madison — thought it indispensable that some provision should be made for defending the Community agst the incapacity, negligence or perfidy of the chief Magistrate. The limitation of the period of his service, was not a sufficient security. He might lose his capacity after his appointment. He might pervert his administration into a scheme of speculation or oppression. He might betray his trust to foreign powers. The case of the Executive Magistracy was very distinguishable, from that of the Legislative or of any other public body, holding offices of limited duration. It could not be presumed that all or even a majority of the members of an Assembly would either lose their capacity for discharging, or be bribed to betray, their trust. Besides the restraints of their personal integrity & honor, the difficulty of acting in concert for purposes of corruption was a security to the public. And if one or a few members only should be seduced, the soundness of the remaining members, would maintain the integrity and fidelity of the body. In the case of the Executive Magistracy which was to be administered by a single man, loss of capacity or corruption was more within the compass of probable events, and either of them might be fatal to the Republic.

Mr. Pinkney did not see the necessity of impeachments. He was sure they ought not to issue from the Legislature who would in that case hold them as a rod over the Executive and by that means effectually destroy his independence. His revisionary power in particular would be rendered altogether insignificant.

Mr. Gerry urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. He hoped the maxim would never be adopted here that the chief Magistrate could do no wrong.

Mr. King expressed his apprehensions that an extreme caution in favor of liberty might enervate the Government we were forming. He wished the House to recur to the primitive axiom that the three great departments of Govts. should be separate & independent: that the Executive & Judiciary should be so as well as the Legislative: that the Executive should be so equally with the Judiciary. Would this be the case if the Executive should be impeachable? It had been said that the Judiciary would be impeachable. But it should have been remembered at the same time that the Judiciary hold their places not for a limited time, but during good behaviour. It is necessary therefore that a forum should be

established for trying misbehaviour. Was the Executive to hold his place during good behaviour? — The Executive was to hold his place for a limited term like the members of the Legislature; Like them particularly the Senate whose members would continue in appointment the same term of 6 years. he would periodically be tried for his behaviour by his electors, who would continue or discontinue him in trust according to the manner in which he had discharged it. Like them therefore, he ought to be subject to no intermediate trial, by impeachment. He ought not to be impeachable unless he hold his office during good behavior, a tenure which would be most agreeable to him; provided an independent and effectual forum could be devised; But under no circumstances ought he to be impeachable by the Legislature. This would be destructive of his independence and of the principles of the Constitution. He relied on the vigor of the Executive as a great security for the public liberties.

Mr. Randolph. The propriety of impeachments was a favorite principle with him; Guilt wherever found ought to be punished. The Executive will have great opportunities of abusing his power; particularly in time of war when the military force, and in some respects the public money will be in his hands. Should no regular punishment be provided, it will be irregularly inflicted by tumults & insurrections. He is aware of the necessity of proceeding with a cautious hand, and of excluding as much as possible the influence of the Legislature from the business. He suggested for consideration an idea which had fallen (from Col Hamilton) of composing a forum out of the Judges belonging to the States: and even of requiring some preliminary inquest whether just grounds of impeachment existed.

Doctr. Franklin mentioned the case of the Prince of Orange during the late war. An agreement was made between France & Holland; by which their two fleets were to unite at a certain time & place. The Dutch fleet did not appear. Every body began to wonder at it. At length it was suspected that the Statholder was at the bottom of the matter. This suspicion prevailed more & more. Yet as he could not be impeached and no regular examination took place, he remained in his office, and strengthening his own party, as the party opposed to him became formidable, he gave birth to the most violent animosities & contentions. Had he been impeachable, a regular & peaceable inquiry would have taken place and he would if guilty have been duly punished, if innocent restored to the confidence of the public.

Mr. King remarked that the case of the Statholder was not applicable. He held his place for life, and was not periodically elected. In the former case impeachments are proper to secure good behaviour. In the latter they are unnecessary; the periodical responsibility to the electors being an equivalent security.

Mr Wilson observed that if the idea were to be pursued, the Senators who are to hold their places during the same term with the Executive. ought to be subject to impeachment & removal.

Mr. Pinkney apprehended that some gentlemen reasoned on a supposition that the Executive was to have powers which would not be committed to him: He presumed that his powers would be so circumscribed as to render impeachments unnecessary.

Mr. Govr. Morris,'s opinion had been changed by the arguments used in the discussion. He was now sensible of the necessity of impeachments, if the Executive was to continue for any time in office. Our Executive was not like a

Magistrate having a life interest, much less like one having an hereditary interest in his office. He may be bribed by a greater interest to betray his trust; and no one would say that we ought to expose ourselves to the danger of seeing the first Magistrate in foreign pay without being able to guard agst it by displacing him. One would think the King of England well secured agst bribery. He has as it were a fee simple in the whole Kingdom. Yet Charles II was bribed by Louis XIV. The Executive ought therefore to be impeachable for treachery; Corrupting his electors, and incapacity were other causes of impeachment. For the latter he should be punished not as a man, but as an officer, and punished only by degradation from his office. This Magistrate is not the King but the prime-Minister. The people are the King. When we make him amenable to Justice however we should take care to provide some mode that will not make him dependent on the Legislature.

(Madison's Notes (Max Farrand, 1911), Pages 64-69, Vol. 2)

[e673050] Mr. Govr. Morris,'s [sic] opinion had been changed by the arguments used in the discussion. He was now sensible of the necessity of impeachments, if the Executive was to continue for any time in office.

[Editors' note: This statement implies that Pinckney's and G. Morris's motion was effectively dropped.]

(Madison's Notes (Max Farrand, 1911), Page 68, Vol. 2)

[e673051] It was moved and seconded to postpone the consideration of the last motion

which passed in the negative. [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

It was moved & 2ded. to postpone the question of impeachments which was negatived. Mas. & S. Carolina only being ay.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673052] It was moved and seconded to postpone the consideration of the last motion

which passed in the negative. [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

It was moved & 2ded. to postpone the question of impeachments which was negatived. Mas. & S. Carolina only being ay.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673053] It was moved and seconded to agree to the clause which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

On ye. Question, Shall the Executive be removeable on impeachments?

Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo-ay- [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 69, Vol. 2)

[e673054] It was moved and seconded to agree to the following clause namely
 “to receive a fixed compensation for the devotion of his time to public service”
 [Editors’ note: The original Committee Report worded the clause so as to read, ‘to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service’ (Page 236, Vol. 1, Madison’s Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

”Executive to receive fixed compensation

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673055] It was moved and seconded to agree to the following clause namely
 “to receive a fixed compensation for the devotion of his time to public service”
 which passed unan: in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

“Executive to receive fixed compensation, Agreed to nem. con-

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673056] It was moved and seconded to agree to the following clause, namely
 “to be paid out of the national Treasury”

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

“ to be paid out of the National Treasury”

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673057] It was moved and seconded to agree to the following clause, namely
 “to be paid out of the national Treasury”
 which passed unan: in the affirmative [Ayes — 10; noes — 0.]

[Editors’ note: Farrand corrects a mistake on this vote where the Secretary had incorrectly ascribed a vote from a later day to the Detail of Ayes and Noes to this vote. He explains,

’In the Detail of Ayes and Noes at this point the secretary of the Convention did something which was quite misleading: He wrote the question in the blank of 195, but recorded the votes in the space below, i. e., in 196. When the first question was taken on August 16, he was evidently unprepared and recorded the vote in the first available blank which happened to be that of 195, and wrote the question ”14 sect. of the 6 article” after the question the vote of which had been recorded. This accounts for New Hampshire’s vote, and Madison notes that Massachusetts was absent when this vote was taken on August 16. When John Quincy Adams prepared the printed Journal he failed to solve this difficulty. He accordingly ignored Vote 196, and ascribed the vote of August 16 to the first question in the blank of 195. He ascribed the vote of New Hampshire to Massachusetts and recorded the total as ”Yeas, 9; nay, 1,” in spite of the fact that the Journal specifically stated that the question was “passed unan: in the affirmative.” Madison was misled by this.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

“ to be paid out of the National Treasury” agreed to, N. Jersey only in the negative.

[Editors’ note: Farrand notes that Madison’s record of this vote is incorrect: the vote passed unanimously in the affirmative.]

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673058] It was moved and seconded to agree to the following resolution

Resolved That the Electors respectively shall not be Members of the National Legislature, or Officers of the Union, or eligible to the office of supreme Magistrate

[Editors’ note: The Journal records this motion as being made before the seventh clause of the ninth resolution was brought up for debate.]

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

Mr. Gerry & Govr. Morris moved ‘that the Electors of the Executive shall not be members of the Natl. Legislature, nor officers of the U. States, nor shall the Electors themselves be eligible to the supreme Magistracy.’

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

[e673059] Mr. Gerry & Govr. Morris moved ‘that the Electors of the Executive shall not be members of the Natl. Legislature, nor officers of the U. States, nor shall the Electors themselves be eligible to the supreme Magistracy.’

Agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 69, Vol. 2)

It was moved and seconded to agree to the following resolution

Resolved That the Electors respectively shall not be Members of the National Legislature, or Officers of the Union, or eligible to the office of supreme Magistrate

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 61, Vol. 2)

[e673060] Doctr. McClurg asked whether it would not be necessary, before a Committee for detailing the Constitution should be appointed, to determine on the means by which the Executive. is to carry the laws into effect, and to resist combinations agst. them. Is he to have a military force for the purpose, or to have the command of the Militia, the only existing force that can be applied to that use? As the Resolutions now Stand the Committee will have no determinate directions on this great point.

Mr. Wilson thought that some additional directions to the Committee wd. be necessary.

Mr. King. The Committee are to provide for the end. Their discretionary power to provide for the means is involved according to an established axiom.

(Madison’s Notes (Max Farrand, 1911), Pages 69-70, Vol. 2)

[e673061] and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 63, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 70, Vol. 2)

[e673062] [To adjourn Ayes — 8; noes — 2.]

and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Pages 62-63, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 70, Vol. 2)

1.57 Saturday, 21 July 1787, at 11:00 (s6244)

[e673063] [Editors' note: In a letter to update Livingston on the goings on at the Convention and urge him to return, Dayton writes:

'Philadelphia July 13th 1787 Sir I have the mortification to inform your Excellency that, altho' we have been daily in Convention, we have not made the least progress in the business since you left us. It is unnecessary and would perhaps be improper, to relate here the causes of this delay. They will very readily occur to your Excellency from your knowledge of them heretofore. I must request that your excellency will be pleased agreeably to the arrangement made at parting, to return to this place on Tuesday or Wednesday next at the farthest. Mr. Paterson must leave this town the first day of August, and I must consequently be here to relieve him the last day of this month, let my stay at home be ever so short. I shall therefore at best have ten days. I have the honor to be Your Excellency's most obedient very humble servant Jonathan Dayton'.

For Dayton to have approximately ten days away from Philadelphia, he would have had to leave the Convention around the 21 July. As this is the first day the Secretary records New Jersey dropping below quorum, it seems likely that he left after the previous session. His absence has therefore been noted here. This letter is found at <https://www.consource.org/document/jonathan-dayton-to-william-livingston-1787-7-13>]

(2019 Editors)

[e673064] Richmond Augt. 5. 87.

I am much obliged to you for your communication of the proceedings of ye Convention, since I left them; for I feel that anxiety about the result, which it's Importance must give to every honest citizen. If I thought that my return could contribute in the smallest degree to it's Improvement, nothing should keep me away. But as I know that the talents, knowledge, and well-establish'd character, of our present delegates, have justly inspired this country with the most entire confidence in their determinations; & that my vote could only operate to produce a division, & so destroy the vote of the State, I think that my attendance now would certainly be useless, perhaps injurious...

[Editors' note: In this letter, McClurg indicates that he left the Convention prior to the long adjournment and did not intend to return. As he spoke in the previous session and there is no evidence that he attended again, the editors assume he left the day after.]

(Appendix A (Max Farrand, 1911), Page 67, Vol. 3, James McClurg to James Madison, 5 August 1787)

McClurg, James, of Virginia. Attended as early as May 15; was present July 20; and absent after August 5. Favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673065] It was moved and seconded to add the following clause to the resolution respecting the Electors of the supreme Executive, namely

“Who shall be paid out of the national Treasury for the devotion of their time to the public service”

(Official Journal (Max Farrand, 1911), Page 71, Vol. 2)

Mr. Williamson moved that the Electors of the Executive should be paid out of the National Treasury for the Service to be performed by them”. Justice required this: as it was a national service they were to render.

(Madison's Notes (Max Farrand, 1911), Page 73, Vol. 2)

[e673066] It was moved and seconded to add the following clause to the resolution respecting the Electors of the supreme Executive, namely

“Who shall be paid out of the national Treasury for the devotion of their time to the public service”

which passed unanimously in the affirmative. [Ayes — 9; noes — 0.]

[Editors' note: The New Jersey delegation was absent or not quorate during this session.]

(Official Journal (Max Farrand, 1911), Page 71, Vol. 2)

Mr. Williamson moved that the Electors of the Executive should be paid out of the National Treasury for the Service to be performed by them”. Justice required this: as it was a national service they were to render. The motion was agreed to nem.— con.

(Madison's Notes (Max Farrand, 1911), Page 73, Vol. 2)

[e673067] It was moved and seconded to add after the words “national Executive” in the 10th resolution the words “together with the supreme national Judiciary.”

[Editors' note: Madison records Wilson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 71, Vol. 2)

Mr. Wilson moved as an amendment to Resoln: 10. that the supreme Natl Judiciary should be associated with the Executive in the Revisionary power”.

(Madison's Notes (Max Farrand, 1911), Page 73, Vol. 2)

[e673068] Mr. Wilson moved as an amendment to Resoln: 10. that the supreme Natl Judiciary should be associated with the Executive in the Revisionary power". This proposition had been before made, and failed; but he was so confirmed by reflection in the opinion of its utility, that he thought it incumbent on him to make another effort: The Judiciary ought to have an opportunity of remonstrating agst projected encroachments on the people as well as on themselves. It had been said that the Judges, as expositors of the Laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the Judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity of taking notice of these characters of a law, and of counteracting, by the weight of their opinions the improper views of the Legislature. — Mr Madison 2ded. the motion

Mr Ghorum did not see the advantage of employing the Judges in this way. As Judges they are not to be presumed to possess any peculiar knowledge of the mere policy of public measures. Nor can it be necessary as a security for their constitutional rights. The Judges in England have no such additional provision for their defence, yet their jurisdiction is not invaded. He thought it would be best to let the Executive alone be responsible, and at most to authorize him to call on Judges for their opinions,

Mr. Elseworth approved heartily of the motion. The aid of the Judges will give more wisdom & firmness to the Executive. They will possess a systematic and accurate knowledge of the Laws, which the Executive can not be expected always to possess. The law of Nations also will frequently come into question. Of this the Judges alone will have competent information.

Mr. Madison — considered the object of the motion as of great importance to the meditated Constitution. It would be useful to the Judiciary departmt. by giving it an additional opportunity of defending itself agst: Legislative encroachments; It would be useful to the Executive, by inspiring additional confidence & firmness in exerting the revisionary power: It would be useful to the Legislature by the valuable assistance it would give in preserving a consistency, conciseness, perspicuity & technical propriety in the laws, qualities peculiarly necessary; & yet shamefully wanting in our republican Codes. It would moreover be useful to the Community at large as an additional check agst. a pursuit of those unwise & unjust measures which constituted so great a portion of our calamities. If any solid objection could be urged agst. the motion, it must be on the supposition that it tended to give too much strength either to the Executive or Judiciary. He did not think there was the least ground for this apprehension. It was much more to be apprehended that notwithstanding this co-operation of the two departments, the Legislature would still be an overmatch for them. Experience in all the States had evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger to the American Constitutions; & suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles.

Mr. Mason said he had always been a friend to this provision. It would give a confidence to the Executive, which he would not otherwise have, and without which the Revisionary power would be of little avail.

Mr. Gerry did not expect to see this point which had undergone full dis-

cussion, again revived. The object he conceived of the Revisionary power was merely to secure the Executive department agst. legislative encroachment. The Executive therefore who will best know and be ready to defend his rights ought alone to have the defence of them. The motion was liable to strong objections. It was combining & mixing together the Legislative & the other departments. It was establishing an improper coalition between the Executive & Judiciary departments. It was making Statesmen of the Judges; and setting them up as the guardians of the Rights of the people. He relied for his part on the Representatives of the people as the guardians of their Rights & interests. It was making the Expositors of the Laws, the Legislators which ought never to be done. A better expedient for correcting the laws, would be to appoint as had been done in *Pena*. a person or persons of proper skill, to draw bills for the Legislature.

Mr. Strong thought with Mr. Gerry that the power of making ought to be kept distinct from that of expounding, the laws. No maxim was better established. The Judges in exercising the function of expositors might be influenced by the part they had taken, in framing the laws.

Mr. Govr. Morris. Some check being necessary on the Legislature, the question is in what hands it should be lodged. On one side it was contended that the Executive alone ought to exercise it. He did not think that an Executive appointed for 6 years, and impeachable whilst in office, wd. be a very effectual check. On the other side it was urged that he ought to be reinforced by the Judiciary department. Agst. this it was objected that Expositors of laws ought to have no hand in making them, and arguments in favor of this had been drawn from England. What weight was due to them might be easily determined by an attention to facts. The truth was that the Judges in England had a great share in ye Legislation. They are consulted in difficult & doubtful cases. They may be & some of them are members of the Legislature. They are or may be members of the privy Council, and can there advise the Executive as they will do with us if the motion succeeds. The influence the English Judges may have in the latter capacity in strengthening the Executive check can not be ascertained, as the King by his influence in a manner dictates the laws. There is one difference in the two Cases however which disconcerts all reasoning from the British to our proposed Constitution. The British Executive has so great an interest in his prerogatives and such powerful means of defending them that he will never yield any part of them. The interest of our Executive is so inconsiderable & so transitory, and his means of defending it so feeble, that there is the justest ground to fear his want of firmness in resisting incroachments. He was extremely apprehensive that the auxiliary firmness & weight of the Judiciary would not supply the deficiency. He concurred in thinking the public liberty in greater danger from Legislative usurpations than from any other source. It had been said that the Legislature ought to be relied on as the proper Guardians of liberty. The answer was short and conclusive. Either bad laws will be pushed or not. On the latter supposition no check will be wanted. On the former a strong check will be necessary: And this is the proper supposition. Emissions of paper money, largesses to the people — a remission of debts and similar measures, will at sometimes be popular, and will be pushed for that reason At other times such measures will coincide with the interests of the Legislature themselves, & that will be a reason not less cogent for pushing them. It might be thought that the people will not be deluded and misled in the latter case. But experience

teaches another lesson. The press is indeed a great means of diminishing the evil, yet it is found to be unable to prevent it altogether.

Mr. L. Martin. considered the association of the Judges with the Executive as a dangerous innovation; as well as one which, could not produce the particular advantage expected from it. A knowledge of mankind, and of Legislative affairs cannot be presumed to belong in a higher degree to the Judges than to the Legislature. And as to the Constitutionality of laws, that point will come before the Judges in their proper official character. In this character they have a negative on the laws. Join them with the Executive in the Revision and they will have a double negative. It is necessary that the Supreme Judiciary should have the confidence of the people. This will soon be lost, if they are employed in the task of remonstrating agst. popular measures of the Legislature. Besides in what mode & proportion are they to vote in the Council of Revision?

Mr. Madison could not discover in the proposed association of the Judges with the Executive in the Revisionary check on the Legislature any violation of the maxim which requires the great departments of power to be kept separate & distinct. On the contrary he thought it an auxiliary precaution in favor of the maxim. If a Constitutional discrimination of the departments on paper were a sufficient security to each agst. encroachments of the others, all further provisions would indeed be superfluous. But experience had taught us a distrust of that security; and that it is necessary to introduce such a balance of powers and interests, as will guarantee the provisions on paper. Instead therefore of contenting ourselves with laying down the Theory in the Constitution that each department ought to be separate & distinct, it was proposed to add a defensive power to each which should maintain the Theory in practice. In so doing we did not blend the departments together. We erected effectual barriers for keeping them separate. The most regular example of this theory was in the British Constitution. Yet it was not only the practice there to admit the Judges to a seat in the legislature, and in the Executive Councils, and to submit to their previous examination all laws of a certain description, but it was a part of their Constitution that the Executive might negative any law whatever; a part of their Constitution which had been universally regarded as calculated for the preservation of the whole. The objection agst. a union of the Judiciary & Executive branches in the revision of the laws, had either no foundation or was not carried far enough. If such a Union was an improper mixture of powers, or such a Judiciary check on the laws, was inconsistent with the Theory of a free Constitution, it was equally so to admit the Executive to any participation in the making of laws; and the revisionary plan ought to be discarded altogether.

Col Mason Observed that the defence of the Executive was not the sole object of the Revisionary power. He expected even greater advantages from it. Notwithstanding the precautions taken in the Constitution of the Legislature, it would so much resemble that of the individual States, that it must be expected frequently to pass unjust and pernicious laws. This restraining power was therefore essentially necessary. It would have the effect not only of hindering the final passage of such laws; but would discourage demagogues from attempting to get them passed. It had been said (by Mr. L. Martin) that if the Judges were joined in this check on the laws, they would have a double negative, since in their expository capacity of Judges they would have one negative. He would reply that in this capacity they could impede in one case only, the operation of laws. They could declare an unconstitutional law void. But with regard to

every law however unjust oppressive or pernicious, which did not come plainly under this description, they would be under the necessity as Judges to give it a free course. He wished the further use to be made of the Judges, of giving aid in preventing every improper law. Their aid will be the more valuable as they are in the habit and practice of considering laws in their true principles, and in all their consequences.

Mr. Wilson. The separation of the departments does not require that they should have separate objects but that they should act separately tho' on the same objects. It is necessary that the two branches of the Legislature should be separate and distinct, yet they are both to act precisely on the same object

Mr. Gerry had rather give the Executive an absolute negative for its own defence than thus to blend together the Judiciary & Executive departments. It will bind them together in an offensive and defensive alliance agst. the Legislature, and render the latter unwilling to enter into a contest with them.

Mr. Govr. Morris was surprised that any defensive provision for securing the effectual separation of the departments should be considered as an improper mixture of them. Suppose that the three powers, were to be vested in three persons, by compact among themselves; that one was to have the power of making — another of executing, and a third of judging, the laws. Would it not be very natural for the two latter after having settled the partition on paper, to observe, and would not candor oblige the former to admit, that as a security agst. legislative acts of the former which might easily be so framed as to undermine the powers of the two others, the two others ought to be armed with a veto for their own defence, or at least to have an opportunity of stating their objections agst. acts of encroachment? And would any one pretend that such a right tended to blend & confound powers that ought to be separately exercised?4 As well might it be said that If three neighbours had three distinct farms, a right in each to defend his farm agst. his neighbours, tended to blend the farms together.

Mr. Ghorum. All agree that a check on the Legislature is necessary. But there are two objections agst. admitting the Judges to share in it which no observations on the other side seem to obviate. the 1st. is that the Judges ought to carry into the exposition of the laws no prepossessions with regard to them. 2d. that as the Judges will outnumber the Executive, the revisionary check would be thrown entirely out of the Executive hands, and instead of enabling him to defend himself, would enable the Judges to sacrifice him.

Mr. Wilson. The proposition is certainly not liable to all the objections which have been urged agst. it. According to (Mr. Gerry) it will unite the Executive & Judiciary in an offensive & defensive alliance agst. the Legislature. According to Mr. Ghorum it will lead to a subversion of the Executive by the Judiciary influence. To the first gentleman the answer was obvious; that the joint weight of the two departments was necessary to balance the single weight of the Legislature. To the 1st. objection stated by the other Gentleman it might be answered that supposing the prepossession to mix itself with the exposition, the evil would be overbalanced by the advantages promised by the expedient. To the 2d. objection, that such a rule of voting might be provided in the detail as would guard agst. it.

Mr. Rutledge thought the Judges of all men the most unfit to be concerned in the revisionary Council. The Judges ought never to give their opinion on a law till it comes before them. He thought it equally unnecessary. The Executive

could advise with the officers of State, as of war, finance &c. and avail himself of their information and opinions.

(Madison's Notes (Max Farrand, 1911), Pages 73-80, Vol. 2)

[e673069] It was moved and seconded to add after the words "national Executive" in the 10th resolution the words "together with the supreme national Judiciary."

which passed in the negative [Ayes — 3; noes — 4; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 71, Vol. 2)

On Question on Mr. Wilson's motion for joining the Judiciary in the Revision of laws it passed in the negative —

Mas. no. Cont. ay. N. J. not present. Pa. divid. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. divid. [Ayes — 3; noes — 4; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 80, Vol. 2)

[e673070] It was moved and seconded to agree to the 10th resolution, as reported from the Committee of the whole House, namely

Resolved that the national Executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two third parts of each Branch of the national Legislature.

which passed unanimously in the affirmative [Ayes — 9; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 71, Vol. 2)

Resol: 10 giving the Ex. a qualified veto without the amendmt. was then agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 80, Vol. 2)

[e673071] The motion made by Mr. Madison July 18. & then postponed, "that the Judges shd. be nominated by the Executive & such nominations become appointments unless disagreed to by of the 2d. branch of the Legislature," was now resumed.

Mr. Madison stated as his reasons for the motion. 1 that it secured the responsibility of the Executive who would in general be more capable & likely to select fit characters than the Legislature, or even the 2d. b. of it, who might hide their selfish motives under the number concerned in the appointment- 2 that in case of any flagrant partiality or error, in the nomination, it might be fairly presumed that of the 2d. branch would join in putting a negative on it. 3. that as the 2d. b. was very differently constituted when the appointment of the Judges was formerly referred to it, and was now to be composed of equal votes from all the States, the principle of compromise which had prevailed in other instances required in this that their shd. be a concurrence of two authorities, in one of which the people, in the other the states, should be represented. The Executive Magistrate wd be considered as a national officer, acting for and equally sympathising with every part of the U. States. If the 2d. branch alone should have this power, the Judges might be appointed by a minority of the people, tho' by a majority, of the States, which could not be justified on any

principle as their proceedings were to relate to the people, rather than to the States: and as it would moreover throw the appointments entirely into the hands of ye Nthern States, a perpetual ground of jealousy & discontent would be furnished to the Southern States.

Mr. Pinkney was for placing the appointmt. in the 2d. b. exclusively. The Executive will possess neither the requisite knowledge of characters, nor confidence of the people for so high a trust.

Mr. Randolph wd. have preferred the mode of appointmt. proposed formerly by Mr Ghorum, as adopted in the Constitution of Massts. but thought the motion depending so great an improvement of the clause as it stands, that he anxiously wished it success. He laid great stress on the responsibility of the Executive as a security for fit appointments. Appointments by the Legislatures have generally resulted from cabal, from personal regard, or some other consideration than a title derived from the proper qualifications. The same inconveniencies will proportionally prevail if the appointments be referred to either branch of the Legislature or to any other authority administered by a number of individuals.

Mr. Elseworth would prefer a negative in the Executive on a nomination by the 2d. branch, the negative to be overruled by a concurrence of of the 2d. b. to the mode proposed by the motion; but preferred an absolute appointment by the 2d. branch to either. The Executive will be regarded by the people with a jealous eye. Every power for augmenting unnecessarily his influence will be disliked. As he will be stationary it was not to be supposed he could have a better knowledge of characters. He will be more open to caresses & intrigues than the Senate. The right to supersede his nomination will be ideal only. A nomination under such circumstances will be equivalent to an appointment.

Mr. Govr. Morris supported the motion. 1. The States in their corporate capacity will frequently have an interest staked on the determination of the Judges. As in the Senate the States are to vote the Judges ought not to be appointed by the Senate. Next to the impropriety of being Judge in one's own cause, is the appointment of the Judge. 2. It had been said the Executive would be uninformed of characters. The reverse was ye truth. The Senate will be so. They must take the character of candidates from the flattering pictures drawn by their friends. The Executive in the necessary intercourse with every part of the U. S. required by the nature of his administration, will or may have the best possible information. 3. It had been said that a jealousy would be entertained of the Executive. If the Executive can be safely trusted with the command of the army, there can not surely be any reasonable ground of Jealousy in the present case. He added that if the Objections agst. an appointment of the Executive by the Legislature, had the weight that had been allowed there must be some weight in the objection to an appointment of the Judges by the Legislature or by any part of it.

Mr. Gerry. The appointment of the Judges like every other part of the Constitution shd. be so modeled as to give satisfaction both to the people and to the States. The mode under consideration will give satisfaction to neither. He could not conceive that the Executive could be as well informed of characters throughout the Union, as the Senate. It appeared to him also a strong objection that of the Senate were required to reject a nomination of the Executive. The Senate would be constituted in the same manner as Congress. And the appointments of Congress have been generally good.

Mr. Madison, observed that he was not anxious that should be necessary to disagree to a nomination. He had given this form to his motion chiefly to vary it the more clearly from one which had just been rejected. He was content to obviate the objection last made, and accordingly so varied the motion as to let a majority reject.

Col. Mason found it his duty to differ from his colleagues in their opinions & reasonings on this subject. Notwithstanding the form of the proposition by which the appointment seemed to be divided between the Executive & Senate, the appointment was substantially vested in the former alone. The false complaisance which usually prevails in such cases will prevent a disagreement to the first nominations. He considered the appointment by the Executive as a dangerous prerogative. It might even give him an influence over the Judiciary department itself. He did not think the difference of interest between the Northern and Southern States could be properly brought into this argument. It would operate & require some precautions in the case of regulating navigation, commerce & imposts; but he could not see that it had any connection with the Judiciary department.

(Madison's Notes (Max Farrand, 1911), Pages 80-83, Vol. 2)

[e673072] On the question, the motion now being "that the executive should nominate, & such nominations should become appointments unless disagreed to by the Senate"

[Editors' note: During the debate on his proposal, Madison decided to alter his amendment to drop the need for a two-thirds majority. The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 83, Vol. 2)

On the question to agree to the following amendment of the 3rd clause of the 11th resolution, namely

"That the Judges shall be nominated by the Executive, and such nomination shall become an appointment if not disagreed to by the second Branch of the Legislature"

(Official Journal (Max Farrand, 1911), Pages 71-72, Vol. 2)

[e673073] On the question, the motion now being "that the executive should nominate, & such nominations should become appointments unless disagreed to by the Senate"

[Editors' note: During the debate on his proposal, Madison decided to alter his amendment to drop the need for a two-thirds majority.]

(Madison's Notes (Max Farrand, 1911), Page 83, Vol. 2)

On the question to agree to the following amendment of the 3rd clause of the 11th resolution, namely

"That the Judges shall be nominated by the Executive, and such nomination shall become an appointment if not disagreed to by the second Branch of the Legislature"

(Official Journal (Max Farrand, 1911), Pages 71-72, Vol. 2)

[e673074] On the question to agree to the following amendment of the 3rd clause of the 11th resolution, namely

“That the Judges shall be nominated by the Executive, and such nomination shall become an appointment if not disagreed to by the second Branch of the Legislature”

it passed in the negative [Ayes — 3; noes — 6.]

(Official Journal (Max Farrand, 1911), Pages 71-72, Vol. 2)

On the question, the motion now being “that the executive should nominate, & such nominations should become appointments unless disagreed to by the Senate”

Mas. ay. Ct. no. Pa. ay. Del. no. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Page 83, Vol. 2)

[e673075] On the question to agree to the following clause of the 11th resolution, as reported from the Committee of the whole House, namely

“The Judges of which shall be appointed by the second Branch of the national Legislature”

it passed in the affirmative [Ayes — 6; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 72, Vol. 2)

On question for agreeing to the clause as it stands by which the Judges are to be appointed by 2d. branch

Mas. no. Ct. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 83, Vol. 2)

[e673076] [Editors’ note: After agreeing to the final postponed clause of the Eleventh Resolution, the Convention appears to tacitly agreed the resolution as a whole.]

(2019 Editors)

[e673077] And then the House adjourned till Monday next at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 72, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 83, Vol. 2)

[e673078] And then the House adjourned till Monday next at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 72, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 83, Vol. 2)

1.58 Monday, 23 July 1787, at 11:00 (s6245)

[e673079] The honorable John Langdon and Nicholas Gillman Esquires, Deputies from the State of New Hampshire, attended and took their seats.

[Editors' note: Williamson writes in a letter to James Iredell on 22 July that 'two delegates from New Hampshire arrived yesterday, so that we have every State except Rhode Island' (Page 61, Vol. 3, Appendix A (Max Farrand, 1911)). Evidently, they arrived in Philadelphia too late to join the Convention that day.]

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

Mr. John Langdon & Mr. Nicholas Gilman from N. Hampshire took their seats.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673080] The honorable John Langdon and Nicholas Gillman Esquires, Deputies from the State of New Hampshire, attended and took their seats.

[Editors' note: Williamson writes in a letter to James Iredell on 22 July that 'two delegates from New Hampshire arrived yesterday, so that we have every State except Rhode Island' (Page 61, Vol. 3, Appendix A (Max Farrand, 1911)). Evidently, they arrived in Philadelphia too late to join the Convention that day.]

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

Mr. John Langdon & Mr. Nicholas Gilman from N. Hampshire took their seats.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673081] The honorable John Langdon and Nicholas Gillman Esquires, Deputies from the State of New Hampshire, attended and took their seats

The following credentials were produced and read —

(Here insert the credentials of the Deputies of the State of New Hamr)

[Editors' note: This description text is drawn from the Journal (Page 84, Vol. 2, Official Journal (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Pages 571-573, Vol. 2)

[e673082] [Editors' note: There is no record of any discussion or procedure surrounding the credentials, suggesting that they were accepted without objection.]

(2019 Editors)

[e673083] On the question to agree to the 17th resolution, as reported from the Committee of the whole House, namely

“That provision ought to be made for the amendment of the articles of union, whensoever it shall seem necessary”

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

Resoln: 17. that provision ought to be made for future amendments of the articles of Union.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673084] On the question to agree to the 17th resolution, as reported from the Committee of the whole House, namely

“That provision ought to be made for the amendment of the articles of union, whensoever it shall seem necessary”

it passed unanimously in the affirmative.

[Editors' note: The New Jersey delegation was, again, not quorate for this session.]

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

Resoln: 17. that provision ought to be made for future amendments of the articles of Union. Agreed to nem con.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673085] Resoln. 18. “requiring the Legis: Execut: & Judy. of the States to be bound by oath to support the articles of Union”. taken into consideration.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e737716] Mr. Williamson suggests that a reciprocal oath should be required from the National officers, to support the Governments of the States.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673086] It was moved and seconded to add after the word “States” in the 18 resolution, the words “and of the national government”

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

Mr. Gerry moved to insert as an amendmt. that the oath of the Officers of the National Government also should extend to the support of the Natl. Govt.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

[e673087] Mr. Gerry moved to insert as an amendmt. that the oath of the Officers of the National Government also should extend to the support of the Natl. Govt. which was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 2)

It was moved and seconded to add after the word “States” in the 18 resolution, the words “and of the national government”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

[e673088] Mr. Wilson said he was never fond of oaths, considering them as a left handed security only. A good Govt. did not need them. and a bad one could not or ought not to be supported. He was afraid they might too much trammel the the Members of the Existing Govt in case future alterations should be necessary; and prove an obstacle to Resol: 17. just agd. to.

Mr. Ghorum did not know that oaths would be of much use; but could see no inconsistency between them and the 17. Resol: or any regular amendt. of the Constitution. The oath could only require fidelity to the existing Constitution. A constitutional alteration of the Constitution, could never be regarded as a breach of the Constitution, or of any oath to support it.

Mr Gerry thought with Mr. Ghorum there could be no shadow of inconsistency in the case. Nor could he see any other harm that could result from the Resolution. On the other side he thought one good effect would be produced by it. Hitherto the officers of the two Governments had considered them as distinct from, not as parts of the-General System, & had in all cases of interference given a preference to the State Govts. The proposed oaths will cure that error. —

(Madison's Notes (Max Farrand, 1911), Pages 87-88, Vol. 2)

[e673089] On the question to agree to the 18th resolution as amended namely

“That the legislative, Executive, and Judiciary Powers within the several States, and of the national Government, ought to be bound by oath to support the articles of union”

It passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

The Resoln. (18). was agreed to nem. con. —

(Madison's Notes (Max Farrand, 1911), Page 88, Vol. 2)

[e673090] Resol: 19. referring the new Constitution to Assemblies to be chosen by the people for the express purpose of ratifying it” was next taken into consideration.

(Madison's Notes (Max Farrand, 1911), Page 88, Vol. 2)

[e673091] It was moved and seconded to strike the following words out of the 19th resolution reported from the Committee of the whole House namely

“to an Assembly or assemblies of representatives, recommended by the several Legislatures, to be expressly chosen by the people to consider and decide thereon”

[Editors' note: Madison writes that 'Mr. Elseworth moved that it be referred to the Legislatures of the States for ratification. Mr. Patterson 2ded. the motion' (Page 88, Vol. 2, Madison's Notes (Max Farrand, 1911)). As the resolution as amended makes better sense in this form, the editors have stricken the phrase reported by the Journal and inserted the phrase reported by Madison.]

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

[e673092] Col. Mason considered a reference of the plan to the authority of the people as one of the most important and essential of the Resolutions. The Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators. And he knew of no power in any of the Constitutions, he knew there was no power in some of them, that could be competent to this object. Whither then must we resort? To the people with whom all power remains that has not been given up in the Constitutions derived from them. It was of great moment he observed that this doctrine should be cherished as the basis of free Government. Another strong reason was that admitting the Legislatures to have a competent authority, it would be wrong to refer the plan to them, because succeeding Legislatures having equal authority could undo the acts of their predecessors; and the National Govt. would stand in each State on the weak and tottering foundation of an Act of Assembly. There was a remaining consideration of some weight. In some of the States the Govts. were not derived from the clear & undisputed authority of the people. This was the case in Virginia. Some of the best & wisest citizens considered the Constitution as established by an assumed authority. A National Constitution derived from such a source would be exposed to the severest criticisms.

Mr. Randolph. One idea has pervaded all our proceedings, to wit, that opposition as well from the States as from individuals, will be made to the System to be proposed. Will it not then be highly imprudent, to furnish any unnecessary pretext by the mode of ratifying it. Added to other objections agst. a ratification by Legislative authority only, it may be remarked that there have been instances in which the authority of the Common law has been set up in particular States agst. that of the Confederation which has had no higher sanction than Legislative ratification. — Whose opposition will be most likely to be excited agst. the System? That of the local demagogues who will be degraded by it from the importance they now hold. These will spare no efforts to impede that progress in the popular mind which will be necessary to the adoption of the plan, and which every member will find to have taken place in his own, if he will compare his present opinions with those brought with him into the Convention. It is of great importance therefore that the consideration of this subject should be transferred from the Legislatures where this class of men, have their full influence to a field in which their efforts can be less mischievous. It is moreover worthy of consideration that some of the States are averse to any change in their Constitution, and will not take the requisite steps, unless expressly called upon to refer the question to the people.

Mr. Gerry. The arguments of Col. Mason & Mr. Randolph prove too much, they prove an unconstitutionality in the present federal system & even in some of the State Govts. Inferences drawn from such a source must be inadmissible. Both the State Govts. & the federal Govt. have been too long acquiesced in, to be now shaken. He considered the Confederation to be paramount to any State Constitution. The last article of it authorizing alterations must consequently be so as well as the others, and everything done in pursuance of the article must have the same high authority with the article. — Great confusion he was confident would result from a recurrence to the people. They would never agree on any thing. He could not see any ground to suppose that the people will do what their rulers will not. The rulers will either conform to, or influence the sense of the people.

Mr. Ghorum was agst. referring the plan to the Legislatures. 1. Men chosen by the people for the particular purpose, will discuss the subject more candidly than members of the Legislature who are to lose the power which is to be given up to the Genl. Govt. 2. Some of the Legislatures are composed of several branches. It will consequently be more difficult in these cases to get the plan through the Legislatures, than thro' a Convention. 3. in the States many of the ablest men are excluded from the Legislatures, but may be elected into a Convention. Among these may be ranked many of the Clergy who are generally friends to good Government. Their services were found to be valuable in the formation & establishment of the Constitution of Massachs. 4. the Legislatures will be interrupted with a variety of little business. by artfully pressing which, designing men will find means to delay from year to year, if not to frustrate altogether the national system. 5 — If the last art: of the Confederation is to be pursued the unanimous concurrence of the States will be necessary. But will any one say. that all the States are to suffer themselves to be ruined, if Rho. Island should persist in her opposition to general measures. Some other States might also tread in her steps. The present advantage which N. York seems to be so much attached to, of taxing her neighbours by the regulation of her trade, makes it very probable, that she will be of the number. It would therefore deserve serious consideration whether provision ought not to be made for giving effect to the System without waiting for the unanimous concurrence of the States.

Mr. Elseworth. If there be any Legislatures who should find themselves incompetent to the ratification, he should be content to let them advise with their constituents and pursue such a mode as wd be competent. He thought more was to be expected from the Legislatures than from the people. The prevailing wish of the people in the Eastern States is to get rid of the public debt; and the idea of strengthening the Natl. Govt. carries with it that of strengthening the public debt. It was said by Col. Mason 1. that the Legislatures have no authority in this case. 2. that their successors having equal authority could rescind their acts. As to the 2d. point he could not admit it to be well founded. An Act to which the States by their Legislatures, make themselves parties, becomes a compact from which no one of the parties can recede of itself. As to the 1st. point, he observed that a new sett of ideas seemed to have crept in since the articles of Confederation were established. Conventions of the people, or with power derived expressly from the people, were not then thought of. The Legislatures were considered as competent. Their ratification has been acquiesced in without complaint. To whom have Congs. applied on subsequent occasions for further powers? To the Legislatures; not to the people. The fact is that we exist at present, and we need not enquire how, as a federal Society, united by a charter one article of which is that alterations therein may be made by the Legislative authority of the States. It has been said that if the confederation is to be observed, the States must unanimously concur in the proposed innovations. He would answer that if such were the urgency & necessity of our situation as to warrant a new compact among a part of the States, founded on the consent of the people; the same pleas would be equally valid in favor of a partial compact, founded on the consent of the Legislatures.

Mr. Williamson thought the Resoln. (19) so expressed as that it might be submitted either to the Legislatures or to Conventions recommended by the Legislatures. He observed that some Legislatures were evidently unauthorized

to ratify the system. He thought too that Conventions were to be preferred as more likely to be composed of the ablest men in the States.

Mr. Govr. Morris considered the inference of Mr. Elseworth from the plea of necessity as applied to the establishment of a new System on ye. consent of the people of a part of the States, in favor of a like establishmt. on the consent of a part of the Legislatures as a non sequitur. If the Confederation is to be pursued no alteration can be made without the unanimous consent of the Legislatures: Legislative alterations not conformable to the federal compact, would clearly not be valid. The Judges would consider them as null & void. Whereas in case of an appeal to the people of the U. S., the supreme authority, the federal compact may be altered by a majority of them; in like manner as the Constitution of a particular State may be altered by a majority of the people of the State. The amendmt. moved by Mr. Elseworth erroneously supposes that we are proceeding on the basis of the Confederation. This Convention is unknown to the Confederation.

Mr. King thought with Mr. Elseworth that the Legislatures had a competent authority, the acquiescence of the people of America in the Confederation, being equivalent to a formal ratification by the people. He thought with Mr. E— also that the plea of necessity was as valid in the one case as in the other. At the same time he preferred a reference to the authority of the people expressly delegated to Conventions, as the most certain means of obviating all disputes & doubts concerning the legitimacy of the new Constitution; as well as the most likely means of drawing forth the best men in the States to decide on it. He remarked that among other objections made in the State of N. York to granting powers to Congs. one had been that such powers as would operate within the State, could not be reconciled to the Constitution; and therefore were not grantible by the Legislative authority. He considered it as of some consequence also to get rid of the scruples which some members of the States Legislatures might derive from their oaths to support & maintain the existing Constitutions.

Mr. Madison thought it clear that the Legislatures were incompetent to the proposed changes. These changes would make essential inroads on the State Constitutions, and it would be a novel & dangerous doctrine that a Legislature could change the constitution under which it held its existence. There might indeed be some Constitutions within the Union, which had given, a power to the Legislature to concur in alterations of the federal Compact. But there were certainly some which had not; and in the case of these, a ratification must of necessity be obtained from the people. He considered the difference between a system founded on the Legislatures only, and one founded on the people, to be the true difference between a league or treaty, and a Constitution. The former in point of moral obligation might be as inviolable as the latter. In point of political operation, there were two important distinctions in favor of the latter. 1. A law violating a treaty ratified by a preexisting law, might be respected by the Judges as a law, though an unwise or perfidious one. A law violating a constitution established by the people themselves, would be considered by the Judges as null & void. 2. The doctrine laid down by the law of Nations in the case of treaties is that a breach of any one article by any of the parties, frees the other parties from their engagements. In the case of a union of people under one Constitution, the nature of the pact has always been understood to exclude such an interpretation. Comparing the two modes in point of expediency he thought all the considerations which recommended this

Convention in preference to Congress for proposing the reform were in favor of State Conventions in preference to the Legislatures for examining and adopting it.

(Madison's Notes (Max Farrand, 1911), Pages 88-93, Vol. 2)

1. The Constitutionality of the Measure.

Reasons.

1. The people the Source of Power. Union —

2. The Legr. of To-Morrow may repeal the Act of the Legr. of To-Day. So as to Convention —

3. Some of the Constns. not well or authoritatively founded — Acquiescence. Expediency.

2 Branches in some of the States —

Judges, etc excluded —

The very Men that will oppose — Rh. Island —

The Debt will go with the Govt. — this a prevailing Idea —

The Legr. has no Right to alter the Constn. or the Confedn. —

Not acting under the Confedn. Nothing but a Compact resting upon the 13 States.

Congress over again.

A Violation of the Compact by one of the Parties, leaves the rest at Large, and exonerated from the Agreement.

[Editors' note: Farand writes "These notes seem to cover the debates of July 23. Down to the first blank line, i. e., through the word "Acquiescence", the notes refer to the speech of Mason. "Expediency" may refer to Randolph's speech. Down to the next blank line, i. e., from "Expediency" through "Rh. Island", the notes refer to the speech of Gorham. The next line, beginning with "The Debt" and ending with "Idea", refers to Ellsworth's remarks. The rest of these notes probably refer to Madison's speech.

The above assignment is based upon Professor McLaughlin's notes in American Historical Review, January, 1904, IX, p. 339.]

(Paterson's Notes (Max Farrand, 1911), Page 96, Vol. 2)

[e673093] It was moved and seconded to strike the following words out of the 19th resolution reported from the Committee of the whole House namely

"to an Assembly or assemblies of representatives, recommended by the several Legislatures, to be expressly chosen by the people to consider and decide thereon"

which passed in the negative. [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 84, Vol. 2)

On question on Mr Elseworth's motion to refer the plan to the Legislatures of the States

N. H. no. Mas. no. Ct. ay. Pa. no- Del. ay- Md. ay. Va. no. N- C- no. S. C- no. Geo. no. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 93, Vol. 2)

[e673094] Mr. Govr. Morris moved that the reference of the plan be made to one general Convention, chosen & authorized by the people to consider, amend, & establish the same. — Not seconded.

(Madison's Notes (Max Farrand, 1911), Page 93, Vol. 2)

[e673095] Mr. Govr. Morris moved that the reference of the plan be made to one general Convention, chosen & authorized by the people to consider, amend, & establish the same. — Not seconded.

(Madison's Notes (Max Farrand, 1911), Page 93, Vol. 2)

[e673096] On the question to agree to the 19th resolution as reported from the Committee of the whole House, namely

Resolved that the amendments which shall be offered to the confederation by the Convention ought at a proper time or times after the approbation of Congress to be submitted to an assembly or assemblies of representatives, recommended by the several Legislatures, to be expressly chosen by the People to consider and decide thereon

it passed in the affirmative [Ayes — 9; noes — 1.]

(Official Journal (Max Farrand, 1911), Pages 84-85, Vol. 2)

On question for agreeing to Resolution 19, touching the mode of Ratification as reported from the Committee of the Whole; vi, to refer the Constn. after the approbation of Congs. to assemblies chosen by the people.

N. H. ay. Mas- ay. Ct. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 93-94, Vol. 2)

[e673097] It was moved and seconded to agree to the following resolution, namely

Resolved that the representation in the second Branch of the Legislature of the United States consist of _____ Members from each State, who shall vote per capita.

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Mr. Govr. Morris & Mr. King moved that the representation in the second branch consist of members from each State, who shall vote per capita.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673098] Mr Elseworth said he had alway approved of voting in that mode.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673099] It was moved and seconded to fill up the blank with the word "Three"

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Mr. Govr. Morris moved to fill the blank with three. He wished the Senate to be a pretty numerous body. If two members only should be allowed to each State, and a majority be made a quorum the power would be lodged in 14 members, which was too small a number for such a trust.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673100] Mr Ghorum preferred two to three members for the blank. A small number was most convenient for deciding on peace & war &c. which he expected would be vested in the 2d. branch. The number of States will also increase. Kentucky, Vermont, the province of Mayne & Franklin will probably soon be added to the present number. He presumed also that some of the largest States would be divided. The strength of the general Govt. will lie not in the largeness, but in the smallness of the States.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673101] It was moved and seconded to fill up the blank with the number "Two"

[Editors' note: Madison's notes suggest that Gorham proposed this motion.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Mr Ghorum preferred two to three members for the blank. A small number was most convenient for deciding on peace & war &c. which he expected would be vested in the 2d. branch. The number of States will also increase. Kentucky, Vermont, the province of Mayne & Franklin will probably soon be added to the present number. He presumed also that some of the largest States would be divided. The strength of the general Govt. will lie not in the largeness, but in the smallness of the States.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673102] Col. Mason thought 3 from each State including new States would make the 2d. branch too numerous. Besides other objections, the additional expence ought always to form one, where it was not absolutely necessary.

Mr. Williamson. If the number be too great, the distant States will not be on an equal footing with the nearer States. The later can more easily send & support their ablest Citizens. He approved of the voting per capita.

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673103] It was moved and seconded to fill up the blank with the word "Three" which passed in the negative. [Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

On the question for filling the blank with "three"

N. H. no. Mas. no. Cont. no. Pa. ay. Del. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673104] It was moved and seconded to fill up the blank with the number “Two”

which was unanimously agreed to [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

On question for filling it with “two.” Agreed to nem- con,

(Madison’s Notes (Max Farrand, 1911), Page 94, Vol. 2)

[e673105] Mr. L Martin was opposed to voting per Capita, as departing from the idea of the States being represented in the 2d. branch.

Mr. Carroll, was not struck with any particular objection agst. the mode; but he did not wish so hastily to make so material an innovation.

(Madison’s Notes (Max Farrand, 1911), Pages 94-95, Vol. 2)

[e673106] On the question to agree to the resolution as filled up — it passed in the affirmative. [Ayes — 9; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

On the question on the whole motion viz. the 2d. b. to consist of 2 members from each State and to vote per capita.”

N. H. ay. Mas. ay. Ct. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673107] It was moved and seconded to reconsider that clause of the resolution respecting the appointment of the supreme Executive.

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Mr. Houston & Mr. Spaight moved “that the appointment of the Executive by Electors chosen by the Legislatures of the States, be reconsidered.” Mr. Houston urged the extreme inconveniency & the considerable expense, of drawing together men from all the States for the single purpose of electing the Chief Magistrate.

(Madison’s Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673108] It was moved and seconded to reconsider that clause of the resolution respecting the appointment of the supreme Executive.

which passed in the affirmative [Ayes — 7; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

On the question which was put without any debate

N. H. ay. Mas. ay. Ct. ay. Pa. no. Del — ay. Md. no. Virga. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673109] and to-morrow was assigned for the reconsideration.

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Ordered that to morrow be assigned for the reconsideration. Cont & Pena. no — all the rest ay —

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673110] and to-morrow was assigned for the reconsideration. [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Ordered that to morrow be assigned for the reconsideration. Cont & Pena. no — all the rest ay —

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673111] [To adjourn. Ayes — 0; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

[e673112] [To adjourn. Ayes — 0; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

[e673113] It was moved and seconded that the proceedings of the Convention for the establishment of a national government, except what respects the Supreme Executive, be referred to a Committee for the purpose of reporting a Constitution conformably to the Proceedings aforesaid

[Editors' note: Madison records Gerry as the proposer. The resolutions referred to the Committee did not include the undecided Ninth and Eleventh Resolutions, as both referred to the powers of the executive.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

Mr. Gerry moved that the proceedings of the Convention for the establishment of a Natl. Govt. (except the part relating to the Executive), be referred to a Committee to prepare & report a Constitution conformable thereto.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673114] Genl. Pinkney reminded the Convention that if the Committee should fail to insert some security to the Southern States agst. an emancipation of slaves, and taxes on exports, he shd. be bound by duty to his State to vote agst. their Report.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673115] It was moved and seconded that the proceedings of the Convention for the establishment of a national government, except what respects the Supreme Executive, be referred to a Committee for the purpose of reporting a Constitution conformably to the Proceedings aforesaid — which passed unanimously in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2)

The appt. of a Come. as moved by Mr. Gerry. Agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673116] On the question that the Committee consist of a Member from each State

(Official Journal (Max Farrand, 1911), Page 86, Vol. 2)

Shall the Come. consist of 10 members" one from each State prest.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673117] On the question that the Committee consist of a Member from each State

it passed in the negative [Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Pages 86-87, Vol. 2)

Shall the Come. consist of 10 members" one from each State prest. — All the States were no. except Delaware. ay.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673118] On the question that the Committee consist of Seven

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

Shall it consist of 7. members.

(Madison's Notes (Max Farrand, 1911), Page 95, Vol. 2)

[e673119] On the question that the Committee consist of Seven

it passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

Shall it consist of 7. members.

N. H. ay Mas. ay. Ct. ay. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. ay. Geo. no. [Ayes — 5; noes — 5.] The question being lost by an equal division of Votes.

(Madison's Notes (Max Farrand, 1911), Pages 95-96, Vol. 2)

[e673120] On the question that the Committee consist of five

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

It was agreed nem — con — that the Commttee consist of 5 members, to be appointed tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 96, Vol. 2)

[e673121] On the question that the Committee consist of five
it passed unanimously in the affirmative. [Ayes — 10; noes — 0.]
To-morrow assigned for appointing the Committee.

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

It was agreed nem — con — that the Commttee consist of 5 members, to
be appointed tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 96, Vol. 2)

[e673122] and then the house adjourned till to-morrow at 11 o'clock.

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 96, Vol. 2)

[e673123] and then the house adjourned till to-morrow at 11 o'clock.

(Official Journal (Max Farrand, 1911), Page 87, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 96, Vol. 2)

1.59 Tuesday, 24 July 1787, at 11:00 (s6246)

[e673124] William Livingston to John Jay

July 19, 1787 ...By notification I received yesterday from Philadelphia that
one of my colleagues is obliged to return home I am obliged to set out for that
cool city and excellent fish market tomorrow ...

[Editors' note: Farrand claims Livingston returned on 19 July; however,
Livingston's letter contradicts this statement. It is likely that the first session
Livingston attended on his return was 24 July, as this is when the Secretary
records the New Jersey delegation as having the necessary three delegates to
return to quorum.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 174, William Livingston to John Jay, 19 July 1787)

Livingston, William, of New Jersey. First attended on June 5; absent on
June 28, and July 3-19.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e673125] It was moved and seconded to strike the following words out of the
resolution respecting the supreme Executive namely "by electors appointed for
that purpose by the Legislatures of the States" and to insert the words

"by the national Legislature"

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

Mr. Houston moved that he be appointed by the "Natl. Legislature. instead of "Electors appointed by the State Legislatures" according to the last decision of the mode. He dwelt chiefly on the improbability, that capable men would undertake the service of Electors from the more distant States.

Mr. Spaight seconded the motion.

(Madison's Notes (Max Farrand, 1911), Page 99, Vol. 2)

[e673126] Mr. Gerry opposed it. He thought there was no ground to apprehend the danger urged by Mr. Houston. The election of the Executive Magistrate will be considered as of vast importance and will create great earnestness. The best men, the Governours of the States will not hold it derogatory from their character to be the electors. If the motion should be agreed to, it will be necessary to make the Executive ineligible a 2d. time, in order to render him independent of the Legislature; which was an idea extremely repugnant to his way of thinking.

Mr. Strong supposed that there would be no necessity, if the Executive should be appointed by the Legislature, to make him ineligible a 2d. time; as new elections of the Legislature will have intervened; and he will not depend for his 2d. appointment on the same sett of men as his first was recd. from. It had been suggested that gratitude for his past appointment wd. produce the same effect as dependence for his future appointment. He thought very differently. Besides this objection would lie agst. the Electors who would be objects of gratitude as well as the Legislature. It was of great importance not to make the Govt. too complex which would be the case if a new sett of men like the Electors should be introduced into it. He thought also that the first characters in the States would not feel sufficient motives to undertake the office of Electors.

Mr. Williamson was for going back to the original ground; to elect the Executive for 7 years and render him ineligible a 2d. time. The proposed Electors would certainly not be men of the 1st. nor even of the 2d. grade in the States. These would all prefer a seat either in the Senate or the other branch of the Legislature. He did not like the Unity in the Executive. He had wished the Executive power to be lodged in three men taken from three districts into which the States should be divided. As the Executive is to have a kind of veto on the laws, and there is an essential difference of interests between the N. & S. States, particularly in the carrying trade, the power will be dangerous, if the Executive is to be taken from part of the Union, to the part from which he is not taken. The case is different here from what it is in England; where there is a sameness of interest throughout the Kingdom. Another objection agst. a single Magistrate is that he will be an elective King, and will feel the spirit of one. He will spare no pains to keep himself in for life, and will then lay a train for the succession of his children. It was pretty certain he thought that we should at some time or other have a King; but he wished no precaution to be omitted that might postpone the event as long as possible. — Ineligibility a 2d. time appeared to him to be the best precaution. With this precaution he had no objection to a longer term than 7 years. He would go as far as 10 or 12 years.

(Madison's Notes (Max Farrand, 1911), Pages 99-101, Vol. 2)

[e673127] Mr. Gerry moved that the Legislatures of the States should vote by ballot for the Executive in the same proportions as it had been proposed they should chuse electors; and that in case a majority of the votes should not center on the same person, the 1st. branch of the Natl. Legislature should chuse two out of the 4 candidates having most votes, and out of these two, the 2d. branch should chuse the Executive.

Mr. King seconded the motion

[Editors' note: Though the Journal does not record this motion, Farrand includes the original text, which the editors have shown here (Pages 98-99, Vol. 2, (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 101, Vol. 2)

[e673128] on the Question to postpone in order to take it into consideration, The noes were so predominant that the States were not counted.

(Madison's Notes (Max Farrand, 1911), Page 101, Vol. 2)

[e673129] It was moved and seconded to strike the following words out of the resolution respecting the supreme Executive namely "by electors appointed for that purpose by the Legislatures of the States" and to insert the words

"by the national Legislature"

which passed in the affirmative. [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

Question on Mr. Houston's motion that the Executive be appd. by Nal. Legislature

N. H. ay. Mas. ay. Ct. no. N. J. ay. Pa. no. Del. ay. Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 101, Vol. 2)

[e673130] Mr. L. Martin & Mr. Gerry moved to reinstate the ineligibility of the Executive a 2d. time.

(Madison's Notes (Max Farrand, 1911), Page 101, Vol. 2)

[e673131] Mr. Elseworth. With many this appears a natural consequence of his being elected by the Legislature. It was not the case with him. The Executive he thought should be reelected if his conduct proved him worthy of it. And he will be more likely to render him self worthy of it if he be rewardable with it. The most eminent characters also will be more willing to accept the trust under this condition, than if they foresee a necessary degradation at a fixt period.

Mr. Gerry. That the Executive shd. be independent of the Legislature is a clear point. The longer the duration of his appointment the more will his dependence be diminished — It will be better then for him to continue 10, 15, or even 20 — years and be ineligible afterwards.

Mr. King was for making him re-eligible. This is too great an advantage to be given up for the small effect it will have on his dependence, if impeachments are to lie. He considered these as rendering the tenure during pleasure.

(Madison's Notes (Max Farrand, 1911), Pages 101-102, Vol. 2)

[e673132] Mr. L. Martin, suspending his motion as to the ineligibility, moved “that the appointmt. of the Executive shall continue for Eleven years.

(Madison’s Notes (Max Farrand, 1911), Page 102, Vol. 2)

[e673133] Mr. L. Martin, suspending his motion as to the ineligibility, moved “that the appointmt. of the Executive shall continue for Eleven years.

[Editors’ note: The Journal records that ‘it was moved and seconded to strike out the word “six” and to insert the word “fifteen”’ (Page 97, Vol. 2, Official Journal (Max Farrand, 1911)); however, this appears to be a mistake resulting from the competing suggestions which followed. Madison suggests that Martin’s proposal of eleven came first and that the subsequent interventions from other delegates were counter-proposals that were not put as formal motions.]

(Madison’s Notes (Max Farrand, 1911), Page 102, Vol. 2)

[e673134] Mr Gerry suggested fifteen years.

Mr. King twenty years. This is the medium life of princes. This might possibly be meant as a caricature of the previous motions in order to defeat the object of them.

Mr. Davie Eight years

Mr. Wilson. The difficulties & perplexities into which the House is thrown proceed from the election by the Legislature which he was sorry had been reinstated. The inconveniency of this mode was such that he would agree to almost any length of time in order to get rid of the dependence which must result from it. He was persuaded that the longest term would not be equivalent to a proper mode of election, unless indeed it should be during good behaviour. It seemed to be supposed that at a certain advance of life, a continuance in office would cease to be agreeable to the officer, as well as desireable to the public. Experience had shewn in a variety of instances that both a capacity & inclination for public service existed — in very advanced stages. He mentioned the instance of a Doge of Venice who was elected after he was 80 years of age. The popes have generally been elected at very advanced periods, and yet in no case had a more steady or a better concerted policy been pursued than in the Court of Rome. If the Executive should come into office at 35. years of age, which he presumes may happen & his continuance should be fixt at 15 years. at the age of 50. in the very prime of life, and with all the aid of experience, he must be cast aside like a useless hulk. What an irreparable loss would the British Jurisprudence have sustained, had the age of 50. been fixt there as the ultimate limit of capacity or readiness to serve the public. The great luminary (Ld. Mansfield) held his seat for thirty years after his arrival at that age. Notwithstanding what had been done he could not but hope that a better mode of election would yet be adopted; and one that would be more agreeable to the general sense of the House.

(Madison’s Notes (Max Farrand, 1911), Pages 102-103, Vol. 2)

[e673135] It was moved and seconded to postpone the consideration of the resolution respecting the Executive

[Editors’ note: Madison records Wilson as the proposer and Broom as the seconder.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

[Wilson:] That time might be given for further deliberation he wd. move that the present question be postponed till to-morrow.

Mr Broom seconded the motion to postpone.

(Madison's Notes (Max Farrand, 1911), Page 103, Vol. 2)

[e673136] Mr. Gerry. We seem to be entirely at a loss on this head. He would suggest whether it would not be advisable to refer the clause relating to the Executive to the Committee of detail to be appointed. Perhaps they will be able to hit on something that may unite the various opinions which have been thrown out.

Mr. Wilson. As the great difficulty seems to spring from the mode of election, he wd. suggest a mode which had not been mentioned. It was that the Executive be elected for 6 years by a small number, not more than 15 of the Natl Legislature, to be drawn from it, not by ballot, but by lot and who should retire immediately and make the election without separating. By this mode intrigue would be avoided in the first instance, and the dependence would be diminished. This was not he said a digested idea and might be liable to strong objections.

Mr. Govr. Morris. Of all possible modes of appointment that by the Legislature is the worst. If the Legislature is to appoint, and to impeach or to influence the impeachment, the Executive will be the mere creature of it. He had been opposed to the impeachment, but was now convinced that impeachments must be provided for, if the appt. was to be of any duration. No man wd. say, that an Executive known to be in the pay of an Enemy, should not be removable in some way or other. He had been charged heretofore (by Col. Mason) with inconsistency in pleading for confidence in the Legislature on some occasions, & urging a distrust on others. The charge was not well founded. The Legislature is worthy of unbounded confidence in some respects, and liable to equal distrust in others. When their interest coincides precisely with that of their Constituents, as happens in many of their Acts, no abuse of trust is to be apprehended. When a strong personal interest happens to be opposed to the general interest, the Legislature can not be too much distrusted. In all public bodies there are two parties. The Executive will necessarily be more connected with one than with the other. There will be a personal interest therefore in one of the parties to oppose as well as in the other to support him. Much had been said of the intrigues that will be practiced by the Executive to get into office. Nothing had been said on the other side of the intrigues to get him out of office. Some leader of party will always covet his seat, will perplex his administration, will cabal with the Legislature, till he succeeds in supplanting him. This was the way in which the King of England was got out, he meant the real King, the Minister. This was the way in which Pitt (Ld. Chatham) forced himself into place. Fox was for pushing the matter still farther. If he had carried his India bill, which he was very near doing, he would have made the Minister, the King in form almost as well as in substance. Our President will be the British Minister, yet we are about to make him appointable by the Legislature. Something had been said of the danger of Monarchy — If a good government should not now be formed, if a good organization of the Execuve should not be provided, he

doubted whether we should not have something worse than a limited Monarchy. In order to get rid of the dependence of the Executive on the Legislature, the expedient of making him ineligible a 2d. time had been devised. This was as much as to say we shd. give him the benefit of experience, and then deprive ourselves of the use of it. But make him ineligible a 2d. time-and prolong his duration even to 15-years, will he by any wonderful interposition of providence at that period cease to be a man? No he will be unwilling to quit his exaltation, the road to his object thro' the Constitution will be shut; he will be in possession of the sword, a civil war will ensue, and the Commander of the victorious army on which ever side, will be the despot of America. This consideration renders him particularly anxious that the Executive should be properly constituted. The vice here would not, as in some other parts of the system be curable- It is the most difficult of all rightly to balance the Executive. Make him too weak: The Legislature will usurp his powers: Make him too strong. He will usurp on the Legislature. He preferred a short period, a re-eligibility, but a different mode of election. A long period would prevent an adoption of the plan: it ought to do so. He shd. himself be afraid to trust it. He was not prepared to decide on Mr. Wilson's mode of election just hinted by him. He thought it deserved consideration. It would be better that chance sd. decide than intrigue.

(Madison's Notes (Max Farrand, 1911), Pages 103-105, Vol. 2)

[e673137] It was moved and seconded to postpone the consideration of the resolution respecting the Executive

which passed in the negative [Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On A question to postpone the consideration of the Resolution on the subject of the Executive

N. H. no. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. divd. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 105, Vol. 2)

[e673138] It was moved and seconded to agree to the following resolution namely.

Resolved that the supreme Executive shall be chosen every _____ years by Electors to be taken by lot from the national Legislature; the Electors to proceed immediately to the choice of the Executive, and not to separate until it be made.

[Editors' note: Madison records Wilson as the proposer and Carroll as the seconder. Farrand includes what appears to be the text of Wilson's original motion, though the second part – relating to the functioning of the lottery – seems to have been dropped:

'The Executive shall be chosen every _____ years by Electors to be taken by lot from the national legislature — the electors to proceed immediately to the choice of the Executive and not to separate until it be made —

Suppose the whole to consist of 90 —

65 25 — 90

then put in 90 balls — of which as many as the proposed number of electors shall be gilded — those who draw these balls to be Electors' (Page 99, Vol. 2, (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

Mr. Wilson then moved that the Executive be chosen every years by Electors to be taken by lot from the Natl Legislature who shall proceed immediately to the choice of the Executive and not separate until it be made ”

Mr. Carrol 2ds. the motion

(Madison's Notes (Max Farrand, 1911), Page 105, Vol. 2)

[e673139] Mr Gerry. this is committing too much to chance. If the lot should fall on a sett of unworthy men, an unworthy Executive must be saddled on the Country. He thought it had been demonstrated that no possible mode of electing by the Legislature could be a good one.

Mr. King — The lot might fall on a majority from the same State which wd. ensure the election of a man from that State. We ought to be governed by reason, not by chance. As no body seemed to be satisfied, he wished the matter to be postponed

Mr. Wilson did not move this as the best mode. His opinion remained unshaken that we ought to resort to the people for the election. He seconded the postponement.

Mr. Govr. Morris observed that the chances were almost infinite agst. a majority of electors from the same State.

(Madison's Notes (Max Farrand, 1911), Pages 105-106, Vol. 2)

[e673140] The question of Order being taken on the last Motion

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a question whether the last motion was in order, it was determined in the affirmative; 7. ays. 4 noes.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673141] The question of Order being taken on the last Motion — it was determined that the motion is in order. [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a question whether the last motion was in order, it was determined in the affirmative; 7. ays. 4 noes.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673142] On the question to postpone the consideration of the resolution, it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On the question of postponemt. it was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673143] Mr Carrol took occasion to observe that he considered the clause declaring that direct taxation on the States should be in proportion to representation, previous to the obtaining an actual census, as very objectionable, and that he reserved to himself the right of opposing it, if the Report of the Committee of detail should leave it in the plan.

Mr. Govr. Morris hoped the Committee would strike out the whole of the clause proportioning direct taxation to representation. He had only meant it as a* bridge to assist us over a certain gulph; having passed the gulph the bridge may be removed. He thought the principle laid down with so much strictness, liable to strong objections

* The object was to lessen the eagerness on one side, & the opposition on the other, to the share of Representation claimed by the S. Sothern States on account of the Negroes.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673144] The House then produced to ballot for the Committee of detail

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

[e673145] The House then produced to ballot for the Committee of detail

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

[e673146] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, Letter from David Brearley to Jonathan Dayton, 27 July 1787)

[e673147] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, Letter from David Brearley to Jonathan Dayton, 27 July 1787)

[e673148] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elsworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, Letter from David Brearley to Jonathan Dayton, 27 July 1787)

[e673149] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elsworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, Letter from David Brearley to Jonathan Dayton, 27 July 1787)

[e673150] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elsworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, Letter from David Brearley to Jonathan Dayton, 27 July 1787)

[e673151] It was moved and seconded to discharge the Committee of the whole House from acting on the propositions submitted to the Convention by the honorable Mr C. Pinckney — and that the said propositions be referred to the Committee to whom the Proceedings of the Convention are referred
which passed unanim: in the affirmative

(Official Journal (Max Farrand, 1911), Pages 97-98, Vol. 2)

On motion to discharge the Come. of the whole from the propositions submitted to the Convention by Mr. C. Pinkney as the basis of a constitution, and to refer them to the Committee of detail just appointed. it was agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673152] It was moved and seconded to take the like order on the propositions submitted to the Convention by the honorable Mr Paterson
which passed unan: in the affirmative

(Official Journal (Max Farrand, 1911), Page 98, Vol. 2)

A like motion then made & agreed to nem: con: with respect to the propositions of Mr Patterson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673153] and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 98, Vol. 2)

Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

[e673154] and then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 98, Vol. 2)

Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

1.60 Wednesday, 25 July 1787, at 11:00 (s6247)

[e673155] It was moved and seconded to agree to the following amendment to the resolution respecting the election of the supreme Executive namely

“except when the Magistrate last chosen shall have continued in office the whole term for which he was chosen, and be reeligible in which case the choice shall be by Electors appointed for that purpose by the several Legislatures”

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

Mr. Elseworth moved “that the Executive be appointed by the Legislature,” except when the magistrate last chosen shall have continued in office the whole term for which he was chosen, & be reeligible, in which case the choice shall be by -Electors appointed by the Legislatures of the States for that purpose.” By this means a deserving Magistrate may be reelected without making him dependent on the Legislature.

(Madison’s Notes (Max Farrand, 1911), Pages 108-109, Vol. 2)

[e673156] Mr. Gerry repeated his remark that an election at all by the Natl. Legislature was radically and incurably wrong; and moved that the Executive be appointed by the Governours & Presidents of the States, with advice of their Councils, and when there are no Councils by Electors chosen by the Legislatures. The executives to vote in the following proportions: viz —

[Editors’ note: Gerry’s motion is not recorded in the Journal, and Madison does not note a seconder. The proportions in which he proposed that the executives vote is not clear, for which reason only the first part of the motion has been included here. He may have intended to keep the proportions already suggested or suggest new ones. Alternatively, the proportions may have been left blank to fill in should the motion succeed. As there is no evidence to suggest Gerry’s intentions, the voting proportions have been left blank.]

(Madison’s Notes (Max Farrand, 1911), Page 109, Vol. 2)

[e673157] [Editors’ note: Gerry’s motion is not recorded in the Journal, and Madison does not note a seconder. For this reason, the editors assume that the proposal was immediately dropped for lack of a second.]

(2019 Editors)

[e673158] Mr. Madison. There are objections agst. every mode that has been, or perhaps can be proposed. The election must be made either by some existing authority under the Natl. or State Constitutions — or by some special authority derived from the people — or by the people themselves. — The two Existing authorities under the Natl. Constitution wd be the Legislative & Judiciary. The latter he presumed was out of the question. The former was in his Judgment liable to insuperable objections. Besides the general influence of that mode on the independence of the Executive, 1. the election of the Chief Magistrate would agitate & divide the legislature so much that the public interest would materially suffer by it. Public bodies are always apt to be thrown into contentions, but into more violent ones by such occasions than by any others. 2. the candidate would intrigue with the Legislature, would derive his appointment from the

predominant faction, and be apt to render his administration subservient to its views. 3. The Ministers of foreign powers would have and make use of, the opportunity to mix their intrigues & influence with the Election. Limited as the powers of the Executive are, it will be an object of great moment with the great rival powers of Europe who have American possessions, to have at the head of our Governmt. a man attached to their respective politics & interests. No pains, nor perhaps expence, will be spared, to gain from the Legislature an appointmt. favorable to their wishes. Germany & Poland are witnesses of this danger. In the former, the election of the Head of the Empire, till it became in a manner hereditary, interested all Europe, and was much influenced by foreign interference — In the latter, altho' the elective Magistrate has very little real power, his election has at all times produced the most eager interference of forign princes, and has in fact at length slid entirely into foreign hands. The existing authorities in the States are the Legislative, Executive & Judiciary. The appointment of the Natl Executive by the first was objectionable in many points of view, some of which had been already mentioned. He would mention one which of itself would decide his opinion. The Legislatures of the States had betrayed a strong propensity to a variety of pernicious measures. One object of the Natl. Legisre. was to controul this propensity. One object of the Natl. Executive, so far as it would have a negative on the laws, was to controul the Natl. Legislature, so far as it might be infected with a similar propensity. Refer the appointmt of the Natl. Executive to the State Legislatures, and this controuling purpose may be defeated. The Legislatures can & will act with some kind of regular plan, and will promote the appointmt. of a man who will not oppose himself to a favorite object. Should a majority of the Legislatures at the time of election have the same object, or different objects of the same kind, the Natl Executive, would be rendered subservient to them. — An appointment by the State Executives, was liable among other objections to this insuperable one, that being standing bodies, they could & would be courted, and intrigued with by the Candidates, by their partizans, and by the Ministers of foreign powers. The State Judiciarys had not & he presumed wd. not be proposed as a proper source of appointment. The Option before us then lay between an appointment by Electors chosen by the people — and an immediate appointment by the people. He thought the former mode free from many of the objections which had been urged agst. it, and greatly preferable to an appointment by the Natl. Legislature. As the electors would be chosen for the occasion, would meet at once, & proceed immediately to an appointment, there would be very little opportunity for cabal, or corruption,. As a further precaution, it might be required that they should meet at some place, distinct from the seat of Govt. and even that no person within a certain distance of the place at the time shd. be eligible. This mode however had been rejected so recently & by so great a majority that it probably would not be proposed anew. The remaining mode was an election by the people or rather by the qualified part of them. at large. With all its imperfections he liked this best. He would not repeat either the general argumts. for or the objections agst this mode. He would only take notice of two difficulties which he admitted to have weight. The first arose from the disposition in the people to prefer a Citizen of their own State, and the disadvantage this wd. throw on the smaller States. Great as this objection might be he did not think it equal to such as lay agst. every other mode which had been proposed. He thought too that some expedient might be hit upon that

would obviate it. The second difficulty arose from the disproportion of qualified voters in the N. & S. States, and the disadvantages which this mode would throw on the latter. The answer to this objection was 1. that this disproportion would be continually decreasing under the influence of the Republican laws introduced in the S. States, and the more rapid increase of their population. 2. That local considerations must give way to the general interest. As an individual from the S. States he was willing to make the sacrifice.

Mr. Elseworth. The objection drawn from the different sizes of the States, is unanswerable. The Citizens of the largest States would invariably prefer the Candidate within the State; and the largest States wd. invariably have the man.

(Madison's Notes (Max Farrand, 1911), Pages 109-111, Vol. 2)

[e673159] It was moved and seconded to agree to the following amendment to the resolution respecting the election of the supreme Executive namely

“except when the Magistrate last chosen shall have continued in office the whole term for which he was chosen, and be reeligible in which case the choice shall be by Electors appointed for that purpose by the several Legislatures”

it passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

Question on Mr. Elseworth's motion as above.

N. H. ay. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. no-Md. ay. Va no. N- C. no. S. C. no. Geo. no. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 111, Vol. 2)

[e673160] It was moved and seconded to agree to the following amendment to the resolution respecting the supreme Executive, namely

“Provided that no person shall be capable of holding the said office for more than six years in any term of twelve”

[Editors' note: Madison records Charles Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

Mr. Pinkney moved that the election by the Legislature be qualified with a proviso that no person be eligible for more than 6 years in any twelve years. He thought this would have all the advantage & at the same time avoid in some degree the inconveniency, of an absolute ineligibility a 2d. time.

(Madison's Notes (Max Farrand, 1911), Pages 111-112, Vol. 2)

[e673161] Mr. Pinkney moved that the election by the Legislature be qualified with a proviso that no person be eligible for more than 6 years in any twelve years. He thought this would have all the advantage & at the same time avoid in some degree the inconveniency, of an absolute ineligibility a 2d. time.

Col. Mason approved the idea. It had the sanction of experience in the instance of Congs. and some of the Executives of the States. It rendered the Executive as effectually independent, as an ineligibility after his first election, and opened the way at the same time for the advantage of his future services. He preferred on the whole the election by the Natl. Legislature: Tho' Candor

obliged him to admit, that there was great danger of foreign influence, as had been suggested. This was the most serious objection with him that had been urged.

Mr Butler. The two great evils to be avoided are cabal at home, & influence from abroad. It will be difficult to avoid either if the Election be made by the Natl Legislature. On the other hand, the Govt. should not be made so complex & unwieldy as to disgust the States. This would be the case, if the election shd. be referred to the people. He liked best an election by Electors chosen by the Legislatures of the States. He was agst. a re-eligibility at all events. He was also agst. a ratio of votes in the States. An equality should prevail in this case. The reasons for departing from it do not hold in the case of the Executive as in that of the Legislature.

Mr. Gerry approved of Mr Pinkney's motion as lessening the evil.

Mr Govr. Morris was agst. a rotation in every case. It formed a political School, in wch. we were always governed by the scholars, and not by the Masters — The evils to be guarded agst in this case are. 1. the undue influence of the Legislature. 2. instability of Councils. 3. misconduct in office. To guard agst. the first, we run into the second evil. we adopt a rotation which produces instability of Councils. To avoid Sylla we fall into Charibdis. A change of men is ever followed by a change of measures We see this fully exemplified in the vicissitudes among ourselves, particularly in the State of Pena. The selfsufficiency of a victorious party scorns to tread in the paths of their predecessors. Rehoboam will not imitate Solomon. 2. the Rotation in office will not prevent intrigue and dependence on the Legislature. The man in office will look forward to the period at which he will become re-eligible. The distance of the period, the improbability of such a protraction of his life will be no obstacle. Such is the nature of man, formed by his benevolent author no doubt for wise ends, that altho' he knows his existence to be limited to a span, he takes his measures as if he were to live forever. But taking another supposition, the inefficacy of the expedient will be manifest. If the magistrate does not look forward to his reelection to the Executive, he will be pretty sure to keep in view the opportunity of his going into the Legislature itself. He will have little objection then to an extension of power on a theatre where he expects to act a distinguished part; and will be very unwilling to take any step that may endanger his popularity with the Legislature, on his influence over which the figure he is to make will depend. 3. To avoid the third evil, impeachments will be essential, and hence an additional reason agst an election by the Legislature. He considered an election by the people as the best, by the Legislature as the worst, mode. Putting both these aside, he could not but favor the idea of Mr. Wilson, of introducing a mixture of lot. It will diminish, if not destroy both cabal & dependence.

Mr. Williamson was sensible that strong objections lay agst an election of the Executive by the Legislature, and that it opened a door for foreign influence. The principal objection agst. an election by the people seemed to be, the disadvantage under which it would place the smaller States. He suggested as a cure for this difficulty, that each man should vote for 3 candidates. One of these he observed would be probably of his own State, the other 2. of some other States; and as probably of a small as a large one.

Mr. Govr. Morris liked the idea, suggesting as an amendment that each man should vote for two persons one of whom at least should not be of his own State.

Mr Madison also thought something valuable might be made of the suggestion with the proposed amendment of it. The second best man in this case would probably be the first, in fact. The only objection which occurred was that each Citizen after havg. given his vote for his favorite fellow Citizen wd. throw away his second on some obscure Citizen of another State, in order to ensure the object of his first choice. But it could hardly be supposed that the Citizens of many States would be so sanguine of having their favorite elected, as not to give their second vote with sincerity to the next object of their choice. It might moreover be provided in favor of the smaller States that the Executive should not be eligible more than times in years from the same State.

Mr. Gerry — A popular election in this case is radically vicious. The ignorance of the people would put it in the power of some one set of men dispersed through the Union & acting in Concert to delude them into any appointment. He observed that such a Society of men existed in the Order of the Cincinnati. They were respectable, United, and influential. They will in fact elect the chief Magistrate in every instance, if the election be referred to the people. — His respect for the characters composing this Society could not blind him to the danger & impropriety of throwing such a power into their hands.

Mr. Dickenson. As far as he could judge from the discussion which had taken place during his attendance, insuperable objections lay agst an election of the Executive by the Natl. Legislature; as also by the Legislatures or Executives of the States — He had long leaned towards an election by the people which he regarded as the best and purest source. Objections he was aware lay agst this mode, but not so great he thought as agst the other modes. The greatest difficulty in the opinion of the House seemed to arise from the partiality of the States to their respective Citizens. But, might not this very partiality be turned to a useful purpose. Let the people of each State chuse its best Citizen. The people will know the most eminent characters of their own States, and the people of different States will feel an emulation in selecting those of which they will have the greatest reason to be proud — Out of the thirteen names thus selected, an Executive Magistrate may be chosen either by the Natl Legislature, or by Electors appointed by it.

(Madison's Notes (Max Farrand, 1911), Pages 111-115, Vol. 2)

[e673162] It was moved and seconded to postpone the consideration of the last amendment

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

On a Question which was moved for postponing Mr. Pinkney's motion, in order to make way for some such proposition as had been hinted by Mr. Williamson & others.

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673163] It was moved and seconded to postpone the consideration of the last amendment

which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

On a Question which was moved for postponing Mr. Pinkney's motion, in order to make way for some such proposition as had been hinted by Mr. Williamson & others. it passed in the negative.

N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673164] On the question to agree to the amendment
it passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

On Mr. Pinkney's motion that no person shall serve in the Executive more than 6 years in 12. years, it passed in the negative.

N. H. ay. Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673165] That the members of the Committee be furnished with copies of the proceedings

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

On a motion that the members of the Committee be furnished with copies of the proceedings

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673166] That the members of the Committee be furnished with copies of the proceedings Ayes — 10; noes — 1.

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

On a motion that the members of the Committee be furnished with copies of the proceedings it was so determined; S. Carolina alone being in the negative

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673167] That the members of the House take copies of the resolutions which have been agreed to

[Editors' note: In his 'Genuine Information', Luther Martin records the following:

'Before the adjournment, I moved for liberty to be given to the different members to take correct copies of the propositions, to which the convention had then agreed, in order that during the recess of the convention, we might have an opportunity of considering them, and, if it should be thought that any alterations or amendments were necessary, that we might be prepared against the convention met, to bring them forward for discussion. But, Sir, the same spirit, which caused our doors to be shut, our proceedings to be kept secret, — our journals to be locked up, — and every avenue, as far as possible, to be shut

to public information, prevailed also in this case; and the proposal, so reasonable and necessary, was rejected by a majority of the convention; thereby precluding even the members themselves from the necessary means of information and deliberation on the important business in which they were engaged' (Page 191, Vol. 3, Appendix A (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

It was then moved that the members of the House might take copies of the Resolutions which had been agreed to;

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673168] That the members of the House take copies of the resolutions which have been agreed to Ayes — 5; noes — 6.

(Official Journal (Max Farrand, 1911), Page 107, Vol. 2)

It was then moved that the members of the House might take copies of the Resolutions which had been agreed to; which passed in the negative.

N. H. no — Mas. no. Con — ay. N. J. ay. Pa. no — Del. ay. Maryd. no. V — ay. N—C. ay. S. C. no — Geo. no — [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673169] It was moved and seconded to refer the resolution respecting the Executive (except that clause which provides that it consist of a single Person) to the Committee of detail.

(Official Journal (Max Farrand, 1911), Pages 107-108, Vol. 2)

Mr. Gerry & Mr Butler moved to refer the resolution relating to the Executive (except the clause making it consist of a single person) to the Committee of detail

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673170] Mr. Wilson hoped that so important a branch of the System wd. not be committed untill a general principle shd. be fixed by a vote of the House.

Mr Langdon was for the Commitment.

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673171] Before a determination was taken on the last motion [To adjourn Ayes — 9; noes — 2.]

The House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 108, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 115, Vol. 2)

[e673172] Before a determination was taken on the last motion [To adjourn Ayes — 9; noes — 2.]

The House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 108, Vol. 2)

Adjd.

(Madison’s Notes (Max Farrand, 1911), Page 115, Vol. 2)

1.61 Thursday, 26 July 1787, at 11:00 (s6248)

[e673173] It was moved and seconded to amend the third clause of the resolution respecting the national executive so as to read as follows, namely

“for the term of seven years to be ineligible a second time”

[Editors’ note: Madison records Mason as the proposer and Davie as the seconder.]

(Official Journal (Max Farrand, 1911), Page 116, Vol. 2)

Col. Mason. In every Stage of the Question relative to the Executive, the difficulty of the subject and the diversity of the opinions concerning it have appeared. Nor have any of the modes of constituting that department been satisfactory. 1. It has been proposed that the election should be made by the people at large; that is that an act which ought to be performed by those who know most of Eminent characters, & qualifications, should be performed by those who know least. 2 that the election should be made by the Legislatures of the States. 3. by the Executives of the States. Agst these modes also strong objections have been urged. 4. It has been proposed that the election should be made by Electors chosen by the people for that purpose. This was at first agreed to: But on further consideration has been rejected. 5. Since which, the mode of Mr Williamson, requiring each freeholder to vote for several candidates has been proposed. This seemed like many other propositions, to carry a plausible face, but on closer inspection is liable to fatal objections. A popular election in any form, as Mr. Gerry has observed, would throw the appointment into the hands of the Cincinnati, a Society for the members of which he had a great respect; but which he never wished to have a preponderating influence in the Govt. 6. Another expedient was proposed by Mr. Dickenson, which is liable to so palpable & material an inconvenience that he had little doubt of its being by this time rejected by himself. It would exclude every man who happened not to be popular within his own State; tho’ the causes of his local unpopularity might be of such a nature as to recommend him to the States at large. 7. Among other expedients, a lottery has been introduced. But as the tickets do not appear to be in much demand, it will probably, not be carried on, and nothing therefore need be said on that subject. After reviewing all these various modes, he was led to conclude- that an election by the Natl Legislature as originally proposed, was the best. If it was liable to objections, it was liable to fewer than any other. He conceived at the same time that a second election ought to be absolutely prohibited. Having for his primary object, for the pole star of his political conduct, the preservation of the rights of the people, he held it as an essential

point, as the very palladium of Civil liberty, that the great officers of State, and particularly the Executive should at fixed periods return to that mass from which they were at first taken, in order that they may feel & respect those rights & interests, Which are again to be personally valuable to them. He concluded with moving that the constitution of the Executive as reported by the Come. of the whole be re-instated, viz. “that the Executive be appointed for seven years, & be ineligible a 2d. time,”

Mr. Davie seconded the motion

(Madison’s Notes (Max Farrand, 1911), Pages 118-120, Vol. 2)

[e673174] Col. Mason. In every Stage of the Question relative to the Executive, the difficulty of the subject and the diversity of the opinions concerning it have appeared. Nor have any of the modes of constituting that department been satisfactory. 1. It has been proposed that the election should be made by the people at large; that is that an act which ought to be performed by those who know most of Eminent characters, & qualifications, should be performed by those who know least. 2 that the election should be made by the Legislatures of the States. 3. by the Executives of the States. Agst these modes also strong objections have been urged. 4. It has been proposed that the election should be made by Electors chosen by the people for that purpose. This was at first agreed to: But on further consideration has been rejected. 5. Since which, the mode of Mr Williamson, requiring each freeholder to vote for several candidates has been proposed. This seemed like many other propositions, to carry a plausible face, but on closer inspection is liable to fatal objections. A popular election in any form , as Mr. Gerry has observed, would throw the appointment into the hands of the Cincinnati, a Society for the members of which he had a great respect; but which he never wished to have a preponderating influence in the Govt. 6. Another expedient was proposed by Mr. Dickenson, which is liable to so palpable & material an inconvenience that he had little doubt of its being by this time rejected by himself. It would exclude every man who happened not to be popular within his own State; tho’ the causes of his local unpopularity might be of such a nature as to recommend him to the States at large. 7. Among other expedients, a lottery has been introduced. But as the tickets do not appear to be in much demand, it will probably, not be carried on, and nothing therefore need be said on that subject. After reviewing all these various modes, he was led to conclude- that an election by the Natl Legislature as originally proposed, was the best. If it was liable to objections, it was liable to fewer than any other. He conceived at the same time that a second election ought to be absolutely prohibited. Having for his primary object, for the pole star of his political conduct, the preservation of the rights of the people, he held it as an essential point, as the very palladium of Civil liberty, that the great officers of State, and particularly the Executive should at fixed periods return to that mass from which they were at first taken, in order that they may feel & respect those rights & interests, Which are again to be personally valuable to them. He concluded with moving that the constitution of the Executive as reported by the Come. of the whole be re-instated, viz. “that the Executive be appointed for seven years, & be ineligible a 2d. time,”

Mr. Davie seconded the motion

Docr. Franklin. It seems to have been imagined by some that the returning to the mass of the people was degrading the magistrate. This he thought was

contrary to republican principles. In free Governments the rulers are the servants, and the people their superiors & sovereigns. For the former therefore to return among the latter was not to degrade but to promote them- and it would be imposing an unreasonable burden on them, to keep them always in a State of servitude, and not allow them to become again one of the Masters.

(Madison's Notes (Max Farrand, 1911), Pages 118-120, Vol. 2)

[e673175] It was moved and seconded to amend the third clause of the resolution respecting the national executive so as to read as follows, namely

“for the term of seven years to be ineligible a second time”

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: The Massachusetts delegation was either entirely absent or not quorate during the first two votes of this session.]

(Official Journal (Max Farrand, 1911), Page 116, Vol. 2)

Question on Col. Masons motion as above; which passed in the affirmative
N. H. ay. Masts. not on floor. Ct. no. N. J. ay. Pa. no. Del. no. Md. ay.
Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 120, Vol. 2)

[e673176] Mr. Govr. Morris was now agst. the whole paragraph. In answer to Col. Mason's position that a periodical return of the great officers of the State into the mass of the people, was the palladium of Civil liberty he wd. observe that on the same principle the Judiciary ought to be periodically degraded; certain it was that the Legislature ought on every principle-yet no one had proposed. or conceived that the members of it should not be re-eligible. In answer to Doctr. Franklin, that a return into the mass of the people would be a promotion. instead of a degradation, he had no doubt that our Executive like most others would have too much patriotism to shrink from the burden of his office, and too much modesty not to be willing to decline the promotion.

(Madison's Notes (Max Farrand, 1911), Page 120, Vol. 2)

[e673177] On the question to agree to the whole resolution respecting the supreme Executive namely.

Resolved That a national Executive be instituted — to consist of a Single Person — to be chosen by the national Legislature — for the term of seven years — to be ineligible a second time with power to carry into execution the national Laws — to appoint to Offices in cases not otherwise provided for. — to be removable on impeachment and conviction of malpractice or neglect of duty. — to receive a fixed compensation for the devotion of his time to public service — to be paid out of the public Treasury.

it passed in the affirmative. [Ayes — 6; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 116, Vol. 2)

On the question on the whole resolution as amended in the words following — “that a National Executive be instituted — to consist of a single person — to be chosen by the Natl. legislature — for the term of seven years — to be

ineligible a 2d. time — with power to carry into execution the natl. laws — to appoint to offices in cases not otherwise provided for — to be removeable on impeachment & conviction of mal-practice or neglect of duty — to receive a fixt compensation for the devotion of his time to the public service, to be paid out of the Natl. Treasury” — it passed in the affirmative

N. H. ay. Mas. not on floor. Ct. ay. N. J. ay. Pa. no. Del. no. Md. no. Va. divd. Mr. B. Blair & Col. M. Mason ay. Genl. W. Washington & Mr M — Madison no. Mr. Randolph happened to be out of the House. N- C- ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 3; divided — 1; absent — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 120-121, Vol. 2)

[e738949] [Editors’ note: Once the Convention decided on the final remaining resolution from the Committee of the Whole House, the original report was dropped from consideration.]

(2019 Editors)

[e673179] [Editors’ note: The agreed Ninth Resolution was also sent to the Committee of Detail for consideration. In presenting the final vote, the Secretary appears to have drawn up the resolution in a new format for the sake of clarity. Based on Farrand’s model and judging from subsequent votes, it was likely drawn up as part of a separate report which was eventually sent to the Committee. The basis of this document text can be found in Farrand’s The Records of the Federal Convention of 1787, Page 134, Vol. 2.]

(2019 Editors)

[e673180] It was moved and seconded to agree to the following Resolution namely.

Resolved That it be an instruction to the Committee to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause or clauses, requiring certain qualifications of landed property and citizenship in the United States for the Executive, the Judiciary, and the Members of both branches of the Legislature of the United States; and for disqualifying all such persons as are indebted to, or have unsettled accounts with the United States from being Members of either Branch of the national Legislature.

[Editors’ note: Madison records Mason as the proposer and Charles Pinckney as the seconder. Madison’s notes also show that while the Journal includes the Judiciary and the Executive in the clause on qualifications, these roles were added halfway through the debate. The original motion has been shown here.]

(Official Journal (Max Farrand, 1911), Pages 116-117, Vol. 2)

Mr Mason moved “that the Committee of detail be instructed to receive a clause requiring certain qualifications of landed property & citizenship of the U. States in members of the Legislature, and disqualifying persons having unsettled Accts. with or being indebted to the U. S. from being members of the Natl. Legislature” — He observed that persons of the latter descriptions had frequently got into the State Legislatures, in order to promote laws that might shelter their delinquencies; and that this evil had crept into Congs. if Report was to be regarded.

Mr Pinckney seconded the motion

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 2)

[e673181] Mr Mason moved "that the Committee of detail be instructed to receive a clause requiring certain qualifications of landed property & citizenship of the U. States in members of the Legislature, and disqualifying persons having unsettled Accts. with or being indebted to the U. S. from being members of the Natl. Legislature" — He observed that persons of the latter descriptions had frequently got into the State Legislatures, in order to promote laws that might shelter their delinquencies; and that this evil had crept into Cong. if Report was to be regarded.

Mr Pinckney seconded the motion

Mr Govr. Morris. If qualifications are proper, he wd. prefer them in the electors rather than the elected. As to debtors of the U. S. they are but few. As to persons having unsettled accounts he believed them to be pretty many. He thought however that such a discrimination would be both odious & useless. and in many instances unjust & cruel. The delay of settlement. had been more the fault of the public than of the individuals. What will be done with those patriotic Citizens who have lent money, or services or property to their Country, without having been yet able to obtain a liquidation of their claims? Are they to be excluded?

Mr. Ghorum was for leaving to the Legislature, the providing agst such abuses as had been mentioned.

Col. Mason mentioned the parliamentary qualifications adopted in the Reign of Queen Anne, which he said had met with universal approbation

Mr. Madison had witnessed the zeal of men having accts. with the public, to get into the Legislatures for sinister purposes. He thought however that if any precaution were to be taken for excluding them, the one proposed by Col. Mason ought to be new modelled. It might be well to limit the exclusion to persons who had recd money from the public, and had not accounted for it.

Mr Govr. Morris — It was a precept of great antiquity as well as of high authority that we should not be righteous overmuch. He thought we ought to be equally on our guard agst. being wise over much. The proposed regulation would enable the Govent. to exclude particular persons from office as long as they pleased He mentioned the case of the Commander in chief's presenting his account for secret services, which he said was so moderate that every one was astonished at it; and so simple that no doubt could arise on it. Yet had the Auditor been disposed to delay the settlement, how easily might he have affected it, and how cruel wd. it be in such a case to keep a distinguished & meritorious Citizen under a temporary disability & disfranchisement. He mentioned this case merely to illustrate the objectionable nature of the proposition. He was opposed to such minutious regulations in a Constitution. The parliamentary qualifications quoted by Col. Mason, had been disregarded in practice; and was but a scheme of the landed agst the monied interest.

(Madison's Notes (Max Farrand, 1911), Pages 121-122, Vol. 2)

[e673182] Mr Pinckney & Genl. Pinckney moved to insert by way of amendmt. the words Judiciary & Executive so as to extend the qualifications to those departments which was agreed to nem con

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 2)

[e673183] Mr Pinckney & Genl. Pinckney moved to insert by way of amendmt. the words Judiciary & Executive so as to extend the qualifications to those departments which was agreed to nem con

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 2)

[e673184] Mr. Gerry thought the inconveniency of excluding a few worthy individuals who might be public debtors or have unsettled accts ought not to be put in the Scale agst the public advantages of the regulation, and that the motion did not go far enough.

Mr. King observed that there might be great danger in requiring landed property as a qualification since it would exclude the monied interest, whose aids may be essential in particular emergencies to the public safety.⁸

Mr. Dickenson. was agst. any recital of qualifications in the Constitution. It was impossible to make a compleat one, and a partial one would by implication tie up the hands of the Legislature from supplying the omissions, The best defence lay in the freeholders who were to elect the Legislature. Whilst this Source should remain pure, the public interest would be safe. If it ever should be corrupt, no little expedients would repel the danger. He doubted the policy of interweaving into a Republican constitution a veneration for wealth. He had always understood that a veneration for poverty & virtue, were the objects of republican encouragement. It seemed improper that any man of merit should be subjected to disabilities in a Republic where merit was understood to form the great title to public trust, honors & rewards.

Mr Gerry if property be one object of Government, provisions for securing it can not be improper.

(Madison's Notes (Max Farrand, 1911), Pages 122-123, Vol. 2)

[e673185] It was moved and seconded to strike out the word "landed"

[Editors' note: Madison records himself as the proposer and Gouverneur Morris as the seconder.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

Mr. Madison moved to strike out the word landed, before the word, "qualifications". If the proposition sd. be agreed to he wished the Committee to be at liberty to report the best criterion they could devise. Landed possessions were no certain evidence of real wealth. Many enjoyed them to a great extent who were more in debt than they were worth. The unjust laws of the States had proceeded more from this class of men, than any others. It had often happened that men who had acquired landed property on credit, got into the Legislatures with a view of promoting an unjust protection agst. their Creditors. In the next place, if a small quantity of land should be made the standard. it would be no security, — if a large one, it would exclude the proper representatives of those classes of Citizens who were not landholders. It was politic as well as just that the interests & rights of every class should be duly represented & understood in the public Councils. It was a provision every where established that the Country should be divided into districts & representatives taken from each, in order that the Legislative Assembly might equally understand & sympathise, with the rights of the people in every part of the Community. It was not less proper that every class of Citizens should have an opportunity of making their rights be felt

& understood in the public Councils. The three principle classes into which our citizens were divisible, were the landed the commercial, & the manufacturing. The 2d. & 3rd. class, bear as yet a small proportion to the first. The proportion however will daily increase. We see in the populous Countries in Europe now, what we shall be hereafter. These classes understand much less of each others interests & affairs, than men of the same class inhabiting different districts. It is particularly requisite therefore that the interests of one or two of them should not be left entirely to the care, or the impartiality of the third. This must be the case if landed qualifications should be required; few of the mercantile, and scarcely any of the manufacturing class, chusing whilst they continue in business to turn any part of their Stock into landed property. For these reasons he wished if it were possible that some other criterion than the mere possession of land should be devised. He concurred with Mr. Govr. Morris in thinking that qualifications in the Electors would be much more effectual than in the elected. The former would discriminate between real & ostensible property in the latter; But he was aware of the difficulty of forming any uniform standard that would suit the different circumstances & opinions prevailing in the different States.

Mr. Govr Morris 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Pages 123-124, Vol. 2)

[e673186] Mr. Madison moved to strike out the word landed, before the word, "qualifications". If the proposition sd. be agreed to he wished the Committee to be at liberty to report the best criterion they could devise. Landed possessions were no certain evidence of real wealth. Many enjoyed them to a great extent who were more in debt than they were worth. The unjust laws of the States had proceeded more from this class of men, than any others. It had often happened that men who had acquired landed property on credit, got into the Legislatures with a view of promoting an unjust protection agst. their Creditors. In the next place, if a small quantity of land should be made the standard. it would be no security, — if a large one, it would exclude the proper representatives of those classes of Citizens who were not landholders. It was politic as well as just that the interests & rights of every class should be duly represented & understood in the public Councils. It was a provision every where established that the Country should be divided into districts & representatives taken from each, in order that the Legislative Assembly might equally understand & sympathise, with the rights of the people in every part of the Community. It was not less proper that every class of Citizens should have an opportunity of making their rights be felt & understood in the public Councils. The three principle classes into which our citizens were divisible, were the landed the commercial, & the manufacturing. The 2d. & 3rd. class, bear as yet a small proportion to the first. The proportion however will daily increase. We see in the populous Countries in Europe now, what we shall be hereafter. These classes understand much less of each others interests & affairs, than men of the same class inhabiting different districts. It is particularly requisite therefore that the interests of one or two of them should not be left entirely to the care, or the impartiality of the third. This must be the case if landed qualifications should be required; few of the mercantile, and scarcely any of the manufacturing class, chusing whilst they continue in business to turn any part of their Stock into landed property. For these reasons he wished if it were possible that some other criterion than the mere possession

of land should be devised. He concurred with Mr. Govr. Morris in thinking that qualifications in the Electors would be much more effectual than in the elected. The former would discriminate between real & ostensible property in the latter; But he was aware of the difficulty of forming any uniform standard that would suit the different circumstances & opinions prevailing in the different States.

(Madison's Notes (Max Farrand, 1911), Pages 123-124, Vol. 2)

[e673187] It was moved and seconded to strike out the word "landed" it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

On the Question for striking out "landed"

N. H. ay. Mas. ay. Ct. ay N. J. ay. Pa. ay. Del. ay. Md. no Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 2)

[e673188] [Editors' note: The record shows that the original version of Mason's resolution was now abandoned and the two parts debated and voted on separately.]

(2019 Editors)

[e673189] On Question on 1st. part of Col. Masons proposition as to qualification of property & citizenship" as so amended

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 2)

On the question to agree to the clause respecting the qualification as amended

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

[e673190] On the question to agree to the clause respecting the qualification as amended

it passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

On Question on 1st. part of Col. Masons proposition as to qualification of property & citizenship" as so amended 9

N. H. ay. Masts. ay. Ct. no. N. J. ay. Pa. no. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 124-125, Vol. 2)

[e673191] "The 2d. part, for disqualifying debtors, and persons having unsettled accounts", being under consideration

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 2)

[e673192] Mr. Carrol moved to strike out "having unsettled accounts"

Mr. Ghorum seconded the motion; observing that it would put the commercial & manufacturing part of the people on a worse footing than others as they would be most likely to have dealings with the public.

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 2)

It was moved and seconded to strike out the following words, namely
“or have unsettled accounts with”

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

[e673193] Mr. L- Martin. if these words should be struck out, and the remaining words concerning debtors retained, it will be the interest of the latter class to keep their accounts unsettled as long as possible.

Mr. Wilson was for striking them out. They put too much power in the hands of the Auditors, who might combine with rivals in delaying settlements in order to prolong the disqualifications of particular men. We should consider that we are providing a Constitution for future generations, and not merely for the peculiar circumstances of the moment. The time has been, and will again be when the public safety may depend on the voluntary aids of individuals which will necessarily open accts. with the public, and when such accts. will be a characteristic of patriotism. Besides a partial enumeration of cases will disable the Legislature from disqualifying odious & dangerous characters.

Mr. Langdon was for striking out the whole clause for the reasons given by Mr Wilson. So many Exclusions he thought too would render the system unacceptable to the people.

Mr. Gerry. If the argumts. used to day were to prevail, we might have a Legislature composed of public debtors, pensioners, placemen & contractors. He thought the proposed qualifications would be pleasing to the people. They will be considered as a security agst unnecessary or undue burdens being imposed on them

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 2)

[e673194] It was moved and seconded to add the words “and Pensioners of the Government of the United States” to the clause of disqualification

[Editors' note: Madison records Gerry as the proposer.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

Mr. Gerry. If the argumts. used to day were to prevail, we might have a Legislature composed of public debtors, pensioners, placemen & contractors. He thought the proposed qualifications would be pleasing to the people. They will be considered as a security agst unnecessary or undue burdens being imposed on them He moved to add “pensioners” to the disqualified characters

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 2)

[e673195] It was moved and seconded to add the words “and Pensioners of the Government of the United States” to the clause of disqualification

which passed in the negative. [Ayes —3; noes — 7; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

Mr. Gerry. If the argumts. used to day were to prevail, we might have a Legislature composed of public debtors, pensioners, placemen & contractors. He thought the proposed qualifications would be pleasing to the people. They will be considered as a security agst unnecessary or undue burdens being imposed on them He moved to add “pensioners” to the disqualified characters which was negatived.

N. H. no Mas. ay. Con. no. N. J. no. Pa. no. Del no Maryd. ay. Va. no. N. C. divided. S. C. no. Geo. ay. 10 [Ayes — 3; noes — 7; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 125-126, Vol. 2)

[e673196] Mr. Govr. Morris The last clause, relating to public debtors will exclude every importing merchant. Revenue will be drawn it is foreseen as much as possible, from trade. Duties of course will be bonded. and the Merchts. will remain debtors to the public. He repeated that it had not been so much the fault of individuals as of the public that transactions between them had not been more generally liquidated & adjusted. At all events to draw from our short & scanty experience rules that are to operate through succeeding ages, does not savour much of real wisdom.

(Madison’s Notes (Max Farrand, 1911), Page 126, Vol. 2)

[e673197] It was moved and seconded to strike out the following words, namely “or have unsettled accounts with”

which passed in the affirmative. [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

On question for striking out “persons having unsettled accounts with the U. States.”

N. H. ay. Mas. ay. Ct. ay. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 9; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 126, Vol. 2)

[e673198] Mr. Elsworth was for disagreeing to the remainder of the clause disqualifying public debtors; and for leaving to the wisdom of the Legislature and the virtue of the Citizens, the task of providing agst. such evils. Is the smallest as well largest debtor to be excluded? Then every arrear of taxes will disqualify. Besides how is it to be known to the people when they elect who are or are not public debtors. The exclusion of pensioners & placemen in Engd is founded on a consideration not existing here. As persons of that sort are dependent on the Crown, they tend to increase its influence.

Mr. Pinkney sd. he was at first a friend to the proposition, for the sake of the clause relating to qualifications of property; but he disliked the exclusion of public debtors; it went too far. It wd. exclude persons who had purchased confiscated property or should purchase Western territory of the public, and might be some obstacle to the sale of the latter.

(Madison’s Notes (Max Farrand, 1911), Page 126, Vol. 2)

[e673199] On the question to agree to the clause of disqualification as amended it passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

On the question for agreeing to the clause disqualifying public debtors
 N. H. no. Mas- no. Ct. no. N- J. no. Pa. no. Del. no. Md. no. Va. no. N.
 C. ay. S. C. no. Geo. ay. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 126, Vol. 2)

[e673200] It was moved and seconded to agree to the following resolution namely

Resolved that it be an instruction to the Committee to whom were referred the proceedings of the Convention for the establishment of a national Government, to receive a clause or clauses for preventing the seat of the national Government being in the same City or Town with the seat of the Government of any State, longer than until the necessary public Buildings can be erected.

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

Col. Mason. observed that it would be proper, as he thought, that some provision should be made in the Constitution agst. choosing for the seat of the Genl. Govt. the City or place at which the seat of any State Govt. might be fixt. There were 2 objections agst. having them at the same place, which without mentioning others, required some precaution on the subject. The 1st. was that it tended to produce disputes concerning jurisdiction — The 2d. & principal one was that the intermixture of the two Legislatures tended to give a provincial tincture to ye Natl. deliberations. He moved that the Come. be instructed to receive a clause to prevent the seat of the Natl. Govt. being in the same City or town with the seat of the Govt. of any State longer than untill the necessary public buildings could be erected.

Mr. Alex. Martin 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Pages 126-127, Vol. 2)

[e673201] Mr. Govr. Morris did not dislike the idea, but was apprehensive that such a clause might make enemies of Philada. & N. York which had expectations of becoming the Seat of the Genl. Govt.

Mr. Langdon approved the idea also: but suggisted the case of a State moving its seat of Govt. to the natl. seat after the erection of the public buildings

Mr. Ghorum. the precaution may be evaded by the Natl. Legisre. by delaying to erect the public buildings

Mr. Gerry conceived it to be the genel. sense of America, that neither the Seat of a State Govt. nor any large commercial City should be the seat of the Genl. Govt.

Mr. Williamson liked the idea, but knowing how much the passions of men were agitated by this matter, was apprehensive of turning them agst. the system. He apprehended also that an evasion might be practiced in the way hinted by Mr. Ghorum.

Mr. Pinkney thought the seat of a State Govt. ought to be avoided; but that a large town or its vicinity would be proper for the seat of the Genl. Govt.

Col. Mason did not mean to press the motion at this time, nor to excite any hostile passions agst. the system. He was content to withdraw the motion for the present.

Mr. Butler was for fixing by the Constitution the place, & a central one, for the seat of the Natl Govt

(Madison's Notes (Max Farrand, 1911), Pages 127-128, Vol. 2)

[e673202] It was moved and seconded to postpone the consideration of the last resolution.

[Editors' note: Madison writes that Mason offered to withdraw the motion rather than postpone:

'Col. Mason did not mean to press the motion at this time, nor to excite any hostile passions agst. the system. He was content to withdraw the motion for the present.' (Pages 127-128, Vol. 2, Madison's Notes (Max Farrand, 1911))

The exact nature of this decision is therefore uncertain. In light of the subsequent referral to the Committee and adjournment, the result would have been, in effect, to drop the motion, so that is how the editors have represented it here.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

[e673203] It was moved and seconded to refer such proceedings of the Convention, as have been agreed on since Monday last, to the Committee of detail

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

The proceedings since monday last were referred unanimously to the Come. of detail,

(Madison's Notes (Max Farrand, 1911), Page 128, Vol. 2)

A report from a committee of the whole, containing principles of a reform of the federal government, has after a very long discussion and a variety of amendments been agreed to. And is referred to a smaller committee to throw into form and detail after which it will undergo one revision more.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 194, Letter from Oliver Ellsworth to Samuel Huntington, 26 July 1787)

[e673204] It was moved and seconded to refer such proceedings of the Convention, as have been agreed on since Monday last, to the Committee of detail which passed unanimously in ye affirmative

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

The proceedings since monday last were referred unanimously to the Come. of detail,

(Madison's Notes (Max Farrand, 1911), Page 128, Vol. 2)

[e673205] Adjourned till Monday. Augst. 6. that the Come. of detail might have time to prepare & report the Constitution

[Editors' note: At this point, any unfinished business can be considered dropped.]

(Madison's Notes (Max Farrand, 1911), Page 128, Vol. 2)

[To adjourn till monday August

(Official Journal (Max Farrand, 1911), Page 117, Vol. 2)

[e673206] [To adjourn till monday August Ayes — 11; noes — 0.] and then the House adjourned till monday Augt 6th

(Official Journal (Max Farrand, 1911), Pages 117-118, Vol. 2)

The proceedings since monday last were referred unanimously to the Come. of detail, and the Convention then unanously Adjourned till Monday. Augst. 6. that the Come. of detail might have time to prepare & report the Constitution:

(Madison's Notes (Max Farrand, 1911), Page 128, Vol. 2)

1.62 Monday, 06 August 1787, at 11:00 (s6249)

[e673207] Philadelphia July 13th 1787

Sir I have the mortification to inform your Excellency that, altho' we have been daily in Convention, we have not made the least progress in the business since you left us. It is unnecessary and would perhaps be improper, to relate here the causes of this delay. They will very readily occur to your Excellency from your knowledge of them heretofore.

I must request that your excellency will be pleased agreeably to the arrangement made at parting, to return to this place on Tuesday or Wednesday next at the farthest.

Mr. Paterson must leave this town the first day of August, and I must consequently be here to relieve him the last day of this month, let my stay at home be ever so short. I shall therefore at best have ten days.

I have the honor to be Your Excellency's most obedient very humble servant
Jonathan Dayton

[Editors' note: Dayton writes that Paterson had been due to leave Philadelphia on 1 August; however, with the long adjournment agreed upon after this letter was written, Paterson may have left earlier during the break. As this is the first session after 1 August, he has been recorded leaving here.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 167, Jonathan Dayton to William Livingston, 13 July 1787)

Paterson, William, of New Jersey. Attended as early as May 25, and thereafter until July 23. There is no evidence of his attendance after that date. August 21, Brearley wrote urging him to return. He probably returned to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673208] Gerry, Elbridge, of Massachusetts. First attended on May 29. Absent on August 6. Refused to sign Constitution.

[Editors' note: Gerry probably left Philadelphia during the long adjournment. He records his absence and return in a letter on 9 August. For details, see his return on 10 August.]

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e673209] *Houstoun, William, of Georgia.* Attended first on June 1, and probably thereafter until July 23. He probably left on July 26 or after Few's return.

[Editors' note: *Houstoun* probably left Philadelphia during the long adjournment.]

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e673210] *Few, William, of Georgia.* Attended as early as May 19. Present in Congress in New York July 4—August 3. Probably returned to Convention after August 6.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e673211] Left Baltimore 2 August. August 4th.

Returned to Philada. The committee of Convention ready to report. Their report in the hands of *Dunlop* the printer to strike off copies for the members.

[Editors' note: *McHenry* records his own return on 4 August. He also notes that the Committee of Detail had finished their manuscript draft of the Constitution at least a day prior.]

(*McHenry's Notes* (Max Farrand, 1911), Page 175, Vol. 2, 4 August 1787)

McHenry, James, of Maryland. Commissioned May 26; attended May 28-31; left on June 1; present August 6 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673212] The honorable *John Francis Mercer Esq, One of the Deputies from the State of Maryland,* attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

Mercer, John Francis, of Maryland. First attended August 6; last recorded attendance August 17. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

Mr. *John Francis Mercer* from Maryland took his seat.

(*Madison's Notes* (Max Farrand, 1911), Page 177, Vol. 2)

[e673213] The honorable *Mr Rutledge, from the Committee to whom were referred the Proceedings of the Convention for the purpose of reporting a Constitution for the establishment of a national Government conformable to these Proceedings,* informed the House that the Committee were prepared to report — The report was then delivered in at the Secretary's table, and being read once throughout and copies thereof given to the members

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

Mr. Rutledge delivered in the Report of the Committee of detail as follows; a printed copy being at the same time furnished to each member.

(Madison's Notes (Max Farrand, 1911), Page 177, Vol. 2)

Report delivered in by Mr. Rutledge. read.

(McHenry's Notes (Max Farrand, 1911), Page 190, Vol. 2)

Met, according to adjournment in Convention, & received the rept. of the Committee.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 212, George Washington: Diary)

[e673214] It was moved and seconded to adjourn till wednesday morning

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

A motion was made to adjourn till Wednesday, in order to give leisure to examine the Report

(Madison's Notes (Max Farrand, 1911), Page 189, Vol. 2)

[e673215] It was moved and seconded to adjourn till wednesday morning
which passed in the negative. [Ayes — 3; noes — 5.]

[Editors' note: The delegations from Delaware, Georgia and New Jersey were not quorate for this session and therefore could not vote.]

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

A motion was made to adjourn till Wednesday, in order to give leisure to examine the Report; which passed in the Negative — N. H. no. Mas — no. Ct. no. Pa. ay Md. ay. Virg. ay. N. C. no. S — C. no

(Madison's Notes (Max Farrand, 1911), Page 189, Vol. 2)

[e673216] The house then adjourned till to-morrow morning at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

The House then adjourned till tomorrow 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 189, Vol. 2)

Convention adjourned till to-morrow to give the members an opportunity to consider the report.

(McHenry's Notes (Max Farrand, 1911), Page 190, Vol. 2)

[e673217] The house then adjourned till to-morrow morning at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 176, Vol. 2)

The House then adjourned till tomorrow 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 189, Vol. 2)

Convention adjourned till to-morrow to give the members an opportunity to consider the report.

(McHenry's Notes (Max Farrand, 1911), Page 190, Vol. 2)

1.63 Tuesday, 07 August 1787, at 11:00 (s6250)

[e673218] Mr. Martin set out for New York on this day so we were without his concurrence in the propositions.

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

Martin, Luther, of Maryland. Commissioned May 26; first attended June 9; absent August 7-12; left Convention September 4. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673219] Augt. 6th. Rain. . . . Did not arrive till 7. in Eveng. . . . In eveng. came to Mr. Lewis's met Coln. Johnston &c. . . . 7th. Hot. In Convention. . . .

[Editors' note: In this excerpt from his diary, Johnson records returning to Philadelphia the previous evening and resuming his seat on 7 August. The instructions from Connecticut empowered the delegation to act even if only one member was present, so Johnson's and Sherman's absences did not result in the loss of state representation.]

(Appendix A (Max Farrand, 1911), Page 553, Vol. 3, William Samuel Johnson's Diary)

Johnson, William Samuel, of Connecticut. Attended on June 2, and thereafter.

[Editors' note: Farrand does not mention Johnson's absence from the Convention, perhaps because the instructions from Connecticut empowered the delegation to act even if only one member was present, so Johnson's absence did not result in the loss of state representation.]

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e673220] 20th. Set out at 8 O'clock in the Mail Stage with Judge Sherman &c. . . .

[Editors' note: In this excerpt from his diary, Johnson records his and Sherman's departure from Philadelphia in July. It is likely that they returned together.]

(Appendix A (Max Farrand, 1911), Page 553, Vol. 3, William Samuel Johnson's Diary, 20 July 1787)

Sherman, Roger, of Connecticut. Appointed May 17; attended May 30 and thereafter.

[Editors' note: Farrand does not mention Sherman's absence from the Convention, perhaps because the instructions from Connecticut empowered the delegation to act even if only one member was present, so Sherman's absence did not result in the loss of state representation.]

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e673221] Philadelphia, Monday, August 20th, 1787. In a letter from New York I informed your Excellency of my reasons for leaving the Convention and returning to that place with Mr. Hawkins to represent this State in Congress. On Monday the 6th Inst. the Committee of detail made their Report to the Convention and on the Morning of Tuesday the 7th Hawkins and myself returned here and I again took my seat in Convention; so that tho' I was not present all the time the Convention were debating and fixing the principles of the Government I have been and mean to continue to be present while the detail is under Consideration, that is until the Business of the Convention is Completed.

(Appendix A (Max Farrand, 1911), Page 71, Vol. 3, Letter from William Blount to Governor Caswell, 20 August 1787)

Blount, William, of North Carolina. Attended June 20—July 2; August 7 and thereafter. He was present in Congress in New York, July 4—August 3.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e740233] The Report of the Committee of detail being taken up, Mr. Pinkney moved that it be referred to a Committee of the whole.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

To refer the report to a Committee of the whole

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

[e740236] The Report of the Committee of detail being taken up, Mr. Pinkney moved that it be referred to a Committee of the whole. This was strongly opposed by Mr Ghorum and several others, as likely to produce unnecessary delay.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

[e740234] To refer the report to a Committee of the whole Ayes — 5; noes — 4.

[Editors' note: Neither New Jersey nor Georgia were quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

[e740235] Delaware being represented during the Debate a question was again taken on ye Committee of ye whole Ayes — 3; noes — 6.

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

This was strongly opposed by Mr Ghorum and several others, as likely to produce unnecessary delay; and was negatived. Delaware Maryland. & Virga. only being in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

[e673226] [Editors' note: The Convention took up the Report of the Committee of Detail and debated it article by article.]

(2019 Editors)

[e673227] On the question to agree to the Preamble to the constitution as reported from the committee to whom were referred the Proceedings of the Convention

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673228] On the question to agree to the Preamble to the constitution as reported from the committee to whom were referred the Proceedings of the Convention — it passed unan: in the affirmative [Ayes — 10; noes — 0.]

[Editors' note: Georgia regained its quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673229] On the question to agree to the first article, as reported

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con. So were Art: I & II.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673230] On the question to agree to the first article, as reported, it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con. So were Art: I & II.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673231] On the question to agree to the second article, as reported

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con. So were Art: I & II.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673232] On the question to agree to the second article, as reported, it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

The preamble of the Report was agreed to nem. con. So were Art: I & II.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

The preamble or caption and the 1. and 2. article passed without debate

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673233] Art: III. considered.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

[e673234] Col. Mason doubted the propriety of giving each branch a negative on the other "in all cases". There were some cases in which it was he supposed not intended to be given as in the case of balloting for appointments.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

[e673235] It was moved and seconded to alter the second clause of the third article so as to read

"each of which shall in all cases have a negative on the legislative acts of the other"

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

Mr. Govr. Morris moved to insert "legislative acts" instead of "all cases"

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 2)

3A — a. in all cases have a negative &c — proposed to be altered so that the negative extend only to those legislative acts in the passage whereof each Br. has concurrent authority

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673236] Mr. Sherman. This will restrain the operation of the clause too much. It will particularly exclude a mutual negative in the case of ballots, which he hoped would take place.

Mr. Ghorum contended that elections ought to be made by joint ballot. If separate ballots should be made for the President, and the two branches should be each attached to a favorite, great delay, contention & confusion may ensue. These inconveniences have been felt in Masts. in the election of officers of little importance compared with the Executive of the U. States. The only objection agst. a joint ballot is that it may deprive the Senate of their due weight; but this ought not to prevail over the respect due to the public tranquility & welfare.

Mr. Wilson was for a joint ballot in several cases at least; particularly in the choice of the President, and was therefore for the amendment. Disputes between the two Houses, during & concerng the vacancy of the Executive, might have dangerous consequences.

Col. Mason thought the amendment of Govr. Morris extended too far. Treaties are in a subsequent part declared to be laws, they will be therefore subjected to a negative; altho' they are to be made as proposed by the Senate alone. He proposed that the mutual negative should be restrained to "cases requiring the distinct assent" of the two Houses.

Mr. Govr. Morris thought this but a repetition of the same thing; the mutual negative and distinct assent, being equivalent expressions. Treaties he thought were not laws.

(Madison's Notes (Max Farrand, 1911), Pages 196-197, Vol. 2)

[e673237] Mr Madison moved to strike out the words "each of which shall in all cases, have a negative on the other; the idea being sufficiently expressed in the preceding member of the Article; vesting the "legislative power" in "distinct bodies". especially as the respective powers and mode of exercising them were fully delineated in a subsequent article.

Genl. Pinkney 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 197, Vol. 2)

On the question to strike the following clause out of the third article namely "each of which shall, in all cases, have a negative on the other"

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

It was remarked by Madison yt. the whole clause "each of which shall in all cases have a negative on the other." might be struck out, and the Legislature wd. be well organised

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673238] It was moved and seconded to alter the second clause of the third article so as to read

"each of which shall in all cases have a negative on the legislative acts of the other"

which passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

On a question for inserting legislative Acts as moved by Mr Govr. Morris
 N. H. ay. Mas. ay. Ct. ay. Pa. ay. Del. no. Md no. Va. no. N. C. ay. S.
 C. no. Geo. no. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 197, Vol. 2)

[e673239] On the question to strike the following clause out of the third article
 namely

“each of which shall, in all cases, have a negative on the other”
 it passed in the affirmative. [Ayes — 7; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

On question for agreeing to' Mr M's motion to strike out &c —
 N. H. ay. Mas. ay. Ct. no. Pa. ay. Del. ay. Md. no. Va. ay. N- C- no. S.
 C. ay. Geo. ay. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 197, Vol. 2)

It was remarked by Madison yt. the whole clause “each of which shall in all
 cases have a negative on the other.” might be struck out, and the Legislature
 wd. be well organised — This motion was agreed to, & the words stricken out.

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673240] Mr Madison wished to know the reasons of the Come for fixing by
 ye. Constitution the time of Meeting for the Legislature; and suggested, that
 it be required only that one meeting at least should be held every year leaving
 the time to be fixed or varied by law.

(Madison's Notes (Max Farrand, 1911), Page 197, Vol. 2)

— B. Madison proposed omitting in the Constitution the Time when the
 Legislature shd. meet

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673241] Mr. Govr. Mor moved to strike out the sentence. It was improper
 to tie down the Legislature to a particular time, or even to require a meeting
 every year. The public business might not require it.

(Madison's Notes (Max Farrand, 1911), Pages 197-198, Vol. 2)

— G. Morris in favor of leaving the Time of meeting to the Legislature —
 He remarked yt. if the Time was fixed in the Constitution, when the Legisl.
 shd. meet, it wd. be broken for yy wd. not meet at the Time fixed —

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673242] Mr. Pinckney concurred with Mr Madison

Mr. Ghorum. If the time be not fixed by the Constition, disputes will arise
 in the Legislature; and the States will be at a loss to adjust thereto, the times
 of their elections. In the N. England States, the annual time of meeting had

been long fixed by their Charters and Constitutions, and no inconveniency had resulted. He thought it necessary that there should be one meeting at least every year as a check on the Executive department.

Mr. Elseworth was agst. striking out the words. The Legislature will not know till they are met whether the public interest required their meeting or not. He could see no impropriety in fixing the day, as the Convention could judge of it as well as the Legislature.

Mr. Wilson thought on the whole it would be best to fix the day.

Mr. King could not think there would be a necessity for a meeting every year. A great vice in our system was that of legislating too much. The most numerous objects of legislation belong to the States. Those of the Natl. Legislature were but few. The chief of them were commerce & revenue. When these should be once settled, alterations would be rarely necessary & easily made.

Mr. Madison thought if the time of meeting should be fixed by a law it wd. be sufficiently fixed & there would be no difficulty then as had been suggested, on the part of the States in adjusting their elections to it. One consideration appeared to him to militate strongly agst. fixing a time by the Constitution. It might happen that the Legislature might be called together by the public exigencies & finish their Session but a short time before the annual period. In this case it would be extremely inconvenient to reassemble so quickly & without the least necessity. He thought one annual meeting ought to be required; but did not wish to make two unavoidable.

Col. Mason thought the objections against fixing the time insuperable; but that an annual meeting ought to be required as essential to the preservation of the Constitution. The extent of the Country will supply business. And if it should not, the Legislature, besides legislative, is to have inquisitorial powers, which can not safely be long kept in a State of suspension.

Mr. Sherman was decided for fixing the time, as well as for frequent meetings of the Legislative body. Disputes and difficulties will arise between the two Houses, & between both & the States, if the time be changeable — frequent meetings of Parliament were required at the Revolution in England as an essential safeguard of liberty. So also are annual meetings in most of the American charters and constitutions. There will be business eno' to require it. The Western Country, and the great extent and varying state of our affairs in general will supply objects.

(Madison's Notes (Max Farrand, 1911), Pages 198-199, Vol. 2)

Gorham — in favor of meeting once a year and fixing the period — he was for meeting to superintend the conduct of the executive —

Mason — In favor of an annual meeting — They are not only Legislators but they possess inquisitorial powers. They must meet frequently to inspect the Conduct of the public offices —

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673243] It was moved and seconded to add the following words to the last clause of the third article

“unless a different day shall be appointed by law”

[Editors' note: Madison records Randolph as the proposer and himself as the seconder.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 2)

Mr. Randolph was agst. fixing any day irrevocably; but as there was no provision made any where in the Constitution for regulating the periods of meeting, and some precise time must be fixed, untill the Legislature shall make provision, he could not agree to strike out the words altogether. Instead of which he moved to add the words following — "unless a different day shall be appointed by law."

Mr. Madison 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 199, Vol. 2)

[T]he 3 article was amended so as to leave it with the legislature to appoint after the first meeting, the day for the succeeding meetings.

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673244] [Editors' note: There is no evidence in the record of whether Morris's amendment was seconded, and so it may have been dropped previously for lack of a second. However, with Randolph's intervention, the motion was likely dropped at this stage at the latest.]

(2019 Editors)

[e673245] It was moved and seconded to add the following words to the last clause of the third article

"unless a different day shall be appointed by law"
which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 193-194, Vol. 2)

[H]e [Randolph] moved to add the words following — "unless a different day shall be appointed by law."

Mr. Madison 2ded. the motion, & on the question

N. H. no. Mas. ay. Ct. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 199, Vol. 2)

[T]he 3 article was amended so as to leave it with the legislature to appoint after the first meeting, the day for the succeeding meetings.

(McHenry's Notes (Max Farrand, 1911), Page 209, Vol. 2)

[e673246] It was moved and seconded to strike out the word "December" and to insert the word "May" in the third article

[Editors' note: Madison records Morris as the proposer and himself as the seconder.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Mr. Govr. Morris moved to strike out Decr. & insert May. It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned during the Winter and of which intelligence would arrive in the Spring.

Mr. Madison 2ded. the motion. he preferred May to Decr. because the latter would require the travelling to & from the Seat of Govt. in the most inconvenient seasons of the year.

(Madison's Notes (Max Farrand, 1911), Page 199, Vol. 2)

[e673247] Mr. Govr. Morris moved to strike out Decr. & insert May. It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned during the Winter and of which intelligence would arrive in the Spring.

Mr. Madison 2ded. the motion. he preferred May to Decr. because the latter would require the travelling to & from the Seat of Govt. in the most inconvenient seasons of the year.

Mr. Wilson. The Winter is the most convenient season for business.

Mr. Elseworth. The summer will interfere too much with private business, that of almost all the probable members of the Legislature being more or less connected with agriculture.

Mr Randolph. The time is of no great moment now, as the Legislature can vary it. On looking into the Constitutions of the States, he found that the times of their elections with which the elections of the Natl. Representatives would no doubt be made to co-incide, would suit better with Decr than May. And it was advisable to render our innovations as little incommodious as possible.

(Madison's Notes (Max Farrand, 1911), Pages 199-200, Vol. 2)

[e673248] It was moved and seconded to strike out the word "December" and to insert the word "May" in the third article

which passed in the negative. [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

On question for "May" instead of "Decr."

N- H. no. Mas. no. Ct. no. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. ay. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 200, Vol. 2)

[e673249] It was moved and seconded to insert after the word "Senate" in the third article, the following words, namely

"subject to the negative hereafter mentioned"

[Editors' note: Madison records George Read as the proposer and Gouverneur Morris as the seconder and provides more insight into Read's motives for moving the amendment. Madison writes, 'His object was to give an absolute negative to the Executive — He considered this as so essential to the Constitution, to the preservation of liberty, & to the public welfare, that his duty compelled him to make the motion.' (Page 200, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

[e673250] It was moved and seconded to insert after the word “Senate” in the third article, the following words, namely

“subject to the negative hereafter mentioned”
which passed in the negative. [Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

And on the question

N. H. no. Mas. no. Ct. no. Pa. no. Del. ay. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 9.]

(Madison’s Notes (Max Farrand, 1911), Page 200, Vol. 2)

[e673251] It was moved and seconded to amend the last clause of the third article so as to read as follows namely

“The Legislature shall meet at least once in every year; and such meeting shall be on the first monday in December unless a different day shall be appointed by law”

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Mr. Rutledge. Altho’ it is agreed on all hands that an annual meeting of the Legislature should be made necessary, yet that point seems not to be freed from doubt as the clause stands. On this suggestion. “Once at least in every year.” were inserted, nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 200, Vol. 2)

[e673252] It was moved and seconded to amend the last clause of the third article so as to read as follows namely

“The Legislature shall meet at least once in every year; and such meeting shall be on the first monday in December unless a different day shall be appointed by law”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Mr. Rutledge. Altho’ it is agreed on all hands that an annual meeting of the Legislature should be made necessary, yet that point seems not to be freed from doubt as the clause stands. On this suggestion. “Once at least in every year.” were inserted, nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 200, Vol. 2)

[e673253] Art. III with the foregoing alterations was agd. to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 200, Vol. 2)

[e673254] [Editors’ note: The Convention now turned to Article IV and debated it section by section.]

(2019 Editors)

[e673255] Art IV. Sect. 1. taken up.

(Madison's Notes (Max Farrand, 1911), Page 200, Vol. 2)

4. Art. — S. 1 — c. The clause of Qualifications of Electors

(King's Diary (Max Farrand, 1911), Page 206, Vol. 2)

[e673256] It was moved and seconded to strike out the last clause in the first section of the fourth article.

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Mr. Govr. Morris moved to strike out the last member of the section beginning with the words "qualifications" of Electors." in order that some other provision might be substituted which wd. restrain the right of suffrage to freeholders.

Mr. Fitzsimmons 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 201, Vol. 2)

G. Morris proposed to strike out the Clause — and to leave it to the Legislature to establish the Qualifications of Electors & Elected — or to add a Clause that the Legislat. may hereafter alter the Qualifications —

(King's Diary (Max Farrand, 1911), Pages 206-207, Vol. 2)

[e673257] Mr. Williamson was opposed to it.

Mr. Wilson. This part of the Report was well considered by the Committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations he thought too should be avoided. It would be very hard & disagreeable for the same persons, at the same time, to vote for representatives in the State Legislature and to be excluded from a vote for those in the Natl. Legislature.

Mr. Govr. Morris. Such a hardship would be neither great nor novel. The people are accustomed to it and not dissatisfied with it, in several of the States. In some the qualifications are different for the choice of the Govr. & Representatives; In others for different Houses of the Legislature. Another objection agst. the clause as it stands is that it makes the qualifications of the Natl. Legislature depend on the will of the States, which he thought not proper.

Mr. Elseworth. thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State Constitutions. The people will not readily subscribe to the Natl. Constitution, if it should subject them to be disfranchised. The States are the best Judges of the circumstances and temper of their own people.

Col. Mason. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised. A power to alter the qualifications would be a dangerous power in the hands of the Legislature.

Mr. Butler. There is no right of which the people are more jealous than that of suffrage Abridgments of it tend to the same revolution as in Holland, where

they have at length thrown all power into the hands of the Senates, who fill up vacancies themselves, and form a rank aristocracy.

Mr. Dickenson. had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the Country. He considered them as the best guardians of liberty; And the restriction of the right to them as a necessary defence agst. the dangerous influence of those multitudes without property & without principle, with which our Country like all others, will in time abound. As to the unpopularity of the innovation it was in his opinion chemirical. The great mass of our Citizens is composed at this time of freeholders, and will be pleased with it.

Mr Elseworth. How shall the freehold be defined? Ought not every man who pays a tax to vote for the representative who is to levy & dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burdens be not allowed a voice in the imposition of them — taxation and representation ought to go together.

Mr. Govr. Morris. He had long learned not to be the dupe of words. The sound of Aristocracy therefore, had no effect on him. It was the thing, not the name, to which he was opposed, and one of his principal objections to the Constitution as it is now before us, is that it threatens this Country with an Aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this Country will abound with mechanics & manufacturers who will receive their bread from their employers. Will such men be the secure & faithful Guardians of liberty? Will they be the impregnable barrier agst. aristocracy? — He was as little duped by the association of the words, “taxation & Representation” — The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? because they want prudence. because they have no will of their own. The ignorant & the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining “freeholders” to be insuperable. Still less that the restriction could be unpopular. 910 of the people are at present freeholders and these will certainly be pleased with it. As to Merchts. &c. if they have wealth & value the right they can acquire it. If not they don’t deserve it.

Col. Mason. We all feel too strongly the remains of antient prejudices, and view things too much through a British Medium. A Freehold is the qualification in England, & hence it is imagined to be the only proper one. The true idea in his opinion was that every man having evidence of attachment to & permanent common interest with the Society ought to share in all its rights & privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? does nothing besides property mark a permanent attachment. Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in their own Country, to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow Citizens

Mr. Madison. the right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which Aristocracies have been built on the ruins of popular forms. Whether the

Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in States where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject in its merits alone, the freeholders of the Country would be the safest depositories of Republican liberty. In future times a great majority of the people will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case,¹⁵ the rights of property & the public liberty, will not be secure in their hands: or which is more probable, they will become the tools of opulence & ambition, in which case there will be equal danger on another side. The example of England has been misconceived (by Col Mason). A very small proportion of the Representatives are there chosen by freeholders. The greatest part are chosen by the Cities & boroughs, in many of which the qualification of suffrage is as low as it is in any one of the U. S. and it was in the boroughs & Cities rather than the Counties, that bribery most prevailed, & the influence of the Crown on elections was most dangerously exerted.

Docr. Franklin. It is of great consequence that we shd. not depress the virtue & public spirit of our common people; of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. He related the honorable refusal of the American seamen who were carried in great numbers into the British Prisons during the war, to redeem themselves from misery or to seek their fortunes, by entering on board the Ships of the Enemies to their Country; contrasting their patriotism with a contemporary instance in which the British seamen made prisoners by the Americans, readily entered on the ships of the latter on being promised a share of the prizes that might be made out of their own Country. This proceeded he said, from the different manner in which the common people were treated in America & G. Britain. He did not think that the elected had any right in any case to narrow the privileges of the electors. He quoted as arbitrary the British Statute setting forth the danger of tumultuous meetings, and under that pretext, narrowing the right of suffrage to persons having freeholds of a certain value; observing that this Statute was soon followed by another under the succeeding Parliamt. subjecting the people who had no votes to peculiar labors & hardships. He was persuaded also that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.

Mr. Mercer. The Constitution is objectionable in many points, but in none more than the present. He objected to the footing on which the qualification was put, but particularly to the mode of election by the people. The people can not know & judge of the characters of Candidates. The worse possible choice will be made. He quoted the case of the Senate in Virga. as an example in point- The people in Towns can unite their votes in favor of one favorite; & by that means always prevail over the people of the Country, who being dispersed will scatter their votes among a variety of candidates.

Mr. Rutledge thought the idea of restraining the right of suffrage to the freeholders a very unadvised one. It would create division among the people & make enemies of all those who should be excluded.

(Madison's Notes (Max Farrand, 1911), Pages 201-205, Vol. 2)

Elsworth — If the Legislature can alter the Qualifications, they may disqualify $\frac{3}{4}$ or any greater proportion from being Electors — This wd. go far in favor of Aristocracy — we are safe as it is — because the States have staked yr. Liberties on the Qualifications as yy now stand —

Dickenson — It is said yr. restraining by ye Constitution the rights of Election to Freeholders, is a step towards aristocracy — is this true, No. — we are safe by trusting the owners of the soil — the Owners of the Country — it will not be unpopular — because the Freeholders are the most numerous at this Time — The Danger to Free Governments has not been from Freeholders, but those who are not Freeholders — there is no Danger — because our Laws favor the Division of property — The Freehold will be parcelled among all the worthy men in the State — The Merchants & Mechanicks are safe — They may become Freeholders besides they are represented in ye State Legislatures, which elect the Senate of the US — Elsuorth — Why confine Elections to Freeholders — The rule is this — he who pays and is governed ought to have a right to vote — there is no justice in supposing that Virtue & Talents, are confined to Freeholders —

G. Morris — I disregard sounds — I am not alarmed with the word Aristocracy — but I dread the thing — I will oppose it — and for that reason I think I shall oppose this Constitution, because I think this constitution establishes an Aristocracy — there can be no Aristocracy if the Freeholders are Electors — but there will be, when a great & rich man shall bring his indigent Dependents to vote in Elections — if you don't establish a qualification of property, you will have an Aristocracy — Confing. ye. Electn. to Freeholders will not be unpopular because 910th of the Inhabs. are Freeholders —

Mason — I think every person of full age and who can give evidence of a common Interest with the community shd. be an Elector — under this definition has a Freeholder alone ys. common Interest —? I think the Father of a Family has this interest — his Children will remain — this is a natural Interest — a Farm & other property is an artificial interest — we are governed by our prejudices in favr. of Engd — there a Twig, a Turf is the Elector —

Madison — I am in favr. of the rigt. of Election being confind. to Freeholders — we are not governed by British Attachments — because the Knights of Shires are elected by Freeholders, but the Members from the Cities & Boroughs are elected by persons qualified by as small property as in any country and wholly without Freeholds — where is the Corruption in England: where is the Crown Influence seen — in the Cities & Boroughs & not in the Counties —

4 A. S. 1

Franklin — I am afraid by depositing the rights of Elections in the Freeholders it will be injurious to the lower class of Freemen — this class have hardy Virtues and gt. Integrity — the late war is a glorious Testimony in favor of plebian Virtue — Military men are sensible of this Truth — I know yt our Seamen prisoners in England refused all Allurements to draw them from yr. Allegiance — they were threatened with Halters but refused — this was not the case with the Brith. Seamen — they entered the American service & pointed out where they might make more marine prisoners — This is the reason — the Americans were all free and equal to any of yr. fellow Citizens — the British once were so — in antient Times every freeman was an Elector — but finally

they made a law requiring an Elector to be a Freeholder — this was only in the Shires — The consequence was that the residue of Inhabitants were disgraced — in the next parliament they made a law authorising the Justices to fix the price of Labor — to compel any person not an Elector or Freeholder to labor for a Freeholder at the stated price or to be imprisoned — the English common people from that period lost a large portion of patriotism —

(King's Diary (Max Farrand, 1911), Pages 207-208, Vol. 2)

The IV article gave rise to a long debate, respecting the qualifications of the electors.

Mr. Dickinson contended for confining the rights of election in the first branch to free holders. No one could be considered as having an interest in the government unless he possessed some of the soil.

The fear of an aristocracy was a theoretical fiction. The owners of the soil could have no interest distinct from the country. There was no reason to dread a few men becoming lords of such an extent of territory as to enable them to govern at their pleasure.

Gouverneur Morris — thought that wise men should not suffer themselves to be misguided by sound. If the suffrage was to be open to all freemen — the government would indubitably be an aristocracy. The system was a system of Aristocracy. It put it in the power of opulent men whose business created numerous dependents to rule at all elections. Hence so soon as we erected large manufactories and our towns became more populous — wealthy merchants and manufacturers would elect the house of representatives. This was an aristocracy. This could only be avoided by confining the suffrage to free holders. Mr. Maddison supported similar sentiments.

The old ideas of taxation and representation were opposed to such reasoning.

Doctor Franklin spoke on this occasion. He observed that in time of war a country owed much to the lower class of citizens. Our late war was an instance of what they could suffer and perform. If denied the right of suffrage it would debase their spirit and detach them from the interest of the country. One thousand of our seamen were confined in English prisons — had bribes offered them to go on board English vessels which they rejected. An English ship was taken by one of our men of war. It was proposed to the English sailors to join ours in a cruise and share alike with thm in the captures. They immediately agreed to the proposal. This difference of behavior arises from the operation of freedom in America, and the laws in England. One British Statute excluded a number of subjects from a suffrage — These immediately became slaves —

(McHenry's Notes (Max Farrand, 1911), Pages 209-210, Vol. 2)

[e673258] It was moved and seconded to strike out the last clause in the first section of the fourth article

which passed in the negative. [Ayes — 1; noes — 7; divided — 1.]

[Editors' note: Georgia dropped below quorum.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

On the question for striking out as moved by Mr. Govr. Morris, from the word "qualifications" to the end of the III article

N. H. no. Mas. no. Ct. no. Pa. no. Del. ay. Md. divid. Va. no. N. C. no. S. C. no. Geo. not prest. [Ayes — 1; noes — 7; divided — 1; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 205-206, Vol. 2)

[e673259] To adjourn

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

[e673260] To adjourn Ayes — 4; noes — 5.

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

[e673261] It was moved and seconded to adjourn till to-morrow morning at 10 o'clock

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

[e673262] It was moved and seconded to adjourn till to-morrow morning at 10 o'clock

which passed in the negative [Ayes — 3; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

[e673263] The House then adjourned till to-morrow morning at 11 o'clock

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 206, Vol. 2)

At thee o'clock the house adjourned without coming to any issue.

(McHenry's Notes (Max Farrand, 1911), Page 210, Vol. 2)

[e673264] The House then adjourned till to-morrow morning at 11 o'clock [Ayes — 7; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 206, Vol. 2)

At thee o'clock the house adjourned without coming to any issue.

(McHenry's Notes (Max Farrand, 1911), Page 210, Vol. 2)

1.64 Wednesday, 08 August 1787, at 11:00 (s6251)

[e673265] [Editors' note: Upon leaving Philadelphia on 21 July, Dayton had intended to return on 1 August. News of the long adjournment and business at home no doubt led to an extension of his stay. In the previous two sessions, the Secretary recorded the New Jersey delegation as being below quorum. As the delegation regains its quorum on this day, the editors assume that Dayton had returned.]

(2019 Editors)

[e673266] Art: IV. Sect. 1. — Mr. Mercer expressed his dislike of the whole plan, and his opinion that it never could succeed.

Mr. Ghorum. He had never seen any inconveniency from allowing such as were not freeholders to vote, though it had long been tried. The elections in Phila. N. York & Boston where the Merchants, & Mechanics vote are at least as good as those made by freeholders only. The case in England was not accurately stated yesterday (by Mr. Madison) The Cities & large towns are not the seat of Crown influence & corruption. These prevail in the Boroughs, and not on account of the right which those who are not freeholders have to vote, but of the smallness of the number who vote. The people have been long accustomed to this right in various parts of America, and will never allow it to be abridged. We must consult their rooted prejudices if we expect their concurrence in our propositions.

Mr. Mercer did not object so much to an election by the people at large including such as were not freeholders, as to their being left to make their choice without any guidance. He hinted that Candidates ought to be nominated by the State Legislatures.

(Madison's Notes (Max Farrand, 1911), Pages 215-216, Vol. 2)

4. A. 1 — c. The Qualifications of Electors — Gorham, The Qualifications stand well — Gentlemen who say that the Elections in the Cities are unsafe are in an Error — The Members of London, Bristol & Liverpool are as independent as any of the Members of the Shires — The King has no Influence in ye. City Elections — He buys the boroughs and he buys them of the Freeholders — there will be no Danger in allowing the Merchants & Mechanicks to be Electors — they have been Electors Time immemorial in this country as well as in England — We must regard the Habits & prejudices of the people — if you propose a window Tax in N. Eng. you wd. offend the people — If the minister in England shd. propose a poll-Tax he wd. also offend the People — so if you deprive the Mercht. & Mechank. of the Rights of Election you will offend them —

(King's Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673267] On the question to agree to the first section of the fourth article as reported

it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

On question for agreeing to Art: IV- Sect. 1 it passd. nem. con.

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 2)

[e673268] Art. IV. Sect. 2. taken up.

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 2)

[e673269] Col. Mason was for opening a wide door for emigrants; but did not chuse to let foreigners and adventurers make laws for us & govern us. Citizenship for three years was not enough for ensuring that local knowledge which ought to be possessed by the Representative. This was the principal ground of his objection to so short a term. It might also happen that a rich foreign Nation, for example Great Britain, might send over her tools who might bribe their way into the Legislature for insidious purposes. He moved that "seven" years instead of "three," be inserted.

Mr. Govr. Morris 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 2)

It was moved and seconded to strike out the word "three" and to insert the word "seven" in the second section of the fourth article

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

The 2 sect. of the IV. article was amended to read 7 insted of three years.

(McHenry's Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673270] It was moved and seconded to strike out the word "three" and to insert the word "seven" in the second section of the fourth article which passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

on the question, All the States agreed to it except Connecticut.

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 2)

The 2 sect. of the IV. article was amended to read 7 insted of three years.

(Madison's Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673271] To strike out the word "of" and to substitute "in" after resident in the 2 sect. 4 article

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673272] To strike out the word "of" and to substitute "in" after resident in the 2 sect. 4 article Ayes — 4; noes — 7.

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673273] It was moved and seconded to amend the second section of the fourth article by inserting the word "of" instead of "in" after the word "citizen" and the words "an inhabitant" instead of the words "a resident"

[Editors' note: Madison records Roger Sherman as the proposer and himself as the seconder.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

Mr. Sherman moved to strike out the word “resident” and insert “inhabitant,” as less liable to misconstruction.

Mr Madison 2ded. the motion.

(Madison’s Notes (Max Farrand, 1911), Pages 216-217, Vol. 2)

— 2d. Resident — proposed to change the word to Inhabitant

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673274] Mr. Sherman moved to strike out the word “resident” and insert “inhabitant,” as less liable to misconstruction.

Mr Madison 2ded. the motion. both were vague, but the latter least so in common acceptation, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virga. concerning the meaning of residence as a qualification of Representatives which were determined more according to the affection or dislike to the man in question, than to any fixt interpretation of the word.

Mr. Wilson preferred “inhabitant.”

Mr. Govr. Morris was opposed to both and for requiring nothing more than a freehold. He quoted great disputes in N. York occasioned by these terms, which were decided by the arbitrary will of the majority. Such a regulation is not necessary. People rarely chuse a nonresident — It is improper as in the 1st. branch, the people at large, not the States are represented.

(Madison’s Notes (Max Farrand, 1911), Pages 216-217, Vol. 2)

Morris G. proposed Freeholder

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673275] Mr. Rutledge urged & moved that a residence of 7 years shd. be required in the State Wherein the Member shd. be elected. An emigrant from N. England to S. C. or Georgia would know little of its affairs and could not be supposed to acquire a thorough knowledge in less time.

[Editors’ note: The exact wording of this amendment is unclear, so the changes are editorial. There is no record that this amendment was seconded.]

(Madison’s Notes (Max Farrand, 1911), Page 217, Vol. 2)

Rutledge — Resident for seven years in the State where he is elected

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673276] Mr. Read reminded him that we were now forming a Natil Govt and such a regulation would correspond little with the idea that we were one people.

Mr. Wilson — enforced the same consideration.

Mr. Madison suggested the case of new States in the West, which could have perhaps no representation on that plan.

Mr. Mercer. Such a regulation would present a greater alienship among the States than existed under the old federal system. It would interweave local

prejudices & State distinctions in the very Constitution which is meant to cure them. He mentioned instances of violent disputes raised in Maryland concerning the term “residence”

Mr Elseworth thought seven years of residence was by far too long a term: but that some fixt term of previous residence would be proper. He thought one year would be sufficient, but seemed to have no objection to three years.

(Madison’s Notes (Max Farrand, 1911), Pages 217-218, Vol. 2)

[e673277] Mr. Dickenson proposed that it should read “inhabitant actually resident for — year.” This would render the meaning less indeterminate.

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 2)

[e673278] [Editors’ note: Dickinson’s amendment is effectively a reworking of Rutledge’s motion. For this reason, the editors assume that Rutledge’s motion was dropped in favor of Dickinson’s.]

(2019 Editors)

[e673279] Mr. Wilson. If a short term should be inserted in the blank, so strict an expression might be construed to exclude the members of the Legislature, who could not be said to be actual residents in their States whilst at the Seat of the Genl. Government.

Mr. Mercer. It would certainly exclude men, who had once been inhabitants, and returning from residence elsewhere to resettle in their original State; although a want of the necessary knowledge could not in such case be presumed.

Mr. Mason thought 7 years too long, but would never agree to part with the principle. It is a valuable principle. He thought it a defect in the plan that the Representatives would be too few to bring with them all the local knowledge necessary. If residence be not required, Rich men of neighbouring States, may employ with success the means of corruption in some particular district and thereby get into the public Councils after having failed in their own State. This is the practice in the boroughs of England.

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 2)

Mason — I am in favor of Residency — if you do not require it — a rich man may send down to the Districts of a state in wh. he does not reside and purchase an Election for his Dependt. We shall have the Eng. Borough corruption

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e734326] On the question for postponing in order to consider Mr Dickinsons motion

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 2)

To postpone Mr motion in order to take up Mr Dickinsons

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e734327] On the question for postponing in order to consider Mr Dickinsons motion

N. H. no. Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. ay. Geo. ay. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 218, Vol. 2)

To postpone Mr motion in order to take up Mr Dickinsons Ayes — 3; noes — 8.

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673282] To postpone Mr motion in order to take up Mr Dickinsons Ayes — 3; noes — 8.

[Editors' note: By rejecting the procedural motion to postpone Sherman's amendment in order to consider Dickinson's, the Convention effectively rejects Dickinson's amendment altogether.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673283] On the question for inserting "inhabitant" in place of "resident" — Agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 218, Vol. 2)

It was moved and seconded to amend the second section of the fourth article by inserting the word "of" instead of "in" after the word "citizen" and the words "an inhabitant" instead of the words "a resident"

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673284] Mr. Elseworth & Col. Mason move to insert "one year" for previous inhabitancy

[Editors' note: The exact amendment text is unclear, so the changes are editorial. It seems that the question is, again, about state rather than national qualification.]

(Madison's Notes (Max Farrand, 1911), Page 218, Vol. 2)

To add One year residence before the election

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

It was proposed to add to the section "at least one year preceding his election".

(McHenry's Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673285] Mr. Williamson liked the Report as it stood. He thought "resident" a good eno' term. He was agst requiring any period of previous residence. New residents if elected will be most zealous to Conform to the will of their constituents, as their conduct will be watched with a more jealous eye.

(Madison's Notes (Max Farrand, 1911), Page 218, Vol. 2)

[e673286] Mr. Butler & Mr. Rutledge moved “three years” instead of “one year” for previous inhabitancy

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 2)

To insert the word “three”

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

[e673287] To insert the word “three” Ayes — 2; noes — 9.

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

On the question for 3 years.

N. H. no. Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. ay [Ayes — 2; noes — 9.]

(Madison’s Notes (Max Farrand, 1911), Pages 218-219, Vol. 2)

a question was put & negatived by 8 of 11 states to insert Inhabitant for 3 yrs
[Editors’ note: The Journal and Madison’s notes record the vote as Ayes, 2; noes, 9. The vote which King gives here could belongs to the last question, to postpone.]

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673288] To add One year residence before the election Ayes — 4; noes 6; divided — 1.]

[Editors’ note: McHenry records the division within the Maryland delegation.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

On the question for “1 year”

N. H. no — Mas — no. Ct. no. N. J. ay. Pa. no. Del. no. Md. divd. Va. no- N- C. ay- S. C. ay. Geo — ay [Ayes — 4; noes — 6; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 2)

afterwards the question for One yr. before Election was negatived by 6 of 11

(King’s Diary (Max Farrand, 1911), Page 225, Vol. 2)

negatived. Maryland divided. Mrs. Mercer and Carrol neg. Mr. Jenifer and myself aff.

(McHenry’s Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673289] On the question to agree to the second section of the fourth article as amended

it passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

Art. IV- Sect. 2. As amended in manner preceding, was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

finally the wd. was established as it stands unanimously

(King's Diary (Max Farrand, 1911), Page 225, Vol. 2)

[e673290] Art: IV. Sect. 3. "taken up.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673291] It was moved and seconded to strike out the word "five" and to insert the word "six" before the words "in South Carolina" in the third section of the fourth article

[Editors' note: Madison records CC Pinckney as the proposer and Charles Pinckney as the seconder.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

Genl. Pinkney & Mr. Pinkney moved that the number of representatives allotted to S. Carola. be "six"

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673292] It was moved and seconded to strike out the word "five" and to insert the word "six" before the words "in South Carolina" in the third section of the fourth article

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 213, Vol. 2)

On the question.

N. H. no. Mas. no. Ct. no. N. J. no. Pa. no. Delaware ay 7 Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673293] On the question to agree to the third section of the fourth article as reported

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 213-214, Vol. 2)

The 3. Sect of Art: IV was then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673294] Art: IV. Sect. 4. taken up.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673295] It was moved and seconded to alter the latter clause of the fourth section of the fourth article so as to read as follows namely

“according to the rule herein after made for direct taxation not exceeding the rate of One for every forty thousand”

[Editors’ note: Madison records Williamson as the proposer. He also notes that the phrase ‘not exceeding’ was added with a different motion. The editors have used the text of Williamson’s original motion.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Mr. Williamson moved to strike out “according to the provisions hereinafter made” and to insert the words “according “to the rule hereafter to be provided for direct taxation” — See Art VII. sect. 3.

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673296] It was moved and seconded to alter the latter clause of the fourth section of the fourth article so as to read as follows namely

“according to the rule herein after made for direct taxation not exceeding the rate of One for every forty thousand”

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

On the question for agreeing to Mr. Williamson’s amendment

N. H- ay. Mas. ay. Ct. ay. N. J. no. Pa. ay. Del. no. Md. ay. Va ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 2)

[e673297] Mr. King wished to know what influence the vote just passed was meant have on the succeeding part of the Report, concerning the admission of slaves into the rule of Representation. He could not reconcile his mind to the article if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, & he believed would be so to a great part of the people of America. He had not made a strenuous opposition to it heretofore because he had hoped that this concession would have produced a readiness which had not been manifested, to strengthen the Genl. Govt. and to mark a full confidence in it. The Report under consideration had by the tenor of it, put an end to all these hopes. In two great points the hands of the Legislature were absolutely tied. The importation of slaves could not be prohibited — exports could not be taxed. Is this reasonable? What are the great objects of the Genl. System? 1. difence agst. foreign invasion. 2. agst. internal sedition. Shall all the States then be bound to defend each; & shall each be at liberty to introduce a weakness which will render defence more difficult? Shall one part of the U. S. be bound to defend another part, and that other part be at liberty not only to increase its own danger, but to withhold the compensation for the burden? If slaves are to be imported shall not the exports produced by their labor, supply a revenue the better to enable the Genl. Govt. to defend their Masters? — There was so much inequality & unreasonableness in all this, that the people of the Northern States could never be reconciled to it. No candid man could undertake to justify it to them. He had hoped

that some accommodation wd. have taken place on this subject; that at least a time wd. have been limited for the importation of slaves. He never could agree to let them be imported without limitation & then be represented in the Natl. Legislature. Indeed he could so little persuade himself of the rectitude of such a practice, that he was not sure he could assent to it under any circumstances. At all events, either slaves should not be represented, or exports should be taxable.

Mr. Sherman regarded the slave-trade as iniquitous; but the point of representation having been Settled after much difficulty & deliberation, he did not think himself bound to make opposition; especially as the present article as amended did not preclude any arrangement whatever on that point in another place of the Report.

Mr. Madison objected to 1 for every 40,000 inhabitants as a perpetual rule. The future increase of population if the Union shd. be permanent, will render the number of Representatives excessive.

Mr. Ghorum. It is not to be supposed that the Govt will last so long as to produce this effect. Can it be supposed that this vast Country including the Western territory will 150 years hence remain one nation?

Mr. Elseworth. If the Govt. should continue so long, alterations may be made in the Constitution in the manner proposed in a subsequent article.

(Madison's Notes (Max Farrand, 1911), Pages 219-221, Vol. 2)

[e673298] Mr Sherman & Mr. Madison moved to insert the words "not exceeding" before the words "1 for every 40,000"

[Editors' note: In the Journal, Jackson records Sherman's amendment as part of Williamson's amendment. The editors have used the final text from the Journal but taken the timing of the amendment from Madison's notes.]

(Madison's Notes (Max Farrand, 1911), Page 221, Vol. 2)

It was moved and seconded to alter the latter clause of the fourth section of the fourth article so as to read as follows namely

"according to the rule herein after made for direct taxation not exceeding the rate of One for every forty thousand"

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

[e673299] Mr Sherman & Mr. Madison moved to insert the words "not exceeding" before the words "1 for every 40,000, which was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 221, Vol. 2)

[e673300] It was moved and seconded to insert the word "free" before the word "inhabitants" in the fourth section of the fourth article

[Editors' note: Madison records G. Morris as the proposer and Dayton as the seconder.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Mr Govr. Morris moved to insert "free" before the word "inhabitants." Much he said would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution — It was the curse of heaven on the

States where it prevailed. Compare the free regions of the Middle States, where a rich & noble cultivation marks the prosperity & happiness of the people, with the misery & poverty which overspread the barren wastes of Va. Maryd. & the other States having slaves. Travel thro' ye whole Continent & you behold the prospect continually varying with the appearance & disappearance of slavery. The moment you leave ye E. Sts. & enter N. York, the effects of the institution become visible; Passing thro' the Jerseys and entering Pa every criterion of superior improvement witnesses the change. Proceed Southwdly, & every step you take thro' ye great regions of slaves, presents a desert increasing with ye increasing proportion of these wretched beings.

Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them Citizens & let them vote? Are they property? Why then is no other property included? The Houses in this City (Philada.) are worth more than all the wretched slaves which cover the rice swamps of South Carolina. The admission of slaves into the Representation when fairly explained comes to this: that the inhabitant of Georgia and S. C. who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than the Citizen of Pa or N. Jersey who views with a laudable horror, so nefarious a practice. He would add that Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of Aristocracy. And What is the proposed compensation to the Northern States for a sacrifice of every principle of right, of every impulse of humanity. They are to bind themselves to march their militia for the defence of the S. States; for their defence agst those very slaves of whom they complain. They must supply vessels & seamen, in case of foreign Attack. The Legislature will have indefinite power to tax them by excises, and duties on imports: both of which will fall heavier on them than on the Southern inhabitants; for the bohea tea used by a Northern freeman, will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag that covers his nakedness. On the other side the Southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay they are to be encouraged to it by an assurance of having their votes in the Natl Govt increased in proportion. and are at the same time to have their exports & their slaves exempt from all contributions for the public service. Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the Genl Govt. can stretch its hand directly into the pockets of the people scattered over so vast a Country. They can only do it through the medium of exports imports & excises. For what then are all these sacrifices to be made? He would sooner submit himself to a tax for paying for all the Negroes in the U. States. than saddle posterity with such a Constitution.

Mr. Dayton 2ded. the motion. He did it he said that his sentiments on the subject might appear whatever might be the fate of the amendment.

[e673301] Mr Govr. Morris moved to insert “free” before the word “inhabitants.” Much he said would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution — It was the curse of heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich & noble cultivation marks the prosperity & happiness of the people, with the misery & poverty which overspread the barren wastes of Va. Maryd. & the other States having slaves. Travel thro’ ye whole Continent & you behold the prospect continually varying with the appearance & disappearance of slavery. The moment you leave ye E. Sts. & enter N. York, the effects of the institution become visible; Passing thro’ the Jerseys and entering Pa every criterion of superior improvement witnesses the change. Proceed Southwdly, & every step you take thro’ ye great regions of slaves, presents a desert increasing with ye increasing proportion of these wretched beings.

Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them Citizens & let them vote? Are they property? Why then is no other property included? The Houses in this City (Philada.) are worth more than all the wretched slaves which cover the rice swamps of South Carolina. The admission of slaves into the Representation when fairly explained comes to this: that the inhabitant of Georgia and S. C. who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than the Citizen of Pa or N. Jersey who views with a laudable horror, so nefarious a practice. He would add that Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of Aristocracy. And What is the proposed compensation to the Northern States for a sacrifice of every principle of right, of every impulse of humanity. They are to bind themselves to march their militia for the defence of the S. States; for their defence agst those very slaves of whom they complain. They must supply vessels & seamen, in case of foreign Attack. The Legislature will have indefinite power to tax them by excises, and duties on imports: both of which will fall heavier on them than on the Southern inhabitants; for the bohea tea used by a Northern freeman, will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag that covers his nakedness. On the other side the Southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay they are to be encouraged to it by an assurance of having their votes in the Natl Govt increased in proportion. and are at the same time to have their exports & their slaves exempt from all contributions for the public service. Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the Genl Govt. can stretch its hand directly into the pockets of the people scattered over so vast a Country. They can only do it through the medium of exports imports & excises. For what then are all these sacrifices to be made? He would sooner submit himself to a tax for paying for all the Negroes in the U. States. than saddle posterity with such a Constitution.

Mr. Dayton 2ded. the motion. He did it he said that his sentiments on the subject might appear whatever might be the fate of the amendment.

Mr. Sherman. did not regard the admission of the Negroes into the ratio of

representation, as liable to such insuperable objections. It was the freemen of the Southn. States who were in fact to be represented according to the taxes paid by them, and the Negroes are only included in the Estimate of the taxes. This was his idea of the matter.

Mr Pinkney, considered the fisheries & the Western frontier as more burdensome to the U. S. than the slaves — He thought this could be demonstrated if the occasion were a proper one.

Mr Wilson. thought the motion premature — An agreement to the clause would be no bar to the object of it.

(Madison's Notes (Max Farrand, 1911), Pages 221-223, Vol. 2)

[e673302] It was moved and seconded to insert the word "free" before the word "inhabitants" in the fourth section of the fourth article which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Question On Motion to insert "free" before "inhabitants."

N. H- no. Mas. no. Ct. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 223, Vol. 2)

[e673303] It was moved and seconded to add the following clause to the fourth section of the fourth article namely

"Provided that every State shall have at least one representative"

[Editors' note: Jackson records this amendment as moved earlier the session, but Madison, who is typically more reliable on the order of events, includes it at the end. Further, Madison names Dickinson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

On the suggestion of Mr. Dickenson the words , "provided that each State shall have one representative at least."

(Madison's Notes (Max Farrand, 1911), Page 223, Vol. 2)

[e673304] "Provided that every State shall have at least one representative" which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

On the suggestion of Mr. Dickenson the words , "provided that each State shall have one representative at least." — were added nem. con.

(Madison's Notes (Max Farrand, 1911), Page 223, Vol. 2)

[e673305] On the question to agree to the fourth section of the fourth article as amended

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Art. IV. sect. 4. as amended was Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 223, Vol. 2)

[e673306] Art. IV. sect. 5. taken up

(Madison's Notes (Max Farrand, 1911), Page 223, Vol. 2)

[e673307] It was moved and seconded to strike out the fifth section of the fourth article

[Editors' note: Madison records Charles Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Mr. Pinkney moved to strike out Sect. 5, As giving no peculiar advantage to the House of Representatives, and as clogging the Govt. If the Senate can be trusted with the many great powers proposed, it surely may be trusted with that of originating money bills.

(Madison's Notes (Max Farrand, 1911), Page 223-224, Vol. 2)

The fifth section giving the sole power of raising and appropriating money to the house of representatives expunged.

(McHenry's Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673308] Mr. Pinkney moved to strike out Sect. 5, As giving no peculiar advantage to the House of Representatives, and as clogging the Govt. If the Senate can be trusted with the many great powers proposed, it surely may be trusted with that of originating money bills.

Mr. Ghorum. was agst. allowing the Senate to originate; but only to amend.

Mr. Govr. Morris. It is particularly proper that the Senate shd. have the right of originating money bills. They will sit constantly. will consist of a smaller number. and will be able to prepare such bills with due correctness; and so as to prevent delay of business in the other House.

Col. Mason was unwilling to travel over this ground again. To strike out the section, was to un hinge the compromise of which it made a part. The duration of the Senate made it improper. He does not object to that duration. On the Contrary he approved of it. But joined with the smallness of the number, it was an argument against adding this to the other great powers vested in that body. His idea of an Aristocracy was that it was the governt. of the few over the many. An aristocratic body, like the screw in mechanics, workig. its way by slow degrees, and holding fast whatever it gains, should ever be suspected of an encroaching tendency — The purse strings should never be put into its hands.

Mr Mercer, considered the exclusive power of originating Money bills as so great an advantage, that it rendered the equality of votes in the Senate ideal & of no consequence.

Mr. Butler was for adhering to the principle which had been settled.

Mr. Wilson was opposed to it on its merits, with out regard to the compromise

Mr. Elseworth did not think the clause of any consequence, but as it was thought of consequence by some members from the larger States, he was willing it should stand.

Mr. Madison was for striking it out: considering it as of no advantage to the large States as fettering the Govt. and as a source of injurious altercations between the two Houses.

(Madison's Notes (Max Farrand, 1911), Pages 223-224, Vol. 2)

[e673309] It was moved and seconded to strike out the fifth section of the fourth article

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

On the question for striking out "Sect. 5. art. IV"

N. H. no. Mas. no. Ct. no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. ay. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Pages 224-225, Vol. 2)

The fifth section giving the sole power of raising and appropriating money to the house of representatives expunged.

(McHenry's Notes (Max Farrand, 1911), Page 226, Vol. 2)

[e673310] [Editors' note: The decision to accept Pinckney's motion to remove Section 5 was, in effect, a rejection of the the section.]

(2019 Editors)

[e673311] And then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 225, Vol. 2)

[e673312] And then the House adjourned till to-morrow at 11 o'clock A. M.

(Official Journal (Max Farrand, 1911), Page 214, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 225, Vol. 2)

1.65 Thursday, 09 August 1787, at 11:00 (s6252)

[e673313] Art: IV. sect. 6.

(Madison's Notes (Max Farrand, 1911), Page 230, Vol. 2)

On the question to agree to the 6 section of the 4. article as reported.

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

[e673314] Mr. Randolph expressed his dissatisfaction at the disagreement yesterday to sect 5. concerning money bills, as endangering the success of the plan, and extremely objectionable in itself; and gave notice that he should move for a reconsideration of the vote.

Mr. Williamson said he had formed a like intention.

Mr. Wilson, gave notice that he shd. move to reconsider the vote, requiring seven instead of three years of Citizenship as a qualification of candidates for the House of Representatives.

(Madison's Notes (Max Farrand, 1911), Pages 230-231, Vol. 2)

[e673315] On the question to agree to the 6 section of the 4. article as reported.
it passed in the affirmative

[Editors' note: The Delaware delegation was not quorate for the early part of this session.]

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Art. IV. sect. 6 & 7. Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 231, Vol. 2)

6 and 7 sects. agreed to without amendment.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673316] On the question to agree to the 7. section of the 4 article as reported

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Art. IV. sect. 6 & 7. Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 231, Vol. 2)

6 and 7 sects. agreed to without amendment.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673317] On the question to agree to the 7. section of the 4 article as reported
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Art. IV. sect. 6 & 7. Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 231, Vol. 2)

6 and 7 sects. agreed to without amendment.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673318] [Editors' note: With the vote to adopt the final section, the Convention tacitly agreed the Fourth Article as amended.]

(2019 Editors)

[e673319] [Editors' note: The Convention took Article V into consideration section by section.]

(2019 Editors)

[e673320] Art. V. sect. 1. taken up.

(Madison's Notes (Max Farrand, 1911), Page 231, Vol. 2)

[e673321] It was moved and seconded to insert the following words in the third clause of the 5 article after the word "executive"

"of the State, in the representation of which the vacancies shall happen"

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

[e673322] Mr. Wilson objected to vacancies in the Senate being supplied by the Executives of the States. It was unnecessary as the Legislatures will meet so frequently. It removes the appointment too far from the people; the Executives in most of the States being elected by the Legislatures. As he had always thought the appointment of the Executives by the Legislative department wrong: so it was still more so that the Executive should elect into the Legislative department.

Mr. Randolph thought it necessary in order to prevent inconvenient chasms in the Senate. In some States the Legislatures meet but once a year. As the Senate will have more power & consist of a smaller number than the other House, vacancies there will be of more consequence. The Executives might be safely trusted he thought with the appointment for so short a time.

Mr. Elseworth. It is only said that the Executive may supply vacancies. When the Legislative meeting happens to be near, the power will not be exerted. As there will be but two members from a State vacancies may be of great moment.

Mr. Williamson. Senators may resign or not accept. This provision is therefore absolutely necessary.

(Madison's Notes (Max Farrand, 1911), Pages 231-232, Vol. 2)

[e673323] It was moved and seconded to insert the following words in the third clause of the 5 article after the word "executive"

"of the State, in the representation of which the vacancies shall happen"
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

[e673324] It was moved and seconded to strike out the 3rd clause of the 1st section of the 5. article.

[Editors' note: Madison also notes that a question was taken on this motion, but does not record it as a formal proposal. It might be assumed from his record of the debate that James Wilson, who had expressed his opposition to the clause, was the proposer.]

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

On the question for striking out "vacancies shall be supplied by Executives

(Madison's Notes (Max Farrand, 1911), Page 231, Vol 2)

5. Art. S. 1 — Wilson moves to strike out the clause authorising the State Executives to supply Vacancies in the Senate observing that the case may be safely lodged with the Senate

(King's Diary (Max Farrand, 1911), Page 242, Vol. 2)

[e734422] Randolph agt. the motion — because the Senate is the Br. where the Interest of the States will be deposited — They ought then to be constantly represented — in case of Treaty, or the election of Ambassadors, each state ought to be present — the State Legislatures may be in recess at the Time of a vacancy in the senate — If the place is not supplied the state may suffer a very great Inconvenience — Wilson — I think Legislators are improper Electors of the Executive — and so the Executive is an unqualified Elector of the Legislators —

(King's Diary (Max Farrand, 1911), Page 242, Vol. 2)

[e673325] On the question for striking out "vacancies shall be supplied by Executives

N. H. no. Mas. no. Ct. no. N. J. no. Pa. ay. Md. divid. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 231, Vol. 2)

It was moved and seconded to strike out the 3rd clause of the 1st section of the 5. article

which passed in the affirmative [sic] [Ayes — 1; noes — 8; divided — 1.]

[Editors' note: As Farrand remarks in a footnote, the Journal is clearly mistaken here. Madison confirms that the motion was rejected.]

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

[e673326] It was moved and seconded to add the following words to the 3rd clause of the 1st section of the 5 article, namely

"unless other provision shall be made by the Legislature"

[Editors' note: Madison records Williamson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Mr. Williamson moved to insert after “vacancies shall be supplied by the Executives”, the following words “unless other provision shall be made by the Legislature” (of the State).

(Madison’s Notes (Max Farrand, 1911), Pages 231-232, Vol. 2)

[e673327] Mr. Elseworth. He was willing to trust the Legislature, or the Executive of a State, but not to give the former a discretion to refer appointments for the Senate to whom they pleased.

(Madison’s Notes (Max Farrand, 1911), Page 232, Vol. 2)

[e673328] It was moved and seconded to add the following words to the 3rd clause of the 1st section of the 5 article, namely

“unless other provision shall be made by the Legislature”
which passed in the negative [Ayes — 4; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Question on Mr Williamson’s motion

N. H. no. Mas. no. Ct. no. N. J. no. Pa. no. Md. ay. Va. no. N- C. ay. S. C. ay- Geo. ay. [Ayes — 4; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Page 232, Vol 2)

[e673329] It was moved and seconded to alter the 3rd. clause in the 1st section of the 5. article so as to read as follows, namely

“vacancies happening by refusals to accept resignations or otherwise may be supplied by the Legislature of the State in the representation of which such vacancies shall happen or by the executive thereof until the next meeting of the Legislature”

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

Mr. Madison in order to prevent doubts whether resignations could be made by Senators, or whether they could refuse to accept, moved to strike out the words after “vacancies”. & insert the words “happening by refusals to accept, resignations or otherwise may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the Executive thereof until the next meeting of the Legislature”

(Madison’s Notes (Max Farrand, 1911), Page 232, Vol. 2)

[e673330] Mr. Govr. Morris this is absolutely necessary. otherwise, as members chosen into the Senate are disqualified from being appointed to any office by sect. 9. of this art: it will be in the power of a Legislature by appointing a man a Senator agst. his consent, to deprive the U. S. of his services.

(Madison’s Notes (Max Farrand, 1911), Page 232, Vol. 2)

[e673331] It was moved and seconded to alter the 3rd. clause in the 1st section of the 5. article so as to read as follows, namely

“vacancies happening by refusals to accept resignations or otherwise may be supplied by the Legislature of the State in the representation of which such vacancies shall happen or by the executive thereof until the next meeting of the Legislature”

Which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 227, Vol. 2)

The motion of Mr. Madison was agreed to *nem. con.*

(Madison’s Notes (Max Farrand, 1911), Page 232, Vol. 2)

[e673332] Mr. Randolph called for a division of the Section, so as to leave a distinct question on the last words, “each member shall have one vote”. He wished this last sentence to be postponed until the reconsideration should have taken place on sect. 5. Art. IV. concerning money bills. If that section should not be reinstated his plan would be to vary the representation in the Senate.

Mr. Strong concurred in Mr. Randolphs ideas on this point

Mr. Read did not consider the section as to money bills of any advantage to the larger States and had voted for striking it out as being viewed in the same light by the larger States. If it was considered by them as of any value, and as a condition of the equality of votes in the Senate, he had no objection to its being re-instated.

Mr. Wilson — Mr. Elseworth & Mr. — Madison urged that it was of no advantage to the larger States. and that it might be a dangerous source of contention between the two Houses. All the principal powers of the Natl. Legislature had some relation to money.

Docr. Franklin, considered the two clauses, the originating of money bills, and the equality of votes in the Senate, as essentially connected by the compromise which had been agreed to.

Col. Mason said this was not the time for discussing this point. When the originating of money bills shall be reconsidered, he thought it could be demonstrated that it was of essential importance to restrain the right to the House of Representatives the immediate choice of the people.

Mr. Williamson. The State of N. C. had agreed to an equality in the Senate, merely in consideration that money bills should be confined to the other House: and he was surprised to see the smaller States forsaking the condition on which they had received their equality.

(Madison’s Notes (Max Farrand, 1911), Pages 232-233, Vol. 2)

The last clause — “each member shall have one vote” — opposed by Mr. Mason, Randolph and a few others on account of the Senate by the loss of the 5 sect of the IV article having the same powers over money bills as the house of representatives.

(McHenry’s Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673333] [Editors’ note: Madison writes that ‘Mr. Randolph called for a division of the Section, so as to leave a distinct question on the last words, “each

member shall have one vote” (Page 232, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As a result, Article V, Section I was split into two parts, which were decided on separately. For this reason, the editors have represented the original section being dropped and a new section with subsections being proposed.]

(2019 Editors)

[e673334] [Editors’ note: Madison writes that ‘Mr. Randolph called for a division of the Section, so as to leave a distinct question on the last words, “each member shall have one vote”’ (Page 232, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As a result, Article V, Section I was split into two parts, which were decided on separately. For this reason, the editors have represented the original section being dropped and a new section with subsections being proposed.]

(2019 Editors)

[e673335] On the motion to agree to the three first clauses of the 1st section of the 5th article

(Official Journal (Max Farrand, 1911), Pages 227-228, Vol. 2)

Question on the Section 1. down to the last sentence

(Madison’s Notes (Max Farrand, 1911), Page 233, Vol. 2)

[e673336] On the motion to agree to the three first clauses of the 1st section of the 5th article

it passed in the affirmative [Ayes — 8; noes — 2; divided — 1.]

[Editors’ note: The New Jersey delegation reached a quorum by this vote.

In his notes, Madison records the result slightly differently, with Pennsylvania also voting against: ‘N. H ay. Mas. no. Ct. ay. N. J. ay. Pa. no- Del. ay. Md. ay. Virga ay N. C. no. S. C. divd. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]’ (Page 233, Vol. 2, Madison’s Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Pages 227-228, Vol. 2)

[e673337] [Editors’ note: The Convention considered the second subsection, consisting of the final clause.]

(2019 Editors)

[e673338] It was moved and seconded to postpone the consideration of the last clause in the first section of the 5. article

[Editors’ note: Madison records Randolph as the proposer.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Mr. Randolph moved that the last sentence “each member shall have one vote.” be postponed

(Madison’s Notes (Max Farrand, 1911), Page 233, Vol. 2)

[e673339] It was observed that this could not be necessary; as in case the section as to originating bills should not be reinstated, and a revision of the Constitution should ensue, it wd. still be proper that the members should vote per capita. A postponement of the preceding sentence allowing to each State 2 members wd. have been more proper.

Mr. Mason, did not mean to propose a change of this mode of voting per capita in any event. But as there might be other modes proposed, he saw no impropriety in postponing the sentence. Each State may have two members, and yet may have unequal votes. He said that unless the exclusive originating of money bills should be restored to the House of Representatives, he should, not from obstinacy, but duty and conscience, oppose throughout the equality of Representation in the Senate.

Mr. Govr. Morris. Such declarations were he supposed, addressed to the smaller States in order to alarm them for their equality in the Senate, and induce them agst. their judgments, to concur in restoring the section concerning money bills. He would declare in his turn that as he saw no prospect of amending the Constitution of the Senate & considered the Section relating to money bills as intrinsically bad, he would adhere to the section establishing the equality at all events.

Mr. Wilson. It seems to have been supposed by some that the section concerning money bills is desirable to the large States. The fact was that two of those States (Pa. & Va) had uniformly voted agst. it without reference to any other part of the system.

Mr. Randolph, urged as Col. Mason had done that the sentence under consideration was connected with that relating to money bills, and might possibly be affected by the result of the motion for reconsidering the latter. That the postponement was therefore not improper.

(Madison's Notes (Max Farrand, 1911), Pages 233-234, Vol. 2)

[e673340] It was moved and seconded to postpone the consideration of the last clause in the first section of the 5. article
which was passed in the negative [Ayes — 2; noes — 8; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Question for postponing "each member shall have one vote."

N. H. divd. Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. ay.
N. C. ay. S. C. no. Geo. no. [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 234, Vol. 2)

[e673341] On the question to agree to the last clause in the 1st section of the 5. article
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

The words were then agreed to as part of the section.

(Madison's Notes (Max Farrand, 1911), Page 234, Vol. 2)

[e673342] The 1 section of the V article underwent an emendatory alteration. The last clause — “each member shall have one vote” — opposed by Mr. Mason, Randolph and a few others on account of the Senate by the loss of the 5 sect of the IV article having the same powers over money bills as the house of representatives. — The whole however was agreed to.

[Editors’ note: As the Convention had agreed to both subsections, the editors assume that the first section of the Fifth Article was accepted.]

(McHenry’s Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673343] Mr. Randolph then gave notice that he should move to reconsider this whole Sect: 1. Art. V. as connected with the 5. Sect. art. IV. as to which he had already given such notice.

(Madison’s Notes (Max Farrand, 1911), Page 234, Vol. 2)

[e673344] Art. V. sect. 2d. taken up.

(Madison’s Notes (Max Farrand, 1911), Page 234, Vol. 2)

[e673345] It was moved and seconded to insert the following words after the word “after” in the 2nd section of the 5 article namely

“they shall be assembled in consequence of”

[Editors’ note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Mr. Govr. Morris moved to insert after the words “immediately after”, the following “they shall be assembled in consequence of”

(Madison’s Notes (Max Farrand, 1911), Page 235, Vol. 2)

[e673346] It was moved and seconded to insert the following words after the word “after” in the 2nd section of the 5 article namely

“they shall be assembled in consequence of”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Mr. Govr. Morris moved to insert after the words “immediately after”, the following “they shall be assembled in consequence of” which was agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 235, Vol. 2)

[e673347] On the question to agree to the 2nd section of the 5. article as amended.

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Mr. Govr. Morris moved to insert after the words “immediately after”, the following “they shall be assembled in consequence of” which was agreed to nem. con. as was then the whole sect 2.

(Madison's Notes (Max Farrand, 1911), Page 235, Vol. 2)

Sect. 2. agreed to after an emendatory addition.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673348] Art: V. sect. 3. taken up.

(Madison's Notes (Max Farrand, 1911), Page 235, Vol. 2)

[e673349] It was moved and seconded to strike out the word "four" and to insert the word "fourteen" in the 3 section of the 5 article

[Editors' note: Madison records Morris as the proposer and Charles Pinckney as the seconder.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Mr. Govr. Morris moved to insert 14 instead of 4 years citizenship as a qualification for Senators; urging the danger of admitting strangers into our public Councils. Mr. Pinkney 2ds. him

(Madison's Notes (Max Farrand, 1911), Page 235, Vol. 2)

Gouverneur Morris proposed insted of 4 years 14. He would have confined the members he said to natives — but for its appearance and the effects it might have against the system.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673350] Mr. Elseworth. was opposed to the motion as discouraging meritorious aliens from emigrating to this Country.

Mr. Pinkney. As the Senate is to have the power of making treaties & managing our foreign affairs, there is peculiar danger and impropriety in opening its door to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject who made it death for any stranger to intrude his voice into their legislative proceedings.

Col. Mason highly approved of the policy of the motion. Were it not that many not natives of this Country had acquired great merit during the revolution, he should be for restraining the eligibility into the Senate, to natives.

Mr. Madison was not averse to some restrictions on this subject; but could never agree to the proposed amendment. He thought any restriction however in the Constitution unnecessary, and improper. unnecessary; because the Natl. Legislre. is to have the right of regulating naturalization, and can by virtue thereof fix different periods of residence as conditions of enjoying different privileges of Citizenship: Improper: because it will give a tincture of illiberality to the Constitution: because it will put it out of the power of the Natl Legislature even by special acts of naturalization to confer the full rank of Citizens on meritorious strangers & because it will discourage the most desirable class of people from emigrating to the U. S. Should the proposed Constitution have the intended effect of giving stability & reputation to our Govts. great numbers of respectable Europeans; men who love liberty and wish to partake its blessings, will be ready to transfer their fortunes hither. All such would feel

the mortification of being marked with suspicious incapacitations though they sd. not covet the public honors He was not apprehensive that any dangerous number of strangers would be appointed by the State Legislatures, if they were left at liberty to do so: nor that foreign powers would make use of strangers as instruments for their purposes. Their bribes would be expended on men whose circumstances would rather stifle than excite jealousy & watchfulness in the public.

Mr. Butler was decidedly opposed to the admission of foreigners without a long residence in the Country. They bring with them, not only attachments to other Countries; but ideas of Govt. so distinct from ours that in every point of view they are dangerous. He acknowledged that if he himself had been called into public life within a short time after his coming to America, his foreign habits opinions & attachments would have rendered him an improper agent in public affairs. He mentioned the great strictness observed in Great Britain on this subject.

Docr. Franklin was not agst. a reasonable time, but should be very sorry to see any thing like illiberality inserted in the Constitution. The people in Europe are friendly to this Country. Even in the Country with which we have been lately at war, We have now & had during the war, a great many friends not only among the people at large but in both Houses of Parliament. In every other Country in Europe all the people are our friends. We found in the Course of the Revolution, that many strangers served us faithfully — and that many natives took part agst. their Country. When foreigners after looking about for some other Country in which they can obtain more happiness, give a preference to ours, it is a proof of attachment which ought to excite our confidence & affection.

Mr. Randolph did not know but it might be problematical whether emigrations to this Country were on the whole useful or not: but he could never agree to the motion for disabling them for 14 years to participate in the public honours. He reminded the Convention of the language held by our patriots during the Revolution, and the principles laid down in all our American Constitutions. Many foreigners may have fixed their fortunes among us under the faith of these invitations. All persons under this description with all others who would be affected by such a regulation, would enlist themselves under the banners of hostility to the proposed System. He would go as far as seven years, but no further.

Mr. Wilson said he rose with feelings which were perhaps peculiar; mentioning the circumstance of his not being a native, and the possibility, if the ideas of some gentlemen should be pursued, of his being incapacitated from holding a place under the very Constitution which he had shared in the trust of making. He remarked the illiberal complexion which the motion would give to the System, & the effect which a good system would have in inviting meritorious foreigners among us, and the discouragement & mortification they must feel from the degrading discrimination, now proposed. He had himself experienced this mortification. On his removal into Maryland, he found himself, from defect of residence, under certain legal incapacities, which never ceased to produce chagrin, though he assuredly did not desire & would not have accepted the offices to which they related. To be appointed to a place may be matter of indifference. To be incapable of being appointed, is a circumstance grating, and mortifying.

Mr. Govr. Morris. The lesson we are taught is that we should be governed

as much by our reason, and as little by our feelings as possible. What is the language of Reason on this subject? That we should not be polite at the expense of prudence. There was a moderation in all things. It is said that some tribes of Indians, carried their hospitality so far as to offer to strangers their wives and daughters. Was this a proper model for us? He would admit them to his house, he would invite them to his table, would provide for them comfortable lodgings; but would not carry the complaisance so far as, to bed them with his wife. He would let them worship at the same altar, but did not choose to make Priests of them. He ran over the privileges which emigrants would enjoy among us, though they should be deprived of that of being eligible to the great offices of Government; observing that they exceeded the privileges allowed to foreigners in any part of the world; and that as every Society from a great nation down to a club had the right of declaring the conditions on which new members should be admitted, there could be no room for complaint. As to those philosophical gentlemen, those Citizens of the World, as they called themselves, He owned he did not wish to see any of them in our public Councils. He would not trust them. The men who can shake off their attachments to their own Country can never love any other. These attachments are the wholesome prejudices which uphold all Governments, Admit a Frenchman into your Senate, and he will study to increase the commerce of France: An Englishman, he will feel an equal bias in favor of that of England. It has been said that The Legislatures will not chuse foreigners, at least improper ones. There was no knowing what Legislatures would do. Some appointments made by them, proved that every thing ought to be apprehended from the cabals practised on such occasions. He mentioned the case of a foreigner who left this State in disgrace, and worked himself into an appointment from another to Congress.

(Madison's Notes (Max Farrand, 1911), Pages 235-238, Vol. 2)

G Morris

Liberal & illiberal — The terms are indefinite — The Indians are the most liberal, because when a Stranger comes among them they offer him yr. wife & Daughters for his carnal amusement —

It is said yt. we threw open our Doors — invited the oppressed of all Countries to come & find an Asylum in America — This is true we invited them to come and worship in our Temple but we never invited them to become Priests at our Altar — We shd. cherish the love of our country — This is a wholesome prejudice and is in favor of our Country — Foreigners will not learn our laws & Constitution under 14 yrs. — 7 yrs must be applied to learn to be a Shoe Maker — 14 at least are necessary to learn to be an Amer. Legislator —

Again — that period will be requisite to eradicate the Affections of Education and native Attachments —

Franklin — I am agt. the Term of 14 yrs — it looks illiberal — we have many good Friends in Engld. & other parts of Europe — they ought not to be excluded —

Wilson — agt. the motion for 14 yrs —

(King's Diary (Max Farrand, 1911), Page 242, Vol. 2)

Mr. Mason had the same wishes, but he could not think of excluding those foreigners who had taken a part and borne with the country the dangers and burdenth of the war.

Mr. Maddison was against such an invidious distinction. The matter might be safely intrusted to the respective legislatures. Doctor Franklin was of the same opinion. Mr. Willson expressed himself feelingly on the same side. It might happen, he said, that he who had been thought worthy of being trusted with the framing of the Constitution, might be excluded from it. He had not been born in this country. He considered such excluding as one of the most galling chains which the human mind could experience, It was wrong to deprive the government of the talents virtue and abilities of such foreigners as might chuse to remove to this country. The corrup of other countries would not come here. Those who were tired in opposing such corruptions would be drawn hither, etc. etc.

(McHenry's Notes (Max Farrand, 1911), Pages 243-244, Vol. 2)

[e673351] It was moved and seconded to strike out the word "four" and to insert the word "fourteen" in the 3 section of the 5 article
which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

Question on the motion of Mr. Govr. Morris to insert 14 in place of 4 years
N. H. ay. Mas. no. Ct. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N.
C. no. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 238, Vol. 2)

[e673352] On 13 years, moved Mr. Govr. Morris

(Madison's Notes (Max Farrand, 1911), Page 238, Vol. 2)

It was moved and seconded to strike out the word "four" and to insert the word "fourteen" in the 3 section of the 5 article
which passed in the negative [Ayes — 4; noes — 7.]

[Editors' note: Farrand writes: "fourteen" is evidently a mistake for "thirteen", so in Vote 260, Detail of Ayes and Noes, and in Madison.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

[e673353] It was moved and seconded to strike out the word "four" and to insert the word "fourteen" in the 3 section of the 5 article
which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

On 13 years, moved Mr. Govr. Morris
N. H. ay. Mas. no. Ct. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N.
C. no. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Pages 238-239, Vol. 2)

[e673354] It was moved and seconded to strike out the word "four" and to insert the word "Ten" in the 3 section of the 5 article
[Editors' note: Madison records CC Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

On 10 years moved by Genl Pinkney

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673355] It was moved and seconded to strike out the word "four" and to insert the word "Ten" in the 3 section of the 5 article

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

On 10 years moved by Genl Pinkney

N. H. ay. Mas. no. Ct. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673356] Dr. Franklin reminded the Convention that it did not follow from an omission to insert the restriction in the Constitution that the persons in question wd. be actually chosen into the Legislature.

Mr. Rutledge. 7 years of Citizenship have been required for the House of Representatives. Surely a longer time is requisite for the Senate, which will have more power.

Mr. Williamson. It is more necessary to guard the Senate in this case than the other House. Bribery & Cabal can be more easily practised in the choice of the Senate which is to be made by the Legislatures composed of a few men, than of the House of Represents. who will be chosen by the people.

Mr. Randolph will agree to 9 years with the expectation that it will be reduced to seven if Mr. Wilson's motion to reconsider the vote fixing 7 years for the House of Representatives should produce a reduction of that period.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673357] It was moved and seconded to strike out the word "four" and to insert the word "nine" in the 3rd section of the 5 article

[Editors' note: From Madison's notes, it seems likely that Randolph was the proposer, though Madison does not specify.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

On a question for 9 years

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673358] It was moved and seconded to strike out the word "four" and to insert the word "nine" in the 3rd section of the 5 article

which passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 228, Vol. 2)

On a question for 9 years

N. H. ay. Mas. no. Ct. no. N. J. ay. Pa. no. Del. ay. Md. no. Va. ay. N. C. divid. S. C. ay. Geo. ay. [Ayes — 6; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673359] It was moved and seconded to amend the 3rd section of the 5 article by inserting the word "of" after the word "citizen" and the words "an inhabitant" instead of the words "a resident"

(Official Journal (Max Farrand, 1911), Pages 228-229, Vol. 2)

The term "Resident" was struck out, & "inhabitant" inserted nem. con.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673360] It was moved and seconded to amend the 3rd section of the 5 article by inserting the word "of" after the word "citizen" and the words "an inhabitant" instead of the words "a resident"

which passed in the affirmative

[Editors' note: Madison indicates that this motion was unanimously agreed to without discussion.]

(Official Journal (Max Farrand, 1911), Pages 228-229, Vol. 2)

The term "Resident" was struck out, & "inhabitant" inserted nem. con.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673361] On the question to agree to the 3rd section of the 5 article as amended it passed in the affirmative

[Editors' note: Madison indicates that this section was unanimously agreed to without further debate.]

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Art. V Sect. 3. as amended agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

Sect. 3 agreed to after inserting inhabitant for resident, as being less equivocal, and 9 years for 4 years.

(McHenry's Notes (Max Farrand, 1911), Page 243, Vol. 2)

[e673362] On the question to agree to the 4th section of the 5. article as reported

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Sect. 4. agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

Sect. 4 agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 244, Vol. 2)

[e673363] On the question to agree to the 4th section of the 5. article as reported it passed in the affirmative

[Editors' note: Madison indicates that this motion was unanimously agreed to without discussion.]

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Sect. 4. agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

Sect. 4 agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 244, Vol. 2)

[e673364] [Editors' note: After agreeing the final section, the Convention adopted the amended Fifth Article.]

(2019 Editors)

[e673365] [Editors' note: The Convention began to consider the Sixth Article.]

(2019 Editors)

[e673366] Art. VI. sect. 1. taken up.

(Madison's Notes (Max Farrand, 1911), Page 239, Vol. 2)

[e673367] It was moved and seconded to strike out the words "each House" and to insert the words "the House of representatives" in the 1st section of the 6th article

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Mr. Madison — & Mr. Govr. Morris moved to strike out "each House" & to insert "the House of Representatives"; the right of the Legislatures to regulate the times & places &c. in the election of Senators being involved in the right of appointing them

(Madison's Notes (Max Farrand, 1911), Pages 239-240, Vol. 2)

[e673368] It was moved and seconded to strike out the words "each House" and to insert the words "the House of representatives" in the 1st section of the 6th article

which passed in the negative [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Mr. Madison — & Mr. Govr. Morris moved to strike out "each House" & to insert "the House of Representatives"; the right of the Legislatures to regulate the times & places &c. in the election of Senators being involved in the right of appointing them, which was disagreed to.

(Madison's Notes (Max Farrand, 1911), Pages 239-240, Vol. 2)

[e673369] It was moved and seconded to insert the word “respectively” after the word “State” in the 1st section of the 6. article

[Editors’ note: The proposer and exact timing of this amendment are unclear. The Journal records it being proposed after Madison’s motion, while Madison places it in the middle of debate on the second clause. However, this section of Madison’s notes was added upon revision, and his recollection cannot be absolutely relied upon. If he were correct, the motion would seem to have been ‘out of order’. For this reason, the editors assume that the Journal is correct here.]

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

The word “respectively” was inserted after the word “State”

(Madison’s Notes (Max Farrand, 1911), Page 241, Vol. 2)

[e673370] It was moved and seconded to insert the word “respectively” after the word “State” in the 1st section of the 6. article

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

The word “respectively” was inserted after the word “State”

(Madison’s Notes (Max Farrand, 1911), Page 241, Vol. 2)

[e673371] [Editors’ note: Madison writes that the ‘Division of the question being called, it was taken on the first part down to ”but their provisions concerning &c”’ (Page 240, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As a result, Article VI, Section I was split into two clauses, which were then decided upon separately. For this reason, the editors have represented this division of the clauses as the original section being dropped and a new section with two clauses being proposed.]

(2019 Editors)

[e673372] [Editors’ note: Madison writes that the ‘Division of the question being called, it was taken on the first part down to ”but their provisions concerning &c”’ (Page 240, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As a result, Article VI, Section I was split into two clauses, which were then decided upon separately. For this reason, the editors have represented this division of the clauses as the original section being dropped and a new section with two clauses being proposed.]

(2019 Editors)

[e673373] [Editors’ note: Madison writes that the ‘Division of the question being called, it was taken on the first part down to ”but their provisions concerning &c”’ (Page 240, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As a result, Article VI, Section I was split into two clauses, which were then decided upon separately. For this reason, the editors have represented this division of the clauses as the original section being dropped and a new section with two clauses being proposed.]

(2019 Editors)

[e673374] The first part was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 240, Vol. 2)

[e673375] [Editors' note: Madison writes that the 'Division of the question being called, it was taken on the first part down to "but their provisions concerning &c"' (Page 240, Vol. 2, Madison's Notes (Max Farrand, 1911)).

As a result, Article VI, Section I was split into two clauses, which were then decided upon separately. For this reason, the editors have represented this division of the clauses as the original section being dropped and a new section with two clauses being proposed.]

(2019 Editors)

[e673376] Mr. Pinkney & Mr. Rutledge moved to strike out the remaining part viz "but their provisions concerning them may at any time be altered by the Legislature of the United States." The States they contended could & must be relied on in such cases.

(Madison's Notes (Max Farrand, 1911), Page 240, Vol. 2)

[e673377] Mr Ghorum. It would be as improper take this power from the Natl. Legislature, as to Restrain the British Parliament from regulating the circumstances of elections, leaving this business to the Counties themselves —

Mr Madison . The necessity of a Genl. Govt. supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local conveniency or prejudices. The policy of referring the appointment of the House of Representatives to the people and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode, This view of the question seems to decide that the Legislatures of the States ought not to have the uncontroled right of regulating the times places & manner of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or vivâ voce, should assemble at this place or that place; should be divided into districts or all meet at one place, shd all vote for all the representatives; or all in a district vote for a number allotted to the district; these & many other points would depend on the Legislatures. and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry, they would take care so to mould their regulations as to favor the candidates they wished to succeed. Besides, the inequality of the Representation in the Legislatures of particular States, would produce a like inequality in their representation in the Natl. Legislature, as it was presumable that the Counties having the power in the former case would secure it to themselves in the latter. What danger could there be in giving a controuling power to the Natl. Legislature? Of whom was it to consist? 1. of a Senate to be chosen by the State Legislatures. If the latter therefore could be trusted, their representatives could not be dangerous. 2. of Representatives elected by the same people who elect the State Legislatures; surely then if confidence is due to the latter, it must be due to the former. It seemed as improper

in principle — though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the Representatives of the people in the Genl. Legislature, as it would be to give to the latter a like power over the election of their Representatives in the State Legislatures.

Mr. King. If this power be not given to the Natl. Legislature, their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. Altho this scheme of erecting the Genl. Govt. on the authority of the State Legislatures has been fatal to the federal establishment, it would seem as if many gentlemen, still foster the dangerous idea.

Mr. Govr. Morris — observed that the States might make false returns and then make no provisions for new elections

Mr. Sherman did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

(Madison's Notes (Max Farrand, 1911), Pages 240-241, Vol. 2)

[e673378] The motion of Mr. P. & Mr. R. did not prevail.

[Editors' note: Madison provides no vote count, and the Jackson omits the vote entirely.]

(Madison's Notes (Max Farrand, 1911), Page 241, Vol. 2)

[e673379] It was moved and seconded to alter the second clause in the first section of the 6th article so as to read as follows, namely

“but regulations in each of the foregoing cases may, at any time, be made or altered by the Legislature of the United States”

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

On the motion of Mr Read the word “their” was struck out, & “regulations in such cases” inserted in place of “provisions concerning them”. the clause then reading — “but regulations, in each of the foregoing cases may at any time, be made or altered by the Legislature of the U. S. This was meant to give the Natl. Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether.

(Madison's Notes (Max Farrand, 1911), Pages 241-242, Vol. 2)

[e673380] It was moved and seconded to alter the second clause in the first section of the 6th article so as to read as follows namely

“but regulations in each of the foregoing cases may, at any time, be made or altered by the Legislature of the United States”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

On the motion of Mr Read the word “their” was struck out, & “regulations in such cases” inserted in place of “provisions concerning them”. the clause then reading — “but regulations, in each of the foregoing cases may at any time, be made or altered by the Legislature of the U. S. This was meant to give the Natl. Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether.

(Madison's Notes (Max Farrand, 1911), Pages 241-242, Vol. 2)

[e673381] [Editors' note: The Convention took the amended second clause into the working document.]

(2019 Editors)

[e673382] On the question to agree to the 1st section of the 6th article as amended

it passed in the affirmative.

[Editors' note: Madison indicates that this vote was unanimously agreed upon.]

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Art. VI. Sect. 1 — as thus amended was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 2)

Article VI. Sect. 1. Agreed to with this amendment insted of "but their provisions concerning them."

(McHenry's Notes (Max Farrand, 1911), Page 244, Vol. 2)

[e673383] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 2)

adjourned

(McHenry's Notes (Max Farrand, 1911), Page 244, Vol. 2)

[e673384] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 229, Vol. 2)

Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 242, Vol. 2)

adjourned

(McHenry's Notes (Max Farrand, 1911), Page 244, Vol. 2)

1.66 Friday, 10 August 1787, at 11:00 (s6253)

[e673385] Elbridge Gerry to Ann Gerry (August 9, 1787)

Philadela. Thursday Eveng. 9 oClock 9th Aug. 1787

I arrived here, my dearest Life, about an hour ago with Colo. Hamilton, whom I met at the Hook. We escaped a heavy thunder gust, which gave us Chase, about an hour before we reached the City. We had a cool ride, free from Dust, and I am not fatigued—How is my dearest Girl, her little pet, and family Friends? An answer to such questions as these, is more interesting to me than all the delusive prospects of pleasure or Happiness from other quarters. When I went to Bed last Evening, I began to reproach myself and have continued to do so ever since, for leaving behind my little Comforter, in the Absence of my lively Friends. I mean her portrait. How happened it to escape your Memory as well as mine? I think such another Accident will not soon happen to me. Miss Dally informs me she has some very good Hyson at 103 this Currency which is a Dollar and a half by the half Dozeninclosed is a Sample and if it suits inform me in your next of what quantity to take. Miss Dally thinks it more difficult to preserve the Flavour of Hyson than of the black Tea. How shall it be preserved?

I have had some Conversation with Col. Hamilton, respecting the last bill drawn by Mr. Harrison, and as We are both at Miss Dally's, I shall have a good Opportunity to perfect it soon. He expects to return in a Week to New York and I hope to send it by him. I likewise entered into the Merits of the other Bill, but found as your pappa has always said and as Colo. Hamilton himself acknowledged, tho he knew little or nothing of the Matter, he depends on Mr. Harrison for Information, but there must be other Dependance. I shall think upon the state of this Matter & write your pappa thereon. Adieu my only Source of Happiness, kiss our lovely little Girl for me whenever you kiss her for yourself and with my sincerest Regards to pappa Mamma and the Family believe me to be your ever affectionate

E. Gerry

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 215, Elbridge Gerry to Ann Gerry, 9 August 1787)

[e673386] Elbridge Gerry to Ann Gerry (August 9, 1787)

Philadela. Thursday Eveng. 9 oClock 9th Aug. 1787

I arrived here, my dearest Life, about an hour ago with Colo. Hamilton, whom I met at the Hook. We escaped a heavy thunder gust, which gave us Chase, about an hour before we reached the City. We had a cool ride, free from Dust, and I am not fatigued—How is my dearest Girl, her little pet, and family Friends? An answer to such questions as these, is more interesting to me than all the delusive prospects of pleasure or Happiness from other quarters. When I went to Bed last Evening, I began to reproach myself and have continued to do so ever since, for leaving behind my little Comforter, in the Absence of my lively Friends. I mean her portrait. How happened it to escape your Memory as well as mine? I think such another Accident will not soon happen to me. Miss Dally informs me she has some very good Hyson at 103 this Currency which is a Dollar and a half by the half Dozeninclosed is a Sample and if it suits inform me in your next of what quantity to take. Miss Dally thinks it more difficult to preserve the Flavour of Hyson than of the black Tea. How shall it be preserved?

I have had some Conversation with Col. Hamilton, respecting the last bill drawn by Mr. Harrison, and as We are both at Miss Dally's, I shall have a good Opportunity to perfect it soon. He expects to return in a Week to New York and I hope to send it by him. I likewise entered into the Merits of the other Bill, but found as your pappa has always said and as Colo. Hamilton himself acknowledged, tho he knew little or nothing of the Matter, he depends on Mr. Harrison for Information, but there must be other Dependance. I shall think upon the state of this Matter & write your pappa thereon. Adieu my only Source of Happiness, kiss our lovely little Girl for me whenever you kiss her for yourself and with my sincerest Regards to pappa Mamma and the Family believe me to be your ever affectionate

E. Gerry

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 215, Elbridge Gerry to Ann Gerry, 9 August 1787)

[e673387] Art. VI. sect. 2. taken up.

(Madison's Notes (Max Farrand, 1911), Page 248, Vol. 2)

[e673389] It was moved and seconded to strike out 2nd sect. of the 6. article in order to introduce the following namely

“That the qualifications of the members of the Legislature be as follows. The members of the House of representatives shall possess a clear and unincumbered property of _____ The Members of the Senate _____ ”

[Editors' note: Madison records Pinkney as the proposer and Rutledge as the seconder.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Mr. Pinkney — The Committee as he had conceived were instructed to report the proper qualifications of property for the members of the Natl. Legislature; instead of which they have referred the task to the Natl. Legislature itself. Should it be left on this footing, the first Legislature will meet without any particular qualifications of property; and if it should happen to consist of rich men they might fix such such qualifications as may be too favorable to the rich; if of poor men, an opposite extreme might be run into. He was opposed to the establishment of an undue aristocratic influence in the Constitution but he thought it essential that the members of the Legislature, the Executive, and the Judges — should be possessed of competent property to make them independent & respectable. It was prudent when such great powers were to be trusted to connect the tie of property with that of reputation in securing a faithful administration. The Legislature would have the fate of the Nation put into their hands. The President would also have a very great influence on it. The Judges would have not only important causes between Citizen & Citizen but also where foreigners are concerned. They will even be the Umpires between the U. States and individual States as well as between one State & another. Were he to fix the quantum of property which should be required, he should not think of less than one hundred thousand dollars for the President, half of that sum for each of the Judges, and in like proportion for the members of the Natl. Legislature. He would however leave the sums blank. His motion was that the President of the U. S. the Judges, and members of the Legislature should be required to swear

that they were respectively possessed of a clear unincumbered [249] Estate to the amount of ——— in the case of the President, &c &c —

Mr. Rutledge seconded the motion; observing, that the Committee had reported no qualifications because they could not agree on any among themselves, being embarrassed by the danger on one side of displeasing the people by making them high, and on the other of rendering them nugatory by making them low.

(Madison's Notes (Max Farrand, 1911), Pages 248-249, Vol. 2)

[e673390] Mr. Elseworth. The different circumstances of different parts of the U. S. and the probable difference between the present and future circumstances of the whole, render it improper to have either uniform or fixed qualifications. Make them so high as to be useful in the S. States, and they will be inapplicable to the E. States. Suit them to the latter, and they will serve no purpose in the former. In like manner what may be accommodated to the existing State of things among us, may be very inconvenient in some future state of them. He thought for these reasons that it was better to leave this matter to the Legislative discretion than to attempt a provision for it in the Constitution.

Doctr Franklin expressed his dislike of every thing that tended to debase the spirit of the common people. If honesty was often the companion of wealth, and if poverty was exposed to peculiar temptation, it was not less true that the possession of property increased the desire of more property- Some of the greatest rogues he was ever acquainted with, were the richest rogues. We should remember the character which the Scripture requires in Rulers, that they should be men hating covetousness- This Constitution will be much read and attended to in Europe, and if it should betray a great partiality to the rich- will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this Country.

(Madison's Notes (Max Farrand, 1911), Page 249, Vol. 2)

[e673391] It was moved and seconded to strike out 2nd sect. of the 6. article in order to introduce the following namely

“That the qualifications of the members of the Legislature be as follows. The members of the House of representatives shall possess a clear and unincumbered property of _____ The Members of the Senate _____ ”

which passed in the negative

[Editors' note: Madison adds that 'the Motion of Mr. Pinkney was rejected by so general a no, that the States were not called.' (Page 249, Vol. 2, Madison's Notes (Max Farrand, 1911))]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

[e673392] Mr Madison was opposed to the Section as vesting an improper & dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorised to elect. In all cases where the representatives of the people

will have a personal interest distinct from that of their Constituents, there was the same reason for being jealous of them, as there was for relying on them with full confidence, when they had a common interest. This was one of the former cases. It was as improper as to allow them to fix their own wages, or their own privileges. It was a power also, which might be made subservient to the views of one faction agst. another. Qualifications founded on artificial distinctions may be devised, by the stronger in order to keep out partizans of a weaker faction.

Mr. Elseworth, admitted that the power was not unexceptionable; but he could not view it as dangerous. Such a power with regard to the electors would be dangerous because it would be much more liable to abuse.

(Madison's Notes (Max Farrand, 1911), Pages 249-250, Vol. 2)

[e673393] It was moved and seconded to strike the following words out of the 2nd sect. of the 6. article, namely

“with regard to property”

[Editors' note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Mr. Govr. Morris moved to strike out “with regard to property” in order to leave the Legislature entirely at large.

(Madison's Notes (Max Farrand, 1911), Page 250, Vol. 2)

[e673394] Mr. Williamson. This could surely never be admitted. Should a majority of the Legislature be composed of any particular description of men, of lawyers for example, which is no improbable supposition, the future elections might be secured to their own body.

Mr. Madison observed that the British Parliamt. possessed the power of regulating the qualifications both of the electors, and the elected; and the abuse they had made of it was a lesson worthy of our attention. They had made the changes in both cases subservient to their own views, or to the views of political or Religious parties.

(Madison's Notes (Max Farrand, 1911), Page 250, Vol. 2)

[e673395] It was moved and seconded to strike the following words out of the 2nd sect. of the 6. article, namely

“with regard to property”

which passed in the negative. [Ayes — 4; noes — 6.]

[Editors' note: According to the Journal, Delaware did not have enough delegates in the chamber to be considered quorate. However, Madison records Delaware as voting against the motion. In this case, the editors assume that those delegates present indicated their negative vote, but as they were below quorum, the Secretary did not record this as an official vote.

Despite Hamilton's return, New York was also unable to register a vote, as without the return of Lansing or Yates, the state would not be considered quorate. With their exit on 11 July and refusal to return, the other two New York delegates ensured that this would be the case for the rest of the Convention.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Question on the motion to strike out with regard to property

N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo- ay. [Ayes — 4; noes — 7.]

In the printed Journal Delaware did not vote.

(Madison's Notes (Max Farrand, 1911), Page 250, Vol. 2)

[e673396] Mr Rutledge was opposed to leaving the power to the Legislature- He proposed that the qualifications should be the same as for members of the State Legislatures.

Mr. Wilson thought it would be best on the whole to let the Section go out. A uniform rule would probably be never fixed by the Legislature. and this particular power would constructively exclude every other power of regulating qualifications-

(Madison's Notes (Max Farrand, 1911), Pages 250-251, Vol. 2)

[e673397] On the question to agree to the 2nd sect. of the 6. article as reported. it passed in the negative. [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

On the question for agreeing to Art- VI- sect- 2d

N. H. ay. Mas. ay. Ct. no. N. J. no. Pa. no. Md. no. Va. no. N. C. no S. C. no. Geo. ay- [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

Sect. 2. dissented to.

(McHenry's Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e740248] It was moved and seconded to reconsider the 2nd sect. of the 4th article

[Editors' note: Madison records that Wilson was the proposer and that Delaware had returned to quorum.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

On Motion of Mr Wilson to reconsider Art: IV. sect. 2. so as to restore 3 in place of seven years of citizenship as a qualification for being elected into the House of Represents.

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

[e740249] It was moved and seconded to reconsider the 2nd sect. of the 4th article which passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

On Motion of Mr Wilson to reconsider Art: IV. sect. 2. so as to restore 3 in place of seven years of citizenship as a qualification for being elected into the House of Represents.

N. H- no. Mas- no. Ct. ay. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

[e673400] and monday next was assigned for the reconsideration

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Monday next was then assigned for the reconsideration: all the States being ay- except Massts. & Georgia

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

[e673401] and monday next was assigned for the reconsideration [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Monday next was then assigned for the reconsideration: all the States being ay- except Massts. & Georgia

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

[e673402] Art: VI. sect. 3. taken up.

(Madison's Notes (Max Farrand, 1911), Page 251, Vol. 2)

[e673403] Mr. Ghorum contended that less than a Majority in each House should be made of Quorum, otherwise great delay might happen in business, and great inconvenience from the future increase of numbers.

Mr. Mercer was also for less than a majority. So great a number will put it in the power of a few by seceding at a critical moment to introduce convulsions, and endanger the Governmt. Examples of secession have already happened in some of the States. He was for leaving it to the Legislature to fix the Quorum, as in Great Britain, where the requisite number is small & no inconveniency has been experienced.

Col. Mason. This is a valuable & necessary part of the plan. In this extended Country, embracing so great a diversity of interests, it would be dangerous to the distant parts to allow a small number of members of the two Houses to make laws. The Central States could always take care to be on the Spot and by meeting earlier than the distant ones, or wearying their patience, and outstaying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number: But he had also known good produced by an apprehension of it. He had known a paper emission prevented by that cause in Virginia. He thought the Constitution as now moulded was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard agst abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it pleased & the U. States might be governed by a Juncto- A majority of the number which had been agreed on, was so few that he feared it would be made an objection agst. the plan.

Mr. King admitted there might be some danger of giving an advantage to the Central States; but was of opinion that the public inconveniency on the other side was more to be dreaded.

(Madison's Notes (Max Farrand, 1911), Pages 251-252, Vol. 2)

[e673404] Mr. Govr. Morris moved to fix the quorum at 33 members in the H. of Reps. & 14 in the Senate. This is a majority of the present number, and will be a bar to the Legislature: fix the number low and they will generally attend knowing that advantage may be taken of their absence. the Secession of a small number ought not to be suffered to break a quorum. Such events in the States may have been of little consequence. In the national Councils, they may be fatal. Besides other mischiefs, if a few can break up a quorum, they may sieze a moment when a particular part of the Continent may be in need of immediate aid, to extort, by threatening a secession, some unjust & selfish measure.

Mr. Mercer 2ded. the motion

[Editors' note: The Journal does not record this motion, so there is no record of the original text. The editors have referred to the subsequent wording proposed by King, which builds on this motion, to reconstruct it.]

(Madison's Notes (Max Farrand, 1911), Page 252, Vol. 2)

[e673407] It was moved and seconded to amend the 3rd sect. of the 6. article to read as follows, namely.

“not less than 33 members of the House of representatives, nor less than 14 members of the Senate, shall constitute a quorum to do business; a smaller number in either House may adjourn from day to day, but the number necessary to form such quorum may be increased by an act of the Legislature on the addition of members in either branch”

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

Mr. King said he had just prepared a motion which instead of fixing the numbers proposed by Mr. Govr Morris as Quorums, made those the lowest numbers, leaving the Legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

(Madison's Notes (Max Farrand, 1911), Pages 252-253, Vol. 2)

[e740250] Mr. Mercer agreed to substitute Mr. Kings motion in place of Mr. Morris's.

[Editors' note: By removing his second in favour of King's motion, Mercer caused Morris's motion to be dropped.]

(Madison's Notes (Max Farrand, 1911), Page 253, Vol. 2)

[e673408] Mr. Elseworth was opposed to it. It would be a pleasing ground of confidence to the people that no law or burden could be imposed on them, by a few men. He reminded the movers that the Constitution proposed to give such a discretion with regard to the number of Representatives that a very inconvenient number was not to be apprehended. The inconveniency of secessions may be guarded agst by giving to each House an authority to require the attendance of absent members.

Mr. Wilson concurred in the sentiments of Mr. Elseworth.

Mr. Gerry seemed to think that some further precautions than merely fixing the quorum might be necessary. He observed that as 17 wd. be a majority of a quorum of 33, and 8 of 14, questions might by possibility be carried in the H. of Reps. by 2 large States, and in the Senate by the same States with the aid of two small ones. — He proposed that the number for a quorum in the H. of Reps. should not exceed 50 nor be less than 33. leaving the intermediate discretion to the Legislature.

Mr. King. as the quorum could not be altered witht. the concurrence of the President by less than of each House, he thought there could be no danger in trusting the Legislature.

Mr Carrol this will be no security agst. a continuance of the quorums at 33 & 14. when they ought to be increased.

(Madison's Notes (Max Farrand, 1911), Page 253, Vol. 2)

[e673409] It was moved and seconded to amend the 3rd sect. of the 6. article to read as follows, namely.

“not less than 33 members of the House of representatives, nor less than 14 members of the Senate, shall constitute a quorum to do business; a smaller number in either House may adjourn from day to day, but the number necessary to form such quorum may be encreased by an act of the Legislature on the addition of members in either branch”

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 245, Vol. 2)

On question on Mr. Kings motion “that not less than 33 in the H. of Reps. nor less than 14 in the Senate shd. constitute a Quorum, which may be increased by a law, on additions of members in either House.

N. H. no. Mas. ay. Ct. no. N. J. no. Pa. no. Del. ay. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 253, Vol. 2)

[e673410] It was moved and seconded to add the following amendment to the 3rd sect. of the 6. article

“and may be authorised to compel the attendance of absent members in such manner and under such penalties as each House may provide”

[Editors' note: Madison records Randolph as the proposer and himself as the seconder.]

(Official Journal (Max Farrand, 1911), Pages 245-246, Vol. 2)

Mr. Randolph & Mr. — Madison moved to add to the end of Art. VI Sect 3, “and may be authorized to compel the attendance of absent members in such manner & under such penalties as each House may provide.”

(Madison's Notes (Max Farrand, 1911), Pages 253-254, Vol. 2)

[e673411] It was moved and seconded to add the following amendment to the 3rd sect. of the 6. article

“and may be authorised to compel the attendance of absent members in such manner and under such penalties as each House may provide”

which passed in the affirmative [Ayes — 10; noes — 0; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Mr. Randolph & Mr. — Madison moved to add to the end of Art. VI Sect 3, “and may be authorized to compel the attendance of absent members in such manner & under such penalties as each House may provide.” Agreed to by all except Pena — which was divided

(Madison’s Notes (Max Farrand, 1911), Pages 253-254, Vol. 2)

[e673412] On the question to agree to the 3rd sect. of the 6. article as amended it passed in the affirmative

[Editors’ note: Madison writes that the question was agreed to ’nem. con.’]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Art: VI. Sect. 3. Agreed to as amended Nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 254, Vol. 2)

Sects. 3. 4 5 and 6 agreed to.

(McHenry’s Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673413] On the question to agree to the 4 sect of the 6 article as reported

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

[e673414] On the question to agree to the 4 sect of the 6 article as reported it passed in the affirmative

[Editors’ note: Madison writes that the vote was agreed ’nem. con.’]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Sect. 4. } Agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 254, Vol. 2)

Sects. 3. 4 5 and 6 agreed to.

(McHenry’s Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673415] On the question to agree to the 5. sect. of the 6 article as reported

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

[e673416] On the question to agree to the 5. sect. of the 6 article as reported it passed in the affirmative

[Editors’ note: Madison writes that the question was agreed to ’nem. con.’]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Sect. 5. } Agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 254, Vol. 2)

Sects. 3. 4 5 and 6 agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673417] Art. VI. Sect. 6.

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

[e673418] Mr. Madison observed that the right of expulsion (Art. VI. Sect. 6.) was too important to be exercised by a bare majority of a quorum: and in emergencies of faction might be dangerously abused. He moved that "with the concurrence of " might be inserted between may & expel.

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

It was moved and seconded to amend the last clause in the 6 sect. of the 6. article by adding the following words

"with the concurrence of two thirds"

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

[e673419] Mr. Randolph & Mr. Mason approved the idea.

Mr Govr Morris. This power may be safely trusted to a majority. To require more may produce abuses on the side of the minority. A few men from factious motives may keep in a member who ought to be expelled.

Mr. Carrol thought that the concurrence of at least ought to be required.

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

[e673420] It was moved and seconded to amend the last clause in the 6 sect. of the 6. article by adding the following words

"with the concurrence of two thirds"

which passed in the affirmative [Ayes — 10; noes — 0; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

On the question for requiring in cases of expelling a member.

N. H. ay- Mas. ay. Ct. ay- N. J- ay. Pa. divd. Del. ay. Md. ay. Va. ay. N- C. ay- S. C. ay. Geo. ay. [Ayes— 10; noes — 0; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

[e673421] On the question to agree to the 6 sect. of the 6 article as amended it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Art. VI- Sect- 6- as thus amended agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

Sects. 3. 4 5 and 6 agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673422] Art: VI. Sect. 7. taken up.

(Madison's Notes (Max Farrand, 1911), Page 254, Vol. 2)

[e673423] It was moved and seconded to strike out the words
“one fifth part” and to insert the words “of every one Member present” in
the latter clause of the 7. sect. of the 6 article

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Mr. Govr Morris urged that if the yeas & nays were proper at all any individual ought to be authorized to call for them: and moved an amendment to that effect. — The small States may otherwise be under a disadvantage, and find it difficult. to get a concurrence of

Mr. Randolph 2ded. ye motion.

(Madison's Notes (Max Farrand, 1911), Pages 254-255, Vol. 2)

[e673424] Mr. Sherman had rather strike out the yeas & nays altogether. they never have done any good, and have done much mischief. They are not proper as the reasons governing the voter never appear along with them.

Mr Elseworth was of the same opinion

Col. Mason liked the Section as it stood. it was a middle way between two extremes.

Mr Ghorum was opposed to the motion for allowing a single member to call the yeas & nays, and recited the abuses of it, in Massts. 1 in stuffing the journals with them on frivolous occasions. 2 in misleading the people who never know the reasons determining the votes.

(Madison's Notes (Max Farrand, 1911), Page 255, Vol. 2)

[e673425] It was moved and seconded to strike out the words
“one fifth part” and to insert the words “of every one Member present” in
the latter clause of the 7. sect. of the 6 article
which passed in the negative.

[Editors' note: Madison writes that this motion was rejected unanimously.]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

The motion for allowing a single member to call the yeas & nays was disagd.
to nem- con-

(Madison's Notes (Max Farrand, 1911), Page 255, Vol. 2)

[e673426] It was moved and seconded to strike out the words “each House” and to insert the words “the House of representatives” in the second clause of the 7 sect of the 6 article — and to add the following words to the section, namely
“and any member of the Senate shall be at liberty to enter his dissent”

[Editors' note: Madison records Carroll as the proposer and Randolph as the seconder.]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Mr. Carrol & Mr. Randolph moved to strike out the words “each House” and to insert the words “the House of Representatives” in sect- 7. art- 6. and to add to the Section the words “and any member of the Senate shall be at liberty to enter his dissent”

(Madison’s Notes (Max Farrand, 1911), Page 255, Vol. 2)

[e673427] Mr. Govr Morris & Mr Wilson observed that if the minority were to have a right to enter their votes & reasons, the other side would have a right to complain, if it were not extended to them: & to allow it to both, would fill the Journals, like the records of a Court, with replications, rejoinders &c-

(Madison’s Notes (Max Farrand, 1911), Page 255, Vol. 2)

[e673428] It was moved and seconded to strike out the words “each House” and to insert the words “the House of representatives” in the second clause of the 7 sect of the 6 article — and to add the following words to the section, namely
 “and any member of the Senate shall be at liberty to enter his dissent”
 which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 246, Vol. 2)

Question on Mr Carrols motion to allow a member to enter his dissent
 N. H. no. Mas. no. Cont. no. N. J. no. Pa. no. Del. no. Md. ay. Va. ay.
 N. C. no. S. C. ay. Geo. no. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 255, Vol. 2)

[e673429] It was moved and seconded to strike the following words out of the 7 sect of the 6 article, namely
 “when it shall be acting in a legislative capacity”
 and to add the following words to the section
 “except such parts thereof as in their judgment require secrecy”

(Official Journal (Max Farrand, 1911), Page 247, Vol. 2)

Mr Gerry moved to strike out the words “when it shall be acting in its legislative capacity” in order to extend the provision to the Senate when exercising its peculiar authorities and to insert “except such parts thereof as in their judgment require secrecy” after the words “publish them” . — (It was thought by others that provision should be made with respect to these when that part came under consideration which proposed to vest those additional authorities in the Senate.)

(Madison’s Notes (Max Farrand, 1911), Pages 255-256, Vol. 2)

Sect. 7 agreed to after expunging the words “when it shall be acting in a legislative capacity” and inserting after the words “publish them” except such parts as in their judgement require secrecy —

(McHenry’s Notes (Max Farrand, 1911), Page 264, Vol. 2, 11 August 1787)

[e673430] It was moved and seconded to strike the following words out of the 7 sect of the 6 article, namely

“when it shall be acting in a legislative capacity”

and to add the following words to the section

“except such parts thereof as in their judgment require secrecy”

which passed in the affirmative. [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 247, Vol. 2)

On this question for striking out the words “when acting in its Legislative capacity”

N. H. divd. Mas ay. Ct. no. N. J. no. Pa. no. Del. ay. Md. ay. Va. ay- N. C. ay. S. C- ay. Geo. ay- [Ayes—7; noes—3; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673431] And then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 247, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 256, Vol. 2)

[e673432] And then the House adjourned till to-morrow at 11 o’clock A. M.

(Official Journal (Max Farrand, 1911), Page 247, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 256, Vol. 2)

1.67 Saturday, 11 August 1787, at 11:00 (s6254)

[e673433] It was moved and seconded to amend the first clause of the 7 sect. of the 6 article to read as follows namely

“Each House shall keep a Journal of it’s proceedings, and shall from time to time publish the same; except such part of the proceedings of the Senate when acting not in it’s Legislative capacity as may be judged by that House to require secrecy”

[Editors’ note: Madison records himself as the proposer and Rutledge as the seconder.]

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Mr Madison & Mr. Rutledge moved “that each House shall keep a journal of its proceeding, & shall publish the same from time to time; except such part of the proceedings of the Senate, when acting not in its Legislative capacity as may be judged by that House to require secrecy.”

(Madison’s Notes (Max Farrand, 1911), Page 259, Vol. 2)

[e673434] Mr. Mercer. This implies that other powers than legislative will be given to the Senate which he hoped would not be given.

(Madison's Notes (Max Farrand, 1911), Page 259, Vol. 2)

[e673435] It was moved and seconded to amend the first clause of the 7 sect. of the 6 article to read as follows namely

“Each House shall keep a Journal of it's proceedings, and shall from time to time publish the same; except such part of the proceedings of the Senate when acting not in it's Legislative capacity as may be judged by that House to require secrecy”

which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Mr. Madison & Mr. R's motion. was disagd. to by all the States except Virga.

(Madison's Notes (Max Farrand, 1911), Page 259, Vol. 2)

[e673436] It was moved and seconded to insert in the first clause of the 7 sect of the 6 article after the word “thereof” the following words

“relative to Treaties and military operations”

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Mr. Gerry & Mr. Sharman moved to insert after the words “publish them” the following “except such as relate to treaties & military operations.” Their object was to give each House a discretion in such cases.

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673437] It was moved and seconded to insert in the first clause of the 7 sect of the 6 article after the word “thereof” the following words

“relative to Treaties and military operations”

which passed in the negative. [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

On this question

N. H- no. Mas- ay. Ct. ay. N- J. no. Pa. no. Del- no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673438] Mr. Elseworth. As the clause is objectionable in so many shapes, it may as well be struck out altogether. The Legislature will not fail to publish their proceedings from time to time — The people will call for it if it should be improperly omitted.

Mr. Wilson thought the expunging of the clause would be very improper. The people have a right to know what their Agents are doing or have done, and it should not be in the option of the Legislature to conceal their proceedings. Besides as this is a clause in the existing confederation, the not retaining it

would furnish the adversaries of the reform with a pretext by which weak & suspicious minds may be easily misled.

Mr. Mason thought it would give a just alarm to the people, to make a conclave of their Legislature.

Mr. Sherman thought the Legislature might be trusted in this case if in any.

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673439] [Editors' note: At this point, the Convention decided to vote on the section clause by clause. To capture this procedure, the editors have represented the 'whole' version of the section as dropped and the separate clauses proposed and voted upon.]

(2019 Editors)

[e673440] [Editors' note: At this point, the Convention decided to vote on the section clause by clause. To capture this procedure, the editors have represented the 'whole' version of the section as dropped and the separate clauses proposed and voted upon. At this point, the Convention decided to vote on the section clause by clause. To capture this procedure, the editors have represented the 'whole' version of the section as dropped and the separate clauses proposed and voted upon.]

(2019 Editors)

[e673441] On the 1st clause of the 7 sect. of the 6 article as reported

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Question on 1st. part of the Section, down to "publish them" inclusive

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673442] On the 1st clause of the 7 sect. of the 6 article as reported

Ayes — 11; noes 0.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Question on 1st. part of the Section, down to "publish them" inclusive: Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673443] except such parts thereof as in their judgment require secrecy.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Question on the words to follow, to wit except such parts thereof as may in their Judgment require secrecy."

(Madison's Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673444] except such parts thereof as in their judgment require secrecy.

Ayes — 6; noes — 4; divided — 1.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

Question on the words to follow, to wit except such parts thereof as may in their Judgment require secrecy.”

N. H. divd. Mas. ay. Ct. ay. N. J- ay. Pa. no. Del- no. Md. no. Va. ay- N. C. ay. S. C. no. Geo. ay — [Ayes — 6; noes — 4; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673445] To agree to the last clause of the 7 sect of the 6 art.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

[e673446] To agree to the last clause of the 7 sect of the 6 art.

Ayes — 11; noes — 0.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

The remaining part as to yeas and nays. — agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673447] On the question to agree to the 7. sect. of the 6 article as amended it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

The remaining part as to yeas and nays. — agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 260, Vol. 2)

Sect. 7 agreed to after expunging the words “when it shall be acting in a legislative capacity” and inserting after the words “publish them” except such parts as in their judgement require secrecy —

(McHenry’s Notes (Max Farrand, 1911), Page 264, Vol. 2)

[e673448] Art VI. sect. 8. taken up.

[Editors’ note: Over the last few sessions, both Jackson’s and Madison’s record keeping had become sporadic. The record for these sessions is consequently confusing, and certain events appear in only one source. At this point, it is clear that the Convention began to consider Section 8; however, the clauses are later voted on individually. As there is no record of when the division of the question occurred, it seems likely that this procedure was followed from the start.]

(Madison’s Notes (Max Farrand, 1911), Page 260, Vol. 2)

[e673449] [Editors’ note: Over the last few sessions, both Jackson’s and Madison’s record keeping had become sporadic. The record for these sessions is consequently confusing, and certain events appear in only one source. At this point, it is clear that the Convention began to consider Section 8; however, the

clauses are later voted on individually. As there is no record of when the division of the question occurred, it seems likely that this procedure was followed from the start.

As the record is incomplete, the editors have added some events that are implied by other events in order to clarify the chronology. These editorial additions have been informed by the details in the record and the procedure that the Convention had followed up to this point.

The proposal and acceptance of the first clause is therefore entirely editorial but conforms to the fragmentary evidence.]

(2019 Editors)

[*e673450*] [Editors' note: Over the last few sessions, both Jackson's and Madison's record keeping had become sporadic. The record for these sessions is consequently confusing, and certain events appear in only one source. At this point, it is clear that the Convention began to consider Section 8; however, the clauses are later voted on individually. As there is no record of when the division of the question occurred, it seems likely that this procedure was followed from the start.

As the record is incomplete, the editors have added some events that are implied by other events in order to clarify the chronology. These editorial additions have been informed by the details in the record and the procedure that the Convention had followed up to this point.

The proposal and acceptance of the first clause is therefore entirely editorial but conforms to the fragmentary evidence.]

(2019 Editors)

[*e673451*] "nor to any other place than that at which the two Houses are sitting" 8 sect. 6 article

(Official Journal (Max Farrand, 1911), Pages 257-258, Vol. 2)

[*e673452*] After some further expressions from others denoting an apprehension that the seat of Govt. might be continued at an improper place if a law should be made necessary to a removal, and the motion above stated with another for recommitting the section had been negatived, the Section was left in the shape it which it was reported, as to this point.

[Editors' note: There is some confusion between the Madison's notes and the Journal. Jackson records a rejected procedural motion '[t]o commit the 2nd clause of the 7 sect. 6 art' (Page 257, Vol. 2, Official Journal (Max Farrand, 1911)). On the other hand, Madison suggests that there was a rejected procedural motion to commit Section 8. Farrand concludes that these motions are the same and that the Secretary had written down the wrong section. Given the gaps in the records, it seems that Farrand is probably right, and the editors have followed his account here.]

(Madison's Notes (Max Farrand, 1911), Page 262, Vol. 2)

To commit the 2nd clause of the 7 sect. 6 art.

Ayes —4; noes — 7.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

[e673453] To commit the 2nd clause of the [8] sect. 6 art.

Ayes —4; noes — 7.

(Official Journal (Max Farrand, 1911), Page 257, Vol. 2)

After some further expressions from others denoting an apprehension that the seat of Govt. might be continued at an improper place if a law should be made necessary to a removal, and the motion above stated with another for recommitting the section had been negatived, the Section was left in the shape it which it was reported, as to this point.

[Editors' note: There is some confusion between the Madison's notes and the Journal. Jackson records a rejected procedural motion '[t]o commit the 2nd clause of the 7 sect. 6 art.' On the other hand, Madison suggests that there was a rejected procedural motion to commit Section 8. Farrand concludes that these motions are the same and that the Secretary had written down the wrong section. Given the gaps in the records, it seems that Farrand is probably right, and the editors have followed his account here.]

(Madison's Notes (Max Farrand, 1911), Page 262, Vol. 2)

[e673454] Mr. King remarked that the section authorized the 2 Houses to adjourn to a new place. He thought this inconvenient. The mutability of place had dishonored the federal Govt. and would require as strong a cure as we could devise. He thought a law at least should be made necessary to a removal of the Seat of Govt.

Mr Madison viewed the subject in the same light, and joined with Mr. King in a motion requiring a law.

Mr. Governr. Morris proposed the additional alteration by inserting the words "during the Session" &c".

Mr. Spaight. this will fix the seat of Govt at N. Y. The present Congress will convene them there in the first instance, and they will never be able to remove; especially if the Presidt. should be Northern Man.

Mr Govr Morris. such a distrust is inconsistent with all Govt.

Mr. Madison supposed that a central place for the Seat of Govt. was so just and wd. be so much insisted on by the H. of Representatives, that though a law should be made requisite for the purpose, it could & would be attained. The necessity of a central residence of the Govt wd be much greater under the new than old Govt The members of the new Govt wd. be more numerous. They would be taken more from the interior parts of the States: they wd. not, like members of ye present Congs. come so often from the distant States by water. As the powers & objects of the new Govt. would be far greater yn. heretofore, more private individuals wd. have business calling them to the seat of it, and it was more necessary that the Govt should be in that position from which it could contemplate, with the most equal eye, and sympathize most equally with, every part of the nation. These considerations he supposed would extort a removal even if a law were made necessary. But in order to quiet suspicions both within & without doors, it might not be amiss to authorize the 2 Houses by a concurrent vote to adjourn at their first meeting to the most proper place, and to require thereafter, the sanction of a law to their removal.

(Madison's Notes (Max Farrand, 1911), Pages 260-262, Vol. 2)

[e673455] It was moved and seconded to alter the 8th sect. of the 6. article to read as follows, namely,

“The Legislature shall at their first assembling determine on a place at which their future Sessions shall be held: neither House shall afterwards, during the Session of the House of Representatives, without the consent of the other, adjourn for more than three days, nor shall they adjourn to any other place than such as shall have been fixed by law”

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

The motion was accordingly moulded into the following form: “the Legislature shall at their first assembling determine on a place at which their future sessions shall be held; neither House shall afterwards, during the session of the House of Reps. without the consent of the other, adjourn for more than three days, nor shall they adjourn to any other place than such as shall have been fixt by law”

(Madison’s Notes (Max Farrand, 1911), Page 262, Vol. 2)

[e673456] Mr. Gerry thought it would be wrong to let the Presidt check the will of the 2 Houses on this subject at all.

Mr Williamson supported the ideas of Mr. Spaight

Mr Carrol was actuated by the same apprehensions

Mr. Mercer. it will serve no purpose to require the two Houses at their first Meeting to fix on a place. They will never agree.

(Madison’s Notes (Max Farrand, 1911), Page 262, Vol. 2)

[e673457] It was moved and seconded to alter the 8th sect. of the 6. article to read as follows, namely,

“The Legislature shall at their first assembling determine on a place at which their future Sessions shall be held: neither House shall afterwards, during the Session of the House of Representatives, without the consent of the other, adjourn for more than three days, nor shall they adjourn to any other place than such as shall have been fixed by law”

which passed in the negative

[Editors’ note: There is no record of the vote; however, Jackson’s habit during this period of the Convention was to not record unanimous decisions. This practice alongside the strong opposition shown in the preceding debates suggests it was a unanimous vote.]

(Madison’s Notes (Max Farrand, 1911), Page 258, Vol. 2)

[e673458] “nor to any other place than that at which the two Houses are sitting”
8 sect. 6 article Ayes — 10; noes — 1.

(Official Journal (Max Farrand, 1911), Pages 257-258, Vol. 2)

[e673459] [Editors’ note: Over the last few sessions, both Jackson’s and Madison’s record keeping had become sporadic. The record for these sessions is consequently confusing, and certain events appear in only one source. At this point, it is clear that the Convention began to consider Section 8; however, the

clauses are later voted on individually. As there is no record of when the division of the question occurred, it seems likely that this procedure was followed from the start.

As the record is incomplete, the editors have added some events that are implied by other events in order to clarify the chronology. These editorial additions have been informed by the details in the record and the procedure that the Convention had followed up to this point.

The proposal and acceptance of the third clause is therefore entirely editorial but conforms to the fragmentary evidence.]

(2019 Editors)

[e673460] It was moved and seconded to prefix the following words to the 8 sect. of the 6 article, namely

“During the session of the Legislature”
and to strike out the last clause of the section

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

The words “during the session of the legislature were prefixed to the 8th section — and the last sentence “But this regulation shall not extend to the Senate when it shall exercise the powers mentioned in the article” struck out.

(Madison’s Notes (Max Farrand, 1911), Page 262, Vol. 2)

[e673461] It was moved and seconded to prefix the following words to the 8 sect. of the 6 article, namely

“During the session of the Legislature”
and to strike out the last clause of the section
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

The words “during the session of the legislature were prefixed to the 8th section — and the last sentence “But this regulation shall not extend to the Senate when it shall exercise the powers mentioned in the article” struck out.

(Madison’s Notes (Max Farrand, 1911), Page 262, Vol. 2)

[e673462] [Editors’ note: Over the last few sessions, both Jackson’s and Madison’s record keeping had become sporadic. The record for these sessions is consequently confusing, and certain events appear in only one source. At this point, it is clear that the Convention began to consider Section 8; however, the clauses are later voted on individually. As there is no record of when the division of the question occurred, it seems likely that this procedure was followed from the start.

As the record is incomplete, the editors have added some events that are implied by other events in order to clarify the chronology. These editorial additions have been informed by the details in the record and the procedure that the Convention had followed up to this point.

The proposal and acceptance of the first clause is therefore entirely editorial but conforms to the fragmentary evidence.]

(2019 Editors)

[e673463] On the question to agree to the 8 sect. of the 6 article as amended. it passed in the affirmative

[Editors' note: According to McHenry this action was taken on August 14.]

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

The 8th. section as amended was then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 262, Vol. 2)

Sect. 8 agreed to, premising the words "during the session of the legislature".

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2, 14 August 1787)

[e673464] It was moved and seconded to reconsider the 5. sect. of the 4. article

[Editors' note: Madison records Randolph as the proposer and Williamson as the seconder.]

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

Mr. Randolph moved according to notice to reconsider Art: IV: Sect. 5. concerning money-bills which had been struck out. He argued 1. that he had not wished for this privilege whilst a proportional Representation in the Senate was in contemplation. but since an equality had been fixed in that house, the large States would require this compensation at least. 2. that it would make the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body, and will expect that the usual guards agst its influence be provided according to the example in G. Britain. 3. the privilege will give some advantage to the House of Reps. if it extends to the originating only — but still more, if it restrains the Senate from amend g 4. he called on the smaller States to concur in the measure, as the condition by which alone the compromise had entitled them to an equality in the Senate. He signified that he should propose instead of the original Section, a clause specifying that the bills in question should be for the purpose of Revenue, in order to repel ye. objection agst. the extent of the words "raising money," which might happen incidentally, and that the Senate should not so amend or alter as to increase or diminish the sum; in order to obviate the inconveniences urged agst. a restriction of the Senate to a simple affirmative or negative.

Mr. Williamson 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Pages 262-263, Vol. 2)

After much debate agreed to reconsider on monday the 5 sect. of the 4 article.

(McHenry's Notes (Max Farrand, 1911), Page 264, Vol. 2)

[e673465] Mr. Randolph moved according to notice to reconsider Art: IV: Sect. 5. concerning money-bills which had been struck out. He argued 1. that he had not wished for this privilege whilst a proportional Representation in the Senate was in contemplation. but since an equality had been fixed in that house, the large States would require this compensation at least. 2. that it would make

the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body, and will expect that the usual guards agst its influence be provided according to the example in G. Britain. 3. the privilege will give some advantage to the House of Reps. if it extends to the originating only — but still more, if it restrains the Senate from amend g 4. he called on the smaller States to concur in the measure, as the condition by which alone the compromise had entitled them to an equality in the Senate. He signified that he should propose instead of the original Section, a clause specifying that the bills in question should be for the purpose of Revenue, in order to repel ye. objection agst. the extent of the words “raising money,” which might happen incidentally, and that the Senate should not so amend or alter as to increase or diminish the sum; in order to obviate the inconveniences urged agst. a restriction of the Senate to a simple affirmative or negative.

Mr. Williamson 2ded. the motion

Mr. Pinkney was sorry to oppose the opportunity gentlemen asked to have the question again opened for discussion, but as he considered it a mere waste of time he could not bring himself to consent to it. He said that notwithstanding what had been said as to the compromise, he always considered this section as making no part of it. The rule of Representation in the 1st. branch was the true condition of that in the 2d. branch. — Several others spoke for & agst the reconsideration, but without going into the merits

(Madison’s Notes (Max Farrand, 1911), Pages 262-263, Vol. 2)

[e673466] It was moved and seconded to reconsider the 5. sect. of the 4. article which passed in the affirmative [Ayes — 8; noes — 2; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

on the Question to reconsider

N. H. ay. Mas. ay. Ct. ay. N. J. ay.* Pa. ay. Del. ay. Md. no. Va. ay. N. C. ay. S. C. divd. Geo. ay. [Ayes — 9; noes — 1; divided — 1.]

In the printed Journal N. Jersey — no.

(Madison’s Notes (Max Farrand, 1911), Page 263, Vol. 2)

After much debate agreed to reconsider on monday the 5 sect. of the 4 article.

(McHenry’s Notes (Max Farrand, 1911), Page 264, Vol. 2)

[e673467] and monday next was assigned for the reconsideration

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

Monday was then assigned

(Madison’s Notes (Max Farrand, 1911), Page 263, Vol. 2)

[e673468] and monday next was assigned for the reconsideration

[Editors’ note: This decision was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

Monday was then assigned

(Madison's Notes (Max Farrand, 1911), Page 263, Vol. 2)

[e673469] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

Adj'd.

(Madison's Notes (Max Farrand, 1911), Page 263, Vol. 2)

[e673470] And then the House adjourned till Monday next at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 258, Vol. 2)

Adj'd.

(Madison's Notes (Max Farrand, 1911), Page 263, Vol. 2)

1.68 Monday, 13 August 1787, at 11:00 (s6255)

[e673471] W. R. Davie to Governor Caswell.

Halifax, August 23rd. 1787.

I left Philadelphia on the 13th Ulto., before which date we had informed you of the progress of the business; it was not supposed the Convention would rise before the first of September, and all the other Gentlemen were attending and agreed to stay, and as the general principles were already fixed and Considering the State and Nature of my business, I felt myself fully at liberty to return, especially as No. Carolina was so fully and respectably represented.

(Appendix A (Max Farrand, 1911), Pages 74-75, Vol. 3, W. R. Davie to Governor Caswell)

Davie, William Richardson, of North Carolina. Attended on May 22 or May 23; left on August 13. Approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e673472] Martin, Luther, of Maryland. Commissioned May 26; first attended June 9; absent August 7-12; left Convention September 4. Opposed to the Constitution.

[Editors' note: McHenry records on 6 August that 'they agreed to meet tomorrow, except Mr. Martin who said he was going to New York and would not be back till Monday following.' (Page 191, Vol. 2, McHenry's Notes (Max Farrand, 1911)). However, later McHenry writes that 'Mr. Martin appeared in convention' on the 16th instead of the 12th. It is unclear which account is correct. (Page 311, Vol. 2, McHenry's Notes (Max Farrand, 1911))]

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e740766] Art. IV. Sect. 2. reconsidered — Mr. Wilson & Mr. Randolph moved to strike out “7 years” and insert “4 years,” as the requisite term of Citizenship to qualify for the House of Reps. Mr. Wilson said it was very proper the electors should govern themselves by this consideration; but unnecessary & improper that the Constitution should chain them down to it.

(Madison’s Notes (Max Farrand, 1911), Pages 267-268, Vol. 2)

It was moved and seconded to strike out the word “seven” and to insert the word “four” in the 2nd sect. of the 4 article

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

[e740768] Mr. Gerry wished that in future the eligibility might be confined to Natives. Foreign powers will intermeddle in our affairs, and spare no expence to influence them. Persons having foreign attachments will be sent among us & insinuated into our councils, in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services — He was not singular in these ideas. A great many of the most influential men in Massts. reasoned in the same manner.

(Madison’s Notes (Max Farrand, 1911), Page 268, Vol. 2)

[e740770] Mr. Williamson moved to insert 9 years instead of seven. He wished this Country to acquire as fast as possible national habits. Wealthy emigrants do more harm by their luxurious examples, than good, by the money, they bring with them.

(Madison’s Notes (Max Farrand, 1911), Page 268, Vol. 2)

It was moved and seconded to strike out the word “seven” and to insert the word “nine” in the 2nd sect. of the 4 article

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

[e740772] It was moved and seconded to strike out the words “shall have been a citizen of the United States for at least seven years before his election” and to insert between the words “an” and “inhabitant” the words “Citizen and” in the 2nd sect. of the 4 article [Editors’ note: Madison records himself as seconding Hamilton’s motion.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Col. Hamilton was in general agst. embarrassing the Govt. with minute restrictions. There was on one side the possible danger that had been suggested — on the other side, the advantage of encouraging foreigners was obvious & admitted. Persons in Europe of moderate fortunes will be fond of coming here where they will be on a level with the first Citizens. He moved that the section be so altered as to require merely Citizenship & inhabitancy. The right of determining the rule of naturalization will then leave a discretion to the Legislature on this subject which will answer every purpose. Mr Madison seconded the motion.

(Madison's Notes (Max Farrand, 1911), Page 268, Vol. 2)

[e740773] Col. Hamilton was in general agst. embarrassing the Govt. with minute restrictions. There was on one side the possible danger that had been suggested — on the other side, the advantage of encouraging foreigners was obvious & admitted. Persons in Europe of moderate fortunes will be fond of coming here where they will be on a level with the first Citizens. He moved that the section be so altered as to require merely Citizenship & inhabitancy. The right of determining the rule of naturalization will then leave a discretion to the Legislature on this subject which will answer every purpose. Mr Madison seconded the motion. He wished to maintain the character of liberality which had been professed in all the Constitutions & publications of America. He wished to invite foreigners of merit & republican principles among us. America was indebted to emigration for her settlement & Prosperity. That part of America which had encouraged them most had advanced most rapidly in population, agriculture & the arts. There was a possible danger he admitted that men with foreign predilections might obtain appointments but it was by no means probable that it would happen in any dangerous degree. For the same reason that they would be attached to their native Country, our own people wd. prefer natives of this Country to them. Experience proved this to be the case. Instances were rare of a foreigner being elected by the people within any short space after his coming among us — If bribery was to be practised by foreign powers, it would not be attempted among the electors, but among the elected; and among natives having full Confidence of the people not among strangers who would be regarded with a jealous eye. Mr. Wilson. Cited Pennsylv. as a proof of the advantage of encouraging emigrations. It was perhaps the youngest (except Georgia) settlemt. on the Atlantic; yet it was at least among the foremost in population & prosperity. He remarked that almost all the Genl. officers of the Pena. line of the late army were foreigners. And no complaint had ever been made against their fidelity or merit. Three of her deputies to the Convention (Mr. R. Morris, Mr. Fitzsimmons & himself) were also not natives. He had no objection to Col. Hamiltons motion & would withdraw the one made by himself.

(Madison's Notes (Max Farrand, 1911), Pages 268-269, Vol. 2)

[e740776] Mr. Wilson [...] He had no objection to Col. Hamiltons motion & would withdraw the one made by himself.

(Madison's Notes (Max Farrand, 1911), Page 269, Vol. 2)

[e740777] Mr. Butler was strenuous agst. admitting foreigners into our public Councils.

(Madison's Notes (Max Farrand, 1911), Page 269, Vol. 2)

Question on Col. Hamilton's Motion N. H. no. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 269, Vol. 2)

[e740778] It was moved and seconded to strike out the words “shall have been a citizen of the United States for at least seven years before his election” and to insert between the words “an” and “inhabitant” the words “Citizen and” in the 2nd sect. of the 4 article which passed in the negative. [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

[e740783] On the question to agree to the amendment of “nine” it passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Question on Mr. Williamson’s moution, to insert 9 years instead of seven. N. H. ay. Masts. no. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va no. N- C. no. S. C. ay. Geo. ay. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 269, Vol. 2)

[e740785] Mr. Wilson renewed the motion for 4 years instead of 7.

(Madison’s Notes (Max Farrand, 1911), Page 269, Vol. 2)

On the question to agree to the amendment of “four”

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

[e740789] On the question to agree to the amendment of “four” it passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Mr. Wilson’s renewed the motion for 4 years instead of 7. & on question N. H. no Mas. no. Ct. ay. N. J. no. Pa. no. Del. no. Md. ay. Va. ay. N. C. no. S. C. no Geo. no. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 269, Vol. 2)

[e740795] It was moved and seconded to add the following clause to the 2nd sect. of the 4 article, namely, “Provided always that the above limitation of seven years shall not be construed to affect the rights of those who are now Citizens of the United States” [Editors’ note: Madison records Morris as the proposer and Mercer as the seconder.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Mr. Govr. Morris moved to add to the end of the section (art IV. s. 2) a proviso that the limitation of seven years should not affect the rights of any person now a Citizen. Mr. Mercer 2ded. the motion.

(Madison’s Notes (Max Farrand, 1911), Page 269-270, Vol. 2)

[e740800] Mr. Mercer 2ded. the motion. It was necessary he said to prevent a disfranchisement of persons who had become Citizens under the faith & according to — the laws & Constitution from being on a level in all respects with natives. Mr. Rutledge. It might as well be said that all qualifications are disfranchisemts. and that to require the age of 25 years was a disfranchisement. The policy of the precaution was as great with regard to foreigners now Citizens; as to those who are to be naturalized in future. Mr. Sherman. The U. States have not invited foreigners nor pledged their faith that they should enjoy equal privileges with native Citizens. The Individual States alone have done this. The former therefore are at liberty to make any discriminations they may judge requisite. Mr. Ghorum. When foreigners are naturalized it wd. seem as if they stand on an equal footing with natives. He doubted then the propriety of giving a retrospective force to the restriction. Mr. Madison animadverted on the peculiarity of the doctrine of Mr. Sharman. It was a subtilty by which every national engagement might be evaded. By parity of reason, Whenever our public debts, or foreign treaties become inconvenient nothing more would be necessary to relieve us from them, than to new model the Constitution. It was said that the U. S. as such have not pledged their faith to the naturalized foreigners, & therefore are not bound. Be it so, & that the States alone are bound. Who are to form the New Constitution by which the condition of that class of citizens is to be made worse than the other class? Are not the States ye agents? will they not be the members of it? Did they not appoint this Convention? Are not they to ratify its proceedings? Will not the new Constitution be their Act? If the new Constitution then violates the faith pledged to any description of people will not the makers of it, will not the States, be the violators. To justify the doctrine it must be said that the States can get rid of their obligation by revising the Constitution, though they could not do it by repealing the law under which foreigners held their privileges. He considered this a matter of real importance. It would expose us to the reproaches of all those who should be affected by it, reproaches which wd. soon be echoed from the other side of the Atlantic; and would unnecessarily enlist among the Adversaries of the reform a very considerable body of Citizens: We should moreover reduce every State to the dilemma of rejecting it or of violating the faith pledged to a part of its citizens. Mr. Govr. Morris considered the case of persons under 25 years, as very different from that of foreigners. No faith could be pleaded by the former in bar of the regulation. No assurance had ever been given that persons under that age should be in all cases on a level with those above it. But with regard to foreigners among us, the faith had been pledged that they should enjoy the privileges of Citizens. If the restriction as to age had been confined to natives, & had left foreigners under 25 years, eligible in this case, the discrimination wd. have been an equal injustice on the other side. Mr. Pinkney remarked that the laws of the States had varied much the terms of naturalization in different parts of America; and contended that the U. S. could not be bound to respect them on such an occasion as the present. It was a sort of recurrence to first principles. Col- Mason was struck not like (Mr. Madison), with the peculiarity, but the propriety of the doctrine of Mr. Sharman. The States have formed different qualifications themselves, for enjoying different rights of citizenship. Greater caution wd. be necessary in the outset of the Govt. than afterwards. All the great objects wd. be then provided for. Every thing would be then set in Motion. If persons among us attached to G- B. should work themselves into our

Councils, a turn might be given to our affairs & particularly to our Commercial regulations which might have pernicious consequences. The great Houses of British Merchants would spare no pains to insinuate the instruments of their views into the Govt — Mr. Wilson read the clause in the Constitution of Pena. giving to foreigners after two years residence all the rights whatsoever of Citizens, combined it with the Article of Confederation making the Citizens of one State Citizens of all, inferred the obligation Pena. was under to maintain the faith thus pledged to her citizens of foreign birth, and the just complaints which her failure would authorize: He observed likewise that the Princes & States of Europe would avail themselves of such breach of faith to deter their subjects from emigrating to the U. S. Mr. Mercer enforced the same idea of a breach of faith. Mr. Baldwin could not enter into the force of the arguments agst. extending the disqualification to foreigners now Citizens. The discrimination of the place of birth, was not more objectionable than that of age which all had concurred in the propriety of.

(Madison's Notes (Max Farrand, 1911), Pages 270-272, Vol. 2)

[e740801] It was moved and seconded to add the following clause to the 2nd sect. of the 4 article, namely, "Provided always that the above limitation of seven years shall not be construed to affect the rights of those who are now Citizens of the United States" which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Question on the proviso of Mr Govr. Morris in favor of foreigners now Citizens N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. no. Maryd. ay. Va. ay. N- C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 272, Vol. 2)

[e740802] It was moved and seconded to strike out the word "seven" and to insert the word "five" in the 2nd sect. of the 4. article [Editors' note: Madison records Carroll as the proposer.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

Mr. Carrol moved to insert "5 years" instead "of seven," in section 2d. Art: IV

(Madison's Notes (Max Farrand, 1911), Page 272, Vol. 2)

[e740804] It was moved and seconded to strike out the word "seven" and to insert the word "five" in the 2nd sect. of the 4. article which passed in the negative [Ayes — 3; noes — 7; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 265, Vol. 2)

[e740805] On the question to agree to the 2nd sect. of the 4. article as formerly amended it passed in the affirmative. [Editors' note: Madison states that this vote was agreed unanimously.]

(Official Journal (Max Farrand, 1911), Pages 265-266, Vol. 2)

[e741138] [Editors' note: Madison notes that after Wilson's amendment to article V section 3 is rejected, there is a vote to agree to the original section. As article V section 3 had already been adopted on 9 August 1797, the editors have assumed there was an implicit vote to reconsider the section before Wilson moved his amendment.]

(2019 Editors)

[e741140] [Editors' note: Madison notes that after Wilson's amendment to article V section 3 is rejected, there is a vote to agree to the original section. As article V section 3 had already been adopted on 9 August 1797, the editors have assumed there was an implicit vote to reconsider the section before Wilson moved his amendment.]

(2019 Editors)

[e741141] Mr. Wilson moved that (in Art: V. sect. 3) 9 years be reduced to seven.

[Editors' note: The Journal records this motion as, 'shall the word "nine" in the 3rd sect. of the 5. article stand part of the said section' (Page 226, Vol. 2, Official Journal (Max Farrand, 1911)), which suggests that there was only one vote taken. However, Madison indicates that first the amendment was rejected, and then the original section was agreed upon again. For clarity, the editors have followed Madison here.]

(Madison's Notes (Max Farrand, 1911), Page 272, Vol. 2)

On the question shall the word "nine" in the 3rd sect. of the 5. article stand part of the said section

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

[e741143] Mr. Wilson moved that (in Art: V. sect. 3) 9 years be reduced to seven. which was disagd. to and the 3d. Section (art. V.) confirmed by the following vote.

[Editors' note: The Journal records this motion as, 'shall the word "nine" in the 3rd sect. of the 5. article stand part of the said section' (Page 266, Vol. 2, Official Journal (Max Farrand, 1911)), which suggests that there was only one vote taken. However, Madison indicates that first the amendment was rejected, and then the original section was agreed upon again. For clarity, the editors have followed Madison here.]

(Madison's Notes (Max Farrand, 1911), Page 272, Vol. 2)

[e741146] On the question shall the word "nine" in the 3rd sect. of the 5. article stand part of the said section it passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Mr. Wilson moved that (in Art: V. sect. 3) 9 years be reduced to seven. which was disagd. to and the 3d. Section (art. V.) confirmed by the following vote.

N. H. ay. Mas. ay. Ct. no. N. J. ay. Pa. no. Del. ay. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes —8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 272-273, Vol. 2)

The 2 sect. of the 4 article and the 3 sect. of the 5 article was reconsidered and lengthily debated. The 7 years however in the first and the 9 years in the latter remained and the articles stood as before reconsideration.

(McHenry's Notes (Max Farrand, 1911), Page 281, Vol. 2)

[e673492] To adjourn.

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

[e673493] To adjourn. — Ayes — 5; noes — 5; divided — 1.

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

[e673494] Art. IV. Sec. 5. being reconsidered.

[Editors' note: This section had been previously rejected.]

(Madison's Notes (Max Farrand, 1911), Page 273, Vol. 2)

[e673495] It was moved and seconded to amend the 5. sect of the 4. article to read as follows, namely,

“all bills for raising money for the purposes of revenue, or for appropriating the same, shall originate in the House of representatives; and shall not be so altered or amended by the Senate, as to encrease or diminish the sum to be raised, or change the mode of raising or the objects of it's appropriation”

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Mr. Randolph moved that the clause be altered so as to read — “Bills for raising money for the purpose of revenue or for appropriating the same shall originate in the House of Representatives and shall not be so amended or altered by the Senate as to increase or diminish the sum to be raised, or change the mode of levying it, or the object of its appropriation.”

(Madison's Notes (Max Farrand, 1911), Page 273, Vol. 2)

[e673496] Mr. Randolph moved that the clause be altered so as to read — “Bills for raising money for the purpose of revenue or for appropriating the same shall originate in the House of Representatives and shall not be so amended or altered by the Senate as to increase or diminish the sum to be raised, or change the mode of levying it, or the object of its appropriation.” — He would not repeat his reasons, but barely remind the members from the smaller States of the compromise by which the larger States were entitled to this privilege.

Col. Mason. This amendment removes all the objections urged agst. the section as it stood at first. By specifying purposes of revenue, it obviated the

objection that the Section extended to all bills under which money might incidentally arise. By authorizing amendments in the Senate it got rid of the objections that the Senate could not correct errors of any sort, & that it would introduce into the House of Reps. the practice of tacking foreign matter to money bills: These objections being removed, the arguments in favor of the proposed restraint on the Senate ought to have their full force. 1. the Senate did not represent the people, but the States in their political character. It was improper therefore that it should tax the people. The reason was the same agst. their doing it; as it had been agst. Congs. doing it. Nor was it in any respect necessary in order to cure the evils of our Republican system. He admitted that notwithstanding the superiority of the Republican form over every other, it had its evils. The chief ones, were the danger of the majority oppressing the minority, and the mischievous influence of demagogues. The Genl. Government of itself will cure these. As the States will not concur at the same time in their unjust & oppressive plans, the general Govt. will be able to check & defeat them, whether they result from the wickedness of the majority, or from the misguidance of demagogues. Again, the Senate is not like the H. of Reps. chosen frequently and obliged to return frequently among the people. They are to be chosen by the Sts for 6 years, will probably settle themselves at the seat of Govt. will pursue schemes for their own aggrandizement — will be able by wearying out the H. of Reps and taking advantage of their impatience at the close of a long Session, to extort measures for that purpose. If they should be paid as he expected would be yet determined & wished to be so, out of the Natl. Treasury, they will particularly extort an increase of their wages. A bare negative was a very different thing from that of originating bills. The practice in Engld was in point. The House of Lords does not represent nor tax the people, because not elected by the people. If the Senate can originate, they will in the recess of the Legislative Sessions, hatch their mischievous projects, for their own purposes, and have their money bills ready cut & dried, (to use a common phrase) for the meeting of the H. of Reps. He compared the case to Poyning's law — and signified that the House of Reps. might be rendered by degrees like the Parliament of Paris, the mere depository of the decrees of the Senate. As to the compromise so much had passed on that subject that he would say nothing about it. He did not mean by what he had said to oppose the permanency of the Senate. On the contrary he had no repugnance to an increase of it — nor to allowing it a negative, though the Senate was not by its present constitution entitled to it. But in all events he would contend that the pursestrings should be in the hands of the Representatives of the people.

Mr. Wilson was himself directly opposed to the equality of votes granted to the Senate by its present Constitution. At the same time he wished not to multiply the vices of the system. He did not mean to enlarge on a subject which had been so much canvassed, but would remark as an insuperable objection agst. the proposed restriction of money bills to the H. of Reps. that it would be a source of perpetual contentions where there was no mediator to decide them. The Presidt. here could not like the Executive Magistrate in England interpose by a prorogation, or dissolution. This restriction had been found pregnant with altercation in every State where the Constitution had established it. The House of Reps. will insert the other things in money bills, and by making them conditions of each other, destroy the deliberate liberty of the Senate. He stated the case of a Preamble to a money bill sent up by the House of Commons

in the reign of Queen Anne, to the H. of Lords, in which the conduct of the displaced Ministry, who were to be impeached before the Lords, was condemned; the Commons thus extorting a premature judgment. without any hearing of the Parties to be tried, and the H. of Lords being thus reduced to the poor & disgraceful expedient of opposing to the authority of a law a protest on their Journals agst. its being drawn into precedent. If there was any thing like Poyning's law in the present case, it was in the attempt to vest the exclusive right of originating in the H. of Reps. and so far he was agst it. He should be equally so if the right were to be exclusively vested in the Senate. With regard to the pursestrings, it was to be observed that the purse was to have two strings, one of which was in the hands of the H. of Reps. the other in those of the Senate. Both houses must concur in untying, and of what importance could it be which untied first, which last. He could not conceive it to be any objection to the senate's preparing the bills, that they would have leisure for that purpose and would be in the habits of business. War, Commerce, & Revenue were the great objects of the Genl. Government. All of them are connected with money. The restriction in favor of the H. of Reps. would exclude the Senate from originating any important bills whatever —

Mr. Gerry. considered this as a part of the plan that would be much scrutinized. Taxation & representation are strongly associated in the minds of the people, and they will not agree that any but their immediate representatives shall meddle with their purses. In short the acceptance of the plan will inevitably fail, if the Senate be not restrained from originating Money bills.

Mr. Governmr. Morris All the arguments suppose the right to originate & to tax, to be exclusively vested in the Senate. — The effects commented on may be produced by a Negative only in the Senate. They can tire out the other House, and extort their concurrence in favorite measures, as well by withholding their negative, as by adhering to a bill introduced by themselves.

Mr. Madison thought If the substitute offered by Mr. Randolph for the original section is to be adopted it would be proper to allow the Senate at least so to amend as to diminish the sums to be raised. Why should they be restrained from checking the extravagance of the other House? — One of the greatest evils incident to Republican Govt. was the spirit of contention & faction. The proposed substitute, which in some respects lessened the objections agst. the section, had a contrary effect with respect to this particular. It laid a foundation for new difficulties and disputes between the two houses. The word revenue was ambiguous. In many acts, particularly in the regulations of trade, the object would be twofold. The raising of revenue would be one of them. How could it be determined which was the primary or predominant one; or whether it was necessary that revenue shd: be the sole object, in exclusion even of other incidental effects. When the Contest was first opened with G. B. their power to regulate trade was admitted. Their power to raise revenue rejected. An accurate investigation of the subject afterward proved that no line could be drawn between the two cases. The words amend or alter, form an equal source of doubt & altercation. When an obnoxious paragraph shall be sent down from the Senate to the House of Reps it will be called an origination under the name of an amendment. The Senate may actually couch extraneous matter under that name. In these cases, the question will turn on the degree of connection between the matter & object of the bill and the alteration or amendment offered to it. Can there be a more fruitful source of dispute, or a

kind of dispute more difficult to be settled? His apprehensions on this point were not conjectural. Disputes had actually flowed from this source in Virga. where the Senate can originate no bill. The words "so as to increase or diminish the sum to be raised," were liable to the same objections. In levying indirect taxes, which it seemed to be understood were to form the principal revenue of the new Govt. the sum to be raised, would be increased or diminished by a variety of collateral circumstances influencing the consumption, in general, the consumption of foreign or of domestic articles — of this or that particular species of articles, and even by the mode of collection which may be closely connected with the productiveness of a tax. — The friends of the section had argued its necessity from the permanency of the Senate. He could not see how this argumt. applied. The Senate was not more permanent now than in the form it bore in the original propositions of Mr. Randolph and at the time when no objection whatever was hinted agst. its originating money bills. Or if in consequence of a loss of the present question, a proportional vote in the Senate should be reinstated as has been urged as the indemnification the permanency of the Senate will remain the same. — If the right to originate be vested exclusively in the House of Reps. either the Senate must yield agst. its judgment to that House, in which case the Utility of the check will be lost — or the Senate will be inflexible & the H. of Reps must adapt its Money bill to the views of the Senate, in which case, the exclusive right will be of no avail. — As to the Compromise of which so much had been said, he would make a single observation. There were 5 States which had opposed the equality of votes in the Senate. viz. Mass. Penna. Virga. N. Carolina & S. Carola. As a compensation for the sacrifice extorted from them on this head, the exclusive origination of money bills in the other House had been tendered. Of the five States a majority viz. Penna. Virga. & S. Carola. have uniformly voted agst. the proposed compensation, on its own merits, as rendering the plan of Govt. still more objectionable. Masss has been divided. N. Carolina alone has set a value on the compensation, and voted on that principle. What obligation then can the small States be under to concur agst. their judgments in reinstating the section?

Mr. Dickenson. Experience must be our only guide. Reason may mislead us. It was not Reason that discovered the singular & admirable mechanism of the English Constitution. It was not Reason that discovered or ever could have discovered the odd & in the eye of those who are governed by reason, the absurd mode of trial by Jury. Accidents probably produced these discoveries, and experience has give a sanction to them. This is then our guide. And has not experience verified the utility of restraining money bills to the immediate representatives of the people. Whence the effect may have proceeded he could not say; whether from the respect with which this privilege inspired the other branches of Govt. to the H. of Commons, or from the turn of thinking it gave to the people at large with regard to their rights, but the effect was visible & could not be doubted Shall we oppose to this long experience, the short experience of 11 years which we had ourselves, on this subject — As to disputes, they could not be avoided any way. If both Houses should originate, each would have a different bill to which it would be attached, and for which it would contend. — He observed that all the prejudices of the people would be offended by refusing this exclusive privilege to the H. of Repress. and these prejudices shd. never be disregarded by us when no essential purpose was to be served. When this plan goes forth, it will be attacked by the popular leaders. Aristocracy will be the

watchword; the Shibboleth among its adversaries. Eight States have inserted in their Constitutions the exclusive right of originating money bills in favor of the popular branch of the Legislature. Most of them however allowed the other branch to amend. This he thought would be proper for us to do.

Mr Randolph regarded this point as of such consequence, that as he valued the peace of this Country, he would press the adoption of it. We had numerous & monstrous difficulties to combat. Surely we ought not to increase them. When the people behold in the Senate, the countenance of an aristocracy; and in the president, the form at least of a little monarch, will not their alarms be sufficiently raised without taking from their immediate representatives, a right which has been so long appropriated to them. — The Executive will have more influence over the Senate, than over the H. of Reps — Allow the Senate to originate in this case, & that influence will be sure to mix itself in their deliberations & plans. The Declaration of War he conceived ought not to be in the Senate composed of 26 men only, but rather in the other House. In the other House ought to be placed the origination of the means of war. As to Commercial regulations which may involve revenue, the difficulty may be avoided by restraining the definition to bills for the mere or sole, purpose of raising revenue. The Senate will be more likely to be corrupt than the H. of Reps and should therefore have less to do with money matters. His principal object however was to prevent popular objections against the plan, and to secure its adoption.

Mr. Rutledge. The friends of this motion are not consistent in their reasoning. They tell us, that we ought to be guided by the long experience of G. B. & not our own experience of 11 years: and yet they themselves propose to depart from it. The H. of Commons not only have the exclusive right of originating, but the Lords are not allowed to alter or amend a money bill. Will not the people say that this restriction is but a mere tub to the whale. They cannot but see that it is of no real consequence; and will be more likely to be displeased with it as an attempt to bubble them, than to impute it to a watchfulness over their rights. For his part, he would prefer giving the exclusive right to the Senate, if it was to be given exclusively at all. The Senate being more conversant in business, and having more leisure, will digest the bills much better, and as they are to have no effect, till examined & approved by the H. of Reps there can be no possible danger. These clauses in the Constitutions of the States had been put in through a blind adherence to the British model. If the work was to be done over now, they would be omitted. The experiment in S. Carolina- where the Senate cannot originate or amend money bills, has shown that it answers no good purpose; and produces the very bad one of continually dividing & heating the two houses. Sometimes indeed if the matter of the amendment of the Senate is pleasing to the other House they wink at the encroachment; if it be displeasing, then the Constitution is appealed to. Every Session is distracted by altercations on this subject. The practice now becoming frequent is for the Senate not to make formal amendments; but to send down a schedule of the alterations which will procure the bill their assent.

Mr. Carrol. The most ingenious men in Maryd. are puzzled to define the case of money bills, or explain the Constitution on that point; tho' it seemed to be worded with all possible plainness & precision. It is a source of continual difficulty & squabble between the two houses.

Mr. McHenry mentioned an instance of extraordinary subterfuge, to get rid

of the apparent force of the Constitution

(Madison's Notes (Max Farrand, 1911), Pages 273-280, Vol. 2)

[e673497] To agree to the first clause of Mr Randolph's proposition for reinstating the 5 Section 4 article

[Editors' note: Both the Journal and Madison record this vote as pertaining only to the first clause of Randolph's amendment, not the whole clause. There is no record of a vote on the second clause. It seems likely that if the vote was only on the first clause, its defeat signalled the failure of the entire amendment. Because of this possibility and the lack of certainty, the editors have represented it as a vote on the whole.]

(Official Journal (Max Farrand, 1911), Page 267, Vol. 2)

On Question on the first part of the motion as to the exclusive originating of Money bills in the H. of Reps.

N. H. ay. Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Virga. ay. Mr. Blair & Mr. M. no- Mr. R. Col. Mason and *Genl. Washington ay. N. C. ay. S. C. no. Geo. no [Ayes — 4; noes — 7.]

*he disapproved & till now voted agst., the exclusive privilege, he gave up his judgment he said, because it was not of very material weight with him & was made an essential point with others, who if disappointed, might be less cordial in other points of real weight.

(Madison's Notes (Max Farrand, 1911), Page 280, Vol. 2)

[e673498] On the question to agree to the 5 sect. of the 4. article as reported it passed in the negative. [Ayes — 3; noes — 8.]

[Editors' note: Madison records the vote differently: 'N. H. ay. Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. ay. S. C. no. Geo. no [Ayes — 4; noes — 7.]' (Page 280, Vol. 2, Madison's Notes (Max Farrand, 1911)) The major difference between his record and the Journal's is that he records Virginia as voting in favour of the section. In this instance, with no other evidence, the editors have followed the Journal's record of the vote.]

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

[e673499] last clause 5 section 4. article

[Editors' note: Jackson's notation of this vote in the Detail of Ayes and Noes suggests that the Convention held a second vote on the second clause of Article IV, Section 5, after the vote to reject the whole section as reported. There is no indication that the previous vote was related only to the first clause or that this second clause vote related to Randolph's amendment. There is also no indication that the section was split earlier in the debate. The editors therefore assume that, after the previous vote, some delegates proposed this motion to stand alone.]

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Question on the last clause of sect: 5 — Art: IV — viz "No money shall be drawn from the Public Treasury, but in pursuance of appropriations that shall originate in the House of Reps.

(Madison's Notes (Max Farrand, 1911), Page 280, Vol. 2)

[e673500] [last clause 5 section 4. article Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Question on the last clause of sect: 5 — Art: IV — viz “No money shall be drawn from the Public Treasury, but in pursuance of appropriations that shall originate in the House of Reprs. It passed in the negative

N. H. no. Mas. ay Con. no N. J no. Pa. no Del no. Md no Va no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 280, Vol. 2)

[e673501] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 280, Vol. 2)

[e673502] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 266, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 280, Vol. 2)

1.69 Tuesday, 14 August 1787, at 11:00 (s6256)

[e673503] Article VI. sect. 9. taken up.

(Madison's Notes (Max Farrand, 1911), Page 283, Vol. 2)

[e673504] Mr. Pinkney argued that the making the members ineligible to offices was degrading to them, and the more improper as their election into the Legislature implied that they had the confidence of the people; that it was inconvenient, because the Senate might be supposed to contain the fittest men. He hoped to see that body become a School of Public Ministers, a nursery of Statesmen: that it was impolitic, because the Legislature would cease to be a magnet to the first talents and abilities. He moved to postpone the section in order to take up the following proposition viz — “the members of each House shall be incapable of holding any office under the U. S. for which they or any of others for their benefit receive any salary, fees, or emoluments of any kind — and the acceptance of such office shall vacate their seats respectively”

Genl. Mifflin 2ded. the motion

[Editors' note: The text of the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Pages 283-284, Vol. 2)

It was moved and seconded to postpone the consideration of the 9. section of the 6 article in order to take up the following

“The members of each House shall be incapable of holding any Office under the United States for which they, or any other for their benefit, receive any salary, fees, or emoluments of any kind — and the acceptance of such office shall vacate their seats respectively”

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

[e673505] Col. Mason ironically proposed to strike out the whole section, as a more effectual expedient for encouraging that exotic corruption which might not otherwise thrive so well in the American Soil — for compleating that Aristocracy which was probably in the contemplation of some among us. and for inviting into the Legislative service, those generous & benevolent characters who will do justice to each other's merit, by carving out offices & rewards for it. In the present state of American morals & manners, few friends it may be thought will be lost to the plan, by the opportunity of giving premiums to a mercenary & depraved ambition.

Mr Mercer. It is a first principle in political science, that whenever the rights of property are secured, an aristocracy will grow out of it. Elective Governments also necessarily become aristocratic, because the rulers being few can & will draw emoluments for themselves from the many. The Governments of America will become aristocracies. They are so already. The public measures are calculated for the benefit of the Governors, not of the people. The people are dissatisfied & complain. They change their rulers, and the public measures are changed, but it is only a change of one scheme of emolument to the rulers, for another. The people gain nothing by it, but an addition of instability & uncertainty to their other evils. — Governmts. can only be maintained by force or influence. The Executive has not force, deprive him of influence by rendering the members of the Legislature ineligible to Executive offices, and he becomes a mere phantom of authority. The Aristocratic part will not even let him in for a share of the plunder. The Legislature must & will be composed of wealth & abilities, and the people will be governed by a Junto. The Executive ought to have a Council, being members of both Houses. Without such an influence, the war will be between the aristocracy & the people. He wished it to be between the Aristocracy & the Executive. Nothing else can protect the people agst. those speculating Legislatures which are now plundering them throughout the U. States.

Mr. Gerry read a Resolution of the Legislature of Massts. passed before the Act of Congs. recommending the Convention, in which her deputies were instructed not to depart from the rotation established in the 5th. art: of Confederation, nor to agree in any case to give to the members of Congs. a capacity to hold offices under the Government. This he said was repealed in consequence of the Act of Congs. with which the State thought it proper to comply in an unqualified manner. The Sense of the State however was still the same. He could not think with Mr. Pinkney that the disqualification was degrading. Confidence is the road to tyranny. As to Ministers & Ambassadors few of them were necessary. It is the opinion of a great many that they ought to be discontinued, on our part; that none may be sent among us, & that source of influence be shut up. If the Senate were to appoint Ambassadors as seemed to be intended, they

will multiply embassies for their own sakes. He was not so fond of those productions as to wish to establish nurseries for them. If they are once appointed, the House of Reps. will be obliged to provide salaries for them, whether they approve of the measures or not. If men will not serve in the Legislature without a prospect of such offices, our situation is deplorable indeed. If our best Citizens are actuated by such mercenary views, we had better chuse a single despot at once. It will be more easy to satisfy the rapacity of one than of many. According to the idea of one Gentleman (Mr. Mercer) our Government it seems is to be a Govt. of plunder. In that case it certainly would be prudent to have but one rather than many to be employed in it. We cannot be too circumspect in the formation of this System. It will be examined on all sides and with a very suspicious eye. The People who have been so lately in arms agst. G. B. for their liberties, will not easily give them up. He lamented the evils existing at present under our Governments, but imputed them to the faults of those in office, not to the people. The misdeeds of the former will produce a critical attention to the opportunities afforded by the new system to like or greater abuses. As it now stands it is as compleat an aristocracy as ever was framed If great powers should be given to the Senate we shall be governed in reality by a Junto as has been apprehended. He remarked that it would be very differently constituted from Congs 1. there will be but 2 deputies from each State, in Congs. there may be 7. and are generally 5. — 2. they are chosen for six years. those of Congs. annually. 3. they are not subject to recall; those of Congs. are. 4. In Congs. 9 states are necessary for all great purposes — here 8 persons will suffice. Is it to be presumed that the people will ever agree to such a system? He moved to render the members of the H. of Reps. as well as of the Senate ineligible not only during, but for one year after the expiration of their terms. — If it should be thought that this will injure the Legislature by keeping out of it men of abilities who are willing to serve in other offices it may be required as a qualification for other offices, that the Candidate shall have served a certain time in the Legislature.

(Madison's Notes (Max Farrand, 1911), Pages 284-286, Vol. 2)

[e673506] [Gerry] moved to render the members of the H. of Reps. as well as of the Senate ineligible not only during, but for one year after the expiration of their terms.

[Editors note: Madison does not include the text of the motion, and the Journal does not mention the motion. The changes shown are therefore editorial.]

(Madison's Notes (Max Farrand, 1911), Page 286, Vol. 2)

[e673507] [Editors' note: This motion was likely dropped for lack of a second.]

(2019 Editors)

[e673508] Mr Govr. Morris. Exclude the officers of the army & navy, and you form a band having a different interest from & opposed to the civil power: you stimulate them to despise & reproach those "talking Lords who dare not face the foe". Let this spirit be roused at the end of a war, before your troops shall have laid down their arms, and though the Civil authority be "entrenched in

parchment to the teeth" they will cut their way to it. He was agst. rendering the members of the Legislature ineligible to offices. He was for rendering them eligible agn. after having vacated their Seats by accepting office. Why should we not avail ourselves of their services if the people chuse to give them their confidence. There can be little danger of corruption either among the people or the Legislatures who are to be the Electors. If they say, we see their merits, we honor the men, we chuse to renew our confidence in them, have they not a right to give them a preference; and can they be properly abridged of it.

Mr. Williamson; introduced his opposition to the motion by referring to the question concerning "money bills". That clause he said was dead. Its ghost he was afraid would notwithstanding haunt us. It had been a matter of conscience with him, to insist upon it as long as there was hope of retaining it. He had swallowed the vote of rejection, with reluctance. He could not digest it. All that was said on the other side was that the restriction was not convenient. We have now got a House of Lords which is to originate money-bills. To avoid another inconveniency, we are to have a whole Legislature at liberty to cut out offices for one another. He thought a self-denying ordinance for ourselves would be more proper. Bad as the Constitution has been made by expunging the restriction on the Senate concerning money bills he did not wish to make it worse by expunging the present Section. He had scarcely seen a single corrupt measure in the Legislature of N- Carolina, which could not be traced up to office hunting.

Mr Sherman. The Constitution shd. lay as few temptations as possible in the way of those in power. Men of abilities will increase as the Country grows more populous and, and the means of education are more diffused.

Mr. Pinkney- No State has rendered the members of the Legislature ineligible to offices. In S- Carolina the Judges are eligible into the Legislature. It cannot be supposed then that the motion will be offensive to the people. If the State Constitutions should be revised he believed restrictions of this sort wd be rather diminished than multiplied.

Mr. Wilson could not approve of the Section as it stood, and could not give up his judgment to any supposed objections that might arise among the people. He considered himself as acting & responsible for the welfare of millions not immediately represented in this House. He had also asked himself the serious question what he should say to his constituents in case they should call upon him to tell them why he sacrificed his own Judgment in a case where they authorized him to exercise it? Were he to own to them that he sacrificed it in order to flatter their prejudices, he should dread the retort: did you suppose the people of Penna. had not good sense enough to receive a good Government? Under this impression he should certainly follow his own Judgment which disapproved of the section. He would remark in addition to the objections urged agst. it. that as one branch of the Legislature was to be appointed by the Legislatures of the States, the other by the people of the States, as both are to be paid by the States, and to be appointable to State offices; nothing seemed to be wanting to prostrate the Natl. Legislature, but to render its members ineligible to Natl offices, & by that means take away its power of attracting those talents which were necessary to give weight to the Governnt. and to render it useful to the people. He was far from thinking the ambition which aspired to Offices of dignity and trust, an ignoble or culpable one. He was sure it was not politic to regard it in that light, or to withhold from it the prospect of those rewards,

which might engage it in the career of public service. He observed that the State of Penna. which had gone as far as any State into the policy of fettering power, had not rendered the members of the Legislature ineligible to offices of Govt.

Mr Elsworth did not think the mere postponement of the reward would be any material discouragement of merit. Ambitious minds will serve 2 years or 7 years in the Legislature for the sake of qualifying themselves for other offices. This he thought a sufficient security for obtaining the services of the ablest men in the Legislature, although whilst members they should be ineligible to Public offices. Besides, merit will be most encouraged, when most impartially rewarded. If rewards are to circulate only within the Legislature, merit out of it will be discouraged.

Mr. Mercer was extremely anxious on this point. What led to the appointment of this Convention? The corruption & mutability of the Legislative Councils of the States. If the plan does not remedy these, it will not recommend itself: and we shall not be able in our private capacities to support & enforce it: nor will the best part of our Citizens exert themselves for the purpose. — It is a great mistake to suppose that the paper we are to propose will govern the U. States? It is The men whom it will bring into the Governnt. and interest in maintaining it that is to govern them. The paper will only mark out the mode & the form- Men are the substance and must do the business. All Govt. must be by force or influence. It is not the King of France — but 200,000 janisaries of power that govern that Kingdom. There will be no such force here; influence then must be substituted; and he would ask whether this could be done, if the members of the Legislature should be ineligible to offices of State; whether such a disqualification would not determine all the most influential men to stay at home, and & prefer appointments within their respective States.

Mr. Wilson was by no means satisfied with the answer given by Mr. Elsworth to the argument as to the discouragement of merit. The members must either go a second time into the Legislature, and disqualify themselves — or say to their Constituents, we served you before only from the mercenary view of qualifying ourselves for offices, and have answered this purpose we do not chuse to be again elected.

Mr. Govr. Morris put the case of a war, and the Citizen the most capable of conducting it, happening to be a member of the Legislature. What might have been the consequence of such a regulation at the commencement, or even in the Course of the late contest for our liberties?

(Madison's Notes (Max Farrand, 1911), Pages 286-289, Vol. 2)

[e673509] It was moved and seconded to postpone the consideration of the 9. section of the 6 article in order to take up the following

“The members of each House shall be incapable of holding any Office under the United States for which they, or any other for their benefit, receive any salary, fees, or emoluments of any kind — and the acceptance of such office shall vacate their seats respectively”

which passed in the negative. [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

On question for postponing in order to take up Mr. Pinkneys motion, it was lost.

N- H- ay- Mas. no. Ct no. N. J- no. Pa ay. Del. ay. Md. ay. Va. ay. N. C. no. S- C. no. Geo. divd. [Ayes — 5; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 289, Vol. 2)

[e673510] It was moved and seconded to amend the 9 section of the 6 article by adding the following clause after the words "be elected"

"except in the army or navy thereof, but in that case their seats shall be vacated"

[Editors' note: Madison records Morris as the proposer and Broom as the seconder.]

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

Mr Govr Morris moved to insert, after "office", except offices in the army or navy: but in that case their offices shall be vacated

Mr. Broome 2ds. him

(Madison's Notes (Max Farrand, 1911), Page 289, Vol. 2)

The Members of the Legislature shall be inelligible to any Office to which pay is annexed except in the Army Navy or foreign Ambassies; and in case of such appointment and during time of Service they shall Vacate their Seats.

[Editors' note: The text of this motion comes from the Pierce Butler papers, held by the Library of Congress.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 222, Motion)

[e673511] M. Randolph had been & should continue uniformly opposed to the striking out of the clause; as opening a door for influence & corruption. No arguments had made any impression on him, but those which related to the case of war, and a co-existing incapacity of the fittest commanders to be employed. He admitted great weight in these, and would agree to the exception proposed by Mr. Govr. Morris.

(Madison's Notes (Max Farrand, 1911), Page 290, Vol. 2)

[e736751] Before the question was taken on the last amendment

It was moved and seconded to postpone the consideration of the 9th section of the 6 article until the powers to be vested in the Senate are ascertained

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

Mr. Butler & Mr Pinkney urged a general postponemt. of 9 Sect. art. VI till it should be seen what powers would be vested in the Senate, when it would be more easy to judge of the expediency of allowing the Officers of State to be chosen out of that body.

(Madison's Notes (Max Farrand, 1911), Page 290, Vol. 2)

Sect. 9. postponed.

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e736752] Before the question was taken on the last amendment

It was moved and seconded to postpone the consideration of the 9th section of the 6 article until the powers to be vested in the Senate are ascertained which passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

Mr. Butler & Mr Pinkney urged a general postponemnt. of 9 Sect. art. VI till it should be seen what powers would be vested in the Senate, when it would be more easy to judge of the expediency of allowing the Officers of State to be chosen out of that body. — A general postponement was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 290, Vol. 2)

Sect. 9. postponed.

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673513] Art: VI. sect. 10. taken up — “that members be paid by their respective States.”

(Madison's Notes (Max Farrand, 1911), Page 290, Vol. 2)

[e673514] Mr. Ellsworth said that in reflecting on this subject he had been satisfied that too much dependence on the States would be produced by this mode of payment. He moved to strike out and insert “that they should” be paid out of the Treasury of the U. S. an allowance not exceeding (blank) dollars per day or the present value thereof,

[Editors' note: Given the subsequent proceedings, Ellsworth likely proposed payment from the US Treasury alongside an undecided daily allowance and travel expenses. The wording in Madison's notes appears incomplete; however, he indicates that the question was later divided. Additionally, the Journal records two proposed amendments by Ellsworth. The editors have assumed that these amendments were originally a single motion. The text here is a combination of these two amendments as recorded in the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 290, Vol. 2)

[e673515] Mr. Govr Morris. remarked that if the members were to be paid by the States it would throw an unequal burden on the distant States, which would be unjust as the Legislature was to be a national Assembly. He moved that the payment be out of the Natl. Treasury; leaving the quantum to the discretion of the Natl. Legislature. There could be no reason to fear that they would overpay themselves.

Mr. Butler contended for payment by the States; particularly in the case of the Senate, who will be so long out of their respective States, that they will lose sight of their Constituents unless dependent on them for their support.

Mr Langdon was agst. payment by the States. There would be some difficulty in fixing the sum; but it would be unjust to oblige the distant States to bear the expence of their members in travelling to and from the Seat of Govt.

Mr Madison. If the H. of Reps. is to be chosen biennially — and the Senate to be constantly dependent on the Legislatures which are chosen annually, he could not see any chance for that stability in the Genl Govt. the want of which was a principal evil in the State Govts. His fear was that the organization of the Govt supposing the Senate to be really independt. for six years, would not effect our purpose. It was nothing more than a combination of the peculiarities of two of the State Govts. which separately had been found insufficient. The Senate was formed on the model of that of Maryld. The Revisionary check, on that of N. York. What the effect of A union of these provisions might be, could not be foreseen. The enlargement of the sphere of the Government was indeed a circumstance which he thought would be favorable as he had on several occasions undertaken to show. He was however for fixing at least two extremes not to be exceeded by the Natl. Legislre. in the payment of themselves.

Mr. Gerry. There are difficulties on both sides. The observation of Mr. Butler has weight in it. On the other side, the State Legislatures may turn out the Senators by reducing their salaries. Such things have been practised.

Col. Mason. It has not yet been noticed that the clause as it now stands makes the House of Represents. also dependent on the State Legislatures; so that both Houses will be made the instruments of the politics of the States whatever they may be.

Mr. Broom could see no danger in trusting the Genl. Legislature with the payment of themselves. The State Legislatures had this power, and no complaint had been made of it-

Mr. Sherman was not afraid that the Legislature would make their own wages too high; but too low, so that men ever so fit could not serve unless they were at the same time rich. He thought the best plan would be to fix a moderate allowance to be paid out of the Natl. Treasy. and let the States make such additions as they might judge fit. He moved that 5 dollars per day be the sum, any further emoluments to be added by the States.

(Madison's Notes (Max Farrand, 1911), Pages 290-292, Vol. 2)

[e673516] Mr. Sherman was not afraid that the Legislature would make their own wages too high; but too low, so that men ever so fit could not serve unless they were at the same time rich. He thought the best plan would be to fix a moderate allowance to be paid out of the Natl. Treasy. and let the States make such additions as they might judge fit. He moved that 5 dollars per day be the sum, any further emoluments to be added by the States.

[Editors' note: The Journal does not record this motion, and Madison does not mention it further. For this reason, the text of the amendment is editorial.]

(Madison's Notes (Max Farrand, 1911), Pages 291-292, Vol. 2)

[e673517] [Editors' note: Sherman's motion was likely dropped for lack of a second.]

(2019 Editors)

[e673518] Mr. Carrol had been much surprised at seeing this clause in the Report. The dependence of both houses on the State Legislatures is compleat; especially as the members of the former are eligible to State offices. The States

can now say: if you do not comply with our wishes, we will starve you: if you do we will reward you. The new Govt. in this form was nothing more than a second edition of Congress in two volumes, instead of one, and perhaps with very few amendments —

Mr Dickenson took it for granted that all were convinced of the necessity of making the Genl. Govt. independent of the prejudices, passions, and improper views of the State Legislatures. The contrary of This was effected by the section as it stands. On the other hand, there were objections agst taking a permanent standard as Wheat which had been suggested on a former occasion, as well as against leaving the matter to the pleasure of the Natl. Legislature. He proposed that an Act should be passed every 12 years by the Natl. Legislr settling the quantum of their wages. If the Genl. Govt. should be left dependent on the State Legislatures, it would be happy for us if we had never met in this Room.

Mr. Ellsworth was not unwilling himself to trust the Legislature with authority to regulate their own wages, but well knew that an unlimited discretion for that purpose would produce strong, tho' perhaps not insuperable objections. He thought changes in the value of money, provided for by his motion in the words, "or the present value thereof."

Mr. L. Martin. As the Senate is to represent the States, the members of it ought to be paid by the States —

Mr. Carrol. The Senate was to represent & manage the affairs of the whole, and not to be the advocates of State interests. They ought then not to be dependent on nor paid by the States.

(Madison's Notes (Max Farrand, 1911), Page 292, Vol. 2)

[e673519] [Editors' note: It appears that Ellsworth's motion was then divided. The Journal notes two votes taking place. Madison writes that the next vote was '[o]n the question for paying the Members of the Legislature out of the Natl Treasury' (Page 292, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(2019 Editors)

[e673520] It was moved and seconded to strike out the latter clause of the 10 sect. of the 6 article and to insert the following

"to be paid out of the Treasury of the United States"

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

On the question for paying the Members of the Legislature out of the Natl Treasury, ÷

(Madison's Notes (Max Farrand, 1911), Page 292, Vol. 2)

Sect. 10. altered, that the members of both branches be paid out of the treasury of the United States

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673521] It was moved and seconded to strike out the latter clause of the 10 sect. of the 6 article and to insert the following

"to be paid out of the Treasury of the United States"

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

On the question for paying the Members of the Legislature out of the Natl Treasury, ÷

N. H. ay. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 292, Vol. 2)

Sect. 10. altered, that the members of both branches be paid out of the treasury of the United States

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673522] It was moved and seconded to agree to the following amendment to the 10 sect. of the 6 article

“five dollars or the present value thereof per diem during their attendance & for every thirty miles travel in going to and returning from Congress”

[Editors' note: It appears that in submitting the second part of his original amendment, Ellsworth decided to fill in the blank with 'five'. He probably took the suggestion from Sherman following his dropped amendment.]

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

Mr. Elsworth moved that the pay be fixed at 5 dollrs. or the present value thereof per day during their attendance & for every thirty miles in travelling to & from Congress.

(Madison's Notes (Max Farrand, 1911), Pages 292-293, Vol. 2)

[e673523] Mr. Strong preferred 4 dollars, leaving the Sts at liberty to make additions

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673524] It was moved and seconded to agree to the following amendment to the 10 sect. of the 6 article

“five dollars or the present value thereof per diem during their attendance & for every thirty miles travel in going to and returning from Congress”

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 282, Vol. 2)

On question for fixing the pay at 5 dollars.

N. H. no. Mas. no. Ct. ay. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673525] Mr. Dickenson proposed that the wages of the members of both houses sd. be required to be the same.

Mr. Broome seconded him.

[Editors' note: There is no record of the text for this amendment, so the editors have attempted to approximate it based on previous practice within the Convention.]

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673526] Mr Ghorum. this would be unreasonable. The Senate will be detained longer from home, will be obliged to remove their families, and in time of war perhaps to sit constantly. Their allowance should certainly be higher. The members of the Senates in the States are allowed more, than those of the other house.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673527] Mr Dickenson withdrew his motion

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673528] It was moved and seconded to agree to the following amendment to the 10th sect. of the 6 article

“to be ascertained by law”

(Official Journal (Max Farrand, 1911), Pages 282-283, Vol. 2)

It was moved & agreed to amend the Section by adding- “to be ascertained by law”

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

Sect. 10. altered, that the members of both branches be paid out of the treasury of the United States, their pay to be ascertained by law.

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673529] It was moved and seconded to agree to the following amendment to the 10th sect. of the 6 article

“to be ascertained by law”

which passed in the affirmative

[Editors' note: This vote was presumably unanimous.]

(Official Journal (Max Farrand, 1911), Pages 282-283, Vol. 2)

It was moved & agreed to amend the Section by adding- “to be ascertained by law”

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

Sect. 10. altered, that the members of both branches be paid out of the treasury of the United States, their pay to be ascertained by law.

(McHenry's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673530] The Section (Art VI. sec. 10) as amended- agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

On the question to agree to the 10 section of the 6 article as amended it passed in the affirmative —

(Official Journal (Max Farrand, 1911), Page 283, Vol. 2)

[e673531] and then the House adjourned till to-morrow at 11 o'Clock A M

(Official Journal (Max Farrand, 1911), Page 283, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

[e673532] and then the House adjourned till to-morrow at 11 o'Clock A M

(Official Journal (Max Farrand, 1911), Page 283, Vol. 2)

Adjd.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 2)

1.70 Wednesday, 15 August 1787, at 11:00 (s6257)

[e673533] Tuesday Evening Phila. 14th Augt.

I am very anxious for the Health of my dearest Girl and her lovely Infant in consequence of your letter of the 12th recd this Day. Let me intreat You, upon the Receipt hereof, to ride every Day with the Baby, until You are both recovered. The Morning before the Heat comes on, is the best Time: but your Arrangement must be such as to reduce it to a Certainty. You will be in before the Heat rises [?]. Should you neglect it in the Morning be Sure to ride in the Evening, for nothing will serve either of you so much as Exercise: and if You find the least Difficulty about a Carriage, hire a Hackney.

What a question You have proposed respecting your little Image, whether I should not have thot you vain in proposing that I should take it? Should I at this period think you vain for supposing You have my sincerest Affection? For supposing that I am never happy without You? For supposing when you are with me, my Joys are doubled and Sorrows divided? Would you entertain then a Doubt that in your absence your Miniature would be the best Relief next to that of reading your letters and knowing this, knowing that my Happiness would be promoted by seeing it, how could You be supposed vain in rendering me such an act of Kindness? I know and revere You my life for your Delicacy, but have you not in this extended it a little too far?

Mr. Martin I saw at Convention: he rode from Trenton in the forenoon and had nearly fainted when he dismounted, on account of the Heat. I called on Mrs. Martin this Evening but did not find her at her Lodgings. This City is now and has been for several Days excessive hot. Your Bill shall be honored for the Bodricks [?]. The Tea I shall not take, but shall comply with your Wishes, if I should find any better.

I think you conducted perfectly right with respect to your Uncle. Would it not be best lest Child Should not be accurate in delivering your Message, to send him a line informing him of your Reasons for not accepting a partial payment, and that You had thus communicated them to prevent Mistakes or any misconstructions?

I was writing to you on Sunday Morning, but I should have Spent the Day in Festivity, had I known it had been your Birth Day. God Grant my lovely Nancy, You may Live to see birth Days repeated, until Satiated with the Happiness of this Life. You ardently pant for that which is more compleat and permanent.

Colonel Hamilton returns to New York tomorrow Morning. I have with him gone thro the Bill for settling the residuary Estate of Mary Walters, having made some material Alteration. Others proposed, he thinks it best to communicate on principles of Delicacy to Mr. Harrison before he adopts them; and having taken the Bill with your pappas Notes and the Will to New York, he has promised me to see your pappas and Mrs. Harrison on arriving there and to make the necessary Alterations. I have sent by him a pamphlet on female Education. I should write your pappas had you not mentioned his Absence but you will communicate this on his Return.

I was on Sunday Evening at Mrs. Cadwalladers with Major Butler and General Wayne. Mrs. Bond was also there and the Ladies made very particular enquiry about you and the Baby. They desired me to be frequent in my Visits and to give their Regards to you. Wayne says he saw Mrs. Reed in South Carolina; that she has lost her Colour entirely and has a sallow Appearance; and that Reed having frequently boasted there of his powers in Gallantry is chagrined exceedingly at having no prospects favourable to their Wishes. The Miss Bonds have wrote to their Mamma desiring her to give Information to their Brother that the Weather is too hot for him to return here at present: but their Sister observed on it, that they could not expect a Continuance of such Attention and did not view them in the proper light.

I was last Evening at Mrs. Morris: who was very particular and so was Mr. Morris about you and the Baby. General Mifflin inquired this Morning whether you was in Town, as he heard different Stories about it and Mrs. Mifflin wished to call on you. I informed him you was not and altho I have a great Respect for Mrs. Mifflin I certainly shall not call on her, because this is too much like Philadelphia Hospitality. I am very sure it is his Maneuvre not hers. Adieu my dearest Life, my Regards as usual to the Family, kiss little poppet heartily for both of us & be assured I am ever

yours affectionately E. Gerry

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Pages 222-224, Elbridge Gerry to Ann Gerry, 14 August 1787)

[e673534] On the question to agree to the 11 Sect. of the 6 article as reported

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

Art: VI. sect. 11.

(Madison's Notes (Max Farrand, 1911), Page 296, Vol. 2)

Sect. 11.

(McHenry's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673535] On the question to agree to the 11 Sect. of the 6 article as reported
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

Art: VI. sect. 11. Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 296, Vol. 2)

Sect. 11. agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673536] Art: VI Sect- 12. taken up.

(Madison's Notes (Max Farrand, 1911), Page 296, Vol. 2)

[e673537] It was moved and seconded to strike out the latter part of the 12 Sect. of the 6 article

[Editors' note: Farrand writes, 'Not reported by Madison, but confirmed by the clause being struck out in Washington's copy of the Report of the Committee of Detail.']

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

[e673538] It was moved and seconded to strike out the latter part of the 12 Sect. of the 6 article,

which passed in the affirmative

[Editors' note: This decision was likely unanimous given the redundancy of the clause at this point and Jackson's habit of not recording uncontested votes in the Detail of Ayes and Noes.]

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

[e673539] It was moved and seconded to amend- the 12. sect. of the 6 article as follows

"Each House shall possess the right of originating all Bills except Bills for raising money for the purposes of revenue or for appropriating the same and for fixing the salaries of the Officers of Government which shall originate in the House of representatives; but the Senate may propose or concur with amendments as in other cases"

[Editors' note: Madison records Strong as the proposer and Mason as the seconder.]

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

Mr. Strong move d to amend the article so as to read — "Each House shall possess the right of originating all bills, except bills for raising money for the purposes of revenue, or for appropriating the same and for fixing the salaries of the officers of the Govt. which shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other cases"

Col. Mason. 2ds. the motion.

(Madison's Notes (Max Farrand, 1911), Pages 296-297, Vol. 2)

[e673540] Col. Mason. 2ds. the motion. He was extremely earnest to take this power from the Senate, who he said could already sell the whole Country by means of Treaties.

Mr Ghorum urged the amendment as of great importance. The Senate will first acquire the habit of preparing money bills, and then the practice will grow into an exclusive right of preparing them.

Mr. Gouvernr. Morris opposed it as unnecessary and inconvenient.

Mr. Williamson- some think this restriction on the Senate essential to liberty — others think it of no importance. Why should not the former be indulged. he was for an efficient and stable Govt: but many would not strengthen the Senate if not restricted in the case of money bills. The friends of the Senate would therefore lose more than they would gain by refusing to gratify the other side.

(Madison's Notes (Max Farrand, 1911), Page 297, Vol. 2)

[e673541] It was moved and seconded to postpone the consideration of the last amendment

[Editors' note: Madison writes that Williamson 'moved to postpone the subject till the powers of the Senate should be gone over. Mr. Rutledge 2ds. the motion' (Page 297, Vol. 2, Madison's Notes (Max Farrand, 1911)). It seems likely, given that the Convention then went on to consider Section 13, that a postponement of the whole section is more accurate than a postponement of the amendment alone.]

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

[e673542] Mr. Mercer should hereafter be agst. returning to a reconsideration of this section. He contended, (alluding to Mr. Mason's observations) that the Senate ought not to have the power of treaties. This power belonged to the Executive department; adding that Treaties would not be final so as to alter the laws of the land, till ratified by legislative authority. This was the case of Treaties in Great Britain; particularly the late Treaty of Commerce with France.

Col. Mason. did not say that a Treaty would repeal a law; but that the Senate by means of treaty might alienate territory &c. without legislative sanction. The cessions of the British Islands in W- Indies by Treaty alone were an example - If Spain should possess herself of Georgia therefore the Senate might by treaty dismember the Union. He wished the motion to be decided now, that the friends of it might know how to conduct themselves.

(Madison's Notes (Max Farrand, 1911), Pages 297-298, Vol. 2)

[e673543] It was moved and seconded to postpone the consideration of the last amendment

which passed in the affirmative. [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 294, Vol. 2)

On question for postponing Sect: 12. it passed in the affirmative.

N. H. ay. Mas. ay Ct. no. N. J. no Pena no. Del. no Maryd. no. Va. ay. N. C. ay. S. C. ay- Geo. ay. — [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 298, Vol. 2)

Sect. 12 postponed.

(McHenry's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673544] [Editors' note: The Convention considered Section 13 of Article VI.]

(2019 Editors)

[e673545] It was moved and seconded to agree to the following amendmt of the 13th sect. of the 6 article.

“Every bill which shall have passed the two Houses, shall, before it become a law, be severally presented to the President of the United States and to the Judges of the supreme court, for the revision of each — If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it — But, if upon such revision, it shall appear improper to either or both to be passed into a law; it shall be returned, with the objections against it, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider the bill: But, if, after such reconsideration, two thirds of that House, when either the President or a Majority of the Judges shall object, or three fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other House, by which it shall likewise be reconsidered and, if approved by two thirds, or three fourths of the other House, as the case may be, it shall become a law”

[Editors' note: Madison records himself as the proposer and Wilson as the seconder.]

(Official Journal (Max Farrand, 1911), Pages 294-295, Vol. 2)

Mr. Madison moved that all acts before they become laws should be submitted both to the Executive and Supreme Judiciary Departments, that if either of these should object of each House, if both should object, $\frac{3}{4}$ of each House, should be necessary to overrule the objections and give to the acts the force of law. — See the motion at large in the Journal of this date, page 258. & insert it here.

Mr. Wilson seconds the motion

(Madison's Notes (Max Farrand, 1911), Page 298, Vol. 2)

[e673546] Mr. Pinkney opposed the interference of the Judges in the Legislative business: it will involve them in parties, and give a previous tincture to their opinions.

Mr. Mercer heartily approved the motion. It as an axiom that the Judiciary ought to be separate from the Legislative: but equally so that it ought to be independent of that department. The true policy of the axiom is that legislative usurpation and oppression may be obviated. He disapproved of the Doctrine that the Judges as expositors of the Constitution should have authority to declare a law void. He thought laws ought to be well and cautiously made, and then to be uncontrollable.

Mr. Gerry. This motion comes to the same thing with what has been already negatived.

(Madison's Notes (Max Farrand, 1911), Page 298, Vol. 2)

[e673547] It was moved and seconded to agree to the following amendmt of the 13th sect. of the 6 article.

“Every bill which shall have passed the two Houses, shall, before it become a law, be severally presented to the President of the United States and to the Judges of the supreme court, for the revision of each — If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it — But, if upon such revision, it shall appear improper to either or both to be passed into a law; it shall be returned, with the objections against it, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider the bill: But, if, after such reconsideration, two thirds of that House, when either the President or a Majority of the Judges shall object, or three fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other House, by which it shall likewise be reconsidered and, if approved by two thirds, or three fourths of the other House, as the case may be, it shall become a law” which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Pages 294-295, Vol. 2)

Question on the motion of Mr M adison

N- H. no. Mass. no. Ct. no. N. J. no. Pa. no. Del. ay. Maryd. ay. Virga. ay. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 298, Vol. 2)

[e673548] Mr. Govr. Morris regretted that something like the proposed check could not be agreed to. He dwelt on the importance of public Credit, and the difficulty of supporting it without some strong barrier against the instability of legislative Assemblies. He suggested the idea of requiring three fourths of each house to repeal laws where the President should not concur. He had no great reliance on the revisionary power as the Executive was now to be constituted (elected by the Congress). The legislature will contrive to soften down the President. He recited the history of paper emissions, and the perseverance of the legislative assemblies in repeating them, with all the distressing effects of such measures before their eyes. Were the National legislature formed, and a war was now to break out, this ruinous expedient would be again resorted to, if not guarded against. The requiring $\frac{3}{4}$ to repeal would, though not a compleat remedy, prevent the hasty passage of laws, and the frequency of those repeals which destroy faith in the public, and which are among our greatest calamities.

—
Mr Dickenson was strongly impressed with the remark of Mr. Mercer as to the power of the Judges to set aside the law. He thought no such power ought to exist. He was at the same time at a loss what expedient to substitute. The Justiciary of Aragon he observed became by degrees the lawgiver.

Mr. Govr. Morris, suggested the expedient of an absolute negative in the Executive. He could not agree that the Judiciary which was part of the Executive, should be bound to say that a direct violation of the Constitution was law. A controul over the legislature might have its inconveniences. But view the danger on the other side. The most virtuous citizens will often as members of a legislative body concur in measures which afterwards in their private capacity they will be ashamed of. Encroachments of the popular branch of the

Government ought to be guarded agst. The Ephori at Sparta became in the end absolute. The Report of the Council of Censors in Pennsylvia points out the many invasions of the legislative department on the Executive numerous as the latter is, within the short term of seven years, and in a State where a strong party is opposed to the Constitution, and watching every occasion of turning the public resentments agst. it. If the Executive be overturned by the popular branch, as happened in England, the tyranny of one man will ensue - In Rome where the Aristocracy overturned the throne, the consequence was different. He enlarged on the tendency of the legislative Authority to usurp on the Executive and wished the section to be postponed, in order to consider of some more effectual check than requiring only to overrule the negative of the Executive.

(Madison's Notes (Max Farrand, 1911), Pages 298-300, Vol. 2)

[e673549] It was moved and seconded to postpone the consideration of the 13th sect. of the 6th article

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

Mr. Govr. Morris, suggested the expedient of an absolute negative in the Executive. He could not agree that the Judiciary which was part of the Executive, should be bound to say that a direct violation of the Constitution was law. A controul over the legislature might have its inconveniences. But view the danger on the other side. The most virtuous citizens will often as members of a legislative body concur in measures which afterwards in their private capacity they will be ashamed of. Encroachments of the popular branch of the Government ought to be guarded agst. The Ephori at Sparta became in the end absolute. The Report of the Council of Censors in Pennsylvia points out the many invasions of the legislative department on the Executive numerous as the latter is, within the short term of seven years, and in a State where a strong party is opposed to the Constitution, and watching every occasion of turning the public resentments agst. it. If the Executive be overturned by the popular branch, as happened in England, the tyranny of one man will ensue - In Rome where the Aristocracy overturned the throne, the consequence was different. He enlarged on the tendency of the legislative Authority to usurp on the Executive and wished the section to be postponed, in order to consider of some more effectual check than requiring only to overrule the negative of the Executive.

(Madison's Notes (Max Farrand, 1911), Pages 299-300, Vol. 2)

[e673550] Mr Sherman. Can one man be trusted better than all the others if they all agree? This was neither wise nor safe. He disapproved of Judges meddling in politics and parties. We have gone far enough in forming the negative as it now stands.

Mr. Carrol- when the negative to be overruled by only was agreed to, the quorum was not fixed. He remarked that as a majority was now to be the quorum, 17, in the larger, and 8 in the smaller house might carry points. The Advantage that might be taken of this seemed to call for greater impediments to improper laws. He thought the controuling power however of the Executive

could not be well decided, till it was seen how the formation of that department would be finally regulated. He wished the consideration of the matter to be postponed.

Mr. Ghorum saw no end to these difficulties and postponements. Some could not agree to the form of Government before the powers were defined. Others could not agree to the powers till it was seen how the Government was to be formed. He thought a majority as large a quorum as was necessary. It was the quorum almost every where fixt in the U. States.

Mr. Wilson; after viewing the subject with all the coolness and attention possible was most apprehensive of a dissolution of the Govt from the legislature swallowing up all the other powers. He remarked that the prejudices agst the Executive resulted from a misapplication of the adage that the parliament was the palladium of liberty. Where the Executive was really formidable, King and Tyrant, were naturally associated in the minds of people; not legislature and tyranny. But where the Executive was not formidable, the two last were most properly associated. After the destruction of the King in Great Britain, a more pure and unmixed tyranny sprang up in the parliament than had been exercised by the monarch. He insisted that we had not guarded agst. the danger on this side by a sufficient self-defensive power either to the Executive or Judiciary department-

Mr Rutledge was strenuous agst postponing; and complained much of the tediousness of the proceedings.

Mr Elseworth held the same language. We grow more & more skeptical as we proceed. If we do not decide soon, we shall be unable to come to any decision.

(Madison's Notes (Max Farrand, 1911), Pages 300-301, Vol. 2)

[e673551] It was moved and seconded to postpone the consideration of the 13th sect. of the 6th article

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

The question for postponement passed in the negative: Del: & Maryd only being in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 301, Vol. 2)

[e673552] It was moved and seconded to strike out the words "two thirds" and to insert the words "three fourths" in the 13th sect. of the 6 article

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

Mr. Williamson moved to change " of each house" into " $\frac{3}{4}$ " as requisite to overrule the dissent of the President. He saw no danger in this, and preferred giving the power to the Presidt. alone, to admitting the Judges into the business of legislation.

Mr. Wilson 2ds. the motion; referring to and repeating the ideas of Mr. Carroll.

(Madison's Notes (Max Farrand, 1911), Page 301, Vol. 2)

Sect. 13. Agreed to with the alteration of $\frac{3}{4}$ of each house instead of two thirds.

(McHenry's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673553] It was moved and seconded to strike out the words "two thirds" and to insert the words "three fourths" in the 13th sect. of the 6 article which passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

On this motion for $\frac{3}{4}$. instead of two thirds; it passed in the affirmative N- H- no- Mas. no. Ct. ay N- J. no. Pena. divd. Del- ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 6; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 301, Vol. 2)

Sect. 13. Agreed to with the alteration of $\frac{3}{4}$ of each house instead of two thirds.

(McHenry's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673554] It was moved and seconded to amend the first clause of the 13 sect. of the 6 article as follows

"No Bill or resolve of the Senate and House of representatives shall become a Law, or have force until it shall have been presented to the President of the United States for his revision"

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

Mr. Madison, observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes &c — proposed that or resolve should be added after "bill" in the beginning of sect 13. with an exception as to votes of adjournment &c. — after a short and rather confused conversation on the subject, the question was put

(Madison's Notes (Max Farrand, 1911), Pages 301-302, Vol. 2)

[e673555] It was moved and seconded to amend the first clause of the 13 sect. of the 6 article as follows

"No Bill or resolve of the Senate and House of representatives shall become a Law, or have force until it shall have been presented to the President of the United States for his revision"

which passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

the question was put & rejected, the States being as follows,
N. H. no- Mas. ay- Ct. no. N- J. no- Pena. no. Del ay. Md. no. Va. no. N. C. ay. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673556] No money shall be drawn from the Treasury of the U. S. but in conseq. of approns by law.

[Editors' note: This short amendment is recorded by the Secretary in the Detail of Ayes and Noes. Farrand writes that there is no reason besides relative position in the table to ascribe a time to the vote. It does seem somewhat out of place, and the motion was evidently withdrawn prior to vote.]

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

[e673557] No money shall be drawn from the Treasury of the U. S. but in conseq. of approns by law.
withdrawn.

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

[e673558] To adjourn

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

[e673559] To adjourn Ayes — 3; noes — 7.

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

[e673560] It was moved and seconded to strike out the word “seven” and to insert the words “ten (“sundays excepted”) in the 13th sect. of the 6 article

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

“Ten days (Sundays excepted)” instead of “seven” were allowed to the President for returning bills with his objections

(Madison’s Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673561] It was moved and seconded to strike out the word “seven” and to insert the words “ten (“sundays excepted”) in the 13th sect. of the 6 article which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 295, Vol. 2)

“Ten days (Sundays excepted)” instead of “seven” were allowed to the President for returning bills with his objections N. H. & Mas: only voting agst. it. The 13 sect: of art. VI as amended was then agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673562] On the question to agree to the 13 sect. of the 6 article as amended it passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 295-296, Vol. 2)

Sect. 13. Agreed to with the alteration of $\frac{3}{4}$ of each house instead of two thirds.

(McHenry’s Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673563] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 296, Vol. 2)

Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 302, Vol. 2)

[e673564] And then the House adjourned till to-morrow at 11 o’Clock A. M.

(Official Journal (Max Farrand, 1911), Page 296, Vol. 2)

Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 302, Vol. 2)

1.71 Thursday, 16 August 1787, at 11:00 (s6258)

[e673566] It was moved and seconded to agree to the following as the 14 section of the 6. article.

“every order, resolution or vote, to which the concurrence of the Senate and House of representatives may be necessary (except on a question of adjournment, and in the cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force, shall be approved by him, or, being disapproved by him, shall be repassed by the Senate and House of representatives, according to the rules and limitations prescribed in the case “of a bill”

[Editors’ note: Madison’s notes add that Randolph reworked Madison’s own motion from the previous day.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

Mr. Randolph, having thrown into a new form the motion, putting votes, Resolutions &c. on a footing with Bills, renewed it as follows. “Every order resolution or vote, to which the concurrence of the Senate & House of Reps. may be necessary (except on a question of adjournment and in the cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate & House of Reps according to the rules & limitations prescribed in the case of a Bill”

(Madison’s Notes (Max Farrand, 1911), Pages 304-305, Vol. 2)

[e673567] Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury which might be provided for in another place.

(Madison’s Notes (Max Farrand, 1911), Page 305, Vol. 2)

[e673568] On Question as moved by Mr Randolph

N- H. ay. Mas: not present, Ct. ay. N. J. no. Pa. ay. Md. ay. Va. ay. N - C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1; absent — 1.]

The Amendment was made a Section 14. of Art VI.

[Editors’ note: Farrand remarks that the Journal’s record of this vote is incorrect and that Madison records the votes more accurately in this instance.]

(Madison’s Notes (Max Farrand, 1911), Page 305, Vol. 2)

It was moved and seconded to agree to the following as the 14 section of the 6. article.

“every order, resolution or vote, to which the concurrence of the Senate and House of representatives may be necessary (except on a question of adjournment, and in the cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force, shall be approved by him, or, being disapproved by him, shall be repassed by the Senate and House of representatives, according to the rules and limitations prescribed in the case “of a bill”

which passed in the affirmative. [Ayes — 9; noes — 1]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

[e673569] [Editors' note: Having debated and amended the Sixth Article, the Convention then moved on to the Seventh Article. Though they left two sections postponed, it is clear that they considered the rest of the article agreed, though no formal vote seems to have taken place.]

(2019 Editors)

[e673570] [Editors' note: The Convention then considered the Seventh Article section by section.]

(2019 Editors)

[e673571] Art: VII. Sect. 1. taken up.

[Editors' note: The Journal and Madison's notes show that this section was considered clause by clause from the start. Jackson writes, 'separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended.' (Page 304, Vol. 2, Official Journal (Max Farrand, 1911))]

(Madison's Notes (Max Farrand, 1911), Page 305, Vol. 2)

[e673572] separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

[Editors' note: The Convention considered the first clause of Section 1.]

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673573] Mr. L. Martin asked what was meant by the Committee of detail in the expression "duties" and "imposts". If the meaning were the same, the former was unnecessary; if different, the matter ought to be made clear.

Mr Wilson, duties are applicable to many objects to which the word imposts does not relate. The latter are appropriated to commerce; the former extend to a variety of objects, as stamp duties &c.

Mr. Carroll reminded the Convention of the great difference of interests among the States, and doubts the propriety in that point of view of letting a majority be a quorum.

Mr. Mason urged the necessity of connecting with the power of levying taxes duties &c, the prohibition in Sect 4 of art VI that no tax should be laid on exports. He was unwilling to trust to its being done in a future article. He hoped the Northn. States did not mean to deny the Southern this security. It would hereafter be as desirable to the former when the latter should become the most populous. He professed his jealousy for the productions of the Southern or as he called them, the staple States.

(Madison's Notes (Max Farrand, 1911), Pages 305-306, Vol. 2)

[e673574] It was moved and seconded to insert the following proviso after the first clause of the 1st section of the 7-article.

"Provided that no Tax, Duty or Imposition shall be laid by the Legislature of the United States on articles exported from any State"

[Editors' note: Madison records Mason as the proposer.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

Mr. Mason urged the necessity of connecting with the power of levying taxes duties &c, the prohibition in Sect 4 of art VI⁷ that no tax should be laid on exports. He was unwilling to trust to its being done in a future article. He hoped the Northn. States did not mean to deny the Southern this security. It would hereafter be as desirable to the former when the latter should become the most populous. He professed his jealousy for the productions of the Southern or as he called them, the staple States. He moved to insert the following amendment: "provided that no tax duty or imposition, shall be laid by the Legislature of the U. States on articles exported from any State"

(Madison's Notes (Max Farrand, 1911), Pages 305-306, Vol. 2)

[e673575] Mr Sherman had no objection to the proviso here, other than it would derange the parts of the report as made by the Committee, to take them in such an order.

Mr. Rutledge. It being of no consequence in what order points are decided, he should vote for the clause as it stood, but on condition that the subsequent part relating to negroes should also be agreed to.

Mr. Gouverneur Morris considered such a proviso as inadmissible any where. It was so radically objectionable, that it might cost the whole system the support of some members. He contended that it would not in some cases be equitable to tax imports without taxing exports; and that taxes on exports would be often the most easy and proper of the two.

Mr. Madison 1. the power of taxing exports is proper in itself, and as the States cannot with propriety exercise it separately, it ought to be vested in them collectively. 2. it might with particular advantage be exercised with regard to articles in which America was not rivalled in foreign markets, as Tobo. &c. The contract between the French Farmers Genl. and Mr. Morris stipulating that if taxes sd. be laid in America on the export of Tobo. they sd. be paid by the Farmers, shewed that it was understood by them, that the price would be thereby raised in America, and consequently the taxes be paid by the European Consumer. 3. it would be unjust to the States whose produce was exported by their neighbours, to leave it subject to be taxed by the latter. This was a grievance which had already filled N. H. Cont. N. Jersey. Del: and N. Carolina with loud complaints, as it related to imports, and they would be equally authorized by taxes by the States on exports. 4. The Southn. States being most in danger and most needing naval protection, could the less complain if the burden should be somewhat heaviest on them. 5. we are not providing for the present moment only, and time will equalize the situation of the States in this matter. He was for these reasons, agst the motion

Mr. Williamson considered the clause proposed agst taxes on exports as reasonable and necessary.

Mr. Elseworth was agst. Taxing exports; but thought the prohibition stood in the most proper place, and was agst. deranging the order reported by the Committee

Mr. Wilson was decidedly agst prohibiting general taxes on exports. He dwelt on the injustice and impolicy of leaving N. Jersey Connecticut &c any longer subject to the exactions of their commercial neighbours.

Mr Gerry thought the legislature could not be trusted with such a power. It might ruin the Country. It might be exercised partially, raising one and depressing another part of it.

Mr Govr Morris. However the legislative power may be formed, it will if disposed be able to ruin the Country — He considered the taxing of exports to be in many cases highly politic. Virginia has found her account in taxing Tobacco. All Countries having peculiar articles tax the exportation of them; as France her wines and brandies. A tax here on lumber, would fall on the W. Indies & punish their restrictions on our trade. The same is true of live-stock and in some degree of flour. In case of a dearth in the West Indies, we may extort what we please. Taxes on exports are a necessary source of revenue. For a long time the people of America will not have money to pay direct taxes. Seize and sell their effects and you push them into Revolts —

Mr. Mercer was strenuous against giving Congress power to tax exports. Such taxes were impolitic, as encouraging the raising of articles not meant for exportation. The States had now a right where their situation permitted, to tax both the imports and exports of their uncommercial neighbours. It was enough for them to sacrifice one half of it. It had been said the Southern States had most need of naval protection. The reverse was the case. Were it not for promoting the carrying trade of the Northn States, the Southn States could let their trade go into foreign bottoms, where it would not need our protection. Virginia by taxing her tobacco had given an advantage to that of Maryland.

Mr. Sherman. To examine and compare the States in relation to imports and exports will be opening a boundless field. He thought the matter had been adjusted, and that imports were to be subject, and exports not, to be taxed. He thought it wrong to tax exports except it might be such articles as ought not to be exported. The complexity of the business in America would render an equal tax on exports impracticable. The oppression of the uncommercial States was guarded agst. by the power to regulate trade between the States. As to compelling foreigners, that might be done by regulating trade in general. The Government would not be trusted with such a power. Objections are most likely to be excited by considerations relating to taxes & money. A power to tax exports would shipwreck the whole.

Mr. Carrol was surprised that any objection should be made to an exception of exports from the power of taxation.

(Madison's Notes (Max Farrand, 1911), Pages 306-308, Vol. 2)

[e734482] It was moved and seconded to postpone the consideration of the Proviso

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

[e734483] It was moved and seconded to postpone the consideration of the Proviso

which passed in the affirmative. [Ayes — 10; noes — 1.]

[Editors' note: The delegation from Massachusetts returned to quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

It was finally agreed that the question concerning exports shd. lie over for the place in which the exception stood in the report. Maryd. alone voting agst it

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

[e673577] Sect: 1. (art. VII) agreed to: Mr. Gerry alone answering no.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended
They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673578] Clause for regulating commerce with foreign nations &c.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673579] Clause for regulating commerce with foreign nations &c. agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended
They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673580] separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673581] separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

[Editors' note: Madison does not mention this vote. But as Madison records most of these clauses passing unanimously, the editors assume that where he does not comment at all and the Journal leaves out the voting record, the vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673582] [Clause] for coining money.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673583] [Clause] for coining money. agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673584] [Clause] for regulating foreign coin.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673585] [Clause] for regulating foreign coin. do. do.

[Editors' note: Madison's 'ditto' refers to 'agd. to nem. con.' above.]

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673586] [Clause] for fixing the standard of weights & measures.

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673587] [Clause] for fixing the standard of weights & measures. do. do.

[Editors' note: Madison's 'ditto' refers to 'agd. to nem. con.' above.]

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673588] [Clause] "To establish post-offices".

(Madison's Notes (Max Farrand, 1911), Page 308, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673589] It was moved and seconded to add the words “and post roads” after the words “post offices” in the 7 clause of the 1st sect of the 7. article

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

Mr Gerry moved to add, and post-roads. Mr. Mercer 2ded.

(Madison’s Notes (Max Farrand, 1911), Page 308, Vol. 2)

Agreed to Article VII from Sec: 1. to the paragraph “borrow money and emit bills on the credit of the united States inclusive, with the addition of the words “and post roads”

(McHenry’s Notes (Max Farrand, 1911), Page 311, Vol. 2)

[e673590] It was moved and seconded to add the words “and post roads” after the words “post offices” in the 7 clause of the 1st sect of the 7. article which passed in the affirmative. [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

Mr Gerry moved to add, and post-roads. Mr. Mercer 2ded. & on question N- H- no- Mas- ay- Ct. no. N. J- no. Pena, no. Del. ay. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. ay. [Ayes 6; noes — 5.]

(Madison’s Notes (Max Farrand, 1911), Page 308, Vol. 2)

Agreed to Article VII from Sec: 1. to the paragraph “borrow money and emit bills on the credit of the united States inclusive, with the addition of the words “and post roads”

(McHenry’s Notes (Max Farrand, 1911), Page 311, Vol. 2)

[e673591] separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

[Editors’ note: Madison does not mention this vote. But as Madison records most of these clauses passing unanimously, the editors assume that where he does not comment at all and the Journal leaves out the voting record, the vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673592] separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673593] Mr. Govr Morris moved to strike out “and emit bills on the credit of the U. States” — If the United States had credit such bills would be unnecessary: if they had not unjust & useless.

Mr Butler, 2ds. the motion.

[Editors’ note: The Journal records that only the words ‘and emit bills’ were to be struck out.]

(Madison’s Notes (Max Farrand, 1911), Pages 308-309, Vol. 2)

It was moved and seconded to strike the words “and emit bills” out of the 8. clause of the 1 section of the 7 article

(Madison’s Notes (Max Farrand, 1911), Page 303, Vol. 2)

Agreed to Article VII from Sec: 1. to the paragraph “borrow money and emit bills on the credit of the united States inclusive, with the addition of the words “and post roads” and the omission of “and emit bills”.

(McHenry’s Notes (Max Farrand, 1911), Page 311, Vol. 2)

[e673594] Mr. Madison, will it not be sufficient to prohibit the making them a tender? This will remove the temptation to emit them with unjust views. And promissory notes in that shape may in some emergencies be best.

Mr. Govr. Morris. striking out the words will leave room still for notes of a responsible minister which will do all the good without the mischief. The Monied interest will oppose the plan of Government, if paper emissions be not prohibited.

Mr. Ghorum was for striking out, without inserting any prohibition. if the words stand they may suggest and lead to the measure.

Col Mason had doubts on the subject. Congs. he thought would not have the power unless it were expressed. Though he had a mortal hatred to paper money, yet as he could not foresee all emergences, he was unwilling to tie the hands of the Legislature. He observed that the late war could not have been carried on, had such a prohibition existed.

Mr. Ghorum- The power as far as it will be necessary or safe, is involved in that of borrowing.

Mr Mercer was a friend to paper money, though in the present state & temper of America, he should neither propose nor approve of such a measure. He was consequently opposed to a prohibition of it altogether. It will stamp suspicion on the Government to deny it a discretion on this point. It was impolitic also to excite the opposition of all those who were friends to paper money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of Citizens

Mr. Elseworth thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made, were now fresh in the public mind and had excited the disgust of all the respectable part of America. By withholding the power from the new Govern. more friends of influence would be gained to it than by almost any thing else- Paper money can in no case be necessary- Give the Government credit, and other resources will offer- The power may do harm, never good.

Mr. Randolph, notwithstanding his antipathy to paper money, could not agree to strike out the words, as he could not foresee all the occasions that might arise.

Mr Wilson. It will have a most salutary influence on the credit of the U. States to remove the possibility of paper money. This expedient can never succeed whilst its mischiefs are remembered. And as long as it can be resorted to, it will be a bar to other resources.

Mr. Butler. remarked that paper was a legal tender in no Country in Europe. He was urgent for disarming the Government of such a power.

Mr Mason was still averse to tying the hands of the Legislature altogether. If there was no example in Europe as just remarked it might be observed on the other side, that there was none in which the Government was restrained on this head.

Mr. Read, thought the words, if not struck out, would be as alarming as the mark of the Beast in Revelations.

Mr. Langdon had rather reject the whole plan than retain the three words “(and emit bills)”.

(Madison’s Notes (Max Farrand, 1911), Pages 309-310, Vol. 2)

[e673595] It was moved and seconded to strike the words “and emit bills” out of the 8. clause of the 1 section of the 7 article

which passed in the affirmative. [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

On the motion for striking out

N. H. ay- Mas. ay. Ct. ay. N-J. no. Pa. ay. Del. ay. Md. no. Va. ay.* N. C- ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

*This vote in the affirmative by Virga. was occasioned by the acquiescence of Mr. Madison who became satisfied that striking out the words would not disable the Govt from the use of public notes as far as they could be safe & proper; & would only cut off the pretext for a paper currency and particularly for making the bills a tender either for public or private debts.

(Madison’s Notes (Max Farrand, 1911), Page 310, Vol. 2)

Agreed to Article VII from Sec: 1. to the paragraph “borrow money and emit bills on the credit of the united States inclusive, with the addition of the words “and post roads” and the omission of “and emit bills”.

(McHenry’s Notes (Max Farrand, 1911), Page 311, Vol. 2)

[e673596] To adjourn

[Editors’ note: The Journal records a failed attempt to adjourn towards the end of the day. It is placed in the Detail of Ayes and Noes just after the agreement to Morris’s amendment. As there are no other indicators of its place in the timeline, the editors assume it was proposed between the agreement to the amendment and the final vote on Clause 8.]

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

[e673597] To adjourn Ayes — 4; noes — 7.

(Official Journal (Max Farrand, 1911), Page 303, Vol. 2)

[e673598] The clause for borrowing money, agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 310, Vol. 2)

separate questions being taken on the 1, 2, 3, 4, 5, 6, 7 and 8 clauses of the 1. sect. of the 7 article as amended

They passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

[e673599] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

Adjd

(Madison's Notes (Max Farrand, 1911), Page 310, Vol. 2)

[e673600] And then the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 304, Vol. 2)

Adjd

(Madison's Notes (Max Farrand, 1911), Page 310, Vol. 2)

1.72 Friday, 17 August 1787, at 11:00 (s6259)

[e673601] Art VII. sect. 1. resumed. On the clause "to appoint Treasurer by ballot".

(Madison's Notes (Max Farrand, 1911), Page 314, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673602] Mr Ghorum moved to insert "joint" before ballot, as more convenient as well as reasonable, than to require the separate concurrence of the Senate.

Mr. Pinkney 2ds. the motion.

(Madison's Notes (Max Farrand, 1911), Page 314, Vol. 2)

It was moved and seconded to insert the word "joint" before the word "ballot" in the 9 clause of the 1 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

[e673603] Mr Sherman opposed it as favoring the larger States.

(Madison's Notes (Max Farrand, 1911), Page 314, Vol. 2)

[e673604] Mr. Read moved to strike out the clause, leaving the appointment of the Treasurer as of other officers to the Executive. The Legislature was an improper body for appointments. Those of the State legislatures were a proof of it— The Executive being responsible would make a good choice.

Mr Mercer 2ds. the motion of Mr Read.

(Madison's Notes (Max Farrand, 1911), Pages 314-315, Vol. 2)

It was moved and seconded to strike out the 9 clause of the 1. sect. of the 7 article

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

[e673605] It was moved and seconded to insert the word "joint" before the word "ballot" in the 9 clause of the 1 sect. 7 article

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: Delaware was either absent or not quorate during this vote.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

On the motion for inserting the word "joint" before ballot

N. H- ay. Mas. ay. Ct. no. N. J. no. Pa. ay. Md. no. Va. ay- N- C. ay. S. C. ay. Geo- ay- [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 315, Vol. 2)

[e673606] Col. Mason in opposition to Mr. Reads motion desired it might be considered to whom the money would belong; if to the people, the legislature representing the people ought to appoint the keepers of it.

(Madison's Notes (Max Farrand, 1911), Page 315, Vol. 2)

[e673607] It was moved and seconded to strike out the 9 clause of the 1. sect. of the 7 article

which passed in the negative [Ayes — 4; noes — 6.]

[Editors' note: Delaware was now quorate, but New Jersey was not.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

On striking out the clause as amended by inserting "Joint"

N. H. no- Mas. no. Ct. no. Pa. ay- Del- ay. Md. ay. Va. no. N. C. no. S- C- ay. Geo. no- [Ayes — 4; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 315, Vol. 2)

[e673608] Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

They passed in the affirmative

[Editors' note: Madison records many of these votes as unanimous, though he does not report on a final vote for the ninth clause. Assuming the Journal is correct, and a vote was indeed held, it seems likely this vote was also unanimous.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

Agreed “to appoint a treasurer by joint Ballot;

(McHenry’s Notes (Max Farrand, 1911), Page 320, vol. 2)

[e673609] “To constitute inferior tribunals”

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673610] “To constitute inferior tribunals” agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

They passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

Agreed “to appoint a treasurer by joint Ballot; To constitute tribunals inferior to the supreme court;

(McHenry’s Notes (Max Farrand, 1911), Page 320, vol. 2)

[e673611] “To make rules as to captures on land & water”

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673612] “To make rules as to captures on land & water”- do do

[Editors’ note: Madison’s ‘ditto’ refers to ‘agreed to nem. con.’ above.]

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

They passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

Agreed “to appoint a treasurer by joint Ballot; To constitute tribunals inferior to the supreme court; To make rules concerning captures on land and water;

(McHenry’s Notes (Max Farrand, 1911), Page 320, Vol. 2)

[e673613] “To declare the law and punishment of piracies and felonies &c” &c considered.

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673614] Mr. Madison moved to strike out “and punishment” &c-

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

[e673615] Mr. Mason doubts the safety of it, considering the strict rule of construction in criminal cases. He doubted also the propriety of taking the power in all these cases wholly from the States.

Mr Governr Morris thought it would be necessary to extend the authority farther, so as to provide for the punishment of counterfeiting in general. Bills of exchange for example might be forged in one State and carried into another:

It was suggested by some other member that foreign paper might be counterfeited by Citizens; and that it might be politic to provide by national authority for the punishment of it.

Mr Randolph did not conceive that expunging “the punishment” would be a constructive exclusion of the power. He doubted only the efficacy of the word “declare”.

Mr Wilson was in favor of the motion- Strictness was not necessary in giving authority to enact penal laws; though necessary in enacting & expounding them.

(Madison’s Notes (Max Farrand, 1911), Page 315, Vol. 2)

[e673616] To strike out the words “and punishmt 11 clause 1 sect 7 art Ayes — 7; noes — 3.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

On motion for striking out “and punishment” as moved by Mr Madison
N. H. no. Mas. ay. Ct no. Pa ay. Del. ay- Md no. Va. ay. N- C- ay. S- C.
ay- Geo. ay. [Ayes — 7; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Pages 315-316, Vol. 2)

[e673617] It was moved and seconded to alter the first part of the 12th clause 1 sect. 7 article to read as follows

“To punish piracies and felonies committed on the high seas”

[Editors’ note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

Mr Govr Morris moved to strike out “declare the law” and insert “punish” before “piracies”.

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673618] It was moved and seconded to alter the first part of the 12th clause 1 sect. 7 article to read as follows

“To punish piracies and felonies committed on the high seas”
which passed in the affirmative [Ayes — 7; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

Mr Govr Morris moved to strike out “declare the law” and insert “punish” before “piracies”. and on the question

N- H- ay. Mas- ay. Ct. no. Pa. ay. Del. ay. Md ay. Va. no. N. C- no. S. C- ay. Geo- ay. [Ayes — 7; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673619] Mr. M adison, and Mr. Randolph moved to insert, “define &.” before “punish”.

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

It was moved and seconded to insert the words “define and” between the word “To” and the word “punish” in the 12 clause

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

[e673620] Mr. Wilson thought “felonies” sufficiently defined by Common law.

Mr. Dickenson concurred with Mr Wilson

Mr Mercer was in favor of the amendment.

Mr M adison. felony at common law is vague. It is also defective. One defect is supplied by Stat: of Anne as to running away with vessels which at common law was a breach of trust only. Besides no foreign law should be a standard farther than is expressly adopted — If the laws of the States were to prevail on this subject, the citizens of different States would be subject to different punishments for the same offence at sea — There would be neither uniformity nor stability in the law — The proper remedy for all these difficulties was to vest the power proposed by the term “define” in the Natl. legislature.

Mr Govr. Morris would prefer designate to define, the latter being as he conceived, limited to the preexisting meaning. — It was said by others to be applicable to the creating of offences also, and therefore suited the case both of felonies & of piracies.

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673621] It was moved and seconded to insert the words “define and” between the word “To” and the word “punish” in the 12 clause

which passed in the affirmative

[Editors’ note: It is likely that this motion was unanimously agreed.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

The motion of Mr. M. & Mr. R was agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673622] It was moved and seconded to amend the second part of the 12 clause as follows

“To punish the counterfeiting of the securities and current coin of the United States, and offences against the law of nations”

[Editors’ note: Madison records Ellsworth as the proposer.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

Mr. Ellsworth enlarged the motion so as to read “to define and punish piracies and felonies committed on the high seas, counterfeiting the securities and current coin of the U. States, and offences agst. the law of Nations”

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673623] It was moved and seconded to amend the second part of the 12 clause as follows

“To punish the counterfeiting of the securities and current coin of the United States, and offences against the law of nations”

which passed in the affirmative

[Editors’ note: Madison adds that the motion was agreed to unanimously.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

Mr. Ellsworth enlarged the motion so as to read “to define and punish piracies and felonies committed on the high seas, counterfeiting the securities and current coin of the U. States, and offences agst. the law of Nations” which was agreed to, nem con.

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673624] Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

They passed in the affirmative

[Editors’ note: Madison records many of these votes as unanimous, though he does not report a final vote on the Twelfth Clause. Assuming the Journal is correct, and a vote was indeed held, it seems likely this vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

expunged the next section and inserted

To define and punish piracies and felonies committed on the high seas;

To punish counterfeiting the securities and the current coin of the United States.

(McHenry’s Notes (Max Farrand, 1911), Page 320, Vol. 2)

[e673625] “To subdue a rebellion in any State, on the application of its legislature”

(Madison’s Notes (Max Farrand, 1911), Page 316, Vol. 2)

[e673626] Mr Pinkney moved to strike out “on the application of its legislature”
Mr Govr. Morris 2ds.

(Madison's Notes (Max Farrand, 1911), Pages 316-317, Vol. 2)

[e673627] Mr L- Martin opposed it as giving a dangerous & unnecessary power. The consent of the State ought to precede the introduction of any extraneous force whatever.

Mr. Mercer supported the opposition of Mr. Martin.

(Madison's Notes (Max Farrand, 1911), Page 317, Vol. 2)

[e673628] Mr Elseworth proposed to add after "legislature" "or Executive".

(Madison's Notes (Max Farrand, 1911), Page 317, Vol. 2)

[e673629] Mr Govr Morris. The Executive may possibly be at the head of the Rebellion. The Genl Govt. should enforce obedience in all cases where it may be necessary.

(Madison's Notes (Max Farrand, 1911), Page 317, Vol. 2)

[e673630] Mr. Ellsworth. In many cases The Genl. Govt. ought not to be able to interpose unless called upon. He was willing to vary his motion so as to read, "or without it when the legislature cannot meet."

[Editors' note: Originally, Madison writes '& of the Executive' in place of the text within the angle brackets. However, he later revised the motion from the Journal. This change involves a substantial difference in meaning, but later on, Madison uses the Journal version in his notes. Therefore, the editors assume that the Journal is correct and have used Jackson's text for the amendment.]

(Madison's Notes (Max Farrand, 1911), Page 317, Vol. 2)

[e673631] [Editors' note: Evidently, Ellsworth agreed to alter his original amendment.]

(2019 Editors)

[e673632] Mr. Gerry was agst. letting loose the myrmidons of the U. States on a State without its own consent. The States will be the best Judges in such cases. More blood would have been spilt in Massts in the late insurrection, if the Genl. authority had intermeddled.

Mr. Langdon was for striking out as moved by Mr. Pinkney. The apprehension of the national force, will have a salutary effect in preventing insurrections.

Mr Randolph- If the Natl. Legislature is to judge whether the State legislature can or cannot meet, that amendment would make the clause as objectionable as the motion of Mr Pinkney.

Mr. Govr. Morris. We are acting a very strange part. We first form a strong man to protect us, and at the same time wish to tie his hands behind him, The legislature may surely be trusted with such a power to preserve the public tranquillity.

(Madison's Notes (Max Farrand, 1911), Page 317, Vol. 2)

[e673633] "or without, when the Legislature cannot." Ayes — 5; noes — 3; divided — 2.

(Official Journal (Max Farrand, 1911), Page 312, Vol. 2)

On the motion to add “or without it (application) when the legislature cannot meet”

N. H. ay. Mas. no. Ct ay. Pa. divd. Del. no. Md. no. Va. ay. N- C. divd. S. C. ay. Geo. ay. [Ayes — 5; noes — 3; divided — 2.] so agreed to —

(Madison’s Notes (Max Farrand, 1911), Pages 317-318, Vol. 2)

[e673634] [Editors’ note: As the Convention had agreed to Ellsworth’s counterproposal, Pinckney’s amendment was likely dropped.]

(2019 Editors)

[e673635] Mr. Madison and Mr. Dickenson moved to insert as explanatory, after “State” — “against the Government thereof” There might be a rebellion agst the U- States.

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

[e673636] Mr. Madison and Mr. Dickenson moved to insert as explanatory, after “State” — “against the Government thereof” There might be a rebellion agst the U- States. — which was Agreed to nem- con.

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

[e673637] On the question to agree to the 13 clause of the 1st sect. 7 article amended as follows

“To subdue a rebellion in any State against the government thereof on the application of it’s Legislature, or without when the Legislature cannot meet”

it passed in the negative [Ayes — 4; noes — 5.]

[Editors’ note: The Pennsylvania delegation was either absent, or more likely, had dropped below quorum for this vote. Madison also records Massachusetts as absent, but this seems to be a mistake.]

(Official Journal (Max Farrand, 1911), Pages 312-313, Vol. 2)

On the clause as amended

N. H. ay. Mas-^{*} abst. Ct ay. Pen. abst. Del. no. Md. no. Va. ay. N- C. no. S. C. no- Georg. ay — so it was lost

[Ayes — 4; noes — 4; absent — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

Struck out the clause To subdue a rebellion etc.

(McHenry’s Notes (Max Farrand, 1911), Page 320, Vol. 2)

[e673638] [Editors’ note: After the vote on the thirteenth clause, the Journal records another vote on a motion ‘To subdue rebellion’. Madison writes, ‘Mr. Dickenson moved’ followed by large space, which he later crossed out.

With the thirteenth clause granting an important power to the Federal Government, it seems likely that Dickinson may have tried to resurrect the clause in a way that would pass. The exact wording is lost, so the short version from the Detail of Ayes and Noes has been used here.]

(2019 Editors)

[e673639] “To subdue rebellion” Ayes — 2; noes — 4; divided — 1.

[Editors’ note: Several members of the Convention appear to have left between this vote and the previous one. In addition to New Jersey and Pennsylvania, who had not been represented prior to this vote, Massachusetts and Delaware had lost quorum.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673640] “To make war”

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

Separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673641] Mr Pinkney opposed the vesting this power in the Legislature. Its proceedings were too slow. It wd. meet but once a year. The Hs. of Reps. would be too numerous for such deliberations. The Senate would be the best depository, being more acquainted with foreign affairs, and most capable of proper resolutions. If the States are equally represented in Senate, so as to give no advantage to large States, the power will notwithstanding be safe, as the small have their all at stake in such cases as well as the large States. It would be singular for one- authority to make war, and another peace.

Mr Butler. The Objections agst the Legislature lie in a great degree agst the Senate. He was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it.

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

[e673642] Mr. M adison and Mr Gerry moved to insert “declare,” striking out “make” war; leaving to the Executive the power to repel sudden attacks.

(Madison’s Notes (Max Farrand, 1911), Page 318, Vol. 2)

It was moved and seconded to strike out the word “make” and to insert the word “declare” in the 14th clause

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673643] Mr Sharman thought it stood very well. The Executive shd. be able to repel and not to commence war. “Make” better than “declare” the latter narrowing the power too much.

Mr Gerry never expected to hear in a republic a motion to empower the Executive alone to declare war.

Mr. Elseworth. there is a material difference between the cases of making war, and making peace. It shd. be more easy to get out of war, than into it. War also is a simple and overt declaration. peace attended with intricate & secret negociations.

Mr. Mason was agst giving the power of war to the Executive, because not safely to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace. He preferred “declare” to “make”.

(Madison's Notes (Max Farrand, 1911), Pages 318-319, Vol. 2)

Debated the difference between a power to declare war, and to make war

(McHenry's Notes (Max Farrand, 1911), Page 320, Vol. 2)

[e673644] It was moved and seconded to strike out the word "make" and to insert the word "declare" in the 14th clause

which passed in the negative [Ayes — 4; noes — 5.]

[Editors' note: The number of voting delegations returned to nine for this vote. Delaware and Pennsylvania had enough members in the chamber to be considered quorate again.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673645] It was moved and seconded to strike out the 14 clause

[Editors' note: Madison records Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673646] Mr. Pinkney's motion to strike out whole clause, disagd. to without call of States.

(Madison's Notes (Max Farrand, 1911), Page 319, Vol. 2)

It was moved and seconded to strike out the 14 clause
which passed in the negative.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673647] The question being again taken to strike out the word "make" and to insert the word "declare" in the 14. clause

it passed in the affirmative [Ayes — 8; noes — 1.]

[Editors' note: Madison adds the following:

'On the remark by Mr. King that "make" war might be understood to "conduct" it which was an Executive function, Mr. Elseworth gave up his objection and the vote of Cont was changed to — ay.' (Page 319, Vol. 2, Madison's Notes (Max Farrand, 1911)).

The exact stage at which this moment occurs in the process is uncertain. Madison's notes do not contain the details of the first vote on his motion, so it might have occurred during the second vote or in between.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

On the Motion to insert declare — in place of Make, it was agreed to.

N. H. no. Mas. abst. Cont. no.* Pa ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo- ay. [Ayes — 7; noes — 2; absent — 1.]

*On the remark by Mr. King that "make" war might be understood to "conduct" it which was an Executive function, Mr. Elseworth gave up his objection and the vote of Cont was changed to — ay.

(Madison's Notes (Max Farrand, 1911), Page 319, Vol. 2)

Debated the difference between a power to declare war, and to make war — amended by substituting declare

(McHenry's Notes (Max Farrand, 1911), Page 320, Vol. 2)

[e673648] Mr Butler moved to give the Legislature power of peace, as they were to have that of war.

Mr Gerry 2ds. him. 8 Senators may possibly exercise the power if vested in that body, and 14 if all should be present; and may consequently give up part of the U. States. The Senate are more liable to be corrupted by an Enemy than the whole Legislature.

(Madison's Notes (Max Farrand, 1911), Page 319, Vol. 2)

It was moved and seconded to add the words
“and to make peace” to the 14 clause

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673649] It was moved and seconded to add the words “and to make peace” to the 14 clause

which passed in the negative [Ayes — 0; noes — 10.]

[Editors' note: The Massachusetts delegation returned to quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

On the motion for adding “and peace” after “war”

N. H. no. Mas. no. Ct. no. Pa. no. Del. no. Md. no. Va. no. N. C. no 9
S. C no. Geo. no. [Ayes — 0; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 319, Vol. 2)

[e673650] separate questions having been taken on the 9, 10, 11, 12, and 14 clauses of the 1st section, 7 article as amended. They passed in the affirmative.

[Editors' note: McHenry contradicts the Journal, writing in his notes that the Convention 'debated the difference between a power to declare war, and to make war — amended by substituting declare — adjourned without a question on the clause' (Page 320, Vol. 2, McHenry's Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

[e673651] And the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 319, Vol. 2)

[e673652] And the House adjourned till to-morrow at 11 o'Clock A. M.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 320, vol. 2)

1.73 Saturday, 18 August 1787, at 11:00 (s6260)

[e673653] Mercer, John Francis, of Maryland. First attended August 6; last recorded attendance August 17. Opposed to the Constitution.

[Editors' note: During the session on 18 August 1787, the Maryland delegation registered a divided vote, suggesting that their attendance was now an even number where it had previously been five. This suggests that Mercer must have left after the previous session.]

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673654] The following additional powers proposed to be vested in the Legislature of the United States having been submitted to the consideration of the Convention

[Editors' note: Madison writes that he proposed these powers, to which other delegates in the Convention proposed additions. The Journal simply records the final agreed list.]

(Official Journal (Max Farrand, 1911), Page 321, Vol. 2)

Mr- Madison submitted in order to be referred to the Committee of detail the following powers as proper to be added to those of the General Legislature

“To dispose of the unappropriated lands of the U. States”

“To institute temporary Governments for New States arising therein”

“To regulate affairs with the Indians as well within as without the limits of the U. States

“To exercise exclusively Legislative authority at the seat of the General Government, and over a district around the same not, exceeding square miles; the Consent of the Legislature of the State or States comprising the same, being first obtained”

“To grant charters of incorporation in cases where the Public good may require them, and the authority of a single State may be incompetent”

“To secure to literary authors their copyrights for a limited time”

“To establish an University”

“To encourage by premiums & provisions, the advancement of useful knowledge and discoveries”

“To authorize the Executive to procure and hold for the use of the U — S. landed property for the erection of Forts, Magazines, and other necessary buildings”

(Madison's Notes (Max Farrand, 1911), Pages 324-325, Vol. 2)

[e673655] Mr. Pinkney proposed for consideration several additional powers which had occurred to him.

[Editors' note: Madison then records the rest of the proposed powers; however, from his subsequent records it seems certain that the last five were proposed by other delegates. This event shows those powers which can safely be said to have been proposed by C Pinckney. It also seems likely that in response to Pinckney's proposal on patents, Madison's own version was dropped.]

(Madison's Notes (Max Farrand, 1911), Page 324, Vol. 2)

[e673656] [Editors' note: Madison suggests that these proposals were agreed unanimously.]

(2019 Editors)

[e673657] The following additional powers proposed to be vested in the Legislature of the United States having been submitted to the consideration of the Convention — It was moved and seconded to refer them to the Committee to whom the proceedings of the Convention were referred

(Official Journal (Max Farrand, 1911), Page 321, Vol. 2)

Mr- Madison submitted in order to be referred to the Committee of detail the following powers as proper to be added to those of the General Legislature [...]

These propositions were referred to the Committee of detail which had prepared the Report and at the same time the following which were moved by Mr. Pinkney

(Madison's Notes (Max Farrand, 1911), Pages 324-325, Vol. 2)

[e673658] These propositions were referred to the Committee of detail which had prepared the Report and at the same time the following which were moved by Mr. Pinkney: — in both cases unanimously.

(Madison's Notes (Max Farrand, 1911), Page 325, Vol. 2)

The following additional powers proposed to be vested in the Legislature of the United States having been submitted to the consideration of the Convention — It was moved and seconded to refer them to the Committee to whom the proceedings of the Convention were referred

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 321, Vol. 2)

[e673659] Mr Mason introduced the subject of regulating the militia. He thought such a power necessary to be given to the Genl. Government. He hoped there would be no standing army in time of peace, unless it might be for a few garrisons. The Militia ought therefore to be the more effectually prepared for the public defence. Thirteen States will never concur in any one system, if the disciplining of the Militia be left in their hands. If they will not give up the power over the whole, they probably will over a part as a select militia. He moved as an addition to the propositions just referred to the Committee of detail, & to be referred in like manner, "a power to regulate the militia".

(Madison's Notes (Max Farrand, 1911), Page 326, Vol. 2)

[e673660] [Editors' note: This amendment appears to have been dropped for lack of a second.]

(2019 Editors)

[e673661] Mr. Gerry remarked that some provision ought to be made in favor of public Securities, and something inserted concerning letters of marque, which he thought not included in the power of war. He proposed that these subjects should also go to a Committee.

[Editors' note: Madison later indicates that Gerry also proposed the clause on regulation of post roads, so this proposal has been included here. There is no record of who introduced the clause relating to payment of the public debt, though as it appears to be linked to Gerry's creditors clause, it too has been included here. The text of these proposals comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 326, Vol. 2)

[e673662] Mr. Rutledge moved to refer a clause "that funds appropriated to public creditors should not be diverted to other purposes."

(Madison's Notes (Max Farrand, 1911), Page 326, Vol. 2)

[e673663] Mr. Mason was much attached to the principle, but was afraid such a fetter might be dangerous in time of war. He suggested the necessity of preventing the danger of perpetual revenue which must of necessity subvert the liberty of any Country. If it be objected to on the principal of Mr. Rutledge's motion that Public Credit may require perpetual provisions, that case might be excepted; it being declared that in other cases, no taxes should be laid for a longer term than years. He considered the caution observed in Great Britain on this point as the paladium of the public liberty.

(Madison's Notes (Max Farrand, 1911), Pages 326-327, Vol. 2)

[e673664] Mr. Rutledge's motion was referred

[Editors' note: The amendment is shown here as it appears in the referred document. The editors assume the vote was unanimous.]

(Madison's Notes (Max Farrand, 1911), Page 327, Vol. 2)

[e673665] [Rutledge] then moved that a Grand Committee be appointed to consider the necessity and expediency of the U- States assuming all the State debts — A regular settlement between the Union & the several States would never take place. The assumption would be just as the State debts were contracted in the common defence. It was necessary, as the taxes on imports the only sure source of revenue were to be given up to the Union. It was politic, as by disburdening the people of the State debts it would conciliate them to the plan.

Mr. King and Mr Pinkney seconded the motion

(Madison's Notes (Max Farrand, 1911), Page 327, Vol. 2)

It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

[e673666] Col. Mason interposed a motion that the Committee prepare a clause for restraining perpetual revenue

(Madison's Notes (Max Farrand, 1911), Page 327, Vol. 2)

[e673667] Col. Mason interposed a motion that the Committee prepare a clause for restraining perpetual revenue, which was agreed to nem- con.

(Madison's Notes (Max Farrand, 1911), Page 327, Vol. 2)

[e673668] Mr. Sherman thought it would be better to authorize the Legislature to assume the State debts, than to say positively it should be done. He considered the measure as just and that it would have a good effect to say something about the Matter.

Mr. Elsworth differed from Mr. Sherman — As far as the State debts ought in equity to be assumed, he conceived that they might and would be so.

Mr. Pinkney observed that a great part of the State debts were of such a nature that although in point of policy and true equity they ought, yet would they not be viewed in the light of foederal expenditures.

Mr. King thought the matter of more consequence than Mr Elsworth seemed to do; and that it was well worthy of commitment. Besides the considerations of justice and policy which had been mentioned. it might be remarked that the State Creditors an active and formidable party would otherwise be opposed to a plan which transferred to the Union the best resources of the States without transferring the State debts at the same time. The State Creditors had generally been the strongest foes to the impost-plan. The State debts probably were of greater amount than the foederal. He would not say that it was practicable to consolidate the debts, but he thought it would be prudent to have the subject considered by a Committee.

(Madison's Notes (Max Farrand, 1911), Pages 327-328, Vol. 2)

[e673669] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States

which passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

On Mr. Rutledge's motion, that Come be appointed to consider of the assumption &c

N. H. no. Mas. ay- Ct ay. N- J. no. Pa divd. Del. no. Md no. Va. ay. N. C. ay. S. C ay. Geo- ay. [Ayes — 6; noes — 4; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673670] [Editors' note: Likely, a report containing Rutledge's proposal was sent to the Committee. The contents of this report are editorial, as no record survives.]

(2019 Editors)

[e673671] [Editors' note: Likely, a report containing Rutledge's proposal was sent to the Committee. The contents of this report are editorial, as no record survives.]

(2019 Editors)

[e673672] Mr. Gerry's motion to provide for public securities for stages on post-roads, and for letters of marque and reprisal, were committed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673673] Mr. King suggested that all unlocated lands of particular States ought to be given up if State debts were to be assumed. — Mr Williamson concurred in the idea.

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673674] The following additional powers proposed to be vested in the Legislature of the United States having been submitted to the consideration of the Convention — It was moved and seconded to refer them to the Committee to whom the proceedings of the Convention were referred
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 321, Vol. 2)

Mr- Madison submitted in order to be referred to the Committee of detail the following powers as proper to be added to those of the General Legislature [...]

These propositions were referred to the Committee of detail which had prepared the Report and at the same time the following which were moved by Mr. Pinkney:— in both cases unanimously.

(Madison's Notes (Max Farrand, 1911), Pages 324-325, Vol. 2)

[e673675] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673676] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673677] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673678] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673679] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673680] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673681] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673682] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673683] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673684] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673685] It was moved and seconded to agree to the following resolution, namely

Resolved That this Convention will meet punctually at 10 o'clock every morning (Sundays excepted) and sit till four o'clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.

[Editors' note: Passing this resolution would alter the standing orders of the Convention, for which reason the resolution has been shown here as amending the Rules and Standing Orders. There is no record that the Rules document was amended, as it does not survive, but the delegates likely saw Rutledge's resolution as functioning in this way.]

(Official Journal (Max Farrand, 1911), Pages 322-323, Vol. 2)

Mr. Rutlidge remarked on the length of the Session, the probable impatience of the public and the extreme anxiety of many members of the Convention to bring the business to an end; concluding with a motion that the Convention meet henceforward, precisely at 10 oC. A. M. and that precisely at 4 oC. P. M., the President adjourn the House without motion for the purpose. and that no motion to adjourn sooner be allowed

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673686] It was moved and seconded to agree to the following resolution, namely

Resolved That this Convention will meet punctually at 10 o'clock every morning (Sundays excepted) and sit till four o'clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 322-323, Vol. 2)

Mr. Rutledge remarked on the length of the Session, the probable impatience of the public and the extreme anxiety of many members of the Convention to bring the business to an end; concluding with a motion that the Convention meet henceforward, precisely at 10 oC. A. M. and that precisely at 4 oC. P. M., the President adjourn the House without motion for the purpose. and that no motion to adjourn sooner be allowed

On this question

N- H. ay. Mas- ay. Ct ay. N. J- ay. Pa. no- Del. ay. Md no. Va. ay. N- C- ay. S. C. ay- Geo. ay.

[Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2)

[e673687] Mr. Elseworth observed that a Council had not yet been provided for the President. He conceived there ought to be one. His proposition was that it should be composed of the President of the Senate- the Chief-Justice, and the Ministers as they might be estabd. for the departments of foreign & domestic affairs, war finance, and marine, who should advise but not conclude the President.

Mr Pinkney wished the proposition to lie over, as notice had been given for a like purpose by Mr. Govr. Morris who was not then on the floor. His own idea was that the President shd. be authorized to call for advice or not as he might chuse. Give him an able Council and it will thwart him; a weak one and he will shelter himself under their sanction.

Mr Gerry was agst. letting the heads of the departments, particularly of finance have any thing to do in business connected with legislation. He mentioned the Chief Justice also as particularly exceptionable. These men will also be so taken up with other matters as to neglect their own proper duties.

Mr. Dickenson urged that the great appointments should be made by the Legislature, in which case they might properly be consulted by the Executive — but not if made by the Executive himself — This subject by general Consent lay over; & the House proceeded to the clause "To raise armies".

(Madison's Notes (Max Farrand, 1911), Pages 328-329, Vol. 2)

[e673688] the House proceeded to the clause "To raise armies".

(Madison's Notes (Max Farrand, 1911), Page 329, Vol. 2)

[e673689] Mr. Ghorum moved to add "and support" after "raise".

(Madison's Notes (Max Farrand, 1911), Page 329, Vol. 2)

It was moved and seconded to insert the words "and support" between the word "raise" and the word "armies" in the 14. clause, 1 sect, 7 article

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

To make war, to raise armies "to build and equip fleets amended to "declare war, to raise and support armies, to provide and maintain fleets"

(McHenry's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673690] It was moved and seconded to insert the words "and support" between the word "raise" and the word "armies" in the 14. clause, 1 sect, 7 article which passed in the affirmative

[Editors' note: Madison says the motion passed unanimously.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

Mr. Ghorum moved to add "and support" after "raise". Agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 329, Vol. 2)

To make war, to raise armies "to build and equip fleets amended to "declare war, to raise and support armies, to provide and maintain fleets"

(McHenry's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673691] and then the clause agreed to nem- con- as amended

(Madison's Notes (Max Farrand, 1911), Page 329, Vol. 2)

[e673692] Mr Gerry took notice that there was no check here agst. standing armies in time of peace. The existing Congs. is so constructed that it cannot of itself maintain an army. This wd. not be the case under the new system. The people were jealous on this head, and great opposition to the plan would spring from such an omission. He suspected that preparations of force were now making agst. it. (he seemed to allude to the activity of the Govr. of N. York at this crisis in disciplining the militia of that State.) He thought an army dangerous in time of peace & could never consent to a power to keep up an indefinite number. He proposed that there shall not be kept up in time of peace more than thousand troops. His idea was that the blank should be filled with two or three thousand.

(Madison's Notes (Max Farrand, 1911), Page 329, Vol. 2)

[e673693] [Editors' note: The Convention considered the sixteenth clause.]

(2019 Editors)

[e673694] It was moved and seconded to strike out the words "build and equip" and to insert the words "provide and maintain" in the 15 clause, 1 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

Instead of “to build and equip fleets” — “to provide & maintain a navy” agreed to nem. con as a more convenient definition of the power.

(Madison’s Notes (Max Farrand, 1911), Pages 329-330, Vol. 2)

To make war, to raise armies “to build and equip fleets amended to “declare war, to raise and support armies, to provide and maintain fleets”

(McHenry’s Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673695] It was moved and seconded to strike out the words “build and equip” and to insert the words “provide and maintain” in the 15 clause, 1 sect. 7 article which passed in the affirmative

[Editors’ note: Madison says this vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

Instead of “to build and equip fleets” — “to provide & maintain a navy” agreed to nem. con as a more convenient definition of the power.

(Madison’s Notes (Max Farrand, 1911), Pages 329-330, Vol. 2)

To make war, to raise armies “to build and equip fleets amended to “declare war, to raise and support armies, to provide and maintain fleets”

(McHenry’s Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673696] [Editors’ note: The editors assume that the amended clause was now adopted, though there is no record of a final vote.]

(2019 Editors)

[e673697] It was moved and seconded to insert the following as a 16th clause, in the 1 sect. of the 7. article

“To make rules for the government and regulation of the land and naval forces”.

[Editors’ note: Madison notes that this wording was ‘added from the existing Articles of Confederation’ (Page 330, Vol. 2, Madison’s Notes (Max Farrand, 1911)). The numbering of the clauses in the Journal reflects the rejection of Clause 13. In order to retain continuity with the original report, this numbering has not been reflected here.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

“To make rules for the Government and regulation of the land & naval forces,” — added from the existing Articles of Confederation.

(Madison’s Notes (Max Farrand, 1911), Page 330, Vol. 2)

To make war, to raise armies “to build and equip fleets amended to “declare war, to raise and support armies, to provide and maintain fleets” to which was added “to make rules for the government and regulation of the land and naval forces.

(McHenry's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673698] It was moved and seconded to insert the following as a 16th clause, in the 1 sect. of the 7. article

“To make rules for the government and regulation of the land and naval forces”

which passed in the affirmative

[Editors' note: Since the beginning of August at the latest, Jackson seems to have recorded only the votes that were not unanimous. Those votes which passed with minimal discussion and without dissenting votes are not recorded in the Detail of Ayes and Noes. The editors assume that this is one of those votes.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

“To make rules for the Government and regulation of the land & naval forces,” — added from the existing Articles of Confederation.

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

To make war, to raise armies “to build and equip fleets amended to “declare war, to raise and support armies, to provide and maintain fleets” to which was added “to make rules for the government and regulation of the land and naval forces.

(McHenry's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673699] It was moved and seconded to annex the following proviso to the last clause

“provided that in time of peace the army shall not consist of more than _____ thousand men”

[Editors' note: Madison records that Luther Martin and Gerry moved this amendment.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

Mr. L. Martin and Mr. Gerry now regularly moved “provided that in time of peace the army shall not consist of more than thousand men.”

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

[e673700] Genl. Pinkney asked whether no troops were ever to be raised untill an attack should be made on us?

Mr. Gerry. if there be no restriction, a few States may establish a military Govt.

Mr. Williamson, reminded him of Mr. Mason's motion for limiting the appropriation of revenue as the best guard in this case.

Mr. Langdon saw no room for Mr. Gerry's distrust of the Representatives of the people.

Mr. Dayton. preparations for war are generally made in peace; and a standing force of some sort may, for ought we know, become unavoidable. He should object to no restrictions consistent with these ideas.

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

[e673701] The motion of Mr. Martin & Mr. Gerry was disagreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

It was moved and seconded to annex the following proviso to the last clause
 "provided that in time of peace the army shall not consist of more than
 thousand men"

which passed in the negative.

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

[e673702] It was moved and seconded to insert the following as a clause in the
 1 sect. of the 7 article

"to make laws for regulating and disciplining the militia of the several States,
 reserving to the several States the appointment of their militia Officers"

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

Mr. Mason moved as an additional power "to make laws for the regulation
 and discipline of the Militia of the several States reserving to the States the
 appointment of the Officers". He considered uniformity as necessary in the
 regulation of the Militia throughout the Union.

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

[e673703] Genl Pinkney mentioned a case during the war in which a dissimi-
 larity in the militia of different States had produced the most serious mischiefs.
 Uniformity was essential. The States would never keep up a proper discipline
 of their militia.

(Madison's Notes (Max Farrand, 1911), Page 330, Vol. 2)

[e673704] Mr. Elseworth was for going as far in submitting the militia to the
 Genl Government as might be necessary, but thought the motion of Mr. Mason
 went too far. He moved that the militia should have the same arms & exercise
 and be under rules established by the Genl Govt. when in actual service of the
 U. States and when States neglect to provide regulations for militia, it shd. be
 regulated & established by the Legislature of U. S. The whole authority over the
 Militia ought by no means to be taken away from the States whose consequence
 would pine away to nothing after such a sacrifice of power. He thought the Genl
 Authority could not sufficiently pervade the Union for such a purpose, nor could
 it accommodate itself to the local genius of the people. It must be vain to ask
 the States to give the Militia out of their hands.

Mr Sherman 2ds. the motion.

[Editors' note: Madison copies the wording of the motion from the Journal,
 so the original language has been used for the text of the motion.]

(Madison's Notes (Max Farrand, 1911), Pages 330-331, Vol. 2)

It was moved and seconded to postpone the last clause in order to take up the following

“To establish an uniformity of exercise and arms for the militia — and rules for their government when called into service under the authority of the United States: and to establish and regulate a militia in any State where it’s Legislature shall neglect to do it”

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

[e673705] Mr Dickenson. We are come now to a most important matter, that of the sword. His opinion was that the States never would nor ought to give up all authority over the Militia. He proposed to restrain the general power to one fourth part at a time, which by rotation would discipline the whole Militia.

Mr. Butler urged the necessity of submitting the whole Militia to the general Authority, which had the care of the general defence.

(Madison’s Notes (Max Farrand, 1911), Page 330, Vol. 2)

[e673706] Mr. Mason- had suggested the idea of a select militia. He was led to think that would be in fact as much as the Genl. Govt could advantageously be charged with. He was afraid of creating insuperable objections to the plan. He withdrew his original motion, and moved a power “to make laws for regulating and disciplining the militia, not exceeding one tenth part in any one year, and reserving the appointment of officers to the States.”

(Madison’s Notes (Max Farrand, 1911), Page 331, Vol. 2)

[e673707] Mr. Mason [...] moved a power “to make laws for regulating and disciplining the militia, not exceeding one tenth part in any one year, and reserving the appointment of officers to the States.”

(Madison’s Notes (Max Farrand, 1911), Page 331, Vol. 2)

[e673708] Genl Pinkney, renewed Mr. Mason’s original motion. For a part to be under the genl. and a part under the State Govts. wd be an incurable evil. he saw no room for such distrust of the Genl Govt.

Mr. Langdon 2ds. Genl. Pinkney’s renewal. He saw no more reason to be afraid of the Genl. Govt than of the State Govts. He was more apprehensive of the confusion of the different authorities on this subject, than of either.

(Madison’s Notes (Max Farrand, 1911), Page 331, Vol. 2)

[e673709] Mr Madison thought the regulation of the Militia naturally appertaining to the authority charged with the public defence. It did not seem in its nature to be divisible between two distinct authorities. If the States would trust the Genl. Govt. with a power over the public treasure, they would from the same consideration of necessity grant it the direction of the public force. Those who had a full view of the public situation wd. from a sense of the danger, guard agst. it: the States would not be separately impressed with the general situation, nor have the due confidence in the concurrent exertions of each other.

Mr. Elseworth- considered the idea of a select militia as impracticable; & if it were not it would be followed by a ruinous declension of the great body of the

Militia. The States will never submit to the same militia laws. Three or four shilling's as a penalty will enforce obedience better in New England, than forty lashes in some other places.

Mr. Pinkney thought the power such an one as could not be abused, and that the States would see the necessity of surrendering it. He had however but a scanty faith in Militia. There must be also a real military force — This alone can effectually answer the purpose. The United States had been making an experiment without it, and we see the consequence in their rapid approaches toward anarchy. This had reference to the disorders particularly which had occurred in Massachts. which had called for the interposition of the federal troops.

Mr Sherman, took notice that the States might want their Militia for defence agst invasions and insurrections, and for enforcing obedience to their laws. They will not give up this point- In giving up that of taxation, they retain a concurrent power of raising money for their own use.

Mr. Gerry thought this the last point remaining to be surrendered. If it be agreed to by the Convention, the plan will have as black a mark as was set on Cain. He had no such confidence in the Genl. Govt. as some Gentlemen possessed, and believed it would be found that the States have not.

(Madison's Notes (Max Farrand, 1911), Pages 331-332, Vol. 2)

[e673710] Col. Mason. thought there was great weight in the remarks of Mr. Sherman- and moved an exception to his motion "of such part of the Militia as might be required by the States for their own use."

(Madison's Notes (Max Farrand, 1911), Pages 332-333, Vol. 2)

[e673711] Mr. Read doubted the propriety of leaving the appointment of the Militia officers in the States. In some States they are elected by the legislatures; in others by the people themselves. He thought at least an appointment by the State Executives ought to be insisted on.

(Madison's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673712] [Editors' note: The editors assume that Mason's revision to his own motion was within order and therefore accepted.]

(2019 Editors)

[e673713] It was moved and seconded to refer the last two motions to a Committee

[Editors' note: Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' (Page 333, Vol. 2, Madison's Notes (Max Farrand)) which were to be referred.]

(Official Journal (Max Farrand, 1911), Page 323, Vol. 2)

On committing to the grand Committee last appointed, the latter motion of Col. Mason, & the original one revived by Gel Pinkney

(Madison's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673714] It was moved and seconded to refer the last two motions to a Committee

which passed in the affirmative

and they were referred to the Committee of eleven. [Ayes — 8; noes — 2; divided — 1.]

(Official Journal (Max Farrand, 1911), Pages 323-324, Vol. 2)

On committing to the grand Committee last appointed, the latter motion of Col. Mason, & the original one revived by Gel Pinkney

N. H- ay. Mas. ay. Ct no. N- J. no. Pa ay. Del. ay. Md. divd. Va ay. N. C. ay- S. C. ay. Geo. ay. [Ayes — 8; noes — 2; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 333, Vol. 2)

The next clause postponed.

[Editors' note: This remark from McHenry comes immediately after he records the adoption of the clause: 'To make rules for the government and regulation of the land and naval forces'. Madison and Jackson do not record a clause being explicitly postponed after this amendment is adopted. As a result, the editors have assumed that this remark pertains to the decision to refer Mason and Pinckney's motions to a Committee.]

(McHenry's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673715] [Editors' note: The editors assume that, because Mason's and CC Pinckney's amendments were referred to a committee, Ellsworth's proposal was tacitly rejected by the Convention and therefore dropped from consideration.]

(2019 Editors)

[e673716] And then the House adjourned till monday next at 10 o'clock A. M.

[Editors' note: As a result of adopting Rutledge's change of rules regarding sessions of the Convention, only the President could call for an adjournment. The decision to adjourn, which had to take place at 4pm, had to be the president's alone. This motion is therefore represented as a procedure decided on by the Chair.]

(Official Journal (Max Farrand, 1911), Page 324, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 333, Vol. 2)

[e673717] And then the House adjourned till monday next at 10 o'clock A. M.

[Editors' note: As a result of adopting Rutledge's change of rules regarding sessions of the Convention, only the President could call for an adjournment. The decision to adjourn, which had to take place at 4pm, had to be the president's alone. This motion is therefore represented as a procedure decided on by the Chair.]

(Official Journal (Max Farrand, 1911), Page 324, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 333, Vol. 2)

1.74 Monday, 20 August 1787, at 10:00 (s6261)

[e673718] It was moved and seconded to refer the following propositions to the Committee of five.

[Editors' note: Madison records that Pinckney proposed these motions.]

(Official Journal (Max Farrand, 1911), Page 334, Vol. 2)

Mr. Pinkney submitted to the House, in order to be referred to the Committee of detail, the following propositions — “Each House shall be the Judge of its own privileges, and shall have authority to punish by imprisonment every person violating the same; or who, in the place where the Legislature may be sitting and during the time of its Session, shall threaten any of its members for any thing said or done in the House, or who shall assault any of them therefor — or who shall assault or arrest any witness or other person ordered to attend either of the Houses in his way going or returning; or who shall rescue any person arrested by their order.”

“Each branch of the Legislature, as well as the Supreme Executive shall have authority to require the opinions of the supreme Judicial Court upon important questions of law, and upon solemn occasions”

“The privileges and benefit of the Writ of Habeas corpus shall be enjoyed in this Government in the most expeditious and ample manner; and shall not be suspended by the Legislature except upon the most urgent and pressing occasions, and for a limited time not exceeding months.”

“The liberty of the Press shall be inviolably preserved”

“No troops shall be kept up in time of peace, but by consent of the Legislature”

“The military shall always be subordinate to the Civil power, and no grants of money shall be made by the Legislature for supporting military Land forces, for more than one year at a time”

“No soldier shall be quartered in any House in time of peace without consent of the owner.”

“No person holding the office of President of the U. S., a Judge of their Supreme Court, Secretary for the department of Foreign Affairs, of Finance, of Marine, of War, or of , shall be capable of holding at the same time any other office of Trust or Emolument under the U. S. or an individual State”

“No religious test or qualification shall ever be annexed to any oath of office under the authority of the U. S.”

“The U. S. shall be for ever considered as one Body corporate and politic in law, and entitled to all the rights privileges, and immunities, which to Bodies corporate do or ought to appertain”

“The Legislature of the U. S. shall have the power of making the great Seal which shall be kept by the President of the U. S. or in his absence by the President of the Senate, to be used by them as the occasion may require. — It shall be called the great Seal of the U. S. and shall be affixed to all laws.”

“All Commissions and writs shall run in the name of the U. S.”

“The Jurisdiction of the supreme Court shall be extended to all controversies between the U. S. and an individual State, or the U. S. and the Citizens of an individual State”

(Madison's Notes (Max Farrand, 1911), Pages 340-342, Vol. 1)

[e740280] It was moved and seconded to refer the following propositions to the Committee of five.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 2)

[e673719] Mr. Govr. Morris 2ded. by Mr. Pinkney submitted the following propositions which were in like manner referred to the Committee of Detail.

“To assist the President in conducting the Public affairs there shall be a Council of State composed of the following officers — 1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U. S. as may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union: He shall be President of the Council in the absence of the President

2. The Secretary of Domestic Affairs who shall be appointed by the President and hold his office during pleasure. It shall be his duty to attend to matters of general police, the State of Agriculture and manufactures, the opening of roads and navigations, and the facilitating communications thro’ the U. States; and he shall from time to time recommend such measures and establishments as may tend to promote those objects.

3. The Secretary of Commerce and Finance who shall also be appointed by the President during pleasure. It shall be his duty to superintend all matters relating to the public finances, to prepare & report plans of revenue and for the regulation of expenditures, and also to recommend such things as may in his Judgment promote the commercial interests of the U. S.

4. The Secretary of foreign affairs who shall also be appointed by the President during pleasure. It shall be his duty to correspond with all foreign Ministers, prepare plans of Treaties, & consider such as may be transmitted from abroad; and generally to attend to the interests of the U- S- in their connections with foreign powers.

5. The Secretary of War who shall also be appointed by the President during pleasure. It shall be his duty to superintend every thing relating to the war-Department, such as the raising and equipping of troops, the care of military Stores — public fortifications, arsenals & the like — also in time of war to prepare & recommend plans of offence and Defence.

6. The Secretary of the Marine who shall also be appointed during pleasure — It shall be his duty to superintend every thing relating to the Marine-Department, the public Ships, Dock-Yards, Naval-Stores & arsenals — also in the time of war to prepare and recommend plans of offence and defence.

The President shall also appoint a Secretary of State to hold his office during pleasure; who shall be Secretary to the Council of State, and also public Secretary to the President. It shall be his duty to prepare all public despatches from the President which he shall countersign

The President may from time to time submit any matter to the discussion of the Council of State, and he may require the written opinions of any one or more of the members: But he shall in all cases exercise his own judgment, and either Conform to such opinions or not as he may think proper; and every officer abovementioned shall be responsible for his opinion on the affairs relating to his particular Department.

Each of the officers abovementioned shall be liable to impeachment & removal from office for neglect of duty malversation, or corruption”

[Editors' note: The text of the proposals is taken from the Journal; however, Jackson does not record these proposals as coming from a different source than the first set.]

(Madison's Notes (Max Farrand, 1911), Pages 342-344, Vol. 2)

[e673720] Mr. Govr. Morris 2ded. by Mr. Pinkney submitted the following propositions which were in like manner referred to the Committee of Detail.

(Madison's Notes (Max Farrand, 1911), Page 342, Vol. 2)

[e673721] Mr Gerry moved "that the Committee be instructed to report proper qualifications for the President, and a mode of trying the Supreme Judges in cases of impeachment.

[Editors' note: The text of the proposal is taken from the Journal; however, Jackson does not record these proposals as coming from a different source than the first set.]

(Madison's Notes (Max Farrand, 1911), Page 344, Vol. 2)

[e673722] [Editors' note: The Journal notes that the Convention agreed to refer the motion.]

(2019 Editors)

[e740281] It was moved and seconded to refer the following propositions to the Committee of five.

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 334, Vol. 2)

These propositions were referred to the Committee of detail without debate or consideration of them, by the House.

(Madison's Notes (Max Farrand, 1911), Page 342, Vol. 2)

[e673724] [Editors' note: The Convention then went on to consider the 17th Clause of Article VII: Section 1.]

(2019 Editors)

[e734579] It was moved and seconded to postpone the consideration of the 17 clause, 1 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

The clause "to call forth the aid of the Militia &c- was postponed till report should be made as to the power over the Militia referred yesterday to the Grand Committee of eleven .

(Madison's Notes (Max Farrand, 1911), Page 344, Vol. 2)

[e734580] It was moved and seconded to postpone the consideration of the 17 clause, 1 sect. 7 article

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

The clause “to call forth the aid of the Militia &c- was postponed till report should be made as to the power over the Militia referred yesterday to the Grand Committee of eleven .

(Madison’s Notes (Max Farrand, 1911), Page 344, Vol. 2)

[e673726] Mr. Mason moved to enable Congress “to enact sumptuary laws.” No Government can be maintained unless the manners be made consonant to it. Such a discretionary power may do good and can do no harm. A proper regulation of excises & of trade may do a great deal but it is best to have an express provision. It was objected to sumptuary laws that they were contrary to nature. This was a vulgar error. The love of distinction it is true is natural; but the object of sumptuary laws is not to extinguish this principle but to give it a proper direction.

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 344, Vol. 2)

It was moved and seconded to insert the following clause in the 1. sect. 7 article

“To make sumptuary laws”

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

Mr. Mason moved to add to the 1 sect of the VII article.

To make sumptuary laws.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673727] Mr. Elsworth, The best remedy is to enforce taxes & debts. As far as the regulation of eating & drinking can be reasonable, it is provided for in the power of taxation.

Mr Govr. Morris argued that sumptuary laws tended to create a landed Nobility, by fixing in the great-landholders and their posterity their present possessions.

Mr Gerry. the law of necessity is the best sumptuary law.

(Madison’s Notes (Max Farrand, 1911), Pages 344, Vol. 2)

Gouverneur Morris. sump. laws were calculated to continue great landed estates for ever in the same families — If men had no temptation to dispose of their money they would not sell their estates.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673728] It was moved and seconded to insert the following clause in the 1. sect. 7 article

“To make sumptuary laws”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

On Motion of Mr. Mason “as to sumptuary laws”

N. H. no. Mas- no. Ct no. N. J. no. Pa. no. Del. ay. Md. ay. Va. no. N-
C. no- S. C. no. Geo. ay. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 344, Vol. 2)

Negatived.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673729] “And to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested, by this Constitution, in the Government of the U. S. or any department or officer thereof.”

(Madison’s Notes (Max Farrand, 1911), Pages 344-345, Vol. 2)

[e673730] Mr. M adison and Mr. Pinkney moved to insert between “laws” and “necessary” “and establish all offices”. it appearing to them liable to cavil that the latter was not included in the former.

(Madison’s Notes (Max Farrand, 1911), Page 345, Vol. 2)

It was moved and seconded to insert the following clause in the 1st sect. of the 7 article

“To establish all offices”

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

[e673731] Mr. Govr. Morris. Mr. Wilson, Mr Rutlidge and Mr. Elseworth urged that the amendment could not be necessary.

(Madison’s Notes (Max Farrand, 1911), Page 345, Vol. 2)

[e673732] It was moved and seconded to insert the following clause in the 1st sect. of the 7 article

“To establish all offices”

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

On the motion for inserting “and establish all offices”

N. H. no. Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N-
C- no. S. C. no. Geo. no. [Ayes — 2; noes — 9.]

(Madison’s Notes (Max Farrand, 1911), Page 345, Vol. 2)

[e673733] On the question to agree to the last clause of the 1st sect. 7 article, as reported,

it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

The clause as reported was then agreed to nem con.

(Madison's Notes (Max Farrand, 1911), Page 345, Vol. 2)

[e673734] Art: VII sect. 2. concerning Treason

(Madison's Notes (Max Farrand, 1911), Page 345, Vol. 2)

[e673735] Mr. M adison, thought the definition too narrow. It did not appear to go as far as the Stat. of Edwd. III. He did not see why more latitude might not be left to the Legislature. It wd. be as safe as in the hands of State legislatures; and it was inconvenient to bar a discretion which experience might enlighten, and which might be applied to good purposes as well as be abused.

Mr Mason was for pursuing the Stat: of Edwd. III.

Mr. Govr Morris was for giving to the Union an exclusive right to declare what shd. be treason. In case of a contest between the U- S- and a particular State, the people of the latter must, under the disjunctive terms of the clause, be traitors to one or other authority.

Mr Randolph thought the clause defective in adopting the words "in adhering" only. The British Stat: adds. "giving them aid and comfort" which had a more extensive meaning.

Mr. Elseworth considered the definition as the same in fact with that of the Statute.

Mr. Govr Morris "adhering" does not go so far as giving aid and Comfort" or the latter words may be restrictive of "adhering". in either case the Statute is not pursued.

Mr Wilson held "giving aid and comfort" to be explanatory, not operative words; and that it was better to omit them —

Mr Dickenson, thought the addition of "giving aid & comfort" unnecessary & improper; being too vague and extending too far- He wished to know what was meant by the "testimony of two witnesses", whether they were to be witnesses to the same overt act or to different overt acts. He thought also that proof of an overt-act ought to be expressed as essential in the case.

Docr Johnson considered "giving aid & comfort" as explanatory of "adhering" & that something should be inserted in the definition concerning overt-acts. He contended that Treason could not be both agst. the U. States — and individual States; being an offence agst the Sovereignty which can be but one in the same community-

Mr. M adison remarked that "and" before "in adhering" should be changed into "or" otherwise both offences viz of levying war, & of adhering to the Enemy might be necessary to constitute Treason. He added that as the definition here was of treason against the U. S. it would seem that the individual States wd. be left in possession of a concurrent power so far as to define & punish treason particularly agst. themselves; which might involve double punishmt.

[Editors' note: The statute of Edward III referenced in this debate is the Treason Act 1351 (1351 CHAPTER 2 25 Edw 3 Stat 5).]

(Madison's Notes (Max Farrand, 1911), Pages 345-346, Vol. 2)

[e673736] It was moved that the whole clause be recommitted

(Madison's Notes (Max Farrand, 1911), Page 346, Vol. 2)

To commit the 2nd section 7 article

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

[e673737] To commit the 2nd section 7 article Ayes — 5; noes — 5; divided — 1.

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

It was moved that the whole clause be recommitted which was lost, the votes being equally divided.

N- H- no. Mas- no- Ct no- N- J ay- Pa ay- Del- no- Md. ay. Va. ay- N C- divid S- C-no. Geo- ay. — [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 346, Vol. 2)

[e673738] It was moved and seconded to insert the words “some overt-act of” after the word “in” in the 2 sect. 7 article and to strike out the word “and” before the words “in adhering” and to insert the word “or”

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673739] It was moved and seconded to insert the words “some overt-act of” after the word “in” in the 2 sect. 7 article and to strike out the word “and” before the words “in adhering” and to insert the word “or”

which passed in the affirmative

[Editors’ note: It seems likely that this vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 337, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673740] Mr. Wilson & Docr. Johnson moved, that “or any of them” after “United States” be struck out in order to remove the embarrassment

(Madison’s Notes (Max Farrand, 1911), Page 346, Vol. 2)

It was moved and seconded to strike out the words “or any of them” 2 section 7 article

(Official Journal (Max Farrand, 1911), Pages 337-338, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673741] It was moved and seconded to strike out the words "or any of them" 2 section 7 article

which passed in the affirmative

[Editors' note: Madison records that this vote was agreed 'nem. con.']

(Official Journal (Max Farrand, 1911), Pages 337-338, Vol. 2)

Mr. Wilson & Doctr. Johnson moved, that "or any of them" after "United States" be struck out in order to remove the embarrassment: which was agreed to nem. con —

(Madison's Notes (Max Farrand, 1911), Page 346, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673742] Mr M adison This has not removed the embarrassment. The same Act might be treason agst. the United States as here defined — and agst a particular State according to its laws.

Mr Elseworth — There can be no danger to the Genl authority from this; as the laws of the U. States are to be paramount.

Doctr Johnson was still of opinion there could be no Treason agst a particular State. It could not even at present, as the Confederation now stands; the Sovereignty being in the Union; much less can it be under the proposed System.

Col. Mason. The United States will have a qualified sovereignty only. The individual States will retain a part of the Sovereignty. An Act may be treason agst. a particular State which is not so against the U. States. He cited the Rebellion of Bacon in Virginia as an illustration of the doctrine.

Doctr. Johnson: That case would amount to Treason agst the Sovereign, the supreme Sovereign, the United States —

Mr. King observed that the controversy relating to Treason might be of less magnitude than was supposed; as the legislature might punish capitally under other names than Treason.

(Madison's Notes (Max Farrand, 1911), Pages 346-347, Vol. 2)

[e673743] It was moved and seconded to postpone the consideration of the 2nd sect. 7 article in order to take up the following.

“Whereas it is essential to the preservation of Liberty to define precisely and exclusively what shall constitute the crime of Treason it is therefore ordained declared and established that if a man do levy war against the United States within their Territories or be adherent to the enemies of the United States within the said territories giving to them aid and comfort within their Territories or elsewhere, and thereof be provably attainted of open deed by the People of his condition he shall be adjudged guilty of treason”

[Editors’ note: The UK statute in question is 1351 CHAPTER 2 25 Edw 3 Stat 5.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Mr. Govr Morris and Mr Randolph wished to substitute the words of the British Statute and moved to postpone Sect. 2. art VII in order to consider the following substitute — “Whereas it is essential to the preservation of liberty to define precisely and exclusively what shall constitute the crime of Treason, it is therefore ordained, declared & established, that if a man do levy war agst. the U. S. within their territories, or be adherent to the enemies of the U. S. within the said territories, giving them aid and comfort within their territories or elsewhere, and thereof be provably attainted of open deed by the People of his condition, he shall be adjudged guilty of Treason”

(Madison’s Notes (Max Farrand, 1911), Page 347, Vol. 2)

[e673744] It was moved and seconded to postpone the consideration of the 2nd sect. 7 article in order to take up the following.

“Whereas it is essential to the preservation of Liberty to define precisely and exclusively what shall constitute the crime of Treason it is therefore ordained declared and established that if a man do levy war against the United States within their Territories or be adherent to the enemies of the United States within the said territories giving to them aid and comfort within their Territories or elsewhere, and thereof be provably attainted of open deed by the People of his condition he shall be adjudged guilty of treason”

On the question to postpone

it passed in the negative. [Ayes — 2; noes — 8.]

[Editors’ note: The New Hampshire delegation was not quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

On this question

N. H Mas- no. Ct. no. N. J- ay Pa. no. Del. no. Md. no. Va.- ay. N. C. no- S. C. no. Geo- no. [Ayes — 2; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Pages 347-348, Vol. 2)

[e673745] It was moved to strike out “agst United States” after “treason” so as to define treason generally

(Madison’s Notes (Max Farrand, 1911), Page 348, Vol. 2)

It was moved and seconded to strike out the words “against the United States” 1st line, 2 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

[e673746] It was moved and seconded to strike out the words “against the United States” 1st line, 2 sect. 7 article

which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

It was moved to strike out “agst United States” after “treason” so as to define treason generally — and on this question

Mas. ay — Ct. ay. N— J. ay. Pa ay. Del. ay. Md. ay. Va. no. N. C. no. S. C ay. Geo. ay. [Ayes — 8; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 348, Vol. 2)

[e673747] It was moved and seconded to insert the words “to the same overt-act.” after the word “witnesses” 2 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

It was then moved to insert after “two witnesses” the words “to the same overt act”.

(Madison’s Notes (Max Farrand, 1911), Page 348, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673748] Doctr Franklin wished this amendment to take place — prosecutions for treason were generally virulent; and perjury too easily made use of against innocence

Mr. Wilson. much may be said on both sides. Treason may sometimes be practised in such a manner, as to render proof extremely difficult — as in a traitorous correspondence with an Enemy.

(Madison’s Notes (Max Farrand, 1911), Page 348, Vol. 2)

[e673749] It was moved and seconded to insert the words “to the same overt-act.” after the word “witnesses” 2 sect. 7 article

which passed in the affirmative [Ayes — 8; noes — 3.]

[Editors’ note: New Hampshire regained a quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

On the question — as to same overt act

N— H— ay— Mas— ay— Ct. ay. N. J. no— Pa. ay— Del— ay— Md ay. Va no— N. C. no— S. C. ay— Geo— ay- [Ayes — 8; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 348, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673750] It was moved and seconded to strike the words "some overt-act" out of the 1st line, 2 sect. 7 article

[Editors' note: This motion was designed to reverse the earlier decision to add this phrase.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673751] It was moved and seconded to strike the words "some overt-act" out of the 1st line, 2 sect. 7 article

which passed in the affirmative

[Editors' note: Madison does not say as much in his notes, but this vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673752] Mr King moved to insert before the word "power" the word "sole", giving the U. States the exclusive right to declare the punishment of Treason.

Mr Broom 2ds. the motion

[Editors' note: The wording of the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 348, Vol. 2)

It was moved and seconded to insert the words
"Sole and exclusive" before the word "power" in the 2 clause, 2 sect, 7 article.

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

[e673753] Mr Wilson in cases of a general nature, treason can only be agst the U- States. and in such they shd have the sole right to declare the punishment — yet in many cases it may be otherwise. The subject was however intricate and he distrusted his present judgment on it.

Mr King this amendment results from the vote defining treason generally by striking out agst. the U. States; which excludes any treason agst particular States. These may however punish offences as high misdemesnors.

(Madison's Notes (Max Farrand, 1911), Page 348, Vol. 2)

[e673754] It was moved and seconded to insert the words

“Sole and exclusive” before the word “power” in the 2 clause, 2 sect, 7 article. which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

On inserting the word “sole”. It passed in the negative

N- H. ay- Mas- ay. Ct no- N. J- no- Pa ay. Del. ay. Md no- Va- no- N- C- no- S. C. ay- Geo- no.— [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 348, Vol. 2)

[e673755] Mr. Wilson. the clause is ambiguous now. “Sole” ought either to have been inserted — or “against the U- S.” to be reinstated.

Mr King no line can be drawn between levying war and adhering to enemy — agst the U. States and agst an individual States — Treason agst the latter must be so agst the former.

Mr Sherman, resistance agst. the laws of the U- States as distinguished from resistance agst the laws of a particular State, forms the line-

Mr. Ellsworth- the U. S. are sovereign on one side of the line dividing the jurisdictions — the States on the other — each ought to have power to defend their respective Sovereignities.

Mr. Dickenson, war or insurrection agst a member of the Union must be so agst the whole body; but the Constitution should be made clear on this point.

(Madison's Notes (Max Farrand, 1911), Pages 348-349, Vol. 2)

[e673756] It was moved and seconded to re-instate the words

“against the United States” in the first line, 2 sect. 7 article

[Editors' note: Madison records Wilson and Ellsworth as the proposers.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Mr. Wilson & Mr. Ellsworth moved to reinstate “agst the U. S.” after “Treason”

(Madison's Notes (Max Farrand, 1911), Page 349, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673757] It was moved and seconded to re-instate the words
“against the United States” in the first line, 2 sect. 7 article
which passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Mr. Wilson & Mr. Elseworth moved to reinstate “agst the U. S.” after
“Treason” — on which question

N- H- no- Mas. no. Ct. ay- N- J- ay- Pa no- Del. no- Md ay. Va. ay- N- C.
ay- S- C- no- Geo. ay— [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 349, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in
levying war against them, or in adhering to their enemies giving them aid and
comfort. The legislature shall have power to declare the punishment of treason.
No person shall be convicted of treason unless on confession in open court, or
the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673758] It was moved and seconded to strike out the words “of the United
States” in the 3rd line 2 sect. 7 article

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in
levying war against them, or in adhering to their enemies giving them aid and
comfort. The legislature shall have power to declare the punishment of treason.
No person shall be convicted of treason unless on confession in open court, or
the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673759] It was moved and seconded to strike out the words “of the United
States” in the 3rd line 2 sect. 7 article

which passed in the affirmative

[Editors' note: This decision was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 338, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in
levying war against them, or in adhering to their enemies giving them aid and
comfort. The legislature shall have power to declare the punishment of treason.
No person shall be convicted of treason unless on confession in open court, or
the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673760] MrM — adison was not satisfied with the footing on which the clause
now stood. As treason agst the U- States involves Treason agst. particular
States, and vice versa, the same act may be twice tried & punished by the
different authorities — Mr Govr Morris viewed the matter in the same lights

(Official Journal (Max Farrand, 1911), Page 349, Vol. 2)

[e673761] It was moved and seconded to amend the 1st clause of the 2 sect. 7 article to read

“Treason against the United States shall consist only in levying war against them, or in adhering to their enemies”

[Editors’ note: Madison implies that he was the proposer, and Morris was the seconder.]

(Official Journal (Max Farrand, 1911), Pages 338-339, Vol. 2)

It was moved & 2ded to amend the Sentence to read — “Treason agst. the U. S. shall consist only in levying war against them, or in adhering to their enemies”

(Madison’s Notes (Max Farrand, 1911), Page 349, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673762] It was moved and seconded to amend the 1st clause of the 2 sect. 7 article to read

“Treason against the United States shall consist only in levying war against them, or in adhering to their enemies”

which passed in the affirmative

[Editors’ note: This decision was likely unanimous.]

(Official Journal (Max Farrand, 1911), Pages 338-339, Vol. 2)

It was moved & 2ded to amend the Sentence to read — “Treason agst. the U. S. shall consist only in levying war against them, or in adhering to their enemies” which was agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 349, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. The legislature shall have power to declare the punishment of treason. No person shall be convicted of treason unless on confession in open court, or the testimony of two witnesses to the same overt act.

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673763] Col- Mason moved to insert the words “giving them aid comfort”. as restrictive of “adhering to their Enemies &c”- the latter he thought would be otherwise too indefinite

[Editors’ note: The Journal records the wording of the motion more precisely as ‘giving them aid and comfort’. None of the records provides a seconder.]

(Madison's Notes (Max Farrand, 1911), Page 349, Vol. 2)

It was moved and seconded to add the words
 "giving them aid and comfort" after the word "enemies" in the 2 section, 7
 article.

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in
 levying war against them, or in adhering to their enemies giving them aid and
 comfort. The legislature shall have power to declare the punishment of treason.
 No person shall be convicted of treason unless on confession in open court, or
 the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673764] It was moved and seconded to add the words
 "giving them aid and comfort" after the word "enemies" in the 2 section, 7
 article.

which passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Col- Mason moved to insert the words "giving them aid comfort". as re-
 strictive of "adhering to their Enemies &c"- the latter he thought would be
 otherwise too indefinite — This motion was agreed to Cont: Del: & Georgia
 only being in the Negative.

(Madison's Notes (Max Farrand, 1911), Page 349, Vol. 2)

Sect. 2. Amended to read. Treason against the U. S. shall consist only in
 levying war against them, or in adhering to their enemies giving them aid and
 comfort. The legislature shall have power to declare the punishment of treason.
 No person shall be convicted of treason unless on confession in open court, or
 the testimony of two witnesses to the same overt act.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673765] It was moved and seconded to add after the words "overt act" the
 words "or on confession in open court" 2 section, 7 article.

[Editors' note: Madison records Luther Martin as the proposer but does not
 name a seconder.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Mr L. Martin — moved to insert after conviction &c — "or on confession in
 open court"

(Madison's Notes (Max Farrand, 1911), Pages 349-350, Vol. 2)

[e673766] It was moved and seconded to add after the words "overt act" the
 words "or on confession in open court" 2 section, 7 article.

which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Mr L. Martin — moved to insert after conviction &c — “or on confession in open court” — and on the question, (the negative States thinking the words superfluous) it was agreed to N. H: ay- Mas- no- Ct. ay. N- J. ay- Pa. ay. Del. ay- Md ay- Va ay. N- C- divid S- C- no. Geo- no.

[Ayes — 7; noes — 3; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 349-350, Vol. 2)

[e673767] On the question to agree to the 2nd section of the 7 article as amended it passed in the affirmative.

[Editors’ note: Madison confirms that this vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Art: VII. Sect— 2. as amended was then agreed to nem—con.

(Madison’s Notes (Max Farrand, 1911), Page 350, Vol. 2)

[e673768] Sect— 3— taken up.

(Madison’s Notes (Max Farrand, 1911), Page 350, Vol. 2)

[e673769] It was moved and seconded to strike the words

“white and other” out of the 3rd sect. 7 article

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

“white & other” struck out

(Madison’s Notes (Max Farrand, 1911), Page 350, Vol. 2)

Amended section 3 by striking out the words in the second line white and other

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673770] It was moved and seconded to strike the words

“white and other” out of the 3rd sect. 7 article

which passed in the affirmative.

[Editors’ note: Madison records this vote as unanimous.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

“white & other” struck out nem con. as superfluous.

(Madison’s Notes (Max Farrand, 1911), Page 350, Vol. 2)

Amended section 3 by striking out the words in the second line white and other

(McHenry’s Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673771] Mr Elseworth moved to required the first census to be taken within “three” instead of “six” years from the first meeting of the Legislature

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

It was moved and seconded to strike out the word
"six" and to insert the word "three" in the 3rd section of the 7 article.

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Amended section 3 by striking out the words in the second line white and other,
and the word six in the 5 line and substituting the word three

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673772] It was moved and seconded to strike out the word
"six" and to insert the word "three" in the 3rd section of the 7 article.
which passed in the affirmative. [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Mr Elseworth moved to required the first census to be taken within "three"
instead of "six" years from the first meeting of the Legislature — and on question

N— H— ay. Mas— ay Ct ay— N J— ay— Pa ay— Del. ay. Md ay Va ay—
N— C— ay— S— C. no— Geo— no. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

Amended section 3 by striking out the words in the second line white and other,
and the word six in the 5 line and substituting the word three

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673773] Mr King asked what was the precise meaning of direct taxation? No
one answd.

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

[e673774] It was moved and seconded to add the following clause to the 3rd
section of the 7 article

"That from the first meeting of the Legislature of the United States until a
Census shall be taken, all monies for supplying the public Treasury, by direct
taxation shall be raised from the several States according to the number of their
representatives respectively in the first Branch"

[Editors' note: Madison records Gerry as the proposer but does not name a
seconded.]

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Mr. Gerry moved to add to the 3d. Sect. art. VII, the following clause.
"That from the first meeting of the Legislature of the U. S. until a Census shall
be taken all monies for supplying the public Treasury by direct taxation shall be
raised from the several States according to the number of their Representatives
respectively in the first branch"

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

[e673775] Mr. Langdon. This would bear unreasonably hard on N. H. and he must be agst it.

Mr. Carrol. opposed it. The number of Reps. did not admit of a proportion exact enough for a rule of taxation

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

[e673776] Before a question was taken on the last motion
The House adjourned.

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Before any question the House
Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

Amended section 3 by striking out the words in the second line white and other, and the word six in the 5 line and substituting the word three — but adjourned without a question on the section.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

[e673777] Before a question was taken on the last motion
The House adjourned.

(Official Journal (Max Farrand, 1911), Page 339, Vol. 2)

Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 350, Vol. 2)

Amended section 3 by striking out the words in the second line white and other, and the word six in the 5 line and substituting the word three — but adjourned without a question on the section.

(McHenry's Notes (Max Farrand, 1911), Page 351, Vol. 2)

1.75 Tuesday, 21 August 1787, at 10:00 (s6262)

[e673778] The honorable Mr Livingston, from the Committee of eleven to whom were referred

a proposition respecting the debts of the several States, entered on the Journal of the 18 instant and a proposition respecting the militia

entered on the Journal of the 18 instant informed the House that the Committee were prepared to report — and had directed him to submit the same to the consideration of the House.

The report was then delivered in at the Secretary's-table, and, being read throughout, is as follows.

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2)

Governour Livingston, from the Committee of Eleven to whom was referred the propositions respecting the debts of the several States, and also the Militia, entered on the 18th. inst: delivered the following report:

“The Legislature of the U. S. shall have power to fulfil the engagements which have been entered into by Congress, and to discharge as well the debts of the U- S: as the debts incurred by the several States during the late war, for the common defence and general welfare”

“To make laws for organizing arming and disciplining the Militia, and for governing such part of them as may be employed in the service of the U— S reserving to the States respectively, the appointment of the officers, and the authority of training the Militia according to the discipline prescribed by the U. States”

(Madison’s Notes (Max Farrand, 1911), Pages 355-356, Vol. 2)

[e673779] Mr. Gerry considered giving the power only, without adopting the obligation, as destroying the security now enjoyed by the public creditors of the U— States. He enlarged on the merit of this class of citizens, and the solemn faith which had been pledged under the existing Confederation. If their situation should be changed as here proposed great opposition would be excited agst. the plan — He urged also that as the States had made different degrees of exertion to sink their respective debts, those who had done most would be alarmed, if they were now to be saddled with a share of the debts of States which had done least.

Mr. Sherman. It means neither more nor less than the confederation as it relates to this subject.

(Madison’s Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e734597] It was moved and seconded to postpone the consideration of the above report.

[Editors’ note: Madison records Ellsworth as the proposer.]

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2)

Mr Ellsworth moved that the Report delivered in by Govr. Livingston should lie on the table.

(Madison’s Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e734598] It was moved and seconded to postpone the consideration of the above report

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2)

Mr Ellsworth moved that the Report delivered in by Govr. Livingston should lie on the table. Agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e734696] Art: VII. sect. 3. resumed. — Mr. Dickenson moved to postpone this in order to reconsider Art: IV. sect. 4. and to limit the number of representatives to be allowed to the large States. Unless this were done the small States would be reduced to entire insignificancy, and encouragement given to the importation of slaves.

(Madison's Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e734697] Mr. Sherman would agree to such a reconsideration, but did not see the necessity of postponing the section before the House. — Mr. Dickenson withdrew his motion.

(Madison's Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e734700] Mr. Dickenson withdrew his motion.

(Madison's Notes (Max Farrand, 1911), Page 356, Vol. 2)

[e673784] On the question to agree to the 3rd sect. of the 7 article as amended it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2)

Art: VII. sect. 3. then agreed to 10 ays. Delaware alone being no.

(Madison's Notes (Max Farrand, 1911), Page 356, Vol. 2)

passed the 3 sect.

(McHenry's Notes (Max Farrand, 1911), Page 365, Vol. 2)

[e673785] It was moved and seconded to add the following clause to the 3rd sect. of the 7 article

“And all accounts of supplies furnished, services performed, and monies advanced by the several States, to the United States; or by the United States to the several States shall be adjusted by the same rule.”

[Editors' note: Madison records Sherman as the proposer and Morris as the seconder.]

(Official Journal (Max Farrand, 1911), Pages 352-353, Vol. 2)

Mr. Sherman moved to add to sect 3, the following clause “and all accounts of supplies furnished, services performed, and monies advanced by the several States to the U— States, or by the U. S. to the several States shall be adjusted by the same rule.”

Mr. Governr. Morris 2ds. the motion.

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e673786] Mr. Ghorum, thought it wrong to insert this in the Constitution. The Legislature will no doubt do what is right. The present Congress have such a power and are now exercising it.

Mr Sherman unless some rule be expressly given none will exist under the new system.

Mr. Elseworth. Though The contracts of Congress will be binding, there will be no rule for executing them on the States; — and one ought to be provided.

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e673787] Mr Sherman withdrew his motion to make way for one of Mr Williamson to add to sect- 3. "By this rule the several quotas of the States shall be determined in Settling the expences of the late war"

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

The last motion being withdrawn,

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

[e673788] It was moved and seconded to add the following clause to the 3rd section of the 7th article.

"By this rule the several quotas of the States shall be determined in settling the expences of the late war"

[Editors' note: Madison records Williamson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

Mr Sherman withdrew his motion to make way for one of Mr Williamson to add to sect- 3. "By this rule the several quotas of the States shall be determined in Settling the expences of the late war"-

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e673789] Mr. Carrol brought into view the difficulty that might arise on this subject from the establishment of the Constitution as intended without the Unanimous consent of the States

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e734691] It was moved and seconded to postpone the consideration of the last motion

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

Mr Williamson's motion was postponed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e734692] It was moved and seconded to postpone the consideration of the last motion

which passed in the affirmative.

[Editors' note: Madison records the motion to postpone as passing 'nem. con.']

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

Mr Williamson's motion was postponed nem. con.

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e673791] Art: VI sect. 12. which had been postponed Aug: 15. was now called for by Col. Mason. who wished to know how the proposed amendment as to money bills would be decided, before he agreed to any further points.

[Editors' note: This is the clause which reads, '[e]ach House shall possess the right of originating bills' (Pages 180-181, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 357, Vol. 2)

[e734713] It was moved and seconded to add the following clause to the 3rd sect. of the 7 article

That from the first meeting of the Legislature of the United States until a Census shall be taken, all monies for supplying the public Treasury, by direct taxation, shall be raised from the several States according to the number of their representatives respectively in the first Branch.

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

Mr. Gerry's motion of yesterday that previous to a census, direct taxation be proportioned on the States according to the number of Representatives, was taken up

(Madison's Notes (Max Farrand, 1911), Page 537, Vol. 2)

[e673792] [Gerry] observed that the principal acts of Government would probably take place within that period, and it was but reasonable that the States should pay in proportion to their share in them.

Mr. Ellsworth thought such a rule unjust- there was a great difference between the number of Represents. and the number of inhabitants as a rule in this case. Even if the former were proportioned as nearly as possible to the latter, it would be a very inaccurate rule- A State might have one Representative only, that had inhabitants enough for 1½ or more, if fractions could be applied — &c —.

(Madison's Notes (Max Farrand, 1911), Pages 357-358, Vol. 2)

[e673793] It was moved and seconded to annex the following amendment to the last motion.

“subject to a final liquidation by the foregoing rule when a Census shall have been taken”

[Editors' note: Madison records Ellsworth as the proposer.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

He [Ellsworth] proposed to amend the motion by adding the words “subject to a final liquidation by the foregoing rule when a census shall have been taken.”

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 2)

[e673794] Mr. Madison. The last appointment of Congs., on which the number of Representatives was founded, was conjectural and meant only as a temporary rule till a Census should be established.

Mr. Read. The requisitions of Congs. had been accommodated to the impoverishments produced by the war; and to other local and temporary circumstances —

Mr. Williamson opposed Mr Gerry's motion

Mr Langdon was not here when N. H. was allowed three members. If it was more than her share; he did not wish for them.

Mr. Butler contended warmly for Mr Gerry's motion as founded in reason and equity.

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 2)

[e673795] On the question to agree to the amendment

it passed in the affirmative

[Editors' note: Madison records that this amendment was agreed to 'nem con'.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

Mr. Elseworth's proviso to Mr. Gerry's motion was agreed to nem con.

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 2)

[e673796] Mr. King thought the power of taxation given to the Legislature rendered the motion of Mr Gerry altogether unnecessary.

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 2)

[e734714] On the question to agree to the Proposition and amendment it passed in the negative. [Ayes — 2; noes — 8; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

On Mr Gerry's motion as amended

N- H- no Mas- ay. Ct no N- J- no. Pa. no- Del. no- Md no- Va no- N- Ci- divid. S- C. ay. Geo. no- [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 358, Vol. 2)

[e673798] On the question to take up the amendment offered to the 12 sect of the 6 article, entered on the Journal of the 15th instant, and then postponed it passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 353, Vol. 2)

On a question Shall art: VI sect. 12 with the amendment to it proposed & entered on the 15 instant, as called for by Col Mason be now taken up? it passed in the Negative.

N. H. ay- Mas- no- Ct ay- N- J- no- Pa no- Del- no- Md ay. Va ay. N- C- ay- S- C- no- Geo. no- [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Pages 358-359, Vol. 2)

[e673799] It was moved and seconded to add the following clause to the 3rd sect. 7 article

“and whenever the Legislature of the United States shall find it necessary that revenue should be raised by direct taxation, having apportioned the same, according to the above rule, on the several States, requisitions shall be made of the respective States to pay into the Continental Treasury their respective quotas within a time in the said requisition specified, and in case of any of the States failing to comply with such requisitions, then and then only to devise and pass acts directing the mode and authorising the collection of the same.”

(Official Journal (Max Farrand, 1911), Pages 353-354, Vol. 2)

Mr L. Martin. The power of taxation is most likely to be criticised by the public. Direct taxation should not be used but in cases of absolute necessity; and then the States will be best Judges of the mode. He therefore moved the following addition to sect: 3. Art: VII “And whenever the Legislature of the U: S: shall find it necessary that revenue should be raised by direct taxation, having apportioned the same, according to the above rule on the several States, — requisitions shall be made of the respective States to pay into the Continental Treasury their respective quotas within a time in the said requisitions specified; and in case of any of the States failing to comply with such requisitions, then and then only to devise and pass acts directing the mode, and authorizing the collection of the same”

Mr McHenry 2ded. the motion

(Madison’s Notes (Max Farrand, 1911), Page 359, Vol. 2)

[e673800] It was moved and seconded to add the following clause to the 3rd sect. 7 article

“and whenever the Legislature of the United States shall find it necessary that revenue should be raised by direct taxation, having apportioned the same, according to the above rule, on the several States, requisitions shall be made of the respective States to pay into the Continental Treasury their respective quotas within a time in the said requisition specified, and in case of any of the States failing to comply with such requisitions, then and then only to devise and pass acts directing the mode and authorising the collection of the same.”

which passed in the negative [Ayes — 1; noes — 7; divided — 1.]

[Editors’ note: The delegations from New Hampshire and Massachusetts both dropped below quorum for this vote.]

(Official Journal (Max Farrand, 1911), Pages 353-354, Vol. 2)

on the question

N— H— no— Ct. no. N. J. ay. Pena. no. Del. no. Md. divd. (Jenifer & Carrol no). Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 8; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 359, Vol. 2)

[e673801] Art. VII. sect. 4.

(Madison’s Notes (Max Farrand, 1911), Page 359, Vol. 2)

[e673802] Mr. Langdon. by this section the States are left at liberty to tax exports. N. H. therefore with other non-exporting States, will be subject to be taxed by the States exporting its produce. This could not be admitted. It seems to be feared that the Northern States will oppress the trade of the Southn. This may be guarded agst by requiring the concurrence of or $\frac{3}{4}$ of the legislature in such cases.

Mr Elseworth— It is best as it stands— The power of regulating trade between the States will protect them agst each other — Should this not be the case, the attempts of one to tax the produce of another passing through its hands, will force a direct exportation and defeat themselves — There are solid reasons agst. Congs taxing exports. 1. it will discourage industry, as taxes on imports discourage luxury. 2. The produce of different States is such as to prevent uniformity in such taxes. there are indeed but a few articles that could be taxed at all; as Tobo. rice & indigo, and a tax on these alone would be partial & unjust. 3. The taxing of exports would engender incurable jealousies.

Mr Williamson. Tho' N— C. has been taxed by Virga by a duty on 12,000 Hhs of her Tobo. exported thro' Virga yet he would never agree to this power. Should it take place, it would destroy the last hope of an adoption of the plan.

Mr. Govr Morris. These local considerations ought not to impede the general interest. There is great weight in the argument, that the exporting States will tax the produce of their uncommercial neighbours. The power of regulating the trade between Pa & N. Jersey will never prevent the former from taxing the latter. Nor will such a tax force a direct exportation from N— Jersey— The advantages possessed by a large trading City, outweigh the disadvantage of a moderate duty; and will retain the trade in that channel— If no tax can be laid on exports, an embargo cannot be laid, though in time of war such a measure may be of critical importance—Tobacco, lumber, and live-stock are three objects belonging to different States, of which great advantage might be maed by a power to tax exports — To these may be added Ginseng and Masts for Ships by which a tax might be thrown on other nations. The idea of supplying the West Indies with lumber from Nova Scotia, is one of the many follies of lord Sheffield's pamphlets. The State of the Country also, will change, and render duties on exports, as skins, beaver & other peculiar raw materials, politic in the view of encouraging American Manufactures.

Mr. Butler was strenuously opposed to a power over exports; as unjust and alarming to the staple States.

Mr. Langdon suggested a prohibition on the States from taxing the produce of other States exported from their harbours.

Mr. Dickenson. The power of taxing exports may be inconvenient at present; but it must be of dangerous consequence to prohibit it with respect to all articles and for ever. He thought it would be better to except particular articles from the power.

Mr. Sherman— It is best to prohibit the National legislature in all cases. The States will never give up all power over trade. An enumeration of particular articles would be difficult invidious and improper.

Mr M adison As we ought to be governed by national and permanent views, it is a sufficient argument for giving ye power over exports that a tax, tho' it may not be expedient at present, may be so hereafter. A proper regulation of exports may & probably will be necessary hereafter, and for the same purposes

as the regulation of — imports; viz, for revenue — domestic manufactures — and procuring equitable regulations from other nations. An Embargo may be of absolute necessity, and can alone be effectuated by the Genl. authority. The regulation of trade between State and State can not effect more than indirectly to hinder a State from taxing its own exports; by authorizing its Citizens to carry their commodities freely into a neighbouring State which might decline taxing exports in order to draw into its channel the trade of its neighbours — As to the fear of disproportionate burdens on the more exporting States, it might be remarked that it was agreed on all hands that the revenue wd. principally be drawn from trade, and as only a given revenue would be needed, it was not material whether all should be drawn wholly from imports — or half from those, and half from exports — The imports and exports must be pretty nearly equal in every State — and relatively the same among the different States.

Mr Elseworth did not conceive an embargo by the Congress interdicted by this section.

Mr. McHenry conceived that power to be included in the power of war.

Mr. Wilson. Pennsylvania exports the produce of Maryland. N. Jersey, Delaware & will by & by when the River Delaware is opened, export for N— York. In favoring the general power over exports therefore, he opposed the particular interest of his State. He remarked that the power had been attacked by reasoning which could only have held good in case the Genl Govt. had been compelled, instead of authorized, to lay duties on exports. To deny this power is to take from the Common Govt. half the regulation of trade — It was his opinion that a power over exports might be more effectual than that over imports in obtaining beneficial treaties of commerce.

Mr. Gerry was strenuously opposed to the power over exports. It might be made use of to compel the States to comply with the will of the Genl Government, and to grant it any new powers which might be demanded — We have given it more power already than we know how will be exercised — It will enable the Genl Govt to oppress the States, as much as Ireland is oppressed by Great Britain.

Mr. Fitzimmons would be agst. a tax on exports to be laid immediately; but was for giving a power of laying the tax when a proper time may call for it — This would certainly be the case when America should become a manufacturing country — He illustrated his argument by the duties in G— Britain on wool &c.

Col. Mason — If he were for reducing the States to mere corporations as seemed to be the tendency of some arguments, he should be for subjecting their exports as well as imports to a power of general taxation — He went on a principle often advanced & in which he concurred, that “a majority when interested will oppress the minority”. This maxim had been verified by our own Legislature (of Virginia). If we compare the States in this point of view the 8 Northern States have an interest different from the five Southn. States, — and have in one branch of the legislature 36 votes agst 29. and in the other, in the proportion of 8 agst 5. The Southern States had therefore ground for their suspicions. The case of Exports was not the same with that of imports. The latter were the same throughout the States: the former very different. As to Tobacco other nations do raise it, and are capable of raising it as well as Virga. &c. The impolicy of taxing that article had been demonstrated by the experiment of Virginia —

Mr Clymer remarked that every State might reason with regard to its particular productions, in the same manner as the Southern States. The middle States may apprehend an oppression of their wheat flour, provisions, &c. and with more reason, as these articles were exposed to a competition in foreign markets not incident to Tobo. rice &c — They may apprehend also combinations agst. them between the Eastern & Southern States as much as the latter can apprehend them between the Eastern & middle

(Madison's Notes (Max Farrand, 1911), Pages 359-363, Vol. 2)

[e673803] It was moved and seconded to insert the following clause after the word "duty" in the first line 4 sect. 7 article

"for the purpose of revenue".

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

He [Clymer] moved as a qualification of the power of taxing Exports that it should be restrained to regulations of trade, by inserting after the word "duty" Sect 4 art VII the words "for the purpose of revenue."

(Madison's Notes (Max Farrand, 1911), Page 363, Vol. 2)

[e673804] It was moved and seconded to insert the following clause after the word "duty" in the first line 4 sect. 7 article

"for the purpose of revenue"

which passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

On Question on Mr. Clymer's motion

N. H— no— Mas. no. Ct. no. N. J— ay. Pa ay. Del. ay. Md. no. Va. no. N— C. no. Geo. no. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 363, Vol. 2)

[e673805] It was moved and seconded to amend the first clause of the 4 sect. 7 article by inserting the following words

"unless by consent of two thirds of the legislature"

[Editors' note: Madison records himself as the proposer.]

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Mr. Madison, In order to require of each House to tax exports — as a lesser evil than a total prohibition moved to insert the words "unless by consent of two thirds of the Legislature" , Mr Wilson 2ds.

(Madison's Notes (Max Farrand, 1911), Page 363, Vol. 2)

[e673806] It was moved and seconded to amend the first clause of the 4 sect. 7 article by inserting the following words

"unless by consent of two thirds of the legislature"

which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Mr. Madison, In order to require of each House to tax exports — as a lesser evil than a total prohibition moved to insert the words “unless by consent of two thirds of the Legislature” , Mr Wilson 2ds. and on this question, it passed in the Negative.

N. H. ay. Mas— ay. Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Va. no. (Col. Mason, Mr. Randolph Mr. Blair no. Genl Washington & J. M. ay.) N. C. no. S— C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Page 363, Vol. 2)

[e673807] [Editors’ note: At this point, the Convention split the section into its clauses and considered them separately. To mimic this procedure, the editors have dropped the ‘whole’ version of the section and proposed the clauses individually.]

(2019 Editors)

[e673808] [Editors’ note: At this point, the Convention split the section into its clauses and considered them separately. To mimic this procedure, the editors have dropped the ‘whole’ version of the section and proposed the clauses individually.]

(2019 Editors)

Took up 4 sect.

(McHenry’s Notes (Max Farrand, 1911), Page 365, Vol. 2)

[e673809] On the question to agree to the first clause of the 4 section of the 7 article, as reported,

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Question on sect: 4. art VII. as far as to “no tax shl. be laid on exports

(Madison’s Notes (Max Farrand, 1911), Page 363, Vol. 2)

[...] after passing the first clause to the word State 2 line inclusive.

(McHenry’s Notes (Max Farrand, 1911), Page 365, Vol. 2)

[e673810] On the question to agree to the first clause of the 4 section of the 7 article, as reported,

it passed in the affirmative. [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Question on sect: 4. art VII. as far as to “no tax shl. be laid on exports — It passed in the affirmative —

N. H. no. Mas. ay. Ct. ay. N— J. no. Pa. no— Del. no. Md ay. Va. ay (Genl W. & J. M. no.) N. C. ay. S. C. ay. Geo— ay. [Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Pages 363-364, Vol. 2)

[...] after passing the first clause to the word State 2 line inclusive.

(McHenry's Notes (Max Farrand, 1911), Page 365, Vol. 2)

[e673811] [Editors' note: The Convention then considered the second clause.]

(2019 Editors)

[e673812] Mr L— Martin, proposed to vary the sect: 4. art VII so as to allow a prohibition or tax on the importation of slaves. 1. As five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause wd. leave an encouragement to this trafic. 2 slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable — 3. it was inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

(Madison's Notes (Max Farrand, 1911), Page 364, Vol. 2)

It was moved and seconded to insert the word “free” before the word “persons” in the 4 sect. of the 7 article.

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

[e673813] Mr Rutledge did not see how the importation of slaves could be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from the obligation to protect the Southern against them. . — Religion & humanity had nothing to do with this question — Interest alone is the governing principle with Nations — The true question at present is whether the Southn. States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

Mr. Elseworth was for leaving the clause as it stands. let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves — What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old confederation had not meddled with this point, and he did not see any greater necessity for bringing it within the policy of the new one:

Mr Pinkney. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly & watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have already done.

(Madison's Notes (Max Farrand, 1911), Pages 364-365, Vol. 2)

[e673814] Before the question was taken on the last motion

The House adjourned

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 365, Vol. 2)

[...] adjourned, after passing the first clause to the word State 2 line inclusive.

(McHenry's Notes (Max Farrand, 1911), Page 365, Vol. 2)

[e673815] Before the question was taken on the last motion

The House adjourned

(Official Journal (Max Farrand, 1911), Page 354, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 365, Vol. 2)

[...] adjourned, after passing the first clause to the word State 2 line inclusive.

(McHenry's Notes (Max Farrand, 1911), Page 365, Vol. 2)

1.76 Wednesday, 22 August 1787, at 10:00 (s6263)

[e673816] The motion, made yesterday, to insert the word "free" before the word "persons" in the 4 section of the 7 article, being withdrawn,

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

[e673817] Art. VII sect 4. resumed. Mr. Sherman was for leaving the clause as it stands. He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U. S. & that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatching its business.

Col. Mason. This infernal traffic originated in the avarice of British Merchants. The British Govt. constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the Enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves, as it did by the Tories. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the Commissioners sent to Virginia, to arm the servants & slaves, in case other means of obtaining its submission should fail. Maryland & Virginia he said had already prohibited the importation of slaves expressly. N. Carolina had done the same in substance. All this would be in vain if S. Carolina & Georgia be at liberty to import. The Western people are already calling out for slaves for their new lands; and will fill that Country with slaves if they can be got thro' S. Carolina

& Georgia. Slavery discourages arts & manufactures. The poor despise labor when performed by slaves. They prevent the immigration of Whites, who really enrich & strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Genl. Govt. should have power to prevent the increase of slavery.

Mr. Elsworth. As he had never owned a slave could not judge of the effects of slavery on character. He said however that if it was to be considered in a moral light we ought to go farther and free those already in the Country. — As slaves also multiply so fast in Virginia & Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no farther than is urged, we shall be unjust towards S. Carolina & Georgia — Let us not intermeddle. As population increases; poor laborers will be so plenty as to render slaves useless. Slavery in time will not be a speck in our Country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

Mr. Pinkney — If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece Rome & other antient States; the sanction given by France England, Holland & other modern States. In all ages one half of mankind have been slaves. If the S. States were let alone they will probably of themselves stop importations. He wd. himself as a Citizen of S. Carolina vote for it. An attempt to take away the right as proposed will produce serious objections to the Constitution which he wished to see adopted.

General Pinkney declared it to be his firm opinion that if himself & all his colleagues were to sign the Constitution & use their personal influence, it would be of no avail towards obtaining the assent of their Constituents. S. Carolina & Georgia cannot do without slaves. As to Virginia she will gain by stopping the importations. Her slaves will rise in value, & she has more than she wants. It would be unequal to require S. C. & Georgia to confederate on such unequal terms. He said the Royal assent before the Revolution had never been refused to S. Carolina as to Virginia. He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; The more consumption also, and the more of this, the more of revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports, but should consider a rejection of the clause as an exclusion of S. Carola from the Union.

Mr. Baldwin had conceived national objects alone to be before the Convention, not such as like the present were of a local nature. Georgia was decided on this point. That State has always hitherto supposed a Genl Governmt to be the pursuit of the central States who wished to have a vortex for every thing — that her distance would preclude her from equal advantage — & that she could not prudently purchase it by yielding national powers. From this it might

be understood in what light she would view an attempt to abridge one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of which he said was a respectable class of people, who carried their ethics beyond the mere equality of men, extending their humanity to the claims of the whole animal creation.

Mr. Wilson observed that if S. C. & Georgia were themselves disposed to get rid of the importation of slaves in a short time as had been suggested, they would never refuse to Unite because the importation might be prohibited. As the Section now stands all articles imported are to be taxed. Slaves alone are exempt. This is in fact a bounty on that article.

Mr. Gerry thought we had nothing to do with the conduct of the States as to Slaves, but ought to be careful not to give any sanction to it.

Mr. Dickenson considered it as inadmissible on every principle of honor & safety that the importation of slaves should be authorized to the States by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the National Govt. not to the States particularly interested. If Engd. & France permit slavery, slaves are at the same time excluded from both those Kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the Southn. States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the Genl. Government.

Mr Williamson stated the law of N. Carolina on the subject, to wit that it did not directly prohibit the importation of slaves. It imposed a duty of £5. on each slave imported from Africa. £10. on each from elsewhere, & £50 on each from a State licensing manumission. He thought the S. States could not be members of the Union if the clause should be rejected, and that it was wrong to force any thing down, not absolutely necessary, and which any State must disagree to.

Mr. King thought the subject should be considered in a political light only. If two States will not agree to the Constitution as stated on one side, he could affirm with equal belief on the other, that great & equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northn. & middle States.

Mr. Langdon was strenuous for giving the power to the Genl. Govt. He cd. not with a good conscience leave it with the States who could then go on with the traffic, without being restrained by the opinions here given that they will themselves cease to import slaves.

Genl. Pinkney thought himself bound to declare candidly that he did not think S. Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he he thought right & wch. wd. remove one difficulty that had been started.

Mr. Rutledge. If the Convention thinks that N. C; S. C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous agst. striking out the Section, and seconded the motion of Genl. Pinkney for a commitment.

(Madison's Notes (Max Farrand, 1911), Pages 369-373, Vol. 2)

The 4 sect promitting the importation of Slaves gave rise to much desultory debate.

Every 5 slaves counted in representation as one elector without being equal in point of strength to one white inhabitant.

This gave the slave States an advantage in representation over the others.

The slaves were moreover exempt from duty on importation.

They served to render the representation from such States aristocratical.

It was replied — That the population or increase of slaves in Virginia exceeded their calls for their services — That a prohibition of Slaves into S. Carolina Georgia etc — would be a monopoly in their favor. These States could not do without Slaves — Virginia etc would make their own terms for such as they might sell.

Such was the situation of the country that it could not exist without slaves — That they could confederate on no other condition.

They had enjoyed the right of importing slaves when colonies.

They enjoyed as States under the confederation — And if they could not enjoy it under the proposed government, they could not associate or make a part of it.

(McHenry's Notes (Max Farrand, 1911), Page 378, Vol. 2)

[e673818] It was moved and seconded to commit the two remaining clauses of the 4 section, and the 5 section of the 7 article

[Editors' note: Madison notes that CC Pinckney proposed and Rutledge seconded that the undecided clauses from the Fourth Section be committed. It is unclear how the Fifth Section became attached to the motion.]

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

Genl. Pinkney thought himself bound to declare candidly that he did not think S. Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he thought right & wch. wd. remove one difficulty that had been started.

Mr. Rutledge. If the Convention thinks that N. C; S. C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous agst. striking out the Section, and seconded the motion of Genl. Pinkney for a commitment.

(Madison's Notes (Max Farrand, 1911), Page 373, Vol. 2)

Committed the remainder of the 4 sect. with the 5 and 6.

(McHenry's Notes (Max Farrand, 1911), Page 378, Vol. 2)

[e673819] Mr Govr. Morris wished the whole subject to be committed including the clauses relating to taxes on exports & to a navigation act. These things may form a bargain among the Northern & Southern States.

Mr. Butler declared that he never would agree to the power of taxing exports.

Mr. Sherman said it was better to let the S. States import slaves than to part with them, if they made that a sine qua non. He was opposed to a tax on slaves imported as making the matter worse, because it implied they were property. He acknowledged that if the power of prohibiting the importation should be given to the Genl. Government that it would be exercised. He thought it would be its duty to exercise the power.

Mr. Read was for the commitment provided the clause concerning taxes on exports should also be committed.

Mr. Sherman observed that that clause had been agreed to & therefore could not committed.

Mr. Randolph was for committing in order that some middle ground might, if possible, be found. He could never agree to the clause as it stands. He wd. sooner risk the constitution — He dwelt on the dilemma to which the Convention was exposed. By agreeing to the clause, it would revolt the Quakers, the Methodists, and many others in the States having no slaves. On the other hand, two States might be lost to the Union. Let us then, he said, try the chance of a commitment.

(Madison's Notes (Max Farrand, 1911), Pages 373-374, Vol. 2)

[e673820] It was moved and seconded to commit the two remaining clauses of the 4 section, and the 5 section of the 7 article

which passed in the affirmative. [Ayes — 7; noes — 3.]

[Editors' note: The Massachusetts delegation was not quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

On the question for committing the remaining part of Sect 4 & 5. of art: 7. N. H. no. Mas. abst. Cont. ay N. J. ay Pa. no. Del. no Maryland ay. Va ay. N. C. ay S. C. ay. Geo. ay. [Ayes — 7; noes — 3; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 2)

Committed the remainder of the 4 sect. with the 5 and 6.

(McHenry's Notes (Max Farrand, 1911), Page 378, Vol. 2)

[e673821] [Editors' note: The Convention likely drew up a report for the Committee's consideration.]

(2019 Editors)

[e673822] Mr. Pinkney & Mr. Langdon moved to commit sect. 6. as to navigation act

(Madison's Notes (Max Farrand, 1911), Page 374, Vol. 2)

It was moved and seconded to com't the 6th section of the 7 article

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

Committed the remainder of the 4 sect. with the 5 and 6.

(McHenry's Notes (Max Farrand, 1911), Page 378, Vol. 2)

[e673823] Mr. Gorham did not see the propriety of it. Is it meant to require a greater proportion of votes? He desired it to be remembered that the Eastern States had no motive to Union but a commercial one. They were able to protect themselves. They were not afraid of external danger, and did not need the aid of the Southn. States.

Mr. Wilson wished for a commitment in order to reduce the proportion of votes required.

Mr. Elsworth was for taking the plan as it is. This widening of opinions has a threatening aspect. If we do not agree on this middle & moderate ground he was afraid we should lose two States, with such others as may be disposed to stand aloof, should fly into a variety of shapes & directions, and most probably into several confederations and not without bloodshed.

(Madison's Notes (Max Farrand, 1911), Pages 374-375, Vol. 2)

[e673824] It was moved and seconded to com't the 6th section of the 7 article which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

On Question for committing 6 sect. as to navigation Act to a member from each State — N. H. ay— Mas. ay. Ct no. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

Committed the remainder of the 4 sect. with the 5 and 6.

(McHenry's Notes (Max Farrand, 1911), Page 378, Vol. 2)

[e673825] [Editors' note: Per the Convention's decision to commit the Sixth Section, the section was added to the report for the Committee.]

(2019 Editors)

[e673826] [Editors' note: Per the Convention's decision to commit the Sixth Section, the section was added to the report for the Committee.]

(2019 Editors)

[e673827] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673828] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673829] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673830] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673831] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673832] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673833] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673834] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673835] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673836] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673837] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e673838] [Editors' note: Once the Committee was formed, the Convention referred its report for the Committee's consideration.]

(2019 Editors)

[e673839] The honorable Mr Rutledge, from the Committee to whom sundry propositions were referred on the 18 and 20th instant, informed the House that the Committee were prepared to report — he then read the report in his place — and the same, being delivered in at the Secretary's table, was again read throughout, and is as follows

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2)

Mr. Rutledge, from the Committee to whom were referred on the 18 & 20th. instant the propositions of Mr. Madison & Mr. Pinkney, made the Report following. —

(Here insert — the Report from the Journal of the Convention of this date.) —

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

Several additions were reported by the Committee.

Mr. Martin shewed us some restrictory clauses drawn up for the VII article respecting commerce — which we agreed to bring forward. —

(McHenry's Notes (Max Farrand, 1911), Page 379, Vol. 2)

[e740476] [Editors' note: The forthcoming motion to rescind the order of the House respecting the hours of meeting and adjournment is effectively an amendment to strike out Rutledge's order to extend sessions of the Convention from the Rules and Standing Orders of the Convention document. As this has already been adopted, the editors have added a motion to reconsider the Rules document, in order to model the proposed amendment to strike out. There is no record that the Rules document was amended, as it does not survive, but the delegates likely saw the motion as functioning in this way]

(2019 Editors)

[e740478] [Editors' note: The forthcoming motion to rescind the order of the House respecting the hours of meeting and adjournment is effectively an amendment to strike out Rutledge's order to extend sessions of the Convention from the Rules and Standing Orders of the Convention document. As this has already been adopted, the editors have added a motion to reconsider the Rules document, in order to model the proposed amendment to strike out.]

(2019 Editors)

[e740479] It was moved and seconded to rescind the order of the House respecting the hours of meeting and adjournment

(Official Journal (Max Farrand, 1911), Pages 367-368, Vol. 2)

A motion to rescind the order of the House respecting the hours of meeting & adjourning

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e740480] It was moved and seconded to rescind the order of the House respecting the hours of meeting and adjournment which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Pages 367-368, Vol. 2)

A motion to rescind the order of the House respecting the hours of meeting & adjourning, was negatived: Mass: Pa. Del. Maryland. ay N. H. Con: N. J. Va. N. C. S. C. Geo. no

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2)

[e740481] [Editors' note: At this point in the session the Convention ceased considering changes to the rules of the Convention, so the editors have readopted the Rules and Standing Orders of the Convention document.]

(2019 Editors)

[e673842] It was moved and seconded to insert the following clause after the 2nd section of the 7 article

“The Legislature shall pass no bill of attainder, nor any ex post facto laws.”

[Editors' note: Madison notes Elbridge Gerry and James McHenry as the proposers. The sub-clause barring bills of attainder simply reinforces the other provisions of the section, which stress that treason could be decided on only by trial.]

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

Mr. Gerry & Mr. McHenry moved to insert after the 2d. sect. art: 7. the clause following, to wit, “The Legislature shall pass no bill of attainder nor any ex post facto law”

the proceedings on this motion involving the two questions on “attainders & ex post facto laws.” are not so fully stated in the printed Journal.

(Madison’s Notes (Max Farrand, 1911), Page 375, Vol. 2)

Moved that the legislature should pass no ex post facto laws or bills of attainder.

(McHenry’s Notes (Max Farrand, 1911), Page 379, Vol. 2)

[e673843] Mr. Gerry urged the necessity of this prohibition, which he said was greater in the National than the State Legislature, because the number of members in the former being fewer, they were on that account the more to be feared.

Mr. Govr. Morris thought the precaution as to ex post facto laws unnecessary; but essential as to bills of attainder

Mr Elseworth contended that there was no lawyer, no civilian who would not say that ex post facto laws were void of themselves. It cannot then be necessary to prohibit them.

Mr. Wilson was against inserting anything in the Constitution as to ex post facto laws. It will bring reflexions on the Constitution — and proclaim that we are ignorant of the first principles of Legislation, or are constituting a Government which will be so.

(Madison’s Notes (Max Farrand, 1911), Pages 375-376, Vol. 2)

G. Morris Willson Dr. Johnson etc thought the first an unnecessary guard as the principles of justice law et[c] were a perpetual bar to such — To say that the legis. shall not pass an ex post facto law is the same as to declare they shall not do a thing contrary to common sense — that they shall not cause that to be a crime which is no crime —

(McHenry’s Notes (Max Farrand, 1911), Pages 378-379, Vol. 2)

[e673844] [Editors’ note: Madison’s record of this moment differs from Jackson’s in that he describes a vote taking place on each part of the clause: ‘The question being divided, The first part of the motion relating to bills of attainder was agreed to nem. contradicente’ (Page 376, Vol. 2, Madison’s Notes (Max Farrand, 1911)). While Jackson records only a single vote, Madison attributes this vote to the second part of the clause.

In order to mimic this procedure, the editors have dropped the original motion in its ‘whole’ form and proposed the two sub-clauses separately.]

(2019 Editors)

[e673845] The question being divided, The first part of the motion relating to bills of attainder was agreed to nem. contradicente.

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673846] The question being divided, The first part of the motion relating to bills of attainder was agreed to nem. contradicente.

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

Carried in the affirmative.

(McHenry's Notes (Max Farrand, 1911), Page 379, Vol. 2)

[e673847] On the second part relating to ex post facto laws —

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673848] Mr Carrol remarked that experience overruled all other calculations. It had proved that in whatever light they might be viewed by civilians or others, the State Legislatures had passed them, and they had taken effect.

Mr. Wilson. If these prohibitions in the State Constitutions have no effect, it will be useless to insert them in this Constitution. Besides, both sides will agree to the principle & will differ as to its application.

Mr. Williamson. Such a prohibitory clause is in the Constitution of N. Carolina, and tho it has been violated, it has done good there & may do good here, because the Judges can take hold of it

Docr. Johnson thought the clause unnecessary, and implying an improper suspicion of the National Legislature.

Mr. Rutledge was in favor of the clause.

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

G. Morris Willson Dr. Johnson etc thought the first an unnecessary guard as the principles of justice law et[c] were a perpetual bar to such — To say that the legis. shall not pass an ex post facto law is the same as to declare they shall not do a thing contrary to common sense — that they shall not cause that to be a crime which is no crime —

(McHenry's Notes (Max Farrand, 1911), Pages 378-379, Vol. 2)

[e673849] It was moved and seconded to insert the following clause after the 2nd section of the 7 article

“The Legislature shall pass no bill of attainder, nor any ex post facto laws.”
which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

[Editors' note: Though the Journal records this vote as deciding upon the whole question, Madison's account — that the vote was on the second sub-clause — seems more reliable.]

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

On the question for inserting the prohibition of ex post facto laws.

N— H— ay— Mas. ay. Cont. no. N. J— no. Pa. no. Del— ay. Md. ay. Virga. ay N— C. divd. S. C. ay— Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

Carried in the affirmative.

(McHenry's Notes (Max Farrand, 1911), Page 379, Vol. 2)

[e673850] It was moved and seconded to take up the report of the Committee of five.

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

The report of the committee of 5. made by Mr. Rutlidge, was taken up

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673851] The report of the committee of 5. made by Mr. Rutlidge, was taken up

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673852] It was moved and seconded to postpone the consideration of the report, in order that the Members may furnish themselves with copies of the report

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

The report of the committee of 5. made by Mr. Rutlidge, was taken up & then postponed that each member Might furnish himself with a copy.

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673853] It was moved and seconded to postpone the consideration of the report, in order that the Members may furnish themselves with copies of the report,

which passed in the affirmative. [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

The report of the committee of 5. made by Mr. Rutlidge, was taken up & then postponed that each member Might furnish himself with a copy.

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673854] It was moved and seconded to take up the report of the Committee of eleven, entered on the Journal of the 21st instant

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

[e673855] It was moved and seconded to take up the report of the Committee of eleven, entered on the Journal of the 21st instant

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

[e673856] The Report of the Committee of Eleven delivered in & entered on the Journal of the 21st. inst. was then taken up.

[Editors' note: In considering the Committee of Eleven's report, the Convention took up each proposal one by one. To mimic this procedure, the editors have created a working document, onto which the Committee's proposals are added individually as they were considered.]

(Madison's Notes (Max Farrand, 1911), Page 376, Vol. 2)

[e673857] The Report of the Committee of Eleven delivered in & entered on the Journal of the 21st. inst. was then taken up. and the first clause containing the words "The Legislature of the U. S. shall have power to fulfil the engagements which have been entered into by Congress" being under consideration

(Madison's Notes (Max Farrand, 1911), Pages 376-377, Vol. 2)

[e673858] Mr. Elsworth argued that they were unnecessary. The U— S— heretofore entered into Engagements by Congs who were their Agents. They will hereafter be bound to fulfil them by their new agents.

Mr Randolph thought such a provision necessary; for though the U. States will be bound, the new Govt will have no authority in the case unless it be given to them.

Mr. Madison thought it necessary to give the authority in order to prevent misconstruction. He mentioned the attempts made by the Debtors to British subjects to shew that contracts under the old Government, were dissolved by the Revolution which destroyed the political identity of the Society.

Mr Gerry thought it essential that some explicit provision should be made on this subject, so that no pretext might remain for getting rid of the public engagements.

(Madison's Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673859] It was moved and seconded to amend the first clause of the report to read as follows.

"The Legislature shall fulfil the engagements and discharge the debts of the United States".

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

Mr. Govr. Morris moved by way of amendment to substitute — "The Legislature shall discharge the debts & fulfil the engagements of the U. States".

(Madison's Notes (Max Farrand, 1911), Page 377, Vol. 2)

On motion, on a proposition reported and amended agreed that "The legislature shall fulfil the engagements and discharge the debts of the U. S." To make the first clause in the VII article — Amended the first clause in the report of the said article by striking out the words, the legislature of the U. S.

(McHenry's Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673860] It was moved and seconded to alter the amendment by striking out the words "discharge the debts" and insert the words "liquidate the claims"

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

It was moved to vary the amendment by striking out “discharge the debts” & to insert “liquidate the claims”

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673861] It was moved and seconded to alter the amendment by striking out the words “discharge the debts” and insert the words “liquidate the claims” which passed in the negative

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

It was moved to vary the amendment by striking out “discharge the debts” & to insert “liquidate the claims”, which being negatived,

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673862] On the question to agree to the clause as amended, namely,

“The Legislature shall fulfil the engagements and discharge the debts of the United States”

it passed in the affirmative [Ayes — 11; noes — 0.]

[Editors’ note: Both the Journal and Madison record only one vote, which seems to have had the effect of agreeing to Morris’ amendment and the original clause.]

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

The amendment moved by Mr. Govr. Morris was agreed to all the States being in the affirmative.

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673863] [Editors’ note: Both the Journal and Madison record only one vote, which seems to have had the effect of agreeing to Morris’ amendment and the original clause.]

(2019 Editors)

[e673864] [Editors’ note: The record indicates that the Convention took up the second clause of the report, which concerns the militia.

In order for the proposal to make sense, the words removed from the first clause by Morris’s amendment have been added to the second clause in square brackets.]

(2019 Editors)

[e673865] It was moved and seconded to strike the following words out of the second clause of the report

“and the authority of training the militia according to the discipline prescribed by the United States”.

[Editors’ note: Madison’s notes for the next session suggest that Sherman was the proposer of this motion.]

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

It was moved & 2ded. to strike the following words — out of the 2d. clause of the report “and the authority of training the Militia according to the discipline prescribed by the U— S.”

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673866] Before the question was taken on the last motion
The House adjourned

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

Before a question was taken
The House adjourned

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

[e673867] Before the question was taken on the last motion
The House adjourned

(Official Journal (Max Farrand, 1911), Page 368, Vol. 2)

Before a question was taken
The House adjourned

(Madison’s Notes (Max Farrand, 1911), Page 377, Vol. 2)

1.77 Thursday, 23 August 1787, at 10:00 (s6264)

[e673868] The Report of the Committee of Eleven made Aug: 21. being taken up, and the following clause being under consideration to wit “To make laws for organizing, arming & disciplining the Militia, and for governing such parts of them as may be employed in the service of the U. S. reserving to the States respectively, the appointment of the officers, and authority of training the militia according to the discipline prescribed” —

Mr Sherman moved to strike out the last member — “and authority of training &c. He thought it unnecessary. The States will have this authority of course if not given up.

Mr. Elsworth doubted the propriety of striking out the sentence. The reason assigned applies as well to the other reservation of the appointment to offices. He remarked at the same time that the term discipline was of vast extent and might be so expounded as to include all power on the subject.

Mr. King, by way of explanation, said that by organizing the Committee meant, proportioning the officers & men — by arming, specifying the kind size and caliber of arms — & by disciplining prescribing the manual exercise evolutions &c.

[Editors’ note: It seems that Sherman was renewing his amendment from the previous session, rather than proposing a new one. It becomes clear during this discussion that he did not intend for the amendment to remove state control over militia training, though the other delegates certainly perceived it in this light.]

(Madison's Notes (Max Farrand, 1911), Pages 384-385, Vol. 2)

[e673869] Mr. Sherman withdrew his motion

(Madison's Notes (Max Farrand, 1911), Page 385, Vol. 2)

[e673870] Mr Gerry, This power in the U— S. as explained is making the States drill-sergeants. He had as lief let the Citizens of Massachusetts be disarmed, as to take the command from the States, and subject them to the Genl Legislature. It would be regarded as a system of Despotism.

Mr Madison observed that "arming" as explained did not did not extend to furnishing arms; nor the term "disciplining" to penalties & Courts martial for enforcing them.

Mr. King added, to his former explanation that arming meant not only to provide for uniformity of arms, but included authority to regulate the modes of furnishing, either by the militia themselves, the State Governments, or the National Treasury: that laws for disciplining, must involve penalties and every thing necessary for enforcing penalties.

(Madison's Notes (Max Farrand, 1911), Page 385, Vol. 2)

[e673871] It was moved and seconded to postpone the consideration of the second clause of the report of the Committee of eleven in order to take up the following

"To establish an uniform and general system of discipline for the militia of these States, and to make laws for organizing, arming, disciplining and governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the Officers and all authority over the militia not herein given to the general Government"

[Editors' note: Madison records Dayton as the proposer.]

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

Mr. Dayton moved to postpone the paragraph, in order to take up the following proposition

"To establish an uniform & general system of discipline for the Militia of these States, and to make laws for organizing, arming, disciplining & governing such part of them as may be employed in the service of the U. S., reserving to the States respectively the appointment of the officers, and all authority over the Militia not herein given to the General Government"

(Madison's Notes (Max Farrand, 1911), Pages 385-386, Vol. 2)

[e673872] It was moved and seconded to postpone the consideration of the second clause of the report of the Committee of eleven in order to take up the following

"To establish an uniform and general system of discipline for the militia of these States, and to make laws for organizing, arming, disciplining and governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the Officers and all authority over the militia not herein given to the general Government"

On the question to postpone

it passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

Mr. Dayton moved to postpone the paragraph, in order to take up the following proposition

“To establish an uniform & general system of discipline for the Militia of these States, and to make laws for organizing, arming, disciplining & governing such part of them as may be employed in the service of the U. S., reserving to the States respectively the appointment of the officers, and all authority over the Militia not herein given to the General Government”

On the question to postpone in favor of this proposition: it passed in the Negative

N. H. no. Mas— no. Ct no. N. J. ay. P. no. Del. no. Maryd ay. Va. no. N. C. no. S. C. no. Geo. ay. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Pages 385-386, Vol. 2)

[e673873] It was moved and seconded to postpone the consideration of the second clause of the report of the Committee of eleven in order to take up the following

“To establish an uniformity of arms, exercise, and organization for the militia — and to provide for the government of them when called into the service of the United States”.

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

Mr. Elsworth & Mr. Sherman moved to postpone the 2d. clause in favor of the following

“To establish an uniformity of arms, exercise & organization for the Militia, and to provide for the Government of them when called into the service of the U. States”

The object of this proposition was to refer the plan for the Militia to the General Govt. but leave the execution of it to the State Govts.

(Madison’s Notes (Max Farrand, 1911), Page 386, Vol. 2)

[e673874] Mr Langdon said He could not understand the jealousy expressed by some Gentleman. The General & State Govts. were not enemies to each other, but different institutions for the good of the people of America. As one of the people he could say, the National Govt. is mine, the State Govt is mine — In transferring power from one to the other — I only take out of my left hand what it cannot so well use, and put it into my right hand where it can be better used.

Mr. Gerry thought it was rather taking out of the right hand & putting it into the left. Will any man say that liberty will be as safe in the hands of eighty or a hundred men taken from the whole continent, as in the hands of two or three hundred taken from a single State?

Mr. Dayton was against so absolute a uniformity. In some States there ought to be a greater proportion of cavalry than in others. In some places rifles would be most proper, in others muskets &c —

Genl Pinkney preferred the clause reported by the Committee, extending the meaning of it to the case of fines &c —

Mr. Madison. The primary object is to secure an effectual discipline of the Militia. This will no more be done if left to the States separately than the

requisitions have been hitherto paid by them. The States neglect their Militia now, and the more they are consolidated into one nation, the less each will rely on its own interior provisions for its safety & the less prepare its Militia for that purpose; in like manner as the Militia of a State would have been still more neglected than it has been if each County had been independently charged with the care of its Militia. The Discipline of the Militia is evidently a National concern, and ought to be provided for in the National Constitution.

Mr L— Martin was confident that the States would never give up the power over the Militia; and that, if they were to do so, the militia would be less attended to by the Genl. than by the State Governments.

Mr Randolph asked what danger there could be that the Militia could be brought into the field and made to commit suicide on themselves. This is a power that cannot from its nature be abused, unless indeed the whole mass should be corrupted. He was for trammelling the Genl Govt. whenever there was danger. but here there could be none— He urged this as an essential point; observing that the Militia were every where neglected by the State Legislatures, the members of which courted popularity too much to enforce a proper discipline. Leaving the appointment of officers to the States protects the people agst. every apprehension that could produce murmur.

(Madison's Notes (Max Farrand, 1911), Pages 386-387, Vol. 2)

[e673875] It was moved and seconded to postpone the consideration of the second clause of the report of the Committee of eleven in order to take up the following

“To establish an uniformity of arms, exercise, and organization for the militia — and to provide for the government of them when called into the service of the United States”

On the question to postpone

it passed in the affirmative [Ayes — 1; noes — 10.]

[Editors' note: Farrand writes that Jackson's marking this vote in the affirmative was clearly a mistake.]

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

On Question on Mr. Elsworth's Motion

N. H. no. Mas— no— Ct. ay. N. J. no. Pa. no. Del. no. Md. no. Va no— N— C. no. S. C no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 387, Vol. 2)

[e673876] It was moved and seconded to recommit the 2nd clause of the report of the Committee of eleven

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

A motion was then made to recommit the 2d clause

(Madison's Notes (Max Farrand, 1911), Page 387, Vol. 2)

[e673877] It was moved and seconded to recommit the 2nd clause of the report of the Committee of eleven

which passed in the negative.

(Official Journal (Max Farrand, 1911), Page 380, Vol. 2)

A motion was then made to recommit the 2d clause which was negatived.

(Madison's Notes (Max Farrand, 1911), Page 387, Vol. 2)

[e673878] [Editors' note: The Convention decided to divide the second clause into its sub-clauses and decide upon them individually. To mimic this procedure, the editors have dropped the original clause in its 'whole' form and proposed the sub-clauses separately.]

(2019 Editors)

[e673879] [Editors' note: The Convention decided to divide the second clause into its sub-clauses and decide upon them individually. To mimic this procedure, the editors have dropped the original clause in its 'whole' form and proposed the sub-clauses separately.]

(2019 Editors)

[e673880] On the question to agree to the first part of the 2nd clause of the report, namely

“To make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States”

(Official Journal (Max Farrand, 1911), Pages 380-381, Vol. 2)

On the question to agree to the 1st. part of the clause, namely

“To make laws for organizing arming & disciplining the Militia, and for governing such part of them as may be employed in the service of the U. S”.

(Madison's Notes (Max Farrand, 1911), Page 387, Vol. 2)

[e673881] On the question to agree to the first part of the 2nd clause of the report, namely

“To make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States”

it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 380-381, Vol. 2)

On the question to agree to the 1st. part of the clause, namely

“To make laws for organizing arming & disciplining the Militia, and for governing such part of them as may be employed in the service of the U. S”.

N. H ay. Mas. ay. Ct. no. N. J. ay. Pa. ay. Del. ay. Md no. Va ay. N—
C— ay. S. C. ay. Geo. ay. [Ayes — 9 noes — 2.]

(Madison's Notes (Max Farrand, 1911), Pages 387-388, Vol. 2)

[e673882] [Editors' note: The Convention moved on to consider the second part of the clause.]

(2019 Editors)

[e673883] It was moved and seconded to amend the next part of the 2nd clause of the report to read

“reserving to the States, respectively, the appointment of the Officers under the rank of general Officers

[Editors’ note: Madison records himself as the proposer.]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

Mr. Madison moved to amend the next part of the clause so as to read “reserving to the States respectively, the appointment of the officers, under the rank of General officers.”

(Madison’s Notes (Max Farrand, 1911), Page 388, Vol. 2)

[e673884] Mr. Sherman considered this as absolutely inadmissible. He said that if the people should be so far asleep as to allow the Most influential officers of the Militia to be appointed by the Genl. Government, every man of discernment would rouse them by sounding the alarm to them —

Mr. Gerry. Let us at once destroy the State Govts have an Executive for life or hereditary, and a proper Senate, and then there would be some consistency in giving full powers to the Genl Govt. but as the States are not to be abolished, he wondered at the attempts that were made to give powers inconsistent with their existence. He warned the Convention agst pushing the experiment too far. Some people will support a plan of vigorous Government at every risk. Others of a more democratic cast will oppose it with equal determination. And a Civil war may be produced by the conflict.

Mr. Madison. As the greatest danger is that of disunion of the States, it is necessary to guard agst. it by sufficient powers to the Common Govt. and as the greatest danger to liberty is from large standing armies, it is best to prevent them by an effectual provision for a good Militia

(Madison’s Notes (Max Farrand, 1911), Page 388, Vol. 2)

[e673885] It was moved and seconded to amend the next part of the 2nd clause of the report to read

“reserving to the States, respectively, the appointment of the Officers under the rank of general Officers

it passed in the negative. [Ayes — 2; noes — 9.]

[Editors’ note: Madison records the vote differently, with Georgia voting in favour: ‘N— H— ay — Mas— no— Ct no— N— J— no— Pa no— Del— no— Md no— Va no— N— C— no— S— C— ay— Geo— ay. [Ayes — 3; noes — 8.]’ (Page 388, Vol. 2, Madison’s Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

[e673886] On the question to agree to the following part of the 2nd clause of the report, namely,

“reserving to the States, respectively, the appointment of the Officers”

it passed in the affirmative.

[Editors’ note: Madison records this vote passing ‘nem: contrad:’.]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

On the question to agree to the “reserving to the States the appointment of the officers”. It was agreed to nem: contrad:

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

[e673887] On the question to agree to the following part of the 2nd clause of the report, namely,

“and the authority of training the militia according to the discipline prescribed by the United States”

it passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

On the question on the clause “and the authority of training the Militia according to the discipline prescribed by the U. S” —

(Madison’s Notes (Max Farrand, 1911), Page 388, Vol. 2)

[e673888] On the question to agree to the following part of the 2nd clause of the report, namely,

“and the authority of training the militia according to the discipline prescribed by the United States”

it passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

On the question on the clause “and the authority of training the Militia according to the discipline prescribed by the U. S” —

N. H. ay. Mas. ay. Ct. ay— N— J— ay. Pa. ay— Del. no. Md. ay. Va. no— N— C. ay. S. C. no. Geo. no— [Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Page 388, Vol. 2)

[e673889] [Editors’ note: Once the Convention decided upon the final part of the second clause, the whole clause as amended was taken into the working document.]

(2019 Editors)

[e673890] [Editors’ note: Once the Convention decided upon the final part of the second clause, the amended report from the Committee on State Debts and Militia was adopted.]

(2019 Editors)

[e673891] [Editors’ note: Once the Convention decided upon the final part of the second clause, the amended report from the Committee on State Debts and Militia was adopted. As a result, the original Committee Report was effectively dropped from consideration.]

(2019 Editors)

[e673892] On motion, on a proposition reported and amended agreed that “The legislature shall fulfil the engagements and discharge the debts of the U. S.” To make the first clause in the VII article — Amended the first clause in the report of the said article by striking out the words, the legislature of the U. S. Added in the said article after the clause “to provide and maintain fleets.”

To organize and discipline the militia and govern such part of them as may be employed in the service of the U. S. reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by the U. S.”

[Editors’ note: McHenry records that the agreed clauses proposed by the Committee were integrated into the text of the Committee of Detail’s amended Constitution.]

(McHenry’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673893] [Editors’ note: The agreed clauses proposed by the Committee were integrated into the text of the Committee of Detail’s amended Constitution.]

(2019 Editors)

[e673894] It was moved and seconded to agree to the 7 section of the 7 article, as reported,

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

On the question to agree to Art. VII— sect. 7. as reported

(Madison’s Notes (Max Farrand, 1911), Page 388, Vol. 2)

[e673895] It was moved and seconded to agree to the 7 section of the 7 article, as reported,

which passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

On the question to agree to Art. VII— sect. 7. as reported It passed nem: contrad:

(Madison’s Notes (Max Farrand, 1911), Pages 388-389, Vol. 2)

[e673896] Mr Pinkney urged the necessity of preserving foreign Ministers & other officers of the U. S. independent of external influence and moved to insert — after Art VII sect 7. the clause following — “No person holding any office of profit or trust under the U. S. shall without the consent of the Legislature, accept of any present, emolument, office or title of any kind whatever, from any King, Prince or foreign State

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

It was moved and seconded to insert the following clause after the 7 section of the 7 article.

“No person holding any office of profit or trust under the United States, shall without the consent of the Legislature accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State”

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

[e673897] It was moved and seconded to insert the following clause after the 7 section of the 7 article.

“No person holding any office of profit or trust under the United States, shall without the consent of the Legislature accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State”

which passed in the affirmative

[Editors’ note: Madison states this motion passed ’nem: contrad.’]

(Official Journal (Max Farrand, 1911), Page 381, Vol. 2)

Mr Pinkney urged the necessity of preserving foreign Ministers & other officers of the U. S. independent of external influence and moved to insert — after Art VII sect 7. the clause following — “No person holding any office of profit or trust under the U. S. shall without the consent of the Legislature, accept of any present, emolument, office or title of any kind whatever, from any King, Prince or foreign State which passed nem: contrad.

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

[e673898] [Editors’ note: The Convention then considered the Eighth Article.]

(2019 Editors)

[e673899] Mr. Rutlidge moved to amend Art: VIII to read as follows,

“This Constitution & the laws of the U. S. made in pursuance thereof, and all Treaties made under the authority of the U. S. shall be the supreme law of the several States and of their citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions, any thing in the Constitutions or laws of the several States, to the contrary notwithstanding”

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

It was moved and seconded to amend the 8th article to read as follows

“This Constitution and the Laws of the United States made in pursuance thereof, and all treaties made under the authority of the United-States, shall be the supreme law of the several States, and of their Citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions; any thing in the constitutions or laws of the several States to the contrary notwithstanding”

(Official Journal (Max Farrand, 1911), Pages 381-382, Vol. 2)

Expunged in the VIII article the words the acts of the legislature of the U. S. and of this constitution, so as that the constitution and laws made in pursuance thereof etc should be the supreme laws of the several States —

(McHenry’s Notes (Max Farrand, 1911), Pages 394-395, Vol. 2)

[e673900] It was moved and seconded to amend the 8th article to read as follows

“This Constitution and the Laws of the United States made in pursuance thereof, and all treaties made under the authority of the United-States, shall be the supreme law of the several States, and of their Citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions; any thing in the constitutions or laws of the several States to the contrary notwithstanding”

which passed in the affirmative

[Editors’ note: Madison writes that this motion was ‘agreed to, nem: contrad:’]

(Official Journal (Max Farrand, 1911), Pages 381-382, Vol. 2)

Mr. Rutledge moved to amend Art: VIII to read as follows,

“This Constitution & the laws of the U. S. made in pursuance thereof, and all Treaties made under the authority of the U. S. shall be the supreme law of the several States and of their citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions, any thing in the Constitutions or laws of the several States, to the contrary notwithstanding” —

which was agreed to, nem: contrad:

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

[e673901] On the question to agree to the 8 article as amended

it passed in the affirmative

[Editors’ note: None of the sources records a vote count for the Eighth Article, but it seems likely that it was a unanimous decision.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673902] Art: IX being next for consideration

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

The IX article being taken up,

(McHenry’s Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673903] Art: IX being next for consideration

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

[e673904] Mr Govr Morris argued agst. the appointment of officers by the Senate. He considered the body as too numerous for the purpose; as subject to cabal; and as devoid of responsibility. — If Judges were to be tried by the Senate according to a late report of a Committee it was particularly wrong to let the Senate have the filling of vacancies which its own decrees were to create.

Mr. Wilson was of the same opinion & for like reasons.

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

[e673905] The art IX— being waved— and art VII. sect 1. resumed

(Madison’s Notes (Max Farrand, 1911), Page 389, Vol. 2)

It was moved and seconded to postpone the considn of the first clause of the 1st sect. 9 article

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

[e673906] Mr Govr Morris moved to strike the following words out of the 18 clause “enforce treaties” as being superfluous since treaties were to be “laws”

[Editors’ note: The eighteenth clause referenced here was originally the seventeenth clause.]

(Madison’s Notes (Max Farrand, 1911), Pages 389-390, Vol. 2)

It was moved and seconded to strike the following words out of the 18 clause of the 1st section 7 article

“enforce treaties”

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673907] Mr Govr Morris moved to strike the following words out of the 18 clause “enforce treaties” as being superfluous since treaties were to be “laws” which was agreed to nem: contrad:

(Madison’s Notes (Max Farrand, 1911), Pages 389-390, Vol. 2)

It was moved and seconded to strike the following words out of the 18 clause of the 1st section 7 article

“enforce treaties”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673908] It was moved and seconded to alter the first part of the 18 clause of the 1st section, 7 article to read

“To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions”

[Editors’ note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

Mr Govr Morris moved to alter 1st. part. of 18. clause — sect. 1. art. VII so as to read “to provide for calling forth the militia to execute the laws of the Union,¹⁰ suppress insurrections and repel invasions”.

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 2)

[e673909] Mr Govr Morris moved to alter 1st. part. of 18. clause — sect. 1. art. VII so as to read “to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions”. which was agreed to nem: contrad

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 2)

It was moved and seconded to alter the first part of the 18 clause of the 1st section, 7 article to read

“To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions”
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673910] On the question then to agree to the 18 clause of sect. 1. art: 7. as amended it passed in the affirmative nem: contradicente.

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 2)

On the question to agree to the 18th clause of the 1st section, 7 article, as amended

it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673911] Mr C— Pinkney moved to add as an additional power to be vested in the Legislature of the U. S. “To negative all laws passed by the several States interfering in the opinion of the Legislature with the General interests and harmony of the Union;” provided that two thirds of the members of each House assent to the same” This principle he observed had formerly been agreed to. He considered the precaution as essentially necessary: The objection drawn from the predominance of the large States had been removed by the equality established in the Senate— Mr. Broome 2ded. the proposition.

(Madison’s Notes (Max Farrand, 1911), Page 390, Vol. 2)

It was moved and seconded to agree to the following proposition, as an additional power to be vested in the Legislature of the United States.

“To negative all laws passed by the several States interfering, in the opinion of the Legislature, with the general interests and harmony of the Union — provided that two thirds of the Members of each House assent to the same.”

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673912] Mr. Sherman thought it unnecessary; the laws of the General Government being Supreme & paramount to the State laws according to the plan, as it now stands.

Mr. Madison proposed that it should be committed— He had been from the beginning a friend to the principle; but thought the modification might be made better.

Mr. Mason wished to know how the power was to be exercised. Are all laws whatever to be brought up? Is no road nor bridge to be established without the Sanction of the General Legislature? Is this to sit constantly in order to receive & revise the State Laws? He did not mean by these remarks to condemn the expedient, but he was apprehensive that great objections would lie agst. it.

Mr. Williamson thought it unnecessary, & having been already decided, a revival of the question was a waste of time.

Mr. Wilson considered this as the key-stone wanted to compleat the wide arch of Government we are raising. The power of self-defence had been urged as necessary for the State Governments— It was equally necessary for the General Government. The firmness of Judges is not of itself sufficient Something further is requisite— It will be better to prevent the passage of an improper law, than to declare it void when passed.

Mr. Rutledge. If nothing else, this alone would damn and ought to damn the Constitution. Will any State ever agree to be bound hand & foot in this manner. It is worse than making mere corporations of them whose bye laws would not be subject to this shackle.

Mr Elseworth observed that the power contended for wd. require either that all laws of the State Legislatures should previously to their taking effect be transmitted to the Genl Legislature, or be repealable by the Latter; or that the State Executives should be appointed by the Genl Government, and have a controul over the State laws. If the last was meditated let it be declared.

Mr. Pinkney declared that he thought the State Executives ought to be so appointed with such a controul. & that it would be so provided if another Convention should take place.

Mr Governr. Morris did not see the utility or practicability of the proposition of Mr. Pinkney, but wished it to be referred to the consideration of a Committee.

Mr Langdon was in favor of the proposition. He considered it as resolvable into the question whether the extent of the National Constitution was to be judged of by the Genl or the State Governments.

(Madison's Notes (Max Farrand, 1911), Pages 390-391, Vol. 2)

[e673913] It was moved and seconded to commit the proposition.

[Editors' note: Madison's record of this debate implies that Madison himself proposed committing the proposition and that G. Morris seconded him.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673914] It was moved and seconded to commit the proposition which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

On the question for commitment, it passed in the negative.

N— H. ay. Masts: no. Cont. no N. J. no. Pa. ay. Del: ay. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 391, Vol. 2)

[e673915] Mr Pinkney then withdrew his proposition.

(Madison's Notes (Max Farrand, 1911), Page 391, Vol. 2)

The Proposition was then withdrawn.

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

[e673916] It was moved and seconded to amend the 1st section of the 7. article to read

“The Legislature shall fulfil the engagements and discharge the debts of the United-States, and shall have the power to lay and collect taxes, duties, imposts, and excises.”

[Editors’ note: The exact change being proposed here is unclear; however, it seems likely that the amendment was moved to clear up some confusion on how to integrate the agreed report text into the draft Constitution.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

The 1st sect. of art: VII being so amended as to read “The Legislature shall fulfil the engagements and discharge the debts of the U. S, & shall have the power to lay & collect taxes duties imposts & excises”

(Madison’s Notes (Max Farrand, 1911), Page 392, Vol. 2)

[e673917] It was moved and seconded to amend the 1st section of the 7. article to read

“The Legislature shall fulfil the engagements and discharge the debts of the United-States, and shall have the power to lay and collect taxes, duties, imposts, and excises.”

which passed in the affirmative

[Editors’ note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 382, Vol. 2)

The 1st sect. of art: VII being so amended as to read “The Legislature shall fulfil the engagements and discharge the debts of the U. S, & shall have the power to lay & collect taxes duties imposts & excises”, was agreed to

(Madison’s Notes (Max Farrand, 1911), Page 392, Vol. 2)

[e673918] Mr. Butler expressed his dissatisfaction lest it should compel payment as well to the Blood-suckers who had speculated on the distresses of others, as to those who had fought & bled for their country. He would be ready he said tomorrow to vote for a discrimination between those classes of people, and gave notice that he should move for a reconsideration.

(Madison’s Notes (Max Farrand, 1911), Page 392, Vol. 2)

[e673919] Mr. Madison observed that the Senate represented the States alone, and that for this as well as other obvious reasons it was proper that the President should be an agent in Treaties.

(Madison’s Notes (Max Farrand, 1911), Page 392, Vol. 2)

[e673920] Mr. Govr. Morris did not know that he should agree to refer the making of Treaties to the Senate at all, but for the present wd. move to add as an amendment to the section, after “Treaties” — “but no Treaty shall be binding on the U. S. which is not ratified by a law.”

[Editors’ note: The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 392, Vol. 2)

It was moved and seconded to amend the first clause of the first section 9. article to read

“The Senate shall have power to treat with foreign nations, but no Treaty shall be binding on the United States which is not ratified by a Law.”

(Official Journal (Max Farrand, 1911), Pages 382-383, Vol. 2)

The IX article being taken up, It was motioned that no treaty should be binding till it received the sanction of the legislature.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673921] Mr Madison suggested the inconvenience of requiring a legal ratification of treaties of alliance for the purposes of war &c &c

Mr. Ghorum. Many other disadvantages must be experienced if treaties of peace and all negociations are to be previously ratified — and if not previously, the Ministers would be at a loss how to proceed— What would be the case in G. Britain if the King were to proceed in this maner? American Ministers must go abroad not instructed by the same Authority (as will be the case with other Ministers) which is to ratify their proceedings.

Mr. Govr. Morris. As to treaties of alliance, they will oblige foreign powers to send their Ministers here, the very thing we should wish for. Such treaties could not be otherwise made, if his amendment shd. succeed. In general he was not solicitous to multiply & facilitate Treaties. He wished none to be made with G. Britain, till she should be at war. Then a good bargain might be made with her. So with other foreign powers. The more difficulty in making treaties, the more value will be set on them.

Mr. Wilson. In the most important Treaties, the King of G. Britain being obliged to resort to Parliament for the execution of them, is under the same fetters as the amendment of Mr. Morris will impose on the Senate. It was refused yesterday to permit even the Legislature to lay duties on exports. Under the clause, without the amendment, the Senate alone can make a Treaty, requiring all the Rice of S. Carolina to be sent to some one particular port.

Mr. Dickinson concurred in the amendment, as most safe and proper, tho' he was sensible it was unfavorable to the little States; wch would otherwise have an equal share in making Treaties.

Docr. Johnson thought there was something of solecism in saying that the acts of a Minister with plenipotentiary powers from one Body, should depend for ratification on another Body. The Example of the King of G. B. was not parallel. Full & compleat power was vested in him— If the Parliament should fail to provide the necessary means of execution, the Treaty would be violated.

Mr. Ghorum in answer to Mr. Govr Morris, said that negociations on the spot were not to be desired by us, especially if the whole Legislature is to have any thing to do with Treaties. It will be generally influenced by two or three men, who will be corrupted by the Ambassadors here. In such a Government as ours, it is necessary to guard against the Government itself being seduced.

(Madison's Notes (Max Farrand, 1911), Pages 392-393, Vol. 2)

It was said that a minister could not then be instructed by the Senate who were to appoint him, or if instructed there could be no certainty that the house of representatives would agree to confirm what he might agree to under these instructions.

To this it was answered that all treaties which contravene a law of England or require a law to give them operation or effect are inconclusive till agreed to by the legislature of Great Britain.

Except in such cases the power of the King without the concurrence of the parliament conclusive.

Mr. Maddison. the Kings power over treaties final and original except in granting subsidies or dismembering the empire. These required parliamentary acts.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673922] It was moved and seconded to postpone the consideration of the amendment.

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

Mr. Randolph observing that almost every Speaker had made objections to the clause as it stood, moved in order to a further consideration of the subject, that the Motion of Mr. Govr. Morris should be postponed

(Madison's Notes (Max Farrand, 1911), Page 393, Vol. 2)

[e673923] It was moved and seconded to postpone the consideration of the amendment.

which passed in the negative. [Ayes — 5; noes — 5.]

[Editors' note: The New Hampshire delegation was not quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

Mr. Randolph observing that almost every Speaker had made objections to the clause as it stood, moved in order to a further consideration of the subject, that the Motion of Mr. Govr. Morris should be postponed, and on this question It was lost the States being equally divided.

Massts. no. Cont. no. N. J— ay— Pena. ay. Del. ay. Md. ay. Va. ay— N. C. no. S. C. no— Geo. no. [Ayes — 5; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Pages 393-394, Vol. 2)

[e673924] On the question to agree to the amendment.

it passed in the negative [Ayes — 1; noes — 8; divided — 1].

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

On Mr. Govr. Morris Motion

Masts. no. Cont no. N. J. no. Pa. ay— Del. no— Md. no. Va. no. N. C. divid S. C. no. Geo— no. [Ayes — 1; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673925] It was moved and seconded to insert the words
 “and other public ministers” after the word “ambassadors” in the first section
 9 article

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after
 inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673926] It was moved and seconded to insert the words
 “and other public ministers” after the word “ambassadors” in the first section
 9 article

which passed in the affirmative

[Editors’ note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after
 inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673927] [Editors’ note: The Journal suggests that the Convention then split
 the section into its clauses to consider them individually. To mimic this proce-
 dure, the editors have dropped the ‘whole’ version of the section and proposed
 the clauses separately.]

(2019 Editors)

[e673928] [Editors’ note: The Journal suggests that the Convention then split
 the section into its clauses to consider them individually. To mimic this proce-
 dure, the editors have dropped the ‘whole’ version of the section and proposed
 the clauses separately.]

(2019 Editors)

[e673929] Separate questions being taken on postponing the several clauses of
 the first sect. 9 article

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after
 inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673930] Separate questions being taken on postponing the several clauses of
 the first sect. 9 article

they passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673931] Separate questions being taken on postponing the several clauses of the first sect. 9 article

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673932] Separate questions being taken on postponing the several clauses of the first sect. 9 article

they passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673933] Separate questions being taken on postponing the several clauses of the first sect. 9 article

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673934] Separate questions being taken on postponing the several clauses of the first sect. 9 article

they passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The several clauses of Sect: 1. art IX, were then separately postponed after inserting “and other public Ministers” next after “Ambassadors.”

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673935] Mr. Madison hinted for consideration, whether a distinction might not be made between different sorts of Treaties — Allowing the President & Senate to make Treaties eventual and of Alliance for limited terms — and requiring the concurrence of the whole Legislature in other Treaties.

(Madison’s Notes (Max Farrand, 1911), Page 394, Vol. 2)

[e673936] It was moved and seconded to take up the 1st section of the 9 article, in order to it's being committed

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The 1st Sect. art IX. was finally referred nem: con: to the committee of Five

(Madison's Notes (Max Farrand, 1911), Page 394, Vol. 2)

Committed.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673937] It was moved and seconded to take up the 1st section of the 9 article, in order to it's being committed

which passed in the affirmative.

and it was referred to the Committee of five.

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

The 1st Sect. art IX. was finally referred nem: con: to the committee of Five

(Madison's Notes (Max Farrand, 1911), Page 394, Vol. 2)

Committed.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673938] and then the House adjourned

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

and the House then Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 394, Vol. 2)

Adjourned.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

[e673939] and then the House adjourned

(Official Journal (Max Farrand, 1911), Page 383, Vol. 2)

and the House then Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 394, Vol. 2)

Adjourned.

(McHenry's Notes (Max Farrand, 1911), Page 395, Vol. 2)

1.78 Friday, 24 August 1787, at 10:00 (s6265)

[e673940] Martin, Alexander, of North Carolina. Attended as early as May 25; left in the latter part of August.

[Editors' note: This is the first session in which the North Carolina delegation fell below quorum. It is uncertain from what day Alexander Martin was absent; however, as this is the day when North Carolina loses its quorum, he has been shown as leaving on this day.]

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e673941] Strong, Caleb, of Massachusetts. Attended on May 28; was present on August 15, but left before August 27. He favored the Constitution.

[Editors' note: Like North Carolina, the Massachusetts delegation fell below quorum on this day. It is uncertain from what day Strong was absent; but this is the day the delegation loses its quorum, he has been shown as leaving on this day. On 29 August, Nathaniel Gorham sent the following letter to Caleb Strong, which confirms that Strong was absent:

'Philadelphia Augt 29

I recd your favour from N York and was pleased to find that you had got on so well. . . . We have now under consideration the 18th Article which is that the United States shall guarantee, &c. &c.

I am in hopes we shall be done in about 20 days. There are several things referred which will take some time' (Page 76, Vol. 3, Nathaniel Gorham to Caleb Strong, Appendix A (Max Farrand, 1911)).]

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e673942] Ellsworth, Oliver, of Connecticut. First attended on May 28. Was present in Convention August 23. Was in New Haven August 27. Approved the Constitution.

[Editors' note: Ellsworth was a regular contributor to the debates throughout his time at the Convention. After 23 August, these contributions abruptly stop, suggesting that that was his last day at the Convention.]

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e740474] The honorable Mr Livingston, from the Committee of eleven to whom were referred the two remaining clauses of the 4th section, and the 5th and 6th sections of the 7 article, informed the House that the Committee were prepared to report. The report was then delivered in at the Secretary's table, was once read, and is as follows.

"Strike out so much of the 4th section of the 7th article as was referred to the Committee and insert 'The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800 — but a Tax or Duty may be imposed on such migration or importation at a rate not exceeding the average of the Duties laid on Imports.'"

"The 5th section to remain as in the report"

"The 6th section to be stricken out"

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

Governour Livingston, from the Committee of Eleven, to whom were referred the two remaining clauses of the 4th. Sect & the 5 & 6 Sect: of the 7th. art: delivered in the following Report:

“Strike out so much of the 4th. sect: as was referred to the Committee and insert — “The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800, but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports.”

“The 5 Sect: to remain as in the Report”

“The 6 Sect. to be stricken out”

(Madison’s Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e673943] The honorable Mr Livingston, from the Committee of eleven to whom were referred the two remaining clauses of the 4th section, and the 5th and 6th sections of the 7 article, informed the House that the Committee were prepared to report. The report was then delivered in at the Secretary’s table, was once read, and is as follows.

“Strike out so much of the 4th section of the 7th article as was referred to the Committee and insert ’The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800 — but a Tax or Duty may be imposed on such migration or importation at a rate not exceeding the average of the Duties laid on Imports.’”

“The 5th section to remain as in the report”

“The 6th section to be stricken out”

[Editors’ note: The report appears to take the form of a set of instructions. For this reason, the editors have shown the effects these instructions had on the text.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

Governour Livingston, from the Committee of Eleven, to whom were referred the two remaining clauses of the 4th. Sect & the 5 & 6 Sect: of the 7th. art: delivered in the following Report:

“Strike out so much of the 4th. sect: as was referred to the Committee and insert — “The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800, but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports.”

“The 5 Sect: to remain as in the Report”

“The 6 Sect. to be stricken out”

(Madison’s Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e740361] Mr. Butler, according to notice, moved that clause 1st. sect. 1. of art VII, as to the discharge of debts, be reconsidered tomorrow— He dwelt on the division of opinion concerning the domestic debts, and the different pretensions of the different classes of holders. Genl. Pinkney 2ded. him.

(Madison's Notes (Max Farrand, 1911), Page 400, Vol. 2)

It was moved and seconded to reconsider the 1st clause 1st sect. 7 article

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

[e740362] Mr. Randolph wished for a reconsideration in order to better the expression, and to provide for the case of the State debts as is done by Congress.

(Madison's Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e740363] It was moved and seconded to reconsider the 1st clause 1st sect. 7 article

which passed in the affirmative [Ayes — 7; noes — 2.]

[Editors' note: Neither North Carolina nor Pennsylvania was quorate for this part of the session.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

[e673947] to-morrow was assigned for the reconsideration

[Editors' note: Because assigning days for future business was typically done via a separate procedural motion, the editors have represented such a motion, despite the fact that the record does not explicitly state that there was one.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

Mr. Butler, according to notice, moved that clause 1st. sect. 1. of art VII, as to the discharge of debts, be reconsidered tomorrow

(Madison's Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e673948] to-morrow was assigned for the reconsideration

[Editors' note: Because assigning days for future business was typically done via a separate procedural motion, the editors have represented such a motion, despite the fact that the record does not explicitly state that there was one.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

tomorrow assigned for the reconsideration

(Madison's Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e673949] Sect: 2 & 3 of art: IX being taken up

(Madison's Notes (Max Farrand, 1911), Page 400, Vol. 2)

[e673950] Mr Rutledge said this provision for deciding controversies between the States was necessary under the Confederation, but will be rendered unnecessary by the National Judiciary now to be established, and moved to strike it out.

Docr. Johnson 2ded. the Motion

(Madison's Notes (Max Farrand, 1911), Pages 400-401, Vol. 2)

It was moved and seconded to strike out the 2nd and 3rd sections of the 9th article

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

2 and 3 sect. struck out.

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673951] Mr. Sherman concurred: so did Mr Dayton.

Mr. Williamson was for postponing instead of striking out, in order to consider whether this might not be a good provision, in cases where the Judiciary were interested or too closely connected with the parties—

Mr. Ghorum had doubts as to striking out, The Judges might be connected with the States being parties — He was inclined to think the mode proposed in the clause would be more satisfactory than to refer such cases to the Judiciary —

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673952] It was moved and seconded to postpone the consideration of the 2nd and 3rd sections 9 article.

[Editors' note: Madison's record of the debate suggests that Williamson and Gorham proposed the postponement.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

Mr. Williamson was for postponing instead of striking out, in order to consider whether this might not be a good provision, in cases where the Judiciary were interested or too closely connected with the parties [...]

On the Question for postponing the 2d and 3d Section

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673953] It was moved and seconded to postpone the consideration of the 2nd and 3rd sections 9 article.

which passed in the negative. [Ayes — 3; noes — 7.]

[Editors' note: North Carolina had regained its quorum by this vote.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the Question for postponing the 2d and 3d Section, it passed in the negative

N. H. ay. Masts. no. Cont. no N. J. no. Pena abst. Del. no. Md. no. Va no. N. C. ay S—C no. Geo. ay. [Ayes — 3; noes — 7; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673954] Mr. Wilson urged the striking out, the Judiciary being a better provision.

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673955] It was moved and seconded to strike out the 2nd and 3rd sections of the 9th article

which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On Question for striking out 2 & 3 Sections Art: IX

N. H. ay. Mas: ay. Ct. ay. N. J— ay. Pa. abst. Del— ay. Md. ay. Va ay. N. C. no. S. C. ay— Geo. no. [Ayes — 8; noes — 2; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

2 and 3 sect. struck out.

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673956] [Editors' note: The decision to agree to Rutledge's 'striking out' amendment was, in effect, a decision to reject Sections 2 and 3.]

(2019 Editors)

[e673957] The 10 article give rise to various debate.

[Editors' note: The Convention then considered Article X.]

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673958] Art X. sect. 1.

[Editors' note: The Convention decided to vote on the clauses of the section separately.]

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673959] Separate questions being taken on the 1st 2nd and 3rd clauses of the 1st section — 10th article, as reported

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the question for vesting the power in a single person

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673960] Separate questions being taken on the 1st 2nd and 3rd clauses of the 1st section — 10th article, as reported,

they passed in the affirmative.

[Editors' note: Madison writes that 'on the question for vesting the power in a single person — It was agreed to nem: con:' (Page 401, Vol. 2, Madison's Notes (Max Farrand, 1911)). The editors assume that by this point the Pennsylvania delegation had become quorate again.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

[e673961] Separate questions being taken on the 1st 2nd and 3rd clauses of the 1st section — 10th article, as reported

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the question for vesting the power in a single person — It was agreed to
nem: con: So also on the Stile

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673962] Separate questions being taken on the 1st 2nd and 3rd clauses of the
1st section — 10th article, as reported,
they passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the question for vesting the power in a single person — It was agreed to
nem: con: So also on the Stile

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673963] Separate questions being taken on the 1st 2nd and 3rd clauses of the
1st section — 10th article, as reported

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the question for vesting the power in a single person — It was agreed to
nem: con: So also on the Stile and title —

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673964] Separate questions being taken on the 1st 2nd and 3rd clauses of the
1st section — 10th article, as reported,
they passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2)

On the question for vesting the power in a single person — It was agreed to
nem: con: So also on the Stile and title —

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

[e673965] [Editors' note: The Convention then considered the last two clauses
of the First Section.]

(2019 Editors)

[e673966] Mr. Rutledge moved to insert "joint" before the word "ballot", as the
most convenient mode of electing.

(Madison's Notes (Max Farrand, 1911), Page 401, Vol. 2)

It was moved and seconded to insert the word "joint" before the word "ballot"
in the 1st section of the 10th article

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

The 10 article give rise to various debate. Amended to read that the election of
the president of the U. S. be by joint ballot.

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673967] Mr. Sherman objected to it as depriving the States represented in the Senate of the negative intended them in that house,

Mr. Ghorum said it was wrong to be considering, at every turn whom the Senate would represent. The public good was the true object to be kept in view— Great delay and confusion would ensue if the two Houses shd vote separately, each having a negative on the choice of the other.

Mr. Dayton. It might be well for those not to consider how the Senate was constituted, whose interest it Was to keep it out of sight. — If the amendment should be agreed to, a joint ballot would in fact give the appointment to one House. He could never agree to the clause with such an amendment. There could be no doubt 8 of the two Houses separately concurring in the same person for President. The importance & necessity of the case would ensure a concurrence .

(Madison's Notes (Max Farrand, 1911), Pages 401-402, Vol. 2)

[e673968] Mr. Carrol moved to strike out, "by the Legislature" and insert "by the people" — Mr Wilson 2ded. him

(Madison's Notes (Max Farrand, 1911), Page 402, Vol. 2)

It was moved and seconded to strike out the word "Legislature" and to insert the word "People" in the 1st section 10th article.

(Official Journal (Max Farrand, 1911), Pages 396-397, Vol. 2)

It was moved that the president be elected by the people

(McHenry's Notes (Max Farrand, 1911), Pages 406-407, Vol. 2)

[e673969] It was moved and seconded to strike out the word "Legislature" and to insert the word "People" in the 1st section 10th article.

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Pages 396-397, Vol. 2)

Mr. Carrol moved to strike out, "by the Legislature" and insert "by the people" — Mr Wilson 2ded. him & on the question

N. H. no. Massts. no. Cont. no. N. J. no. Pa. ay. Del. ay. Md no. Va. no
N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 402, Vol. 2)

It was moved that the president be elected by the people 3 states affirm — 7 neg.

[Editors' note: Farrand writes: 'According to the Journal, Detail of Ayes and Noes and Madison, this question was the first one upon Article X for which a vote was taken, and the vote is given as Ayes, 2; noes, 9.']

(McHenry's Notes (Max Farrand, 1911), Pages 406-407, Vol. 2)

[e673970] Mr Brearly was opposed to the motion for inserting the word “joint”. The argument that the small States should not put their hands into the pockets of the large ones did not apply in this case.

Mr. Wilson urged the reasonableness of giving the larger States a larger share of the appointment, and the danger of delay from a disagreement of the two Houses. He remarked also that the Senate had peculiar powers balancing the advantage given by a joint ballot in this case to the other branch of the Legislature.

Mr. Langdon. This general officer ought to be elected by the joint & general voice. In N. Hampshire the mode of separate votes by the two Houses was productive of great difficulties. The Negative of the Senate would hurt the feelings of the man elected by the votes of the other branch. He was for inserting “joint” tho’ unfavorable to N. Hampshire as a small State.

Mr. Wilson remarked that as the President of the Senate was to be the President of the U— S. that Body in cases of vacancy might have an interest in throwing dilatory obstacles in the way, if its separate concurrence should be required.

Mr. Madison. If the amendment be agreed to the rule of voting will give to the largest State, compared with the smallest, an influence as 4 to 1 only, altho the population is as 10 to 1. This surely cannot be unreasonable as the President is to act for the people not for the States. The President of the Senate also is to be occasionally President of the U. S. and by his negative alone can make $\frac{3}{4}$ of the other branch necessary to the passage of a law — This is another advantage enjoyed by the Senate.

(Madison’s Notes (Max Farrand, 1911), Pages 402-403, Vol. 2)

[e673971] It was moved and seconded to insert the word “joint” before the word “ballot” in the 1st section of the 10th article

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

On the question for inserting “joint”, it passed in the affirmative

N. H. ay. Mass ay— Ct. no. N. J. no. Pa. ay— Del. ay. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Page 403, Vol. 2)

The 10 article give rise to various debate. Amended to read that the election of the president of the U. S. be by joint ballot.

(McHenry’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673972] Mr. Dayton then moved to insert, after the word “Legislatures” the words “each State having one vote” Mr Brearly 2ded. him

(Madison’s Notes (Max Farrand, 1911), Page 403, Vol. 2)

It was moved and seconded to add after the word “Legislature” in the 1st section 10th article the words “each State having one vote”

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

It was moved to add each State having one vote

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673973] It was moved and seconded to add after the word "Legislature" in the 1st section 10th article the words "each State having one vote" which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr. Dayton then moved to insert, after the word "Legislatures" the words "each State having one vote" Mr Brearly 2ded. him, and on the question it passed in the negative

N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. no. Del. ay. Md ay. Va. no. N. C. no. S. C. no. Geo. ay [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 403, Vol. 2)

It was moved to add each State having one vote — Conn: Jer. Mar. Georg.15 ay. N. H. Mass. Penns. Vir. N. C. and S. C. no.

(McHenry's Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e673974] It was moved and seconded to insert after the word "Legislature" in the 1st sect. of the 10 article the words "to which election a majority of the votes of the Members present shall be required"

[Editors' note: Madison attributes this motion to Pinckney.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr. Pinkney moved to insert after the word "Legislature" the words "to which election a majority of the votes of the members present shall be required"

(Madison's Notes (Max Farrand, 1911), Page 403, Vol. 2)

[e673975] It was moved and seconded to insert after the word "Legislature" in the 1st sect. of the 10 article the words "to which election a majority of the votes of the Members present shall be required"

which passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr. Pinkney moved to insert after the word "Legislature" the words "to which election a majority of the votes of the members present shall be required" &

On this question, it passed in the affirmative

N. H. ay. Mas. ay. Ct. ay. N. J. no. Pa. ay. Del. ay— Md. ay— Va. ay— N. C. ay— S. C. ay— Geo. ay. [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 403, Vol. 2)

[e673976] Mr Read moved "that in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting vote"

[Editors' note: The motion text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 403, Vol. 2)

On the question to agree to the following clause

“and in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting voice”

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

[e673977] On the question to agree to the following clause

“and in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting voice”

it passed in the negative.

[Editors' note: Madison writes that the motion 'was disagreed to by a general negative.']

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr Read moved “that in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting vote”, which was disagreed to by a general negative.

(Madison's Notes (Max Farrand, 1911), Page 403, Vol. 2)

[e673978] Mr. Govr Morris opposed the election of the President by the Legislature. He dwelt on the danger of rendering the Executive uninterested in maintaining the rights of his Station, as leading to Legislative tyranny. If the Legislature have the Executive dependent on them, they can perpetuate & support their usurpations by the influence of tax-gatherers & other officers, by fleets armies &c. Cabal & corruption are attached to that mode of election: so also is ineligibility a second time. Hence the Executive is interested in Courting popularity in the Legislature by sacrificing his Executive rights; & then he can go into that Body, after the expiration of his Executive Office, and enjoy there the fruits of his policy. To these considerations he added that rivals would be continually intriguing to oust the President from his place. To guard against all these evils he moved that the President “shall be chosen by Electors to be chosen by the people of the several States” Mr Carrol 2ded. him

(Madison's Notes (Max Farrand, 1911), Pages 403-404, Vol. 2)

It was moved and seconded to agree to the following amendment to the first sect. of the 10th article

“shall be chosen by electors to be chosen by the People of the several States”

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

On what respects his ineligibility Gov. Morris observed.

That in the strength of the Executive would be found the strength of America. Ineligibility operates to weaken or destroy the constitution.

The president will have no interest beyond his period of service.

He will for peace and emolument to himself and friends agree to acts that will encrease the power and agrandize the bodies which elect him.

The legislature will swallow up the whole powers of the constitution; but to do this effectually they must possess the Executive. This will lead them to

tempt him, and the shortness of his reign will subject him to be tempted and overcome.

The legislature has great and various appointments in their power. This will create them an extensive influence which may be so used as to put it out of the power of the Executive to prevent them from arriving at supremacy.

On the other hand give the Executive a chance of being re-chosen and he will hold his prerogatives with all possible tenaciousness.

(McHenry's Notes (Max Farrand, 1911), Page 407, Vol. 2)

[e673979] It was moved and seconded to agree to the following amendment to the first sect. of the 10th article

“shall be chosen by electors to be chosen by the People of the several States” which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

[Morris] moved that the President “shall be chosen by Electors to be chosen by the people of the several States” Mr Carrol 2ded. him & on the question it passed in the negative

N. H. no. Mas. no. Ct. ay. N— J— ay. Pa. ay. Del. ay. Md. no— Va. ay. N— C— no— S— C— no— Geo— no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673980] It was moved and seconded to postpone the consideration of the two last clauses of the 1st sect. 10 article

[Editors' note: Madison states that Dayton proposed the postponement.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr. Dayton moved to postpone the consideration of the two last clauses of sect. 1. art. X.

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673981] It was moved and seconded to postpone the consideration of the two last clauses of the 1st sect. 10 article

which passed in the negative

[Editors' note: Madison adds that this motion was 'disagreed to without a count of the States'. Given Jackson's and Madison's habits of recording votes, this statement by Madison suggests that the motion was universally opposed. The editors have therefore recorded the vote as unanimous.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr. Dayton moved to postpone the consideration of the two last clauses of sect. 1. art. X. which was disagreed to without a count of the States.

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673982] It was moved and seconded to refer the two last clauses of the 1st sect. 10 article. to a committee of a Member from each State.

[Editors' note: Madison records Broom as the proposer.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr Broome moved to refer the two clauses to a Committee of a Member from each State.

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673983] It was moved and seconded to refer the two last clauses of the 1st sect. 10 article. to a committee of a Member from each State.

which passed in the negative. [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

Mr Broome moved to refer the two clauses to a Committee of a Member from each State. & on the question, it failed the States being equally divided.

N— H— no— Mas— no. Ct. divd. N— J— ay. Pa. ay. Del. ay. Md. ay— Va. ay. N— C— no. S. C. no— Geo. no. [Ayes — 5; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673984] Question to agree to the following clause

“shall be chosen by electors”.

[Editors' note: Madison identifies this clause as the 'first part of Mr. Govr Morris's Motion'; the editors assume that this sub-clause was renewed followed the negative vote to refer the clauses.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

On the question taken on the first part of Mr. Govr Morris's Motion to wit “shall be chosen by electors” as an abstract question

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673985] On the question to agree to the following clause

“shall be chosen by electors”

it passed in the negative [Ayes — 4; noes — 4; divided — 2.]

[Editors' note: The Massachusetts delegation was not quorate for this vote, and as there are no vote counts for the next six votes, it is unclear if the delegation returns to quorum before Sherman's amendment, which is counted. For this reason, the editors have recorded Massachusetts' vote as uncertain until then.]

(Official Journal (Max Farrand, 1911), Page 397, Vol. 2)

On the question taken on the first part of Mr. Govr Morris's Motion to wit “shall be chosen by electors” as an abstract question, it failed the States being equally divided —

N— H— no. Mas. abst. Ct. divd. N. Jersey ay 9 Pa ay. Del. ay. Md. divd. Va ay— N— C— no. S. C. no. Geo. no. [Ayes — 4; noes — 4; divided — 2; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673986] The consideration of the remaining clauses of the 1st section 10 article was postponed till to-morrow on the request of the Deputies of the State of New Jersey.

(Official Journal (Max Farrand, 1911), Pages 397-398, Vol. 2)

The consideration of the remaining clauses of sect 1. art X. was then postponed till tomorrow at the instance of the Deputies of New Jersey —

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

postponed the question.

(McHenry's Notes (Max Farrand, 1911), Page 407, Vol. 2)

[e673987] [Editors' note: Though the last two clauses had been postponed, the rest of the section seems to have been agreed.]

(2019 Editors)

[e673988] Sect. 2. Art: X being taken up.

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

Proceeded, and made some amendments to the 2 sect.

(McHenry's Notes (Max Farrand, 1911), Page 407, Vol. 2)

[e673989] On the question to transpose the word "information" and to insert it after the word "Legislature" in the first clause of the 2 sect. 10 article

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

the word information was transposed & inserted after "Legislature"

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673990] On the question to transpose the word "information" and to insert it after the word "Legislature" in the first clause of the 2 sect. 10 article it passed in the affirmative.

[Editors' note: There is no record of a vote count, but the vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

the word information was transposed & inserted after "Legislature"

(Madison's Notes (Max Farrand, 1911), Page 404, Vol. 2)

[e673991] On motion of Mr Govr Morris, "he may" was struck out, & "and" inserted before "recommend" in the clause 2d. sect— 2d art: X. in order to make it the duty of the President to recommend, & thence prevent umbrage or cavil at his doing it

(Madison's Notes (Max Farrand, 1911), Page 405, Vol. 2)

It was moved and seconded to strike out the words “he may” and to insert the word “and” before the word “recommend” in the second clause of the 2 sect. 10 article

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673992] It was moved and seconded to strike out the words “he may” and to insert the word “and” before the word “recommend” in the second clause of the 2 sect. 10 article

which passed in the affirmative

[Editors’ note: This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

On motion of Mr Govr Morris, “he may” was struck out, & “and” inserted before “recommend” in the clause 2d. sect— 2d art: X. in order to make it the duty of the President to recommend, & thence prevent umbrage or cavil at his doing it —

(Madison’s Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e673993] It was moved and seconded to insert the word “and” after the word “occasions” in the 2 sect. 10 article;

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673994] It was moved and seconded to insert the word “and” after the word “occasions” in the 2 sect. 10 article;

which passed in the affirmative

[Editors’ note: This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673995] It was moved and seconded to insert the word “shall” before the words “think proper” 2 sect. 10 article.

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673996] It was moved and seconded to insert the word “shall” before the words “think proper” 2 sect. 10 article.

which passed in the affirmative

[Editors’ note: This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673997] Mr. Sherman objected to the sentence “and shall appoint officers in all cases not otherwise provided for by this Constitution”. He admitted it to be proper that many officers in the Executive Department should be so appointed — but contended that many ought not, as general officers in the Army in time of peace &c. Herein lay the corruption in G. Britain. If the Executive can model the army, he may set up an absolute Government; taking advantage of the close of a war and an army commanded by his creatures. James 2d. was not obeyed by his officers because they had been appointed by his predecessors not by himself. He moved to insert “or by law” after the word “Constitution”.

(Madison's Notes (Max Farrand, 1911), Page 405, Vol. 2)

It was moved and seconded to insert the words "or by law" after the word "constitution" in the 2nd section of the 10th article

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e673998] It was moved and seconded to strike out the words "officers" and to insert the words "to offices" after the word "appoint" in the 2 sect. of the 10 article.

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

On Motion of Mr Madison "officers" was struck out and "to offices" inserted, in order to obviate doubts that he might appoint officers without a previous creation of the offices by the Legislature.

(Madison's Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e673999] It was moved and seconded to strike out the words "officers" and to insert the words "to offices" after the word "appoint" in the 2 sect. of the 10 article

which passed in the affirmative.

[Editors' note: This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

On Motion of Mr Madison "officers" was struck out and "to offices" inserted, in order to obviate doubts that he might appoint officers without a previous creation of the offices by the Legislature.

(Madison's Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e674000] It was moved and seconded to insert the words "or by law" after the word "constitution" in the 2nd section of the 10th article

which passed in the negative. [Ayes — 1; noes — 9.]

[Editors' note: North Carolina was either absent or not quorate. Massachusetts, on the other hand, had regained quorum.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

On the question for inserting "or by law as moved by Mr. Sherman

N. H. no. Mas. no. Ct. ay. N. J. no. Pena. no. Del. no. Md. no. Va. no. N. C. absent. S. C. no. Geo. no. [Ayes — 1; noes — 9; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e674001] It was moved and seconded to strike out the words "and shall appoint to offices in all cases not otherwise provided for by this Constitution" and to insert the following

"and shall appoint to all offices established by this Constitution, except in cases herein otherwise provided for, and to all offices which may here after be created by law."

[Editors' note: Madison records John Dickinson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

Mr. Dickinson moved to strike out the words “and shall appoint to offices in all cases not otherwise provided for by this Constitution” and insert — “and shall appoint to all offices established by this Constitution, except in cases herein otherwise provided for, and to all offices which may hereafter be created by law.”

(Madison’s Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e674002] Mr Randolph observed that the power of appointments was a formidable one both in the Executive & Legislative hands — and suggested whether the Legislature should not be left at liberty to refer appointments in some cases, to some State Authority.

(Madison’s Notes (Max Farrand, 1911), Page 405, Vol. 2)

[e674003] It was moved and seconded to strike out the words “and shall appoint to offices in all cases not otherwise provided for by this Constitution” and to insert the following

“and shall appoint to all offices established by this Constitution, except in cases herein otherwise provided for, and to all offices which may here after be created by law.”

which passed in the affirmative [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

Mr. Dickenson’s motion, it passed in the affirmative

N. H. no. Mas— no— Ct ay— N— J— ay. Pa. ay— Del. no. Md ay. Va. ay— N— C. abst. S. C no. Geo— ay [Ayes — 6; noes — 4; absent — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 405-406, Vol. 2)

[e674004] Mr. Dickinson then moved to annex to his last amendment “except where by law the appointment shall be vested in the Legislatures or Executives of the several States”. Mr. Randolph 2ded. the motion

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e674005] Mr. Wilson— If this be agreed to it will soon be a standing instruction from the State Legislatures to pass no law creating offices, unless the appts be referred to them.

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e674006] Mr. Sherman objected to “Legislatures” in the motion, which was struck out by consent of the movers.

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

It was moved and seconded to add the following clause to the last amendment “except where by Law the appointment shall be vested in the Executives of the several States”

[Editors’ note: Jackson does not record Dickinson’s original motion to annexe to his last amendment ‘except where by law the appointment shall be vested in the Legislatures or Executives of the several States’, only the version of the motion as amended by Sherman.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e674007] Mr. Sherman objected to “Legislatures” in the motion, which was struck out by consent of the movers.

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

It was moved and seconded to add the following clause to the last amendment “except where by Law the appointment shall be vested in the Executives of the several States”

[Editors’ note: Jackson does not record Dickinson’s original motion to annexe to his last amendment ‘except where by law the appointment shall be vested in the Legislatures or Executives of the several States’, only the version of the motion as amended by Sherman.]

(Official Journal (Max Farrand, 1911), Page 398, Vol. 2)

[e674008] Mr. Govr. Morris — This would be putting it in the power of the States to say, “You shall be viceroys but we will be viceroys over you”

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e674009] It was moved and seconded to agree to the following order

”That the order respecting the adjournment at four be repealed, and that in future the House assemble at ten and adjourn at three”

[Editors’ note: Passing this order would alter the standing orders of the Convention. For this reason, the editors have represented it as an amendment to the Rules and Standing Orders. There is no record that the original Rules document was amended, as it does not survive, but it is likely that delegates saw the order as functioning in this way.]

(Official Journal (Max Farrand, 1911), Page 399, Vol. 2)

Ordered unanimously that the order respecting the adjournment at 4 oClock be repealed, & that in future the House assemble at 10 OC. & adjourn at 3 oC.

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 1)

[e674010] It was moved and seconded to agree to the following order

“That the order respecting the adjournment at four be repealed, and that in future the House assemble at ten and adjourn at three
which passed in the affirmative [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 399, Vol. 2)

Ordered unanimously that the order respecting the adjournment at 4 oClock be repealed, & that in future the House assemble at 10 OC. & adjourn at 3 oC.

(Madison’s Notes (Max Farrand, 1911), Page 406, Vol. 2)

[e674011] The House adjourned

[Editors' note: McHenry writes that the Convention 'adjourned when the question was going to be put whether the legislature might enable the State Executives or legislatures to appoint officers to certain offices.'

Though both the Journal and Madison record this amendment being negatived, the Convention voted on it on 25 August, suggesting that McHenry's version is correct and that the amendment was simply postponed by adjournment.]

(Official Journal (Max Farrand, 1911), Page 399, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 406, Vol. 2)

Adjourned when the question was going to be put whether the legislature might enable the State Executives or legislatures to appoint officers to certain offices.

(McHenry's Notes (Max Farrand, 1911), Page 407, Vol. 2)

[e674012] The House adjourned

(Official Journal (Max Farrand, 1911), Page 399, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 406, Vol. 2)

Adjourned when the question was going to be put whether the legislature might enable the State Executives or legislatures to appoint officers to certain offices.

(McHenry's Notes (Max Farrand, 1911), Page 407, Vol. 2)

1.79 Saturday, 25 August 1787, at 10:00 (s6266)

[e674013] The 1st. clause of 1 sect. of art: VII being reconsidered

Col. Mason objected to the term, "shall" — fullfil the engagements & discharge the debts &c as too strong. It may be impossible to comply with it. The Creditors should be kept in the same plight. They will in one respect be necessarily and properly in a better. The Government will be more able to pay them. The use of the term shall will beget speculations and increase the pestilent practice of stock-jobbing. There was a great distinction between original creditors & those who purchased fraudulently of the ignorant and distressed. He did not mean to include those who have bought Stock in open market. He was sensible of the difficulty of drawing the line in this case, but He did not wish to preclude the attempt. Even fair purchasers, at 4, 5, 6, 8 for 1 did not stand on the same footing with the first Holders, supposing them not to be blameable. The interest they receive even in paper is equal to their purchase money. What he particularly wished was to leave the door open for buying up the securities, which he thought would be precluded by the term "shall" as requiring nominal

payment, & which was not inconsistent with his ideas of public faith. He was afraid also the word “shall,” might extend to all the old continental paper.

Mr Langdon wished to do no more than leave the Creditors in statu quo.

Mr. Gerry said that for himself he had no interest in the question being not possessed of more of the securities than would, by the interest, pay his taxes. He would observe however that as the public had received the value of the literal amount, they ought to pay that value to some body. The frauds on the soldiers ought to have been foreseen. These poor & ignorant people could not but part with their securities. There are other creditors who will part with any thing rather than be cheated of the capital of their advances. The interest of the States he observed was different on this point, some having more, others less than their proportion of the paper. Hence the idea of a scale for reducing its value had arisen. If the public faith would admit, of which he was not clear, he would not object to a revision of the debt so far as to compel restitution to the ignorant & distressed, who have been defrauded. As to Stock-jobbers he saw no reason for the censures thrown on them — They keep up the value of the paper. Without them there would be no market.

Mr. Butler said he meant neither to increase nor diminish the security of the Creditors.

(Madison’s Notes (Max Farrand, 1911), Pages 412-413, Vol. 2)

[e674014] It was moved and seconded to postpone the first clause of the first section 7 article, in order to take up the following amendment

“all debts contracted and engagements entered into, by or under the authority of Congress shall be as valid against the United States under this constitution as under the confederation.”

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

Mr. Randolph moved to postpone the clause in favor of the following “All debts contracted & engagements entered into, by or under the authority of Congs. shall be as valid agst the U. States under this constitution as under the Confederation”

(Madison’s Notes (Max Farrand, 1911), Pages 413-414, Vol. 2)

[e674015] It was moved and seconded to postpone the first clause of the first section 7 article, in order to take up the following amendment

“all debts contracted and engagements entered into, by or under the authority of Congress shall be as valid against the United States under this constitution as under the confederation.”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

[e674016] It was moved and seconded to postpone the first clause of the first section 7 article, in order to take up the following amendment

“all debts contracted and engagements entered into, by or under the authority of Congress shall be as valid against the United States under this constitution as under the confederation.”

[Editors’ note: Madison records Randolph as the proposer.

The exact positioning of this amendment in the text is unclear. The record in both Madison and the Journal could be interpreted to mean that the amendment was intended to replace the first clause or to stand as an additional clause. Farrand, also unsure of where this amendment was intended to fit, places it at the end of the section, though it could work as a new first clause. Subsequent amendments to the first clause make it clear that the original first clause remains in place. For this reason, the editors have placed the amendment at the end.]

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

Mr. Randolph moved to postpone the clause in favor of the following “All debts contracted & engagements entered into, by or under the authority of Congress shall be as valid agst the U. States under this constitution as under the Confederation”

(Madison’s Notes (Max Farrand, 1911), Pages 413-414, Vol. 2)

[e674017] Doctr Johnson. The debts are debts of the U— S— of the great Body of America. Changing the Government cannot change the obligation of the U— S— which devolves of course on the New Government. Nothing was in his opinion necessary to be said. If any thing, it should be a mere declaration as moved by Mr. Randolph.

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

[e674018] Mr. Govr. Morris, said he never had become a public Creditor that he might urge with more propriety the compliance with public faith. He had always done so and always would, and preferr’d the term “shall” as the most explicit. As to buying up the debt, the term “shall” was not inconsistent with it, if provision be first made for paying the interest: if not, such an expedient was a mere evasion. He was content to say nothing as the New Government would be bound of course — but would prefer the clause with the term “shall”, because it would create many friends to the plan.

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

[e674019] It was moved and seconded to postpone the first clause of the first section 7 article, in order to take up the following amendment

“all debts contracted and engagements entered into, by or under the authority of Congress shall be as valid against the United States under this constitution as under the confederation.”

which passed in the affirmative

On the question to agree to the amendment

it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

On Mr. Randolph’s Motion

N— H— ay— Mas. ay. Ct ay— N. J. ay— Pa. no Del. ay— Maryd. ay Va. ay— N. C— ay— S. C. ay Geo. ay— [Ayes — 10; noes — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

[e674020] Mr. Sherman thought it necessary to connect with the clause for laying taxes duties &c an express provision for the object of the old debts &c — and moved to add to the 1st. clause of 1st. sect— of art VII “for the payment of said debts and for the defraying the expences that shall be incurred for the common defence and general welfare”.

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

It was moved and seconded to add the following clause to the first clause of the 1st sect. 7 article

“for the payment of said debts and for the defraying the expences that shall be incurred for the common defence and general welfare”

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

[e674021] It was moved and seconded to add the following clause to the first clause of the 1st sect. 7 article

“for the payment of said debts and for the defraying the expences that shall be incurred for the common defence and general welfare”

which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

The proposition, as being unnecessary was disagreed to, Connecticut alone, being in the affirmative.

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

[e674022] [Editors’ note: Once the Convention had finished with their reconsideration of the first clause, the first section of Article VII was taken into the working version of the Constitution.]

(2019 Editors)

[e674023] The Report of the Committee of eleven (see friday the 24th. instant) being taken up,

(Madison’s Notes (Max Farrand, 1911), Page 414, Vol. 2)

[e674024] [Editors’ note: The Convention then began to debate the propositions in the report in turn, taking up the first proposition clause by clause.]

(2019 Editors)

[e674025] [Editors’ note: The Convention then considered the first clause of the Committee’s revised Article VII: Section 4.]

(2019 Editors)

[e674026] Genl Pinkney moved to strike out the words “the year eighteen hundred” as the year limiting the importation of slaves, and to insert the words “the year eighteen hundred and eight”

Mr. Ghorum 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Pages 414-415, Vol. 2)

It was moved and seconded to amend the report of the Committee of eleven, entered on the Journal of the 24th instant as follows

to strike out the words "the year eighteen hundred" and to insert the words "the year eighteen hundred and eight"

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

[e674027] Mr. Madison. Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the National character than to say nothing about it in the Constitution.

(Madison's Notes (Max Farrand, 1911), Page 415, Vol. 2)

[e674028] It was moved and seconded to amend the report of the Committee of eleven, entered on the Journal of the 24th instant as follows

to strike out the words "the year eighteen hundred" and to insert the words "the year eighteen hundred and eight"

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 408, Vol. 2)

On the motion; which passed in the affirmative.

N— H— ay. Mas. ay— Ct. ay. N. J. no. Pa. no. Del— no. Md. ay. Va. no. N— C. ay. S— C. ay. Geo. ay. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 415, Vol. 2)

[e674029] Mr. Govr. Morris was for making the clause read at once, "importation of slaves into N. Carolina, S— Carolina & Georgia". shall not be prohibited &c. This he said would be most fair and would avoid the ambiguity by which, under the power with regard to naturalization, the liberty reserved to the States might be defeated. He wished it to be known also that this part of the Constitution was a compliance with those States. If the change of language however should be objected to by the members from those States, he should not urge it.

(Madison's Notes (Max Farrand, 1911), Page 415, Vol. 2)

[e674030] Col: Mason was not against using the term "slaves" but agst naming N— C— S— C. & Georgia, lest it should give offence to the people of those States.

Mr Sherman liked a description better than the terms proposed, which had been declined by the old Congs & were not pleasing to some people. Mr. Clymer concurred with Mr. Sherman

Mr. Williamson said that both in opinion & practice he was, against slavery; but thought it more in favor of humanity, from a view of all circumstances, to let in S— C & Georgia on those terms, than to exclude them from the Union

(Madison's Notes (Max Farrand, 1911), Pages 415-416, Vol. 2)

[e674031] Mr. Govr. Morris withdrew his motion.

(Madison's Notes (Max Farrand, 1911), Page 416, Vol. 2)

[e674032] It was moved and seconded to amend the first clause of the report to read

The importation of Slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U. S. until the year 1808.

(Official Journal (Max Farrand, 1911), Pages 408-409, Vol. 2)

Mr. Dickenson wished the clause to be confined to the States which had not themselves prohibited the importation of slaves, and for that purpose moved to amend the clause so as to read "The importation of slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U— S— until the year 1808".

(Madison's Notes (Max Farrand, 1911), Page 416, Vol. 2)

[e674033] It was moved and seconded to amend the first clause of the report to read

The importation of Slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U. S. until the year 1808.

which passed in the negative.

[Editors' note: Madison's notes, by contrast, record that the motion 'was agreed to nem: cont: In the printed Journal. Cont. Virga. & Georgia voted in the affirmative.' (Page 416, Vol. 2, Madison's Notes (Max Farrand, 1911)).

It seems likely that Madison wrote 'agreed' when he meant 'disagreed', as he is clearly aware that the motion failed. Farrand remarks that Jackson likely assigned the wrong vote count to this question. Assuming that Madison is incorrect only about the decision outcome, the editors have considered his vote count correct.]

(Official Journal (Max Farrand, 1911), Pages 408-409, Vol. 2)

Mr. Dickenson wished the clause to be confined to the States which had not themselves prohibited the importation of slaves, and for that purpose moved to amend the clause so as to read "The importation of slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U— S— until the year 1808". — which was agreed to nem: cont:

In the printed Journal. Cont. Virga. & Georgia voted in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 416, Vol. 2)

[e674034] On the question to agree to the first part of the report as amended, namely.

"The migration or importation of such persons as the several States now existing shall think proper to admit shall not be prohibited by the Legislature prior to the year 1808."

it passed in the affirmative. [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

The first part of the report was then agreed to, amended as follows. “The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.” N. H. Mas. Con. Md. N. C. S. C: Geo: ay

N. J. Pa. Del. Virga no
[Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Page 416, Vol. 2)

[e674035] [Editors’ note: The Convention then considered the second clause of Section 4.]

(2019 Editors)

[e674036] Mr. Baldwin in order to restrain & more explicitly define “the average duty” moved to strike out of the 2d. part the words “average of the duties laid on imports” and insert “common impost on articles not enumerated”

(Madison’s Notes (Max Farrand, 1911), Page 416, Vol. 2)

It was moved and seconded to strike out the words “average of the duties laid on Imports” and to insert the words

“common impost on articles not enumerated”

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

[e674037] Mr. Baldwin in order to restrain & more explicitly define “the average duty” moved to strike out of the 2d. part the words “average of the duties laid on imports” and insert “common impost on articles not enumerated” which was agreed to nem: cont:

(Madison’s Notes (Max Farrand, 1911), Page 416, Vol. 2)

It was moved and seconded to strike out the words “average of the duties laid on Imports” and to insert the words

“common impost on articles not enumerated”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

[e674038] Mr. Sherman was agst. this 2d part, as acknowledging men to be property, by taxing them as such under the character of slaves,

Mr. King & Mr. Langdon considered this as the price of the 1st part.

Genl. Pinkney admitted that it was so.

Col: Mason. Not to tax, will be equivalent to a bounty on the importation of slaves.

Mr. Ghorum thought that Mr Sherman should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

Mr Govr, Morris remarked that as the clause now stands it implies that the Legislature may tax freemen imported.

Mr. Sherman in answer to Mr. Ghorum observed that the smallness of the duty shewed revenue to be the object, not the discouragement of the importation.

Mr. Madison thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandise, consumed. &c

Col. Mason (in answr. to Govr. Morris) the provision as it stands was necessary for the case of Convicts in order to prevent the introduction of them.

(Madison's Notes (Max Farrand, 1911), Pages 416-417, Vol. 2)

[e674039] It was moved and seconded to amend the second clause of the report to read

“but a tax or duty may be imposed on such importation not exceeding ten dollars for each person”

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

[e674040] It was finally agreed nem: contrad: to make the clause read “but a tax or duty may be imposed on such importation not exceeding ten dollars for each person”

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

It was moved and seconded to amend the second clause of the report to read “but a tax or duty may be imposed on such importation not exceeding ten dollars for each person”

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

[e674041] On the question to agree to the second clause of the report as amended it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

It was finally agreed nem: contrad: to make the clause read “but a tax or duty may be imposed on such importation not exceeding ten dollars for each person”, and then the 2d. part as amended was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e674042] [Editors' note: As the Convention had agreed both clauses, the editors assume the whole section was taken into the working document, though the delegates did not explicitly vote to do so.]

(2019 Editors)

[e674043] Sect 5— art— VII was agreed to nem: con: as reported.

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e674044] Sect 5— art— VII was agreed to nem: con: as reported.

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e674045] On the question to postpone the farther consideration of the report it passed in the affirmative

[Editors' note: Madison writes that this question to postpone referred to the striking out Section 6. He does not record a vote count.]

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

Sect. 6. art. VII. in the Report was, postponed.

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e740364] On motion of Mr. Madison 2ded. by Mr Govr Morris art VIII was reconsidered

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e740365] On motion of Mr. Madison 2ded. by Mr Govr Morris art VIII was reconsidered

[Editors' note: None of the sources record a vote count for this decision.]

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e740366] On motion of Mr. Madison 2ded. by Mr Govr Morris art VIII was reconsidered and after the words "all treaties made," were inserted nem: con: the words "or which shall be made" This insertion was meant to obviate all doubt concerning the force of treaties præexisting, by making the words "all treaties made" to refer to them, as the words inserted would refer to future treaties.

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

It was moved and seconded to amend the 8th article to read "This Constitution and the Laws of the United States, which shall be made in pursuance thereof and all treaties made or which shall be made under the authority of the United-States shall be the supreme law of the several States, and of their citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions; any thing in the constitutions or laws of the several States to the contrary notwithstanding"

(Official Journal (Max Farrand, 1911), Page 409, Vol. 2)

[e740367] On motion of Mr. Madison 2ded. by Mr Govr Morris art VIII was reconsidered and after the words "all treaties made," were inserted nem: con: the words "or which shall be made"

(Madison's Notes (Max Farrand, 1911), Page 417, Vol. 2)

[e740368] [Editors' notes: After the Convention finished amending Article VIII, the article was implicitly adopted back into the document.]

(2019 Editors)

[e674048] Mr. Carrol & Mr. L. Martin expressed their apprehensions, and the probable apprehensions of their constituents, that under the power of regulating trade the General Legislature, might favor the ports of particular States, by requiring vessels destined to or from other States to enter & clear thereat, as vessels belonging or bound to Baltimore, to enter & clear at Norfolk &c They moved the following proposition

“The Legislature of the U— S. shall not oblige vessels belonging to citizens thereof, or to foreigners, to enter or pay duties or imposts in any other State than in that to which they may be bound, or to clear out in any other than the State in which their cargoes may be laden on board; nor shall any privilege or immunity be granted to any vessels on entering or clearing out or paying duties or imposts in one state in preference to another”

[Editors’ note: As this proposition and other propositions in this session were subsequently referred to a committee, the editors have created a document for this purpose. These propositions are mentioned together as part of that document in the Journal, and the text of the propositions is taken from that source.]

(Madison’s Notes (Max Farrand, 1911), Pages 417-418, Vol. 2)

It was moved and seconded to agree to the following propositions

“The Legislature of the United States shall not oblige Vessels belonging to Citizens thereof, or to foreigners, to enter or pay duties, or imposts in any other State than in that to which they may be bound, or to clear out in any other than the State in which their cargoes may be laden on board — Nor shall any privilege, or immunity, be granted to any vessels on entering, clearing out, or paying duties or imposts in one State in preference to another”

(Official Journal (Max Farrand, 1911), Pages 409-410, Vol. 2)

Moved several propositions to restrict the legislature from giving any preference in duties, or from obliging duties to be collected in a manner injurious to any State, and from establishing new ports of entrance and clearance, unless neglected to be established by the States after application

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674049] Mr Ghorum thought such a precaution unnecessary; & that the revenue might be defeated, if vessels could run up long rivers, through the jurisdiction of different States without being required to enter, with the opportunity of landing & selling their cargoes by the way.

(Madison’s Notes (Max Farrand, 1911), Page 418, Vol. 2)

Opposed by Massachusetts — Mr. Gorahm said it might be very proper to oblige vessels, for example, to stop at Norfolk on account of the better collection of the revenue.

Mr. King thought it improper to deliberate long on such propositions but to take the sense of the house immediately upon them.

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674050] Mr McHenry & Genl Pinkney made the following propositions

“Should it be judged expedient by the Legislature of the U— S— that one or more ports for collecting duties or imposts other than those ports of entrance & clearance already established by the respective States, should be established, the Legislature of the U— S— shall signify the same to the Executives of the respective States, ascertaining the number of such ports judged necessary; to be laid by the said Executives before the Legislatures of the States at their next Session; and the Legislature of the U— S— shall not have the power of fixing or establishing the particular ports for collecting duties or imposts in any State, except the Legislature of such State shall neglect to fix and establish the same during their first Session to be held after such notification by the Legislature of the U— S— to the Executive of such State”

“All duties imposts & excises, prohibitions or restraints laid or made by the Legislature of the U— S— shall be uniform and equal throughout the U— S—”

(Madison’s Notes (Max Farrand, 1911), Page 418, Vol. 2)

It was moved and seconded to agree to the following propositions

“The Legislature of the United States shall not oblige Vessels belonging to Citizens thereof, or to foreigners, to enter or pay duties, or imposts in any other State than in that to which they may be bound, or to clear out in any other than the State in which their cargoes may be laden on board — Nor shall any privilege, or immunity, be granted to any vessels on entering, clearing out, or paying duties or imposts in one State in preference to another”

“Should it be judged expedient by the Legislature of the United States that one or more ports for collecting duties or imposts other than those ports of entrance and clearance already established by the respective States should be established, the Legislature of the U. S. shall signify the same to the Executive of the respective States ascertaining the number of such ports judged necessary; to be laid by the said Executives before the Legislatures of the States at their next session; and the legislature of the U. S. shall not have the power of fixing or establishing the particular ports for collecting duties or imposts in any State except the Legislature of such State shall neglect to fix and establish the same during their first session to be held after such notification by the legislature of the U. S. to the executive of such State.

“all duties, imposts, and excises, prohibitions or restraints laid or made by the Legislature of the U. S. shall be uniform and equal throughout the United States”

(Official Journal (Max Farrand, 1911), Pages 409-410, Vol. 2)

[e674051] [Editors’ note: McHenry’s and Pinckney’s propositions were added to the propositions for the Committee.]

(2019 Editors)

[e674052] It was moved and seconded to refer the above propositions to a Committee of a Member from each State which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

These several propositions were referred, nem: con: to a committee composed of a member from each State

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

I moved to have them committed to a committee consisting of a member from each State. Committed.

(McHenry's Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674053] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674054] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674055] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674056] It was moved and seconded to refer the above propositions to a Committee of a Member from each State
 which passed in the affirmative
 and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674057] It was moved and seconded to refer the above propositions to a Committee of a Member from each State
 which passed in the affirmative
 and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674058] It was moved and seconded to refer the above propositions to a Committee of a Member from each State
 which passed in the affirmative
 and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674059] It was moved and seconded to refer the above propositions to a Committee of a Member from each State
 which passed in the affirmative
 and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674060] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674061] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674062] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674063] It was moved and seconded to refer the above propositions to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2)

[e674064] On The question now taken on Mr. Dickinson motion of yesterday, allowing appointments to offices, to be referred by the Genl. Legislature to the Executives of the several States" as a farther amendment to sect. 2. art. X., the votes were

N. H. no Mas. no. Ct ay. Pa. no— Del. no. Md divided— Va. ay— N— C— no— S. C. no. Geo. ay— [Ayes— 3; noes — 6; divided — 1.]

[Editors' note: New Jersey was either absent or had dropped below quorum for this vote.

Jackson confuses this motion in the Journal. Farrand writes,

'On August 24 Sherman had objected to the clause in Article X, Section 2 which empowered the President to "appoint officers in all cases not otherwise provided for by this Constitution." Sherman's proposed modification was defeated, one amendment by Dickinson was adopted and a second one offered by Dickinson. According to both the Journal and Madison Dickinson's second motion was negatived, but McHenry states that the House adjourned "when the question was going to be put." McHenry was probably correct as this question is now brought up without any recorded motion to reconsider. This is doubtless the amendment attributed to Sherman in Vote 369, Detail of Ayes and Noes' (Page 419, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Pages 418-419, Vol. 2)

[To agree to Mr Sherman's amendment Ayes — 3; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2)

The clause in the 2 sect. X article, "he shall commission all the officers of the U. S. and shall appoint officers in all cases not otherwise provided for by this constitution, was moved to be amended by adding, except where by law the Executive of the several States shall have the power — Amendment negatives. Maryland divided — D. C. and J. against Martin and myself affirm.

(McHenry's Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674065] It was moved and seconded to add the words

"and other public Ministers" after the word "Ambassadors" 2 sect. 10 article

(Official Journal (Max Farrand, 1911), Pages 410-411, Vol. 2)

In amendment of the same section, “other public Ministers” were inserted after “ambassadors”.

(Madison’s Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674066] It was moved and seconded to add the words
“and other public Ministers” after the word “Ambassadors” 2 sect. 10 article
which passed in the affirmative. [Ayes — 10; noes — 0.]

(Official Journal (Max Farrand, 1911), Pages 410-411, Vol. 2)

In amendment of the same section, “other public Ministers” were inserted after “ambassadors”.

(Madison’s Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674067] Mr. Govr Morris moved to strike out of the section — “and may correspond with the supreme Executives of the several States” as unnecessary and implying that he could not correspond with others. Mr. Broome 2ded. him.

(Madison’s Notes (Max Farrand, 1911), Page 419, Vol. 2)

It was moved and seconded to strike the words “and may correspond with the supreme executives of the several States” out of ye 2 sect. 10 article

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

[e674068] It was moved and seconded to strike the words “and may correspond with the supreme executives of the several States” out of ye 2 sect. 10 article
which passed in the affirmative [Ayes — 9; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

Mr. Govr Morris moved to strike out of the section — “and may correspond with the supreme Executives of the several States” as unnecessary and implying that he could not correspond with others. Mr. Broome 2ded. him.

On the question

N. H. ay. Mas. ay. Ct. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. ay— S. C. ay. Geo— ay. [Ayes — 9; noes — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674069] [Editors’ note: Though it is not explicitly stated in any of the sources, it seems that the Convention began to consider each section clause by clause. To mimic this procedure, the editors have dropped the section in its ‘whole’ form and proposed the clauses individually.]

(2019 Editors)

[e674070] [Editors’ note: Though it is not explicitly stated in any of the sources, it seems that the Convention began to consider each section clause by clause. To mimic this procedure, the editors have dropped the section in its ‘whole’ form and proposed the clauses individually.]

(2019 Editors)

[e674071] [Editors' note: The Convention considered the first part of the eighth clause.]

(2019 Editors)

[e674072] Mr. Sherman moved to amend the “power to grant reprieves & pardon” so as to read “to grant reprieves until the ensuing session of the Senate, and pardons with consent of the Senate.”

(Madison's Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674073] [—————Ayes — 1; noes — 9.]

[Editors' note: In the Detail of Ayes and Noes, Jackson includes this vote without naming the motion to which it pertains. Farrand suggests that this is the vote Madison records on Sherman's amendment as 'N— H— no. Mas. no. Ct. ay— Pa no Md. no. Va. no. N. C. no. S. C. no. Geo. no' (Page 419, Vol. 2, Madison's Notes (Max Farrand, 1911)). Madison, however, omits Delaware from the vote count. The editors have therefore referred to the Journal's vote count.]

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

Mr. Sherman moved to amend the “power to grant reprieves & pardon” so as to read “to grant reprieves until the ensuing session of the Senate, and pardons with consent of the Senate.”

On the question

N— H— no. Mas. no. Ct. ay— Pa no Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674074] It was moved and seconded to insert the words “except in cases of impeachment” after the word “pardons” 2 sect. 10 article.

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

“except in cases of impeachment” inserted nem: con: after “pardon”

(Madison's Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674075] It was moved and seconded to insert the words “except in cases of impeachment” after the word “pardons” 2 sect. 10 article

which passed in the affirmative

[Editors' note: Madison records that this vote was unanimous.]

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

“except in cases of impeachment” inserted nem: con: after “pardon”

(Madison's Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674076] On the question to agree to the following clause

“but his pardon shall not be pleadable in bar”

[Editors’ note: This amendment is the second part of the clause as reported.]

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

On the question to agree to — “but his pardon shall not be pleadable in bar”

(Madison’s Notes (Max Farrand, 1911), Page 419, Vol. 2)

[e674077] On the question to agree to the following clause

“but his pardon shall not be pleadable in bar”

it passed in the negative [Ayes — 4; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

On the question to agree to — “but his pardon shall not be pleadable in bar”

N. H. ay— Mas— no. Ct. no— Pa. no— Del. no. Md. ay. Va. no. N—
C— ay— S. C. ay— Geo. no. [Ayes — 4; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Pages 419-420, Vol. 2)

[e734848] Mr. C. Pinkney gave notice that he would move that the consent of $\frac{3}{4}$ of the whole legislature be necessary to the enacting a law respecting the regulation of trade or the formation of a navigation act.

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e734849] Mr. C. Pinkney gave notice that he would move that the consent of $\frac{3}{4}$ of the whole legislature be necessary to the enacting a law respecting the regulation of trade or the formation of a navigation act.

[Editors’ note: There is no objection to Pinkney’s notice recorded.]

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674078] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

Adjourned to monday.

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

[e674079] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 411, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

Adjourned to monday.

(McHenry’s Notes (Max Farrand, 1911), Page 420, Vol. 2)

1.80 Monday, 27 August 1787, at 10:00 (s6267)

[e674080] Art X. sect. 2. being resumed,

Mr. L. Martin moved to insert the words “after conviction” after the words “reprieves and pardons”

(Madison’s Notes (Max Farrand, 1911), Page 426, Vol. 2)

It was moved and seconded to insert the words “after conviction” after the words “reprieves and pardons” 2 sect. 10 article.

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

[e674081] Mr. Wilson objected that pardon before conviction might be necessary in order to obtain the testimony of accomplices. He stated the case of forgeries in which this might particularly happen.

(Madison’s Notes (Max Farrand, 1911), Page 426, Vol. 2)

[e674082] It was moved and seconded to insert the words “after conviction” after the words “reprieves and pardons” 2 sect. 10 article. — (Motion withdrawn).

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr L. Martin withdrew his motion.

(Madison’s Notes (Max Farrand, 1911), Page 426, Vol. 2)

[e674083] [Editors’ note: The Convention tacitly agreed the eighth clause.]

(2019 Editors)

[e674084] [Editors’ note: The Convention then considered the ninth clause.]

(2019 Editors)

[e674085] It was moved and seconded to amend the clause giving the command of the militia to the executive to read

“and of the militia of the several States when called into the actual service of the United States”

[Editors’ note: Madison records Sherman as the proposer.]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr. Sherman moved to amend the clause giving the Executive the command of the Militia, so as to read “and of the Militia of the several States, when called into the actual service of the U— S—”

(Madison’s Notes (Max Farrand, 1911), Page 426, Vol. 2)

[e674086] It was moved and seconded to amend the clause giving the command of the militia to the executive to read

“and of the militia of the several States when called into the actual service of the United States”

which passed in the affirmative. [Ayes — 6; noes — 2.]

[Editors’ note: There were only eight voting delegations for this vote, as Massachusetts, New Jersey, and North Carolina were either absent or not quorate.]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr. Sherman moved to amend the clause giving the Executive the command of the Militia, so as to read “and of the Militia of the several States, when called into the actual service of the U— S—” and on the Question

N— H. ay. Mas. abst. Ct. ay. N— J. abst Pa ay. Del. no. Md ay. Va. ay. N— C. abst. S. C— no. Geo— ay, [Ayes — 6; noes — 2; absent — 3.]

(Madison’s Notes (Max Farrand, 1911), Pages 426-427, Vol. 2)

[e674087] [Editors’ note: The amended clause appears to have then been accepted, though the records are unclear regarding the procedure.]

(2019 Editors)

[e674088] [Editors’ note: The next two clauses appear to have been accepted without comment or vote.]

(2019 Editors)

[e674089] [Editors’ note: The next two clauses appear to have been accepted without comment or vote.]

(2019 Editors)

[e674090] It was moved and seconded to postpone the consideration of the following clause. 2 section. 10 article

“He shall be removed from his office on impeachment by the House of representatives, and conviction in the supreme Court, of treason, bribery, or corruption”

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

The clause for removing the President on impeachment by the House of Reps and conviction in the supreme Court, of Treason, Bribery or corruption, was postponed nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e674091] The clause for removing the President on impeachment by the House of Reps and conviction in the supreme Court, of Treason, Bribery or corruption, was postponed nem: con: at the instance of Mr. Govr. Morris, who thought the Tribunal an improper one, particularly, if the first judge was to be of the privy Council.

Mr. Govr. Morris objected also to the President of the Senate being provisional successor to the President, and suggested a designation of the Chief Justice.

Mr. Madison added as a ground of objection that the Senate might retard the appointment of a President in order to carry points whilst the revisionary power was in the President of their own body, but suggested that the Executive powers during a vacancy, be administered by the persons composing the Council to the President.

(Madison's Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e734850] It was moved and seconded to postpone the consideration of the following clause. 2 section. 10 article

“He shall be removed from his office on impeachment by the House of representatives, and conviction in the supreme Court, of treason, bribery, or corruption”

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

The clause for removing the President on impeachment by the House of Reps and conviction in the supreme Court, of Treason, Bribery or corruption, was postponed nem: con:

(Madison's Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office — made some other amendments — postponed what follows from the oath to the end.

(McHenry's Notes (Max Farrand, 1911), Page 423, Vol. 2)

[e734851] It was moved and seconded to postpone the consideration of the following clause. 2 section. 10 article

“He shall be removed from his office on impeachment by the House of representatives, and conviction in the supreme Court, of treason, bribery, or corruption”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

The clause for removing the President on impeachment by the House of Reps and conviction in the supreme Court, of Treason, Bribery or corruption, was postponed nem: con:

(Madison's Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office — made some other amendments — postponed what follows from the oath to the end.

(McHenry's Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674093] It was moved and seconded to postpone the last clause of the 2 section, 10 article.

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr Williamson suggested that the Legislature ought to have power to provide for occasional successors. & moved that the last clause (of 2 sect. X art:) relating to a provisional successor to the President be postponed.

Mr Dickinson 2ded. the postponement.

(Madison's Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e674094] Mr Williamson suggested that the Legislature ought to have power to provide for occasional successors. & moved that the last clause (of 2 sect. X art:) relating to a provisional successor to the President be postponed.

Mr Dickinson 2ded. the postponement. remarking that it was too vague. What is the extent of the term “disability” & who is to be the judge of it?

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e734852] It was moved and seconded to postpone the last clause of the 2 section, 10 article.

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr Williamson suggested that the Legislature ought to have power to provide for occasional successors. & moved that the last clause (of 2 sect. X art:) relating to a provisional successor to the President be postponed.

Mr Dickinson 2ded. the postponement.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office — made some other amendments — postponed what follows from the oath to the end.

(McHenry’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e734853] It was moved and seconded to postpone the last clause of the 2 section, 10 article.

which passed in the affirmative.

[Editors’ note: Madison writes that ‘the postponement was agreed to nem: con:’]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Mr Williamson suggested that the Legislature ought to have power to provide for occasional successors. & moved that the last clause (of 2 sect. X art:) relating to a provisional successor to the President be postponed.

Mr Dickinson 2ded. the postponement. remarking that it was too vague. What is the extent of the term “disability” & who is to be the judge of it?

The postponement was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office — made some other amendments — postponed what follows from the oath to the end.

(McHenry’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674096] It was moved and seconded to add the following clause to the oath of office to be taken by the supreme Executive

“and will to the best of my judgment and power, preserve, protect and defend the Constitution of the United States”

[Editors’ note: Madison records himself and Mason as the proposers. He names Mason first, suggesting that Mason was the primary proposer, and himself second, suggesting that he was the seconder.]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Col: Mason & Mr. Madison, moved to add to the oath to be taken by the supreme Executive “and will to the best of my judgment and power preserve protect and defend the Constitution of the U. S.”

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office

(McHenry’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674097] Mr. Wilson thought the general provision for oaths of office, in a subsequent place, rendered the amendment unnecessary

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e674098] It was moved and seconded to add the following clause to the oath of office to be taken by the supreme Executive

“and will to the best of my judgment and power, preserve, protect and defend the Constitution of the United States”

which passed in the affirmative [Ayes — 7; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

On the question

N. H. ay— Mas— abst Ct ay— Pa ay. Del. no. Md. ay. Va. ay— N. C. abst S. C. ay. Geo. ay. [Ayes — 7; noes — 1; absent — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

Amended the Presidential oath of office

(McHenry’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674099] [Editors’ note: The Convention took up the next article, suggesting that the agreed portion of the current section was taken into the working document.]

(2019 Editors)

[e674100] [Editors’ note: The Convention took up the next article, suggesting that the section was taken into the working document.]

(2019 Editors)

[e674101] Art: XI being taken up.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e674102] Art: XI being taken up.

(Madison’s Notes (Max Farrand, 1911), Page 427, Vol. 2)

[e674103] It was moved and seconded to insert the words

“both in Law and Equity” after the words “United States” 1 line, 1 sect, 11th article.

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

Docr. Johnson suggested that the judicial power ought to extend to equity as well as law — and moved to insert the words “both in law and equity” after the words “U. S.” in the 1st line of sect 1.

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

[e674104] Mr. Read objected to vesting these powers in the same Court

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

[e674105] It was moved and seconded to insert the words

“both in Law and Equity” after the words “United States” 1 line, 1 sect, 11th article

which passed in the affirmative [Ayes — 6; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 422, Vol. 2)

On the question

N. H. ay. Mas. absent Ct ay. N. J. abst P. ay— Del. no. Md no. Virga. ay. N— C— abst. S. C. ay. Geo. ay. [Ayes — 6; noes — 2; absent — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

[e674106] On the question to agree to the 1st sect. 11 article as amended.

it passed in the affirmative. [Ayes — 6; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 422-423, Vol. 2)

On the question to agree to Sect. 1. art. XI. as amended

N— H— ay— Mas. abst. Ct. ay— Pa ay— N— J— abst Del. no. Md. no. Va. ay. N— C— abst S. C. ay Geo. ay. [Ayes — 6; noes — 2; absent — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

Agreed to the 1. 2 and 3 sect. of the XI article with amendments.

(McHenry’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674107] sect. 2— art XI

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

[e674108] Mr. Dickinson moved as an amendment to sect. 2— art XI after the words “good behavior” the words “provided that they may be removed by the Executive on the application by the Senate and House of Representatives.”

Mr. Gerry 2ded. the motion

(Madison’s Notes (Max Farrand, 1911), Page 428, Vol. 2)

It was moved and seconded to add the following clause after the word “behaviour” 2 section. 11 article

“Provided that they may be removed by the Executive on the application by the Senate and House of representatives”

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674109] Mr Govr. Morris thought it a contradiction in terms to say that the Judges should hold their offices during good behavior, and yet be removeable without a trial. Besides it was fundamentally wrong to subject Judges to so arbitrary an authority.

Mr. Sherman saw no contradiction or impropriety if this were made part of the Constitutional regulation of the Judiciary establishment. He observed that a like provision was contained in the British Statutes.

Mr. Rutledge: If the supreme Court is to judge between the U. S. and particular States, this alone is an insuperable objection to the motion.

Mr. Wilson considered such a provision in the British Government as less dangerous than here, the House of Lords & House of Commons being less likely to concur on the same occasions. Chief Justice Holt, he remarked, had successively offended by his independent conduct, both houses of Parliament. Had this happened at the same time, he would have been ousted. The Judges would be in a bad situation if made to depend on every gust of faction which might prevail in the two branches of our Govt

Mr. Randolph opposed the motion as weakening too much the independence of the Judges.

Mr Dickinson was not apprehensive that the Legislature composed of different branches constructed on such different principles, would improperly unite for the purpose of displacing a Judge

(Madison’s Notes (Max Farrand, 1911), Pages 428-429, Vol. 2)

[e674110] It was moved and seconded to add the following clause after the word “behaviour” 2 section. 11 article

“Provided that they may be removed by the Executive on the application by the Senate and House of representatives”

which passed in the negative [Ayes — 1; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

On the question for agreeing to Mr. Dickinson’s Motion

N. H. no. Mas. abst Ct. ay. N. J. abst Pa. no. Del. no. Md no. Va. no
N. C. abst . S— C— no— Geo— no. [Ayes — 1; noes — 7; absent — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 429, Vol. 2)

[e674111] Mr. Madison & Mr. McHenry moved to reinstate the words “increased or” before the word “diminished” in the 2d. Sect: art XI.

(Madison’s Notes (Max Farrand, 1911), Page 429, Vol. 2)

It was moved and seconded to insert the words

“encreased or” before the word “diminished” in the 2nd section 11th article.

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674112] Mr. Govr. Morris opposed it for reasons urged by him on a former occasion—

Col: Mason contended strenuously for the motion. There was no weight he said in the argument drawn from changes in the value of the metals, because this might be provided for by an increase of salaries so made as not to affect persons in office, and this was the only argument on which much stress seemed to have been laid.

Genl. Pinkney. The importance of the Judiciary will require men of the first talents: large salaries will therefore be necessary, larger than the U. S. can allow in the first instance. He was not satisfied with the expedient mentioned by Col: Mason. He did not think it would have a good effect or a good appearance, for new Judges to come in with higher salaries than the old ones.

Mr Govr Morris said the expedient might be evaded & therefore amounted to nothing. Judges might resign, & then be re-appointed to increased salaries.

(Madison's Notes (Max Farrand, 1911), Pages 429-430, Vol. 2)

[e674113] It was moved and seconded to insert the words

“encreased or” before the word “diminished” in the 2nd section 11th article. which passed in the negative. [Ayes — 1; noes — 5; divided — 1.]

[Editors' note: The Georgia delegation dropped below quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

On the question

N. H. no— Ct no. Pa no. Del. no— Md. divd Va ay— S. C. no— Geo. abst. also Masts— N. J. & N— C— [Ayes — 1; noes — 5; divided — 1; absent — 4.]

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674114] It was moved and seconded to add the following words to the 2nd section 11 article

“nor increased by any act of the Legislature, which shall operate before the expiration of three years after the passing thereof.”

[Editors' note: Madison records Randolph and himself as the proposers.]

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

Mr. Randolph & Mr. Madison then moved to add the following words to sect 2. art XI. “nor increased by any Act of the Legislature which shall operate before the expiration of three years after the passing thereof”

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674115] It was moved and seconded to add the following words to the 2nd section 11 article

“nor increased by any act of the Legislature, which shall operate before the expiration of three years after the passing thereof.”

which passed in the negative [Ayes — 2; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

On this question

N. H. no. Ct. no— Pa. no. Del. no. Md ay— Va ay— S. C. no. Geo—
abst also Mas. N. J. & N. C. [Ayes — 2; noes — 5; absent — 4.]

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674116] On the question to agree to the 2nd section of the 11 article as reported
it passed in the affirmative

[Editors' note: Farrand writes that the Journal record had become sporadic during the debate over the second section and that Jackson had mis-ascribed votes in the Detail of Ayes and Noes. This vote in particular is something of an oddity. Madison does not record it, and the Journal presents it as coming before the last two proposed amendments and with a vote count which actually pertained to the first section. Placing the vote earlier would have caused the last amendments to be out of order, so the editors have placed it in this more likely position.]

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

Agreed to the 1. 2 and 3 sect. of the XI article with amendments.

(McHenry's Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674117] Sect. 3— art. XI. being taken up

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674118] [Editors' note: The Convention appears to have departed from procedure in its consideration of these clauses. Certain clauses are adopted with no comment, while others are postponed or amended. This behaviour operates as something of a hybrid between considering the section clause by clause and considering the section as a whole. In order to model the clauses, such as the first and second clauses of the third section, which were adopted without discussion, the editors assume they were agreed without a formal vote.]

(2019 Editors)

[e674119] [Editors' note: The Convention appears to have departed from procedure in its consideration of these clauses. Certain clauses are adopted with no comment, while others are postponed or amended. This behaviour operates as something of a hybrid between considering the section clause by clause and considering the section as a whole. In order to model the clauses, such as the first and second clauses of the third section, which were adopted without discussion, the editors assume they were agreed without a formal vote.]

(2019 Editors)

[e674120] [Editors' note: The Convention then considered the third clause.]

(2019 Editors)

[e734956] It was moved and seconded to postpone the following clause 3 section 11 article

“to the trial of impeachments of officers of the United States”

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

Sect. 3— art. XI.11 being taken up— the following clause was postponed — viz. “to the trial of impeachments of officers of the U. S.” by which the jurisdiction of the supreme Court was extended to such cases.

(Madison’s Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e734957] It was moved and seconded to postpone the following clause 3 section 11 article

“to the trial of impeachments of officers of the United States”
which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

Sect. 3— art. XI.11 being taken up— the following clause was postponed — viz. “to the trial of impeachments of officers of the U. S.” by which the jurisdiction of the supreme Court was extended to such cases.

(Madison’s Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674122] [Editors’ note: The Convention appears to have accepted the fourth clause without comment or a vote.]

(2019 Editors)

[e674123] [Editors’ note: The Convention appears to have accepted the fourth clause without comment or a vote.]

(2019 Editors)

[e674124] [Editors’ note: The Convention then considered the fifth clause.]

(2019 Editors)

[e674125] Mr Madison & Mr. Govr. Morris moved to insert after the word “controversies” the words “to which the U— S— shall be a party”

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 430, Vol. 2)

It was moved and seconded to add the following words after the word “controversies” 3 sect. 11 article

“to which the United States shall be a Party”

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674126] Mr Madison & Mr. Govr. Morris moved to insert after the word “controversies” the words “to which the U— S— shall be a party” — which was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

It was moved and seconded to add the following words after the word "controversies" 3 sect. 11 article
 "to which the United States shall be a Party"
 which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674127] Docr. Johnson moved to insert the words "this Constitution and the" before the word "laws"

[Editors' note: The editors have followed Farrand's example and editorially inserted the word 'and'.]

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

It was moved and seconded to insert the words "this constitution the" before the word "laws" 2 line 3 sect, 11 article.

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674128] Mr Madison doubted whether it was not going too far to extend the jurisdiction of the Court generally to cases arising Under the Constitution, & whether it ought not to be limited to cases of a Judiciary Nature. The right of expounding the Constitution in cases not of this nature ought not to be given to that Department.

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

[e674129] The motion of Docr. Johnson was agreed to nem: con: it being generally supposed that the jurisdiction given was constructively limited to cases of a Judiciary nature

(Madison's Notes (Max Farrand, 1911), Page 430, Vol. 2)

It was moved and seconded to insert the words "this constitution the" before the word "laws" 2 line 3 sect, 11 article.
 which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 423, Vol. 2)

[e674130] On motion of Mr Rutledge, the words "passed by the Legislature" were struck out, and after the words "U. S" were inserted nem. con: the words "and treaties made or which shall be made under their authority" — conformably to a preceding amendment in another place.

(Madison's Notes (Max Farrand, 1911), Pages 430-431, Vol. 2)

It was moved and seconded to strike out the words "passed by the Legislature" and to insert after the words "United States" the words "and treaties made or which shall be made under their authority"

(Official Journal (Max Farrand, 1911), Pages 423-424, Vol. 2)

[e674131] On motion of Mr Rutlidge, the words “passed by the Legislature” were struck out, and after the words “U. S” were inserted nem. con: the words “and treaties made or which shall be made under their authority” — conformably to a preceding amendment in another place.

(Madison’s Notes (Max Farrand, 1911), Pages 430-431, Vol. 2)

It was moved and seconded to strike out the words “passed by the Legislature” and to insert after the words “United States” the words “and treaties made or which shall be made under their authority”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 423-424, Vol. 2)

[e674132] It was moved and seconded to insert the word “controversies” before the words “between two”

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674133] It was moved and seconded to insert the word “controversies” before the words “between two” or

which passed in the affirmative

[Editors’ note: This amendment was likely agreed unanimously.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674134] [Editors’ note: The clause seems to have been taken into the working document, though there is no record of a formal vote in any of the sources.]

(2019 Editors)

[e674135] It was moved and seconded to postpone the following clause “in cases of impeachment”

[Editors’ note: This decision effectively divides the original clause in two and leaves the wording about ambassadors a separate sub-clause.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

The clause “in cases of impeachment”, was postponed.

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e734958] It was moved and seconded to postpone the following clause “in cases of impeachment”

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

The clause “in cases of impeachment”, was postponed.

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e734959] It was moved and seconded to postpone the following clause “in cases of impeachment”

which passed in the affirmative

[Editors’ note: This decision effectively divides the original clause in two and leaves the wording about ambassadors a separate sub-clause.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

The clause “in cases of impeachment”, was postponed.

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674137] [Editors’ note: The Convention took up the remainder of the sixth clause.]

(2019 Editors)

[e674138] It was moved and seconded to insert the words
“the United States or” before the words “a State shall be a party”

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674139] It was moved and seconded to insert the words
“the United States or” before the words “a State shall be a party”
which passed in the affirmative

[Editors’ note: None of the sources includes a vote count.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674140] [Editors’ note: The Convention appears to have taken the sub-clause into the working document, though none of the sources notes a formal vote.]

(2019 Editors)

[e674141] [Editors’ note: The Convention then considered the seventh clause.]

(2019 Editors)

[e674142] Mr. Govr. Morris wished to know what was meant by the words
“In all the cases before mentioned it (jurisdiction) shall be appellate with such
exceptions &c,” whether it extended to matters of fact as well as law — and to
cases of Common law as well as Civil law.

Mr. Wilson. The Committee he believed meant facts as well as law &
Common as well as Civil law. The jurisdiction of the federal Court of Appeals
had he said been so construed.

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674143] It was moved and seconded to agree to the following amendment.

In all the other cases beforementioned original jurisdiction shall be in the
Courts of the several States but with appeal both as to Law and fact to the
courts of the United States, with such exceptions and under such regulations,
as the Legislatures shall make.

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674144] It was moved and seconded to agree to the following amendment.

In all the other cases beforementioned original jurisdiction shall be in the
Courts of the several States but with appeal both as to Law and fact to the
courts of the United States, with such exceptions and under such regulations,
as the Legislatures shall make.

The last motion being withdrawn

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674145] The last motion being withdrawn,

It was moved and seconded to amend the clause to read

“In cases of impeachment, cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, this jurisdiction shall be original In all the other cases before mentioned it shall be appellate both as to law and fact with such exceptions and under such regulations as the Legislature shall make”

[Editors’ note: Madison writes that ‘Mr. Dickinson moved to add after the word ”appellate” the words ”both as to law & fact” which was agreed to nem: con:’ (Page 431, Vol. 2, Madison’s Notes (Max Farrand, 1911))

In the Journal, however, the text of this motion seems to have also altered the wording of the previously-agreed clause. As a result, there is a great deal of disagreement between the two sources about what is actually happening at this moment. The Convention had postponed the first sub-clause of the previous clause and amended the second sub-clause. If the Journal is correct, accepting Dickinson’s amendment would have undone both of those decisions. It seems highly unlikely that the Convention would have undone those decisions, especially given that Madison suggests that this amendment was unanimously agreed. It is probable, therefore, that Jackson recorded the text of the motion before the Convention agreed to the previous changes. For this reason, the editors have used Madison’s simple version of the text.

This text would become part of Article III of the final Constitution, which does not include the reference to impeachment or the phrasing about cases where the Supreme Court is granted original jurisdiction.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674146] It was moved and seconded to amend the clause to read

“In cases of impeachment, cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, this jurisdiction shall be original In all the other cases before mentioned it shall be appellate both as to law and fact with such exceptions and under such regulations as the Legislature shall make”

which passed in the affirmative

[Editors’ note: Madison writes that ‘Mr. Dickinson moved to add after the word ”appellate” the words ”both as to law & fact” which was agreed to nem: con:’ (Page 431, Vol. 2, Madison’s Notes (Max Farrand, 1911))

In the Journal, however, the text of this motion seems to have also altered the wording of the previously-agreed clause. As a result, there is a great deal of disagreement between the two sources about what is actually happening at this moment. The Convention had postponed the first sub-clause of the previous clause and amended the second sub-clause. If the Journal is correct, accepting Dickinson’s amendment would have undone both of those decisions. It seems highly unlikely that the Convention would have undone those decisions, especially given that Madison suggests that this amendment was unanimously agreed. It is probable, therefore, that Jackson recorded the text of the motion before the Convention agreed to the previous changes. For this reason, the editors have used Madison’s simple version of the text.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674147] It was moved and seconded to add the following clause to the last amendment.

“But in cases in which the United States shall be a Party the jurisdiction shall be original or appellate as the Legislature may direct”

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674148] To strike out the words “original or”

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674149] To strike out the words “original or” Ayes — 6; noes — 2.

[Editors’ note: The Georgia delegation was quorate again.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674150] It was moved and seconded to add the following clause to the last amendment.

“But in cases in which the United States shall be a Party the jurisdiction shall be original or appellate as the Legislature may direct”

[...]

which passed in the negative [Ayes — 3; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 424, Vol. 2)

[e674151] [Editors’ note: Once the Convention had finished amending the third section, the section was taken into the working document.]

(2019 Editors)

[e674152] On the question to reconsider the 3rd section 11 article

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674153] On the question to reconsider the 3rd section 11 article

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674154] Mr. Madison & Mr. Govr. Morris moved to strike out the beginning of the 3d sect. “The jurisdiction of the supreme Court” & to insert the words “the Judicial power”

[Editors’ note: The text of the amendment comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

It was moved and seconded to strike out the words
“The jurisdiction of the Supreme Court” and to insert the words “The Judicial Power”

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674155] Mr. Madison & Mr. Govr. Morris moved to strike out the beginning of the 3d sect. “The jurisdiction of the supreme Court” & to insert the words “the Judicial power” which was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

It was moved and seconded to strike out the words
 “The jurisdiction of the Supreme Court” and to insert the words “The Judicial Power”
 which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674156] It was moved and seconded to strike out the words “this jurisdiction shall be original” and to insert the words “The supreme Court shall have original jurisdiction”

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674157] It was moved and seconded to strike out the words “this jurisdiction shall be original” and to insert the words “The supreme Court shall have original jurisdiction”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674158] It was moved and seconded to agree to the following amendment
 “In all the other cases before mentioned the judicial power shall be exercised in such manner as the Legislature shall direct”

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

The following motion was disagreed to, to wit to insert “In all the other cases before mentioned the Judicial power shall be exercised in such manner as the Legislature shall direct”

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674159] It was moved and seconded to agree to the following amendment
 “In all the other cases before mentioned the judicial power shall be exercised in such manner as the Legislature shall direct”

which passed in the negative [Ayes — 2; noes — 6.]

[Editors’ note: Farrand writes that he is uncertain if this vote count pertains to this motion.]

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

The following motion was disagreed to, to wit to insert “In all the other cases before mentioned the Judicial power shall be exercised in such manner as the Legislature shall direct” Del. Virga ay

N. H Con. P. M. S. C. G no [Ayes — 2; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674160] [Editors' note: The Convention then considered the final clause.]

(2019 Editors)

[e674161] It was moved and seconded to strike out the last clause of the 3rd sect. 11 article

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

On a question for striking out the last sentence of sect. 3. "The Legislature may assign &c—"

(Madison's Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674162] It was moved and seconded to strike out the last clause of the 3rd sect. 11 article

which passed in the affirmative [Ayes — 8; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

On a question for striking out the last sentence of sect. 3. "The Legislature may assign &c—"

N. H. ay— Ct ay. Pa ay. Del— ay— Md ay— Va ay— S— C. ay— Geo. ay. [Ayes — 8; noes — 0.]

(Madison's Notes (Max Farrand, 1911), Page 431, Vol. 2)

[e674163] [Editors' note: The decision to strike out the clause had the same effect as rejecting the clause.]

(2019 Editors)

[e674164] It was moved and seconded to insert the words "both in law and equity" before the word "arising" in the first line, 3rd section, 11 article.

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674165] It was moved and seconded to insert the words "both in law and equity" before the word "arising" in the first line, 3rd section, 11 article.

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674166] Mr. Sherman moved to insert after the words "between Citizens of different States" the words, "between Citizens of the same State claiming lands under grants of different States" — according to the provision in the 9th. art: of the Confederation

(Madison's Notes (Max Farrand, 1911), Pages 431-432, Vol. 2)

It was moved and seconded to insert after the words "between citizens of different States" the words "between Citizens of the same State claiming lands under grants of different States

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674167] Mr. Sherman moved to insert after the words “between Citizens of different States” the words, “between Citizens of the same State claiming lands under grants of different States” — according to the provision in the 9th. art: of the Confederation — which was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Pages 431-432, Vol. 2)

It was moved and seconded to insert after the words “between citizens of different States” the words “between Citizens of the same State claiming lands under grants of different States

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

[e674168] The House adjourned

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

[e674169] The House adjourned

(Official Journal (Max Farrand, 1911), Page 425, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 432, Vol. 2)

1.81 Tuesday, 28 August 1787, at 10:00 (s6268)

[e674170] The honorable Mr Sherman from the Committee to whom were referred several propositions entered on the Journal of the 25 instant informed the House that the Committee were prepared to report — The report was then delivered in at the Secretary’s table, was read, and is as follows.

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2)

Mr. Sherman from the Committee to whom were referred several propositions on the 25th. instant, made the following report —

(Madison’s Notes (Max Farrand, 1911), Page 437, Vol. 2)

[e674171] It was moved and seconded to strike out the words

“it shall be appellate” and to insert the words “the Supreme Court shall have appellate jurisdiction” 3 sect. 11 article

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2)

Art XI sect. 3. “It was moved to strike out the words “it shall be appellate” & to insert the words “the supreme Court shall have appellate jurisdiction”, — in order to prevent uncertainty whether “it” referred to the supreme Court, or to the Judicial power.

(Madison's Notes (Max Farrand, 1911), Page 437, Vol. 2)

[e674172] It was moved and seconded to strike out the words
 “it shall be appellate” and to insert the words “the Supreme Court shall
 have appellate jurisdiction” 3 sect. 11 article
 which passed in the affirmative [Ayes — 9; noes — 1.]
 [Editors' note: By this session, Massachusetts and North had regained their
 quorums, leaving New Jersey as the only unrepresented state.]

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2)

Art XI sect. 3. “It was moved to strike out the words “it shall be appellate”
 & to insert the words “the supreme Court shall have appellate jurisdiction”, —
 in order to prevent uncertainty whether “it” referred to the supreme Court, or
 to the Judicial power.

On the question

N. H. ay. Mas. ay. Ct. ay. N. J. abst. Pa. ay. Del. ay. Md. no. Va. ay. N
 C ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 437-438, Vol. 2)

[e674173] [Editors' note: Once the preceding amendment had been agreed, the
 third section was taken into the working document without a formal vote.]

(2019 Editors)

Agreed to the 1. 2 and 3 sect. of the XI article with amendments.

(McHenry's Notes (Max Farrand, 1911), Page 432, Vol. 2, 27 August 1787)

[e674174] Sect. 4

[Editors' note: The Convention considered the fourth section of Article XI.]

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674175] It was moved and seconded to amend the 4th section of the 11th
 article to read as follows.

“The trial of all crimes (except in cases of impeachment) shall be by Jury —
 and such trial shall be held in the State where the said crimes shall have been
 committed; but when not committed within any State then the trial shall be at
 such place or places as the Legislature may direct.”

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2)

Sect. 4— was so amended nem: con: as to read “The trial of all crimes
 (except in cases of impeachment) shall be by jury, and such trial shall be held
 in the State where the said crimes shall have been committed; but when not
 committed within any State, then the trial shall be at such place or places as
 the Legislature may direct”. The object of this amendment was to provide for
 trial by jury of offences committed out of any State.

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674176] It was moved and seconded to amend the 4th section of the 11th article to read as follows.

“The trial of all crimes (except in cases of impeachment) shall be by Jury — and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State then the trial shall be at such place or places as the Legislature may direct.”

which passed in the affirmative

[Editors’ note: Madison notes that this amendment was agreed unanimously.]

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2)

Sect. 4— was so amended nem: con: as to read “The trial of all crimes (except in cases of impeachment) shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, then the trial shall be at such place or places as the Legislature may direct”. The object of this amendment was to provide for trial by jury of offences committed out of any State.

(Madison’s Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674177] Mr. Pinkney, urging the propriety of securing the benefit of the Habeas corpus in the most ample manner, moved “that it should not be suspended but on the most urgent occasions, & then only for a limited time not exceeding twelve months”

[Editors’ note: Madison does not record the exact amendment text, so the editors have referred to Morris’ phrasing in his subsequent amendment in order to fill in the missing first lines.]

(Madison’s Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674178] Mr. Rutledge was for declaring the Habeas Corpus inviolable— He did not conceive that a suspension could ever be necessary at the same time through all the States—

(Madison’s Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674179] Mr. Govr Morris moved that “The privilege of the writ of Habeas Corpus shall not be suspended, unless where in cases of Rebellion or invasion the public safety may require it”.

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 438, Vol. 2)

It was moved and seconded to add the following amendment to the 4 sect. 11 article

“The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it.”

(Official Journal (Max Farrand, 1911), Pages 434-435, Vol. 2)

[e674180] Mr. Wilson doubted whether in any case a suspension could be necessary, as the discretion now exists with Judges, in most important cases to keep in Gaol or admit to Bail.

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674181] [Editors' note: The Convention divided Morris's amendment into two clauses and considered them separately. In order to mimic this procedure, the editors have dropped the 'whole' version of the amendment and proposed the clauses individually.]

(2019 Editors)

[e674182] [Editors' note: As the Convention chose to consider Morris' amendment further, Pinckney's original motion on habeas corpus was effectively dropped.]

(2019 Editors)

[e674183] The first part of Mr. Govr. Morris' motion, to the word "unless" was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

It was moved and seconded to add the following amendment to the 4 sect. 11 article

"The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it."

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: The Journal does not record Morris' amendment being divided into two clauses and adopted separately.]

(Official Journal (Max Farrand, 1911), Pages 434-435, Vol. 2)

[e674184] The first part of Mr. Govr. Morris' motion, to the word "unless" was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

It was moved and seconded to add the following amendment to the 4 sect. 11 article

"The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it."

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: The Journal does not record Morris' amendment being divided into two clauses and adopted separately.]

(Official Journal (Max Farrand, 1911), Pages 434-435, Vol. 2)

[e674185] The first part of Mr. Govr. Morris' motion, to the word "unless" was agreed to nem: con: — on the remaining part;

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

It was moved and seconded to add the following amendment to the 4 sect. 11 article

"The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it."

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: The Journal does not record Morris' amendment being divided into two clauses and adopted separately.]

(Official Journal (Max Farrand, 1911), Pages 434-435, Vol. 2)

[e674186] The first part of Mr. Govr. Morris' motion, to the word "unless" was agreed to nem: con: — on the remaining part;

N. H. ay. Mas. ay. Ct. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

It was moved and seconded to add the following amendment to the 4 sect. 11 article

"The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it."

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: The Journal does not record Morris' amendment being divided into two clauses and adopted separately.]

(Official Journal (Max Farrand, 1911), Pages 434-435, Vol. 2)

[e674187] 4 Sect. Amended.

[Editors' note: Section 4 of Article XI was taken into the working document.]

(McHenry's Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674188] On the question to agree to the 5. section 11 article as reported

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

Sect. 5. of art: XI was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674189] Sect. 5. of art: XI. was agreed to nem: con: The vote on this section as stated in the printed journal is not unanimous: The statement here probably the right one.

[Editors' note: Farrand concurs that Jackson recorded this vote incorrectly.]

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

On the question to agree to the 5. section 11 article as reported it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

5 sect. agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674190] [Editors' note: As the Convention moved on to consider the next article, the editors assume that Article XI was taken into the working document.]

(2019 Editors)

[e674191] Art: XII being taken up.

(Madison's Notes (Max Farrand, 1911), Page 438, Vol. 2)

[e674192] Separate questions being taken on the several clauses of the 12 article, as amended

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674193] Separate questions being taken on the several clauses of the 12 article, as amended,

they passed in the affirmative.

[Editors' note: The Journal does include individual vote counts for each clause.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674194] Mr. Wilson & Mr. Sherman moved to insert after the words "coin money" the words "nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts" making these prohibitions absolute, instead of making the measures allowable (as in the XIII art:) with the consent of the Legislature of the U. S.

[Editors' note: Article XIII reads as follows:

'No State, without the consent of the Legislature of the United States shall emit bills of credit, or make any thing but specie a tender in payment of debts; lay imposts or duties on imports; nor keep troops or ships of war in time of peace; nor enter into any agreement or compact with another State, or with any foreign power; nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent, as not to admit of a delay, until the Legislature of the United States can be consulted' (Page 577, Vol. 2, Proceedings of Convention Referred to the Committee of Style and Arrangement (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 439, Vol. 2)

[e674195] Mr. Ghorum thought the purpose would be as well secured by the provision of art: XIII which makes the consent of the Genl. Legislature necessary, and that in that mode, no opposition would be excited; whereas an absolute prohibition of paper money would rouse the most desperate opposition from its partizans—

Mr. Sherman thought this a favorable crisis for crushing paper money. If the consent of the Legislature could authorize emissions of it, the friends of paper money would make every exertion to get into the Legislature in order to license it.

(Madison's Notes (Max Farrand, 1911), Page 439, Vol. 2)

[e674196] The question being divided

[Editors' note: As the Convention divided the amendment and considered the clauses separately, the editors have dropped the 'whole' version of the amendment and proposed the clauses individually.]

(Madison's Notes (Max Farrand, 1911), Page 439, Vol. 2)

[e674197] It was moved and seconded to insert the words “nor emit bills of credit” after the word “money” in the 12 article

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

on the 1st. part — “nor emit bills of credit”

(Madison’s Notes (Max Farrand, 1911), Page 439, Vol. 2)

XII article amended by adding that no State shall emit bills of credit

(McHenry’s Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674198] It was moved and seconded to insert the words “nor emit bills of credit” after the word “money” in the 12 article which passed in the affirmative. [Ayes — 8; noes — 1; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

on the 1st. part — “nor emit bills of credit”

N. H. ay. Mas. ay. Ct. ay. Pa. ay— Del. ay. Md divid. Va. no. N— C— ay— S— C. ay. Geo. ay. [Ayes — 8; noes — 1; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 439, Vol. 2)

XII article amended by adding that no State shall emit bills of credit

(McHenry’s Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674199] It was moved and seconded to insert the following clause after the last amendment.

“nor make any thing but gold and silver coin a tender in payment of debts”

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

The remaining part of Mr. Wilson’s & Sherman’s motion, was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 439, Vol. 2)

XII article amended by adding that no State shall emit bills of credit, nor make any thing but specie a tender in debts.

(McHenry’s Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674200] It was moved and seconded to insert the following clause after the last amendment.

“nor make any thing but gold and silver coin a tender in payment of debts” which passed in the affirmative [Ayes — 11; noes — 0.]

[Editors’ note: The New Jersey delegation had regained its quorum by this vote.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

The remaining part of Mr. Wilson's & Sherman's motion, was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 439, Vol. 2)

XII article amended by adding that no State shall emit bills of credit, nor make any thing but specie a tender in debts.

(McHenry's Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674201] Mr King moved to add, in the words used in the Ordinance of Congress establishing new States, a prohibition on the States to interfere in private contracts.

[Editors' note: This ordinance is probably a reference to that passed in Congress in July 1787. The text regarding contracts is found in Article the Second. The wording has been very slightly altered from prohibiting 'territories' to 'states'. The full reference is as follows:

An ordinance for the government of the territory of the United States, Northwest of the river Ohio (New York: s.n., 1787).

The original document can be found in the Library of Congress - <https://lccn.loc.gov/90898154>

(Madison's Notes (Max Farrand, 1911), Page 439, Vol. 2)

[e674202] Mr. Govr. Morris. This would be going too far. There are a thousand laws relating to bringing actions — limitations of actions & which affect contracts— The Judicial power of the U— S— will be a protection in cases within their jurisdiction; and within the State itself a majority must rule, whatever may be the mischief done among themselves.

Mr. Sherman. Why then prohibit bills of credit?

Mr. Wilson was in favor of Mr. King's motion.

Mr. Madison admitted that inconveniences might arise from such a prohibition but thought on the whole it would be overbalanced by the utility of it. He conceived however that a negative on the State laws could alone secure the effect. Evasions might and would be devised by the ingenuity of the Legislatures—

Col: Mason. This is carrying the restraint too far. Cases will happen that can not be foreseen, where some kind of interference will be proper, & essential— He mentioned the case of limiting the period for bringing actions on open account — that of bonds after a certain lapse of time, — asking whether it was proper to tie the hands of the States from making provision in such cases?

Mr. Wilson. The answer to these objections is that retrospective interferences only are to be prohibited.

Mr. Madison. Is not that already done by the prohibition of ex post facto laws, which will oblige the Judges to declare such interferences null & void.

(Madison's Notes (Max Farrand, 1911), Pages 439-440, Vol. 2)

[e674203] It was moved and seconded to add the following clause to the last amendment.

“nor pass any bill of attainder or ex post facto laws”.

[Editors' note: Madison writes that John Rutledge proposed this motion 'instead of Mr. King's Motion '.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

Mr. Rutledge moved instead of Mr. King's Motion to insert — “nor pass bills of attainder nor retrospective laws”

(Madison's Notes (Max Farrand, 1911), Page 440, Vol. 2)

[e674204] [Editors' note: Rutledge's motion to insert 'nor pass bills of attainder nor retrospective laws' replaced King's motion.]

(2019 Editors)

[e674205] It was moved and seconded to add the following clause to the last amendment.

“nor pass any bill of attainder or ex post facto laws”

which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: Massachusetts dropped below quorum for this vote only.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

Mr. Rutledge moved instead of Mr. King's Motion to insert — “nor pass bills of attainder nor retrospective laws” on which motion

N. H. ay— Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Virga. no. N— C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 440, Vol. 2)

[e674206] Separate questions being taken on the several clauses of the 12 article, as amended

[Editors' note: This is the second clause proposed by the Committee of Detail, though it now stands as the fourth clause due to previous amendments.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674207] Separate questions being taken on the several clauses of the 12 article, as amended,

they passed in the affirmative.

[Editors' note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Pages 435, Vol. 2)

[e674208] Mr. Madison moved to insert after the word “reprisal” (art. XII) the words “nor lay embargoes”. He urged that such acts by the States would be unnecessary — impolitic — & unjust—

(Madison's Notes (Max Farrand, 1911), Page 440, Vol. 2)

It was moved and seconded to insert after the word “reprisal” the words “nor lay embargoes”

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674209] Mr. Sherman thought the States ought to retain this power in order to prevent suffering & injury to their poor.

Col: Mason thought the amendment would be not only improper but dangerous, as the Genl. Legislature would not sit constantly and therefore could not interpose at the necessary moments— He enforced his objection by appealing to the necessity of sudden embargoes during the war, to prevent exports, particularly in the case of a blockade—

Mr Govr. Morris considered the provision as unnecessary; the power of regulating trade between State & State, already vested in the Genl— Legislature, being sufficient.

(Madison's Notes (Max Farrand, 1911), Pages 440-441, Vol. 2)

[e674210] It was moved and seconded to insert after the word "reprisal" the words "nor lay embargoes"

which passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

On the question

N. H. no. Mas. ay. Ct. no. N. J. no. Pa. no. Del. ay. Md. no. Va. no. N. C. no. S. C. ay. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 441, Vol. 2)

[e674211] Mr Madison moved that the words "nor lay imposts or duties on imports" be transferred from art: XIII where the consent of the Genl. Legislature may license the act — into art: XII which will make the prohibition on the States absolute. He observed that as the States interested in this power by which they could tax the imports of their neighbours passing thro' their markets, were a majority, they could give the consent of the Legislature, to the injury of N. Jersey, N. Carolina &c —

(Madison's Notes (Max Farrand, 1911), Page 441, Vol. 2)

It was moved and seconded to transfer the following words from the 13 to the 12 article

"nor lay imposts or duties on imports"

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674212] Mr. Sherman thought the power might safely be left to the Legislature of the U. States.

Col: Mason, observed that particular States might wish to encourage by impost duties certain manufactures for which they enjoyed natural advantages, as Virginia, the manufacture of Hemp &c.

Mr. Madison— The encouragment of Manufacture in that mode requires duties not only on imports directly from foreign Countries, but from the other States in the Union, which would revive all the mischiefs experienced from the want of a Genl. Government over commerce.

(Madison's Notes (Max Farrand, 1911), Page 441, Vol. 2)

[e674213] It was moved and seconded to transfer the following words from the 13 to the 12 article

“nor lay imposts or duties on imports”
which passed in the negative. [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

On the question

N. H. ay. Mas. no. Ct. no. N. J— ay. Pa. no. Del: ay. Md. no. Va. no N.
C. ay. S. C. no. Geo. no. [Ayes — 4; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 441, Vol. 2)

[e674214] Separate questions being taken on the several clauses of the 12 article, as amended,

[Editors’ note: This is the third clause proposed by the Committee of Detail, though it now stands as the fifth clause due to previous amendments.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674215] Separate questions being taken on the several clauses of the 12 article, as amended,

they passed in the affirmative.

[Editors’ note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674216] Separate questions being taken on the several clauses of the 12 article, as amended

[Editors’ note: This is the fourth clause proposed by the Committee of Detail, though it now stands as the sixth clause due to previous amendments.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674217] Separate questions being taken on the several clauses of the 12 article, as amended,

they passed in the affirmative.

[Editors’ note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674218] Art: XII as amended agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 441, Vol. 2)

[e674219] Art: XIII being taken up.

(Madison’s Notes (Max Farrand, 1911), Page 442, Vol. 2)

[e674220] Separate questions being taken on the several clauses of the 13th article, as amended,

[Editors' note: In the debate on the previous article, the Convention had agreed to provide a stronger prohibition against bills of credit or paper money when paying state debts. The substance of the first clause of Article XIII was therefore transferred to Article XII. As a result, the second clause would be merged with the preamble of the first clause, which has been represented here. The original first clause is as follows:

'No State, without the consent of the Legislature of the United States shall emit bills of credit, or make any thing but specie a tender in payment of debts;' (Page 577, Vol. 2, Proceedings of Convention Referred to the Committee of Style and Arrangement (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674221] Mr. King moved to insert after the word "imports" the words "or exports" so as to prohibit the States from taxing either.

(Madison's Notes (Max Farrand, 1911), Page 442, Vol. 2)

It was moved and seconded to insert after the word "imports" in the 13th article the words "or exports"

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

[e674222] It was moved and seconded to insert after the word "imports" in the 13th article the words "or exports"

which passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 435, Vol. 2)

Mr. King moved to insert after the word "imports" the words "or exports" so as to prohibit the States from taxing either. — & on this question it passed in the affirmative.

(Madison's Notes (Max Farrand, 1911), Page 442, Vol. 2)

[e674223] Mr. Sherman moved to add, after the word "exports" — the words "nor with such consent but for the use of the U. S." — so as to carry the proceeds of all State duties on imports & exports, into the common Treasury.

(Madison's Notes (Max Farrand, 1911), Page 442, Vol. 2)

It was moved and seconded to add after the word "exports" in the 13th article the words "nor with such consent but for the use of the treasury of the United States"

(Official Journal (Max Farrand, 1911), Pages 436-437, Vol. 2)

XIII amended so [th]at all duties laid by a State shall accrue to the use of the U. S.

(McHenry's Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674224] Mr. Madison liked the motion as preventing all State imposts — but lamented the complexity we were giving to the commercial system.

Mr. Govr. Morris thought the regulation necessary to prevent the Atlantic States from endeavouring to tax the Western States — & promote their interest by opposing the navigation of the Mississippi which would drive the Western people into the arms of G. Britain.

Mr. Clymer thought the encouragement of the Western Country was suicide on the old States— If the States have such different interests that they can not be left to regulate their own manufactures without encountering the interests of other States, it is a proof that they are not fit to compose one nation.

Mr. King was afraid that the regulation moved by Mr Sherman would too much interfere with a policy of States respecting their manufactures, which may be necessary. Revenue he reminded the House was the object of the general Legislature.

(Madison's Notes (Max Farrand, 1911), Page 442, Vol. 2)

[e674225] It was moved and seconded to add after the word “exports” in the 13th article the words “nor with such consent but for the use of the treasury of the United States”

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 436-437, Vol. 2)

On Mr. Sherman's motion

N. H. ay. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Pages 442-443, Vol. 2)

XIII amended so [th]at all duties laid by a State shall accrue to the use of the U. S.

(McHenry's Notes (Max Farrand, 1911), Page 444, Vol. 2)

[e674226] on the first clause 13 article Ayes — 9; noes — 2.

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674227] Separate questions being taken on the several clauses of the 13th article, as amended,

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674228] Separate questions being taken on the several clauses of the 13th article, as amended,

they passed in the affirmative

[Editors' note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674229] Separate questions being taken on the several clauses of the 13th article, as amended,

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674230] Separate questions being taken on the several clauses of the 13th article, as amended,

they passed in the affirmative

[Editors' note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674231] Separate questions being taken on the several clauses of the 13th article, as amended,

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674232] Separate questions being taken on the several clauses of the 13th article, as amended,

they passed in the affirmative

[Editors' note: The Journal does not note vote counts for each individual clause.]

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674233] Art XIII was then agreed to as amended.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674234] Art. XIV was taken up.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

On the question to agree to the 14 article as reported

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674235] Genl. Pinkney was not satisfied with it. He seemed to wish some provision should be included in favor of property in slaves.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674236] On the question to agree to the 14 article as reported it passed in the affirmative [Ayes — 9; noes — 1; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

XIII and XV agreed to.

[Editors' note: McHenry records this as occurring on August 29.]

(McHenry's Notes (Max Farrand, 1911), Page 456, Vol. 2, 29 August, 1787)

On the question on art: XIV.

N. H. ay. Mas. ay. Ct. ay. N. J. ay— Pa. ay. Del. ay. Md. ay— Va. ay.
N— C— ay. S— C. no. Geo. divided [Ayes — 9; noes — 1; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674237] Art: XV. being taken up.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

On the question to agree to the 15th article as amended

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674238] Art: XV. being taken up. the words "high misdemeanor," were struck out, and "other crime" inserted, in order to comprehend all proper cases: it being doubtful whether "high misdemeanor" had not a technical meaning too limited.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

It was moved and seconded to strike out the words "high misdemeanor," and to insert the words "other crime"

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

[e674239] It was moved and seconded to strike out the words "high misdemeanor," and to insert the words "other crime"

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

Art: XV. being taken up. the words "high misdemesnor," were struck out, and "other crime" inserted, in order to comprehend all proper cases: it being doubtful whether "high misdemeanor" had not a technical meaning too limited.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674240] Mr. Butler and Mr Pinkney moved "to require fugitive slaves and servants to be delivered up like criminals."

[Editors' note: Madison's record of the amendment, though presented as an exact quotation, seems more likely to be a précis of the motion. Therefore, the amendment shown here is an editorial judgement based on the subsequent amendment relating to fugitive slaves.]

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674241] Mr. Wilson. This would oblige the Executive of the State to do it, at the public expence.

Mr Sherman saw no more propriety in the public seizing and surrendering a slave or servant, than a horse.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674242] Mr. Butler withdrew his proposition in order that some particular provision might be made apart from this article.

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674243] On the question to agree to the 15th article as amended
it passed in the affirmative

[Editors' note: Madison writes that this was agreed 'nem. con.']

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

Art XV as amended was then agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), page 443, Vol. 2)

XIII and XV agreed to.

[Editors' note: McHenry records this as occurring on August 29.]

(McHenry's Notes (Max Farrand, 1911), Page 456, Vol. 2, 29 August, 1787)

[e674244] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

[e674245] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 437, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 443, Vol. 2)

1.82 Wednesday, 29 August 1787, at 10:00 (s6269)

[e674246] Art: XVI. taken up.

(Madison's Notes (Max Farrand, 1911), Page 447, Vol. 2)

[e674247] Mr. Williamson moved to substitute in place of it, the words of the Articles of Confederation on the same subject. He did not understand precisely the meaning of the article.

[Editors' note: This text regarding the validity of each state's laws and courts is found in Article IV of the Articles of Confederation. The editors have referred to the following copy:

Articles of confederation and perpetual union between the states of New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia (Lancaster, Pennsylvania. Printed; Boston: Re-printed by John Gill, printer to the General Assembly, 1777).

The original document can be found in the Library of Congress - <https://lccn.loc.gov/11034113>

(Madison's Notes (Max Farrand, 1911), Page 447, Vol. 2)

[e674248] Mr. Wilson & Doctr. Johnson supposed the meaning to be that Judgments in one State should be the ground of actions in other States, & that acts of the Legislatures should be included, for the sake of Acts of insolvency &c —

(Madison's Notes (Max Farrand, 1911), Page 447, Vol. 2)

[e674249] It was moved and seconded to commit the 16th article together with the following proposition

To establish uniform laws upon the subject of bankruptcies and respecting the damages arising on the protest of foreign bills of exchange.

[Editors' note: Madison records Charles Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

Mr. Pinkney moved to commit art XVI, with the following proposition, "To establish uniform laws upon the subject of bankruptcies, and respecting the damages arising on the protest of foreign bills of exchange"

(Madison's Notes (Max Farrand, 1911), Page 447, Vol. 2)

XVIII and XV agreed to.17 XVI. article committed.

(McHenry's Notes (Max Farrand, 1911), Page 456, Vol. 2)

[e674250] It was moved and seconded to commit the 16th article together with the following proposition

To establish uniform laws upon the subject of bankruptcies and respecting the damages arising on the protest of foreign bills of exchange.

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

Mr. Pinkney moved to commit art XVI, with the following proposition, "To establish uniform laws upon the subject of bankruptcies, and respecting the damages arising on the protest of foreign bills of exchange"

(Madison's Notes (Max Farrand, 1911), Page 447, Vol. 2)

[e674251] Mr Ghorum was for agreeing to the article, and committing the proposition.

Mr. Madison was for committing both. He wished the Legislature might be authorized to provide for the execution of Judgments in other States, under such regulations as might be expedient— He thought that this might be safely done and was justified by the nature of the Union.

(Madison's Notes (Max Farrand, 1911), Pages 447-448, Vol. 2)

[e674252] It was moved and seconded to commit the following proposition

Whensoever the act of any State, whether legislative executive or judiciary shall be attested and exemplified under the seal thereof, such attestation and exemplification shall be deemed in other State as full proof of the existence of that act — and it's operation shall be binding in every other State, in all cases to which it may relate, and which are within the cognizance and jurisdiction of the State, wherein the said act was done.

[Editors' note: Madison records Randolph as the proposer.]

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

Mr. Randolph said there was no instance of one nation executing judgments of the Courts of another nation. He moved the following proposition.

“Whenever the Act of any State, whether Legislative Executive or Judiciary shall be attested & exemplified under the seal thereof, such attestation and exemplification, shall be deemed in other States as full proof of the existence of that act — and its operation shall be binding in every other State, in all cases to which it may relate, and which are within the cognizance and jurisdiction of the State, wherein the said act was done.”

(Madison’s Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674253] On the question for committing art: XVI with Mr. Pinkney’s motion
N. H. no. Mas. no. Ct. ay. N. J. ay. Pa ay. Del. ay. Md. ay. Va. ay. N. C.
ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 448, Vol. 2)

It was moved and seconded to commit the 16th article together with the following proposition

To establish uniform laws upon the subject of bankruptcies and respecting the damages arising on the protest of foreign bills of exchange.

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

[e674254] The motion of Mr. Randolph was also committed nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674255] It was moved and seconded to commit the following proposition

Full faith ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall by general laws determine the Proof and effect of such acts, records, and proceedings.

[Editors’ note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

Mr. Govr. Morris moved to commit also the following proposition on the same subject.

“Full faith ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall by general laws, determine the proof and effect of such acts, records, and proceedings”.

(Madison’s Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674256] Mr. Govr. Morris moved to commit also the following proposition on the same subject.

“Full faith ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall by general laws, determine the proof and effect of such acts, records, and proceedings”. and it was committed nem: contrad:

(Madison’s Notes (Max Farrand, 1911), Page 448, Vol. 2)

It was moved and seconded to commit the following proposition

Full faith ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall by general laws determine the Proof and effect of such acts, records, and proceedings which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

[e674257] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674258] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674259] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674260] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674261] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2)

[e674262] [Editors' note: Following the selection of members to the Committee, the Convention referred the propositions for Article XVI to the Committee for consideration.]

(2019 Editors)

[e674263] Mr. Dickenson mentioned to the House that on examining Blackstone's Commentaries, he found that the terms "expost facto" related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases, and that some further provision for this purpose would be requisite.

(Madison's Notes (Max Farrand, 1911), Pages 448-449, Vol. 2)

[e674264] Art. VII Sect. 6 by ye. Committee of eleven reported to be struck out (see the 24 instant) being now taken up,

Mr. Pinkney moved to postpone the Report in favor of the following proposition — "That no act of the Legislature for the purpose of regulating the commerce of the U— S. with foreign powers, or among the several States, shall be passed without the assent of two thirds of the members of each House—" — He remarked that there were five distinct commercial interests— 1. the fisheries & W. India trade, which belonged to the N. England States. 2. the interest of N. York lay in a free trade. 3. Wheat & flour the Staples of the two Middle States, (N. J. & Penna.)— 4 Tobo. the staple of Maryd. & Virginia & partly of N. Carolina. 5. Rice & Indigo, the staples of S. Carolina & Georgia. These different interests would be a source of oppressive regulations if no check to a bare majority should be provided. States pursue their interests with less scruple than individuals. The power of regulating commerce was a pure concession on the part of the S. States. They did not need. the protection of the N. States at present.

Mr. Martin 2ded. the motion

[Editors' note: The Committee's report had recommended that Article VII: Section 6 – 'No navigation act shall be passed without the assent of two-thirds of the members present in each House' – be struck out. Pinckney clearly intended to reinstate a similar proposal. The text of the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 449, Vol. 2)

It was moved and seconded to postpone the report of the Comme entd on ye Journal of the 24 instant take up the following proposition

That no act of the Legislature for the purpose of regulating the commerce of the United States with foreign powers or among the several States shall be passed without the assent of rds of the Members of each House.

(Official Journal (Max Farrand, 1911), Pages 445-446, Vol. 2)

[e674265] Genl. Pinkney said it was the true interest of the S. States to have no regulation of commerce; but considering the loss brought on the commerce of the Eastern States by the revolution, their liberal conduct towards the views* of South Carolina, and the interest the weak Southn. States had in being united with the strong Eastern States, he thought it proper that no fetters should be imposed on the power of making commercial regulations; and that his constituents though prejudiced against the Eastern States, would be reconciled to this liberality— He had himself, he said, prejudices agst the Eastern States before he came here, but would acknowledge that he had found them as liberal and candid as any men whatever.

Mr. Clymer. The diversity of commercial interests, of necessity creates difficulties, which ought not to be increased by unnecessary restrictions. The Northern & middle States will be ruined, if not enabled to defend themselves against foreign regulations.

Mr. Sherman, alluding to Mr. Pinkney's enumeration of particular interests, as requiring a security agst. abuse of the power; observed that, the diversity was of itself a security. adding that to require more than a majority to decide a question was always embarrassing as had been experienced in cases requiring the votes of nine States in Congress.

Mr. Pinkney replied that his enumeration meant the five minute interests— It still left the two great divisions of Northern & Southern Interests.

Mr. Govr. Morris. opposed the object of the motion as highly injurious— Preferences to american ships will multiply them, till they can carry the Southern produce cheaper than it is now carried- — A navy was essential to security, particularly of the S. States, and can only be had by a navigation act encouraging american bottoms & seamen— In those points of view then alone, it is the interest of the S. States that navigation acts should be facilitated. Shipping he said was the worst & most precarious kind of property. and stood in need of public patronage.

Mr Williamson was in favor of making two thirds instead of a majority requisite, as more satisfactory to the Southern people. No useful measure he believed had been lost in Congress for want of nine votes As to the weakness of the Southern States, he was not alarmed on that account. The sickliness of their climate for invaders would prevent their being made an object. He acknowledged that he did not think the motion requiring necessary in itself, because if a majority of Northern States should push their regulations too far, the S. States would build ships for themselves: but he knew the Southern people were apprehensive on this subject and would be pleased with the precaution.

Mr. Spaight was against the motion. The Southern States could at any time save themselves from oppression, by building ships for their own use.

Mr. Butler differed from those who considered the rejection of the motion as no concession on the part of the S. States. He considered the interests of these and of the Eastern States, to be as different as the interests of Russia and Turkey. Being notwithstanding desirous of conciliating the affections of the East: States, he should vote agst. requiring instead of a majority.

Col: Mason. If the Govt. is to be lasting, it must be founded in the confidence & affections of the people, and must be so constructed as to obtain these. The Majority will be governed by their interests. The Southern States are the minority in both Houses. Is it to be expected that they will deliver themselves bound hand & foot to the Eastern States, and enable them to exclaim, in the

words of Cromwell on a certain occasion — “the lord hath delivered them into our hands.

Mr. Wilson took notice of the several objections and remarked that if every peculiar interest was to be secured, unanimity ought to be required. The majority he said would be no more governed by interest than the minority— It was surely better to let the latter be bound hand and foot than the former. Great inconveniences had, he contended, been experienced in Congress from the article of confederation requiring nine votes in certain cases.

Mr. Madison. went into a pretty full view of the subject. He observed that the disadvantage to the S. States from a navigation act, lay chiefly in a temporary rise of freight, attended however with an increase of Southn. as well as Northern Shipping — with the emigration of Northern seamen & merchants to the Southern States — & with a removal of the existing & injurious retaliations among the States on each other. The power of foreign nations to obstruct our retaliating measures on them by a corrupt influence would also be less if a majority shd be made competent than if of each House shd. be required to legislative acts in this case. An abuse of the power would be qualified with all these good effects. But he thought an abuse was rendered improbable by the provision of 2 branches — by the independence of the Senate, by the negative of the Executive, by the interest of Connecticut & N. Jersey which were agricultural, not commercial States; by the interior interest which was also agricultural in the most commercial States— by the accession of Western States which wd. be altogether agricultural. He added that the Southern States would derive an essential advantage in the general security afforded by the increase of our maritime strength. He stated the vulnerable situation of them all, and of Virginia in particular. The increase of the Coasting trade, and of seamen, would also be favorable to the S. States, by increasing, the consumption of their produce. If the Wealth of the Eastern should in a still greater proportion be augmented, that wealth wd. contribute the more to the public wants, and be otherwise a national benefit.

Mr. Rutledge was agst. the motion of his colleague. It did not follow from a grant of the power to regulate trade, that it would be abused. At the worst a navigation act could bear hard a little while only on the S. States. As we are laying the foundation for a great empire, we ought to take a permanent view of the subject and not look at the present moment only. He reminded the House of the necessity of securing the West India trade to this country. That was the great object, and a navigation Act was necessary for obtaining it.

Mr. Randolph said that there were features so odious in the Constitution as it now stands, that he doubted whether he should be able to agree to it. A rejection of the motion would compleat the deformity of the system. He took notice of the argument in favor of giving the power over trade to a majority, drawn from the opportunity foreign powers would have of obstructing retaliating measures, if two thirds were made requisite. He did not think there was weight in that consideration— The difference between a majority & two thirds did not afford room for such an opportunity. Foreign influence would also be more likely to be exerted on the President who could require three fourths by his negative— He did not mean however to enter into the merits. What he had in view was merely to pave the way for a declaration which he might be hereafter obliged to make if an accumulation of obnoxious ingredients should take place, that he could not give his assent to the plan.

Mr Gorham. If the Government is to be so fettered as to be unable to relieve the Eastern States what motive can they have to join in it, and thereby tie their own hands from measures which they could otherwise take for themselves. The Eastern States were not led to strengthen the Union by fear for their own safety. He deprecated the consequences of disunion, but if it should take place it was the Southern part of the Continent that had the most reason to dread them. He urged the improbability of a combination against the interest of the Southern States, the different situations of the Northern & Middle States being a security against it. It was moreover certain that foreign ships would never be altogether excluded especially those of Nations in treaty with us.

[Editors' note: Farrand writes: 'He meant the permission to import slaves. An understanding on the two subjects of navigation and slavery, had taken place between those parts of the Union, which explains the vote on the Motion depending, as well as the language of Genl. Pinkney & others' (Page 449, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Pages 449-453, Vol. 2)

[e674266] It was moved and seconded to postpone the report of the Committee on ye Journal of the 24 instant take up the following proposition

That no act of the Legislature for the purpose of regulating the commerce of the United States with foreign powers or among the several States shall be passed without the assent of thirds of the Members of each House.

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Pages 445-446, Vol. 2)

On the question to postpone in order to take up Mr. Pinkney's Motion

N— H. no. Mas. no. Ct. no N. J. no. Pa. no. Del. no. Md. ay. Va ay. N. C. ay— S— C. no— Geo. ay, [Ayes — 4 noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 453, Vol. 2)

[e674267] On the question to agree to the report of the Committee of eleven entered on the Journal of the 24 instant

it passed in the affirmative

[Editors' note: Madison writes, 'The Report of the Committee for striking out sect: 6. requiring two thirds of each House to pass a navigation act was then agreed to, nem: con:' (Page 453, Vol. 2, Madison's Notes (Max Farrand, 1911)). This passage could be read to mean that the Convention agreed to strike out only Section 6; however, the Journal seems more correct in ascribing the vote to the entirety of the Committee's recommendations.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

[e674268] [Editors' note: The Convention accepted the amended Committee propositions, which were taken into the working document as Article VII: Section 4, Clause 2.]

(2019 Editors)

[e674269] [Editors' note: The Convention accepted the amended Committee propositions, which were taken into the working document as Article VII: Section 4, Clause 2.]

(2019 Editors)

[e674270] [Editors' note: The amended Committee propositions were taken into the working document.]

(2019 Editors)

[e674271] [Editors' note: The amended Committee propositions were taken into the working document.]

(2019 Editors)

[e674272] [Editors' note: The Convention accepted the amended Committee propositions, which were taken into the working document as Article VII: Section 5.]

(2019 Editors)

[e674273] [Editors' note: The amended Committee propositions were taken into the working document.]

(2019 Editors)

[e740475] [Editors' note: Once its instructions had been debated, the original document was dropped from the Convention's consideration.]

(2019 Editors)

[e674274] [Editors' note: Once its propositions had been debated, amended, and accepted, the original report was dropped from the Convention's consideration.]

(2019 Editors)

[e674275] It was moved and seconded to agree to the following proposition to be inserted after the 15 article

“If any Person bound to service or labor in any of the United States shall escape into another State, He or She shall not be discharged from such service or labor in consequence of any regulations subsisting in the State to which they escape; but shall be delivered up to the person justly claiming their service or labor”

[Editors' note: Madison indicates that Butler was the proposer.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

Mr Butler moved to insert after art: XV. “If any person bound to service or labor in any of the U— States shall escape into another State, he or she shall not be discharged from such service or labor, in consequence of any regulations subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor,”

(Madison's Notes (Max Farrand, 1911), Pages 453-454, Vol. 2)

[e674276] It was moved and seconded to agree to the following proposition to be inserted after the 15 article

“If any Person bound to service or labor in any of the United States shall escape into another State, He or She shall not be discharged from such service or labor in consequence of any regulations subsisting in the State to which they escape; but shall be delivered up to the person justly claiming their service or labor”

which passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

Mr Butler moved to insert after art: XV. “If any person bound to service or labor in any of the U— States shall escape into another State, he or she shall not be discharged from such service or labor, in consequence of any regulations subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor,” which was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Pages 453-454, Vol. 2)

[e674277] Art: XVII being taken up

(Madison’s Notes (Max Farrand, 1911), Page 454, Vol. 2)

[e674278] Mr. Govr. Morris moved to strike out the two last sentences, to wit “If the admission be consented to, the new States shall be admitted on the same terms with the original States— But the Legislature may make conditions with the new States, concerning the public debt, which shall be then subsisting”. — He did not wish to bind down the Legislature to admit Western States on the terms here stated.

(Madison’s Notes (Max Farrand, 1911), Page 454, Vol. 2)

It was moved and seconded to strike out the two last clauses of the 17 article

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

[e674279] Mr Madison opposed the motion, insisting that the Western States neither would nor ought to submit to a Union which degraded them from an equal rank with the other States.

Col. Mason— If it were possible by just means to prevent emigrations to the Western Country, it might be good policy. But go the people will as they find it for their interest, and the best policy is to treat them with that equality which will make them friends not enemies.

Mr Govr Morris. did not mean to discourage the growth of the Western Country. He knew that to be impossible. He did not wish however to throw the power into their hands.

Mr Sherman, was agst. the motion, & for fixing an equality of privileges by the Constitution.

Mr Langdon was in favor of the Motion. he did not know but circumstances might arise which would render it inconvenient to admit new States on terms of equality.

Mr. Williamson was for leaving the Legislature free. The existing small States enjoy an equality now, and for that reason are admitted to it in the Senate. This reason is not applicable to new Western States.

(Madison's Notes (Max Farrand, 1911), Page 454, Vol. 2)

[e674280] It was moved and seconded to strike out the two last clauses of the 17 article

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

On Mr Govr Morris's motion for striking out.

N. H. ay— Mas. ay— Ct ay. N— J. ay. Pa. ay. Del. ay. Md. no Va. no. N— C— ay. S — C— ay. Geo. ay, [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 454, Vol. 2)

[e674281] Mr. L— Martin & Mr Govr. Morris moved to strike out of art XVII "but to such admission the consent of two thirds of the members present shall be necessary.

(Madison's Notes (Max Farrand, 1911), Pages 454-455, Vol. 2)

It was moved and seconded to strike the following words out of the 17th article.

"but to such admission the consent of two thirds of the Members present in each House shall be necessary"

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

[e674282] Mr. L— Martin & Mr Govr. Morris moved to strike out of art XVII "but to such admission the consent of two thirds of the members present shall be necessary." Before any question was taken on this motion,

Mr Govr. Morris moved the following proposition as a substitute for the XVII art: "New States may be admitted by the Legislature into this Union: but no new State shall be erected within the limits of any of the present States, without the consent of the Legislature of such State, as well as of the Genl. Legislature"

[Editors' note: The text for this motion comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Pages 454-455, Vol. 2)

It was moved and seconded to agree to the following proposition, as a substitute for the 17 article.

"New States may be admitted by the Legislature into this union: but no new State shall be erected within the limits of any of the present States without the consent of the Legislature of such State as well as of the general Legislature."

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

[e674283] Mr. L— Martin & Mr Govr. Morris moved to strike out of art XVII "but to such admission the consent of two thirds of the members present shall be necessary." Before any question was taken on this motion,

Mr Govr. Morris moved the following proposition as a substitute for the XVII art: "New States may be admitted by the Legislature into this Union: but no new State shall be erected within the limits of any of the present States,

without the consent of the Legislature of such State, as well as of the Genl. Legislature”

[Editors’ note: It seems that Morris’s motion caused L Martin’s amendment to be dropped.]

(Madison’s Notes (Max Farrand, 1911), Pages 454-455, Vol. 2)

[e674284] Separate questions being taken on the different clauses of the proposition

[Editors’ note: The Convention divided Morris’s amendment into two separate amendments. To mimic this procedure, the editors have dropped the ‘whole’ version of the amendment and proposed the clauses individually.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

[e674285] The first part to Union inclusive was agreed to nem: con:

[Editors’ note: The Convention divided Morris’s amendment into two separate amendments. This event represents the first clause of Morris’s amendment being proposed to the first clause of the Article.]

(Madison’s Notes (Max Farrand, 1911), Page 455, Vol. 2)

[e674286] The first part to Union inclusive was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 455, Vol. 2)

[e674287] Separate questions being taken on the different clauses of the proposition

[Editors’ note: The Convention divided Morris’s amendment into two separate amendments. This event represents the second clause of Morris’s amendment being proposed to the second clause of the Article.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

XVII article debated by Maryland obtained an alteration so that the claim of the U. S. to the Crown lands or Western territory may be decided upon by the supreme judiciary —

[Editors’ note: McHenry attributes this amendment to August 30.]

(McHenry’s Notes (Max Farrand, 1911), Page 470, Vol. 2, 30 August 1787)

[e674288] Mr. L— Martin opposed the latter part— Nothing he said would so alarm the limited States as to make the consent of the large States claiming the Western lands, necessary to the establishment of new States within their limits. It is proposed to guarantee the States. Shall Vermont be reduced by force in favor of the States claiming it? Frankland & the Western country of Virginia were in a like situation.

(Madison’s Notes (Max Farrand, 1911), Page 455, Vol. 2)

[e674289] On Mr Govr. Morris’s Motion to substitute &c it was agreed to —
N. H. no. Mas. ay. Ct. no. N. J. no. Pa. ay. Del. no. Md no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 455, Vol. 2)

Separate questions being taken on the different clauses of the proposition they passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

XVII article debated by Maryland obtained an alteration so that the claim of the U. S. to the Crown lands or Western territory may be decided upon by the supreme judiciary —

[Editors' note: McHenry attributes this amendment to August 30.]

(McHenry's Notes (Max Farrand, 1911), Page 470, Vol. 2, 30 August 1787)

[e674290] Art: XVII — before the House, as amended.

Mr. Sherman was against it. He thought it unnecessary. The Union cannot dismember a State without its consent.

Mr Langdon thought there was great weight in the argument of Mr. Luther Martin, and that the proposition substituted by Mr. Govr. Morris would excite a dangerous opposition to the plan.

Mr. Govr Morris thought on the contrary that the small States would be pleased with the regulation, as it holds up the idea of dismembering the large States.

Mr. Butler. If new States were to be erected without the consent of the dismembered States, nothing but confusion would ensue. Whenever taxes should press on the people, demagogues would set up their schemes of new States.

Docr. Johnson agreed in general with the ideas of Mr Sherman, but was afraid that as the clause stood, Vermont would be subjected to N— York, contrary to the faith pledged by Congress. He was of opinion that Vermont ought to be compelled to come into the Union.

Mr Langdon said his objections were connected with the case of Vermont. If they are not taken in, & remain exempt from taxes, it would prove of great injury to N. Hampshire and the other neighbouring States

Mr Dickinson hoped the article would not be agreed to. He dwelt on the impropriety of requiring the small States to secure the large ones in their extensive claims of territory.

Mr. Wilson— When the majority of a State wish to divide they can do so. The aim of those in opposition to the article, he perceived, was that the Genl. Government should abet the minority, & by that means divide a State against its own consent.

Mr Govr. Morris. If the forced division of the States is the object of the new System, and is to be pointed agst one or two States, he expected, the gentleman from these would pretty quickly leave us.

(Madison's Notes (Max Farrand, 1911), Pages 455-456, Vol. 2)

[e674291] The House adjourned

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 456, Vol. 2)

[e674292] The House adjourned

(Official Journal (Max Farrand, 1911), Page 446, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 456, Vol. 2)

1.83 Thursday, 30 August 1787, at 10:00 (s6270)

[e674293] Art XVII resumed for a question on it as amended by Mr. Govr. Morris's substitutes

Mr. Carrol moved to strike out so much of the article as requires the consent of the State to its being divided. He was aware that the object of this prerequisite might be to prevent domestic disturbances, but such was our situation with regard to the Crown lands, and the sentiments of Maryland on that subject, that he perceived we should again be at sea, if no guard was provided for the right of the U. States to the back lands.

(Madison's Notes (Max Farrand, 1911), Pages 461-462, Vol. 2)

[e740501] Mr. Carrol [...] He suggested that it might be proper to provide that nothing in the Constitution should affect the Right of the U. S. to lands ceded by G. Britain in the Treaty of peace, and proposed a committment to a member from each State. He assured the House that this was a point of a most serious nature. It was desirable above all things that the act of the Convention might be agreed to unanimously. But should this point be disregarded, he believed that all risks would be run by a considerable minority, sooner than give their concurrence.

Mr. L. Martin 2ded. the motion for a committment.

(Madison's Notes (Max Farrand, 1911), Pages 461-462, Vol. 2)

To commit the substitute offered to the 17 article

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

[e740502] Mr. Rutlidge is it to be supposed that the States are to be cut up without their own consent. The case of Vermont will probably be particularly provided for. There could be no room to fear, that Virginia or N— Carolina would call on the U. States to maintain their Government over the Mountains.

Mr. Williamson said that N. Carolina was well disposed to give up her Western lands, but attempts at compulsion was not the policy of the U. S. He was for doing nothing in the constitution in the present case, and for leaving the whole matter in Statu quo.

Mr Wilson was against the committment. Unanimity was of great importance, but not to be purchased by the majority's yielding to the minority. He should have no objection to leaving the case of New States as heretofore. He knew of nothing that would give greater or juster alarm than the doctrine, that a political society is to be torne asunder without its own consent—

(Madison's Notes (Max Farrand, 1911), Page 462, Vol. 2)

[e740505] To commit the substitute offered to the 17 article Ayes — — 3; noes — 8.

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

On Mr. Carrol's motion for commitment

N. H. no Mas. no. Ct. no. N. J. ay. Pa. no. Del— ay— Md. ay— Va. no— N— C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 462, Vol. 2)

[e674297] Mr Sherman moved to postpone the substitute for art: XVII agreed to yesterday in order to take up the following amendment "The Legislature shall have power to admit other States into the Union, and new States to be formed by the division or junction of States now in the Union, with the consent of the Legislature of such State" (The first part was meant for the case of Vermont to secure its admission)

[Editors' note: The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Pages 462-463, Vol. 2)

It was moved and seconded to postpone the substitute for the 17 article, agreed to yesterday, in order to take up the following amendment.

The Legislature shall have power to admit other States into the Union, and new States to be formed by the division or junction of States now in the Union, with the consent of the Legislature of such states.

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

[e674298] It was moved and seconded to postpone the substitute for the 17 article, agreed to yesterday, in order to take up the following amendment.

The Legislature shall have power to admit other States into the Union, and new States to be formed by the division or junction of States now in the Union, with the consent of the Legislature of such states.

which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

On the question, it passed in the Negative

N. H. ay. Mas. ay. Ct. ay. N. J. no. Pa. ay. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 463, Vol. 2)

[e674299] It was moved and seconded to strike out the words "the limits" and to insert the words "the jurisdiction" in the substitute offered to the 17 article.

[Editors' note: The Journal and Madison record this amendment and the following one in reverse order. However, Madison's notes suggest that he altered the order. It seems likely, therefore, that the proposals were made in the order recorded in the Journal but voted on in the order recorded by Madison.]

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

Mr Governr. Morris moved to strike out the word “limits” in the substitute, and insert the word “jurisdiction” (This also was meant to guard the case of Vermont, the jurisdiction of N. York not extending over Vermont which was in the exercise of sovereignty, tho’ Vermont was within the asserted limits of New York)

(Madison’s Notes (Max Farrand, 1911), Page 463, Vol. 2)

[e674300] It was moved and seconded to insert the words “hereafter formed or” after the words “shall be” in the substitute for the 17 article

[Editors’ note: The Journal and Madison record this amendment and the following one in reverse order. However, Madison’s notes suggest that he altered the order. It seems likely, therefore, that the proposals were made in the order recorded in the Journal but voted on in the order recorded by Madison.]

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

Docr. Johnson moved to insert the words “hereafter formed or” after the words “shall be” in the substitute for art: XVII, (the more clearly to save Vermont as being already formed into a State, from a dependence on the consent of N. York to her admission.)

(Madison’s Notes (Max Farrand, 1911), Page 463, Vol. 2)

[e674301] It was moved and seconded to insert the words “hereafter formed or” after the words “shall be” in the substitute for the 17 article

which passed in the affirmative. [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

The motion was agreed to Del. & Md. only dissenting.

(Madison’s Notes (Max Farrand, 1911), Page 463, Vol. 2)

[e674302] It was moved and seconded to strike out the words “the limits” and to insert the words “the jurisdiction” in the substitute offered to the 17 article.

which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 457, Vol. 2)

On this question

N— H— ay— Mas— ay. Ct ay— N. J. no. Pa. ay. Del. ay Md. ay. Va ay— N. C. no. S. C. no. Geo. no. [Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Page 463, Vol. 2)

[e674303] Mr. L. Martin, urged the unreasonableness of forcing & guaranteeing the people of Virginia beyond the Mountains, the Western people, of N. Carolina. & of Georgia, & the people of Maine, to continue under the States now governing them, without the consent of those States to their separation. Even if they should become the majority, the majority of Counties, as in Virginia

may still hold fast the dominion over them. Again the majority may place the seat of Government entirely among themselves & for their own conveniency, and still keep the injured parts of the States in subjection, under the guarantee of the Genl. Government agst. domestic violence. He wished Mr Wilson had thought a little sooner of the value of political bodies. In the beginning, when the rights of the small States were in question, they were phantoms, ideal beings. Now when the Great States were to be affected, political Societies were of a sacred nature. He repeated and enlarged on the unreasonableness of requiring the small States to guarantee the Western claims of the large ones. — It was said yesterday by Mr Govr Morris, that if the large States were to be split to pieces without their consent, their representatives here would take their leave. If the Small States are to be required to guarantee them in this manner, it will be found that the Representatives of other States will with equal firmness take their leave of the Constitution on the table.

(Madison's Notes (Max Farrand, 1911), Pages 463-464, Vol. 2)

[e674304] It was moved and seconded to postpone the consideration of the substitute to the 17 article as amended in order to take up the following

“The Legislature of the United States shall have power to erect new States within as well as without the territory claimed by the several States or either of them and admit the same into the Union: Provided that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late treaty of Peace”

[Editors' note: Madison records L Martin as the proposer.]

(Official Journal (Max Farrand, 1911), Pages 457-458, Vol. 2)

It was moved by Mr. L. Martin to postpone the substituted article, in order to take up the following.

“The Legislature of the U— S— shall have power to erect New States within as well as without the territory claimed by the several States or either of them, and admit the same into the Union: provided that nothing in this constitution shall be construed to affect the claim of the U— S. to vacant lands ceded to them by the late treaty of peace

(Madison's Notes (Max Farrand, 1911), Page 464, Vol. 2)

[e674305] It was moved and seconded to postpone the consideration of the substitute to the 17 article as amended in order to take up the following

“The Legislature of the United States shall have power to erect new States within as well as without the territory claimed by the several States or either of them and admit the same into the Union: Provided that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late treaty of Peace”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Pages 457-458, Vol. 2)

It was moved by Mr. L. Martin to postpone the substituted article, in order to take up the following.

“The Legislature of the U— S— shall have power to erect New States within as well as without the territory claimed by the several States or either of them, and admit the same into the Union: provided that nothing in this constitution shall be construed to affect the claim of the U— S. to vacant lands ceded to them by the late treaty of peace— which passed in the negative: N. J. Del. & Md. only ay.

(Madison’s Notes (Max Farrand, 1911), Page 464, Vol. 2)

[e674306] On the question to agree to the substitute offered to the 17 article, amended as follows.

”New States may be admitted by the Legislature into this Union: but no new State shall be hereafter formed or erected within the jurisdiction of any of the present States without the consent of the Legislature of such State as well as of the general Legislature”

which passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

On the question to agree to Mr. Govr. Morris’s substituted article as amended in the words following,

“New States may be admitted by the Legislature into the Union: but no new State shall be hereafter formed or erected within the jurisdiction of any of the present States without the consent of the Legislature of such State as well as of the General Legislature”

N. H. ay. Mas. ay. Ct. ay. N. J— no— Pa. ay. Del. no. Md. no. Va. ay. N— C. ay— S. C— ay. Geo. ay. [Ayes — 8; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 464, Vol. 2)

XVIII agreed to.

(McHenry’s Notes (Max Farrand, 1911), Page 470, Vol. 2)

[e674307] Mr. Dickinson moved to add the following clause to the last —

“Nor shall any State be formed by the junction of two or more States or parts thereof, without the consent of the Legislatures of such States, as well as of the Legislature of the U. States”.

(Madison’s Notes (Max Farrand, 1911), Pages 464-465, Vol. 2)

It was moved and seconded to add the following clause to the last amendment.

“Nor shall any State be formed by the junction of two or more States or parts thereof without the consent of the Legislatures of such States as well as of the Legislature of the United States”

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

[e674308] Mr. Dickinson moved to add the following clause to the last —

“Nor shall any State be formed by the junction of two or more States or parts thereof, without the consent of the Legislatures of such States, as well as of the Legislature of the U. States”. which was agreed to without a count of the Votes.

(Madison's Notes (Max Farrand, 1911), Pages 464-465, Vol. 2)

It was moved and seconded to add the following clause to the last amendment.

“Nor shall any State be formed by the junction of two or more States or parts thereof without the consent of the Legislatures of such States as well as of the Legislature of the United States”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

[e674309] Mr Carrol moved to add — “Provided nevertheless that nothing in this Constitution shall be construed to affect the claim of the U. S. to vacant lands ceded to them by the Treaty of peace”. This he said might be understood as relating to lands not claimed by any particular States. but he had in view also some of the claims of particular States.

[Editors' note: The motion text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 465, Vol. 2)

It was moved and seconded to add the following clause to the last amendment
“Provided nevertheless that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late Treaty of peace.”

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

[e674310] Mr. Wilson was agst. the motion. There was nothing in the Constitution affecting one way or the other the claims of the U. S. & it was best to insert nothing, leaving every thing on that litigated subject in statu quo.

Mr. Madison considered the claim of the U. S. as in fact favored by the jurisdiction of the Judicial power of the U— S— over controversies to which they should be parties. He thought it best on the whole to be silent on the subject. He did not view the proviso of Mr. Carrol as dangerous; but to make it neutral and fair, it ought to go farther & declare that the claims of particular States also should not be affected.

Mr. Sherman thought the proviso harmless, especially with the addition suggested by Mr. Madison in favor of the claims of particular States.

Mr. Baldwin did not wish any undue advantage to be given to Georgia. He thought the proviso proper with the addition proposed. It should be remembered that if Georgia has gained much by the Cession in the Treaty of peace, she was in danger during the war, of a Uti possidetis.

Mr. Rutledge thought it wrong to insert a proviso where there was nothing which it could restrain, or on which it could operate.

(Madison's Notes (Max Farrand, 1911), Page 465, Vol. 2)

[e674311] The last motion being withdrawn

[Editors' note: Madison adds that 'Mr. Carrol withdrew his motion' in order to propose another.]

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

Mr. Carrol withdrew his motion and moved the following,

(Madison's Notes (Max Farrand, 1911), Page 465, Vol. 2)

[e674312] The last motion being withdrawn —

It was moved and seconded to agree to the following proposition.

Nothing in this Constitution shall be construed to alter the claims of the United States or of the individual States to the western territory but all such claims may be examined into and decided upon by the supreme Court of the United States

[Editors' note: According to Madison's notes, this motion was Carroll's replacement for the motion he withdrew.]

(Official Journal (Max Farrand, 1911), Page 458, Vol. 2)

Mr. Carrol withdrew his motion and moved the following,

"Nothing in this Constitution shall be construed to alter the claims of the U. S. or of the individual States to the Western territory, but all such claims shall be examined into & decided upon, by the Supreme Court of the U. States."

(Madison's Notes (Max Farrand, 1911), Pages 465-466, Vol. 2)

[e674313] It was moved and seconded to postpone the last proposition in order to take up the following.

The Legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this Constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular State

[Editors' note: Madison records Gouverneur Morris as the proposer.]

(Madison's Notes (Max Farrand, 1911), Pages 458-459, Vol. 2)

Mr Govr Morris moved to postpone this in order to take up the following.

"The Legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the U. States; and nothing in this constitution contained, shall be so construed as to prejudice any claims either of the U— S— or of any particular State,"

(Madison's Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674314] Mr Govr Morris moved to postpone this in order to take up the following. "The Legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the U. States; and nothing in this constitution contained, shall be so construed as to prejudice any claims either of the U— S— or of any particular State," — The postponemt. agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 466, Vol. 2)

On the question to agree to the following proposition

"The Legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this Constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular State" it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674315] It was moved and seconded to add the following clause to the last proposition

“But all such claims may be examined into and decided upon by the Supreme Court of the United States”

[Editors’ note: Madison records Luther Martin as the proposer.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

Mr. L. Martin moved to amend the proposition of Mr Govr Morris by adding — “But all such claims may be examined into & decided upon by the supreme Court of the U— States”.

(Madison’s Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674316] Mr. Govr. Morris. this is unnecessary, as all suits to which the U. S— are parties— are already to be decided by the Supreme Court.

Mr. L. Martin, it is proper in order to remove all doubts on this point.

(Madison’s Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674317] Question on Mr. L— Martin’s amendatory motion

N— H— no. Mas— no. Ct. no. N. J. ay. Pa. no. Del. no. Md. ay. Va. no — States not farther called the negatives being sufficient & the point given up.

[Editors’ note: The Journal provides a fuller record, as it omits only North Carolina. All the states Madison leaves out of his record voted against the motion.]

(Madison’s Notes (Max Farrand, 1911), Page 466, Vol. 2)

It was moved and seconded to add the following clause to the last proposition
“But all such claims may be examined into and decided upon by the Supreme Court of the United States”

which passed in the negative [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674318] The Motion of Mr. Govr. Morris was then agreed to, Md. alone dissenting.

[Editors’ note: Farrand writes that Madison had originally recorded the vote as agreed ‘nem. con.’ but then crossed it out and mistakenly substituted from Journal the vote on Luther Martin’s amendment. The editors have followed Farrand and recorded the vote as unanimous.]

(Madison’s Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674319] Art: XVIII being taken up

(Madison’s Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674320] On the question to agree to the first clause of the 18 article

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674321] On the question to agree to the first clause of the 18 article — it passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674322] [Editors' note: The Convention proceeded to consider the second clause.]

(2019 Editors)

[e674323] It was moved and seconded to strike out the word “foreign” in the 18 article

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

the word “foreign” was struck out. nem: con: as superfluous, being implied in the term “invasion”

(Madison's Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674324] It was moved and seconded to strike out the word “foreign” in the 18 article

which passed in the affirmative [Ayes — 10; noes — 1.]

[Editors' note: Farrand reveals a deal of confusion between Madison and the Journal over this vote and previous votes. When Madison 'saw the Journal ascribing Maryland's negative vote to another question, Madison modified his records accordingly.' This was a mistake. His original note was correct: 'nem: con: Maryland being in the negative. It was thought to be superfluous as implied in the term invasion' (Page 466, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

the word “foreign” was struck out. nem: con: as superfluous, being implied in the term “invasion”

(Madison's Notes (Max Farrand, 1911), Page 466, Vol. 2)

[e674325] Mr. Dickinson moved to strike out “on the application of its Legislature against” He thought it of essential importance to the tranquillity of the U—S. that they should in all cases suppress domestic violence, which may proceed from the State Legislature itself, or from disputes between the two branches where such exist

(Madison's Notes (Max Farrand, 1911), Pages 466-467, Vol. 2)

It was moved and seconded to strike out the words “on the application of it's Legislature against”

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674326] Mr. Dayton mentioned the Conduct of Rho. Island as shewing the necessity of giving latitude to the power of the U— S. on this subject.

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674327] It was moved and seconded to strike out the words “on the application of it's Legislature against”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

On the question

N. H. no. Mas. no. Ct. no. N. J. ay. Pa. ay. Del. ay— Md. no. Va. no.
N. C. no. S. C. no. Geo— no [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674328] It was moved and seconded to strike out the words “domestic violence” and insert the word “insurrections” in the 18 article

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

On a question for striking out “domestic violence” and insertg. “insurrections”

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674329] It was moved and seconded to strike out the words “domestic violence” and insert the word “insurrections” in the 18 article

which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

On a question for striking out “domestic violence” and insertg. “insurrections” — it passed in the negative. N. H. no. Mas. no. Ct. no. N. J. ay. Pa. no Del no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674330] Mr. Dickinson moved to insert the words, “or Executive” after the words “application of its Legislature” — The occasion itself he remarked might hinder the Legislature from meeting.

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

It was moved and seconded to insert the words “or Executive” after the word “Legislature”

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674331] On this question

N. H. ay. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md divd. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 2; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

It was moved and seconded to insert the words "or Executive" after the word "Legislature" which passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 459, Vol. 2)

[e674332] Mr. L— Martin moved to subjoin to the last amendment the words "in the recess of the Legislature"

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

It was moved and seconded to add the following clause to the last amendment "in the recess of the Legislature"

(Official Journal (Max Farrand, 1911), Pages 460-461, Vol. 2)

[e674333] It was moved and seconded to add the following clause to the last amendment

"in the recess of the Legislature" which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Pages 460-461, Vol. 2)

Mr. L— Martin moved to subjoin to the last amendment the words "in the recess of the Legislature" On which question

N. H. no. Mas. no. Ct. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo— no. [Ayes — 1; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674334] On Question on the last clause as amended

N. H. ay. Mas— ay. Ct. ay— N. J. ay— Pa. ay. Del. no. Md. no. Va. ay. N— C— ay— S— C. ay. Geo— ay, [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

Separate questions being taken on the several clauses of the 18 article as amended

they passed in the affirmative [Ayes — 9; noes — 2]

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

[e674335] [Editors' note: Once the Convention had agreed the amended second clause, Article XVIII was taken into the working document.]

(2019 Editors)

[e674336] Art: XIX taken up.

(Madison's Notes (Max Farrand, 1911), Page 467, Vol. 2)

[e674337] Mr. Govr. Morris suggested that the Legislature should be left at liberty to call a Convention, whenever they please.

(Madison's Notes (Max Farrand, 1911), Pages 467-468, Vol. 2)

[e674338] The art: was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

On the question to agree to the 19 article as reported
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

[e674339] Art: XX. taken up.

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674340] It was moved or seconded to add the words "or affirmation" after the word "oath" 20 article

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

"or affirmation" was added after "oath."

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674341] It was moved or seconded to add the words "or affirmation" after the word "oath" 20 article

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

"or affirmation" was added after "oath."

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674342] Mr. Pinkney. moved to add to the art: — "but no religious test shall ever be required as a qualification to any office or public trust under the authority of the U. States"

[Editors' note: The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

It was moved and seconded to add the following clause to the 20 Article.

"But no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States"

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

[e674343] Mr. Sherman thought it unnecessary, the prevailing liberality being a sufficient security agst. such tests.

Mr. Govr. Morris & Genl. Pinkney approved the motion

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674344] It was moved and seconded to add the following clause to the 20 Article.

“But no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States”
which passed unan: in the affirmative

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

[e674345] On the question to agree to the 20 article as amended
it passed in the affirmative [Ayes — 8; noes — 1; divided — 2.]

[Editors’ note: The Journal places this vote before the vote on Pickney’s amendment; however, this placement seems to be an error, as Madison places the vote afterwards.]

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

The motion was agreed to nem: con: and then the whole Article, N— C. only no — & Md. divided.

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674346] Art: XXI. taken up. viz: “The ratifications of the Conventions of _____ States shall be sufficient for organizing this Constitution.”

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 2)

XXI.

(McHenry’s Notes (Max Farrand, 1911), Page 470, Vol. 2)

[e674347] Mr. Wilson proposed to fill the blank with “seven” that being a majority of the whole number & sufficient for the commencement of the plan.

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 2)

[e674348] Mr. Carrol moved to postpone the article in order to take up the Report of the Committee of Eleven (see Tuesday Augst: 28)

(Madison’s Notes (Max Farrand, 1911), Page 468, Vol. 2)

It was moved and seconded to take up the report of the Committee of eleven.

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

Endeavoured to recall the house to the reported propositions from maryland, to prevent the U. S. from giving prefe[re]nces to one State above another or to the shipping of one State above another, in collecting or laying duties.

(McHenry’s Notes (Max Farrand, 1911), Page 470, Vol. 2)

[e674349] It was moved and seconded to take up the report of the Committee of eleven.

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

Mr. Carrol moved to postpone the article in order to take up the Report of the Committee of Eleven (see Tuesday Augst: 28) — and on the question

N. H— no. Mas— no. Ct. no. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 468, Vol. 2)

Endeavoured to recall the house to the reported propositions from maryland, to prevent the U. S. from giving prefe[re]nces to one State above another or to the shipping of one State above another, in collecting or laying duties. — The house averse to taking any thing up till this system is got through.

(McHenry's Notes (Max Farrand, 1911), Page 470, Vol. 2)

[e674350] Mr. Govr. Morris thought the blank ought to be filled in a twofold way, so as to provide for the event of the ratifying States being contiguous which would render a smaller number sufficient, and the event of their being dispersed, which wd require a greater number for the introduction of the Government.

Mr. Sherman. observed that the States being now confederated by articles which require unanimity in changes, he thought the ratification in this case of ten States at least ought to be made necessary.

Mr Randolph was for filling the blank with “Nine” that being a respectable majority of the whole, and being a number made familiar by the constitution of the existing Congress.

Mr Wilson mentioned “eight” as preferable.

Mr. Dickinson asked whether the concurrence of Congress is to be essential to the establishment of the system, whether the refusing States in the Confederacy could be deserted — and whether Congress could concur in contravening the system under which they acted?

Mr. Madison. remarked that if the blank should be filled with “seven” eight, or “nine” — the Constitution as it stands might be put in force over the whole body of the people. tho' less than a majority of them should ratify it.

Mr. Wilson. As the Constitution stands, the States only which ratify can be bound. We must he said in this case go to the original powers of Society, The House on fire must be extinguished, without a scrupulous regard to ordinary rights.

Mr. Butler was in favor of “nine”. He revolted at the idea, that one or two States should restrain the rest from consulting their safety.

(Madison's Notes (Max Farrand, 1911), Pages 468-469, Vol. 2)

[e674351] Mr. Carrol moved to fill the blank with “the thirteen”. unanimity being necessary to dissolve the existing confederacy which had been unanimously established.

[Editors' note: This amendment appears to have been voted on in the next session, where Madison records it as being seconded by Luther Martin.

It is unclear if the amendment was intended to be a wrecking motion. Requiring all thirteen states to ratify the Constitution would have likely resulted in its failure. As any one state might block its acceptance, it would be very unlikely that the Constitution would pass, as Rhode Island had refused to accept the establishment of the Convention and the New York delegation had walked out.]

(Madison's Notes (Max Farrand, 1911), Page 469, Vol. 2)

[e674352] Mr King thought this amendt. necessary, otherwise as the Constitution now stands it will operate on the whole though ratified by a part only.

(Madison's Notes (Max Farrand, 1911), Page 469, Vol. 2)

[e674353] The House adjourned

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 469, Vol. 2)

XXI. adjourned on this article.

(McHenry's Notes (Max Farrand, 1911), Page 470, Vol. 2)

[e674354] The House adjourned

(Official Journal (Max Farrand, 1911), Page 461, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 469, Vol. 2)

XXI. adjourned on this article.

(McHenry's Notes (Max Farrand, 1911), Page 470, Vol. 2)

1.84 Friday, 31 August 1787, at 10:00 (s6271)

[e674355] Mr. King moved to add to the end of art: XXI the words "between the said States" so as to confine the operation of the Govt. to the States ratifying it.

(Madison's Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to insert the words "between the said States" after the word "constitution" in the 20 article

[Editors' note: This amendment was proposed onto the 21st article, rather than the 20th article, as the Journal records. Farrand writes: 'Error due to misnumbering of printed Report of Committee of Detail.']

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674356] On the question

N. H. ay. Mas. ay. Ct. ay. N— J— ay. Pa. ay. Md. no. Virga. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1.]

[Editors' note: Delaware was not quorate for this vote.]

(Madison's Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to insert the words “between the said States” after the word “constitution” in the 20 article which passed in the affirmative [Ayes — 9; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674357] Mr. Madison proposed to fill the blank in the article with “Any seven or more States entitled to thirty three members at least in the House of Representatives according to the allotment made in the 3 Sect: of art: 4.” This he said would require the concurrence of a majority of both the States and people.

[Editors’ note: The editors have expanded Madison’s abbreviations in the motion text.]

(Madison’s Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to fill up the blank in the 21st article as follows. “any seven or more States entitled to 33 Members at least in the House of representatives according to the allotment made in the 3rd sect. 4th article.

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674358] Mr. Sherman doubted the propriety of authorizing less than all the States to execute the Constitution, considering the nature of the existing Confederation. Perhaps all the States may concur, and on that supposition it is needless to hold out a breach of faith.

(Madison’s Notes (Max Farrand, 1911), Page 475, Vol. 2)

[e674359] Mr. Clymer and Mr. Carrol moved to postpone the consideration of Art: XXI in order to take up the Reports of Committees not yet acted on

(Madison’s Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to postpone the consideration of the 20 article to take up the reports of Committees which have not been acted on

[Editors’ note: Farrand writes that the Journal’s error in recording the article number was due to a ‘misnumbering of printed Report of Committee of Detail.’]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674360] Mr. Clymer and Mr. Carrol moved to postpone the consideration of Art: XXI in order to take up the Reports of Committees not yet acted on— On this question, the States were equally divided. N. H. ay. Mas. no. Ct. divid. N. J— no. Pa. ay— Del— ay. Md. ay. Va. no. N. C no. S. C. no. G. ay. [Ayes — 5; noes — 5; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to postpone the consideration of the 20 article to take up the reports of Committees which have not been acted on

which passed in the negative. [Ayes — 5; noes — 5; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674361] Mr Govr. Morris moved to strike out “Conventions of the” after “ratifications”. leaving the States to pursue their own modes of ratification.

(Madison’s Notes (Max Farrand, 1911), Page 475, Vol. 2)

It was moved and seconded to strike the words “conventions of” out of the 21st article

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674362] Mr. Carrol mentioned the mode of altering the Constitution of Maryland pointed out therein, and that no other mode could be pursued in that State.

Mr. King thought that striking out “Conventions”. as the requisite mode was equivalent to giving up the business altogether. Conventions alone, which will avoid all the obstacles from the complicated formation of the Legislatures, will succeed, and if not positively required by the plan, its enemies will oppose that mode.

Mr. Govr. Morris said he meant to facilitate the adoption of the plan, by leaving the modes approved by the several State Constitutions to be followed.

Mr. Madison considered it best to require Conventions; Among other reasons, for this, that the powers given to the Genl. Govt. being taken from the State Govts the Legislatures would be more disinclined than conventions composed in part at least of other men; and if disinclined, they could devise modes apparently promoting, but really. thwarting the ratification. The difficulty in Maryland was no greater than in other States, where no mode of change was pointed out by the Constitution, and all officers were under oath to support it. The people were in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased. It was a principle in the Bills of rights, that first principles might be resorted to.

Mr. McHenry said that the officers of Govt. in Maryland were under oath to support the mode of alteration prescribed by the Constitution.

Mr Ghorum urged the expediency of “Conventions” also Mr. Pinkney, for reasons, formerly urged on a discussion of this question.

Mr. L. Martin insisted on a reference to the State Legislatures. He urged the danger of commotions from a resort to the people & to first principles in which the Governments might be on one side & the people on the other. He was apprehensive of no such consequences however in Maryland, whether the Legislature or the people should be appealed to. Both of them would be generally against the Constitution. He repeated also the peculiarity in the Maryland Constitution.

Mr. King observed that the Constitution of Massachusetts was made unalterable till the year 1790, yet this was no difficulty with him. The State must have contemplated a recurrence to first principles before they sent deputies to this Convention.

(Madison’s Notes (Max Farrand, 1911), Pages 475-477, Vol. 2)

[e674363] Mr. Sherman moved to postpone art. XXI. & to take up art: XXII

(Madison’s Notes (Max Farrand, 1911), Page 477, Vol. 2)

To postpone the 21 to take up the 22 articles

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674364] Mr. Sherman moved to postpone art. XXI. & to take up art: XXII on which question,

N. H. no. Mas. no. Ct. ay— N. J. no— P. ay— Del— ay— Md ay. Va. ay. N. C. no S. C. no— Geo— no— [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[To postpone the 21 to take up the 22 articles Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674365] It was moved and seconded to strike the words “conventions of” out of the 21st article

which passed in the negative [Ayes — 4; noes — 6.]

[Editors' note: The North Carolina delegation dropped below quorum for this and the next vote.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

On Mr Govr. Morris's motion to strike out “Conventions of the,” it was negatived.

N. H. no. Mas. no. Ct. ay. N. J. no. Pa ay. Del. no. Md. ay— Va no— S— C no— Geo. ay. [Ayes — 4; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674366] It was moved and seconded to fill up the blank in the 21st article with the word “Thirteen”

which passed in the negative [Ayes — 1; noes — 9.]

[Editors' note: This vote appears to pertain to the motion Carroll proposed at the end of the previous session. North Carolina was still unable to vote.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

On filling the blank in Art: XXI with “thirteen” moved by Mr. Carrol, & L. Martin

N. H. no. Mas. no. Ct. no. — All no— except Maryland.

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674367] Mr. Sherman & Mr. Dayton moved to fill the blank with “ten”

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

It was moved and seconded to fill up the blank in the 21st article with the word “Ten”

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

[e674368] Mr. Wilson supported the motion of Mr. Madison, requiring a majority both of the people and of States.

Mr Clymer was also in favor of it.

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674369] Col: Mason was for preserving ideas familiar to the people. Nine States had been required in all great cases under the Confederation & that number was on that account preferable

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674370] It was moved and seconded to fill up the blank in the 21st article with the word "Ten"

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 471, Vol. 2)

On the question for "ten"

N. H. no. Mas. no. Ct ay. N. J— ay. Pa. no. Del— no. Md. ay. Va. no. N. C. no. S. C. no. Geo. ay. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674371] It was moved and seconded to fill up the blank in the 21st article with the word "nine"

[Editors' note: Madison suggests that Mason proposed this motion.]

(Official Journal (Max Farrand, 1911), Pages 471-472, Vol. 2)

Col: Mason was for preserving ideas familiar to the people. Nine States had been required in all great cases under the Confederation & that number was on that account preferable

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

Filled up the blank in the XXI article with 9

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674372] It was moved and seconded to fill up the blank in the 21st article with the word "nine"

which passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Pages 471-472, Vol. 2)

On question for "nine"

N— H. ay. Mas. ay. Ct. ay— N— J. ay. Pa. ay— Del. ay. Md. ay— Va. no. N. C. no. S. C. no. Geo— ay, [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

Filled up the blank in the XXI article with 9: 8 States affirm: 3 Neg.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674373] On the question to agree to the 21st article as amended.
it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Art: XXI. as amended was then agreed to by all the States, Maryland excepted, & Mr. Jenifer being, ay—

(Madison's Notes (Max Farrand, 1911), Page 477, Vol. 2)

[e674374] Art. XXII taken up, to wit, “This Constitution shall be laid before the U— S. in Congs. assembled for their approbation; and it is the opinion of this Convention that it should be afterwards submitted to a Convention chosen, in each State under the recommendation of its Legislature, in order to receive the ratification of such Convention”

(Madison's Notes (Max Farrand, 1911), Pages 477-478, Vol. 2)

[e674375] Mr. Govr. Morris & Mr. Pinkney moved to strike out the words “for their approbation”

(Madison's Notes (Max Farrand, 1911), Page 478, Vol. 2)

It was moved and seconded to strike the words “for their approbation” out of the 22nd article

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Struck out 'for their approbation' in the 22 Article.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674376] It was moved and seconded to strike the words “for their approbation” out of the 22nd article

which passed in the affirmative [Ayes — 7; noes — 4.]

[Editors' note: Madison's record of this vote notes a different, affirmative outcome for the New Jersey vote. As there is no other source against which to corroborate this vote, the editors have followed the Journal's account.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Mr. Govr. Morris & Mr. Pinkney moved to strike out the words “for their approbation” On this question

N. H. ay. Mas. no. Ct. ay. N— J. ay. Pa. ay. Del. ay. Md. no Va. ay. N. C— ay. S. C— ay. Geo. no. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 478, Vol. 2)

Struck out 'for their approbation' in the 22 Article.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674377] It was moved and seconded to agree to the following amendment to the 22nd article

“This Constitution shall be laid before the United States in Congress assembled — and it is the opinion of this Convention that it should afterwards be submitted to a Convention chosen in each State in order to receive the ratification of such Convention: to which end the several Legislatures ought to provide for the calling Conventions within their respective States as speedily as circumstances will permit.”

[Editors’ note: Madison records Morris and Pinckney as the proposers.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Mr Govr. Morris & Mr. Pinkney then moved to amend the art: so as to read

“This Constitution shall be laid before the U. S. in Congress assembled; and it is the opinion of this Convention that it should afterwards be submitted to a Convention chosen in each State, in order to receive the ratification of such Convention: to which end the several Legislatures ought to provide for the calling Conventions within their respective States as speedily as circumstances will permit”. — Mr. Govr. Morris said his object was to impress in stronger terms the necessity of calling Conventions in order to prevent enemies to the plan, from giving it the go by. When it first appears, with the sanction of this Convention, the people will be favorable to it. By degrees the State officers, & those interested in the State Govts will intrigue & turn the popular current against it.

(Madison’s Notes (Max Farrand, 1911), Page 478, Vol. 2)

[e674378] Mr. L— Martin believed Mr. Morris to be right, that after a while the people would be agst. it. but for a different reason from that alledged. He believed they would not ratify it unless hurried into it by surprize.

Mr. Gerry enlarged on the idea of Mr. L. Martin in which he concurred, represented the system as full of vices, and dwelt on the impropriety of destroying the existing Confederation, without the unanimous Consent of the parties to it:

(Madison’s Notes (Max Farrand, 1911), Page 478, Vol. 2)

[e674379] It was moved and seconded to agree to the following amendment to the 22nd article

“This Constitution shall be laid before the United States in Congress assembled — and it is the opinion of this Convention that it should afterwards be submitted to a Convention chosen in each State in order to receive the ratification of such Convention: to which end the several Legislatures ought to provide for the calling Conventions within their respective States as speedily as circumstances will permit.”

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Question on Mr Govr. Morris’s and Mr. Pinckney’s motion

N. H— ay. Mas. ay. Ct no. N— J. no. Pa. ay. Del— ay. Md. no. Va no. N— C— no— S— C. no. Geo. no— [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Pages 478-479, Vol. 2)

[e674380] Mr. Gerry moved to postpone art: XXII.

Col: Mason 2ded. the motion, declaring that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet decided brought to a decision, before being compelled to give a final opinion on this article. Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention.

(Madison's Notes (Max Farrand, 1911), Page 479, Vol. 2)

It was moved and seconded to postpone the consideration of the 22nd article

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

[e674381] Mr. Govr Morris was ready for a postponement. He had long wished for another Convention, that will have the firmness to provide a vigorous Government, which we are afraid to do.

Mr. Randolph stated his idea to be, in case the final form of the Constitution should not permit him to accede to it, that the State Conventions should be at liberty to propose amendments to be submitted to another General Convention which may reject or incorporate them, as shall be judged proper.

(Madison's Notes (Max Farrand, 1911), Page 479, Vol. 2)

[e674382] It was moved and seconded to postpone the consideration of the 22nd article

which passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

On the question for postponing

N. H. no. Mas. no. Ct no. N. J— ay— Pa. no. Del. no. Md ay— Va. no.
N. C. ay. S— C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 479, Vol. 2)

[e674383] On the question to agree to the 22nd article as amended.

it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

On the question on Art: XXII

N. H. ay. 12 Mas. ay. Ct. ay. N. J. ay. Pa. ay— Del. ay. Md. no. Va ay.
N— C. ay. S— C. ay. Geo. ay. [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 479, Vol. 2)

[e674384] Art: XXIII being taken up.

(Madison's Notes (Max Farrand, 1911), Page 479, Vol. 2)

[e674385] It was moved and seconded to agree to the 23rd article as far as the words "assigned by Congress" inclusive

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

as far the words “assigned by Congress” inclusive

(Madison’s Notes (Max Farrand, 1911), Pages 479-480, Vol. 2)

[e674386] It was moved and seconded to fill up the blank in the 23rd article with the word “Nine”

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

as far the words “assigned by Congress” inclusive, was agreed to nem: con: the blank having been first filled with the word “nine” as of course.

(Madison’s Notes (Max Farrand, 1911), Pages 479-480, Vol. 2)

filled up the blank in the 23 article with 9

(McHenry’s Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674387] It was moved and seconded to fill up the blank in the 23rd article with the word “Nine”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

as far the words “assigned by Congress” inclusive, was agreed to nem: con: the blank having been first filled with the word “nine” as of course.

(Madison’s Notes (Max Farrand, 1911), Pages 479-480, Vol. 2)

filled up the blank in the 23 article with 9

(McHenry’s Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674388] Art: XXIII being taken up. as far the words “assigned by Congress” inclusive, was agreed to nem: con: the blank having been first filled with the word “nine” as of course.

(Madison’s Notes (Max Farrand, 1911), Pages 479-480, Vol. 2)

It was moved and seconded to agree to the 23rd article as far as the words “assigned by Congress” inclusive which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

[e674389] [Editors’ note: The Convention considered the second section.]

(2019 Editors)

[e674390] It was moved and seconded to postpone the remainder of the 23rd article

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

On a motion for postponing the residue of the clause, concerning the choice of the President &c,

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

[e674391] It was moved and seconded to postpone the remainder of the 23rd article

which passed in the negative [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

On a motion for postponing the residue of the clause, concerning the choice of the President &c,

N. H. no. Mas. ay. Ct. no. N— J. no. Pa. no. Del. ay. Md. no. Va. ay. N. C. ay. S— C. no. Geo. no. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

[e674392] Mr. Govr. Morris then moved to strike out the words “choose the President of the U. S. and” — this point, of choosing the President not being yet finally determined, & on this question

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

It was moved and seconded to strike the words

“choose the President of the United States and” out of the 23rd article

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

and amended the last clause by striking out 'choose the president of the U. S. and'.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674393] It was moved and seconded to strike the words

“choose the President of the United States and” out of the 23rd article

which passed in the affirmative [Ayes — 8; noes — 2; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 472, Vol. 2)

Mr. Govr. Morris then moved to strike out the words “choose the President of the U. S. and” — this point, of choosing the President not being yet finally determined, & on this question

N— H— no. Mas. ay. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md. divd. Va. ay. N— C. ay— S. C. ay— Geo. ay [Ayes — 9; noes — 1; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

filled up the blank in the 23 article with 9, and amended the last clause by striking out 'choose the president of the U. S. and'.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674394] [Editors' note: Once the Convention had amended the second section, the section was taken into the working document.]

(2019 Editors)

[e674395] Art: XXIII as amended was then agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

On the question to agree to the 23rd article as amended.
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 472-473, Vol. 2)

[e735135] It was moved and seconded to take up the report of the Committee of eleven entered on the journal of the 28th instant

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

The report of the grand Committee of eleven made by Mr. Sherman was then taken up (see Aug: 28).

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

The system being thus far agreed to the restrictory propositions from Maryland were taken up

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e735137] It was moved and seconded to take up the report of the Committee of eleven entered on the journal of the 28th instant

[Editors' note: The Convention takes up the Report of the Committee on Commercial Discrimination, so this motion is tacitly adopted.]

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

The report of the grand Committee of eleven made by Mr. Sherman was then taken up (see Aug: 28).

(Madison's Notes (Max Farrand, 1911), Page 480, Vol. 2)

The system being thus far agreed to the restrictory propositions from Maryland were taken up

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674396] [Editors' note: The Convention then proceeded to consider the report clause by clause.]

(2019 Editors)

[e674397] On the question to agree to the following clause of the report, to be inserted after the 4th section of the 7th article,

“nor shall any regulation of commerce or revenue give preference to the ports of One State over those of another”

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On the question to agree to the following clause, to be inserted after sect— 4. art: VII. “nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another”.

(Madison’s Notes (Max Farrand, 1911), Page 480, Vol. 2)

[e674398] On the question to agree to the following clause, to be inserted after sect— 4. art: VII. “nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another”. Agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 480, Vol. 2)

It was moved and seconded to take up the report of the Committee of eleven entered on the journal of the 28th instant On the question to agree to the following clause of the report, to be inserted after the 4th section of the 7th article,

“nor shall any regulation of commerce or revenue give preference to the ports of One State over those of another”

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

[e674399] On the question to agree to the following clause of the report

“or oblige Vessels bound to or from any State to enter clear or pay duties in another”

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On the clause “or oblige vessels bound to or from any State to enter clear or pay duties in another”

(Madison’s Notes (Max Farrand, 1911), Page 480, Vol. 2)

[e674400] Mr. Madison thought the restriction wd. be inconvenient, as in the River Delaware, if a vessel cannot be required to make entry below the jurisdiction of Pennsylvania.

Mr. Fitzimmons admitted that it might be inconvenient, but thought it would be a greater inconveniency to require vessels bound to Philada. to enter below the jurisdiction of the State.

Mr. Gorham & Mr. Langdon, contended that the Govt would be so fettered by this clause, as to defeat the good purpose of the plan. They mentioned the situation of the trade of Mas. & N. Hampshire, the case of Sandy Hook which is in the State of N. Jersey, but where precautions agst smuggling into N. York, ought to be established by the Genl. Government.

Mr. McHenry said the clause would not shreen a vessel from being obliged to take an officer on board as a security for due entry &c—.

Mr Carrol was anxious that the clause should be agreed to. He assured the House, that this was a tender point in Maryland.

Mr Jenifer urged the necessity of the clause in the same point of view

(Madison’s Notes (Max Farrand, 1911), Pages 480-481, Vol. 2)

[e674401] On the question to agree to the following clause of the report
“or oblige Vessels bound to or from any State to enter clear or pay duties in another”

it passed in the affirmative [Ayes — 8; noes — 2.]

[Editors’ note: The Massachusetts delegation dropped below quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On the question for agreeing to it

N. H. no. Ct ay. N. J. ay. Pa. ay. Del. ay. Md ay. Va. ay. N— C— ay. S— C. no. Geo. ay, [Ayes — 8; noes — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 481, Vol. 2)

The system being thus far agreed to the restrictory propositions from Maryland were taken up — and carried — against them N. Hamp. Massachus. and S. Carolina.

[Editors’ note: As Farrand notes, Massachusetts’s vote was not recorded by the Journal or Madison.]

(McHenry’s Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674402] [Editors’ note: The Convention took up the third clause for consideration.]

(2019 Editors)

[e674403] The word “tonnage” was struck out, nem: con: as comprehended in “duties”

(Madison’s Notes (Max Farrand, 1911), Page 481, Vol. 2)

It was moved and seconded to strike out the word “tonnage”

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

[e674404] The word “tonnage” was struck out, nem: con: as comprehended in “duties”

(Madison’s Notes (Max Farrand, 1911), Page 481, Vol. 2)

It was moved and seconded to strike out the word “tonnage” which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

[e674405] On question On the clause of the Report “and all duties, imposts & excises, laid by the Legislature shall be uniform throughout the U. S.” It was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 481, Vol. 2)

On the question to agree to the following clause of the report
 “and all duties, imposts, and excises, laid by the Legislature, shall be uniform
 throughout the United States”
 it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

[e674406] [Editors’ note: The amended Committee report was tacitly adopted.]
 (2019 Editors)

[e674407] [Editors’ note: As it had accepted the Report of the Committee on
 Commercial Discrimination, the Convention included the amended propositions
 in Article VII: Section 4 of the draft Constitution.]
 (2019 Editors)

[e674408] [Editors’ note: As it had accepted the Report of the Committee on
 Commercial Discrimination, the Convention would have included the amended
 propositions in Article VII: Section 4 of the draft Constitution.]
 (2019 Editors)

[e674409] [Editors’ note: As it had decided on the final unresolved part of
 Article VII, the Convention took the article into the working document.]
 (2019 Editors)

[e674410] [Editors’ note: As it had accepted the amended Report of the Com-
 mittee on Commercial Discrimination, the Convention tacitly dropped the orig-
 inal report from consideration.]
 (2019 Editors)

[e674411] It was moved and seconded to refer such parts of the Constitution as
 have been postponed, and such parts of reports as have not been acted on to a
 Committee of a Member from each State

[Editors’ note: Madison records Sherman as the proposer.

Because of this motion, the postponed parts of the text were compiled into a
 report for a committee’s consideration. For this reason, the editors have dropped
 those pieces of text and any amendments which had clearly been discarded from
 the Convention’s consideration.]

(Official Journal (Max Farrand, 1911), page 473, Vol. 2)

On motion of Mr. Sherman it was agreed to refer such parts of the Con-
 stitution as have been postponed, and such parts of Reports as have not been
 acted on, to a Committee of a member from each State

(Madison’s Notes (Max Farrand, 1911), Page 481, Vol. 2)

Referred to a grand committee all the sections of the system under postponement
 and a report of a committee of 5 with several motions.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674412] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

[Editors' note: None of the sources provides a vote count for this motion.]

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On motion of Mr. Sherman it was agreed to refer such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

Referred to a grand committee all the sections of the system under postponement and a report of a committee of 5 with several motions.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e674413] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

[Editors' note: The editors have recreated this document from those parts of the draft Constitution that had been postponed. The text in square brackets had already been agreed by the Convention but is included for context.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Pages 251-252)

[e674414] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674415] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674416] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674417] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674418] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674419] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674420] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674421] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674422] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674423] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674424] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674425] [Editors' note: The postponed parts of the draft Constitution and the Second Report of the Committee of Detail were referred to the Committee.]

(2019 Editors)

[e674426] [Editors' note: The postponed parts of the draft Constitution and the Second Report of the Committee of Detail were referred to the Committee.]

(2019 Editors)

[e674427] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

(The House adjourned)

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674428] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

(The House adjourned)

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e674429] [Editors' note: These propositions come from the Pierce Butler papers. James Hutson writes:

'A briefer version of this document—the last two articles missing, the order different—in James Madison's hand, dated at the bottom edge of the page, August 31, 1787, is in the Madison Papers, Library of Congress. See Farrand, 4:56-57. On the back of the document Madison wrote: "The within paper communicated to Js. Madison Jr. by Docr. McHenry March 16 1788 with a note subjoined that it was given by Mr. Mason to one of the Maryland deputation for their consideration—with information that if the alterations could be obtained the system would be unexceptionable. Their concurrence and assistance to carry them was requested." A longer version of this document, missing the last article but in other respects virtually identical to the one printed here, has been found in the Dickinson Papers at the Historical Society of Pennsylvania. Since Dickinson and Butler were both members of the so-called Committee on Postponed Parts, appointed on August 31, Mason apparently prepared this document for distribution to members of that committee.' (Page 251, Supplement to the Records of the Federal Convention (James Hutson, 1987)).

It seems likely that several members of the Committee were given a copy of Mason's propositions, and though it was not officially referred, the document has been shown as playing a part in their deliberations.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Pages 251-252)

[e674430] [Editors' note: It seems likely that several members of the Committee were given a copy of Mason's propositions, and though it was not officially referred, the document has been shown as playing a part in their deliberations.]

(2019 Editors)

1.85 Saturday, 01 September 1787, at 10:00 (s6272)

[e674431] The honorable Mr Brearley from the Committee of eleven to whom such parts of the Constitution, as have been postponed, and such parts of reports, as have not been acted on, were referred — informed the House that the Committee were prepared to report partially —

The following report was then read “That in lieu of the 9th section of the 6th article the following be inserted

The Members of each House shall be ineligible to any civil Office under the authority of the United States during the time for which they shall respectively be elected — And no Person holding any office under the United States shall be a Member of either House during his continuance in office.

(Official Journal (Max Farrand, 1911), Page 483, Vol. 2)

Mr. Brearley from the Comme. of eleven to which were referred yesterday, the postponed part of the Constitution, & parts of Reports not acted upon, made the following partial report.

That in lieu of the 9th. sect: of art: 6. the words following be inserted viz “The members of each House shall be ineligible to any civil office under the authority of the U. S. during the time for which they shall respectively be elected, and no person holding an office under the U. S. shall be a member of either House during his continuance in office.”

(Madison’s Notes (Max Farrand, 1911), Page 484, Vol. 2)

[e674432] The honorable Mr Rutledge from the Committee to whom sundry propositions, entered on the Journal of the 28th ultimo were referred, informed the House that the Committee were prepared to report. — The following report was then read.

That the following additions be made to the report vizt
after the word “States” in the last line on the margin of the 3rd page, add
“To establish uniform laws on the subject of bankruptcies” — and insert the following as the 16th article vizt.

“Full faith and credit ought to be given in each State to the public Acts, Records, and Judicial proceedings of every other State, and the Legislature shall by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect which judgments obtained in one State shall have in another.

(Official Journal (Max Farrand, 1911), Pages 483-484, Vol. 2)

Mr Rutledge from the Committee to whom were referred sundry propositions (see Aug: 29), together with art: XVI, reported that the following additions be made to the Report — viz.

After the word “States” in the last line on the Margin of the 3d. page (see the printed Report)³ — add “to establish uniform laws on the subject of Bankruptcies”

and insert the following as Art: XVI — viz

“Full faith and credit ought to be given in each State to the public acts, records, and Judicial proceedings of every other State, and the Legislature shall by general laws prescribe the manner in which such acts, Records, & proceedings

shall be proved, and the effect which Judgments obtained in one State, shall have in another”.

(Madison’s Notes (Max Farrand, 1911), Pages 484-485, Vol. 2)

[e674433] It was moved and seconded to adjourn

[Editors’ note: McHenry writes that this decision was taken ’to let the committee sit’ (Page 485, Vol. 2, McHenry’s Notes (Max Farrand, 1911)). The amended rules of the Convention stated that only the Chairman could call for adjournment and only at 3pm. However, this adjournment seems to have been a departure from this convention, so the editors have left the proposer anonymous.]

(Official Journal (Max Farrand, 1911), Page 484, Vol. 2)

After receiving these reports
The House adjourned to 10 OC. on Monday next

(Madison’s Notes (Max Farrand, 1911), Page 485, Vol. 2)

Adjourned to let the committee sit.

(McHenry’s Notes (Max Farrand, 1911), Page 485, Vol. 2)

[e674434] It was moved and seconded to adjourn [Ayes — 7; noes — 1; divided — 1.]

The House adjourned till Monday next at 10 o’clock A. M.

[Editors’ note: The New Jersey and Pennsylvania delegations were either absent or not quorate during this short session.]

(Official Journal (Max Farrand, 1911), Page 484, Vol. 2)

After receiving these reports
The House adjourned to 10 OC. on Monday next

(Madison’s Notes (Max Farrand, 1911), Page 485, Vol. 2)

Adjourned to let the committee sit.

(McHenry’s Notes (Max Farrand, 1911), Page 485, Vol. 2)

1.86 Monday, 03 September 1787, at 10:00 (s6273)

[e674435] [Editors’ note: The records indicate that the Convention took the Report of the Committee under consideration and debated, amended, and voted on it by section.]

(2019 Editors)

[e674436] [Editors’ note: The records indicate that the Convention took the Report of the Committee under consideration and debated, amended, and voted on it by section.]

(2019 Editors)

[e674437] [Editors' note: The records indicate that the Convention took the Report of the Committee under consideration and debated, amended, and voted on it by section.]

(2019 Editors)

[e674438] Mr. Govr. Morris moved to amend the Report concerning the respect to be paid to Acts Records &c of one State, in other States (see Sepr. 1.) by striking out "judgments obtained in one State shall have in another" and to insert the word "thereof" after the word "effect"

(Madison's Notes (Max Farrand, 1911), Page 488, Vol. 2)

It was moved and seconded to strike out the words
"judgments obtained in one State shall have in another" and to insert the word "thereof" after the word "effect" in the report from the Committee of five entered on the Journal of the 1st instant

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674439] Col: Mason favored the motion, particularly if the "effect" was to be restrained to judgments & Judicial proceedings

Mr. Wilson remarked, that if the Legislature were not allowed to declare the effect the provision would amount to nothing more than what now takes place among all Independent Nations.

Docr. Johnson thought the amendment as worded would authorize the Genl. Legislature to declare the effect of Legislative acts of one State, in another State.

Mr. Randolph considered it as strengthening the general objection agst. the plan, that its definition of the powers of the Government was so loose as to give it opportunities of usurping all the State powers. He was for not going farther than the Report, which enables the Legislature to provide for the effect of Judgments.

(Madison's Notes (Max Farrand, 1911), Pages 488-489, Vol. 2)

[e674440] It was moved and seconded to strike out the words

"judgments obtained in one State shall have in another" and to insert the word "thereof" after the word "effect" in the report from the Committee of five entered on the Journal of the 1st instant

which passed in the affirmative [Ayes — 6; noes — 3.]

[Editors' note: The delegations from Delaware and New Hampshire were both absent or not quorate at this point in the session.]

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

On the amendment as moved by Mr Govr. Morris Mas. ay. Ct ay. N. J. ay. Pa. ay. Md. no. Va no. N. C. ay. S. C. ay. Geo. no. [Ayes — 6; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 489, Vol. 2)

[e674441] On motion of Mr. Madison, “ought to” was struck out, and “shall” inserted; and “shall” between “Legislature” & “by general laws” struck out, and “may” inserted

(Madison’s Notes (Max Farrand, 1911), Page 489, Vol. 2)

It was moved and seconded to strike out the words “ought to” and to insert the word “shall” and to strike out the word “shall” and to insert the word “may” in the report entered on the Journal of the 1st instant.

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674442] On motion of Mr. Madison, “ought to” was struck out, and “shall” inserted; and “shall” between “Legislature” & “by general laws” struck out, and “may” inserted, nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 489, Vol. 2)

It was moved and seconded to strike out the words “ought to” and to insert the word “shall” and to strike out the word “shall” and to insert the word “may” in the report entered on the Journal of the 1st instant.

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674443] On the question to agree to the report as amended viz “Full faith & credit shall be given in each State to the public acts, records & judicial proceedings of every other State, and the Legislature may by general laws prescribe the manner in which such acts records & proceedings shall be proved, and the effect thereof” Agreed to witht. a count of Sts.

(Madison’s Notes (Max Farrand, 1911), Page 489, Vol. 2)

On the question to agree to the report amended as follows.

Full faith and credit shall be given in each State to the public Acts, records, and judicial proceedings of every other State, and the Legislature may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674444] The clause in the Report “To establish uniform laws on the subject of Bankruptcies” being taken up.

Mr. Sherman observed that Bankruptcies were in some cases punishable with death by the laws of England— & He did not chuse to grant a power by which that might be done here.

Mr Govr Morris said this was an extensive & delicate subject. He would agree to it because he saw no danger of abuse of the power by the Legislature of the U— S.

(Madison’s Notes (Max Farrand, 1911), Page 489, Vol. 2)

[e674445] On the question to agree to the following clause of the report
 “To establish uniform laws on the subject of bankruptcies”
 it passed in the affirmative [Ayes — 9; noes — 1.]
 [Editors’ note: The Journal indicates that New Hampshire had regained its
 quorum by this vote.]

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

On the question to agree to the clause
 N. H. ay. Mas. ay. Ct. no. N. J— ay— Pa. ay. Md ay. Va. ay. N. C. ay.
 S. C. ay— Geo. ay. [Ayes — 9; noes — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 489, Vol. 2)

[e674446] [Editors’ note: Having debated, amended, and agreed both propo-
 sitions of the report, the Convention had finished considering the report and
 likely considered it tacitly agreed, though there is no record of a final vote on
 the report in its entirety.]

(2019 Editors)

[e674447] [Editors’ note: The result of agreeing to the amended Report of the
 Committee on Interstate Comity and Bankruptcy was that the propositions for
 Article VII: Section 1 and Article XVI were incorporated into the text of the
 draft Constitution.

Further, Farrand clarifies that the first proposition relates to Article VII.]

(2019 Editors)

[e674448] [Editors’ note: The result of agreeing to the amended Report of the
 Committee on Interstate Comity and Bankruptcy was that the propositions for
 Article VII: Section 1 and Article XVI were incorporated into the text of the
 draft Constitution.

Further, Farrand clarifies that the first proposition relates to Article VII.]

(2019 Editors)

[e674449] [Editors’ note: As a result of agreeing to the amended Report of
 the Committee on Interstate Comity and Bankruptcy, the original report was
 dropped from consideration in the Convention.]

(2019 Editors)

[e674450] To adjourn Ayes — 2; noes — 8.

[Editors’ note: This motion may have been out of order, though the Conven-
 tion clearly allowed it. On 18 August Rutledge’s motion to regulate the meeting
 times and adjournments of the Convention passed, setting a new rule for the
 Convention’s proceedings. This rule barred any motion for adjournment and
 left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and
 the time for adjournment was moved forward to 3 pm. The rule now read,

’That this Convention will meet punctually at 10 o’clock every morning
 (Sundays excepted) and sit till three o’clock in the afternoon, at which time the

President shall adjourn the Convention and that no motion for adjournment be allowed.’ (Pages 322-323, Vol. 2, Official Journal (Max Farrand, 1911)).

The Convention may have ignored the new rule, or may have understood the rule as giving Washington a degree of flexibility to allow or call for a vote on adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674451] To adjourn Ayes — 2; noes — 8.

[Editors’ note: This motion may have been out of order, though the Convention clearly allowed it. On 18 August Rutledge’s motion to regulate the meeting times and adjournments of the Convention passed, setting a new rule for the Convention’s proceedings. This rule barred any motion for adjournment and left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and the time for adjournment was moved forward to 3 pm. The rule now read,

’That this Convention will meet punctually at 10 o’clock every morning (Sundays excepted) and sit till three o’clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.’ (Pages 322-323, Vol. 2, Official Journal (Max Farrand, 1911)).

The Convention may have ignored the new rule, or may have understood the rule as giving Washington a degree of flexibility to allow or call for a vote on adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674452] [Editors’ note: The Convention then took up the First Report of the Committee on Postponed Matters. The order of events is unclear, but it appears that the Convention first considered the Report as a whole before splitting it into clauses. For this reason, the editors have added the entire Report text, though it will be dropped later on and the clauses taken up individually.]

(2019 Editors)

[e674453] [Editors’ note: The Convention then took up the First Report of the Committee on Postponed Matters. The order of events is unclear, but it appears that the Convention first considered the Report as a whole before splitting it into clauses. For this reason, the editors have added the entire Report text, though it will be dropped later on and the clauses taken up individually.]

(2019 Editors)

[e674454] Mr. Pinkney moved to postpone the Report of the Committee of Eleven (see Sepr. 1) in order to take up the following,

“The members of each House shall be incapable of holding any office under the U— S— for which they or any other for their benefit, receive any salary, fees

or emoluments of any kind, and the acceptance of such office shall vacate their seats respectively.” He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in making the temple of virtue the road to the temple of fame.

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Pages 489-490, Vol. 2)

It was moved and seconded to postpone the consideration of the report from Committee of eleven entered on the Journal of the 1st instant, in order to take up the following

The Members of each House shall be incapable of holding any office under the United States for which they or any other for their benefit receive any salary, fees, or emoluments of any kind and the acceptance of such office shall vacate their seats respectively

(Official Journal (Max Farrand, 1911), Pages 486-487, Vol. 2)

[e674455] It was moved and seconded to postpone the consideration of the report from Committee of eleven entered on the Journal of the 1st instant, in order to take up the following

The Members of each House shall be incapable of holding any office under the United States for which they or any other for their benefit receive any salary, fees, or emoluments of any kind and the acceptance of such office shall vacate their seats respectively

On the question to postpone

it passed in the negative. [Ayes — 2; noes — 8.]

(Official Journal (Max Farrand, 1911), Pages 486-487, Vol. 2)

On this question

N. H. no. Mas. no. Ct no— N— J. no. Pa ay. Md. no Va. no. N. C. ay. S. C— no. Geo. no. [Ayes — 2; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 490, Vol. 2)

[e674456] To adjourn Ayes — 4; noes — 6.

[Editors’ note: This motion may have been out of order, though the Convention clearly allowed it. On 18 August Rutledge’s motion to regulate the meeting times and adjournments of the Convention passed, setting a new rule for the Convention’s proceedings. This rule barred any motion for adjournment and left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and the time for adjournment was moved forward to 3 pm. The rule now read,

‘That this Convention will meet punctually at 10 o’clock every morning (Sundays excepted) and sit till three o’clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.’ (Pages 322-323, Vol. 2, Official Journal (Max Farrand, 1911)).

The Convention may have ignored the new rule or may have understood the rule as giving Washington a degree of flexibility to allow or call for a vote on

adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

[e674457] To adjourn Ayes — 4; noes — 6.

[Editors' note: This motion may have been out of order, though the Convention clearly allowed it. On 18 August Rutledge's motion to regulate the meeting times and adjournments of the Convention passed, setting a new rule for the Convention's proceedings. This rule barred any motion for adjournment and left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and the time for adjournment was moved forward to 3 pm. The rule now read,

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The Convention may have ignored the new rule or may have understood the rule as giving Washington a degree of flexibility to allow or call for a vote on adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 486, Vol. 2)

[e674458] [Editors' note: The Journal states that '[s]eparate questions having been taken on the report as amended they passed in the affirmative' (Page 487, Vol. 2, Official Journal (Max Farrand, 1911)). This statement suggests that the report was considered clause by clause. For this reason, the editors have dropped the 'whole' version of the report and proposed the clauses individually.]

(2019 Editors)

[e674459] [Editors' note: The Journal states that '[s]eparate questions having been taken on the report as amended they passed in the affirmative' (Page 487, Vol. 2, Official Journal (Max Farrand, 1911)). This statement suggests that the report was considered clause by clause. For this reason, the editors have dropped the 'whole' version of the report and proposed the clauses individually.]

(2019 Editors)

[e674460] Mr King moved to insert the word "created" before the word "during" in the Report of the Committee. This he said would exclude the members of the first Legislature under the Constitution, as most of the Offices wd. then be created.

Mr. Williamson 2ded. the motion, He did not see why members of the Legislature should be ineligible to vacancies happening during the term of their election,

(Madison's Notes (Max Farrand, 1911), Page 490, Vol. 2)

It was moved and seconded to insert the word "created" before the word "during" in the report of the Committee of eleven

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

[e674461] Mr Sherman was for entirely incapacitating members of the Legislature. He thought their eligibility to offices would give too much influence to the Executive. He said the incapacity ought at least to be extended to cases where salaries should be increased, as well as created, during the term of the member. He mentioned also the expedient by which the restriction could be evaded to wit: an existing officer might be translated to an office created, and a member of the Legislature be then put into the office vacated.

Mr Govr. Morris contended that the eligibility of members to office wd. lessen the influence of the Executive. If they cannot be appointed themselves, the Executive will appoint their relations & friends, retaining the service & votes of the members for his purposes in the Legislature. Whereas the appointment of the members deprives him of such an advantage.

Mr. Gerry. thought the eligibility of members would have the effect of opening batteries agst. good officers, in order to drive them out & make way for members of the Legislature.

Mr Gorham was in favor of the amendment. Without it we go further than has been done in any of the States, or indeed any other Country, The experience of the State Governments where there was no such ineligibility, proved that it was not necessary; on the contrary that the eligibility was among the inducements for fit men to enter into the Legislative service

Mr. Randolph was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.

Mr. Baldwin remarked that the example of the States was not applicable. The Legislatures there are so numerous that an exclusion of their members would not leave proper men for offices. The case would be otherwise in the General Government.

Col: Mason. Instead of excluding merit, the ineligibility will keep out corruption, by excluding office-hunters.

Mr. Wilson considered the exclusion of members of the Legislature as increasing the influence of the Executive as observed by Mr Govr Morris at the same time that it would diminish, the general energy of the Government. He said that the legal disqualification for office would be odious to those who did not wish for office, but did not wish either to be marked by so degrading a distinction —

Mr Pinkney. The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the Report of the Committee or even the amendment be agreed to, The great offices, even those of the Judiciary Department which are to continue for life, must be filled whilst those most capable of filling them will be under a disqualification

(Madison's Notes (Max Farrand, 1911), Pages 490-491, Vol. 2)

[e674462] It was moved and seconded to insert the word “created” before the word “during” in the report of the Committee of eleven which passed in the negative [Ayes — 5; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

On the question on Mr. King’s motion

N— H. ay. Mas. ay— Ct. no. N. J. no. Pa. ay. Md. no. Va. ay N— C. ay. S— C. no. Geo— no. [Ayes — 5; noes — 5.]

(Madison’s Notes (Max Farrand, 1911), Pages 491-492, Vol. 2)

[e674463] The amendment being thus lost by the equal division of the States, Mr Williamson moved to insert the words “created or the emoluments whereof shall have been increased” before the word “during” in the Report of the Committee Mr. King 2ded. the motion.

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 492, Vol. 2)

It was moved and seconded to insert the words “created or the emoluments whereof shall have been increased” before the word “during” in the report of the Committee.

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

[e674464] It was moved and seconded to insert the words “created or the emoluments whereof shall have been increased” before the word “during” in the report of the Committee.

which passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

On the question

N— H— ay— Mas— ay— Ct. no. N— J. no. Pa. ay. Md. no. Va. ay. N— C. ay. S. C. no. Geo— divided. [Ayes — 5; noes — 4; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 492, Vol. 2)

[e674465] on the last question Ayes — 5; noes — 3; divided — 1.

[Editors’ note: The Journal suggests that there was a reconsideration of Williamson’s amendment. This re-vote was likely due to the fact that there was there was no clear majority for the ‘ayes’.]

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

[e674466] Separate questions having been taken on the report as amended they passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

[e674467] [Editors’ note: The Committee considered the second clause of the proposition.]

(2019 Editors)

[e674468] The last clause rendering a Seat in the Legislature & an office incompatible was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 492, Vol. 2)

[e674469] Separate questions having been taken on the report as amended they passed in the affirmative

and the report, as amended, is as follows

“The Members of each House shall be ineligible to any civil office under the authority of the United States created, or the emoluments whereof shall have been increased during the time for which they shall respectively be elected — and no person holding any office under the United States shall be a Member of either House during his continuance in Office.”

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

The Report as amended & agreed to is as follows.

“The members of each House shall be ineligible to any Civil office under the authority of the U. States, created, or the emoluments whereof shall have been increased during the time for which they shall respectively be elected — And no person holding any office under the U. S. shall be a member of either House during his continuance in office.”

(Madison's Notes (Max Farrand, 1911), Page 492, Vol. 2)

[e674470] [Editors' note: The result of agreeing to the amended First Report of the Committee on Postponed Matters is that the proposition for Article VI: Section 9 was incorporated into the text of the draft Constitution.]

(2019 Editors)

[e674471] [Editors' note: The result of agreeing to the amended First Report of the Committee on Postponed Matters is that the proposition for Article VI: Section 9 was incorporated into the text of the draft Constitution.]

(2019 Editors)

[e674472] [Editors' note: The result of agreeing to the amended First Report of the Committee on Postponed Matters and incorporating the proposition for Article VI: Section 9 into the text of the draft Constitution is that the original report was dropped from consideration.]

(2019 Editors)

[e674473] The House then adjourned.

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 492, Vol. 2)

[e674474] The House then adjourned.

(Official Journal (Max Farrand, 1911), Page 487, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 492, Vol. 2)

1.87 Tuesday, 04 September 1787, at 10:00 (s6274)

[e674475] Martin, Luther, of Maryland. Commissioned May 26; first attended June 9; absent August 7-12; left Convention September 4. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e674476] The honorable Mr Brearley from the Committee of eleven informed the House that the Committee were prepared to report partially — He then read the report in his place; it was afterwards delivered in at the Secretary's table — and was again read: and is as follows.

(Official Journal (Max Farrand, 1911), Page 493, Vol. 2)

Mr. Brearley from the Committee of eleven made a further partial Report as follows⁸

“The Committee of Eleven to whom sundry resolutions &c were referred on the 31st. of August, report that in their opinion the following additions and alterations should be made to the Report before the Convention, viz

(1.) The first clause of sect: 1. art. 7. to read as follow — ‘The Legislature shall have power to lay and collect taxes duties imposts & excises, to pay the debts and provide for the common defence & general welfare⁹ of the U. S.’

(2.) At the end of the 2d. clause of sect. 1. art. 7. add ‘and with the Indian tribes.’

(3) In the place of the 9th. art: Sect. 1. to be inserted ‘The Senate of the U— S— shall have power to try all impeachments; but no person shall be convicted without the concurrence of two thirds of the members present.’

(4) After the word ‘Excellency’ in sect. 1. art. 10. to be inserted. ‘He shall hold his office during the term of four years, and together with the vice-President, chosen for the same term, be elected in the following manner, viz. Each State shall appoint in such manner as its Legislature may direct, a number of electors equal to the whole number of Senators and members of the House of Representatives, to which the State may be entitled in the Legislature. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit sealed to the Seat of the. Genl. Government, directed to the President of the Senate — The President of the Senate shall in that House open all the certificates; and the votes shall be then & there counted. The Person having the greatest number of votes shall be the President, if such number be a majority of that of

the electors; and if there be more than one who have such a majority, and have an equal number of votes, then the Senate shall immediately choose by ballot one of them for President: but if no person have a majority. then from the five highest on the list, the Senate shall choose by ballot the President. And in every case after the choice of the President, the person having the greatest number of votes shall be vice-president: but if there should remain two or more who have equal votes, the Senate shall choose from them the vice-President. The Legislature may determine the time of choosing and assembling the Electors, and the manner of certifying and transmitting their votes.’

(5) ‘Sect. 2. No person except a natural born citizen or a Citizen of the U— S— at the time of the adoption of this Constitution shall be eligible to the office of President; nor shall any person be elected to that office, who shall be under the age of thirty five years, and who has not been in the whole, at least fourteen years a resident within the U— S.’

(6) ‘Sect— 3— The vice-president shall be ex officio President of the Senate, except when they sit to try the impeachment of the President, in which case the Chief Justice shall preside, and excepting also when he shall exercise the powers and duties of President, in which case & in case of his absence, the Senate shall chuse a President pro tempore. — The vice President when acting as President of the Senate shall not have a vote unless the House be equally divided.’

(7) ‘Sect— 4 The President by and with the advice and Consent of the Senate, shall have power to make Treaties; and he shall nominate and by and with the advice and consent of the Senate shall appoint ambassadors, and other public Ministers,¹³ Judges of the Supreme Court, and all other Officers of the U— S—, whose appointments are not otherwise herein provided for. But no Treaty shall be made without the consent of two thirds of the members present.’

(8) After the words “into the service of the U S.” in sect. 2. art: 10. add ‘and may require the opinion in writing of the principal Officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices.’

The latter part of Sect. 2. Art: 10. to read as follows.

(9) ‘He shall be removed from his office on impeachment by the House of Representatives, and conviction by the Senate, for Treason, or bribery, and in case of his removal as aforesaid, death, absence, resignation or inability to discharge the powers or duties of his office, the vice-president shall exercise those powers and duties until another President be chosen, or until the inability of the President be removed.’

(Madison’s Notes (Max Farrand, 1911), Pages 496-499, Vol. 2)

[e674477] [Editors’ note: The Convention took the report under consideration and debated, amended, and voted on it proposition by proposition. The Journal refers to these propositions as clauses, and Madison provides numbered clauses. However, as these units of text correspond more closely to propositions than individual clauses, the editors have referred to them as propositions here.]

(2019 Editors)

[e674478] On the question to agree to the first clause of the report.

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

Agreed on report of the com. that the 1 clause of the 1 sect. of the 7 art. read *vz.*

“The legislature shall have power to lay and collect taxes duties imposts and excises, to pay the debts and provide for the common defence and general welfare of the U. S.”

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e674479] The (1st.) clause of the Report was agreed to *nem. con.*

[Editors’ note: After being unable to vote in the previous session, Delaware returned to quorum.]

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

On the question to agree to the first clause of the report.
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

Agreed on report of the com. that the 1 clause of the 1 sect. of the 7 art. read *vz.*

“The legislature shall have power to lay and collect taxes duties imposts and excises, to pay the debts and provide for the common defence and general welfare of the U. S.”

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e674480] On the question to agree to the second clause of the report

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

Also to add at the end of the 2 clause of the 1 sect of the 7 art. “and with the Indian tribes.”

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e674481] The (2) clause was also agreed to *nem: con:*

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

On the question to agree to the second clause of the report
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

Also to add at the end of the 2 clause of the 1 sect of the 7 art. “and with the Indian tribes.”

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e674482] The (3) clause was postponed in order to decide previously on the mode of electing the President —

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

It was moved and seconded to postpone the consideration of the 3rd clause of the report

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

+ Took up in the report “in the place of the 9 art. 1 sec.—“The senate of the U. S. shall have power to try all impeachments but no person shall be convicted without the concurrence of of the members present.

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e735280] It was moved and seconded to postpone the consideration of the 3rd clause of the report

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

The (3) clause was postponed in order to decide previously on the mode of electing the President

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

[e735281] It was moved and seconded to postpone the consideration of the 3rd clause of the report

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 495, Vol. 2)

+ Took up in the report “in the place of the 9 art. 1 sec.—“The senate of the U. S. shall have power to try all impeachments but no person shall be convicted without the concurrence of of the members present. postponed.

(McHenry’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

The (3) clause was postponed in order to decide previously on the mode of electing the President

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

[e674484] It was moved and seconded to postpone the consideration of the remainder of the report

(Official Journal (Max Farrand, 1911), Pages 495-496, Vol. 2)

[e674485] It was moved and seconded to postpone the consideration of the remainder of the report

which passed in the negative [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Pages 495-496, Vol. 2)

[e674486] The (4) clause was accordingly taken up.

(Madison’s Notes (Max Farrand, 1911), Page 499, Vol. 2)

[e674487] Mr. Gorham disapproved of making the next highest after the President, the vice-President, without referring the decision to the Senate in case the next highest should have less than a majority of votes. as the regulation stands a very obscure man with very few votes may arrive at that appointment

Mr Sherman said the object of this clause of the report of the Committee was to get rid of the ineligibility, which was attached to the mode of election by the Legislature, & to render the Executive independent of the Legislature. As the choice of the President was to be made out of the five highest, obscure characters were sufficiently guarded against in that case: And he had no objection to requiring the vice-President to be chosen in like manner, where the choice was not decided by a majority in the first instance

Mr. Madison was apprehensive that by requiring both the President & vice President to be chosen out of the five highest candidates, the attention of the electors would be turned too much to making candidates instead of giving their votes in order to a definitive choice, Should this turn be given to the business, the election would in fact be consigned to the Senate altogether. It would have the effect at the same time, he observed, of giving the nomination of the candidates to the largest States.

Mr Govr Morris concurred in, & enforced the remarks of Mr. Madison.

Mr Randolph & Mr Pinkney wished for a particular explanation & discussion of the reasons for changing the mode of electing the Executive.

Mr. Govr. Morris said he would give the reasons of the Committee and his own. The 1st. was the danger of intrigue & faction if the appointmt. should be made by the Legislature. 2 the inconveniency of an ineligibility required by that mode in order to lessen its evils. 3 The difficulty of establishing a Court of Impeachments, other than the Senate which would not be so proper for the trial nor the other branch for the impeachment of the President, if appointed by the Legislature, 4. No body had appeared to be satisfied with an appointment by the Legislature. 5. Many were anxious even for an immediate choice by the people— 6— the indispensable necessity of making the Executive independent of the Legislature. — As the Electors would vote at the same time throughout the U. S. and at so great a distance from each other, the great evil of cabal was avoided. It would be impossible also to corrupt them. A conclusive reason for making the Senate instead of the Supreme Court the Judge of impeachments, was that the latter was to try the President after the trial of the impeachment.

Col: Mason confessed that the plan of the Committee had removed some capital objections, particularly the danger of cabal and corruption. It was liable however to this strong objection, that nineteen times in twenty the President would be chosen by the Senate, an improper body for the purpose.

Mr. Butler thought the mode not free from objections, but much more so than an election by the Legislature, where as in elective monarchies, cabal faction & violence would be sure to prevail.

Mr. Pinkney stated as objections to the mode 1. that it threw the whole appointment in fact into the hands of the Senate. 2— The Electors will be strangers to the several candidates and of course unable to decide on their comparative merits. 3. It makes the Executive reeligibile which will endanger the public liberty. 4. It makes the same body of men which will in fact elect the President his Judges in case of an impeachment.

Mr. Williamson had great doubts whether the advantage of reeligibility would balance the objection to such a dependence of the President on the Senate

for his reappointment. He thought at least the Senate ought to be restrained to the two highest on the list

Mr. Govr. Morris said the principal advantage aimed at was that of taking away the opportunity for cabal. The President may be made if thought necessary ineligible on this as well as on any other mode of election. Other inconveniences may be no less redressed on this plan than any other.

Mr. Baldwin thought the plan not so objectionable when well considered, as at first view. The increasing intercourse among the people of the States, would render important characters less & less unknown; and the Senate would consequently be less & less likely to have the eventual appointment thrown into their hands.

Mr. Wilson. This subject has greatly divided the House, and will also divide people out of doors. It is in truth the most difficult of all on which we have had to decide. He had never made up an opinion on it entirely to his own satisfaction. He thought the plan on the whole a valuable improvement on the former. It gets rid of one great evil, that of cabal & corruption; & Continental Characters will multiply as we more & more coalesce, so as to enable the electors in every part of the Union to know & judge of them. It clears the way also for a discussion of the question of re-eligibility on its own merits, which the former mode of election seemed to forbid. He thought it might be better however to refer the eventual appointment to the Legislature than to the Senate, and to confine it to a smaller number than five of the Candidates. The eventual election by the Legislature wd. not open cabal anew, as it would be restrained to certain designated objects of choice, and as these must have had the previous sanction of a number of the States: and if the election be made as it ought as soon as the votes of the electors are opened & it is known that no one has a majority of the whole, there can be little danger of corruption— Another reason for preferring the Legislature to the Senate in this business, was that the House of Reps. will be so often changed as to be free from the influence & faction to which the permanence of the Senate may subject that branch —

Mr. Randolph preferred the former mode of constituting the Executive, but if the change was to be made, he wished to know why the eventual election was referred to the Senate and not to the Legislature? He saw no necessity for this and many objections to it. He was apprehensive also that the advantage of the eventual appointment would fall into the hands of the States near the Seat of Government.

Mr Govr. Morris said the Senate was preferred because fewer could then, say to the President, you owe your appointment to us. He thought the President would not depend so much on the Senate for his re-appointment as on his general good conduct.

(Madison's Notes (Max Farrand, 1911), Pages 499-502, Vol. 2)

After some time passed in debate.

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

Pinckney. To be acquainted with the talents of the person elected. He would not vote for a good Man unless He thought He would be elected but he would vote for any Man that would be likely to turn out the President. No Sir

[Editors' note: Pinckney expressed doubts about the abilities of presidential electors to acquire sufficient knowledge of the candidates on both September 4 and 5. Therefore, the editors have included Butler's record of his remarks on both days.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 259, Pierce Butler: Notes on Debate)

[e735282] It was moved and seconded to postpone the consideration of the remainder of the report, and that the Members take copies thereof —

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

The further consideration of the Report was postponed that each member might take a copy of the remainder of it.

(Madison's Notes (Max Farrand, 1911), Page 502, Vol. 2)

[e735283] It was moved and seconded to postpone the consideration of the remainder of the report, and that the Members take copies thereof —
which passed in the affirmative [Ayes — 7; noes — 3.]

[Editors' note: North Carolina briefly fell below quorum and could not vote on this motion.]

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

The further consideration of the Report was postponed that each member might take a copy of the remainder of it.

(Madison's Notes (Max Farrand, 1911), Page 502, Vol. 2)

[e674489] It was moved and seconded to refer the following motion to the committee of eleven.

To prepare and report a plan for defraying the expences of this Convention

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

The following motion was referred to the Committee of Eleven — to wit, —
“To prepare & report a plan for defraying the expences of the Convention”

(Madison's Notes (Max Farrand, 1911), Page 502, Vol. 2)

[e674490] It was moved and seconded to refer the following motion to the committee of eleven.

To prepare and report a plan for defraying the expences of this Convention
which passed in the affirmative

[Editors' note: None of the sources provides a vote count for this motion.]

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

The following motion was referred to the Committee of Eleven — to wit, —
“To prepare & report a plan for defraying the expences of the Convention”

(Madison's Notes (Max Farrand, 1911), Page 502, Vol. 2)

[e674491] Mr. Pinkney moved a clause declaring “that each House should be judge of the privilege of its own members. Mr Govr. Morris 2ded. the motion

[Editors’ note: The Journal makes no reference to this amendment, and Madison does not record what text the motion sought to amend. Its placement within the draft Constitution is therefore editorial.]

(Madison’s Notes (Max Farrand, 1911), Page 502, Vol. 2)

[e674492] Mr. Randolph & Mr. Madison expressed doubts as to the propriety of giving such a power, & wished for a postponement.

Mr Govr. Morris thought it so plain a case that no postponement could be necessary.

Mr. Wilson thought the power involved, and the express insertion of it needless. It might beget doubts as to the power of other public bodies, as Courts &c. Every Court is the judge of its own privileges.

Mr Madison distinguished between the power of Judging of privileges previously & duly established, and the effect of the motion which would give a discretion to each House as to the extent of its own privileges. He suggested that it would be better to make provision for ascertaining by law, the privileges of each House, than to allow each House to decide for itself. He suggested also the necessity of considering what privileges ought to be allowed to the Executive.

(Madison’s Notes (Max Farrand, 1911), Pages 502-503, Vol. 2)

[e674493] To adjourn Ayes — 11; noes — 0.

[Editors’ note: It is likely that this motion was proposed before the usual adjournment time called by the President. This motion may have been out of order, though the Convention clearly allowed it. On 18 August Rutledge’s motion to regulate the meeting times and adjournments of the Convention passed, setting a new rule for the Convention’s proceedings. This rule barred any motion for adjournment and left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and the time for adjournment was moved forward to 3 pm. The rule now read,

‘That this Convention will meet punctually at 10 o’clock every morning (Sundays excepted) and sit till three o’clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.’ (Pages 322-323, Vol. 2, Official Journal (Max Farrand, 1911)).

The Convention may have ignored the new rule or that the rule gave Washington a degree of flexibility to allow or call for a vote on adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 503, Vol. 2)

[e674494] To adjourn Ayes — 11; noes — 0.

The House adjourned

[Editors' note: It is likely that this motion was proposed before the usual adjournment time called by the President. This motion may have been out of order, though the Convention clearly allowed it. On 18 August Rutledge's motion to regulate the meeting times and adjournments of the Convention passed, setting a new rule for the Convention's proceedings. This rule barred any motion for adjournment and left that power for the Convention president to utilize at 4 pm.

However, on 24 August, the Journal notes that this rule was amended, and the time for adjournment was moved forward to 3 pm. The rule now read,

'That this Convention will meet punctually at 10 o'clock every morning (Sundays excepted) and sit till three o'clock in the afternoon, at which time the President shall adjourn the Convention and that no motion for adjournment be allowed.' (Pages 322-323, Vol. 2, Official Journal (Max Farrand, 1911)).

The Convention may have ignored the new rule or that the rule gave Washington a degree of flexibility to allow or call for a vote on adjournment. Another possibility is that, when the Convention changed the adjournment time, it also removed the provision that delegates could not call for adjournment. There is no explicit evidence in the sources that this was the case.]

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

Adjourned

(Madison's Notes (Max Farrand, 1911), Page 503, Vol. 2)

1.88 Wednesday, 05 September 1787, at 10:00 (s6275)

[e674495] The honorable Mr Brearley from the Committee of eleven informed the House that the Committee were prepared to report farther —. He then read the report in his place — and, the same being delivered in at the Secretary's table, was again read, and is as follows.

(Official Journal (Max Farrand, 1911), Page 505, Vol. 2)

Mr. Brearley from the Committee of Eleven made a farther report as follows,

(1) To add to the clause "to declare war" the words "and grant letters of marque and reprisal"

(2) To add to the clause "to raise and support armies" the words "but no appropriation of money to that use shall be for a longer term than two years"

(3) Instead of sect: 12. art. 6. say — "All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate: No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

(4) Immediately before the last clause of Sect. 1. art. 7 — insert "To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by Cession of particular States and the acceptance of the

Legislature become the seat of the Government of the U— S—3 and to exercise like authority over all places purchased for the erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful buildings”

(5) “To promote the progress of Science and useful arts by securing for limited times to authors & inventors, the exclusive right to their respective writings and discoveries”

(Madison’s Notes (Max Farrand, 1911), Pages 508-509, Vol. 2)

[e674496] [Editors’ note: The records indicate that the Convention took the report under consideration and debated, amended, and voted upon it proposition by proposition. The Journal refers to these propositions as clauses, and Madison provides numbered clauses. However, as these units of text correspond more closely to propositions than individual clauses, the editors have referred to them as propositions.]

(2019 Editors)

[e674497] This report being taken up. — The (1) clause was agreed to nem. con:

(Madison’s Notes (Max Farrand, 1911), Page 509, Vol. 2)

On the question to agree to the first clause of the report

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674498] This report being taken up. — The (1) clause was agreed to nem. con:

(Madison’s Notes (Max Farrand, 1911), Page 509, Vol. 2)

On the question to agree to the first clause of the report
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674499] On the question to agree to the second clause of the report

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674500] To the (2) clause Mr. Gerry objected that it admitted of appropriations to an army. for two years instead of one, for which he could not conceive a reason— that it implied there was to be a standing army which he inveighed against as dangerous to liberty, as unnecessary even for so great an extent of Country as this. and if necessary, some restriction on the number & duration ought to be provided: Nor was this a proper time for such an innovation. The people would not bear it.

Mr Sherman remarked that the appropriations were permitted only, not required to be for two years. As the Legislature is to be biennially elected, it would be inconvenient to require appropriations to be for one year, as there might be no Session within the time necessary to renew them. He should himself he said like a reasonable restriction on the number and continuance of an army in time of peace.

(Madison's Notes (Max Farrand, 1911), Page 509, Vol. 2)

[e674501] The clause (2). was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 509, Vol. 2)

On the question to agree to the second clause of the report
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674502] [Editors' note: The Convention considered the third clause.]

(2019 Editors)

[e740587] The (3)clause, Mr. Govr. Morris moved to postpone — It had been agreed to in the Committee on the ground of compromise, and he should feel himself at liberty to dissent to it; if on the whole he should not be satisfied with certain other parts to be settled. — Mr. Pinkney 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Pages 509-510, Vol. 2)

It was moved and seconded to postpone the consideration of the third clause of the report

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e740589] Mr. Sherman was for giving immediate ease to those who looked on this clause as of great moment, and for trusting to their concurrence in other proper measures.

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e740588] It was moved and seconded to postpone the consideration of the third clause of the report

which passed in the affirmative. [Ayes—9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

On the question for postponing

N— H— ay— Mas— no. Ct. ay. N— J— ay— Pa. ay— Del. ay. Md ay—
Va. no. N— C— ay— S. C ay— Geo ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 509, Vol. 2)

[e674506] [Editors' note: The Convention took up the Fourth Proposition, which was divided and voted on clause by clause.]

(2019 Editors)

[e674507] So much of the (4) clause as related to the seat of Government was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674508] So much of the (4) clause as related to the seat of Government was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674509] On the residue, to wit, "to exercise like authority over all places purchased for forts &c.

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674510] Mr Gerry contended that this power might be made use of to enslave any particular State by buying up its territory, and that the strongholds proposed would be a means of awing the State into an undue obedience to the Genl. Government —

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674511] Mr. King thought himself the provision unnecessary, the power being already involved: but would move to insert after the word "purchased" the words "by the consent of the Legislature of the State" This would certainly make the power safe.

Mr. Govr Morris 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

It was moved and seconded to insert the following words after the word "purchased" in the fourth clause of the report "by the consent of the Legislature of the State"

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674512] Mr. King thought himself the provision unnecessary, the power being already involved: but would move to insert after the word "purchased" the words "by the consent of the Legislature of the State" This would certainly make the power safe.

Mr. Govr Morris 2ded. the motion, which was agreed to nem: con: as was then the residue of the clause as amended.

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

It was moved and seconded to insert the following words after the word "purchased" in the fourth clause of the report "by the consent of the Legislature of the State"

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674513] Mr. King thought himself the provision unnecessary, the power being already involved: but would move to insert after the word "purchased" the words "by the consent of the Legislature of the State" This would certainly make the power safe.

Mr. Govr Morris 2ded. the motion, which was agreed to nem: con: as was then the residue of the clause as amended.

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

On the question to agree to the fourth clause of the report as amended
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674514] [Editors' note: As the Convention agreed to both clauses of the Fourth Proposition, the whole proposition was effectively accepted.]

(2019 Editors)

[e674515] The (5) clause was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

On the question to agree to the fifth clause of the report

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674516] The (5) clause was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

On the question to agree to the fifth clause of the report
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674517] The following resolution and order - - - - reported from the Committee of eleven were read.

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

The following resolution & order being reported from the Committee of eleven, to wit,

“Resolved that the U— S— in Congress be requested to allow and cause to be paid to the Secretary and other officers of this Convention such sums in proportion to their respective times of service, as are allowed to the Secretary & similar officers of Congress.”

“Ordered that the Secretary make out & transmit to the Treasury office of the U. S. an account for the said Services, & for the incidental expenses of this convention”

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674518] [Editors' note: The Convention took up the resolution and order delivered from the Committee on Postponed Matters and considered it in parts. To mimic this procedure, the editors have created a blank document onto which the parts are proposed individually.]

(2019 Editors)

[e674519] Separate questions being taken on the foregoing resolve and Order

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

The resolution & order were separately agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674520] The resolution & order were separately agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

Separate questions being taken on the foregoing resolve and Order
They passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674521] Separate questions being taken on the foregoing resolve and Order

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

The resolution & order were separately agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

[e674522] The resolution & order were separately agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 510, Vol. 2)

Separate questions being taken on the foregoing resolve and Order
They passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674523] [Editors' note: Once the Convention had agreed the resolution and order, it tacitly adopted the whole document.]

(2019 Editors)

[e674524] [Editors' note: As the Convention adopted the amended versions of the resolution and order, the editors have dropped the 'whole' version these texts, as they were no longer under consideration.]

(2019 Editors)

[e674525] Mr. Gerry gave notice that he should move to reconsider articles XIX. XX. XXI. XXII.

Mr. Williamson gave like notice as to the Article fixing the number of Representatives, which he thought too small. He wished also to allow Rhode Island more than one, as due to her probable number of people, and as proper to stifle any pretext arising from her absence on the occasion.

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 2)

[e674526] It was moved and seconded to take up the remainder of the report from the Committee of eleven entered on the Journal of the 4. instant

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674527] It was moved and seconded to take up the remainder of the report from the Committee of eleven entered on the Journal of the 4. instant

[Editors' note: Though no formal vote is recorded, the motion was clearly accepted, as debate commenced.]

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2)

[e674528] The Report made yesterday as to the appointment of the Executive being then taken up. Mr. Pinkney renewed his opposition to the mode, arguing 1. that the electors will not have sufficient knowledge of the fittest men, & will be swayed by an attachment to the eminent men of their respective States — Hence 2dly the dispersion of the votes would leave the appointment with the Senate, and as the President's reappointment will thus depend on the Senate he will be the mere creature of that body. 3. He will combine with the Senate agst the House of Representatives. 4. This change in the mode of election was meant to get rid of the ineligibility of the President a second time, whereby he will become fixed for life under the auspices of the Senate

Mr. Gerry did not object to this plan of constituting the Executive in itself, but should be governed in his final vote by the powers that may be given to the President.

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 2)

[e674529] Mr. Rutledge was much opposed to the plan reported by the Committee. It would throw the whole power into the Senate. He was also against a re-eligibility. He moved to postpone the Report under consideration & take up the original plan of appointment by the Legislature. to wit. "He shall be elected by joint ballot by the Legislature to which election a majority of the votes of the members present shall be required: He shall hold his office during the term of Seven years; but shall not be elected a second time"

[Editors' note: The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 2)

It was moved and seconded to postpone the consideration of the report in order to take up the following.

"He shall be elected by joint ballot by the Legislature, to which election a majority of the votes of the Members present shall be required: He shall hold his office during the term of seven years: but shall not be elected a second "time"

—

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674530] It was moved and seconded to postpone the consideration of the report in order to take up the following.

"He shall be elected by joint ballot by the Legislature, to which election a majority of the votes of the Members present shall be required: He shall hold his office during the term of seven years: but shall not be elected a second time"

—

On the question to postpone

it passed in the negative. [Ayes — 2; noes — 8; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On this motion to postpone

N— H— divd. Mas. no— Ct no— N— J. no. Pa. no— Del— no. Md. no— Va. no. N. C. ay— S. C. ay— Geo. no. [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 511, Vol. 2)

[e674531] Col. Mason admitted that there were objections to an appointment by the Legislature as originally planned. He had not yet made up his mind; but would state his objections to the mode proposed by the Committee. 1. It puts the appointment in fact into the hands of the Senate, as it will rarely happen that a majority of the whole votes will fall on any one candidate: and as the Existing President will always be one of the 5 highest, his re-appointment will of course depend on the Senate. 2. Considering the powers of the President & those of the Senate, if a coalition should be established between these two branches, they will be able to subvert the Constitution. — The great objection with him would be removed by depriving the Senate of the eventual election. He accordingly moved to strike out the words “if such number be a majority of that of the electors”

Mr. Williamson 2ded. the motion. He could not agree to the clause without some such modification. He preferred making the highest tho' not having a majority of the votes, President, to a reference of the matter to the Senate. Referring the appointment to the Senate lays a certain foundation for corruption & aristocracy.

(Madison's Notes (Max Farrand, 1911), Pages 511-512, Vol. 2)

It was moved and seconded to strike out the words
“if such number be a majority of that of the Electors”

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674532] Mr. Govr Morris thought the point of less consequence than it was supposed on both sides. It is probable that a majority of the votes will fall on the same man, As each elector is to give two votes, more than $\frac{1}{4}$ will give a majority. Besides as one vote is to be given to a man out of the State, and as this vote will not be thrown away, $\frac{1}{2}$ the votes will fall on characters eminent & generally known. Again if the President shall have given satisfaction, the votes will turn on him of course, and a majority of them will reappoint him, without resort to the Senate: If he should be disliked, all disliking him, would take care to unite their votes so as to ensure his being supplanted.

Col: Mason those who think there is no danger of there not being a majority for the same person in the first instance, ought to give up the point to those who think otherwise.

Mr Sherman reminded the opponents of the new mode proposed that if the Small States had the advantage in the Senate's deciding among the five highest candidates, the Large States would have in fact the nomination of these candidates

Mr. Wilson remarked that striking the words out would have the effect of inducing the large States to throw away the vote to be given to a person out of the State in order to increase the chances of its own Citizen.

[Editors' note: Madison later struck from his notes this comment by Wilson.]

(Madison's Notes (Max Farrand, 1911), Pages 512-513, Vol. 2)

[e674533] It was moved and seconded to strike out the words

“if such number be a majority of that of the Electors”

which passed in the negative. [Ayes — 1; noes — 10.]

[Editors' note: Madison marks Maryland as voting in favor of this motion.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On the motion of Col: Mason

N. H. no— Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. ay.* Va. no—
N. C. ay. S— C. no. Geo. no [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 513, Vol. 2)

[e674534] Mr. Wilson moved to strike out “Senate” and insert the word “Legislature”

(Madison's Notes (Max Farrand, 1911), Page 513, Vol. 2)

It was moved and seconded to strike out the word “Senate” and to insert the word “Legislature”

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674535] Mr Madison considered it as a primary object to render an eventual resort to any part of the Legislature improbable. He was apprehensive that the proposed alteration would turn the attention of the large States too much to the appointment of candidates, instead of aiming at an effectual appointment of the officer, as the large States would predominate in the Legislature which would have the final choice out of the Candidates. Whereas if the Senate in which the small States predominate should have the final choice, the concerted effort of the large States would be to make the appointment in the first instance conclusive.

Mr Randolph. We have in some revolutions of this plan made a bold stroke for Monarchy. We are now doing the same for an aristocracy. He dwelt on the tendency of such an influence in the Senate over the election of the President in addition to its other powers, to convert that body into a real & dangerous Aristocracy —

Mr Dickinson was in favor of giving the eventual election to the Legislature, instead of the Senate — It was too much influence to be superadded to that body —

(Madison's Notes (Max Farrand, 1911), Page 513, Vol. 2)

[e674536] It was moved and seconded to strike out the word “Senate” and to insert the word “Legislature”

which passed in the Negative [Ayes — 3; noes — 7; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On the question moved by Mr Wilson

N. H— divd. Mas. no— Ct no— N— J— no. Pa. ay. Del— no. Md. no.
Va. ay— N— C. no— S. C. ay. Geo. no. [Ayes — 3; noes — 7; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 513, Vol. 2)

[e674537] Mr Madison & Mr. Williamson moved to strike out the word "majority" and insert "one third" so that the eventual power might not be exercised if less than a majority, but not less than of the Electors should vote for the same person—

(Madison's Notes (Max Farrand, 1911), Pages 513-514, Vol. 2)

It was moved and seconded to strike out the words "such majority" and to insert the words "one third."

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674538] Mr. Gerry objected that this would put it in the power of three or four States to put in whom they pleased.

Mr. Williamson. There are seven States which do not contain one third of the people — If the Senate are to appoint, less than one sixth of the people will have the power —

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

[e674539] It was moved and seconded to strike out the words "such majority" and to insert the words "one third."

which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On the question

N. H— no. Mas. no— Ct no— N. J— no. Pa. no. Del. no. Md. no— Va.
ay. N— C. ay. S. C no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

[e674540] Mr Gerry suggested that the eventual election should be made by six Senators and seven Representatives chosen by joint ballot of both Houses.

Mr King observed that the influence of the Small States in the Senate was somewhat balanced by the influence of the large States in bringing forward the candidates,* and also by the Concurrence of the small States in the Committee in the clause vesting the exclusive origination of Money bills in the House of Representatives.

*This explains the compromise mentioned above by Mr. Govr Morris- Col: Mason Mr. Gerry & other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high mounted Govt, endeavored to avail themselves, by making that privilege, the price of arrangements in the constitution favorable to the small States, and to the elevation of the Government.

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

[e674541] Col: Mason moved to strike out the word "five" and insert the word "three" as the highest candidates for the Senate to choose out of —

Mr. Gerry 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

To strike out the word "five" to insert "three"

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674542] Mr. Sherman would sooner give up the plan. He would prefer seven or thirteen.

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

[e674543] To strike out the word "five" to insert "three" Ayes — 2; noes — 9.

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On the question moved by Col Mason and Mr Gerry

N. H. no— Mas. no— Ct. no. N— J. no. Pa no. Delaware Md. no Va ay— N— C— ay— S. C. no— Geo— no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

[e674544] Mr Spaight and Mr. Rutlidge moved to strike out "five" and insert "thirteen"

(Madison's Notes (Max Farrand, 1911), Page 514, Vol. 2)

It was moved and seconded to strike out the word "five" and to insert the word "thirteen"

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674545] It was moved and seconded to strike out the word "five" and to insert the word "thirteen"

which passed in the negative. [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

Mr Spaight and Mr. Rutlidge moved to strike out "five" and insert "thirteen" — to which all the States disagreed — except N— C. & S— C—

(Madison's Notes (Max Farrand, 1911), Pages 514-515, Vol. 2)

[e674546] Mr Madison & Mr. Williamson moved to insert after "Electors" the words "who shall have balloted" so that the non voting electors not being counted might not increase the number necessary as a majority of the whole — to decide the choice without the agency of the Senate

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

It was moved and seconded to add after the word “electors” the words “who shall have balloted”

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674547] It was moved and seconded to add after the word “electors” the words “who shall have balloted”

which passed in the negative. [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On this question

N. H— no. Mas— no. Ct. no .6 N. J— no. Pa ay. Del. no. Md. ay. Va ay— N— C. ay. S— C— no. Geo. no [Ayes — 4; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Page 515, Vol. 2)

[e674548] [Editors’ note: In recreating the Second Report of the Committee on Postponed Matters it was necessary to use both Madison’s and the Journal’s records. Though the editors typically prefer the Journal’s version, Madison and Farrand both point out that there are four pencilled interpolations in the Journal’s text of this report, all except one identifiable as later amendments by the Convention to the original text. The three identified as later amendments were removed in order to provide the report in its original form. The words ‘the whole number’ are not recorded in the sources as being added by amendment. They appear only in the Journal version, which suggests that they were an unrecorded amendment. As the next amendment references this wording, it is clear that these words had been added prior to drafting the amendment. The editors have therefore placed it at this stage in the session, though it may have come earlier.]

(2019 Editors)

[e674549] [Editors’ note: In recreating the Second Report of the Committee on Postponed Matters it was necessary to use both Madison’s and the Journal’s records. Though the editors typically prefer the Journal’s version, Madison and Farrand both point out that there are four pencilled interpolations in the Journal’s text of this report, all except one identifiable as later amendments by the Convention to the original text. The three identified as later amendments were removed in order to provide the report in its original form. The words ‘the whole number’ are not recorded in the sources as being added by amendment. They appear only in the Journal version, which suggests that they were an unrecorded amendment. As the next amendment references this wording, it is clear that these words had been added prior to drafting the amendment. The editors have therefore placed it at this stage in the session, though it may have come earlier.]

(2019 Editors)

[e674550] Mr. Dickinson moved, in order to remove ambiguity from the intention of the clause as explained by the vote, to add, after the words “if such number be a majority of the whole number of the Electors” the word “appointed”

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

It was moved and seconded to add after the words "if such number be a majority of the whole number of the Electors" the word "appointed"

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

[e674551] It was moved and seconded to add after the words "if such number be a majority of the whole number of the Electors" the word "appointed" which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

On this motion

N. H. ay. Mas— ay— Con: ay 7 N— J— ay— Pa ay. Delaware Md. ay— Va. no. N. C. no. S— C. ay— Geo. ay. [Ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

[e674552] Col: Mason. As the mode of appointment is now regulated, he could not forbear expressing his opinion that it is utterly inadmissible. He would prefer the Government of Prussia to one which will put all power into the hands of seven or eight men, and fix an Aristocracy worse than absolute monarchy.

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

[e674553] It was moved and seconded to insert after the words "The Legislature may determine the time of chusing and assembling the Electors" the words "and of their giving their votes"

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

The words "and of their giving their votes" being inserted on motion for that purpose, after the words "The Legislature may determine the time of chusing and assembling the Electors"

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

[e674554] It was moved and seconded to insert after the words "The Legislature may determine the time of chusing and assembling the Electors" the words "and of their giving their votes"

which passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

The words "and of their giving their votes" being inserted on motion for that purpose, after the words "The Legislature may determine the time of chusing and assembling the Electors"

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

[e674555] The House adjourned

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

The House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

The greatest part of the day spent in desultory conversation on that part of the report respecting the mode of chusing the President — adjourned without coming to a conclusion —

(McHenry's Notes (Max Farrand, 1911), Page 516, Vol. 2)

[e674556] The House adjourned

(Official Journal (Max Farrand, 1911), Page 507, Vol. 2)

The House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 515, Vol. 2)

The greatest part of the day spent in desultory conversation on that part of the report respecting the mode of chusing the President — adjourned without coming to a conclusion —

(McHenry's Notes (Max Farrand, 1911), Page 516, Vol. 2)

1.89 Thursday, 06 September 1787, at 10:00 (s6276)

[e674557] [Editors' note: Hamilton left Philadelphia on 15 August to attend to business in Congress and his legal practice in New York. Having failed to convince Lansing or Yates to return with him, he was unable to vote at the Convention. Madison records Hamilton speaking during the session on 6 September, so the editors assume that he arrived in the city the day before and took his seat the day after. He wrote to Rufus King prior to his departure:

'New York, Aug. 28, 1787. I wrote to you some days since to request you to inform me when there was a prospect of your finishing, as I intended to be with you, for certain reasons, before the conclusion.

It is whispered here that some late changes in your scheme have taken place which give it a higher tone. Is this the case?

I leave town today to attend a circuit in a neighboring County, from which I shall return the last of the week; and shall be glad to find a line from you explanatory of the period of the probable termination of your business' (Page 75, Vol. 3, Alexander Hamilton to Rufus King, Appendix B (Max Farrand, 1911)).]

(2019 Editors)

Hamilton, Alexander, of New York. Attended on May 18; left Convention June 29; was in New York after July 2; appears to have been in Philadelphia on July 13; attended Convention August 13; was in New York August 20—September 2.

[Editors' note: Farrand does not specify that Hamilton re-joined the Convention on 6 September, but he does detail his absence in New York from 20 August to 2 September.]

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e674558] Mr. King and Mr. Gerry moved to insert in the (5) clause of the Report (see Sepr 4) after the words “may be entitled in the Legislature” the words following — “But no person shall be appointed an elector who is a member of the Legislature of the U. S. or who holds any office of profit or trust under the U. S.”

[Editors’ note: The amendment text comes from the Journal. Madison’s numbering system seems to have changed at this point. Madison had originally marked the clause in question as part of clause four, and there is also some discrepancy between Madison’s and Jackson’s numbering systems. The editors have followed Madison’s original numbering system for the clauses, referred to here as ‘propositions’.]

(Madison’s Notes (Max Farrand, 1911), Page 521, Vol. 2)

It was moved and seconded to insert the following words after the words “may be entitled in the Legislature” in the 5. clause of the report entered on the Journal of the 4th instant.

“But no Person shall be appointed an Elector who is a Member of the Legislature of the United States or who holds any office of profit or trust under the United States”

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674559] Mr. King and Mr. Gerry moved to insert in the (5) clause of the Report (see Sepr 4) after the words “may be entitled in the Legislature” the words following — “But no person shall be appointed an elector who is a member of the Legislature of the U. S. or who holds any office of profit or trust under the U. S.” which passed nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 521, Vol. 2)

It was moved and seconded to insert the following words after the words “may be entitled in the Legislature” in the 5. clause of the report entered on the Journal of the 4th instant.

“But no Person shall be appointed an Elector who is a Member of the Legislature of the United States or who holds any office of profit or trust under the United States”

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674560] Mr. Gerry proposed, as the President was to be elected by the Senate out of the five highest candidates, that if he should not at the end of his term be re-elected by a majority of the Electors, and no other candidate should have a majority, the eventual election should be made by the Legislature — This he said would relieve the President from his particular dependence on the Senate for his continuance in office.

Mr. King liked the idea, as calculated to satisfy particular members & promote unanimity; & as likely to operate but seldom.

Mr Read opposed it, remarking that if individual members were to be indulged, alterations would be necessary to satisfy most of them—

Mr Williamson espoused it as a reasonable precaution against the undue influence of the Senate.

Mr Sherman liked the arrangement as it stood, though he should not be averse to some amendments. He thought he said that if the Legislature were to have the eventual appointment instead of the Senate, it ought to vote in the case by States, in favor of the small States, as the large States would have so great an advantage in nominating the candidates—

Mr. Govr Morris thought favorably of Mr. Gerry's proposition. It would free the President from being tempted in naming to Offices. to Conform to the will of the Senate, & thereby virtually give the appointments to office, to the Senate.

Mr Wilson said that he had weighed carefully the report of the Committee for remodelling the constitution of the Executive; and on combining it with other parts of the plan, he was obliged to consider the whole as having a dangerous tendency to aristocracy; as throwing a dangerous power into the hands of the Senate, They will have in fact, the appointment of the President, and through his dependence on them, the virtual appointment to offices; among others the offices of the Judiciary Department. They are to make Treaties; and they are to try all impeachments. In allowing them thus to make the Executive & Judiciary appointments, to be the Court of impeachments, and to make Treaties which are to be laws of the land, the Legislative, Executive & Judiciary powers are all blended in one branch of the Government. The power of making Treaties involves the case of subsidies, and here as an additional evil, foreign influence is to be dreaded—According to the plan as it now stands, the President will not be the man of the people as he ought to be, but the Minion of the Senate. He cannot even appoint a tide-waiter without the Senate— He had always thought the Senate too numerous a body for making appointments to office. The Senate, will moreover in all probability be in constant Session. They will have high salaries. And with all those powers, and the President in their interest, they will depress the other branch of the Legislature, and aggrandize themselves in proportion. Add to all this, that the Senate sitting in Conclave, can by holding up to their respective States various and improbable candidates, contrive so to scatter their votes, as to bring the appointment of the President ultimately before themselves— Upon the whole, he thought the new mode of appointing the President, with some amendments, a valuable improvement; but he could never agree to purchase it at the price of the ensuing parts of the Report, nor befriend a system of Which they make a part—

Mr. Govr. Morris expressed his wonder at the observations of Mr. Wilson so far as they preferred the plan in the printed Report to the new modification of it before the House, and entered into a comparative view of the two, with an eye to the nature of Mr. Wilsons objections to the last. By the first the Senate he observed had a voice in appointing the President out of all the Citizens of the U. S. — by this they were limited to five candidates previously nominated to them, with a probability of being barred altogether by the successful ballot of the Electors. Here surely was no increase of power. They are now to appoint Judges nominated to them by the President. Before they had the appointment without any agency whatever of the President. Here again was surely no additional power. If they are to make Treaties as the plan now stands, the power was the

same in the printed plan— If they are to try impeachments, the Judges must have been triable by them before. Wherein then lay the dangerous tendency of the innovations to establish an aristocracy in the Senate? As to the appointment of officers, the weight of sentiment in the House, was opposed to the exercise of it by the President alone; though it was not the case with himself — If the Senate would act as was suspected, in misleading the States into a fallacious disposition of their votes for a President, they would, if the appointment were withdrawn wholly from them, make such representations in their several States where they have influence, as would favor the object of their partiality.

Mr. Williamson. replying to Mr. Morris: observed that The aristocratic complexion proceeds from the change in the mode of appointing the President which makes him dependent on the Senate.

Mr. Clymer said that the aristocratic part to which he could never accede was that in the printed plan, which gave the Senate the power of appointing to Offices.

Mr. Hamilton said that he had been restrained from entering into the discussions by his dislike of the Scheme of Govt in General; but as he meant to support the plan to be recommended, as better than nothing, he wished in this place to offer a few remarks. He liked the new modification, on the whole, better than that in the printed Report. In this the President was a Monster elected for seven years, and ineligible afterwards; having great powers, in appointments to office, & continually tempted by this constitutional disqualification to abuse them in order to subvert the Government — Although he should be made re-eligible, Still if appointed by the Legislature, he would be tempted to make use of corrupt influence to be continued in office — It seemed peculiarly desirable therefore that Some other mode of election should be devised. Considering the different views of different States, & the different districts Northern Middle & Southern, he concurred with those who thought that the votes would not be centered, and that the appointment would consequently in the present mode devolve on the Senate. The nomination to offices will give great weight to the President — Here then is a mutual connection & influence, that will perpetuate the President, and aggrandize both him & the Senate. What is to be the remedy? He saw none better than to let the highest number of ballots, whether a majority or not, appoint the President. What was the objection to this? Merely that too small a number might appoint. But as the plan stands, the Senate may take the candidate having the smallest number of votes, and make him President.

Editors' note: McHenry also recorded this debate. His account gives a slightly different colour to some of the speeches.

”Mr. Willson remarked on the report of the committee considered together That it presented to him a most dangerous appearance. He was not afraid of names — but he was of aristocracy.

What was the amount of the report.

1. The Senate in certain events, (which by such management as may be expected would always happen —) is to chuse the President. 2. The Senate may make treaties and alliances. 3 They may appoint almost all officers. 4 May try impeachments.

Montesqu- says, an officer is the officer of those who appoint him. This power may in a little time render the Senate independent of the people.

The different branches should be independent of each other. They are combined and blended in the Senate.

The Senate may exercise, the powers of legislation, and Executive and judicial powers. To make treaties legislative, to appoint officers Executive for the Executive has only the nomination — To try impeachments judicial. If this is not aristocracy I know not what it is.

Gov. Morris observed that the report had lessened not increased the powers of the Senate. That their powers were greater in the printed paper.

Col Hamilton.

In general the choice will rest in the Senate — take this choice from them and the report is an improvement on the printed paper.

In the printed paper a destroying monster is created. He is not re eligible, he will therefore consider his 7 years as 7 years of lawful plunder. Had he been made re eligible by the legislature, it would not have removed the evil, he would have purchased his re election.

At present the people may make a choice — but hereafter it is probable the choice of a president would centre in the Senate.

As the report stands — the President will use the power of nominating to attach the Senate to his interest. He will act by this means continually on their hopes till at length they will boeth act as one body. Let the election of the president be confined to electors, and take from the Senate the power to try impeachments, and the report will be much preferable to the printed paper.

He does not agree with those persons who say they will vote against the report because they cannot get all parts of it to please them — He will take any system which promises to save America from the dangers with which she is threatened. —”

(Madison's Notes (Max Farrand, 1911), Pages 521-531, Vol. 2)

Mr. Willson remarked on the report of the committee considered together That it presented to him a most dangerous appearance. He was not affraid of names — but he was of aristocracy.

What was the amount of the report.

1. The Senate in certain events, (which by such management as may be expected would always happen —) is to chuse the President. 2. The Senate may make treaties and alliances. 3 They may appoint almost all officers. 4 May try impeachments. Montesqu- says, an officer is the officer of those who appoint him. This power may in a little time render the Senate independent of the people.

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He does not agree with those persons who say they will vote against the report because they cannot get all parts of it to please them — He will take any system which promises to save America from the dangers with which she is threatened.

(McHenry's Notes (Max Farrand, 1911), Pages 530-531, Vol. 2)

[e674561] Mr. Spaight & Mr. Williamson moved to insert "seven" instead of "four" years for the term of the President — An ineligibility wd. have followed (tho'. it wd. seem from the vote not in the opinion of all.) this prolongation of the term.

(Madison's Notes (Max Farrand, 1911), Page 525, Vol. 2)

It was moved and seconded to insert the word "seven" instead of "four" in the fourth clause of the report.

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674562] It was moved and seconded to insert the word "seven" instead of "four" in the fourth clause of the report.

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

Mr. Spaight & Mr. Williamson moved to insert "seven" instead of "four" years for the term of the President — An ineligibility wd. have followed (tho'. it wd. seem from the vote not in the opinion of all.) this prolongation of the term.

On this motion

N. H. ay. Mas. no. Ct. no— N. J. no— Pa no. Del— no. Md. no. Va. ay. N. C— ay. S. C. no. Geo— no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 525, Vol. 2)

[e674563] Mr. Spaight & Mr. Williamson then moved to insert "six" instead of "four".

(Madison's Notes (Max Farrand, 1911), Page 525, Vol. 2)

It was moved and seconded to insert the word "six" instead of "four"

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674564] It was moved and seconded to insert the word “six” instead of “four” which passed in the negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

Mr. Spaight & Mr. Williamson then moved to insert “six” instead of “four”.
On which motion

N. H. no. Mas. no. Ct no. N. J. no. Pa. no. Del. no. Md. no. Va. no, N.
C— ay. S. C. ay— Geo. no [Ayes — 2; noes — 9.]

(Madison’s Notes (Max Farrand, 1911), Page 525, Vol. 2)

[e674565] [Editors’ note: The records indicate that the Convention then decided to split the proposition into its separate parts. To mimic this procedure, the editors have dropped the ‘whole’ version of the proposition in order to propose the clause individually.]

(2019 Editors)

[e674566] [Editors’ note: The records indicate that the Convention then decided to split the proposition into its separate parts. To mimic this procedure, the editors have dropped the ‘whole’ version of the proposition in order to propose the clause individually.]

(2019 Editors)

[e674567] To agree to the clause respectg Presidt & V. Presidt

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674568] To agree to the word “four”

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

On the term “four”

(Madison’s Notes (Max Farrand, 1911), Page 525, Vol. 2)

[e674569] To agree to the word “four” Ayes — 10; noes — 1.

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

On the term “four” all the States were ay, except N. Carolina, no.

(Madison’s Notes (Max Farrand, 1911), Page 525, Vol. 2)

[e674570] To agree to the clause respectg Presidt & V. Presidt Ayes — 10; noes — 1.

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674571] To agree to the appointment of Electors.

[Editors' note: Madison writes that the Convention considered 'the question (Clause 4. in the Report) for Appointing President by electors — down to the words, — "entitled in the Legislature" inclusive' (Page 525, Vol. 2, Madison's Notes (Max Farrand, 1911)). However, as the next sentence was King's amendment that had been agreed earlier in the session, and there is no record of it being voted on again, the editors have included it here to prevent adding in an additional editorial vote.

At this point, Madison returns to his original numbering of this clause, noting it as part of the 4th proposition, where he had earlier followed the Journal in naming this the 5th clause. Jackson's numbering scheme changes again in the next session. The editors' scheme of listing propositions and clauses is an effort to provide clarity, given the inconsistency of the sources.]

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674572] To agree to the appointment of Electors. Ayes — 9; noes — 2.

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

On the question (Clause 4. in the Report) for Appointing President by electors — down to the words, — "entitled in the Legislature" inclusive. "See

N. H— ay— Mas: ay. Cont: ay N. J. ay— Pa. ay. Del— ay. Md ay, Va ay. N. C. no— S— C— no— Geo— ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 525, Vol. 2)

[e674573] [Editors' note: The Convention then considered the next clause. In the Detail of Ayes and Noes, there is a vote tally with no descriptor aside from the words 'To agree to' (Page 520, Vol. 3, Detail of Ayes and Noes (Max Farrand, 1911)). Farrand suggests that this vote was on the whole of the clause relating to the electors' method in casting and transmitting their votes.]

(2019 Editors)

[e674574] It was moved and seconded to insert the words "under the seal of the State" after the word "transmit" in the sixth clause of the report

[Editors' note: The Journal refers to this text as part of the sixth clause, whereas Madison numbers it as part of the fourth clause.]

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

It was moved to insert the words "under the seal of the State" after the word "transmit" in 4th clause of the Report

(Madison's Notes (Max Farrand, 1911), Pages 525-526, Vol. 2)

[e674575] It was moved and seconded to insert the words "under the seal of the State" after the word "transmit" in the sixth clause of the report

which passed in the negative.

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

It was moved to insert the words “under the seal of the State” after the word “transmit” in 4th clause of the Report which was disagreed to

(Madison’s Notes (Max Farrand, 1911), Pages 525-526, Vol. 2)

[e674576] [Editors’ note: In the Detail of Ayes and Noes, there is a vote tally with no descriptor aside from the words ‘To agree to’ (Page 520, Vol. 3, Detail of Ayes and Noes (Max Farrand, 1911)). Farrand suggests that this vote was on the whole of the clause relating to the electors’ method in casting and transmitting their votes.]

(2019 Editors)

[e674577] The person having the greatest number of votes shall be the Presidt
(Official Journal (Max Farrand, 1911), Page 517, Vol. 2)

[e674578] The person having the greatest number of votes shall be the Presidt
Ayes — 8; noes — 2; divided — 1

(Official Journal (Max Farrand, 1911), Pages 517-518, Vol. 2)

[e674579] On a question on the sentence in clause (4). “if such number be a majority of that of the electors” appointed.”

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

Provided that number be a majority of the

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

[e674580] It was moved and seconded to insert the words “and who shall have given their votes” after the word “appointed” in the 7 clause of the report.

[Editors’ note: What the editors have referred to as the fifth clause of the Fourth Proposition, Jackson names the seventh clause of the report.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

It was moved [...] to insert the words “and who shall have given their votes” after the word “appointed” in the 4th Clause of the Report as added yesterday on motion of Mr. Dickinson.

(Madison’s Notes (Max Farrand, 1911), Pages 525-526, Vol. 2)

[e674581] It was moved and seconded to insert the words “and who shall have given their votes” after the word “appointed” in the 7 clause of the report.
which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

It was moved to insert the words “under the seal of the State” after the word “transmit” in 4th clause of the Report which was disagreed to; as was another motion to insert the words “and who shall have given their votes” after the word “appointed” in the 4th Clause of the Report as added yesterday on motion of Mr. Dickinson.

(Madison's Notes (Max Farrand, 1911), Pages 525-526, Vol. 2)

[e674582] It was moved and seconded to insert the words "in presence of the Senate and House of representatives" after the word "counted"

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted"

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674583] It was moved and seconded to insert the words "in presence of the Senate and House of representatives" after the word "counted"

which passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted"

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674584] On a question on the clause referring the eventual appointment of the President to the Senate

[Editors' note: The Convention then went on to consider the next clause. The records suggest that this clause included the whole section stipulating the Senate's role in the case of a tied vote by the Electors.]

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674585] It was moved and seconded to insert the word "immediately" before the word "choose"

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted" and the word "immediately" before the word "choose"

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674586] It was moved and seconded to insert the word "immediately" before the word "choose"

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted" and the word "immediately" before the word "choose"

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674587] and in every case after the choice of the Presidt the Person having the greatest number of votes

[Editors' note: The Convention went on to consider the next clause. The records suggest that this clause included the section stipulating the method of choosing the Vice President.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

[e674588] It was moved and seconded to insert the words "of the Electors" after the word "votes"

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted" and the word "immediately" before the word "choose"; and the words "of the Electors" after the word "votes".

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674589] It was moved and seconded to insert the words "of the Electors" after the word "votes"

which passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted" and the word "immediately" before the word "choose"; and the words "of the Electors" after the word "votes".

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674590] and in every case after the choice of the Presidt the Person having the greatest number of votes

[Ayes — 10; noes — 1.]

[Editors' note: This vote appears in the Table of Ayes and Noes, though the order in which it took place in the session is unclear. Farrand places this vote at end of the session but does not explain his reasoning for doing so. As there is no evidence either way and as this clause was discussed again during the session, the editors have placed it here.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

[e674591] Mr. Spaight said if the election by Electors is to be crammed down, he would prefer their meeting altogether and deciding finally without any reference to the Senate and moved "That the Electors meet at the seat of the General Government—"

Mr Williamson 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 2)

"That the Electors meet at the seat of the general Government"

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

[e674592] It was moved and seconded to agree to the following clause
 “That the Electors meet at the seat of the general Government”
 which passed in the negative. [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

Mr. Spaight said if the election by Electors is to be crammed down, he would prefer their meeting altogether and deciding finally without any reference to the Senate and moved “That the Electors meet at the seat of the General Government—”

Mr Williamson 2ded. the motion, on which all the States were in the negative except N: Carolina.

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674593] [Editors’ note: The Convention then went on to consider the next clause. The records suggest that this clause was the section stipulating Congress’s role in regulating the process of voting by Electors.]

(2019 Editors)

[e674594] It was moved and seconded to agree to the following clause “But The election shall be on the same day throughout the United States” after the words “transmitting their votes”

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On motion the words “But the election shall be on the same day throughout the U— S—” were added after the words “transmitting their votes.”

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674595] It was moved and seconded to agree to the following clause “But The election shall be on the same day throughout the United States” after the words “transmitting their votes”

which passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

On motion the words “But the election shall be on the same day throughout the U— S—” were added after the words “transmitting their votes.” N. H. ay. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay [Ayes — 8; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674596] [Editors’ note: Though none of the sources record a vote, the editors assume that the Convention considered this clause to stand part of the text.]

(2019 Editors)

[e674597] On a question on the sentence in clause (4). “if such number be a majority of that of the electors” appointed.” N— H— ay— Mas. ay. Ct ay. N. J. ay— Pa no— Del— ay. Md. ay. Va no— N. C. no. S— C. ay Geo. ay. [Ayes — 8; noes — 3.]

[Editors’ note: The clause that the editors have termed the fifth clause of the Fourth Proposition, Madison terms part of the fourth clause.]

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

Provided that number be a majority of the
Ayes — 8; noes — 3.

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

[e674598] On a question on the clause referring the eventual appointment of the President to the Senate N— H— ay. Mas. ay. Ct. ay. N. J. ay. Pa ay. Del— ay— Va ay. N. C. no Here the call ceased.

[Editors’ note: The editors have referred to this clause as the fifth clause of the Fourth Proposition. Madison writes that ‘the call [for votes] ceased’. However, Farrand notes that one of the votes Jackson records on the Detail of Ayes and Noes is likely the same vote, though Jackson records a full vote count. For this reason, the editors have used the voting record from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

[e674599] Mr Madison made a motion requiring at least of the Senate to be present at the choice of a President— Mr. Pinkney 2ded, the motion

[Editors’ note: The Journal indicates that this amendment was to be placed after ‘in presence of the Senate and House of Representatives.’ Jackson’s account of the text reads, ‘and that not less than of the whole number of Senators be present’. The editors have altered this text slightly, swapping ‘and’ for ‘provided’.]

(Madison’s Notes (Max Farrand, 1911), Page 526, Vol. 2)

and that not less than of the whole number of Senators be present — (In presence of the S & Ho of representatives)

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

[e674600] Mr. Gorham thought it a wrong principle to require more than a majority in any case. In the present case it might prevent for a long time any choice of a President

(Madison’s Notes (Max Farrand, 1911), Pages 526-527, Vol. 2)

[e674601] and that not less than of the whole number of Senators be present — (In presence of the S & Ho of representatives)

[Ayes — 6; noes — 4.]

[Editors’ note: The Massachusetts delegation was not quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 518, Vol. 2)

Mr Madison made a motion requiring at least of the Senate to be present at the choice of a President— Mr. Pinkney 2ded, the motion [...]

On the question moved by Mr M— & Mr. P.

N. H. ay: Mas. abst Ct. no. N. J. no. Pa. no. Del. no. Md. ay. Va. ay. N— C. ay. S— C. ay. Geo. ay [Ayes — 6; noes — 4; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 526-527, Vol. 2)

[e674602] Mr. Williamson suggested as better than an eventual choice by the Senate, that this choice should be made by the Legislature, voting by States and not per capita.

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

[e674603] Mr. Sherman suggested the House of Reps. as preferable to “the Legislature”, and moved, accordingly,

To strike out the words “The Senate shall immediately choose &c.” and insert “The House of Representatives shall immediately choose by ballot one of them for President, the members from each State having one vote.”

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

It was moved and seconded to strike out the words “The Senate shall immediately choose by ballot” &ca and to insert the words “The House of representatives shall immediately choose by ballot one of them for President, the Members from each State having one vote”

(Official Journal (Max Farrand, 1911), Pages 518-519, Vol. 2)

The report amended by placing the choice of the President in the house of representatives, each State having one vote.

(McHenry's Notes (Max Farrand, 1911), Page 531, Vol. 2)

[e674604] Col: Mason liked the latter mode best as lessening the aristocratic influence of the Senate.

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

[e674605] It was moved and seconded to strike out the words “The Senate shall immediately choose by ballot” &ca and to insert the words “The House of representatives shall immediately choose by ballot one of them for President, the Members from each State having one vote”

which passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Pages 518-519, Vol. 2)

On the motion of Mr. Sherman

N. H. ay. Mas. ay— Ct. ay— N. J. ay. Pa ay. Del. no. Md. ay. Va ay. N— C. ay— S— C. ay. Geo. ay, [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

The report amended by placing the choice of the President in the house of representatives, each State having one vote.

(McHenry's Notes (Max Farrand, 1911), Page 531, Vol. 2)

[e674606] Mr. Govr Morris suggested the idea of providing that in all cases, the President in office, should not be one of the five Candidates; but be only re-eligible in case a majority of the electors should vote for him— (This was another expedient for rendering the President independent of the Legislative body for his continuance in office)

Mr. Madison remarked that as a majority of members wd. make a quorum in the H— of Reps. it would follow from the amendment of Mr Sherman giving the election to a majority of States, that the President might be elected by two States only, Virga. & Pena. which have 18 members, if these States alone should be present

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

[e674607] On a motion that the eventual election of Presidt. in case of an equality of the votes of the electors be referred to the House of Reps.

[Editors' note: Though the Journal also records this motion, it only provides a final vote with a brief description – 'Ho[use] of representatives to elect' (Page 519, Vol. 2, Official Journal (Max Farrand, 1911)). This could be interpreted very broadly, and there was clearly significant redrafting of the whole paragraph by the end of the day.

Madison's note presents more of a puzzle. In his manuscript, he writes, 'On a motion that the eventual election of Presidt. in case of an equality of the votes of the electors be referred to the House of Reps' (Page 527, Vol. 2, Madison's Notes (Max Farrand, 1911)). He underlines 'an equality', which would suggest a vote confirming the provisions of Sherman's amendment regarding a tied vote by Electors. An alternative reading could be that Madison believed that the plan was that the House of Representatives would retain the final say if they too offered a tied vote, while leaving open room for the Senate to make a determination if the Electors had not selected candidates who had a majority of votes.

While such a reading would explain why 'an equality' is underlined in the manuscript, it cannot explain the fact that, by the end of the day, the Senate's role in selecting the President had been removed in all cases. There is no indication in any of the manuscripts that there was further discussion or decision on this point.

A clearer interpretation, therefore, is that following Sherman's previous motion that the House have the determination in the cause of a tied Electoral vote, a second motion was made giving the final determination in the selection of the President to the House in all cases where the Electors had not picked a candidate with a majority of votes. This reading puts an emphasis on Madison's words 'the eventual election' rather than his underlined words.

Doubtless, the complex amendment of this passage would have been difficult to follow even for those present at the time. Not only is the text involved complicated, but the multi-stage process for selecting the President in the event of a failure by the electoral college to produce a clear outcome, with different

procedures for different circumstances, was itself a highly complicated set of propositions. There is more than a possibility that Madison's note reflects his own confusion at this point, and that he mistook a motion throwing the choice of the President to the House of Representatives in all cases where the electoral college had not produced an outcome, rather than giving it to the Senate in some and the House in others, for a motion about only one scenario.

The reading of this moment presented here, and its relationship to the previous amendment by Sherman, follows both a strict reading of the sources in both cases and also a logical sequence of events, with the Senate removed first from its role in deciding in case of a tie and then when there is no majority among the Electors. It does not create the problem that (if Madison's emphasis on equality were to be followed literally) this motion would either be merely a vote confirming what had just been decided or would have introduced yet another scenario. Following either of those interpretations would make it hard to identify the likely moment when any potential for the role of the Senate in the selection of a President was removed, as there are no other amendments on this topic recorded in the sources. The interpretation shown here privileges the broad note made in the Journal over what appears to be a slightly confused note by Madison.

It is suggested that at the end of the session, the secretary offered a redrafted version of the entire Proposition to make sense of the change made. This is modelled at the end of the session and is taken from both Madison's notes and the Journal. The uncertainty of what changes were made during that redraft and this unspecified amendment mean that there may have been other changes made to the text by this amendment. Without further evidence, the editors have decided to maintain a narrow interpretation of the changes made in this amendment and model the unexplained changes to the redraft.]

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

[e674608] Ho of representatives to elect

[Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

On a motion that the eventual election of Presidt. in case of an equality of the votes of the electors be referred to the House of Reps.

N. H. ay. Mas. ay. N. J. no. Pa. ay. Del. no. Md. no. Va. ay. N— C. ay. S. C. ay— Geo— ay, [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 527, Vol. 2)

[e674609] Mr. King moved to add to the amendment of Mr. Sherman "But a quorum for this purpose shall consist of a member or members from two thirds of the States, and also of a majority of the whole number of the House of Representatives."

(Madison's Notes (Max Farrand, 1911), Pages 527-528, Vol. 2)

[e674610] Col Mason liked it as obviating the remark of Mr Madison

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674611] [Editors' note: The Convention then decided to vote on the two parts of King's Amendment separately. To mimic this procedure, the editors have dropped the 'whole' version of the amendment and proposed the two parts individually.]

(2019 Editors)

[e674612] It was moved and seconded to agree to the following amendment

“But a quorum for this purpose shall consist of a Member or Members from two thirds of the States”

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

The motion as far as “States” inclusive

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674613] It was moved and seconded to agree to the following amendment

“But a quorum for this purpose shall consist of a Member or Members from two thirds of the States”

which passed in the affirmative [“Unanimous”]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

The motion as far as “States” inclusive was agd. to

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674614] On the question to agree to the following amendment

“and also of a Majority of the whole number of the House of representatives”

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

On the residue to art. — “and also of a majority of the whole number of the House of Reps.

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674615] On the question to agree to the following amendment

“and also of a Majority of the whole number of the House of representatives”
it passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

On the residue to art. — “and also of a majority of the whole number of the House of Reps. it passed in the Negative

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674616] The several amendments being agreed to, on separate questions,

The first sect. of the report is as follows.

[Editors' note: At the end of the session, the Journal and Madison record the Fourth Proposition as it then stood. Both versions differ in both minor and significant ways from the document as amended during the session. One way

of accounting for these changes is the possibility that Jackson had been tasked to draw up a fair copy, following the (at times confusing) series of amendments made during the day.

Another explanation might be that there were additional amendments made that Madison and Jackson did not record. As the evidence is lacking in either case, the editors have represented the hypothesis that Jackson redrafted the proposition with a series of grammatical changes and some clarifications.

There are two substantive changes to the text which are represented here. These are the passages regarding the requirement that two-thirds of the Senate be present and that Congress shall direct the method of assembling Electors.

Madison and the Journal vary in punctuation and grammar. The editors prefer the Journal version; however, capitalization on the 'House of Representatives', the spelling of 'Vice President', and the spelling of 'choosing' is taken from Madison for clarity and consistency.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

The Report relating to the appointment of the Executive stands as amended, as follows

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674617] The several amendments being agreed to, on separate questions,

The first sect. of the report is as follows.

[Editors' note: At the end of the session, the Journal and Madison record the Fourth Proposition as it then stood. Both versions differ in both minor and significant ways from the document as amended during the session. One way of accounting for these changes is the possibility that Jackson had been tasked to draw up a fair copy, following the (at times confusing) series of amendments made during the day.

Another explanation might be that there were additional amendments made that Madison and Jackson did not record. As the evidence is lacking in either case, the editors have represented the hypothesis that Jackson redrafted the proposition with a series of grammatical changes and some clarifications.

There are two substantive changes to the text which are represented here. These are the passages regarding the requirement that two-thirds of the Senate be present and that Congress shall direct the method of assembling Electors.

Madison and the Journal vary in punctuation and grammar. The editors prefer the Journal version; however, capitalization on the 'House of Representatives', the spelling of 'Vice President', and the spelling of 'choosing' is taken from Madison for clarity and consistency.

The records do not indicate a vote being held, but the changes have been shown here as agreed.]

(Official Journal (Max Farrand, 1911), Page 519, Vol. 2)

The Report relating to the appointment of the Executive stands as amended, as follows

(Madison's Notes (Max Farrand, 1911), Page 528, Vol. 2)

[e674618] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 529, Vol. 2)

Adjourned.

(McHenry's Notes (Max Farrand, 1911), Page 531, Vol. 2)

[e674619] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 529, Vol. 2)

Adjourned.

(McHenry's Notes (Max Farrand, 1911), Page 531, Vol. 2)

1.90 Friday, 07 September 1787, at 10:00 (s6277)

[e674620] The mode of constituting the Executive being resumed, Mr- Randolph moved to insert in the first Section of the report made yesterday

“The Legislature may declare by law what officer of the U. S— shall act as President in case of the death, resignation, or disability of the President and Vice-President; and such officer shall act accordingly until the time of electing a President shall arrive.”

[Editors' note: The Journal records this amendment and a subsequent motion as one amendment. The editors have followed Madison's version of events and amendment text but have preferred the Journal's spelling, punctuation, and grammar.]

(Madison's Notes (Max Farrand, 1911), Page 535, Vol. 2)

It was moved and seconded to insert the following clause after the words “throughout the United States” in the first sect. of the report.

“The Legislature may declare by law what officer of the United States shall act as President in case of the death, resignation, or disability of the President and Vice President; and such Officer shall act accordingly, until such disability be removed, or a President shall be elected”

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

[e674621] Mr. Madison observed that this, as worded, would prevent a supply of the vacancy by an intermediate election of the President, and moved to substitute — “until such disability be removed, or a President shall be elected —” Mr. Governr. Morris 2ded. the motion, which was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 535, Vol. 2)

It was moved and seconded to insert the following clause after the words “throughout the United States” in the first sect. of the report.

“The Legislature may declare by law what officer of the United States shall act as President in case of the death, resignation, or disability of the President and Vice President; and such Officer shall act accordingly, until such disability be removed, or a President shall be elected”

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

[e674622] Mr. Madison observed that this, as worded, would prevent a supply of the vacancy by an intermediate election of the President, and moved to substitute — “until such disability be removed, or a President shall be elected —” Mr. Governr. Morris 2ded. the motion, which was agreed to.

[Editors’ note: None of the sources provides a vote count.]

(Madison’s Notes (Max Farrand, 1911), Page 535, Vol. 2)

[e674623] It seemed to be an objection to the provision with some, that according to the process established for chusing the Executive, there would be difficulty in effecting it at other than the fixed periods; with others, that the Legislature was restrained in the temporary appointment to “officers” of the U. S: They wished it to be at liberty to appoint others than such.

(Madison’s Notes (Max Farrand, 1911), Page 535, Vol. 2)

[e674624] It was moved and seconded to insert the following clause after the words “throughout the United States” in the first sect. of the report.

“The Legislature may declare by law what officer of the United States shall act as President in case of the death, resignation, or disability of the President and Vice President; and such Officer shall act accordingly, until such disability be removed, or a President shall be elected”

which passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

On the motion of Mr. Randolph as amended, it passed in the affirmative N. H. divided. Mas. no. Ct. no. N. J. ay. Pa. ay. Del— no. Md. ay. Va. ay. N— C— no— S. C. ay— Geo. ay [Ayes — 6; noes — 4; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 535, Vol. 2)

[e674625] Mr. Gerry moved “that in the election of President by the House of Representatives, no State shall vote by less than three members, and where that number may not be allotted to a State, it shall be made up by its Senators; and a concurrence of a majority of all the States shall be necessary to make such choice”. Without some such provision five individuals might possibly be competent to an election, these being a majority of two thirds of the existing number of States; and two thirds being a quorum for this business.

Mr. Madison 2ded. the motion

[Editors’ note: Where in the text Gerry intended the amendment to fit is unclear. For this reason, the editors have placed it in a separate paragraph beneath the one detailing presidential elections.]

(Madison’s Notes (Max Farrand, 1911), Pages 535-536, Vol. 2)

[e674626] Mr. Read observed that the States having but one member only in the House of Reps. would be in danger of having no vote at all in the election: the sickness or absence either of the Representative or one of the Senators would have that effect

Mr. Madison replied that, if one member of the House of Representatives should be left capable of voting for the State, the states having one Representative only would still be subject to that danger. He thought it an evil that so small a number at any rate should be authorized, to elect. Corruption would be greatly facilitated by it. The mode itself was liable to this further weighty objection that the representatives of a Minority of the people, might reverse the choice of a majority of the States and of the people— He wished some cure for this inconveniency might yet be provided—

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674627] Mr Gerry withdrew the first part of his motion

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674628] It was moved and seconded to insert the following amendment after the words "a member or members from two thirds of the States" in the 1st sect of the report.

"and the concurrence of a majority of all the States shall be necessary to make such choice."

[Editors' note: Madison clarifies that this was the second part of Gerry's previous motion. Gerry proposed this part separately after the first part had met with resistance.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

Question on the 2d. part viz, "and a concurrence of a majority of all the States shall be necessary to make such choice" to follow the words "a member or members from two thirds of the States"

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674629] It was moved and seconded to insert the following amendment after the words "a member or members from two thirds of the States" in the 1st sect of the report.

"and the concurrence of a majority of all the States shall be necessary to make such choice."

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

Question on the 2d. part viz, "and a concurrence of a majority of all the States shall be necessary to make such choice" to follow the words "a member or members from two thirds of the States" — It was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674630] [Editors' note: Once the Convention finished debating the Fourth Proposition, it went on to consider the next part of the Committee's Second Report. Though there is no record of a formal vote on the whole proposition, the editors assume that it was taken into the working document.]

(2019 Editors)

[e674631] On the question to agree to the 2nd sect. of the report.

[Editors' Note: What the Journal refers to as the Second Section is the Report's proposition for Article X: Section 2. In order to maintain clarity and consistency, the editors have referred to this text as the Fifth Proposition of the Second Report of the Committee on Postponed Matters.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The section 2.(see Sepr. 4)

requiring that the President should be a natural-born Citizen, &c & have been resident for fourteen years, & be thirty five years of age

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674632] On the question to agree to the 2nd sect. of the report.

it passed in the affirmative.

[Editors' note: Madison states that this text was agreed unanimously.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The section 2. (see Sepr. 4)

requiring that the President should be a natural-born Citizen, &c & have been resident for fourteen years, & be thirty five years of age, was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

The section 2. (see Sepr. 4)

requiring that the President should be a natural-born Citizen, &c & have been resident for fourteen years, & be thirty five years of age, was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674633] Section 3. (see Sepr. 4). "The vice President shall be ex officio President of the Senate"

[Editors' note: Madison records that the Convention moved on to the next proposition, starting with the first clause. This order of events is confirmed by the Journal, which also shows that the section was split into clauses to be debated, amended, and voted on separately.]

(Madison's Notes (Max Farrand, 1911), Page 536, Vol. 2)

[e674634] The V: Presidt shall ex officio be Presidt of the Senate.

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

[e674635] Mr. Gerry opposed this regulation. We might as well put the President himself at the head of the Legislature. The close intimacy that must subsist between the President & vice-president makes it absolutely improper. He was agst. having any vice President.

Mr Govr Morris. The vice president then will be the first heir apparent that ever loved his father — If there should be no vice president, the President of the Senate would be temporary successor, which would amount to the same thing.

Mr Sherman saw no danger in the case. If the vice-President were not to be President of the Senate, he would be without employment, and some member by being made President must be deprived of his vote, unless when an equal division of votes might happen in the Senate, which would be but seldom.

Mr. Randolph concurred in the opposition to the clause.

Mr. Williamson, observed that such an officer as vice-President was not wanted. He was introduced only for the sake of a valuable mode of election which required two to be chosen at the same time.

Col: Mason, thought the office of vice-President an encroachment on the rights of the Senate; and that it mixed too much the Legislative & Executive, which as well as the Judiciary departments, ought to be kept as separate as possible. He took occasion to express his dislike of any reference whatever of the power to make appointments to either branch of the Legislature. On the other hand he was averse to vest so dangerous a power in the President alone. As a method for avoiding both, he suggested that a privy Council of six members to the president should be established; to be chosen for six years by the Senate, two out of the Eastern two out of the middle, and two out of the Southern quarters of the Union, & to go out in rotation two every second year; the concurrence of the Senate to be required only in the appointment of Ambassadors, and in making treaties. which are more of a legislative nature. This would prevent the constant sitting of the Senate which he thought dangerous, as well as keep the departments separate & distinct. It would also save the expence of constant sessions of the Senate. He had he said always considered the Senate as too unwieldy & expensive for appointing officers, especially the smallest, such as tide waiters &c. He had not reduced his idea to writing, but it could be easily done if it should be found acceptable.

(Madison's Notes (Max Farrand, 1911), Pages 536-538, Vol. 2)

[e674636] The V: Presidt shall ex officio be Presidt of the Senate.

[Ayes — 8; noes — 2.]

[Editors' note: The delegation from North Carolina was not quorate for this vote.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

On the question shall the vice President be ex officio President of the Senate?

N— H. ay— Mas. ay— Ct. ay. N. J. no. Pa. ay. Del. ay— Mas— no. Va ay— N— C— abst S. C. ay— Geo. ay. [Ayes — 8; noes — 2; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674637] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674638] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote. None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674639] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote. None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674640] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote. None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674641] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote. None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674642] Separate questions having been taken on the several clauses of the 3rd sect. of the report

They passed in the affirmative.

[Editors' note: Neither the Journal nor Madison stipulates how these clauses were separated. Without further guidance, the editors have suggested that there were three clauses, the first detailing the presiding officer during impeachment trials, the second describing the selection of a President pro tempore, and the third declaring that the Vice President cannot vote. None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

The other parts of the same Section (3) were then agreed to.

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674643] [Editors' note: As the Convention agreed to all of its clauses, the proposition was taken into the working document.]

(2019 Editors)

[e674644] The Section 4. — to wit, “The President by & with the advice and consent of the Senate shall have power to make Treaties &c”

[Editors' note: Madison writes that the Convention moved on to the next proposition, starting with the first clause. The Journal confirms this order of events and shows that the section was split into clauses to be debated, amended, and voted on separately.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674645] The Section 4. — to wit, “The President by & with the advice and consent of the Senate shall have power to make Treaties &c”

[Editors' note: Madison writes that the Convention moved on to the next proposition, starting with the first clause. The Journal confirms this order of events and shows that the section was split into clauses to be debated, amended, and voted on separately.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674646] Mr. Wilson moved to add, after the word "Senate" the words, "and House of Representatives". As treaties he said are to have the operation of laws, they ought to have the sanction of laws also. The circumstance of secrecy in the business of treaties formed the only objection; but this he thought, so far as it was inconsistent with obtaining the Legislative sanction, was outweighed by the necessity of the latter.

[...]

Mr Fitzsimmons 2ded. the motion of Mr Wilson

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

To insert "& the Ho of representatives" 5 sect of ye report

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

[e674647] Mr. Sherman thought the only question that could be made was whether the power could be safely trusted to the Senate. He thought it could; and that the necessity of secrecy in the case of treaties forbade a reference of them to the whole Legislature.

[Editors' note: Sherman interjected with this comment after Wilson's motion but before Fitzsimmons' second.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674648] To insert "& the Ho of representatives" 5 sect of ye report

[Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 532, Vol. 2)

on the question

N. H. no. Mas. no. Ct. no. N. J. no. Pa ay. Del. no. Md. no Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674649] The first sentence as to making treaties, was then Agreed to: nem: con:

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674650] — "He shall nominate &c Appoint ambassadors &c."

[Editors' note: The Journal clarifies that this clause also included the provisions on appointments of 'other public Ministers'.]

(Madison's Notes (Max Farrand, 1911), Page 538, Vol. 2)

[e674651] Mr. Wilson objected to the mode of appointing, as blending a branch of the Legislature with the Executive. Good laws are of no effect without a good Executive; and there can be no good Executive without a responsible appointment of officers to execute. Responsibility is in a manner destroyed by

such an agency of the Senate — He would prefer the Council proposed by Col: Mason, provided its advice should not be made obligatory on the President

Mr. Pinkney was against joining the Senate in these appointments, except in the instances of Ambassadors who he thought ought not to be appointed by the President

Mr. Govr. Morris said that as the President was to nominate, there would be responsibility, and as the Senate was to concur, there would be security. As Congress now make appointments there is no responsibility.

Mr Gerry— The idea of responsibility in the nomination to offices is chimerical— The President can not know all characters, and can therefore always plead ignorance.

Mr King. As the idea of a Council proposed by Col. Mason has been supported by Mr. Wilson, he would remark that most of the inconveniencies charged on the Senate are incident to a Council of Advice. He differed from those who thought the Senate would sit constantly. He did not suppose it was meant that all the minute officers were to be appointed by the Senate, or any other original source, but by the higher officers of the departments to which they belong. He was of opinion also that the people would be alarmed at an unnecessary creation of New Corps which must increase the expence as well as influence of the Government.

(Madison's Notes (Max Farrand, 1911), Pages 538-539, Vol. 2)

[e674652] It was moved and seconded to amend the 2nd clause of the 4 sect of the report to read

“Ambassadors, other public Ministers, and Consuls”

(Official Journal (Max Farrand, 1911), Pages 532-533, Vol. 2)

[e674653] “Ambassadors, other public Ministers, and Consuls”
which passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674654] By & with the consent of the Senate appoint Ministers &ca
[Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674655] Judges of the Supreme Court

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674656] Judges of the Supreme Court
[Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674657] and all other officers

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674658] and all other officers

[Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674659] It was moved and seconded to postpone the consideration of the 4 sect. of the report in order to take up the following.

That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State, for the President of the United States, to consist of six Members, two of which from the Eastern, two from the middle, and two from the southern States with a rotation and duration of office similar to that of the Senate; such Council to be appointed by the Legislature or by the Senate.

[Editors' note: Madison notes that Mason proposed this resolution, though the Journal attributes it to Madison.

Farrand states that Madison crossed out this resolution in his notes and then repeated it later. Madison likely did this because Mason proposed the resolution, but the Convention didn't take it up immediately. It seems more likely that Mason proposed the motion, withdrew it, and then re-proposed it later in the session. As this version of events seems the most logical given the available records, the editors have represented it here.

'Committee of States' likely refers to the Committee on Postponed Matters.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

Mr. Mason moved to postpone the section giving the President power to require the advice of the heads of the great departments to take up a motion — to appoint a council of State, to consist of 6 members — two from the Eastern, two from the middle and two from the Southern States — who should in conjunction with the President make all appointments and be an advisory body — to be elected by the legislature, to be in for 6 years with such succession as provided for the Senate.

(McHenry's Notes (Max Farrand, 1911), Page 543, Vol. 2)

Col: Mason said that in rejecting a Council to the President we were about to try an experiment on which the most despotic Governments had never ventured— The Grand Signor himself had his Divan. He moved to postpone the consideration of the clause in order to take up the following

“That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State for the President of the U. States, to consist of six members, two of which from the Eastern, two from the middle, and two from the Southern States, with a Rotation and duration of office similar to those of the Senate; such Council to be appointed by the Legislature or by the Senate”.

Doctor Franklin 2ded. the motion. We seemed he said too much to fear cabals in appointments by a number, and to have too much confidence in those of single persons. Experience shewed that caprice, the intrigues of favorites & mistresses, &c were nevertheless the means most prevalent in monarchies. among instances of abuse in such modes of appointment, he mentioned the many bad Governors appointed in G. B. for the Colonies. He thought a Council would not only be a check on a bad President but be a relief to a good one.

(Madison's Notes (Max Farrand, 1911), Pages 541-542, Vol. 2)

[e674660] [Editors' note: Farrand states that Madison crossed out this resolution in his notes and then repeated it later. Madison likely did this because Mason proposed the resolution, but the Convention didn't take it up immediately. It seems more likely that Mason proposed the motion, withdrew it, and then re-proposed it later in the session. As this version of events seems the most logical given the available records, the editors have represented it here.]

(2019 Editors)

[e674661] On motion of Mr. Spaight — “that the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting Commissions which shall expire at the end of the next Session of the Senate”

[Editors' note: The text for the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

It was moved and seconded to agree to the following clause

That the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of the next session of the Senate.

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674662] On motion of Mr. Spaight — “that the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting Commissions which shall expire at the end of the next Session of the Senate” It was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

It was moved and seconded to agree to the following clause

That the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of the next session of the Senate.

which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674663] Section 4. “The President by and with the advice and consent of the Senate shall have power to make Treaties” — “But no treaty shall be made without the consent of two thirds of the members present” — this last being before the House.

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

[e674664] Mr Wilson thought it objectionable to require the concurrence of which puts it in the power of a minority to controul the will of a majority.

Mr. King concurred in the objection; remarking that as the Executive was here joined in the business, there was a check which did not exist in Congress where The concurrence of was required.

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

[e674665] Mr. Madison moved to insert after the word "treaty" the words "except treaties of peace" allowing these to be made with less difficulty than other treaties

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

It was moved and seconded to insert the words (except treaties of Peace) after the word Treaty in the 4 sect of the report

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674666] Mr. Madison moved to insert after the word "treaty" the words "except treaties of peace" allowing these to be made with less difficulty than other treaties — It was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

It was moved and seconded to insert the words (except treaties of Peace) after the word Treaty in the 4 sect of the report
which passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674667] Mr. Madison then moved to authorize a concurrence of two thirds of the Senate to make treaties of peace, without the concurrence of the President" — The President he said would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace. Mr. Butler 2ded. the motion

[Editors' note: Neither Madison nor the Journal provides the exact amendment text. The editors have therefore approximated it as far as the record allows.]

(Madison's Notes (Max Farrand, 1911), Page 540, Vol. 2)

[e674668] Mr Gorham thought the precaution unnecessary as the means of carrying on the war would not be in the hands of the President, but of the Legislature.

Mr. Govr Morris thought the power of the President in this case harmless; and that no peace ought to be made without the concurrence of the President, who was the general Guardian of the National interests.

Mr. Butler was strenuous for the motion, as a necessary security against ambitious & corrupt Presidents. He mentioned the late perfidious policy of the Statholder in Holland; and the artifices of the Duke of Marlbro' to prolong the war of which he had the management.

Mr. Gerry was of opinion that in treaties of peace a greater rather than less proportion of votes was necessary, than in other treaties. In Treaties of peace the dearest interests will be at stake, as the fisheries, territories &c. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions.

Mr. Williamson thought that Treaties of peace should be guarded at least by requiring the same concurrence as in other Treaties.

(Madison's Notes (Max Farrand, 1911), Pages 540-541, Vol. 2)

[e674669] On the motion of Mr. Madison & Mr. Butler

N. H. no. Mas. no. Ct. no. N. J. no. Pa. no. Del— no. Md. ay— Va no—
N. C. no. S. C. ay. Geo. ay. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 541, Vol. 2)

[To agree to Mr Madison's amendmt Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674670] On the part of the clause concerning treaties amended by the exception as to Treaties of peace.

N. H. ay. Mas. ay. Ct. ay. N. J. no. Pa. no. Del. ay. Md. ay. Va. ay. N—
C. ay. S— C. ay— Geo. no. [Ayes — 8; noes — 3.]

[Editors' note: Farrand ascribes this voting record from the Journal to the whole proposition on Article X: Section 4, whereas Madison suggests the vote pertains to the part of the text on treaties.]

(Madison's Notes (Max Farrand, 1911), Page 541, Vol. 2)

[e674671] — On the question to agree to the 4 sect. of the report as amended
it passed in the affirmative

[Editors' note: The voting record on this question is uncertain. Farrand ascribes the voting record from the Journal to the whole proposition on Article X: Section 4, whereas Madison suggests the vote pertains to the part of the text on treaties.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674672] "and may require the opinion in writing of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices." being before the House

(Madison's Notes (Max Farrand, 1911), Page 541, Vol. 2)

[e674673] Col: Mason said that in rejecting a Council to the President we were about to try an experiment on which the most despotic Governments had never ventured— The Grand Signor himself had his Divan. He moved to postpone the consideration of the clause in order to take up the following

"That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State for the President of the U. States, to consist of six members, two of which from the Eastern, two from the middle, and two from the Southern States, with a Rotation and duration of office similar to those of the Senate; such Council to be appointed by the Legislature or by the Senate".

Doctor Franklin 2ded. the motion. We seemed he said too much to fear cabals in appointments by a number, and to have too much confidence in those of single persons. Experience shewed that caprice, the intrigues of favorites & mistresses, &c were nevertheless the means most prevalent in monarchies. among instances of abuse in such modes of appointment, he mentioned the

many bad Governors appointed in G. B. for the Colonies. He thought a Council would not only be a check on a bad President but be a relief to a good one.

[Editors' note: At this point, Mason reintroduced for debate the amendment he had proposed earlier in the session. See event e108374.]

(Madison's Notes (Max Farrand, 1911), Pages 541-542, Vol. 2)

It was moved and seconded to postpone the consideration of the 4 sect. of the report in order to take up the following.

That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State, for the President of the United States, to consist of six Members, two of which from the Eastern, two from the middle, and two from the southern States with a rotation and duration of office similar to that of the Senate; such Council to be appointed by the Legislature or by the Senate.

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

Mr. Mason moved to postpone the section giving the President power to require the advice of the heads of the great departments to take up a motion — to appoint a council of State, to consist of 6 members — two from the Eastern, two from the middle and two from the Southern States — who should in conjunction with the President make all appointments and be an advisory body — to be elected by the legislature, to be in for 6 years with such succession as provided for the Senate.

(McHenry's Notes (Max Farrand, 1911), Page 543, Vol. 2)

[e674674] Mr. Govr. Morris. The question of a Council was considered in the Committee, where it was judged that the Presidt. by persuading his Council— to concur in his wrong measures, would acquire their protection for them—

Mr. Wilson approved of a Council, in preference to making the Senate a party to appointmts.

Mr. Dickinson was for a Council. It wd. be a singular thing if the measures of the Executive were not to undergo some previous discussion before the President

Mr Madison was in favor of the instruction to the Committee proposed by Col. Mason.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 2)

[e674675] It was moved and seconded to postpone the consideration of the 4 sect. of the report in order to take up the following.

That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State, for the President of the United States, to consist of six Members, two of which from the Eastern, two from the middle, and two from the southern States with a rotation and duration of office similar to that of the Senate; such Council to be appointed by the Legislature or by the Senate.

On the question to postpone

it passed in the negative [Ayes — 3; noes — 8.]

[Editors' note: Farrand writes that the Journal 'mistakenly assigns Vote 480 to this question' (Page 533, Vol. 2, Official Journal (Max Farrand, 1911)). Madison copies this error into his notes. Here, the editors have referred to Farrand's version of the vote count.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

The motion of Mr. Mason was negatived. Maryd. ay. S. C. ay. Geo. ay—
N. H. no. Mas. no. Ct. no. N. J. no Pa. no. Del. no. Va. no. N C no. [Ayes
— 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 2)

Mr. Mason moved to postpone the section giving the President power to require the advice of the heads of the great departments to take up a motion — to appoint a council of State, to consist of 6 members — two from the Eastern, two from the middle and two from the Southern States — who should in conjunction with the President make all appointments and be an advisory body — to be elected by the legislature, to be in for 6 years with such succession as provided for the Senate.

3 States for postponing 8 against it — so it was lost.

(McHenry's Notes (Max Farrand, 1911), Page 543, Vol. 2)

[e674676] On the question, “authorizing the President to call for the opinions of the Heads of Departments, in writing:” it passed in the affirmative, N. H. only being no.* The clause was then unanimously agreed to.

* Not so stated in the Printed Journal; but conformable to the result afterwards appearing. passed in the

[Editors' note: The Journal records a unanimous final vote of the day, 'To agree to the last question' (Page 533, Vol. 2, Official Journal (Max Farrand, 1911)). Madison's notes present an unclear picture of this event, but it is probable that Madison refers to this vote in the Journal as being incorrect regarding the vote of New Hampshire.]

(Madison's Notes (Max Farrand, 1911), Pages 542-543, Vol. 2)

[To agree to the last question Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 533, Vol. 2)

[e674677] It was moved and seconded to agree to the follow'g amendment.

“But no Treaty of peace shall be entered into, whereby the United States shall be deprived of any of their present Territory or rights without the concurrence of two thirds of the Members of the Senate present

[Editors' note: Madison records Williamson and Spaight as the proposers.

It is possible that the Journal's version of the amendment includes a subsequent amendment with no comment as to when or how the change occurred. For this reason, the editors have removed 'or rights' from the text in order to concur with the text cited in King's subsequent amendment.]

(Official Journal (Max Farrand, 1911), Pages 533-534, Vol. 2)

Mr Williamson & Mr. Spaight moved “that no Treaty of Peace affecting Territorial rights shd be made without the concurrence of two thirds of the members of the Senate present.

(Madison's Notes (Max Farrand, 1911), Page 543, Vol. 2)

[e674678] Mr. King— It will be necessary to look out for securities for some other rights, if this principle be established; he moved to extend the motion to — “all present rights of the U. States”.

(Madison’s Notes (Max Farrand, 1911), Page 543, Vol. 2)

[e674679] The House adjourned

(Official Journal (Max Farrand, 1911), Page 534, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 543, Vol. 2)

Adjourned.

(McHenry’s Notes (Max Farrand, 1911), Page 543, Vol. 2)

[e674680] The House adjourned

(Official Journal (Max Farrand, 1911), Page 534, Vol. 2)

Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 543, Vol. 2)

Adjourned.

(McHenry’s Notes (Max Farrand, 1911), Page 543, Vol. 2)

1.91 Saturday, 08 September 1787, at 10:00 (s6278)

[e741732] The last Report of Committee of Eleven (see Sepr. 4) was resumed. Mr. King moved to strike out the “exception of Treaties of peace” from the general clause requiring two thirds of the Senate for making Treaties

(Madison’s Notes (Max Farrand, 1911), Page 547, Vol. 2)

It was moved and seconded to strike the words (“except Treaties of Peace”) out of the 4 sect. of the report.

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

[e741733] Mr. Wilson wished the requisition of two thirds to be struck out altogether If the majority cannot be trusted, it was a proof, as observed by Mr. Ghorum, that we were not fit for one Society.

(Madison’s Notes (Max Farrand, 1911), Pages 547-548, Vol. 2)

[e741735] A reconsideration of the whole clause was agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 548, Vol. 2)

[e741737] A reconsideration of the whole clause was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 548, Vol. 2)

[e741739] Mr. Govr. Morris was agst. striking out the "exception of Treaties of peace" If two thirds of the Senate should be required for peace, the Legislature will be unwilling to make war for that reason, on account of the Fisheries or the Mississippi, the two great objects of the Union. Besides, if a Majority of the Senate be for peace, and are not allowed to make it, they will be apt to effect their purpose in the more disagreeable mode, of negating the supplies for the war. Mr. Williamson remarked that Treaties are to be made in the branch of the Govt. where there may be a majority of the States without a majority of the people, Eight men may be a majority of a quorum, & should not have the power to decide the conditions of peace. There would be no danger, that the exposed States, as S. Carolina or Georgia, would urge an improper war for the Western Territory. Mr. Wilson If two thirds are necessary to make peace, the minority may perpetuate war, against the sense of the majority. Mr. Gerry enlarged on the danger of putting the essential rights of the Union in the hands of so small a number as a majority of the Senate, representing perhaps, not one fifth of the people. The Senate will be corrupted by foreign influence.

(Madison's Notes (Max Farrand, 1911), Page 548, Vol. 2)

[e741742] Mr. Sherman was agst leaving the rights, established by the Treaty of Peace, to the Senate, & moved to annex a "proviso that no such rights shd be ceded without the sanction of the Legislature. Mr Govr. Morris seconded the ideas of Mr Sherman. [Editors' note: The text for this amendment does not survive. The editors have approximated it as far as the record allows.]

(Madison's Notes (Max Farrand, 1911), Page 548, Vol. 2)

[e741876] [Editors' note: Sherman's amendment is never discussed further or voted upon, so the editors have dropped it from consideration.]

(2019 Editors)

[e741744] Mr. Madison observed that it had been too easy in the present Congress to make Treaties altho' nine States were required for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 548, Vol. 2)

[e741745] It was moved and seconded to strike the words ("except Treaties of Peace") out of the 4 sect. of the report. which passed in the affirmative. [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

On the question for striking "except Treaties of peace" N. H. ay. Mas. ay. Ct. ay. N. J. no. Pa. ay. Del. no. Md. no— Va. ay. N. C.— ay. S. C. ay. Geo— ay [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 548-549, Vol. 2)

[e741749] Mr. Wilson & Mr Dayton move to strike out the clause requiring two thirds of the Senate for making Treaties.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

It was moved and seconded to strike out the last clause of the 4 sect. of the report

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

[e741751] It was moved and seconded to strike out the last clause of the 4 sect. of the report which passed in the negative [Ayes — 1; noes — 9; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr. Wilson & Mr Dayton move to strike out the clause requiring two thirds of the Senate for making Treaties. — on which, N. H no— Mas— no— Ct. divid. N— J. no. Pa. no Del. ay. Md. no. Va. no. N. C. no S. C. no. Geo. no. [Ayes — 1; noes — 9; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741755] It was moved and seconded to agree to the following amendment. “two thirds of all the Members of the Senate to make a treaty”

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr Rutledge & Mr. Gerry moved that “no Treaty be made without the consent of of all the members of the Senate” — according to the example in the present Congs

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741770] Mr. Ghorum. There is a difference in the case, as the President's consent will also be necessary in the new Govt.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741763] On the question N— H. no— Mass no— (Mr. Gerry ay) Ct. no. N. J— no. Pa. no. Del. no. Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

It was moved and seconded to agree to the following amendment. “two thirds of all the Members of the Senate to make a treaty” which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

[e741768] It was moved and seconded to agree to the following amendment. “a majority of all the Members of the Senate to make a treaty”

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr. Sherman movd, that “no Treaty be made without a Majority of the whole number of the Senate — Mr. Gerry seconded him.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741771] Mr Williamson. This will be less security than as now required. Mr Sherman— It will be less embarrassing.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741773] It was moved and seconded to agree to the following amendment. "a majority of all the Members of the Senate to make a treaty" which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

On the question, it passed in the negative. N. H. no. Mas. ay. Ct. ay. N. J. no. Pa. no. Del. ay. Md. no. Va. no. N— C— no. S. C. ay. Geo. ay. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741776] It was moved and seconded to agree to the following amendment. "No Treaty shall be made unless two thirds of the whole number of Senators be present [Editors' note: Madison records himself as the proposer.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr. Madison movd. that a Quorum of the Senate consist of of all the members.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741777] Mr. Govr. Morris — This will put it in the power of one man to break up a Quorum. Mr. Madison, This may happen to any Quorum.

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741778] It was moved and seconded to agree to the following amendment. "No Treaty shall be made unless two thirds of the whole number of Senators be present which passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

On the Question it passed in the negative N. H. no. Mas. no. Ct. no. N. J. no. Pa. no— Del. no— Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 549, Vol. 2)

[e741784] It was moved and seconded to agree to the following amendment. "But no Treaty shall be made before all the Members of the Senate are summoned and shall have time to attend" [Editors' note: Madison records Williamson as the proposer and Gerry as the seconder.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr. Williamson & Mr Gerry movd. “that no Treaty shd. be made witht previous notice to the members, & a reasonable time for their attending.”

(Madison’s Notes (Max Farrand, 1911), Pages 549-550, Vol. 2)

[e741787] It was moved and seconded to agree to the following amendment. “But no Treaty shall be made before all the Members of the Senate are summoned and shall have time to attend” which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 544, Vol. 2)

Mr. Williamson & Mr Gerry movd. “that no Treaty shd. be made witht previous notice to the members, & a reasonable time for their attending.” On the Question All the States no, except N— C— S. C. & Geo. ay.

(Madison’s Notes (Max Farrand, 1911), Pages 549-550, Vol. 2)

[e741791] On a question on clause of the Report of the Come. of Eleven relating to Treaties by of the Senate. All the States were ay — except Pa N. J. & Geo. no.

(Madison’s Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e741794] [Editors’ note: As the Convention had finished reconsidering and amending the fifth clause of the Seventh Proposition, the amendments which were not taken forward were effectively dropped.]

(2019 Editors)

[e674705] It was moved and seconded to agree to the following amendment
“neither shall any appointment be made as aforesaid unless to offices established by the Constitution or by law

[Editors’ note: Madison records Gerry as the proposer.]

(Official Journal (Max Farrand, 1911), Pages 544-545, Vol. 2)

Mr. Gerry movd. that no officer shall be appd but to offices created by the Constitution or by law.”

(Madison’s Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674706] It was moved and seconded to agree to the following amendment
“neither shall any appointment be made as aforesaid unless to offices established by the Constitution or by law
which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Pages 544-545, Vol. 2)

Mr. Gerry movd. that no officer shall be appd but to offices created by the Constitution or by law.” — This was rejected as unnecessary by six no’s and five ays;

The Ayes. Mas. Ct. N. J. N. C. Geo. — Noes— N. H. Pa.: Del. Md Va. S. C. 5 [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674707] The clause referring to the Senate, the trial of impeachments agst. the President, for Treason & bribery, was taken up.

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674708] Col. Mason. Why is the provision restrained to Treason & bribery only? Treason as defined in the Constitution will not reach many great and dangerous offences. Hastings is not guilty of Treason. Attempts to subvert the Constitution may not be Treason as above defined— As bills of attainder which have saved the British Constitution are forbidden, it is the more necessary to extend: the power of impeachments. He movd. to add after “bribery” “or maladministration”. Mr. Gerry seconded him—

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674709] Mr Madison So vague a term will be equivalent to a tenure during pleasure of the Senate.

Mr Govr Morris, it will not be put in force & can do no harm— An election of every four years will prevent maladministration.

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674710] Col. Mason withdrew “maladministration” & substitutes “other high crimes & misdemeanors” agst. the State”

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674711] It was moved and seconded to insert the words

“or other high crimes and misdemeanors against the State” after the word “bribery”

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

Col. Mason withdrew “maladministration” & substitutes “other high crimes & misdemeanors” agst. the State”

(Madison's Notes (Max Farrand, 1911), Page 550, Vol. 2)

[e674712] It was moved and seconded to insert the words

“or other high crimes and misdemeanors against the State” after the word “bribery”

which passed in the affirmative [Ayes — 7; noes — 4.]

[Editors' note: Madison records a slightly different outcome on the vote. His record is as follows,

'On the question thus altered

N. H— ay. Mas. ay— Ct. ay. N. J. no Pa no. Del. no. Md ay. Va. ay. N. C. ay. S. C. ay.* Geo. ay. [Ayes — 8; noes — 3.]

* In the printed Journal. S. Carolina — no. '

(Page 550, Vol. 2, Madison's Notes (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674713] Mr. Madison, objected to a trial of the President by the Senate, especially as he was to be impeached by the other branch of the Legislature, and for any act which might be called a misdemeanour. The President under these circumstances was made improperly dependent. He would prefer the supreme Court for the trial of impeachments, or rather a tribunal of which that should form a part.

Mr Govr Morris thought no other tribunal than the Senate could be trusted. The Supreme Court were too few in number and might be warped or corrupted. He was agst. a dependence of the Executive on the Legislature, considering the Legislative tyranny the great danger to be apprehended; but there could be no danger that the Senate would say untruly on their oaths that the President was guilty of crimes or facts, especially as in four years he can be turned out. —

Mr Pinkney disapproved of making the Senate the Court of Impeachments, as rendering the President too dependent on the Legislature. If he opposes a favorite law, the two Houses will combine agst him, and under the influence of heat and faction throw him out of office.

Mr. Williamson thought there was more danger of too much lenity than of too much rigour towards the President, considering the number of cases in which the Senate was associated with the President —

Mr Sherman regarded the Supreme Court as improper to try the President, because the Judges would be appointed by him.

(Madison's Notes (Max Farrand, 1911), Pages 550-551, Vol. 2)

[e674714] On motion by Mr. Madison to strike out the words — “by the Senate” after the word “Conviction”

(Madison's Notes (Max Farrand, 1911), Page 551, Vol. 2)

It was moved and seconded to strike out the words
“by the Senate” after the word “conviction”

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674715] It was moved and seconded to strike out the words
“by the Senate” after the word “conviction”
which passed in the Negative [Ayes — 2; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

On motion by Mr. Madison to strike out the words — “by the Senate” after the word “Conviction”

N— H. no. Mas— no. Ct. no. N. J. no— Pa. ay— Del— no. Md. no. Va. ay— N. C. no. S— C— no. Geo. no. [Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 551, Vol. 2)

[e674716] In the amendment of Col: Mason just agreed to, the word “State” after the words misdemeanors against” was struck out, and the words “United States” inserted, unanimously in order to remove ambiguity—

(Madison's Notes (Max Farrand, 1911), Page 551, Vol. 2)

It was moved and seconded to strike out the word “State” after the word “against” and to insert the words “United States”

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674717] It was moved and seconded to strike out the word “State” after the word “against” and to insert the words “United States” which passed in the affirmative. [“unanimous”]

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

In the amendment of Col: Mason just agreed to, the word “State” after the words misdemeanors against” was struck out, and the words “United States” inserted, unanimously in order to remove ambiguity—

(Madison’s Notes (Max Farrand, 1911), Page 551, Vol. 2)

[e674718] On the question to agree to the last clause of the report. it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

On the question to agree to clause as amended,
N. H. ay. Mas. ay. Cont ay N. J. ay. Pa. no. Del. ay Md. ay— Va. ay.
N— C. ay. S. C. ay. Geo. ay [Ayes — 10; noes — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 551-552, Vol. 2)

[e674719] It was moved and seconded to add the following clause after the words “United States”

“The Vice President and other civil Officers of the United States shall be removed from Office on impeachment and conviction as aforesaid”

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

On motion “The vice-President and other Civil officers of the U. S. shall be removed from office on impeachment and conviction as aforesaid” was added to the clause on the subject of impeachments.

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

[e674720] It was moved and seconded to add the following clause after the words “United States”

“The Vice President and other civil Officers of the United States shall be removed from Office on impeachment and conviction as aforesaid” which passed in the affirmative [“unanimous”]

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

On motion “The vice-President and other Civil officers of the U. S. shall be removed from office on impeachment and conviction as aforesaid” was added to the clause on the subject of impeachments.

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

[e674721] The clause of the report made on the 5th. Sepr. & postponed was taken up, to wit — “All bills for raising revenue shall originate in the House of Representatives; and shall be subject to alterations and amendments by the Senate. No money shall be drawn from the Treasury but in consequence of appropriations made by law.”

It was moved to strike out the words “and shall be subject to alterations and amendments by the Senate” and insert the words used in the Constitution of Massachusetts on the same subject — “but the Senate may propose or concur with amendments as in other bills”

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

It was moved and seconded to amend the 3rd clause of the report, entered on the Journal of the 5 instant, to read as follows — instead of the 12 sect. 6 article.

“all Bills for raising revenue shall originate in the House of representatives: but the Senate may propose or concur with amendments as on other bills.” no money shall be drawn from the Treasury but in consequence of appropriations made by law.

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674722] It was moved to strike out the words “and shall be subject to alterations and amendments by the Senate” and insert the words used in the Constitution of Massachusetts on the same subject — “but the Senate may propose or concur with amendments as in other bills” — which was agreed too nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

It was moved and seconded to amend the 3rd clause of the report, entered on the Journal of the 5 instant, to read as follows — instead of the 12 sect. 6 article.

“all Bills for raising revenue shall originate in the House of representatives: but the Senate may propose or concur with amendments as on other bills.” no money shall be drawn from the Treasury but in consequence of appropriations made by law.

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674723] On the question On the first part of the clause — “All bills for raising revenue shall originate in the house of Representatives”*

N. H. ay. Mas. ay. Ct. ay. N. J. ay Pa. ay. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 2.]

*This was a conciliatory vote, the effect of the compromise formerly alluded to. See Note Wednesday Sepr. 5.

[Editors’ note: This ‘conciliatory note’ reads, ‘This explains the compromise mentioned above by Mr. Govr Morris- Col: Mason Mr. Gerry & other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high mounted Govt, endeavored to avail themselves, by making that

privilege, the price of arrangements in the constitution favorable to the small States, and to the elevation of the Government' (Page 514, Vol. 2 (Max Farrand, 1911)).

Though Madison describes this vote as pertaining to the first part of the Third Proposition, it would, in effect, confirm the entire proposition, as the Convention had just agreed to an amendment on the second part of the proposition.]

(Madison's Notes (Max Farrand, 1911), Page 552, Vol. 2)

all bills for raising revenue shall originate in the Ho of representatives Ayes — 9; noes — 2.

(Official Journal (Max Farrand, 1911), Page 545, Vol. 2)

[e674724] [Editors' note: Having debated, amended, and agreed all of the propositions of the Third Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole.]

(2019 Editors)

[e674725] [Editors' note: Having debated, amended, and agreed all of the propositions of the Third Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution.]

(2019 Editors)

[e674726] [Editors' note: Having debated, amended, and agreed all of the propositions of the Third Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution.]

(2019 Editors)

[e674727] [Editors' note: Having debated, amended, and agreed all of the propositions of the Third Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution. To clarify the timeline, the editors have dropped the original report, as it was no longer under consideration.]

(2019 Editors)

[e674728] It was moved and seconded to amend the 3rd clause of the report, entered on the Journal of the 4 instant, to read as follows

In the place of the 1st sect. 9 article. insert

"The Senate of the United States shall have power to try all impeachments: but no person shall be convicted without the concurrence of two thirds of the Members present: and every Member shall be on oath"

[Editors' note: Madison records Morris as the proposer.]

(Official Journal (Max Farrand, 1911), Pages 545-547, Vol. 2)

Mr. Govr Morris moved to add to clause (3) of the report made on Sept. 4. the words “and every member shall be on oath”

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

[e674729] It was moved and seconded to amend the 3rd clause of the report, entered on the Journal of the 4 instant, to read as follows

In the place of the 1st sect. 9 article. insert

“The Senate of the United States shall have power to try all impeachments: but no person shall be convicted without the concurrence of two thirds of the Members present: and every Member shall be on oath”

which passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Pages 545-547, Vol. 2)

Mr. Govr Morris moved to add to clause (3) of the report made on Sept. 4. the words “and every member shall be on oath” which being agreed to [...]

(Madison’s Notes (Max Farrand, 1911), Page 552, Vol. 2)

[e674730] [A] question taken on the clause so amended viz — “The Senate of the U. S. shall have power to try all impeachments: but no person shall be convicted without the concurrence of two thirds of the members present: and every member shall be on oath”

N. H. ay— Mas. ay. Ct. ay. N. J— ay. Pa. no— Del— ay— Md ay. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes —9; noes —2.]

(Madison’s Notes (Max Farrand, 1911), Pages 552-553, Vol. 2)

[e674731] Mr. Gerry repeated his motion above made on this day, in the form following “The Legislature shall have the sole right of establishing offices not herein provided for”.

(Madison’s Notes (Max Farrand, 1911), Page 553, Vol. 2)

It was moved and seconded to agree to the following clause

“The Legislature shall have the sole right of establishing offices not herein provided for”

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

[e674732] It was moved and seconded to agree to the following clause

“The Legislature shall have the sole right of establishing offices not herein provided for”

which passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

Mr. Gerry repeated his motion above made on this day, in the form following “The Legislature shall have the sole right of establishing offices not herein provided for”. which was again negatived: Mas. Cont. & Geo. only being ay.

(Madison’s Notes (Max Farrand, 1911), Page 553, Vol. 2)

[e674733] [Editors' note: Having debated, amended, and agreed all of the propositions of the Second Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole.]

(2019 Editors)

[e674734] [Editors' note: Having debated, amended, and agreed all of the propositions of the Second Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution. As a result of the report's changes, there are now two separate sections named Article X: Section 2.]

(2019 Editors)

[e674735] [Editors' note: Having debated, amended, and agreed all of the propositions of the Second Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution. As a result of the report's changes, there are now two separate sections named Article X: Section 2.]

(2019 Editors)

[e674736] [Editors' note: Having debated, amended, and agreed all of the propositions of the Second Report of the Committee of Postponed Matters, the Convention tacitly agreed the report as a whole. As a result, the report's propositions were taken into the draft Constitution. As a result of the report's changes, there are now two separate sections named Article X: Section 2. To clarify the timeline, the editors have dropped the original report, as it was no longer under consideration.]

(2019 Editors)

[e674737] Mr. McHenry observed that the President had not yet been anywhere authorized to convene the Senate, and moved to amend Art X. sect. 2. by striking out the words "He may convene them (the Legislature) on extraordinary occasions" & insert "He may convene both or either of the Houses on extraordinary occasions" — This he added would also provide for the case of the Senate being in Session at the time of convening the Legislature.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

It was moved and seconded to amend the 3rd clause of the 2nd sect. 10 article to read

"He may convene both or either of the Houses on extraordinary occasions"

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

[e674738] Mr. Wilson said he should vote agst the motion because it implied that the senate might be in Session, when the Legislature was not, which he thought improper.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

[e674739] It was moved and seconded to amend the 3rd clause of the 2nd sect. 10 article to read

“He may convene both or either of the Houses on extraordinary occasions”
which passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

On the question

N. H. ay— Mas. no. Ct. ay. N. J. ay. Pa. no. Del— ay. Md. ay. Va. no—
N. C. ay. S. C. no. Geo. ay. [Ayes — 7; noes — 4.]

(Madison’s Notes (Max Farrand, 1911), Page 553, Vol. 2)

[e674740] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House.

(Madison’s Notes (Max Farrand, 1911), Page 553, Vol. 2)

referred the printed paper etc to a committee of 5 to revise and place the several parts under their proper heads

(McHenry’s Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674741] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House

which passed in the affirmative

[Editors’ note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House.

(Madison’s Notes (Max Farrand, 1911), Page 553, Vol. 2)

referred the printed paper etc to a committee of 5 to revise and place the several parts under their proper heads

(McHenry’s Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674742] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House

which passed in the affirmative

And a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674743] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House which passed in the affirmative

And a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674744] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House which passed in the affirmative

And a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674745] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House which passed in the affirmative

And a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674746] It was moved and seconded to appoint a Committee of five to revise the style of and arrange the articles agreed to by the House

which passed in the affirmative

And a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674747] Mr. Williamson moved that previous to this work of the Committee the clause relating to the number of the House of Representatives shd. be reconsidered for the purpose of increasing the number.

Mr Madison 2ded. the Motion

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

To reconsider the number of representatives

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

[e674748] Mr. Sherman opposed it— he thought the provision on that subject amply sufficient.

Col: Hamilton expressed himself with great earnestness and anxiety in favor of the motion. He avowed himself a friend to a vigorous Government, but would declare at the same time, that he held it essential that the popular branch of it should be on a broad foundation. He was seriously of opinion that the House of Representatives was on so narrow a scale as to be really dangerous, and to warrant a jealousy in the people for their liberties. He remarked that the connection between the President & Senate would tend to perpetuate him, by corrupt influence. It was the more necessary on this account that a numerous representation in the other branch of the Legislature should be established.

(Madison's Notes (Max Farrand, 1911), Pages 553-554, Vol. 2)

[e674749] To reconsider the number of representatives

[Ayes — 5; noes — 6.]

[Editors' note: Both Farrand and Madison point out that Adams' printed Journal incorrectly ascribes this vote to the next session.]

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

On the motion of Mr. Williamson to reconsider, it was negatived,

N— H— no. Mas. no. Ct. no. N. J. no. Pa. ay. Del. ay. Md. ay. Va ay—
N. C. ay. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674750] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

Adjd

(Madison's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e674751] The House adjourned.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

Adjd

(Madison's Notes (Max Farrand, 1911), Page 554, Vol. 2)

1.92 Monday, 10 September 1787, at 10:00 (s6279)

[e740590] Mr Gerry moved to reconsider art XIX. viz, "On the application of the Legislatures of two thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the U. S. shall call a Convention for that purpose." (see Aug." 6.)

This Constitution he said is to be paramount to the State Constitutions. It follows, hence, from this article that two thirds of the States may obtain a Convention, a majority of which can bind the Union to innovations that may subvert the State-Constitutions altogether. He asked whether this was a situation proper to be run into—

(Madison's Notes (Max Farrand, 1911), Pages 557-558, Vol. 2)

It was moved and seconded to reconsider the 19th article

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e740593] Mr. Hamilton 2ded. the motion, but he said with a different view from Mr. Gerry— He did not object to the consequences stated by Mr. Gerry— There was no greater evil in subjecting the people of the U. S. to the major voice than the people of a particular State— It had been wished by many and was much to have been desired that an easier mode for introducing amendments

had been provided by the articles of Confederation. It was equally desirable now that an easy mode should be established for supplying defects which will probably appear in the new System. The mode proposed was not adequate. The State Legislatures will not apply for alterations but with a view to increase their own powers— The National Legislature will be the first to perceive and will be most sensible to the necessity of amendments, and ought also to be empowered, whenever two thirds of each branch should concur to call a Convention— There could be no danger in giving this power, as the people would finally decide in the case.

Mr Madison remarked on the vagueness of the terms, “call a Convention for the purpose.” as sufficient reason for reconsidering the article. How was a Convention to be formed? by what rule decide? what the force of its acts?

(Madison’s Notes (Max Farrand, 1911), Page 558, Vol. 2)

[e740591] It was moved and seconded to reconsider the 19th article which passed in the affirmative [Ayes — 9; noes — 1; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

On the motion of Mr. Gerry to reconsider

N. H. divd. Mas. ay— Ct. ay. N. J— no. Pa ay. Del. ay. Md. ay. Va. ay. N— C. ay. S. C. ay. Geo. ay. [Ayes — 9; noes — 1; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 558, Vol. 2)

[e741727] Mr. Sherman moved to add to the article “or the Legislature may propose amendments to the several States for their approbation, but no amendments shall be binding until consented to by the several States”

Mr. Gerry 2ded. the motion

[Editors’ note: The amendment text comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 558, Vol. 2)

It was moved and seconded to amend the 19 article by adding the following clause.

Or the Legislature may propose amendments to the several States, for their approbation, but no amendments shall be binding, until consented to by the several States.

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e741728] Mr. Wilson moved to insert “two thirds of” before the words “several States”— on which amendment to the motion of Mr. Sherman

(Madison’s Notes (Max Farrand, 1911), Page 558, Vol. 2)

It was moved and seconded to insert the words “two thirds of” before the words “the several States”

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e741729] It was moved and seconded to insert the words “two thirds of” before the words “the several States”

which passed in the negative [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

N. H. ay. Mas. no Ct. no. N. J. no Pa. ay— Del— ay Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison’s Notes (Max Farrand, 1911), Pages 558-559, Vol. 2)

[e741736] It was moved and seconded to insert the words “three fourths”

[Editors’ note: Madison records Wilson as the proposer.]

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

Mr. Wilson then moved to insert “three fourths of” before “the several Sts”

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 2)

[e741738] It was moved and seconded to insert the words “three fourths” which passed in the affirmative. [“unanimous”]

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

Mr. Wilson then moved to insert “three fourths of” before “the several Sts” which was agreed to nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 2)

[e741743] Mr. Madison moved to postpone the consideration of the amended proposition in order to take up the following,

“The Legislature of the U— S— whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Legislature of the U. S:”

Mr. Hamilton 2ded. the motion.

[Editors’ note: The Journal combines this motion with Rutledge’s subsequent amendment. However, the editors have used the Journal’s version of the text, cited here by Madison.]

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 2)

It was moved and seconded to postpone the consideration of the amendment in order to take up the following.

“The Legislature of the United States, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States, shall propose amendments to this Constitution which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Legislature of the United-States: Provided that no amendments which may be made prior to the year 1808. shall in any manner affect the 4th and 5th Sections of article the 7th

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e741746] Mr. Rutledge said he never could agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property and prejudiced against it. In order to obviate this objection, these words were added to the proposition: “* provided that no amendments which may be made prior to the year 1808. shall in any manner affect the 4 & 5 sections of the VII article”

* The Printed Journal makes the succeeding proviso as to sections 4 & 5 of art: VII, moved by Mr. Rutledge, part of the proposition of Mr. Madison.

[Editors’ note: The text for this amendment comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 2)

It was moved and seconded to postpone the consideration of the amendment in order to take up the following.

“The Legislature of the United States, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States, shall propose amendments to this Constitution which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Legislature of the United-States: Provided that no amendments which may be made prior to the year 1808. shall in any manner affect the 4th and 5th Sections of article the 7th

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e741747] Mr. Rutledge said he never could agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property and prejudiced against it. In order to obviate this objection, these words were added to the proposition: “* provided that no amendments which may be made prior to the year 1808. shall in any manner affect the 4 & 5 sections of the VII article”— The postponement being agreed to

* The Printed Journal makes the succeeding proviso as to sections 4 & 5 of art: VII, moved by Mr. Rutledge, part of the proposition of Mr. Madison.

[Editors’ note: None of the sources provides a vote count.]

(Madison’s Notes (Max Farrand, 1911), Page 559, Vol. 2)

On the question to postpone it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 555, Vol. 2)

[e741748] On the question to agree to the last amendment.

it passed in the affirmative [Ayes — 9; noes — 1; divided— 1.]

(Official Journal (Max Farrand, 1911), Pages 555-556, Vol. 2)

On the question On the proposition of Mr. Madison & Mr. Hamilton as amended

N. H. divd. Mas. ay. Ct. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va ay. N. C. ay S. C. ay. Geo. ay. [Ayes — 9; noes — 1; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 559, Vol. 2)

[e741750] [Editors' note: The Journal states that Madison's amendment was an amendment to Sherman's original motion. As Madison's proposal had been accepted, this event shows Sherman's original amendment as being accepted, though none of the sources provides a vote to confirm this.]

(2019 Editors)

[e741792] [Editors' note: Article 19 is implicitly re-adopted when Madison's amendment is adopted and the Convention proceeds to consider Articles 21 and 22.]

(2019 Editors)

[e741752] It was moved and seconded to reconsider the 21st and 22nd articles
[Editors' note: Madison states that Gerry proposed the reconsideration. He does not explicitly name a seconder but suggests that it was Hamilton.]

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

Mr. Gerry moved to reconsider art: XXI & XXII from the latter of which "for the approbation of Congs." had been struck out. He objected to proceeding to change the Government without the approbation of Congress as being improper and giving just umbrage to that body. He repeated his objections also to an annulment of the confederation with so little scruple or formality.

Mr. Hamilton concurred with Mr. Gerry as to the indecorum of not requiring the approbation of Congress.

(Madison's Notes (Max Farrand, 1911), Page 559-560, Vol. 2)

[e741753] Mr. Hamilton concurred with Mr. Gerry as to the indecorum of not requiring the approbation of Congress. He considered this as a necessary ingredient in the transaction. He thought it wrong also to allow nine States as provided by art XXI. to institute a new Government on the ruins of the existing one. He wd propose as a better modification of the two articles (XXI & XXII) that the plan should be sent to Congress in order that the same if approved by them, may be communicated to the State Legislatures, to the end that they may refer it to State Conventions; each Legislature declaring that if the convention of the State should think the plan ought to take effect among nine ratifying States, the same shd take effect accordingly.

Mr. Gorham— Some States will say that nine States shall be sufficient to establish the plan— others will require unanimity for the purpose— And the different and conditional ratifications will defeat the plan altogether.

Mr. Hamilton— No Convention convinced of the necessity of the plan will refuse to give it effect on the adoption by nine States. He thought this mode less exceptionable than the one proposed in the article, and would attain the same end,

Mr Fitzimmons remarked that the words "for their approbation" had been struck out in order to save Congress from the necessity of an Act inconsistent with the Articles of Confederation under which they held their authority.

Mr. Randolph declared if no change should be made in this part of the plan, he should be obliged to dissent from the whole of it. He had from the beginning he said been convinced that radical changes in the system of the Union were necessary. Under this conviction he had brought forward a set of republican propositions as the basis and outline of a reform. These Republican propositions had however, much to his regret been widely, and in his opinion, irreconcilably departed from — In this state of things it was his idea and he accordingly meant to propose, that the State Conventions shd. be at liberty to offer amendments to the plan, — and that these should be submitted to a second General Convention, with full power to settle the Constitution finally— He did not expect to succeed in this proposition, but the discharge of his duty in making the attempt, would give quiet to his own mind.

Mr. Wilson was against a reconsideration for any of the purposes which had been mentioned.

Mr King thought it would be more respectful to Congress to submit the plan generally to them; than in such a form as expressly and necessarily to require their approbation or disapprobation. The assent of nine States he considered as sufficient; and that it was more proper to make this a part of the Constitution itself, than to provide for it by a supplemental or distinct recommendation.

Mr. Gerry urged the indecency and pernicious tendency of dissolving in so slight a manner, the solemn obligations of the articles of confederation. If nine out of thirteen can dissolve the compact, Six out of nine will be just as able to dissolve the new one hereafter.

Mr. Sherman was in favor of Mr. King's idea of submitting the plan generally to Congress. He thought nine States ought to be made sufficient: but that it would be best to make it a separate act and in some such form as that intimated by Col: Hamilton, than to make it a particular article of the Constitution.

(Madison's Notes (Max Farrand, 1911), Pages 560-561, Vol. 2)

[e741754] It was moved and seconded to reconsider the 21st and 22nd articles which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

On the question for reconsidering the two articles. XXI & XXII —
N. H. divd. Mas. no Ct. ay. N. J. ay. Pa. no Del. ay. Md. ay— Va. ay. N. C. ay. S. C. no .Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 561, Vol. 2)

[e741757] Mr. Hamilton then moved to postpone art XXI in order to take up the following, containing the ideas he had above expressed. viz

Resolved that the foregoing plan of a Constitution be transmitted to the U. S. in Congress assembled, in order that if the same shall be agreed to by them, it may be communicated to the Legislatures of the several States, to the end that they may provide for its final ratification by referring the same to the Consideration of a Convention of Deputies in each State to be chosen by the people thereof, and that it be recommended to the said Legislatures in their respective acts for organizing such convention to declare, that if the said Convention shall

approve of the said Constitution, such approbation shall be binding and conclusive upon the State, and further that if the said Convention should be of opinion that the same upon the assent of any nine States thereto, ought to take effect between the States so assenting, such opinion shall thereupon be also binding upon such State, and the said Constitution shall take effect between the States assenting thereto”

Mr. Gerry 2ded. the motion.

[Editors’ note: The amendment text comes from the Journal. Both Madison and the Journal record this resolution as amending Article XXI. Madison also records that Hamilton proposed an amendment to Article XXII. It is possible that this resolution was intended to be divided, as it addresses the topics of both Articles. The division is likely to have been at ‘and further’. This is, however, only conjecture, so the editors have represented the whole resolution as amending Article XXI, as recorded.]

(Madison’s Notes (Max Farrand, 1911), Pages 561-562, Vol. 2)

It was moved and seconded to postpone the 21st article in order to take up the following.

Resolved that the foregoing plan of a Constitution be transmitted to the United States in Congress assembled in order that if the same shall be agreed to by them it may be communicated to the Legislatures of the several States to the end that they may provide for it’s final ratification by referring the same to the consideration of a Convention of Deputies in each State to be chosen by the People thereof, and that it be recommended to the said Legislatures in their respective acts for organizing such Convention to declare that, if the said Convention shall approve of the said Constitution, such approbation shall be binding and conclusive upon the State, and further that if the said Convention should be of opinion that the same upon the assent of any nine States thereto ought to take effect between the States so assenting — such opinion shall thereupon be also binding upon such State and the said Constitution shall take effect between the States assenting thereto.

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

[e741779] [Editors’ note: Madison records the following after the forthcoming vote on his first amendment:

’Col: Hamilton withdrew the remainder of the motion to postpone art XXII, observing that his purpose was defeated by the vote just given’. (Page 563, Vol. 2, Madison’s Notes (Max Farrand, 1911))

It is therefore likely that Hamilton proposed a second amendment, pertaining to Article XXII. As there is no text recorded for this amendment, it is impossible to recreate it. Though it is possible that Hamilton’s first amendment was intended to be divided, this hypothesis remains conjecture. The editors have represented it as a motion to strike out the 22nd Article. Its proposed placement is unknown.]

(2019 Editors)

[e741780] Mr. Wilson. This motion being seconded, it is necessary now to speak freely He expressed in strong terms his disapprobation of the expedient

proposed, particularly the suspending the plan of the Convention on the approbation of Congress. He declared it to be worse than folly to rely on the concurrence of the Rhode Island members of Congs. in the plan. Maryland had voted on this floor; for requiring the unanimous assent of the 13 States to the proposed change in the federal System. N— York has not been represented for a long time past in the Convention. Many individual deputies from other States have spoken much against the plan. Under these circumstances Can it be safe to make the assent of Congress necessary. After spending four or five months in the laborious & arduous task of forming a Government for our Country, we are ourselves at the close throwing insuperable obstacles in the way of its success.

Mr. Clymer thought that the mode proposed by Mr. Hamilton would fetter & embarrass Congs. as much as the original one, since it equally involved a breach of the articles of Confederation.

Mr. King concurred with Mr. Clymer. If Congress can accede to one mode, they can to the other. If the approbation of Congress be made necessary, and they should not approve, the State Legislatures will not propose the plan to Conventions; or if the States themselves are to provide that nine States shall suffice to establish the System, that provision will be omitted, every thing will go into confusion, and all our labor be lost.

Mr. Rutledge viewed the matter in the same light with Mr. King

(Madison's Notes (Max Farrand, 1911), Pages 562-563, Vol. 2)

[e741781] It was moved and seconded to postpone the 21st article in order to take up the following.

Resolved that the foregoing plan of a Constitution be transmitted to the United States in Congress assembled in order that if the same shall be agreed to by them it may be communicated to the Legislatures of the several States to the end that they may provide for it's final ratification by referring the same to the consideration of a Convention of Deputies in each State to be chosen by the People thereof, and that it be recommended to the said Legislatures in their respective acts for organizing such Convention to declare that, if the said Convention shall approve of the said Constitution, such approbation shall be binding and conclusive upon the State, and further that if the said Convention should be of opinion that the same upon the assent of any nine States thereto ought to take effect between the States so assenting — such opinion shall thereupon be also binding upon such State and the said Constitution shall take effect between the States assenting thereto.

On the question to postpone

it passed in the negative [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

On the question to postpone in order to take up Col: Hamiltons motion

N. H— no. Mas. no. Ct. ay. N. J. no. Pa. no. Del. no. Md. no. Va. no. N— C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 563, Vol. 2)

[e741782] On the question to agree to the 21st article

it passed in the affirmative [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

A Question being then taken on the article XXI. It was agreed to, unanimously.

(Madison's Notes (Max Farrand, 1911), Page 563, Vol. 2)

[e741783] Col: Hamilton withdrew the remainder of the motion to postpone art XXII, observing that his purpose was defeated by the vote just given;

(Madison's Notes (Max Farrand, 1911), Page 563, Vol. 2)

[e741785] It was moved and seconded to restore the words "for their approbation" to the 22nd article

[Editors' note: Madison records Williamson and Gerry as the proposers.]

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

[e741786] Mr. Williamson & Mr. Gerry moved to re-instate the words "for the approbation of Congress" in art: XXII. which was disagreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 563, Vol. 2)

It was moved and seconded to restore the words "for their approbation" to the 22nd article

it passed in the negative

(Official Journal (Max Farrand, 1911), Page 556, Vol. 2)

[e741788] Mr. Randolph took this opportunity to state his objections to the System. They turned on the Senate's being made the Court of Impeachment for trying the Executive — on the necessity of $\frac{3}{4}$ instead of $\frac{2}{3}$ of each house to overrule the negative of the President — on the smallness of the number of the Representative branch, — on the want of limitation to a standing army — on the general clause concerning necessary and proper laws — on the want of some particular restraint on Navigation acts — on the power to lay duties on exports — on the Authority of the general Legislature to interpose on the application of the Executives of the States — on the want of a more definite boundary between the General & State Legislatures — and between the General and State Judiciaries — on the the unqualified power of the President to pardon treasons — on the want of some limit to the power of the Legislature in regulating their own compensations. With these difficulties in his mind, what course he asked was he to pursue? Was he to promote the establishment of a plan which he verily believed would end in Tyranny? He was unwilling he said to impede the wishes and Judgment of the Convention— but he must keep himself free, in case he should be honored with a Seat in the Convention of his State, to act according to the dictates of his judgment. The only mode in which his embarrassments could be removed, was that of submitting the plan to Congs. to go from them to the State Legislatures, and from these to State Conventions having power to adopt reject or amend; the process to close with another general Convention with full power to adopt or reject the alterations proposed by the State Conventions, and

to establish finally the Government— He accordingly proposed a Resolution to this effect.

Docr Franklin 2ded. the motion

[Editors' note: The Journal does not mention this motion, and Madison does record its exact working. The editors have, therefore, approximated the text based on the contents suggested in Randolph's speech.]

(Madison's Notes (Max Farrand, 1911), Pages 563-564, Vol. 2)

[e741789] Col: Mason urged & obtained that the motion should lie on the table for a day or two to see what steps might be taken with regard to the parts of the system objected to by Mr Randolph

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 3)

[e741790] Col: Mason urged & obtained that the motion should lie on the table for a day or two to see what steps might be taken with regard to the parts of the system objected to by Mr Randolph

[Editors' note: None of the sources records a vote count.]

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 3)

[e741965] [Editors' note: The Convention never returns to Randolph's amendment so Article 22 is adopted back into the document.]

(2019 Editors)

[e674778] It was moved and seconded to refer the following to the Committee of revision.

"That it be an instruction to the Committee to prepare an address to the People to accompany the present constitution, and to be laid with the same before the United States in Congress."

[Editors' note: Madison records Pinckney as the proposer.]

(Official Journal (Max Farrand, 1911), Pages 556-557, Vol. 2)

Mr Pinkney moved "that it be an instruction to the Committee for revising the stile and arrangement of the articles agreed on, to prepare an Address to the people, to accompany the present Constitution, and to be laid with the same before the U— States in Congress"

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e674779] It was moved and seconded to refer the following to the Committee of revision.

"That it be an instruction to the Committee to prepare an address to the People to accompany the present constitution, and to be laid with the same before the United States in Congress."

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Pages 556-557, Vol. 2)

The motion itself was referred to the Committee. nem: con:

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e674780] Mr. Randolph moved to refer to the Committee also a motion relating to pardons in cases of Treason

[Editors' note: The Journal does not mention this motion, and Madison does record its exact working. The editors have, therefore, approximated the text based on the contents suggested in Randolph's speech.]

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e674781] Mr. Randolph moved to refer to the Committee also a motion relating to pardons in cases of Treason — which was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e674782] [Editors' note: As the Convention had appointed the Committee of Style and Arrangement, incorporated the several amended committee reports, and added amendments to the Committee of Detail's draft Constitution, the Convention referred the document to the Committee of Style and Arrangement for redrafting.]

(2019 Editors)

[e674783] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e674784] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

1.93 Tuesday, 11 September 1787, at 10:00 (s6280)

[e674785] The House met — but the Committee of revision not having reported, and there being no business before the Convention

The House adjourned.

(Official Journal (Max Farrand, 1911), Page 581, Vol. 2)

The report of the Committee of Stile & arrangement not being made & being waited for,

the House Adjourned

(Madison's Notes (Max Farrand, 1911), Page 581, Vol. 2)

[e674786] The House met — but the Committee of revision not having reported, and there being no business before the Convention

The House adjourned.

(Official Journal (Max Farrand, 1911), Page 581, Vol. 2)

The report of the Committee of Stile & arrangement not being made & being waited for,

the House Adjourned

(Madison's Notes (Max Farrand, 1911), Page 581, Vol. 2)

1.94 Wednesday, 12 September 1787, at 10:00 (s6281)

[e674787] The honorable Mr Johnson from the Committee of revision informed the House that the Committee were prepared to report the Constitution as revised and arranged.

The report was then delivered in at the Secretary's table—and having been once read throughout.

Ordered that the Members be furnished with printed copies thereof.

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

Docr. Johnson from the Committee of stile &c— reported a digest of the plan, of which printed copies were ordered to be furnished to the members

(Madison's Notes (Max Farrand, 1911), Page 585, Vol. 2)

[e674788] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

Docr. Johnson from the Committee of stile &c— reported a digest of the plan, of which printed copies were ordered to be furnished to the members— He also reported a letter to accompany the plan to, Congress. (here insert a transcript of the former from the annexed sheet as printed* and of the latter from the draft as finally agreed to

(Madison's Notes (Max Farrand, 1911), Page 585, Vol. 2)

[e674789] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674790] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674791] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order. The vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674792] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674793] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order. This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674794] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674795] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order. This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674796] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674797] The draught of a letter to Congress being at the same time reported — was read once throughout, and afterwards agreed to by paragraphs.

[Editors' note: In order to model this process, the editors have created a new version of the letter, onto which the individual paragraphs are proposed and agreed in order. This vote was likely unanimous.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674798] [Editors' note: As the Convention had agreed each clause, the editors have dropped the draft version of the letter, as it was no longer under consideration.]

(2019 Editors)

[e741966] Mr. Williamson moved to reconsider the clause requiring three fourths of each House to overrule the negative of the President, in order to strike out $\frac{3}{4}$ and insert . He had he remarked himself proposed $\frac{3}{4}$ instead of , but he had since been convinced that the latter proportion was the best. The former puts too much in the power of the President.

(Madison's Notes (Max Farrand, 1911), Page 585, Vol. 2)

It was moved and seconded to reconsider the 13th sect. of the 6th article

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e741967] It was moved and seconded to reconsider the 13th sect. of the 6th article which passed in the affirmative [Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e741968] It was moved and seconded to strike out the words three fourths and to insert the words "two thirds" in the 13 sect of the 6th article [Editors' note: Madison writes that Williamson moved the motion and implies that Sherman seconded the motion.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

Mr. Williamson moved to reconsider the clause requiring three fourths of each House to overrule the negative of the President, in order to strike out $\frac{3}{4}$ and insert . He had he remarked himself proposed $\frac{3}{4}$ instead of , but he had since been convinced that the latter proportion was the best. The former puts too much in the power of the President. Mr. Sherman was of the same opinion; adding that the States would not like to see so small a minority and the President, prevailing over the general voice. In making laws regard should be had to the sense of the people. who are to be bound by them, and it was more probable that a single man should mistake or betray this sense than the Legislature

(Madison's Notes (Max Farrand, 1911), Page 585, Vol. 2)

12 — amended the sect art from $\frac{3}{4}$ to , — as it stood in the printed report at first.

(McHenry's Notes (Max Farrand, 1911), Page 589, Vol. 2)

[e741969] Mr. Sherman was of the same opinion; adding that the States would not like to see so small a minority and the President, prevailing over the general voice. In making laws regard should be had to the sense of the people. who are to be bound by them, and it was more probable that a single man should mistake or betray this sense than the Legislature Mr Govr Morris. Considering the difference between the two proportions numerically, it amounts in one House to two members only; and in the other to not more than five, according to the numbers of which the Legislature is at first to be composed — It is the interest moreover of the distant States to prefer $\frac{3}{4}$ as they will be oftenest absent and need the interposing check of the President. The excess rather than

the deficiency of laws was to be dreaded. The example of N. York shows that is not sufficient to answer the purpose. Mr. Hamilton added his testimony to the fact that in N. York had been ineffectual either where a popular object, or a legislative faction operated; of which he mentioned some instances. Mr. Gerry. It is necessary to consider the danger on the other side also. will be a considerable, perhaps a proper security. $\frac{3}{4}$ puts too much in the power of a few men — The primary object of the revisionary check in the President is not to protect the general interest, but to defend his own department. If $\frac{3}{4}$ be required, a few Senators having hopes from the nomination of the President to offices, will combine with him and impede proper laws. Making the vice-President Speaker increases the danger, Mr. Williamson was less afraid of too few than of too many laws. He was most of all afraid that the repeal of bad laws might be rendered too difficult by requiring $\frac{3}{4}$ to overcome the dissent of the President. Col: Mason had always considered this as one of the most exceptionable parts of the System. As to the numerical argument of Mr. Govr. Morris, little arithmetic was necessary to understand that $\frac{3}{4}$ was more than , whatever the numbers of the Legislature might be. The example of New York depended on the real merits of the laws. The Gentlemen citing it, had no doubt given their own opinions. But perhaps there were others of opposite opinions who could equally paint the abuses on the other side. His leading view was to guard against too great an impediment to the repeal of laws. Mr. Govr. Morris dwelt on the danger to the public interest from the instability of laws, as the most to be guarded against. On the other side there could be little danger. If one man in office will not consent when he ought, every fourth year another can be substituted. This term was not too long for fair experiments. Many good laws are not tried long enough to prove their merit. This is often the case with new laws opposed to old habits. The Inspection laws of Virginia & Maryland to which all are now so much attached were unpopular at first. Mr. Pinkney was warmly in opposition to $\frac{3}{4}$ as putting a dangerous power in the hands of a few Senators headed by the President. Mr. Madison. When $\frac{3}{4}$ was agreed to, the President was to be elected by the Legislature and for seven years — He is now to be elected by the people and for four years. The object of the revisionary power is twofold. 1. to defend the Executive Rights 2. to prevent popular or factious injustice. It was an important principle in this & in the State Constitutions to check legislative injustice and inroachments. The Experience of the States had demonstrated that their checks are insufficient. We must compare the danger from the weakness of with the danger from the strength of $\frac{3}{4}$. He thought on the whole the former was the greater. As to the difficulty of repeals, it was probable that in doubtful cases the policy would soon take place of limiting the duration of laws so as to require renewal instead of repeal.

(Madison's Notes (Max Farrand, 1911), Pages 585-587, Vol. 2)

[e741970] It was moved and seconded to strike out the words three fourths and to insert the words "two thirds" in the 13 sect of the 6th article which passed in the affirmative [Ayes — 6; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e741971] [Editors' note: After Williamson's amendment to Article VI: Section 13 was adopted, the section was no longer under reconsideration, so the editors have adopted it back into the document.]

(2019 Editors)

[e674804] Mr. Williamson, observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it.

Mr. Gorham. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.

Mr. Gerry urged the necessity of Juries to guard agst. corrupt Judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by Juries.

Col: Mason perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, & would second a Motion if made for the purpose — It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours.

(Madison's Notes (Max Farrand, 1911), Pages 587-588, Vol. 2)

[e674805] Mr Gerry concurred in the idea & moved for a Committee to prepare a Bill of Rights. Col: Mason 2ded the motion.

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

It was moved and seconded to appoint a Committee to prepare a Bill of rights

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

[e674806] Mr. Sherman. was for securing the rights of the people where requisite. The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient — There are many cases where juries are proper which cannot be discriminated. The Legislature may be safely trusted.

Col: Mason. The Laws of the U. S. are to be paramount to State Bills of Rights. On the question for a Come to prepare a Bill of Rights

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

[e674807] It was moved and seconded to appoint a Committee to prepare a Bill of rights

which passed in the negative [Ayes — 0; noes — 10.]

[Editors' note: The Massachusetts delegation dropped below quorum for this vote and the rest of the session.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2)

N. H. no. Mas. abst. Ct no. N— J— no. Pa. no. Del— no. Md no. Va no. N— C. no. S— C— no— Geo— no. [Ayes — 0; noes — 10; absent — 1.]

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

[e741972] It was moved and seconded to reconsider the 13th article

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

The Clause relating to exports being reconsidered

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

[e741973] Pages 582-583, Vol. 2 It was moved and seconded to reconsider the 13th article in order to add the following clause at the end of the 13 article. "Provided nothing herein contained shall be construed to restrain any State from laying duties upon exports, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses in keeping the Commodities, in the care of public Officers, before exportation" It was agreed to reconsider [Editors' note: Farrand writes that 'Vote 512, Detail of Ayes and Noes, might be assigned to this question. Journal (p. 369) assigns Vote 513. Votes 512 and 513 may belong under September 13' (Page 583, Vol. 2, Official Journal (Max Farrand, 1911)). Because of this lack of certainly, the editors have not entered a vote count for this decision.]

(Official Journal (Max Farrand, 1911), Pages 582-583, Vol. 2)

The Clause relating to exports being reconsidered

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

[e741974] The Clause relating to exports being reconsidered, at the instance of Col: Mason, Who urged that the restriction on the States would prevent the incidental duties necessary for the inspection & safe-keeping of their produce, and be ruinous to the Staple States, as he called the five Southern States, he moved as follows — 'provided nothing herein contained shall be construed to restrain any State from laying duties upon exports for the sole purpose of defraying the Charges of inspecting, packing, storing and indemnifying the losses, in keeping the commodities in the care of public officers, before exportation,' In answer to a remark which he anticipated, to wit, that the States could provide for these expences, by a tax in some other way, he stated the inconveniency of requiring the Planters to pay a tax before the actual delivery for exportation. Mr Madison 2ded the motion — It would at least be harmless; and might have the good effect of restraining the States to bona fide duties for the purpose, as well as of authorizing explicitly such duties; tho' perhaps the best guard against an abuse of the power of the States on this subject, was the right in the Genl. Government to regulate trade between State & State. [Editors' note: The amendment text comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 588, Vol. 2)

It was moved and seconded to reconsider the 13th article in order to add the following clause at the end of the 13 article. "Provided nothing herein contained shall be construed to restrain any State from laying duties upon exports, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses in keeping the Commodities, in the care of public Officers, before exportation"

(Official Journal (Max Farrand, 1911), Page 582-583, Vol. 2)

[e741975] Mr Govr Morris saw no objection to the motion. He did not consider the dollar per Hhd laid on Tobo in Virga. as a duty on exportation, as no drawback would be allowed on Tobo. [tobacco] taken out of the Warehouse for internal consumption, Mr. Dayton was afraid the proviso wd. enable Pennsylv. to tax N. Jersey under the idea of Inspection duties of which Pena. would Judge. Mr. Gorham & Mr. Langdon, thought there would be no security if the proviso shd. be agreed to, for the States exporting thro' other States, agst. oppressions of the latter. How was redress to be obtained in case duties should be laid beyond the purpose expressed? Mr. Madison — There will be the same security as in other cases — The jurisdiction of the supreme Court must be the source of redress. So far only had provision been made by the plan agst. injurious acts of the States. His own opinion was, that this was insufficient, — A negative on the State laws alone. could meet all the shapes which these could assume. But this had been overruled. Mr Fitzimons. Incidental duties on Tobo. [tobacco] & flour. never have been & never can be considered as duties on exports —

(Madison's Notes (Max Farrand, 1911), Pages 588-589, Vol. 2)

[e741976] Mr Dickinson. Nothing will save States in the situation of N. Hampshire N Jersey Delaware &c. from being oppressed by their Neighbors, but requiring the assent of Congs to inspection duties, He moved that this assent shd accordingly be required Mr. Butler 2ded the motion. [Editors' note: None of the sources provides the exact wording of the amendment or its intended place within the text. For this reason, this amendment event is an editorial approximation.]

(Madison's Notes (Max Farrand, 1911), Page 589, Vol. 2)

[e674813] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 589, Vol. 2)

[e674814] Adjourned

(Madison's Notes (Max Farrand, 1911), Page 589, Vol. 2)

1.95 Thursday, 13 September 1787, at 10:00 (s6282)

[e674815] [Editors' note: Paterson left the Convention after the recess on 26 July. Farrand includes a letter from Brearly urging his return.

'Philadelphia 21 Aug. 1787.

I was in hopes after the Committee had reported, that we should have been able to have published by the first of September, at present I have no prospect of our getting through before the latter end of that month. Every article is again argued over, with as much earnestness and obstinacy as before it was committed. We have lately made a rule to meet at ten and sit 'til four, which is punctually complied with. Cannot you come down and assist us, — we have many reasons for desiring this; our duty, in the manner we now sit, is quite too hard for three, but a much stronger reason is, that we actually stand in need of your abilities.' (Page 73, Vol. 3, David Brearley to William Paterson, Appendix A (Max Farrand, 1911))

However, as demonstrated in his letter to Oliver Ellsworth, Paterson was reluctant to return to the Convention.

'New Brunswick, 23d. August, 1787.

What are the Convention about? When will they rise? Will they agree upon a System energetick and effectual, or will they break up without doing any Thing to the Purpose? Full of Disputation and noisy as the Wind, it is said, that you are afraid of the very Windows, and have a Man planted under them to prevent the Secrets and Doings from flying out. The Business, however, is detailed, I hope you will not have as much Altercation upon the Detail, as there was in getting the Principles of the System, if you should, Patridge himself, if Patridge was alive, would not be able to foretell the Time of your rising. I wish you much Speed, and that you may be full of good Works, the first mainly for my own Sake, for I dread going down again to Philada.—

My Compliments to all your Fellow-Labourers under the Same Roof—' (Page 236, William Paterson to Oliver Ellsworth, Supplement to the Records of the Federal Convention (James Hutson, 1987))

With this in mind, the editors assume that Paterson stayed away for as long as possible. He did return to sign the Constitution, but the exact day of his return is unknown.]

(2019 Editors)

Paterson, William, of New Jersey. Attended as early as May 25, and thereafter until July 23. There is no evidence of his attendance after that date. August 21, Brearley wrote urging him to return. He probably returned to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 2)

[e674816] The honorable Mr Johnson from the Committee of revision reported the following as a substitute for the 22nd and 23rd articles

Resolved that the preceeding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this Convention that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the recommendation of it's Legislature; for their assent and ratification. and that each Convention assenting to, and ratifying, the same should give notice thereof to the United States in Congress assembled.

Resolved that it is the opinion of this Convention that as soon as the Conventions of nine States, shall have ratified this Constitution, the United States in Congress assembled should fix a day, on which Electors should be appointed by the States which shall have ratified the same: and a day on which the Electors should assemble to vote for the President: and the Time and Place for commencing proceedings under this constitution That after such publication the electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the Day fixed for the Election of the President, and should transmit their votes certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and representatives should convene at the Time and place assigned, that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President; and that after he shall be chosen, the Congress together with the President should without delay proceed to execute this Constitution

(Official Journal (Max Farrand, 1911), Pages 604-605, Vol. 2)

[e674817] To postpone the report respecting the 22nd and 23rd

[Ayes — 9; noes — 1.]

[Editors' note: The Massachusetts delegation was not quorate for the early part of this session.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674818] Col. Mason — He had moved without success for a power to make sumptuary regulations. He had not yet lost sight of his object. After descanting on the extravagance of our manners, the excessive consumption of foreign superfluities, and the necessity of restricting it, as well with œconomical as republican views, he moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, œconomy frugality and american manufactures.

Docr Johnson 2ded the motion

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 2)

[e674819] Col. Mason — He had moved without success for a power to make sumptuary regulations. He had not yet lost sight of his object. After descanting on the extravagance of our manners, the excessive consumption of foreign superfluities, and the necessity of restricting it, as well with œconomical as republican views, he moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, œconomy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con:

(Madison's Notes (Max Farrand, 1911), Page 606, Vol. 2)

[e674820] and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674821] and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674822] and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674823] and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674824] and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e741977] It was moved and seconded to agree to the following amendment to the 13th article

Provided that no State shall be restrained from imposing the usual Duties on produce exported from such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public Officers: but all such regulations shall, in case of abuse, be subject to the revision and controul of Congress.

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

Col: Mason renewed his proposition of yesterday on the subject of inspection laws, with an additional clause giving to Congress a controul over them in case of abuse — as follows,

“Provided that no State shall be restrained from imposing the usual duties on produce exported from such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers: but all such regulations shall in case of abuse, be subject to the revision and controul of Congress —”

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e741978] It was moved and seconded to agree to the following amendment to the 13th article

Provided that no State shall be restrained from imposing the usual Duties on produce exported from such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public Officers: but all such regulations shall, in case of abuse, be subject to the revision and controul of Congress.

which passed in the affirmative. [Ayes — 7; noes — 3.]

[Editors' note: Massachusetts had regained its quorum, but New Jersey had briefly lost its representation.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

Col: Mason renewed his proposition of yesterday on the subject of inspection laws, with an additional clause giving to Congress a controul over them in case of abuse — as follows,

“Provided that no State shall be restrained from imposing the usual duties on produce exported from such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers: but all such regulations shall in case of abuse, be subject to the revision and controul of Congress —”

There was no debate & on the question

N— H— ay. Mas. ay. Ct. ay. Pa. no. Del. no. Md. ay. Va. ay. N— C— ay. S. C. no— Geo. ay. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674828] It was moved and seconded to proceed to the comparing of the report, from the Committee of revision, with the articles which were agreed to by the House; and to them referred for arrangement.

[Editors' note: As the Convention now moved on to consider the Constitution reported by the Committee of Style and Arrangement and compare it to the previous version, the editors assume that the Constitution proposed by the Committee of Detail was simultaneously accepted in its final form and the original report dropped from consideration. The editors have also shown the two outstanding amendments as being dropped at this stage.

Although the Journal states that 'the same was read by paragraphs', it seems that the Convention did not agree to each section individually, as neither Madison nor the Journal records such votes and the amendments occur in no particular order. It is logical to assume, therefore, that the document was considered as a whole, and amendments were made in the order they were thought up.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

The Report from the Committee of stile and arrangement, was taken up, in order to be compared with the articles of the plan as agreed to by the House & referred to the Committee, and to receive the final corrections and sanction of the Convention.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

Recd. read and compared the new printed report with the first printed amended report.

(McHenry's Notes (Max Farrand, 1911), Page 609, Vol. 2)

[e674829] It was moved and seconded to proceed to the comparing of the report, from the Committee of revision, with the articles which were agreed to by the House; and to them referred for arrangement.

which passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

The Report from the Committee of stile and arrangement, was taken up, in order to be compared with the articles of the plan as agreed to by the House & referred to the Committee, and to receive the final corrections and sanction of the Convention.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

Recd. read and compared the new printed report with the first printed amended report.

(McHenry's Notes (Max Farrand, 1911), Page 609, Vol. 2)

[e674830] The words “by lot” — were not in the Report as printed; but were inserted in manuscript, as a typographical error, departing from the text of the Report referred to the Committee of Style and arrangement...(punish) a typographical omission

[Editors’ note: Madison indicates that there were two errors in the printed copy of the report. These were corrected in both Madison’s and Washington’s copy of the printed report.]

(Madison’s Notes (Max Farrand, 1911), Page 591, Vol. 2)

[e674831] The words “by lot” — were not in the Report as printed; but were inserted in manuscript, as a typographical error, departing from the text of the Report referred to the Committee of Style and arrangement...(punish) a typographical omission

[Editors’ note: Madison indicates that there were two errors in the printed copy of the report. These were corrected in both Madison’s and Washington’s copy of the printed report.]

(Madison’s Notes (Max Farrand, 1911), Pages 591-595, Vol. 2)

[e674832] [Editors’ note: Jackson writes in the Journal, ‘It was moved and seconded to proceed to the comparing of the report, from the Committee of revision, with the articles which were agreed to by the House [...] and the same was read by paragraphs, compared, and in some places corrected and amended’ (Page 605, Vol. 2, Official Journal (Max Farrand, 1911)).

One of the differences found on comparison was in Article I: Section 7, regarding overruling a presidential veto. Williamson successfully made changes regarding the majorities needed in the Report of the Committee of Detail but not to the Report from the Committee of Style and Arrangement. There is no indication in the sources as to when the Convention made the change from ‘three fourths’ to ‘two thirds’. It is probable that this change occurred during the comparison.]

(2019 Editors)

[e674833] [Editors’ note: Jackson writes in the Journal, ‘It was moved and seconded to proceed to the comparing of the report, from the Committee of revision, with the articles which were agreed to by the House [...] and the same was read by paragraphs, compared, and in some places corrected and amended’ (Page 605, Vol. 2, Official Journal (Max Farrand, 1911)).

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(2019 Editors)

[e674834] To agree to add “for two years”

[Editors' note: This motion does not appear in Madison's notes, and the Journal gives no direction as to where the amendment should be inserted in the text. The editors have therefore placed the amendment in two places within the text, based on where it would make the most grammatical and legal sense. One of these is likely correct, but it is unclear which.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674835] To agree to add "for two years"

[Ayes — 1; noes — 10.]

[Editors' note: This motion does not appear in Madison's notes, and the Journal gives no direction as to where the amendment should be inserted in the text. The editors have therefore placed the amendment in two places within the text, based on where it would make the most grammatical and legal sense. One of these is likely correct, but it is unclear which.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674836] Art: 1— sect. 2— On motion of Mr. Randolph the word "servitude" was struck out, and "service" unanimously inserted, the former being thought to express the condition of slaves, & the latter the obligations of free persons.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

to insert "service" instead of "servitude"

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674837] Art: 1— sect. 2— On motion of Mr. Randolph the word "servitude" was struck out, and "service" unanimously inserted, the former being thought to express the condition of slaves, & the latter the obligations of free persons.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

to insert "service" instead of "servitude" Ayes — 11; noes — 0.

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674838] Mr Dickenson & Mr. Wilson moved to strike out "and direct taxes," from sect. 2. art. 1. as improperly placed in a clause relating merely to the Constitution of the House of Representatives.

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

To strike out the words "and direct taxes"

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674839] Mr. Govr. Morris. The insertion here was in consequence of what had passed on this point; in order to exclude the appearance of counting the Negroes in the Representation — The including of them may now be referred to the object of direct taxes, and incidentally only to that of Representation —

(Madison's Notes (Max Farrand, 1911), Page 607, Vol. 2)

[e674840] On the motion to strike out “and direct taxes” from this place

N— H— no— Mas— no— Ct. no. N— J— ay. Pa. no. Del. ay. Md ay. Va. no— N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Pages 607-608, Vol. 2)

To strike out the words “and direct taxes” Ayes — 3; noes — 8.

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674841] Art. 1. sect. 7.” — “if any bill shall not be returned by the president within ten days (sundays excepted) after it shall have been presented to him &c”

Mr. Madison, & moved to insert between “after” and “it,” in sect. 7. art. 1 the words “the day on which” — in order to prevent a question whether the day on which the bill be presented, ought to be counted or not as one of the ten days —

Mr Randolph 2ded the Motion.

(Madison’s Notes (Max Farrand, 1911), Page 608, Vol. 2)

[e674842] Mr. Governur Morris. The amendment is unnecessary. The law knows no fractions of days —

(Madison’s Notes (Max Farrand, 1911), Page 608, Vol. 2)

[e674843] A number of members being very impatient & calling for the question

N. H. no. Mas. no. Ct. no. N— J. no. Pa. ay. Del. no— Md ay— Va ay. N— C. no. S— C. no. Geo. no— [Ayes — 3; noes — 8.]

(Madison’s Notes (Max Farrand, 1911), Page 608, Vol. 2)

[e674844] To rescind the rule for adjournment

[Editors’ note: Only this fragment is recorded in the Journal, for which reason the extent of the rule change is unclear. However, the intent seems more obvious; with the Convention drawing to a close, it is likely that this alteration to the Rules and Standing Orders was an effort to allow the Convention to move to adjourn in order to adjust session lengths to the amount of outstanding business.

Though it is unclear, the editors have interpreted this amendment as referring only to the clause prohibiting motions to adjourn. As a result, the editors have shown the clause being struck out and the previous rule on adjournment reinstated.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674845] To rescind the rule for adjournment

[Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674846] To strike out the word “to” before establish justice

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674847] To strike out the word “to” before establish justice

[Ayes — 8; noes — 2.]

[Editors’ note: The Pennsylvania delegation dropped below quorum.]

(Official Journal (Max Farrand, 1911), Page 605, Vol. 2)

[e674848] Article first, second section, clause fifth. Strike out the word ‘they.’

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal adds several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order of these amendments is not recorded. As a result, the editors have placed this amendment in the timeline at the moment when it seems most likely to have taken place, based on the order in which Madison and the Journal note that the draft Constitution was considered.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674849] Article first, second section, clause fifth. Strike out the word ‘they.’

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal adds several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order of these amendments is not recorded. As a result, the editors have placed this amendment in the timeline at the moment when it seems most likely to have taken place, based on the order in which Madison and the Journal note that the draft Constitution was considered. None of the sources notes a vote on this amendment, though as it appears in the final Constitution, it was clearly accepted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674850] Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 609, Vol. 2)

[e674851] Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 609, Vol. 2)

1.96 Friday, 14 September 1787, at 10:00 (s6283)

[e674852] September 15

Dear Sir, Yesterday I was prevented by a severe Headache from attending in Convention, and I am now seeing off for Wilmington.

Some person mentioned to Me, that the Members were to give an Entertainment to the Gentlemen of the Town, from whom we have received Civilities. I therefore beg that You will apply the enclosed Bank bill for Me to that Use.

I am Sir Your sincere Friend John Dickinson

[Editors' note: While this letter informed Read of Dickinson's continued absence, Dickinson sent another note to Read on the same day:

'Mr. Dickinson presents his compliments to Mr. Read, and requests that if the constitution, formed by the convention, is to be signed by the members of that body, Mr. Read will be so good as to subscribe Mr. Dickinson's name — his indisposition and some particular circumstances requiring him to return home.

September 15th, 1787' (Page 81, Vol. 3, John Dickinson to George Read, Appendix A (Max Farrand, 1911)).]

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 274, John Dickinson to George Read, 15 September 1787)

[e674853] The report from the Committee of revision, as corrected and amended yesterday, being taken up, was read, debated by paragraphs, amended, and agreed to as far as the first clause of the 10 section of the first article inclusive

[Editors' note: The day before, the Convention began the task of reviewing the Report of the Committee of Style and Arrangement and comparing it to the amended Constitution proposed by the Committee of Detail. As a result, the Convention made several corrections and amendments. It appears, however, that it did not agree to each section individually, as neither Madison nor the Journal records such votes and the amendments occur in no particular order. It is logical to assume, therefore, that the document was considered as a whole, and amendments were made in the order they were thought up.

The Journal's only written note from 14 September is shown above. This note and Madison's detailed notes suggest that, at this point, the Convention decided to undertake a section by section consideration of the draft Constitution. In order to mimic this procedure, the editors have created a working document, onto which sections are proposed, amended, and agreed in order.

As the day's debate commenced with Article I: Section 3, the editors assume that the preceding sections had already been agreed.]

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

The Report of the Committee of stile & arrangement being resumed

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674854] [Editors' note: The day before, the Convention began the task of reviewing the Report of the Committee of Style and Arrangement and comparing it to the amended Constitution proposed by the Committee of Detail. As a result, the Convention made several corrections and amendments. It appears, however, that it did not agree to each section individually, as neither Madison nor the Journal records such votes and the amendments occur in no particular order. It is logical to assume, therefore, that the document was considered as a whole, and amendments were made in the order they were thought up.

The Journal's only written note from 14 September is shown above. This note and Madison's detailed notes suggest that, at this point, the Convention decided to undertake a section by section consideration of the draft Constitution. In order to mimic this procedure, the editors have created a working document, onto which sections are proposed, amended, and agreed in order.

As the day's debate commenced with Article I: Section 3, the editors assume that the Sections 1 and 2 had already been agreed.]

(2019 Editors)

[e674855] The Report of the Committee of stile & arrangement being resumed,

Mr. Williamson moved to reconsider in order to increase the number of Representatives fixed for the first Legislature. His purpose was to make an addition of one half generally to the number allotted to the respective States; and to allow two to the smallest States.

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

It was moved and seconded to reconsider the 3 clause of the 2d sect. 1st article

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

[e674856] The Report of the Committee of stile & arrangement being resumed,

Mr. Williamson moved to reconsider in order to increase the number of Representatives fixed for the first Legislature. His purpose was to make an addition of one half generally to the number allotted to the respective States; and to allow two to the smallest States.

On this motion

N. H. no— Mas. no. Ct no. N. J— no. Pa ay— Del. ay. Md ay. Va. ay. N C. ay. S— C. no. Geo. no [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

It was moved and seconded to reconsider the 3 clause of the 2d sect. 1st article which passed in the negative.

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

[e674857] Art. 1. sect. 3.

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674858] Art. 1. sect. 3. — the words *"by lot" were struck out nem: con: on motion of Mr. Madison, that some rule might prevail in the rotation that would prevent both the members from the same State from going out at the same time —

* "By lot" had been reinstated from the Report of five made Aug. 6. as a correction of the printed report by the Come of stile & arrangement.

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674859] Art. 1. sect. 3. — the words *"by lot" were struck out nem: con: on motion of Mr. Madison, that some rule might prevail in the rotation that would prevent both the members from the same State from going out at the same time —

* "By lot" had been reinstated from the Report of five made Aug. 6. as a correction of the printed report by the Come of stile & arrangement.

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674860] It was moved and seconded to add the words ‘which shall then fill such vacancies’ after the words ‘meeting of the Legislature’ in the 2d clause of the 3d sect. 1st article

[Editors’ note: This motion is crossed out in the Journal, though it was evidently agreed.]

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

[e674861] It was moved and seconded to add the words ‘which shall then fill such vacancies’ after the words ‘meeting of the Legislature’ in the 2d clause of the 3d sect. 1st article

which passed in the affirmative.

[Editors’ note: This motion is crossed out in the Journal, though it was evidently agreed.]

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

[e674862] “Ex officio” struck out of the same section as superfluous; nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674863] “Ex officio” struck out of the same section as superfluous; nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674864] In the beginning of the 4th clause of the 3rd section of the 1st Article, strike out the words — the vice-president of the United States, and instead of them insert — a vice-president of the United States shall be chosen in the manner hereinafter directed who

(Mason’s Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674865] In the beginning of the 4th clause of the 3rd section of the 1st Article, strike out the words — the vice-president of the United States, and instead of them insert — a vice-president of the United States shall be chosen in the manner hereinafter directed who

Refused

(Mason’s Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674866] and “or affirmation” after “oath” inserted also unanimously —

(Madison’s Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674867] and “or affirmation” after “oath” inserted also unanimously —

(Madison’s Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674868] Mr Rutlidge and Mr. Govr. Morris moved “that persons impeached be suspended from their office until they be tried and acquitted”

[Editors’ note: It is unclear from Madison’s notes where this amendment would have been placed in the text.]

(Madison’s Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674869] Mr. Madison — The President is made too dependent already on the Legislature, by the power of one branch to try him in consequence of an impeachment by the other. This intermediate suspension, will put him in the power of one branch only — They can at any moment, in order to make way for the functions of another who will be more favorable to their views, vote a temporary removal of the existing magistrate —

Mr. King concurred in the opposition to the amendment

(Madison's Notes (Max Farrand, 1911), Page 612, Vol. 2)

[e674870] On the question to agree to it

N— H. no. Mas. no— Ct. ay— N— J. no. Pa. no. Del— no. Md no. Va. no. N— C. no. S. C. ay, Geo. ay, [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Pages 612-613, Vol. 2)

[e674871] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 4. As the Journal noted that the draft was agreed by section, Section 3 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674872] Art. 1. sect. 4.

(Madison's Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674873] Art. 1. sect. 4. "except as to the places of choosing Senators" added nem: con: to the end of the first clause, in order to exempt the seats of Govt in the States from the power of Congress

(Madison's Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674874] Art. 1. sect. 4. "except as to the places of choosing Senators" added nem: con: to the end of the first clause, in order to exempt the seats of Govt in the States from the power of Congress

(Madison's Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674875] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 5. As the Journal noted that the draft was agreed by section, Section 4 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674876] Art. 1. Sect. 5. "Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy."

(Madison's Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674877] To reconsider the 1st clause of the 5 sect. 1st article

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

[e674878] To reconsider the 1st clause of the 5 sect. 1st article
 [Ayes — 4; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

[e674879] Col: Mason & Mr. Gerry moved to insert after the word “parts” the words “of the proceedings of the Senate” so as to require publication of all the proceedings of the House of Representatives.

(Madison’s Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674880] It was intimated on the other side that cases might arise where secrecy might be necessary in both Houses — Measures preparatory to a declaration of war in which the House of Reps. was to concur, were instanced.

(Madison’s Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674881] On the question, it passed in the negative

N. H. no. (Rh. Isd:) Mas. no. Con: no. (N. Y. abs) N. J. no. Pen. ay. Del— no. Mary. ay. Virg. no. N. C. ay. S. C. divd. Geor. no [Ayes — 3; noes — 7; divided — 1.]

[Editors’ note: Madison crossed out his original record of this vote, which read, ‘Seven States were in the Negative: three in the affirmative: one divided’ (Page 613, Vol. 2, Madison’s Notes (Max Farrand, 1911)). He then substituted his original account with that in angle brackets above. Farrand suggests that this substitution likely took place many years after the fact, when Madison revised his notes based on Adams’ printed copy of the Journal.]

(Madison’s Notes (Max Farrand, 1911), Page 613, Vol. 2)

[e674882] [Editors’ note: Madison’s notes indicate that the Convention moved on to consider Section 6. As the Journal noted that the draft was agreed by section, Section 5 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674883] [Editors’ note: Madison’s notes indicate that the Convention took Section 6 into consideration.]

(2019 Editors)

[e674884] Mr Baldwin observed that the clause. art. 1. sect 6. declaring that no member of Congs, “during the time for which he was elected; shall be appointed to any Civil office under the authority of the U. S. which shall have been created, or the emoluments whereof shall have been increased during such time”, would not extend to offices created by the Constitution; and the salaries of which would be created, not increased by Congs. at their first session — The members of the first Congs consequently might evade the disqualification in this instance. — He was neither seconded nor opposed; nor did any thing further pass on the subject.

(Madison’s Notes (Max Farrand, 1911), Pages 613-614, Vol. 2)

[e674885] [Editors' note: The records indicate that the Convention moved on to consider Section 7. As the Journal noted that the draft was agreed by section, Section 6 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674886] [Editors' note: The records suggest that the Convention took Section 7 into consideration.]

(2019 Editors)

[e674887] Article 1, Section 7, paragraph 1 — “The enacting stile . . . ” struck out.

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 1, Madison's Notes (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911))

[e674888] Article 1, Section 7, paragraph 1 — “The enacting stile . . . ” struck out.

[Editors' note: Farrand writes that Adam's 1819 version of the Journal adds several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments were proposed is unclear. As a result, the editors have placed this amendment at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly accepted.]

(Brearley Papers (Max Farrand, 1911))

[e674889] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 8. As the Journal noted that the draft was agreed by section, Section 7 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674890] Art I. sect. 8: To define & punish piracies and felonies on the high seas, and “punish” offences against the law of nations.

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674891] “The Congress may by joint ballot appointed a Treasurer”

Mr Rutledge moved to strike out this power, and let the Treasurer be appointed in the same manner with other officers.

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674892] Mr. Gorham & Mr. King said that the motion, if agreed, to would have a mischievous tendency. The people are accustomed & attached to that mode of appointing Treasurers, and the innovation will multiply objections to the System.

Mr. Govr. Morris remarked that if the Treasurer be not appointed by the Legislature, he will be more narrowly watched, and more readily impeached —

Mr. Sherman — As the two Houses appropriate money, it is best for them to appoint the officer who is to keep it; and to appoint him as they make the appropriation, not by joint, but several votes:

Genl Pinkney. The Treasurer is appointed by joint ballot in South Carolina. The consequence is that bad appointments are made, and the Legislature will not listen to the faults of their own officer.

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674893] To strike out the Treasurer
[Ayes — 8; noes — 3.]

(Detail of Ayes and Noes (Max Farrand, 1911), Page 611, Vol. 2)

On the motion to strike out

N. H— ay. Mas. no. Ct. ay. N. J. ay. Pa. no. Del— ay— Md ay. Va. no.
N— C. ay. S. C. ay. Geo— ay. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674894] Add at the end of the first clause of the eighth section, first article, 'but all duties, imposts and excises, shall be uniform throughout the United States.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

“but all such duties imposts & excises, shall be uniform throughout the U—
S—”

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674895] Add at the end of the first clause of the eighth section, first article, 'but all duties, imposts and excises, shall be uniform throughout the United States.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations

of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

“but all such duties imposts & excises, shall be uniform throughout the U—S—” was unanimously annexed to the power of taxation.

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674896] Article first, section eighth, clause third. After the word 'nations,' insert the word 'and.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674897] Article first, section eighth, clause third. After the word 'nations,' insert the word 'and.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674898] To reconsider ye 10 clause 8 sect. 1 Article

[Editors' note: The clause in question reads, 'To define and punish piracies and felonies committed on the high seas, and punish offences against the law of nations.']

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

[e674899] To reconsider ye 10 clause 8 sect. 1 Article

[Ayes — 8; noes — 3.]

[Editors' note: The clause in question reads, 'To define and punish piracies and felonies committed on the high seas, and punish offences against the law of nations.']

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

[e674900] Mr. Govr. Morris moved to strike out “punish” before the words “offences agst. the law of nations.” so as to let these be definable as well as punishable, by virtue of the preceding member of the sentence.

(Madison's Notes (Max Farrand, 1911), Page 614, Vol. 2)

[e674901] Mr. Wilson hoped the alteration would by no means be made. To pretend to define the law of nations which depended on the authority of all the Civilized Nations of the World, would have a look of arrogance. that would make us ridiculous.

Mr. Govr The word define is proper when applied to offences in this case; the law of nations being often too vague and deficient to be a rule.

(Madison's Notes (Max Farrand, 1911), Pages 614-615, Vol. 2)

[e674902] To strike out the word “punish”

[Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

On the question to strike out the word “punish” it passed in the affirmative
N— H. ay. Mas— no. Ct. ay. N— J. ay. Pa. no. Del. ay. Md. no. Va. no.
N . C— ay— S— C— ay. Geo— no. [Ayes — 6; noes — 5.]

(Madison's Notes (Max Farrand, 1911), Page 615, Vol. 2)

[e674903] Docr. Franklin moved to add after the words “post roads” Art I Sect. 8. “a power to provide for cutting canals where deemed necessary”

Mr Wilson 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 615, Vol. 2)

Moved by Dr. Franklin seconded by Mr. Willson, to empowed Congress to open and establish canals.

(McHenry's Notes (Max Farrand, 1911), Page 620, Vol. 2)

[e674904] Mr Sherman objected. The expence in such cases will fall on the U— States, and the benefit accrue to the places where the canals may be cut.

Mr Wilson. Instead of being an expence to the U. S. they may be made a source of revenue.

(Madison's Notes (Max Farrand, 1911), Page 615, Vol. 2)

[e674905] Mr. Madison suggested an enlargement of the motion into a power “to grant charters of incorporation where the interest of the U. S. might require & the legislative provisions of individual States may be incompetent”. His primary object was however to secure an easy communication between the States which the free intercourse now to be opened, seemed to call for— The political obstacles being removed, a removal of the natural ones as far as possible ought to follow. Mr. Randolph 2ded. the proposition.

(Madison’s Notes (Max Farrand, 1911), Page 615, Vol. 2)

This being objected to — moved by Virginia To empower Congress to grant charters of incorporation in cases where the U. S. may require them and where the objects of them cannot be obtained by a State.

(McHenry’s Notes (Max Farrand, 1911), Page 620, Vol. 2)

[e674906] Mr King thought the power unnecessary.

Mr Wilson. It is necessary to prevent a State from obstructing the general welfare.

Mr King— The States will be prejudiced and divided into parties by it— In Philada. & New York, It will be referred to the establishment of a Bank, which has been a subject of contention in those Cities. In other places it will be referred to mercantile monopolies.

Mr. Wilson mentioned the importance of facilitating by canals, the communication with the Western Settlements— As to Banks he did not think with Mr. King that the power in that point of view would excite the prejudices & parties apprehended. As to mercantile monopolies they are already included in the power to regulate trade.

Col: Mason was for limiting the power to the single case of Canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution as supposed by Mr. Wilson.

(Madison’s Notes (Max Farrand, 1911), Pages 615-616, Vol. 2)

[e674907] Col: Mason was for limiting the power to the single case of Canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution as supposed by Mr. Wilson.

The motion being so modified as to admit a distinct question specifying & limited to the case of canals.

[Editors’ note: As a result of Mason’s alterations to the motion on canals and charters of incorporation, the original motions by Franklin and Madison were effectively dropped in its favor.]

(Madison’s Notes (Max Farrand, 1911), Page 616, Vol. 2)

This being objected to — moved by Virginia To empower Congress to grant charters of incorporation in cases where the U. S. may require them and where the objects of them cannot be obtained by a State.

Negatived.

(McHenry’s Notes (Max Farrand, 1911), Page 620, Vol. 2)

[*e674908*] Col: Mason was for limiting the power to the single case of Canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution as supposed by Mr. Wilson.

The motion being so modified as to admit a distinct question specifying & limited to the case of canals.

[Editors' note: Madison suggests that the Mason's proposition resulted in splitting the clause into two sub-clauses, the first part of which relating to canals and the second of which is unspecified. The Journal provides further guidance and describes the vote on this motion as a vote 'to grant letters of incorporation for Canals &ca' (Page 611, Vol. 2, Detail of Ayes and Noes (Max Farrand, 1911)). The editors have approximated the text of this amendment based on this evidence.]

(Madison's Notes (Max Farrand, 1911), Page 616, Vol. 2)

provd that no Monopoly be granted or trading Co. established.

[Editors' note: Hutson writes that 'This motion, in an unidentified hand in the Pierce Butler Papers, may have been prepared on September 14 or 15, when both George Mason and Elbridge Gerry expressed apprehensions that the power to regulate trade could be construed to permit the creation of "mercantile monopolies"']

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 272, Vol. 2, Motion)

[*e674909*] [Editors' note: Madison suggests that the motion was split into two sub-clauses, the first part of which relating to canals and the second of which is unspecified. With little guidance as to the amendment's contents, the editors have changed Madison's original motion to be compatible with the supposed amendment on canals. It is possible that the two were not related quite so closely. The editors have followed a vote in the Journal 'to grant letters of incorporation for Canals &ca' (Page 611, Vol. 2, Detail of Ayes and Noes (Max Farrand, 1911)). Further, they considered Madison's stipulation that, following the defeat of this motion, the other part fell as well.]

(2019 Editors)

[*e674910*] To grant letters of incorporation for Canals &ca
[Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

The motion being so modified as to admit a distinct question specifying & limited to the case of canals.

N— H— no— Mas. no. Ct. no— N— J— no— Pa ay. Del. no— Md. no. Va. ay. N— C— no— S— C. no— Geo. ay. [Ayes — 3; noes — 8.]

The other part fell of course, as including the power rejected.

(Madison's Notes (Max Farrand, 1911), Page 616, Vol. 2)

[*e674911*] Mr. Madison & Mr. Pinkney then moved to insert in the list of powers vested in Congress a power — "to establish an University, in which no preferences or distinctions should be allowed on account of religion."

(Madison's Notes (Max Farrand, 1911), Page 616, Vol. 2)

Moved To authorize Congress to establish an university to which and the honors and emoluments of which all persons may be admitted without any distinction of religion whatever. Congress enabled to erect such an institution in the place of the general government. Thus Congress to possess exclusive jurisdiction.

(McHenry's Notes (Max Farrand, 1911), Page 620, Vol. 2)

[e674912] Mr Wilson supported the motion

Mr Govr Morris. It is not necessary. The exclusive power at the Seat of Government, will reach the object.

(Madison's Notes (Max Farrand, 1911), Page 616, Vol. 2)

[e674913] To establish an University

[Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

On the question

N. H. no— Mas. no. Cont. divd. Dr. Johnson ay— Mr. Sherman no. N. J— no. Pa ay. Del. no. Md. no. Va. ay. N— C— ay— S— C— ay. Geo— no. [Ayes — 4; noes — 6; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 616, Vol. 2)

Moved To authorize Congress to establish an university to which and the honors and emoluments of which all persons may be admitted without any distinction of religion whatever. Congress enabled to erect such an institution in the place of the general government. Thus Congress to possess exclusive jurisdiction.

Neg. 6 Noes. 3 ay. 1 State divided.

(McHenry's Notes (Max Farrand, 1911), Page 620, Vol. 2)

[e674914] Col: Mason, being sensible that an absolute prohibition of standing armies in time of peace might be unsafe, and wishing at the same time to insert something pointing out and guarding against the danger of them, moved to preface the clause (Art I sect. 8) "To provide for organizing, arming and disciplining the Militia &c" with the words "And that the liberties of the people may be better secured against the danger of standing armies in time of peace" Mr. Randolph 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Pages 616-617, Vol. 2)

[e674915] Mr Madison was in favor of it. It did not restrain Congress from establishing a military force in time of peace if found necessary; and as armies in time of peace are allowed on all hands to be an evil, it is well to discountenance them by the Constitution, as far as will consist with the essential power of the Govt. on that head.

Mr Govr. Morris opposed the motion as setting a dishonorable mark of distinction on the military class of Citizens

Mr Pinkney & Mr. Bedford concurred in the opposition.

(Madison's Notes (Max Farrand, 1911), Page 617, Vol. 2)

[e674916] On the question

N. H— no— Mas— no— Ct no. N— J— no. Pa. no. Del. no. Maryd no
Va ay— N. C. no. S. C. no. Geo. ay.

[Ayes — 2; noes — 9.]

(Madison's Notes (Max Farrand, 1911), Page 617, Vol. 2)

[e674917] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 9. As the Journal noted that the draft was agreed by section, Section 8 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674918] [Editors' note: The records suggest that the Convention took Section 9 into consideration.]

(2019 Editors)

[e674919] Article first, section ninth, clause first. Strike out the word 'several,' and between the words 'as' and 'the,' insert the words 'any of.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674920] Article first, section ninth, clause first. Strike out the word 'several,' and between the words 'as' and 'the,' insert the words 'any of.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674921] Col: Mason moved to strike out from the clause (art I sect 9.) "No bill of attainder nor any ex post facto law shall be passed" the words "nor any ex post facto law". He thought it not sufficiently clear that the prohibition meant by this phrase was limited to cases of a criminal nature— and no Legislature ever did or can altogether avoid them in Civil cases.

Mr. Gerry 2ded. the motion but with a view to extend the prohibition to “Civil cases”, which he thought ought to be done.

[Editors’ note: Farrand writes that the ‘Detail of Ayes and Noes, Vote 537, makes this a motion “to reconsider the ex post facto clause”, which is more in keeping with Gerry’s remarks in seconding it’ (Page 617, Vol. 2, Madison’s Notes (Max Farrand, 1911)). As a result, this motion is modelled as a procedural motion to reconsider and notes Mason’s intention to propose a major amendment should the reconsideration be agreed.]

(Madison’s Notes (Max Farrand, 1911), Page 617, Vol. 2)

[e674922] Col: Mason moved to strike out from the clause (art I sect 9.) “No bill of attainder nor any ex post facto law shall be passed” the words “nor any ex post facto law”. He thought it not sufficiently clear that the prohibition meant by this phrase was limited to cases of a criminal nature— and no Legislature ever did or can altogether avoid them in Civil cases.

[Editors’ note: Mason clearly intended to move this amendment had he succeeded in reopening the question. For this reason, the editors have shown it as being proposed alongside the motion to reconsider.]

(Madison’s Notes (Max Farrand, 1911), Page 617, Vol. 2)

[e674923] To reconsider the ex post facto clause

[Ayes — 0; noes — 11.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

[e674924] [Editors’ note: As the vote for reconsideration failed, Mason’s amendment was effectively dropped.]

(2019 Editors)

[e674925] Mr Pinkney & Mr. Gerry, moved to insert a declaration “that the liberty of the Press should be inviolably observed —”

[Editors’ note: The Journal and McHenry’s notes challenge Madison’s account of this amendment text. McHenry writes that it was ‘Moved — And the liberty of the press shall be inviolable’ (Page 620, Vol. 2, McHenry’s Notes (Max Farrand, 1911)); the Journal records that it was moved ‘to insert The liberty of the Press shall be inviolably preserd’ (Page 611, Vol. 2, Official Journal (Max Farrand, 1911)). The editors prefer the Journal’s version, as it is corroborated by McHenry.

As a free press was often linked by contemporaries with the preservation of habeas corpus as a fundamental protection of the people, the amendment is placed after the habeas corpus clause. McHenry’s use of ‘and’ is also suggestive and has been incorporated into the amendment text here.]

(Madison’s Notes (Max Farrand, 1911), Page 617, Vol. 2)

[e674926] Mr. Sherman— It is unnecessary— The power of Congress does not extend to the Press.

(Madison’s Notes (Max Farrand, 1911), Pages 617-618, Vol. 2)

[e674927] To insert The liberty of the Press shall be inviolably preserved

[Ayes — 5; noes — 6.]

[Editors' note: Madison records New Hampshire as voting against the amendment. However, both McHenry and the Journal record New Hampshire as voting in favor.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

On the question, it passed in the negative

N— H— no—* Mas— ay— Ct no. N— J. no. Pa no. Del. no. Md ay. Va. ay. N. C. no. S. C. ay. Geo— no. [Ayes — 4; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

Moved — And the liberty of the press shall be inviolable. 6 noes. 5 ays.

(McHenry's Notes (Max Farrand, 1911), Page 620, Vol. 2)

[e674928] Alter the third clause so as to read, 'no bill of attainder, or ex post facto law shall be passed.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674929] Alter the third clause so as to read, 'no bill of attainder, or ex post facto law shall be passed.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

[e674930] Art. I. Sect. 9. "no capitation tax shall be laid, unless &c"

Mr Read moved to insert after "capitation" the words. "or other direct tax" He was afraid that some liberty might otherwise be taken to saddle the States with a readjustment by this rule, of past Requisitions of Congs — and that his amendment by giving another cast to the meaning would take away the pretext. Mr Williamson 2ded. the motion, which was agreed to,

[Editors' note: The punctuation comes from the final version of the Constitution.]

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674931] Art. I. Sect. 9. "no capitation tax shall be laid, unless &c"

Mr Read moved to insert after "capitation" the words. "or other direct tax" He was afraid that some liberty might otherwise be taken to saddle the States with a readjustment by this rule, of past Requisitions of Congs — and that his amendment by giving another cast to the meaning would take away the pretext. Mr Williamson 2ded. the motion, which was agreed to,

[Editors' note: None of the sources provides a vote count.]

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674932] On motion of Col: Mason "or enumeration" inserted after, as explanatory of "Census"

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674933] To insert the words "or enumeration"

[Ayes — 8; noes — 2.]

[Editors' note: The Massachusetts delegation fell below quorum for this vote.]

(Official Journal (Max Farrand, 1911), Page 611, Vol. 2)

On motion of Col: Mason "or enumeration" inserted after, as explanatory of "Census" Con. & S. C. only. no.

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674934] At the end of the clause "no tax or duty shall be laid on articles exported from any State" was added the following amendment conformably to a vote on the _____ day of viz — no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State, be obliged to enter, clear or pay duties in another.

[Editors' note: The day that Madison alludes to is probably 31 August, when the Report of the Committee on Commercial Discrimination – the committee that proposed this clause – was adopted.

Farrand writes that 'this paragraph [in Madison's notes] is possibly a later insertion. If so it was taken from Journal' (Page 618, Vol. 2, Madison's Notes (Max Farrand, 1911)). Adams' printed Journal contains the following record of this amendment, created on observation of Brearly's copy of the Report of the Committee of Style and Arrangement:

'Add at the end of the fifth clause of the ninth section, first article, "no preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another. Nor shall vessels bound to or from one state, be obliged to enter, clear or pay duties in another."' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911))

(Madison's Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674935] [Editors' note: This amendment was clearly adopted, as it is appears in the final Constitution.]

(2019 Editors)

[e674936] Add at the end of the sixth clause of the ninth section, first article, ‘and a regular statement and account of the receipts and expenditures of all publick money shall be published annually.’

[Editors’ note: The text for this amendment comes from Brearly’s copy of the amended Report of the Committee of Style and Arrangement, which Farrand includes in his Records (1911).

Madison also records this amendment as being proposed by Mason with Gerry’s support, but he does not record the exact text in his notes. Farrand presents the amendment in its final form, but Madison notes that there was an amendment to the motion. The editors have used the original text here.]

(Brearley Papers (Max Farrand, 1911))

Col. Mason moved a clause requiring “that an Account of the public expenditures should be annually published” Mr Gerry 2ded. the motion

(Madison’s Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674937] Mr Govr. Morris urged that this wd. be impossible in many cases.

Mr. King remarked, that the term expenditures went to every minute shilling. This would be impracticable. Congs. might indeed make a monthly publication, but it would be in such general Statements as would afford no satisfactory information.

(Madison’s Notes (Max Farrand, 1911), Page 618, Vol. 2)

[e674938] Mr. Madison proposed to strike out “annually” from the motion & insert “from time to time”. which would enjoin the duty of frequent publications and leave enough to the discretion of the Legislature. Require too much and the difficulty will beget a habit of doing nothing. The articles of Confederation require half-yearly publications on this subject— A punctual compliance being often impossible, the practice has ceased altogether—

Mr Wilson 2ded. & supported the motion— Many operations of finance cannot be properly published at certain times.

(Madison’s Notes (Max Farrand, 1911), Pages 618-619, Vol. 2)

[e674939] Mr, Pinkney was in favor of the motion.

Mr. Fitzimmons— It is absolutely impossible to publish expenditures in the full extent of the term.

Mr. Sherman thought “from time to time” the best rule to be given.

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674940] “Annual” was struck out — & those words — inserted nem: con:

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674941] The motion of Col. Mason so amended was then agreed to nem: con: and added after — “appropriations by law as follows— “And a regular statement and account of the recepits & expenditures of all public money shall be published from time to time.”

(Madison's Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674942] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 10. As the Journal indicated that the draft was agreed by section, Section 9 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e674943] [Editors' note: The records suggest that the Convention took Section 10 into consideration.]

(2019 Editors)

[e674944] In the 1st clause of the 10th section of the same Article strike out ex post facto laws — and after the words obligation of insert — previous.

(Mason's Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674945] In the 1st clause of the 10th section of the same Article strike out ex post facto laws — and after the words obligation of insert — previous. refused
[Editors' note: Mason does not provide a vote count.]

(Mason's Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674946] Article first, section tenth, clause first, was variously amended, to read as follows: 'No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make any thing but gold or silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.'

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

It seems likely that there were several smaller amendments which reshaped this clause, but there is no record of those changes. Madison's version of the text, for instance, contains 'gold and silver' rather than 'gold or silver', which is corroborated by Washington's copy of the draft and the final Constitution. For this reason, the editors have used 'gold and silver' here.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

The first clause of Art I. sect 10 — was altered so as to read— “No State shall enter into any Treaty alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold & silver coin a tender in payment of debts; pass any bill of attainder, ex post law, or law impairing the obligation of contracts, or grant any title of nobility.”

(Madison's Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674947] Article first, section tenth, clause first, was variously amended, to read as follows: ‘No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make any thing but gold or silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.’

[Editors’ note: Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2, Official Journal (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

It seems likely that there were several smaller amendments which reshaped this clause, but there is no record of those changes. There is no record of a vote on this amendment, but as the change appears in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 610, Vol. 2)

The first clause of Art I. sect 10 — was altered so as to read— “No State shall enter into any Treaty alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold & silver coin a tender in payment of debts; pass any bill of attainder, ex post law, or law impairing the obligation of contracts, or grant any title of nobility.”

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674948] Mr Gerry entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts — Alledging that Congress ought to be laid under the like prohibitions. he made a motion to that effect. He was not 2ded

[Editors’ note: Madison does not record the exact amendment text or its intended place within the Constitution. The editors have attempted the approximate it as far as the record allows.]

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674949] Mr Gerry entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts — Alledging that Congress ought to be laid under the like prohibitions. he made a motion to that effect. He was not 2ded

[Editors’ note: The motion was dropped for lack of a second.]

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

[e674950] Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 619, Vol. 2)

The House adjourned.

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

[e674951] Adjourned.

(Madison's Notes (Max Farrand, 1911), Page 619, Vol. 2)

The House adjourned.

(Official Journal (Max Farrand, 1911), Page 610, Vol. 2)

1.97 Saturday, 15 September 1787, at 10:00 (s6284)

[e674952] Mr. Carrol reminded the House that no address to the people had yet been prepared. He considered it of great importance that such an one should accompany the Constitution. The people had been accustomed to such on great occasions, and would expect it on this— He moved that a Committee be appointed for the special purpose of preparing an Address.

(Madison's Notes (Max Farrand, 1911), Pages 622-623, Vol. 2)

To address the People

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674953] Mr Rutledge objected on account of the delay it would produce and the impropriety of addressing the people before it was known whether Congress would approve and support the plan— Congress, if an address be thought proper can prepare as good a one— The members of the Convention can also explain the reasons of what has been done to their respective Constituents.

Mr Sherman concurred in the opinion that an address was both unnecessary and improper.

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

[e674954] On the motion of Mr. Carrol

N— H. no. Mas. no— Ct. no. N— J— no. Pa ay. Del. ay. Md. ay— Va. ay. N— C.* abst. S. C. no.* Geo. no— [Ayes — 4; noes — 6; absent — 1.]

* In the printed Journal N. Carolina— no & S. Carol: omitted.

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

New Hampshire: no, Massachusetts: no, Rhode Island: —, Connecticut: no, New York: —, New Jersey: no, Pennsylvania: aye, Delaware: aye, Maryland: aye, Virginia: aye, North Carolina: no, South Carolina: —, Georgia: no, Question: To address the People, ayes: 4, noes: 6, divided: —

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e742112] Mr. Langdon. Some gentlemen have been very uneasy that no increase of the number of Representatives has been admitted. It has in particular been thought that one more ought to be allowed to N. Carolina. He was of opinion that an additional one was due both to that State & to Rho: Island. & moved to reconsider for that purpose.

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

To reconsider the 3rd clause, 2nd sect. 1st Article

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e742113] Mr. Sherman. When the Committee of eleven reported the apportionment—five Representatives were thought the proper share of N— Carolina. Subsequent information however seemed to entitle that State to another—

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

[e742114] On the motion to reconsider

N— H— ay— Mas— no. Ct ay— N— J. no— Pen. divd. Del. ay. Md. ay. Va. ay— N. C. ay. S— C. ay. Geo. ay. [Ayes — 8; noes — 2; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

New Hampshire: aye, Massachusetts: no, Rhode Island: —, Connecticut: aye, New York: —, New Jersey: no, Pennsylvania: dd, Delaware: aye, Maryland: aye, Virginia: aye, North Carolina: aye, South Carolina: aye, Georgia: aye, Question: To reconsider the 3rd clause, 2nd sect. 1st Article, ayes: 8, noes: 2, divided: 1

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674958] To add a Member to Rhode Island

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

Mr Langdon moved to add 1 member to each of the Representations of N— Carolina & Rho: Island.

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

[e674959] To add a Member to North Carolina

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

Mr Langdon moved to add 1 member to each of the Representations of N— Carolina & Rho: Island.

(Madison's Notes (Max Farrand, 1911), Page 623, Vol. 2)

[e674960] Mr. King was agst. any change whatever as opening the door for delays. There had been no official proof that the numbers of N— C are greater than before estimated. And he never could sign the Constitution if Rho: Island is to be allowed two members that is, one fourth of the number allowed to Massts, which will be known to be unjust.

(Madison's Notes (Max Farrand, 1911), Pages 623-624, Vol. 2)

[e674961] Mr. Pinkney urged the propriety of increasing the number of Reps allotted to N. Carolina.

(Madison's Notes (Max Farrand, 1911), Pages 623-624, Vol. 2)

[e674962] Mr. Bedford contended for an increase in favor of Rho: Island, and of Delaware also

(Madison's Notes (Max Farrand, 1911), Page 624, Vol. 2)

[e674963] On the question for allowing two Reps. to Rho: Island it passed in the negative

N. H— ay. Mas. no. Ct. no. N. J. no. Pa. no. Del. ay. Md. ay. Va. no. N. C— ay. S. C. no— Geo— ay. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 624, Vol. 2)

New Hampshire: aye, Massachusetts: no, Rhode Island: —, Connecticut: no, New York: —, New Jersey: no, Pennsylvania: no, Delaware: aye, Maryland: aye, Virginia: no, North Carolina: aye, South Carolina: no, Georgia: aye, Question: To add a Member to Rhode Island, ayes: 5, noes: 6, divided: —

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674964] On the question for allowing six to N. Carolina, it passed in the negative

N.H. no. Mas. no. Ct. no—N. J. no. Pa. no. Del— no—Md. ay. Va. ay. N—C. ay. S— C. ay. Geo. ay. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Page 624, Vol. 2)

New Hampshire: no, Massachusetts: no, Rhode Island: —, Connecticut: no, New York: —, New Jersey: no, Pennsylvania: no, Delaware: no, Maryland: aye, Virginia: aye, North Carolina: aye, South Carolina: aye, Georgia: aye, Question: To add a Member to North Carolina, ayes: —, noes: —, divided: —

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674965] Art 1. sect. 10. (paragraph) 2) “No State shall, without the consent of Congress lay imposts or duties on imports or exports; nor with such consent, but to the use of the Treasury of the U. States” —

In consequence of the proviso moved by Col: Mason: and agreed to on the 13 Sepr, this part of the section was laid aside in favor of the following substitute viz. “No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its Inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the U— S—; and all such laws shall be subject to the revision and controul of the Congress”

(Madison's Notes (Max Farrand, 1911), Page 624, Vol. 2)

[e674966] On a motion to strike out the last part “and all such laws shall be subject to the revision and controul of the Congress”

(Madison's Notes (Max Farrand, 1911), Page 624, Vol. 2)

[e674967] On a motion to strike out the last part “and all such laws shall be subject to the revision and controul of the Congress” it passed in the Negative.

N. H. no. Mas. no. Ct no— N. J. no. Pa divd. Del. no. Md. no Va ay— N— C— ay. S. C. no Geo. ay. [Ayes — 3; noes — 7; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 624, Vol. 2)

New Hampshire: no, Massachusetts: no, Rhode Island: — Connecticut: no, New York: —, New Jersey: no, Pennsylvania: dd, Delaware: no, Maryland: no, Virginia: aye, North Carolina: aye, South Carolina: no, Georgia: aye, Question: —, ayes: 3, noes: 7, divided: 1

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674968] The substitute was then agreed to: Virga. alone being in the Negative.

[Editors’ note: Farrand writes that Madison had ’taken [this vote count] from the Journal, which ascribes Vote 545, Detail of Ayes and Noes, to this question. The correctness of this is doubtful’ (Page 624, Vol. 2 (Max Farrand, 1911)). In the absence of any other evidence, however, the editors have used this vote count.]

(Madison’s Notes (Max Farrand, 1911), Page 624, Vol. 2)

[e674969] Maryland moved.

No State shall be prohibited from laying such duties of tonnage as may be sufficient for improving their harbors and keeping up lights, but all acts laying such duties shall be subject to the approbation or repeal of Congress.

[Editors’ note: Madison records McHenry as the proposer and Carroll as the seconder. He also suggests that the amendment pertained to ’the remainder of the paragraph’ under consideration.]

(McHenry’s Notes (Max Farrand, 1911), Page 633, Vol. 2)

The remainder of the paragraph being under consideration — viz — “nor keep troops nor ships of war in time of peace, nor enter into any agreement or compact with another State, nor with any foreign power. Nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of delay, until Congress can be consulted”

Mr. McHenry & Mr. Carrol moved that “no State shall be restrained from laying duties of tonnage for the purpose of clearing harbours and erecting light-houses”.

(Madison’s Notes (Max Farrand, 1911), Pages 624-625, Vol. 2)

[e674970] Col. Mason in support of this explained and urged the situation of the Chesapeak which peculiarly required expences of this sort.

Mr. Govr. Morris. The States are not restrained from laying tonnage as the Constitution now Stands. The exception proposed will imply the Contrary, and will put the States in a worse condition than the gentleman (Col Mason) wishes.

Mr. Madison. Whether the States are now restrained from laying tonnage duties depends on the extent of the power “to regulate commerce”. These terms are vague but seem to exclude this power of the States— They may certainly be restrained by Treaty. He observed that there were other objects for tonnage Duties as the support of Seamen &c. He was more & more convinced that the regulation of Commerce was in its nature indivisible and ought to be wholly under one authority.

Mr. Sherman. The power of the U. States to regulate trade being supreme can controul interferences of the State regulations when such interferences happen; so that there is no danger to be apprehended from a concurrent jurisdiction.

(Madison’s Notes (Max Farrand, 1911), Page 625, Vol. 2)

[e674971] Moved to amend it viz. No State without the consent of Congress shall lay a duty of tonnage. Carried in the affirmative

[Editors’ note: McHenry records this motion in relation to his own. Madison notes the following:

’Mr. Langdon insisted that the regulation of tonnage was an essential part of the regulation of trade, and that the States ought to have nothing to do with it. On motion ”that no State shall lay any duty on tonnage without the Consent of Congress”’ (Page 625, Vol. 2, Madison’s Notes (Max Farrand, 1911)).

As Madison’s notes at this stage of the Convention often contain a summary of a motion rather than the exact words, the editors have used McHenry’s version.]

(McHenry’s Notes (Max Farrand, 1911), Pages 633-634, Vol. 2)

Tonnage

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e674972] On motion “that no State shall lay any duty on tonnage without the Consent of Congress”

N. H— ay— Mas. ay. Ct. divid. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N— C. no. S— C. ay. Geo. no. [Ayes — 6; noes — 4; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 625-626, Vol. 2)

New Hampshire: aye, Massachusetts: aye, Rhode Island: —, Connecticut: dd, New York: —, New Jersey: aye, Pennsylvania: no, Delaware: aye, Maryland: aye, Virginia: no, North Carolina: no, South Carolina: aye, Georgia: no, Questions: Tonnage, ayes: 6, noes: 4, divided: 1

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

Moved to amend it viz. No State without the consent of Congress shall lay a duty of tonnage. Carried in the affirmative

6 ays 4 Noes, 1 divided.

(McHenry’s Notes (Max Farrand, 1911), Pages 633-634, Vol. 2)

[e674973] [Editors’ note: There is no record of a vote on McHenry’s amendment, but as Langdon’s amendment was adopted, McHenry’s was effectively amended and agreed as well.]

(2019 Editors)

[e674974] The remainder of the paragraph was then remoulded and passed as follows viz— “No State shall without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay”

(Madison’s Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674975] The remainder of the paragraph was then remoulded and passed as follows viz— “No State shall without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay”

[Editors’ note: Madison does not provide a vote count.]

(Madison’s Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674976] [Editors’ note: Madison’s notes indicate that the Convention moved on to consider Article II. As the Journal previously noted that the draft was agreed by section, Section 10 was likely adopted, though there is no record of a vote to do so.]

(2019 Editors)

[e674977] [Editors’ note: Madison’s notes indicate that the Convention moved on to consider Article II. As the Journal previously noted that the draft was agreed by section, Article I was likely adopted, though there is no record of a vote to do so.]

(2019 Editors)

[e674978] [Editors’ note: The records show that the Convention took Article II into consideration.]

(2019 Editors)

[e674979] [Editors’ note: The records show that the Convention took Article II: Section 1 into consideration.]

(2019 Editors)

[e674980] Article second, section first, clause first. Strike out the words “in the following manner,” and insert in their stead the words “as follows.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674981] Article second, section first, clause first. Strike out the words “in the following manner,” and insert in their stead the words “as follows.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674982] Section first, clause second. Transpose the words “shall be appointed an elector,” to the end of the clause; and instead of the word “nor” read “or.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

It seems likely that the word ‘any’ was also removed at this point. It is struck out in Washington’s copy of the draft and does not appear in the final Constitution.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674983] Section first, clause second. Transpose the words “shall be appointed an elector,” to the end of the clause; and instead of the word “nor” read “or.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674984] Article II, Section 1, paragraph 3 — “government of the United States” substituted for “general government”.

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2

(Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e674985] Article II, Section 1, paragraph 3 — “government of the United States” substituted for “general government”.

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e674986] Section first, clause third. Strike out the words “and not per capita,” and the words “by the representatives.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

In this case, Madison did add this amendment to his notes, but Farrand indicates that the amendment was a later addition. Madison inserts this amendment alongside other minor amendments while the Convention was debating the Second Section. It seems likely that he did not recall the exact in order in which they were proposed.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674987] Section first, clause third. Strike out the words “and not per capita,” and the words “by the representatives.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

In this case, Madison did add this amendment to his notes, but Farrand indicates that the amendment was a later addition. Madison inserts this amendment

alongside other minor amendments while the Convention was debating the Second Section. It seems likely that he did not recall the exact in order in which they were proposed.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674988] In the latter end of the 3rd clause of the 2nd Article — enquire of the committee about the senate chusing the vice president

[Editors' note: This excerpt from Mason's notes suggests that he either asked the Committee members to clarify their reasoning or attempted to pass a motion that they report their reasoning formally. Although, it is unclear which, if any, of these actions he took, as there are no corroborating sources.]

(Mason's Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674989] Section first, clause fourth. Strike out the words "time in," and insert the words "day on;" strike out "but the election shall be on the same day," and insert "which day shall be the same."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674990] Section first, clause fourth. Strike out the words "time in," and insert the words "day on;" strike out "but the election shall be on the same day," and insert "which day shall be the same."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674991] Art II. sect. 1. (paragraph 6) "or the period for chusing another president arrive" was changed into "or a President shall be elected" comformably to a vote of the _____ day of _____

[Editors' note: These blanks in Madison's notes were likely intended to be filled in to indicate 7 September, when Madison had made an amendment with a similar effect to the Committee of Detail Report.]

(Madison's Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674992] Art II. sect. 1. (paragraph 6) "or the period for chusing another president arrive" was changed into "or a President shall be elected" comformably to a vote of the _____ day of _____

(Madison's Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674993] Section first, clause seventh. Instead of "receive a fixed compensation for his services," read "receive for his services a compensation."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674994] Section first, clause seventh. Instead of "receive a fixed compensation for his services," read "receive for his services a compensation."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e674995] In the 7th clause of the 1st section of the 2nd Article — strike out the words during the period for which he shall have been elected — and instead of them insert — so as in any manner to affect the person in office at the time of such increase or diminution.

[Editors' note: This possible amendment appears in Mason's notes, but it is not recorded in any of the other sources. If it was, in fact, proposed, it likely did not receive a second.

The order of events surrounding this motion is unclear.]

(Mason's Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674996] In the 7th clause of the 1st section of the 2nd Article — strike out the words during the period for which he shall have been elected — and instead of them insert — so as in any manner to affect the person in office at the time of such increase or diminution.

[Editors' note: This possible amendment appears in Mason's notes, but it is not recorded in any of the other sources. If it was, in fact, proposed, it likely did not receive a second.

The order of events surrounding this motion is unclear.]

(Mason's Notes (Max Farrand, 1911), Page 636, Vol. 2)

[e674997] Mr. Rutledge and Docr Franklin moved to annex to the end paragraph 7. sect. 1. art II— “and he (the President) shall not receive, within that period, any other emolument from the U. S. or any of them.”

(Madison's Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674998] Mr. Rutledge and Docr Franklin moved to annex to the end paragraph 7. sect. 1. art II— “and he (the President) shall not receive, within that period, any other emolument from the U. S. or any of them.” on which question

N— H. ay— Mas. ay. Ct. no. N. J. no. Pa ay. Del. no. Md. ay— Va. ay. N. C. no. S— C. ay. Geo— ay. [Ayes — 7; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e674999] Article II, Section 1, paragraph 8 — the dash “—” after “I” struck out.

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e675000] Article II, Section 1, paragraph 8 — the dash “—” after “I” struck out.

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e675001] In the oath to be taken by the president, strike out the word “judgment,” and insert “abilities.”

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

Though Farrand records only the removal of 'judgement', it seems likely that 'and power' was struck out at the same time, as it is also omitted from the final Constitution.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675002] In the oath to be taken by the president, strike out the word "judgment," and insert "abilities."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

Though Farrand records only the removal of 'judgement', it seems likely that 'and power' was struck out at the same time, as it is also omitted from the final Constitution.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675003] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 2. As the Journal previously indicated that the draft was agreed by section, Section 1 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675004] [Editors' note: The records show that the Convention took Article II: Section 2 into consideration.]

(2019 Editors)

[e675005] Section second, clause first. After the words "militia of the several states," add the words "when called into the actual service of the United States."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

Though Farrand records only an insertion, it seems likely that the repeated phrase later in the paragraph was struck out at the same time.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675006] Section second, clause first. After the words “militia of the several states,” add the words “when called into the actual service of the United States.”

[Editors’ note: Farrand writes that Adams’ 1819 version of the Journal includes several amendments ‘which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison’ (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

Though Farrand records only an insertion, it seems likely that the repeated phrase later in the paragraph was struck out at the same time. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675007] Art: II. sect. 2. “he shall have power to grant reprieves and pardons for offences against the U. S. &c”

Mr Randolph moved to “except cases of treason”. The prerogative of pardon in these cases was too great a trust. The President may himself be guilty. The Traytors may be his own instruments.

Col: Mason supported the motion

(Madison’s Notes (Max Farrand, 1911), Page 626, Vol. 2)

[e675008] Mr Govr Morris had rather there should be no pardon for treason, than let the power devolve on the Legislature.

Mr Wilson. Pardon is necessary for cases of treason, and is best placed in the hands of the Executive. If he be himself a party to the guilt he can be impeached and prosecuted.

Mr. King thought it would be inconsistent with the Constitutional separation of the Executive & Legislative powers to let the prerogative be exercised by the latter — A Legislative body is utterly unfit for the purpose. They are governed too much by the passions of the moment. In Massachusetts, one assembly would have hung all the insurgents in that State: the next was equally disposed to pardon them all. He suggested the expedient of requiring the concurrence of the Senate in Acts of Pardon.

Mr. Madison admitted the force of objections to the Legislature, but the pardon of treasons was so peculiarly improper for the President that he should acquiesce in the transfer of it to the former, rather than leave it altogether in the hands of the latter. He would prefer to either an association of the Senate as a Council of advice, with the President.

Mr Randolph could not admit the Senate into a share of the Power. the great danger to liberty lay in a combination between the President & that body

Col: Mason. The Senate has already too much power — There can be no danger of too much lenity in legislative pardons, as the Senate must con concur, & the President moreover can require of both Houses

(Madison’s Notes (Max Farrand, 1911), Pages 626-627, Vol. 2)

[e675009] On the motion of Mr. Randolph

N. H. no— Mas. no— Ct. divd. N— J— no. Pa. no— Del. no. Md no— Va ay— N— C. no— S. C. no. Geo— ay. [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 627, Vol. 2)

[e675010] Art II. sect. 2. (paragraph 2) To the end of this, Mr Governr. Morris moved to annex “but the Congress may by law vest the appointment of such inferior Officers as they think proper, in the President alone, in the Courts of law, or in the heads of Departments.” Mr Sherman 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 627, Vol. 2)

[e675011] Mr. Madison. It does not go far enough if it be necessary at all — Superior Officers below Heads of Departments ought in some cases to have the appointment of the lesser offices.

Mr Govr Morris There is no necessity. Blank Commissions can be sent —

(Madison's Notes (Max Farrand, 1911), Page 627, Vol. 2)

[e675012] On the motion

N. H. ay. Mas— no— Ct ay. N. J. ay. Pa. ay. Del. no. Md. divd Va no. N. C. ay— S C no. Geo— no— [Ayes — 5; noes — 5; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 627, Vol. 2)

[e675013] The motion being lost by the equal division of votes, It was urged that it be put a second time, some such provision being too necessary, to be omitted. and on a second question it was agreed to nem. con.

(Madison's Notes (Max Farrand, 1911), Pages 627-628, Vol. 2)

[e675014] Section second, clause second. After the words “provided for,” add “and which shall be established by law.”

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675015] Section second, clause second. After the words “provided for,” add “and which shall be established by law.”

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this

amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675016] [Editors' note: The records indicate that the Convention moved on to amending Article III. As the Journal previously indicated that the draft was agreed by section, Section 2 was likely adopted, though there is no record of a vote. Likewise, Article II, Sections 3 and 4 were probably proposed and agreed.]

(2019 Editors)

[e675017] [Editors' note: The records indicate that the Convention moved on to amend Article III. As the Journal previously noted that the draft was agreed by section, Section 3 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675018] [Editors' note: The records indicate that the Convention moved on to amending Article III. As the Journal previously noted that the draft was agreed by section, Section 3 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675019] [Editors' note: The records indicate that the Convention moved on to amending Article III. As the Journal previously noted that the draft was agreed by section, Section 4 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675020] Section 4th of the same Article — Inconsistency between this and the 7th clause of the 3rd section of the 1st Article — amend by inserting after the word office the words — and disqualified from holding or enjoying — any office of honor, trust or profit under the United States.

[Editors' note: This excerpt from Mason's notes suggests that he intended to comment on Section 4, though no other source corroborates this intention.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675021] [Editors' note: The records indicate that the Convention moved on to amend Article III. As the Journal previously noted that the draft was agreed by section, Section 4 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675022] [Editors' note: The records indicate that the Convention moved on to amend Article III. Therefore, Article II was likely adopted, though there is no record of a vote. The records indicate that the Convention moved on to amend Article III.]

(2019 Editors)

[e675023] [Editors' note: The records show that the Convention took Article III into consideration.]

(2019 Editors)

[e675024] [Editors' note: The records show that the Convention took Article III: Section 1 into consideration.]

(2019 Editors)

[e675025] Article third, section first. Strike out the words "both in law and equity."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675026] Article third, section first. Strike out the words "both in law and equity."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675027] Article 3rd, section 1 — before the word diminished — insert — increased or —

[Editors' note: Mason suggests that he proposed the amendment.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675028] Article 3rd, section 1 — before the word diminished — insert — increased or —

[Editors' note: Mason suggests that he proposed the amendment. As none of the other sources corroborates this motion, the editors assume that it was dropped for lack of a second, rather than voted on and rejected.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675029] [Editors' note: The records indicate that the Convention moved on to amend Section 2. As the Journal previously noted that the draft was agreed by section, Section 1 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675030] [Editors' note: The records show that the Convention took Article III: Section 2 into consideration.]

(2019 Editors)

[e675031] Section second, clause first. Strike out the word "both."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675032] Section second, clause first. Strike out the word "both."

[Editors' note: Farrand writes that Adams' 1819 version of the Journal includes several amendments 'which may have been taken from the interlineations of the Brearley copy or may have been supplied by Madison' (Page 610, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675033] In the 2nd clause of the 2nd section of the 3rd Article — strike out the word Fact — and insert — Equity.

[Editors' note: Mason suggests that he proposed the amendment.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675034] In the 2nd clause of the 2nd section of the 3rd Article — strike out the word Fact — and insert — Equity.

[Editors' note: Mason suggests that he proposed the amendment. As none of the other sources corroborates this motion, the editors assume that it was dropped for lack of a second, rather than voted on and rejected.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675035] Art III. sect. 2. parag: 3. . Mr. Pinkney & Mr. Gerry moved to annex to the end. "And a trial by jury shall be preserved as usual in civil cases."

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675036] Mr. Gorham. The constitution of Juries is different in different States and the trial itself is usual in different cases in different States,

Mr. King urged the same objections

Genl. Pinkney also. He thought such a clause in the Constitution would be pregnant with embarrassments

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675037] The motion was disagreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675038] [Editors' note: The records indicate that the Convention moved on to amend Section 3. As the Journal previously indicated that the draft was agreed by section, Section 2 was likely noted, though there is no record of a vote.]

(2019 Editors)

[e675039] [Editors' note: The records show that the Convention took Article III: Section 3 into consideration.]

(2019 Editors)

[e675040] Article III, Section 3, paragraph 2 — “or” substituted for “nor” before “forfeiture” and the comma “,” after “forfeiture” struck out.

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e675041] Article III, Section 3, paragraph 2 — “or” substituted for “nor” before “forfeiture” and the comma “,” after “forfeiture” struck out.

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 633, Vol. 2)

[e675042] In the 3rd section of 3rd Article — corruption of blood inaccurately expressed; and no exception or provision for the wife, who may be innocent, and ought not to be involved in ruin from the guilt of the husband.

[Editors' note: This excerpt from Mason's notes suggests that he intended to comment on Section 3, though no other source corroborates this intention.]

(Mason's Notes (Max Farrand, 1911), Page 637, Vol. 2)

[e675043] [Editors' note: The records indicate that the Convention moved on to amend Article IV. As the Journal previously indicated that the draft was agreed by section, Article III: Section 3 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675044] [Editors' note: The records indicate that the Convention moved on to amend Article IV. Article III was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675045] [Editors' note: The records show that the Convention took Article IV into consideration.]

(2019 Editors)

[e675046] [Editors' note: The records indicate that the Convention moved on to amend Article IV: Section 2. As the Journal previously noted that the draft was agreed by section, Section 1 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675047] [Editors' note: The records indicate that the Convention moved on to amend Article IV: Section 2. As the Journal previously noted that the draft was agreed by section, Section 1 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675048] [Editors' note: The records show that the Convention took Article IV: Section 2 into consideration.]

(2019 Editors)

[e675049] Article fourth, section second, clause second. Instead of "and removed," read "to be removed."

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675050] Article fourth, section second, clause second. Instead of “and removed,” read “to be removed.”

[Editors’ note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were ‘compiled from the Baldwin, Brearley and Washington copies of the draft of September 12’ (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote for this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675051] Art. IV. sect 2. parag: 3. the term “legally” was struck out, and “under the laws thereof” inserted after the word “State,” in compliance with the wish of some who thought the term legal equivocal, and favoring the idea that slavery was legal in a moral view—

(Madison’s Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675052] Art. IV. sect 2. parag: 3. the term “legally” was struck out, and “under the laws thereof” inserted after the word “State,” in compliance with the wish of some who thought the term legal equivocal, and favoring the idea that slavery was legal in a moral view—

[Editors’ note: Madison does not provide a vote count. However, in his version of the Journal, Adams assigns this vote to what Farrand numbers Vote 551 in the Detail of Ayes and Noes. There is no apparent reason why Adams assigned this amendment to this vote. As there is no evidence to support his decision, the editors have left the vote count unknown.]

(Madison’s Notes (Max Farrand, 1911), Page 628, Vol. 2)

New Hampshire: dd, Massachusetts: no, Rhode Island: —, Connecticut: aye, New York: —, New Jersey: no, Pennsylvania: no, Delaware: dd, Maryland: aye, Virginia: aye, North Carolina: aye, South Carolina: no, Georgia: aye, Question: —, ayes: —, noes: —, divided: —

[Editors’ note: Farrand numbers this voting record Vote 551 in the Detail of Ayes and Noes. In his version of the Journal, Adams assigns this vote to the question on the amendment reframing the fugitive slave clause. There is no apparent reason why Adams assigned this vote to this amendment.]

(Detail of Ayes and Noes (Max Farrand, 1911), Page 662, Vol. 2)

[e675053] Section second, clause third. For “of regulations subsisting,” read “of any law or regulation.”

[Editors’ note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were ‘compiled from the Baldwin, Brearley and Washington copies of the draft

of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675054] Section second, clause third. For “of regulations subsisting,” read “of any law or regulation.”

[Editors' note: Farrand writes that he discovered four additional changes to the document not found in the major sources used for his edition. These were 'compiled from the Baldwin, Brearley and Washington copies of the draft of September 12' (Page 633, Vol. 2 (Max Farrand, 1911)). Though this event represents the changes made to the Report of the Committee of Style and Arrangement, the order in which these amendments took place is unknown. As a result, the editors have placed this amendment in the timeline at the moment it seems most likely to have taken place.

There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Brearley Papers (Max Farrand, 1911), Page 621, Vol. 2)

[e675055] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 3. As the Journal previously indicated that the draft was agreed by section, Section 2 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675056] Art. IV. sect 3. “New States may be admitted by the Congress into this Union: but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congs.”

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675057] Mr Gerry moved to insert after “or parts of States” the words “or a State and part of a State” which was disagreed to by a large majority; it appearing to be supposed that the case was comprehended in the words of the clause as reported by the Committee.

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

[e675058] Mr Gerry moved to insert after “or parts of States” the words “or a State and part of a State” which was disagreed to by a large majority; it appearing to be supposed that the case was comprehended in the words of the clause as reported by the Committee.

[Editors' note: Madison does not provide a vote count. However, in his version of the Journal, Adams assigns this vote to what Farrand numbers Vote 553 in the Detail of Ayes and Noes. There is no apparent reason why Adams assigned this amendment to this vote, aside from the fact that it is a vote with a large negative majority. As there is no concrete evidence to support his decision, the editors have left the vote count unknown.]

(Madison's Notes (Max Farrand, 1911), Page 628, Vol. 2)

New Hampshire: no, Massachusetts: no, Rhode Island: —, Connecticut: no, New York: —, New Jersey: no, Pennsylvania: no, Delaware: no, Maryland: no, Virginia: no, North Carolina: no, South Carolina: aye, Georgia: no, Question: —, ayes: 1, noes: 10, divided: —

[Editors' note: Farrand numbers this voting record Vote 553 in the Detail of Ayes and Noes. In his version of the Journal, Adams assigns this vote to the question on Gerry's amendment to insert 'or a State and Part of a State'. There is no apparent reason why Adams assigned this vote to this amendment, aside from the fact that it is a vote with a large negative majority.]

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

[e675059] [Editors' note: Madison's notes indicate that the Convention moved on to consider Section 4. As the Journal previously noted that the draft was agreed by section, Section 3 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675060] [Editors' note: The records show that the Convention took Article IV: Section 4 into consideration.]

(2019 Editors)

[e675061] Art. IV. sect. 4. After the word "Executive" were inserted the words "when the Legislature cannot be Convened"

[Editors' note: Madison may have added this amendment to his notes later. If so, the amendment probably comes from the 1819 printed version of the Journal.

Additionally, the words 'of the' were likely inserted with this amendment, as they appear in Washington's copy of the draft and the text of the final Constitution.]

(Madison's Notes (Max Farrand, 1911), Pages 628-629, Vol. 2)

[e675062] Art. IV. sect. 4. After the word "Executive" were inserted the words "when the Legislature cannot be Convened"

[Editors' note: Madison may have added this amendment to his notes later. If so, the amendment probably comes from the 1819 printed version of the Journal. There is no record of a vote on this amendment, but as the change is reflected in the final Constitution, it was clearly adopted.]

(Madison's Notes (Max Farrand, 1911), Pages 628-629, Vol. 2)

[e675063] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article V. As the Journal previously noted that the draft was agreed by section, Article IV: Section 4 was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675064] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article V. Article IV was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675065] Art— V. "The Congress, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided that no amendment which may be made prior to the year 1808 shall in any manner affect the 1 & 4 clauses in the 9. section of article I."

(Madison's Notes (Max Farrand, 1911), Page 629, Vol. 2)

[e675066] Mr. Sherman expressed his fears that three fourths of the States might be brought to do things fatal to particular States, as abolishing them altogether or depriving them of their equality in the Senate. He thought it reasonable that the proviso in favor of the States importing slaves should be extended so as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate.

Col: Mason thought the plan of amending the Constitution exceptionable & dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second, ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case.

(Madison's Notes (Max Farrand, 1911), Page 629, Vol. 2)

[e675067] Mr. Govr. Morris & Mr. Gerry moved to amend the article so as to require a Convention on application of of the Sts [...] (see: the first part of the article as finally past)

[Editors' note: As there are no other sources that describe this amendment, the editors assume that Morris and Gerry offered a considerable rewriting of Article V. The text for the amendment comes from the final Constitution.]

(Madison's Notes (Max Farrand, 1911), Pages 629-630, Vol. 2)

[e675068] Mr Madison did not see why Congress would not be as much bound to propose amendments applied for by two thirds of the States as to call a call a Convention on the like application. He saw no objection however against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum &c. which in Constitutional regulations ought to be as much as possible avoided.

(Madison's Notes (Max Farrand, 1911), Pages 629-630, Vol. 2)

[e675069] The motion of Mr. Govr Morris and Mr. Gerry was agreed to nem: con

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675070] Mr Sherman moved to strike out of art. V. after "legislatures" the words "of three fourths" and so after the word "Conventions" leaving future Conventions to act in this matter, like the present Conventions according to circumstances.

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675071] On this motion

N— H— divd. Mas— ay— Ct ay. N— J. ay— Pa no. Del— no. Md no. Va no. N. C. no. S— C. no. Geo— no. [Ayes — 3; noes — 7; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675072] Mr Gerry moved to strike out the words "or by Conventions in three fourths thereof"

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675073] Mr Gerry moved to strike out the words "or by Conventions in three fourths thereof"

On this motion

N— H— no. Mas. no— Ct. ay. N— J. no. Pa no— Del— no. Md no. Va. no. N— C. no. S. C. no— Geo— no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675074] M— Sherman moved according to his idea above expressed to annex to the end of the article a further proviso "that no State shall without its consent be affected in its internal police, or deprived of its equal suffrage in the Senate"

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675075] Mr. Madison. Begin with these special provisos, and every State will insist on them, for their boundaries, exports &c.

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675076] On the motion of Mr. Sherman

N. H— no. Mas. no. Ct ay. N. J. ay— Pa no. Del— ay. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675077] Mr. Sherman then moved to strike out art V altogether

Mr Brearley 2ded. the motion

(Madison's Notes (Max Farrand, 1911), Page 630, Vol. 2)

[e675078] Mr. Sherman then moved to strike out art V altogether

Mr Brearley 2ded. the motion, on which

N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. no. Del. divd. Md. no. Va. no. N. C. no. S. C. no. Geo. no [Ayes — 2; noes — 8; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 630-631, Vol. 2)

[e675079] Mr. Govr Morris moved to annex a further proviso— “that no State, without its consent shall be deprived of its equal suffrage in the Senate”

This motion being dictated by the circulating murmurs of the small States was agreed to without debate, no one opposing it, or on the question, saying no.

(Madison's Notes (Max Farrand, 1911), Page 631, Vol. 2)

Added to the V article amended “No State without its consent shall be deprived of its equal suffrage in the Senate.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675080] Mr. Govr Morris moved to annex a further proviso— “that no State, without its consent shall be deprived of its equal suffrage in the Senate”

This motion being dictated by the circulating murmurs of the small States was agreed to without debate, no one opposing it, or on the question, saying no.

(Madison's Notes (Max Farrand, 1911), Page 631, Vol. 2)

Added to the V article amended “No State without its consent shall be deprived of its equal suffrage in the Senate.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675081] Col: Mason expressing his discontent at the power given to Congress by a bare majority to pass navigation acts, which he said would not only enhance the freight, a consequence he did not so much regard — but would enable a few rich merchants in Philada N. York & Boston, to monopolize the Staples of the Southern States & reduce their value perhaps 50 Per Ct — moved a further proviso “that no law in nature of a navigation act be passed before the year 1808, without the consent of of each branch of the Legislature”

[Editors' note: The editors have capitalized 'Navigation Act' and replaced ' ' with 'two-thirds' to keep the motion in line with the style used in the rest of the document.]

(Madison's Notes (Max Farrand, 1911), Page 631, Vol. 2)

Mr. Mason moved in substance that no navigation act be passed without the concurrence of of the members present in each house.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675082] On this motion

N. H. no. Mas— no. Ct no. N— J. no— Pa no. Del. no. Md ay. Va. ay. N. C abst S. C. no— Geo— ay. [Ayes — 3; noes — 7; absent — 1.]

[Editors' note: North Carolina was not quorate for this vote or the subsequent votes in this session.]

(Madison's Notes (Max Farrand, 1911), Page 631, Vol. 2)

Mr. Mason moved in substance that no navigation act be passed without the concurrence of of the members present in each house.

Negatived.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675083] [Editors' note: At this point, the Convention likely agreed to alter and fill in the blanks in Article V, which pertained to preventing legislation against slavery before 1808.]

(2019 Editors)

[e675084] [Editors' note: At this point, the Convention likely agreed to alter and fill in the blanks in Article V, which pertained to preventing legislation against slavery before 1808.]

(2019 Editors)

[e675085] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article VI. Article V was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675086] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article VI.]

(2019 Editors)

[e675087] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article VII. Article VI was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675088] [Editors' note: Madison's notes indicate that the Convention moved on to consider Article VII.]

(2019 Editors)

[e675089] Mr Randolph animadverting on the indefinite and dangerous power given by the Constitution to Congress, expressing the pain he felt at differing from the body of the Convention, on the close of the great & awful subject of their labours, and anxiously wishing for some accommodating expedient which would relieve him from his embarrassments, made a motion importing "that amendments to the plan might be offered by the State Conventions, which should be submitted to and finally decided on by another general Convention" Should this proposition be disregarded, it would he said be impossible for him to put his name to the instrument. Whether he should oppose it afterwards he would not then decide but he would not deprive himself of the freedom to do so in his own State, if that course should be prescribed by his final judgment—

Col: Mason 2ded. & followed Mr. Randolph in animadversions on the dangerous power and structure of the Government, concluding that it would

end either in monarchy, or a tyrannical aristocracy; which, he was in doubt. but one or other, he was sure. This Constitution had been formed without the knowledge or idea of the people. A second Convention will know more of the sense of the people, and be able to provide a system more consonant to it. It was improper to say to the people, take this or nothing. As the Constitution now stands, he could neither give it his support or vote in Virginia; and he could not sign here what he could not support there. With the expedient of another Convention as proposed, he could sign.

[Editors' note: On 10 September, Randolph proposed a similar amendment, which was postponed, to the Report of the Committee of Detail. Madison records that at this point Randolph tried to renew that motion. The version recorded by Madison, however, is vague. Given Madison's tendency to record the essence rather than the substance of previous amendments, it is possible that Randolph offered a more precise amendment than Madison records. That amendment reads as follows:

'[This Constitution shall be laid before the United States in Congress assembled, and it is the opinion of this Convention that it should be afterwards submitted to a Convention chosen in each State, under the recommendation of its Legislature,] with power to adopt, reject, or amend this Constitution. The alterations proposed then being submitted to a general Convention, with full power to adopt or reject the alterations proposed by the State Conventions, and to establish the Government.']

(Madison's Notes (Max Farrand, 1911), Pages 631-632, Vol. 2)

Mr. Randolph moved that it be recommended to appoint a second convention with plenary powers to consider objections to the system and to conclude one binding upon the States.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675090] Mr. Pinkney. These declarations from members so respectable at the close of this important scene, give a peculiar solemnity to the present moment. He descanted on the consequences of calling forth the deliberations & amendments of the different States on the subject of Government at large. Nothing but confusion & contrariety could spring from the experiment. The States will never agree in their plans— And the Deputies to a second Convention coming together under the discordant impressions of their Constituents, will never agree. Conventions are serious things, and ought not to be repeated— He was not without objections as well as others to the plan. He objected to the contemptible weakness & dependence of the Executive. He objected to the power of a majority only of Congress over Commerce. But apprehending the danger of a general confusion, and an ultimate decision by the Sword, he should give the plan his support.

Mr. Gerry, stated the objections which determined him to withhold his name from the Constitution. 1. the duration and re-eligibility of the Senate. 2. the power of the House of Representatives to conceal their journals. 3— the power of Congress over the places of election. 4 the unlimited power of Congress over their own compensations. 5 Massachusetts has not a due share of Representatives allotted to her. 6. of the Blacks are to be represented as if they were freemen 7. Under the power over commerce, monopolies may be

established. 8. The vice president being made head of the Senate. He could however he said get over all these, if the rights of the Citizens were not rendered insecure 1. by the general power of the Legislature to make what laws they may please to call necessary and proper. 2. raise armies and money without limit. 3. to establish a tribunal without juries, which will be a Star-chamber as to Civil cases. Under such a view of the Constitution, the best that could be done he conceived was to provide for a second general Convention.

(Madison's Notes (Max Farrand, 1911), Pages 632-633, Vol. 2)

Mr. Gerry's objections
 The appointment of the Senate for six years — and no rotation
 The Power given to the Legislature over their Journals
 The Power given to the Legislators to pay themselves
 Massachusetts has not her propo. of reptives.
 Three fifths of the Blacks, being classed as Taxables
 The Power given respectg. Commerce will enable the Legislature to create corporations and monopolies
 The V. P destroys the Independence. of the Legislature
 Freemen giving up certain rights should be secured in others
 The Legislature allowed to make any laws they please
 The Constitution has given away every mode of revenue from the States
 The Judiciary will be a Star Chamber
 Many other objections which he would not enumerate

(King's Diary (Max Farrand, 1911), Page 635, Vol. 2)

[e675091] On the question on the proposition of Mr Randolph. All the States answered- no

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

Mr. Randolp moved that it be recommended to appoint a second convention with plenary powers to consider objections to the system and to conclude one binding upon the States.

rejected unanimously—

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675092] [Editors' note: Madison's notes indicate that the Convention went on to vote on the final version of the Constitution. Article VII was likely adopted, though there is no record of a vote.]

(2019 Editors)

[e675093] On the question to agree to the Constitution. as amended. All the States ay.

[Editors' note: The Journal also records this vote and indicates that both New York and North Carolina were unable to vote, as they were not quorate.]

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

New Hampshire: aye, Massachusetts: aye, Rhode Island: —, Connecticut: aye, New York: —, New Jersey: aye, Pennsylvania: aye, Delaware: aye, Maryland: aye, Virginia: aye, North Carolina: — South Carolina: aye, Georgia: aye, Question: The Constitution unanimously agreed to, ayes: —, noes: —, divided: —

(Detail of Ayes and Noes (Max Farrand, 1911), Page 622, Vol. 2)

The question being taken on the system agreed to unanimously—

(McHenry's Notes (Max Farrand, 1911), Page 364, Vol. 2)

[September], Saturday 15th . concluded the business of Convention, all to signing the proceedings

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 81, Vol. 3, George Washington's Diary)

[e675094] [Editors' note: Once the Convention adopted the amended Constitution from the Committee of Style and Arrangement, the Committee's original report was effectively dropped from consideration.]

(2019 Editors)

[e675095] The Constitution was then ordered to be engrossed.

[Editors' note: McHenry records the order to print 500 copies of the Constitution. It is unclear if this motion was made separately, or as part of the order to engross the Constitution.]

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

Ordered to be engrossed and 500 copies struck

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[September], Saturday 15th . concluded the business of Convention, all to signing the proceedings; to effect which the House sat till 6 o'clock; and adjourned 'till Monday that the Constitution which it was proposed to offer to the People might be engrossed — and a number of printed copies struck off. —

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 81, Vol. 3, George Washington's Diary)

[e675096] The Constitution was then ordered to be engrossed.

[Editors' note: McHenry records the order to print 500 copies of the Constitution. It is unclear if this motion was made separately, or as part of the order to engross the Constitution.]

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

Ordered to be engrossed and 500 copies struck

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[September], Saturday 15th . concluded the business of Convention, all to signing the proceedings; to effect which the House sat till 6 o'clock; and adjourned 'till Monday that the Constitution which it was proposed to offer to the People might be engrossed — and a number of printed copies struck off. —

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 81, Vol. 3, George Washington's Diary)

[e675097] [Editors' note: Jacob Shallus was chosen for the task of engrossing the Constitution and was paid \ \$30 for the work.

Shallus was Assistant Clerk to the Pennsylvania General Assembly, which met at the Pennsylvania State House, the same building used by the Convention. Once Shallus had produced the document, he attended the next session to make any changes the Convention requested.]

(2019 Editors)

[e675098] And the House adjourned

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

Adjourned till monday the 17th.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

[e675099] And the House adjourned

(Madison's Notes (Max Farrand, 1911), Page 633, Vol. 2)

Adjourned till monday the 17th.

(McHenry's Notes (Max Farrand, 1911), Page 634, Vol. 2)

1.98 Monday, 17 September 1787, at 10:00 (s6285)

[e675100] [Editors' note: Farrand writes that 'this was written by Mason on the blank pages of his copy of the draft of September 12. Mason supplied copies of this in one form or another to several people, and it was finally printed in pamphlet form. Angle brackets indicate additions or changes made before printing. (It is reprinted here from Rowland's Life of George Mason, II, 387-390)' (Page 637, Vol. 2, Mason's Notes (Max Farrand, 1911)). It seems that the document was circulated to several members of the Convention prior to the signing, though the exact time and day are uncertain.]

(Mason's Notes (Max Farrand, 1911), Pages 637-640, Vol. 2)

[e675101] The engrossed Constitution being read

[Editors' note: Madison records that the engrossed copy of the Constitution was delivered to the Convention and read (Page 641, Vol. 2, Madison's Notes (Max Farrand, 1911)). The text of the engrossed copy has been transcribed from the original document in the National Archives (<https://catalog.archives.gov/id/1667751>).]

(National Archives)

Read the engrossed constitution.

(McHenry's Notes (Max Farrand, 1911), Page 649, Vol. 2)

[e675102] Doctr. Franklin rose with a speech in his hand, which he had reduced to writing for his own conveniency, and which Mr. Wilson read in the words following.

“Mr. President

I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men indeed as well as most sects in Religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error. Steele, a Protestant in a Dedication tells the Pope, that the only difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain french lady, who in a dispute with her sister, said 'I don't know how it happens, Sister but I meet with no body but myself, that's always in the right' — Il n'y a que moi qui a toujours raison.

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an Assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good — I have never whispered a syllable of them abroad — Within these walls they were born, and here they shall die — If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects & great advantages resulting naturally in our favor among

foreign Nations as well as among ourselves, from our real or apparent unanimity. Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends. on opinion, on the general opinion of the goodness of the Government, as well as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress & confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts & endeavors to the means of having it well administered.

On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility— and to make manifest our unanimity, put his name to this instrument.”

[Editors’ note: Farrand writes the following note:

’Franklin seems to have sent copies of this speech in his own handwriting to several of his friends, and one of these soon found its way into print (see Carey’s American Museum, II, pp. 558-559). After examining several of these copies, it seems probable that Madison’s copy represents the speech as it was read. The others all embody subsequent modifications’ (Page 641, Vol. 2, Madison’s Notes (Max Farrand, 1911)).]

(Madison’s Notes (Max Farrand, 1911), Pages 641-643, Vol. 2)

Dr. Franklin put a paper into Mr Willsons hand to read containing his reasons for assenting to the constitution. It was plain, insinuating persuasive — and in any event of the system guarded the Doctor’s fame.

(McHenry’s Notes (Max Farrand, 1911), Page 649, Vol. 2)

[e675103] He then moved that the Constitution be signed by the members and offered the following as a convenient form viz. “Done in Convention, by the unanimous consent of the States present the 17th. of Sepr. &c — In Witness whereof we have hereunto subscribed our names.”

This ambiguous form had been drawn up by Mr. G. M. in order to gain the dissenting members, and put into the hands of Docr. Franklin that it might have the better chance of success.

(Madison’s Notes (Max Farrand, 1911), Page 643, Vol. 2)

[e675104] He then moved that the Constitution be signed by the members and offered the following as a convenient form viz. “Done in Convention, by the unanimous consent of the States present the 17th. of Sepr. &c — In Witness whereof we have hereunto subscribed our names.”

This ambiguous form had been drawn up by Mr. G. M. in order to gain the dissenting members, and put into the hands of Docr. Franklin that it might have the better chance of success.

(Madison’s Notes (Max Farrand, 1911), Page 643, Vol. 2)

[e675105] Mr. Gorham said if it was not too late he could wish, for the purpose of lessening objections to the Constitution, that the clause declaring “the number of Representatives shall not exceed one for every forty thousand —” which

had produced so much discussion, might be yet reconsidered, in order to strike out 40,000 & insert “thirty thousand” This would not he remarked establish that as an absolute rule, but only give Congress a greater latitude which could not be thought unreasonable.

Mr. King & Mr Carrol seconded & supported the ideas of Mr Gorham.

(Madison’s Notes (Max Farrand, 1911), Pages 643-644, Vol. 2)

Altered the representation in the house of representatives from 40 to thirty thousand.

(McHenry’s Notes (Max Farrand, 1911), Page 649, Vol. 2)

[e675106] When the President rose, for the purpose of putting the question, he said that although his situation had hitherto restrained him from offering his sentiments on questions depending in the House, and it might be thought, ought now to impose silence on him, yet he could not forbear expressing his wish that the alteration proposed might take place. It was much to be desired that the objections to the plan recommended might be made as few as possible — The smallness of the proportion of Representatives had been considered by many members of the Convention, an insufficient security for the rights & interests of the people. He acknowledged that it had always appeared to himself among the exceptionable parts of the plan; and late as the present moment was for admitting amendments, he thought this of so much consequence that it would give much satisfaction to see it adopted.*

*This was the only occasion on which the President entered at all into the discussions of the Convention.

(Madison’s Notes (Max Farrand, 1911), Page 644, Vol. 2)

[e675107] No opposition was made to the proposition of Mr. Gorham and it was agreed to unanimously

(Madison’s Notes (Max Farrand, 1911), Page 644, Vol. 2)

Altered the representation in the house of representatives from 40 to thirty thousand.

(McHenry’s Notes (Max Farrand, 1911), Page 649, Vol. 2)

[e675108] On the question to agree to the Constitution enrolled in order to be signed. It was agreed to all the States answering ay.

(Madison’s Notes (Max Farrand, 1911), Page 644, Vol. 2)

The Constitution unanimously agreed to.

(Detail of Ayes and Noes (Max Farrand, 1911), Page 641, Vol. 2)

[e675109] Mr Randolph then rose and with an allusion to the observations of Doctr Franklin, apologized for his refusing to sign the Constitution, notwithstanding the vast majority & venerable names that would give sanction to its wisdom and its worth. He said however that he did not mean by this refusal to

decide that he should oppose the Constitution without doors. He meant only to keep himself free to be governed by his duty as it should be prescribed by his future judgment — He refused to sign, because he thought the object of the convention would be frustrated by the alternative which it presented to the people. Nine States will fail to ratify the plan and confusion must ensue. With such a view of the subject he ought not, he could not, by pledging himself to support the plan, restrain himself from taking such steps as might appear to him most consistent with the public good.

Mr. Govr. Morris said that he too had objections, but considering the present plan as the best that was to be attained, he should take it with all its faults. The majority had determined in its favor and by that determination he should abide. The moment this plan goes forth all other considerations will be laid aside — and the great question will be, shall there be a national Government or not? and this must take place or a general anarchy will be the alternative — He remarked that the signing in the form proposed related only to the fact that the States present were unanimous.

Mr. Williamson suggested that the signing should be confined to the letter accompanying the Constitution to Congress. which might perhaps do nearly as well, and would be found be satisfactory to some members* who disliked the Constitution. For himself he did not think a better plan was to be expected and had no scruples against putting his name to it.

*He alluded to Mr. Blount for one.

Mr Hamilton expressed his anxiety that every member should sign. A few characters of consequence, by opposing or even refusing to sign the Constitution, might do infinite mischief by kindling the latent sparks which lurk under an enthusiasm in favor of the Convention which may soon subside. No man's ideas were more remote from the plan than his own were known to be; but is it possible to deliberate between anarchy and Convulsion on one side, and the chance of good to be expected from the plan on the other.

Mr Blount said he had declared that he would not sign, so as to pledge himself in support of the plan, but he was relieved by the form proposed and would without committing himself attest the fact that the plan was the unanimous act of the States in Convention.

Docr. Franklin expressed his fears from what Mr Randolph had said, that he thought himself alluded to in the remarks offered this morning to the House. He declared that when drawing up that paper he did not know that any particular member would refuse to sign his name to the instrument, and hoped to be so understood. He professed a high sense of obligation to Mr. Randolph for having brought forward the plan in the first instance, and for the assistance he had given in its progress, and hoped that he would yet lay aside his objections, and, by concurring with his brethren, prevent the great mischief which the refusal of his name might produce

Mr. Randolph could not but regard the signing in the proposed form, as the same with signing the Constitution. The change of form therefore could make no difference with him. He repeated that in refusing to sign the Constitution, he took a step which might be the most awful of his life, but it was dictated by his conscience, and it was not possible for him to hesitate, much less, to change. He repeated also his persuasion, that the holding out this plan with a final alternative to the people, of accepting or rejecting it in toto, would really produce the anarchy & civil convulsions which were apprehended from

the refusal of individuals to sign it.

Mr Gerry described the painful feelings of his situation, and the embarrassment under which he rose to offer any further observations on the subject wch. had been finally decided. Whilst the plan was depending, he had treated it with all the freedom he thought it deserved— He now felt himself bound as he was disposed to treat it with the respect due to the Act of the Convention— He hoped he should not violate that respect in declaring on this occasion his fears that a Civil war may result from the present crisis of the U. S— In Massachusetts, particularly he saw the danger of this calamitous event— In that State there are two parties, one devoted to Democracy, the worst he thought of all political evils, the other as violent in the opposite extreme. From the collision of these in opposing and resisting the Constitution, confusion was greatly to be feared. He had thought it necessary for this & other reasons that the plan should have been proposed in a more mediating shape, in order to abate the heat and opposition of parties— As it had been passed by the Convention, he was persuaded it would have a contrary effect— He could not therefore by signing the Constitution pledge himself to abide by it at all events. The proposed form made no difference with him. But if it were not otherwise apparent, the refusals to sign should never be known from him. Alluding to the remarks of Docr. Franklin, he could not he said but view them as levelled at himself and the other gentlemen who meant not to sign;

Genl Pinkney— We are not likely to gain many converts by the ambiguity of the proposed form of signing. He thought it best to be candid and let the form speak the substance— If the meaning of the signers be left in doubt, his purpose would not be answered— He should sign the Constitution with a view to support it with all his influence, and wished to pledge himself accordingly—

Docr. Franklin. It is too soon to pledge ourselves before Congress and our Constituents shall have approved the plan.

Mr Ingersol did not consider the signing, either as a mere attestation of the fact, or as pledging the signers to support the Constitution at all events; but as a recommendation, of what, all things considered, was the most eligible.

(Madison's Notes (Max Farrand, 1911), Pages 644-647, Vol. 2)

[e675110] On the motion of Docr. Franklin

N. H. ay. Mas. ay— Ct. ay— N. J. ay— Pa. ay— Del— ay. Md. ay. Va. ay— N. C. ay S. C. divd.* Geo. ay. [Ayes — 10; noes — 0; divided — 1.]

* Genl Pinkney & Mr. Butler disliked the equivocal form of the signing, and on that account voted in the negative

(Madison's Notes (Max Farrand, 1911), Page 647, Vol. 2)

[e675111] [Editors' note: Scribe Jacob Shallus made a number of corrections to his engrossed copy of the Constitution. As the Convention granted him only Sunday to write out the Constitution, there are several omissions in the text due to the difficult and hurried nature of the task. He corrected these omissions by adding interlineations, most likely prior to delivering the document to the Convention.

It seems that Shallus was present during the final session, as Gorham's amendment and the subscription text added by Morris and Franklin were written in his hand prior to the signing. At some stage, the Convention decided to

include an explanation of these corrections, attested by Jackson, on the document.

There are also a couple of mistakes in this explanation. The final correction was not between lines 43 and 44 of the second page, but between lines 49 and 50. Further, there was an additional 'the' added two lines further down.

This explanation is also in Shallus' hand and must have been written after the subscription text (due to its placement on the final page), either before or after the signing. The editors have placed it here in the timeline as the most likely position.]

(2019 Editors)

[*e675112*] [Editors' note: Scribe Jacob Shallus made a number of corrections to his engrossed copy of the Constitution. As the Convention granted him only Sunday to write out the Constitution, there are several omissions in the text due to the difficult and hurried nature of the task. He corrected these omissions by adding interlineations, most likely prior to delivering the document to the Convention.

It seems that Shallus was present during the final session, as Gorham's amendment and the subscription text added by Morris and Franklin were written in his hand prior to the signing. At some stage, the Convention decided to include an explanation of these corrections, attested by Jackson, on the document.

There are also a couple of mistakes in this explanation. The final correction was not between lines 43 and 44 of the second page, but between lines 49 and 50. Further, there was an additional 'the' added two lines further down.

This explanation is also in Shallus' hand and must have been written after the subscription text (due to its placement on the final page), either before or after the signing. The editors have placed it here in the timeline as the most likely position.

It is unclear whether the Convention voted on the explanation or whether the President simply ordered it. Either way, the note appears on the final Constitution.]

(2019 Editors)

[*e675113*] [Editors' note: Farrand includes a final version of the letter George Washington sent to Congress. The contents of the letter were agreed on 12 September, but the letter itself states that it was written in the Convention on 17 September and then unanimously ordered to be delivered to Congress.

It is unclear at what stage in the proceedings the letter was drawn up, as neither Madison nor any other delegate made a note of it.]

(2019 Editors)

[*e675114*] [Editors' note: Farrand includes a final version of the letter George Washington sent to Congress. The contents of the letter were agreed on 12 September, but the letter itself states that it was written in the Convention on 17 September and then unanimously ordered to be delivered to Congress.

It is unclear at what stage in the proceedings the letter was drawn up, as neither Madison nor any other delegate made a note of it.]

(2019 Editors)

[e675115] [Editors' note: Farrand includes a final version of the letter George Washington sent to Congress. The contents of the letter were agreed on 12 September, but the letter itself states that it was written in the Convention on 17 September and then unanimously ordered to be delivered to Congress.

It is unclear at what stage in the proceedings the letter was drawn up, as neither Madison nor any other delegate made a note of it.

A printed copy of the letter can be found in the Library of Congress, alongside the Constitution in the Supplement to the Independent journal, Saturday, September 22, 1787 (<https://www.loc.gov/item/00522051>).]

(Library of Congress, Image 1, Supplement to the Independent Journal, Saturday, September 22, 1787)

[e675116] [Editors' note: These two resolutions, sent to Congress by the Convention, were taken from the Report on Ratification and Enactment of the Constitution (Articles XXII and XXIII of the amended Report of the Committee of Detail), which had been previously postponed. They were clearly written into a document to be sent to Congress alongside the Constitution and the Letter, though neither Madison nor any other delegate made a note of this proceeding. Further, it is unclear when exactly in the proceedings this document was drawn up.

Farrand includes a transcription of the two resolutions in his second volume but does not provide a source. The original document is held at the National Archives (<https://catalog.archives.gov/id/6277391>).]

(National Archives)

[e675117] [Editors' note: These two resolutions, sent to Congress by the Convention, were taken from the Report Articles XXII and XXIII, which had been previously postponed. They were clearly written into a document to be sent to Congress alongside the Constitution and the Letter, though neither Madison nor any other delegate made a note of this proceeding.

The document states that it was sent 'by the Unanimous Order of the Convention' (<https://catalog.archives.gov/id/6277391>).]

(2019 Editors)

[e675118] Mr. King suggested that the Journals of the Convention should be either destroyed, or deposited in the custody of the President. He thought if suffered to be made public, a bad use would be made of them by those who would wish to prevent the adoption of the Constitution—

Mr Wilson preferred the second expedient. he had at one time liked the first best; but as false suggestions may be propagated it should not be made impossible to contradict them—

A question was then put on depositing the Journals and other papers of the Convention in the hands of the President

(Madison's Notes (Max Farrand, 1911), Pages 647-648, Vol. 2)

[e675119] A question was then put on depositing the Journals and other papers of the Convention in the hands of the President, On which,

N— H— ay. Mtts ay. Ct. ay— N. J. ay. Pena. ay. Del. ay. Md.* no. Va. ay. N. C. ay— S. C. ay. Geo. ay. [Ayes 10; noes — 1.]

* This negative of Maryland was occasioned by the language of the instructions to the Deputies of that State, which required them to report to the State, the proceedings of the Convention.

(Madison's Notes (Max Farrand, 1911), Page 648, Vol. 2)

[e675120] The President having asked what the Convention meant should be done with the Journals &c, whether copies were to be allowed to the members if applied for. It was Resolved nem: con: "that he retain the Journal and other papers, subject to the order of Congress, if ever formed under the Constitution."

(Madison's Notes (Max Farrand, 1911), Page 648, Vol. 2)

[e675121] The President having asked what the Convention meant should be done with the Journals &c, whether copies were to be allowed to the members if applied for. It was Resolved nem: con: "that he retain the Journal and other papers, subject to the order of Congress, if ever formed under the Constitution."

(Madison's Notes (Max Farrand, 1911), Page 648, Vol. 2)

[e675122] The members then proceeded to sign the instrument.

[Editors Note: Though John Dickinson's name is signed on the Constitution, he left the Convention on 14 September. Farrand notes that 'Dickinson's signature to the Constitution is in Read's handwriting'. On 15 September, Dickinson wrote to Read, asking Read to sign for him. The letter reads as follows:

'Mr. Dickinson presents his compliments to Mr. Read, and requests that if the constitution, formed by the convention, is to be signed by the members of that body, Mr. Read will be so good as to subscribe Mr. Dickinson's name — his indisposition and some particular circumstances requiring him to return home.

September 15th, 1787' (Page 81, Vol. 3, Appendix A (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 648, Vol. 2)

Mr Randolp Mr Mason and Mr Gerry declined signing— The other members signed—

(McHenry's Notes (Max Farrand, 1911), Page 649, Vol. 2)

Monday 17th. Met in Convention when the Constitution received the Unanimous assent of 11 States and Colo. Hamilton's from New York (the only delegate from thence in Convention) and was subscribed to by every Member present except Govr. Randolph and Colo. Mason from Virginia & Mr. Gerry from Massachusetts.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 276, George Washington: Diary)

[e675123] Whilst the last members were signing it Doctr. Franklin looking towards the Presidents Chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.

(Madison's Notes (Max Farrand, 1911), Page 648, Vol. 2)

[e675124] The Constitution being signed by all the Members except Mr Randolph, Mr Mason, and Mr. Gerry who declined giving it the sanction of their names

(Madison's Notes (Max Farrand, 1911), Pages 648-649, Vol 2)

Mr Randolp Mr Mason and Mr Gerry declined signing— The other members signed—

[...]

Major Jackson Secry. to carry it to Congress — Injunction of secrecy taken off. Members to be provided with printed copies

(McHenry's Notes (Max Farrand, 1911), Pages 649-650, Vol. 2)

Monday 17th. Met in Convention when the Constitution received the Unanimous assent of 11 States and Colo. Hamilton's from New York (the only delegate from thence in Convention) and was subscribed to by every Member present except Govr. Randolph and Colo. Mason from Virginia & Mr. Gerry from Massachusetts.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 276, George Washington: Diary)

[e675125] The Constitution being signed by all the Members except Mr Randolph, Mr Mason, and Mr. Gerry who declined giving it the sanction of their names, the Convention dissolved itself by an Adjournment sine die —

(Madison's Notes (Max Farrand, 1911), Pages 648-649, Vol. 2)

adjourned sine die — Gentn. of Con. dined together at the City Tavern.

(McHenry's Notes (Max Farrand, 1911), Page 650, Vol. 2)

The business being thus closed, the Members adjourned to the City Tavern, dined together and took a cordial leave of each other

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 276, George Washington: Diary)

[e675126] The Constitution being signed by all the Members except Mr Randolph, Mr Mason, and Mr. Gerry who declined giving it the sanction of their names, the Convention dissolved itself by an Adjournment sine die —

(Madison's Notes (Max Farrand, 1911), Pages 648-649, Vol. 2)

adjourned sine die — Gentn. of Con. dined together at the City Tavern.

(McHenry's Notes (Max Farrand, 1911), Page 650, Vol. 2)

The business being thus closed, the Members adjourned to the City Tavern, dined together and took a cordial leave of each other

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 276, George Washington: Diary)

Chapter 2

Rules Committee

Committee charged with creating the rules and standing orders to govern meetings of the Convention.

2.1 Saturday, 26 May 1787, at 10:00 (s6286)

[e675127] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed of

Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1, 25 May 1787)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1, 25 May 1787)

[e675128] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House. — a Committee by ballot was appointed of

Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

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Mr Wythe, Mr Hamilton, and Mr C. Pinckney.

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1, 25 May 1787)

The appointment of a Committee, consisting of Messrs. Wythe, Hamilton & C. Pinckney, on the motion of Mr. C. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day

(Madison's Notes (Max Farrand, 1911), Page 4, Vol. 1, 25 May 1787)

[e675130] Mr Wythe reported from the Committee, (to whom the drawing up rules, proper in their opinion, to be observed by the Convention in their proceedings, as standing Orders, was referred) that the Committee had drawn up the rules accordingly, and had directed him to report them to the House — and he read the report in his place, and afterwards delivered it in at the Secretary's table

[Editors' note: The Journal records Wythe as delivering the Committee Report on 28 May 1787. As this role was usually undertaken by the chairman, the editors assume that he was elected to this position by the Committee.]

(Official Journal (Max Farrand, 1911), Page 7, Vol. 1, 28 May 1787)

[e675131] [Editors' note: There is no record of the proceedings of the Rules Committee. However, both the Journal and Madison record the rules as ultimately agreed by the Convention, with the proviso that two proposed rules were rejected. One is recorded by Madison, but the other is unknown. The editors have recreated the document based on this information.

There was likely some debate in the Committee over the proposed rules, but as no record of these debates exist, this document event contains the report's final draft.]

(2019 Editors)

[e675132] On motion of Mr C. Pinckney — ordered that a Committee be appointed to draw up rules to be observed as the standing Orders of the Convention — and to report the same to the House.

[Editors' note: It is clear from this passage and standard procedure in the Convention that the Committee referred its report to the Convention for consideration.]

(Official Journal (Max Farrand, 1911), Page 2, Vol. 1, 25 May 1787)

[e675133] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675134] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

2.2 Monday, 28 May 1787, at 10:00 (s6287)

[e675135] A motion was made by Mr Butler, one of the Deputies of South Carolina, that the House provide against interruption of business by absence of members, and against licentious publication of their proceedings: also

A motion was made by Mr Spaight, one of the Deputies of North-Carolina, to provide, that, on the one hand, the house, may not be precluded, by a vote upon any question, from revising the subject matter of it, when they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion.

Ordered that the said motions be referred to the consideration of the Committee appointed on friday last, to draw up rules to be observed as the standing orders of the Convention; and that they do examine the matters thereof, and report thereupon to the House.

(Official Journal (Max Farrand, 1911), Pages 9-10, Vol. 1)

Mr Butler moved that the house provide agst. interruption of business by absence of members, and against licentious publications of their proceedings — to which was added by — Mr. Spaight — a motion to provide that on the one hand the House might not be precluded by a vote upon any question, from revising the subject matter of it, When they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion. — Whereupon it was ordered that these motions be referred to the consideration of the Committee appointed to draw up the standing rules and that the Committee make report thereon.

(Madison's Notes (Max Farrand, 1911), Page 13, Vol. 1)

[e675136] [Editors' note: There is no record of the proceedings of the Rules Committee. However, both the Journal and Madison record the rules as ultimately agreed by the Convention. There was likely some debate in the Committee over the proposed rules, but as no record of these debates exist, this document event contains the report's final draft.]

(Official Journal (Max Farrand, 1911), Pages 15-16, Vol. 2, 29 May 1787)

[e675137] [Editors' note: On 29 May 1787, the Official Journal records that 'Mr Wythe reported, from the Committee to whom the motions made by Mr Butler and Mr Spaight were referred, that the Committee had examined the matters of the said motions, and had come to the following resolution' (Page 15, Vol. 2, Official Journal (Max Farrand, 1911)). From this passage and standard procedure at the Convention, it is clear that the Committee referred its report to the Convention for consideration.]

(2019 Editors)

[e675138] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, it is plausible to assume that the Committee followed this practice.]

(2019 Editors)

[e675139] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, it is plausible to assume that the Committee followed this practice.]

(2019 Editors)

Chapter 3

Committee of the Whole House

Committee consisting of all delegates to the Convention.

3.1 Wednesday, 30 May 1787, at 10:00 (s6288)

[e675140] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

[Editors' note: Though the Committee of the Whole was comprised of all delegates to the Convention, not every delegate was present on this day. For this reason, the only delegates listed as joining the Committee of the Whole on 30 May 1787 are those whose attendance corresponds with the 'Attendance of Delegates' section of Max Farrand's The Records of the Federal Convention of 1787 (Vol. 3, Appendix B (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Bassett, Richard, of Delaware. Attended as early as May 21.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675141] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Bedford, Gunning, of Delaware. First attendance, May 28.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675142] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Blair, John, of Virginia. Attended as early as May 15.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675143] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Brearley, David, of New Jersey. Attended as early as May 25.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675144] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Broom, Jacob, of Delaware. Attended as early as May 21.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675145] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Page 29-30, Vol. 1)

Butler, Pierce, of South Carolina. Attended as early as May 25.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675146] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Clymer, George, of Pennsylvania. Attended May 28, but probably before, although absent on May 25.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675147] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Davie, William Richardson, of North Carolina. Attended on May 22 or May 23; left on August 13. Approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675148] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Dickinson, John, of Delaware. Attended on May 29. His remarks on July 25 imply previous absence. Absent on September 15. Read signed Dickinson's name to the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675149] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Ellsworth, Oliver, of Connecticut. First attended on May 28. Was present in Convention August 23. Was in New Haven August 27. Approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675150] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Few, William, of Georgia. Attended as early as May 19. Present in Congress in New York July 4—August 3. Probably returned to Convention after August 6.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

[e675151] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Fitzsimons, Thomas, of Pennsylvania. Attended on May 25, and probably earlier.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675152] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Franklin, Benjamin, of Pennsylvania. Attended on May 28, and probably earlier, although absent on May 25.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675153] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Gerry, Elbridge, of Massachusetts. First attended on May 29. Absent on August 6. Refused to sign Constitution.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675154] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Gorham, Nathaniel, of Massachusetts. Attended on May 28.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675155] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Hamilton, Alexander, of New York. Attended on May 18; left Convention June 29; was in New York after July 2; appears to have been in Philadelphia on July 13; attended Convention August 13; was in New York August 20—September 2.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675156] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Houston, William Churchill, of New Jersey. Attended as early as May 25; was absent on June 6.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675157] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Ingersoll, Jared, of Pennsylvania. Attended on May 28, and probably earlier, although absent on May 25.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675158] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

King, Rufus, of Massachusetts. Attended as early as May 21. 23.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675159] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

McClurg, James, of Virginia. Attended as early as May 15; was present July 20; and absent after August 5. Favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675160] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

McHenry, James, of Maryland. Commissioned May 26; attended May 28-31; left on June 1; present August 6 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675161] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Madison, James, Jr., of Virginia. Attended on May 14 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675162] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Martin, Alexander, of North Carolina. Attended as early as May 25; left in the latter part of August.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675163] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Mason, George, of Virginia. Attended on May 17 and thereafter. Refused to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675164] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Mifflin, Thomas, of Pennsylvania. Attended on May 28, and probably before, although absent on May 25.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675165] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

[Editors' note: Farrand's entry for Gouverneur Morris' attendance reads 'Attended on May 25, and probably before; he left the Convention a few days after and was absent until July 2' (Page 589, Vol. 3, Appendix B (Max Farrand, 1911)). Though the date G. Morris left the Convention is ambiguous, the official Journal, Madison's notes, Yates' notes, and McHenry's notes attest to his attendance on 30 May 1787.]

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

[e675166] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Morris, Robert, of Pennsylvania. Attended May 25, and probably before. 30.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675167] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Paterson, William, of New Jersey. Attended as early as May 25, and thereafter until July 23. There is no evidence of his attendance after that date. August 21, Brearley wrote urging him to return. He probably returned to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675168] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Pinckney, Charles, of South Carolina. Attended May 17 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675169] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Pinckney, Charles Cotesworth, of South Carolina. Attended at least as early as May 25, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675170] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Randolph, Edmund, of Virginia. Attended May 15 and thereafter. He refused to sign the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675171] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Read, George, of Delaware. Attended at least as early as May 19.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675172] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Rutledge, John, of South Carolina. Attended on May 17, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675173] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Sherman, Roger, of Connecticut. Appointed May 17; attended May 30 and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675174] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Spaight, Richard Dobbs, of North Carolina. Attended as early as May 19, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675175] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

[Editors' note: Farrand's entry on Strong's attendance at the Convention reads, 'Attended on May 28; was present on August 15, but left before August 27', which does not indicate whether Strong was present on the dates between May 28 and August 15 (Page 590, Vol. 3, Appendix B (Max Farrand, 1911)). In his notes from 31 May 1787, Pierce describes a debate in which Strong participated. Since both Jackson and Madison record Strong's arrival to the Convention on 28 May, and Pierce notes him participating in a debate on 31 May, it is logical to assume that he was present for the 30 May session of the Committee of the Whole.]

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

[e675176] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Washington, George, of Virginia. Attended on May 14 and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675177] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Williamson, Hugh, of North Carolina. Attended as early as May 25, and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675178] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Wilson, James, of Pennsylvania. Attended as early as May 25 (probably before) and thereafter.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675179] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Wythe, George, of Virginia. Attended as early as May 15; left Convention June 4; resigned June 16. He approved the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675180] Agreeably to the order of the day the House resolved itself into a Committee of the whole House to consider of the State of the American union.

(Official Journal (Max Farrand, 1911), Pages 29-30, Vol. 1)

Yates, Robert, of New York. Attended May 18; left Convention July 10. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e675181] The House resolved itself into a Committee of the whole House to consider of the state of the American union

Mr President left the chair.

Mr Gorham, chosen by ballot, took the chair of the Committee.

[Editors' note: In a footnote to his 1911 edition of the Records of the Federal Convention of 1787 (specifically, the Journal entry for this day), Farrand quotes a loose page from the Detail of Ayes and Noes, which includes a tally of a vote between Gorham and Rutledge:

'Mr. Gorham | | | | | Mr. Rutledge |.'

Farrand writes that 'this is undoubtedly the vote for chairman of the committee of the whole' (Page 29, Vol. 1, Official Journal (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 29, Vol. 1)

Mr. Gorham (a member from Massachusetts) appointed chairman.

(Yates's Diary (Max Farrand, 1911), Page 38, Vol. 1)

Mr. Gorham was elected to the Chair by Ballot.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

[e675182] [Editors' note: On 29 May 1787, the Journal states, 'Mr Charles Pinckney, one of the Deputies of South Carolina, laid before the House for their consideration, the draught of a foederal government to be agreed upon between the free and independent States of America.

Ordered that the said draught be referred to the Committee of the whole House appointed to consider of the state of the american Union' (Page 16, Vol. 1, Official Journal (Max Farrand, 1911)).

Given this record, it is clear that the document was available to the Committee, even though it was not discussed.]

(2019 Editors)

[e675183] The propositions of Mr. Randolph which had been referred to the Committee being taken up.

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

The propositions offered yesterday to the consideration of the House by Mr Randolph were read

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

[e675184] [Editors' note: The Journal, Madison, and Yates record in slightly different wording that the Committee took up the Virginia Plan and began the process of debating, amending, and voting upon each resolution.

To mimic the process of severally debating the resolutions of the Virginia Plan – or debating them one by one – the editors have introduced a blank document that serves as a working draft. Resolutions are then proposed one at a time onto the working draft as they are taken up.]

(2019 Editors)

[e675185] Mr. Randolph then moved his first resolve, to wit: “Resolved, that the articles of the confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution, namely, common defence, security of liberty, and general welfare.”

(Yates’s Diary (Max Farrand, 1911), Page 38, Vol. 1)

1st resolution from Mr. Randol.

[Editors’ note: Farrand writes that this text is ‘from a loose folio sheet, in Dr. McHenry’s handwriting, which was found lying in the book containing the main body of his notes.’]

(McHenry’s Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e675186] Mr. G. Morris observed, that it was an unnecessaary [sic] resolution, as the subsequent resolutions would not agree with it.

(Yates’s Diary (Max Farrand, 1911), Page 38, Vol. 1)

[e732190] The propositions offered yesterday to the consideration of the House by Mr Randolph were read — and on motion of Mr Randolph, seconded by Mr G. Morris

That the consideration of the first resolution contained in the said propositions be postponed.

[Editors’ note: Madison’s notes say, ‘The motion for postponing was seconded by Mr. Govr. Morris and unanimously agreed to’ (Page 33, Vol. 1, Madison’s Notes (Max Farrand, 1911)). It appears from Madison’s records of the day that the delegations from Georgia, Maryland, and New Jersey were not quorate during this session and so were unable to vote.]

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

The propositions of Mr. Randolph which had been referred to the Committee being taken up. He moved on the suggestion of Mr G. Morris

that the first of his propositions to wit “Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty & general welfare should be postponed in order to consider the 3 following.

1. that a Union of the States merely federal will not accomplish the objects proposed by the articles of Condeferation, namely common defence, security of liberty, & genl. welfare.

2. that no treaty or treaties among the whole or part of the States, as individual sovereignties, would be sufficient.

3 that a national Government ought to be established consisting of a supreme Legislative, Executive & Judiciary.

(Madison’s Notes (Max Farrand, 1911), Page 33, Vol. 1)

Mr. G. Morris observed, that it was an unnecessaary resolution, as the subsequent resolutions would not agree with it. It was then withdrawn by the proposer

(Yates’s Diary (Max Farrand, 1911), Page 38, Vol. 1)

Mr. Randolph wished the house to dissent from the first proposition on the paper delivered in to the convention in order to take up the following [...]

(McHenry’s Notes (Max Farrand, 1911), Page 40, Vol. 1)

Mr. R. wishes to have that resol. dissented to. The resol. postponed to take up the following:

1st. That a union of the States merely foederal will not accomplish the object proposed by the articles of confederation, namely, “common defence, security of liberty, and general welfare”.

[Editors’ note: Farrand writes that this text is ’from a loose folio sheet, in Dr. McHenry’s handwriting, which was found lying in the book containing the main body of his notes.’]

(McHenry’s Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e732191] it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

The motion for postponing was seconded by Mr. Govr. Morris and unanimously agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 33, Vol. 1)

Mr. G. Morris observed, that it was an unnecesaaary resolution, as the subsequent resolutions would not agree with it. It was then withdrawn by the proposer

(Yates’s Diary (Max Farrand, 1911), Page 38, Vol. 1)

The resol. postponed to take up the following:

1st. That a union of the States merely foederal will not accomplish the object proposed by the articles of confederation, namely, “common defence, security of liberty, and general welfare”.

[Editors’ note: Farrand writes that this text is ’from a loose folio sheet, in Dr. McHenry’s handwriting, which was found lying in the book containing the main body of his notes.’]

(McHenry’s Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e675188] The propositions of Mr. Randolph which had been referred to the Committee being taken up. He moved on the suggestion of Mr G. Morris

that the first of his propositions to wit “Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty & general welfare should be postponed in order to consider the 3 following.

- 1. that a Union of the States merely federal will not accomplish the objects proposed by the articles of Confederation, namely common defence, security of liberty, & genl. welfare.

(Madison’s Notes (Max Farrand, 1911), Page 33, Vol. 1)

It was then withdrawn by the proposer, and in lieu thereof the following were proposed, to wit:

- 1. Resolved, That a union of the states, merely federal, will not accomplish the objects proposed by the articles of the confederation, namely, common defence, security of liberty, and general welfare.

(Yates’s Diary (Max Farrand, 1911), Pages 38-39, Vol. 1)

Mr. Randolph wished the house to dissent from the first proposition on the paper delivered in to the convention in order to take up the following

- 1st. That a union of the States merely federal will not accomplish the object proposed by the articles of confederation, namely “common defence, security of liberty, and general welfare.”

(McHenry’s Notes (Max Farrand, 1911), Page 40, Vol. 1)

It was then moved by Mr Randolph and seconded by Mr G Morris to substitute the following resolution in the place of the first resolution

Resolved that an union of the States, merely foederal, will not accomplish the objects proposed by the articles of confederation, namely “common defence, security of liberty, and general welfare.

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

Mr. R. wishes to have that resol. dissented to. The resol. postponed to take up the following:

- 1st. That a union of the States merely foederal will not accomplish the object proposed by the articles of confederation, namely, “common defence, security of liberty, and general welfare”.

[Editors’ note: Farrand writes that this text is ‘from a loose folio sheet, in Dr. McHenry’s handwriting, which was found lying in the book containing the main body of his notes.’]

(McHenry’s Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e675189] The propositions of Mr. Randolph which had been referred to the Committee being taken up. He moved on the suggestion of Mr G. Morris

that the first of his propositions to wit “Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty & general welfare should be postponed in order to consider the 3 following [...]

- 2. that no treaty or treaties among the whole or part of the States, as individual sovereignties, would be sufficient.

(Madison’s Notes (Max Farrand, 1911), Page 33, Vol. 1)

It was then withdrawn by the proposer, and in lieu thereof the following were proposed, to wit:

- [...] 2. Resolved, That no treaty or treaties among any of the states as sovereign, will accomplish or secure their common defence, liberty or welfare.

(Yates’s Diary (Max Farrand, 1911), Pages 38-39, Vol. 1)

Mr. Randolph wished the house to dissent from the first proposition on the paper delivered in to the convention in order to take up the following [...]

2. That no treaty or treaties between the whole or a less number of the States in their sovereign capacities will accomplish their common defence, liberty, or welfare.

(McHenry’s Notes (Max Farrand, 1911), Page 40, Vol. 1)

Mr. R. wishes to have that resol. dissented to. The resol. postponed to take up the following:

[...] 2. Resolved that no treaty or treaties between the whole or a less number of the States in their sovereign capacities will accomplish their common defence, liberty or welfare.

[Editors’ note: Farrand writes that this text is ‘from a loose folio sheet, in Dr. McHenry’s handwriting, which was found lying in the book containing the main body of his notes.’]

(McHenry’s Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e675190] It was moved by Mr Butler seconded by Mr Randolph to postpone the consideration of the said resolution in order to take up the following resolution submitted by Mr Randolph namely

Resolved that a national government ought to be established consisting of a supreme legislative, judiciary, and executive.

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

It was then withdrawn by the proposer, and in lieu thereof the following were proposed, to wit:

[...] 3. Resolved, That a national government ought to be established, consisting of a supreme judicial, legislative and executive.

(Yates’s Diary (Max Farrand, 1911), Pages 38-39, Vol. 1)

The propositions of Mr. Randolph which had been referred to the Committee being taken up. He moved on the suggestion of Mr G. Morris

that the first of his propositions to wit “Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty & general welfare should be postponed in order to consider the 3 following [...]

3 that a national Government ought to be established consisting of a supreme Legislative, Executive & Judiciary.

(Madison’s Notes (Max Farrand, 1911), Page 33, Vol. 1)

Mr. Randolph wished the house to dissent from the first proposition on the paper delivered in to the convention in order to take up the following [...]

3. That therefore a national government ought to be established consisting of a supreme legislature, judi[c]iary and executive.

(McHenry's Notes (Max Farrand, 1911), Page 40, Vol. 1)

3. Resolved therefore that a National Government ought to be established consisting of a supreme Legislature Judiciary and Executive instead of "accomplishing the Object, of the Confederation" say securing the Liberty and promoting the Happiness of the People of

[Editors' note: Farrand comments that 'Motion I shows Dickinson tinkering with the tripartite substitute for the first resolution in the Virginia Plan'. As these draft motions are never formally introduced they have been included alongside the original tripartite substitute.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 31-32, John Dickinson: Draft Motions)

[e675191] Mr. C. Pinkney wishes to know whether the establishment of this Resolution is intended as a ground for a consolidation of the several States into one.

Mr. Randol has nothing further in contemplation than what the propositions he has submitted yesterday has expressed [...]

Mr. Whythe presumes from the silence of the house that they gentn. are prepared to pass on the resolution and proposes its being put.

Mr. Butler — does not think the house prepared, that he is not. Wishes Mr. Randolph to shew that the existence of the States cannot be preserved by any other mode than a national government.

Gen. Pinkney — Thinks agreeing to the resolve is declaring that the convention does not act under the authority of the recommendation of Congress [...]

1787, 21 Febry. Resolution of Congress.

Resolved that in the opinion of Congress it is expedient that on the 2d Monday of May next a convention of delegates who shall have been appointed by the several States to be held at Philada. for the sole and expres purpose of revising the articles of confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein as shall when agreed to in Congress, and confirmed by the States, render the fœderal constitution, adequate to the exigencies of government and the preservation of the union."

[Editors' note: The various accounts of this session include the same debates in different sequences.]

(McHenry's Notes (Max Farrand, 1911), Pages 41-42, Vol. 1)

In considering the question on the first resolve, various modifications were proposed, when Mr. Pinkney observed, at last, that if the convention agreed to it, it appeared to him that their business was at an end; for as the powers of the house in general were to revise the present confederation, and to alter or amend it as the case might require; to determine its insufficiency or incapability of amendment or improvement, must end in the dissolution of the powers.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

Some verbal criticisms were raised agst. the first proposition

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

[e675192] This remark had its weight, and in consequence of it, the 1st and 2d resolve was dropt, and the question agitated on the third.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

It was moved by Mr Butler seconded by Mr Randolph to postpone the consideration of the said resolution in order to take up the following resolution submitted by Mr Randolph namely

Resolved that a national government ought to be established consisting of a supreme legislative, judiciary and executive.

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

Some verbal criticisms were raised agst. the first proposition, and it was agreed on motion of Mr Butler seconded by Mr. Randolph, to pass on to the third,

(Madison's Notes (Max Farrand, 1911), Page 33, Vol. 1)

The first resolution postponed to take up the 3d. viz — Resolved that a national government ought to be established consisting of a supreme legislature, judiciary and executive.

(McHenry's Notes (Max Farrand, 1911), Page 41, Vol. 1)

[e675193] This remark had its weight, and in consequence of it, the 1st and 2d resolve was dropt, and the question agitated on the third.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

[e675194] Mr. Randolph explains the intention of the 3d Resolution. Repeats the substance of his yesterdays observations. It is only meant to give the national government a power to defend and protect itself. To take therefore from the respective legislatures or States, no more sovereignty than is competent to this end.

Mr. Dickinson. Under obligations to the gentlemen who brought forward the systems laid before the house yesterday. Yet differs from the mode of proceeding to which the resolutions or propositions before the Committee lead. Would propose a more simple mode. All agree that the confederation is defective all agree that it ought to be amended. We are a nation altho' consisting of parts or States — we are also confederated, and he hopes we shall always remain confederated. The enquiry should be —

1. What are the legislative powers which we should vest in Congress.
2. What judiciary powers.
- 3 What executive powers.

We may resolve therefore, in order to let us into the business. That the confederation is defective; and then proceed to the definition of such powers as may be thought adequate to the objects for which it was instituted.

Mr. E. Gerry. Does not rise to speak to the merits of the question before the Committee but to the mode.

A distinction has been made between a federal and national government. We ought not to determine that there is this distinction for if we do, it is questionable not only whether this convention can propose an government totally different

or whether Congress itself would have a right to pass such a resolution as that before the house. The commission from Massachusetts empowers the deputies to proceed agreeably to the recommendation of Congress. This the foundation of the convention. If we have a right to pass this resolution we have a right to annihilate the confederation.

Proposes — In the opinion of this convention, provision should be made for the establishment of a federal legislative, judiciary, and executive.

(McHenry's Notes (Max Farrand, 1911), Pages 42-43, Vol. 1)

Some verbal criticisms were raised agst. the first proposition, and it was agreed on motion of Mr Butler seconded by Mr. Randolph, to pass on to the third, which underwent a discussion. less however on its general merits than on the force and extent of the particular terms national & supreme.

Mr. Charles Pinkney wished to know of Mr. Randolph whether he meant to abolish the State Governnts. altogether. Mr. R. replied that he meant by these general propositions merely to introduce the particular ones which explained the outlines of the system he had in view.

Mr. Butler said he had not made up his mind on the subject, and was open to the light which discussion might throw on it. After some general observations he concluded with saying that he had opposed the grant of powers to Congs. heretofore, because the whole power was vested in one body. The proposed distribution of the powers into different bodies changed the case, and would induce him to go great lengths.

Genl. Pinkney expressed a doubt whether the act of Congs. recommending the Convention, or the Commissions of the deputies to it, could authorize a discussion of a System founded on different principles from the federal Constitution.

Mr. Gerry seemed to entertain the same doubt.

(Madison's Notes (Max Farrand, 1911), Pages 33-34, Vol. 1)

This last resolve had also its difficulties; the term supreme required explanation — It was asked whether it was intended to annihilate state governments? It was answered, only so far as the powers intended to be granted to the new government should clash with the states, when the latter was to yield.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

[e675195] Mr. E. Gerry [...]

Proposes — In the opinion of this convention, provision should be made for the establishment of a federal legislative, judiciary, and executive.

(McHenry's Notes (Max Farrand, 1911), Pages 42-43, Vol. 1)

[e675196] [Editors' note: As there is no record that this proposal received any further consideration, the editors assume that it was dropped for lack of a second.]

(2019 Editors)

[e675197] Gouverneur Morris. Not yet ripe for a decision, because men seem to have affixed different explanations to the terms before the house. 1. We are not now under a foederal government. 2. There is no such thing. A foederal government is that which has a right to compel every part to do its duty. The foederal gov. has no such compelling capacities, whether considered in their legislative, judicial or Executive qualities.

The States in their appointments Congress in their recommendations point directly to the establishment of a supreme government capable of “the common defence, security of liberty and general welfare.

Cannot conceive of a government in which there can exist two supremes. A federal agreement which each party may violate at pleasure cannot answer the purpose. One government better calculated to prevent wars or render them less expensive or bloody than many.

We had better take a supreme government now, than a despot twenty years hence — for come he must.

(McHenry’s Notes (Max Farrand, 1911), Page 43, Vol. 1)

Mr. Govr. Morris explained the distinction between a federal and national, supreme, Govt.; the former being a mere compact resting on the good faith of the parties; the latter having a compleat and compulsive operation. He contended that in all communities there must be one supreme power, and one only.

(Madison’s Notes (Max Farrand, 1911), Page 34, Vol. 1)

[e675198] Mr. Mason observed that the present confederation was not only deficient in not providing for coercion & punishment agst. delinquent States; but argued very cogently that punishment could not in the nature of things be executed on the States collectively, and therefore that such a Govt. was necessary as could directly operate on individuals, and would punish those only whose guilt required it.

Mr. Sherman who took his seat to day, admitted that the Confederation had not given sufficient power to Congs. and that additional powers were necessary; particularly that of raising money which he said would involve many other powers. He admitted also that the General & particular jurisdictions ought in no case to be concurrent. He seemed however not be disposed to Make too great inroads on the existing system; intimating as one reason, that it would be wrong to lose every amendment, by inserting such as would not be agreed to by the States

(Madison’s Notes (Max Farrand, 1911), Pages 34-35, Vol. 1)

[e675199] It was moved by Mr Read seconded by Mr C. C. Pinckney to postpone the consideration of the last resolution in order to take up the following

Resolved That in order to carry into execution the design of the States in forming this convention and to accomplish the objects proposed by the confederation “a more effective government consisting of a Legislative, Judiciary, and Executive ought to be established”

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

It was moved by Mr. Read 2ded by Mr. Chas. Cotesworth Pinkney, to postpone the 3d. proposition last offered by Mr. Randolph viz that a national Government ought to be established consisting of a supreme legislative Executive and Judiciary,” in order to take up the following — viz. “Resolved that in order to carry into execution the Design of the States in forming this Convention, and to accomplish the objects proposed by the Confederation a more effective Government consisting of a Legislative, Executive and Judiciary ought to be established.”

(Madison’s Notes (Max Farrand, 1911), Page 35, Vol. 1)

Mr. Reed, Genl. Pky [Pinckney] 2dng. proposes — In order to carry into execution the design of the States in this meeting and to accomplish the objects proposed by the confederation resolved that A more effective government consisting of a legislative judiciary and executive ought to be established.

(McHenry’s Notes (Max Farrand, 1911), Page 44, Vol. 1)

II.

Resolved, 2—That to accomplish the Objects proposed by the Confederation, a more effective Government, consisting of a Legislative, Judiciary and Executive ought to be established

Resolved 1— That the Confederation is so defective that it cannot accomplish the Objects propose by it, namely ”Common Defense security of Liberty and General Welfare [sic].”

[Editors’ note: Hutson comments that these draft motions show Dickinson ’tinkering’ with the resolution introduced by George Read. As these draft motions are never formally introduced they have been included alongside the original tripartite substitute.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 32, John Dickinson: Draft Motions)

[e675200] In order to carry into execution

Mr. R. King — The object of the motion from Virginia, an establishment of a government that is to act upon the whole people of the U. S.

The object of the motion from Delaware seems to have application merely to the strenghtening [sic] the confederation by some additional powers —

Mr. Maddison [sic] — The motion does go to bring out the sense of the house — whether the States shall be governed by one power. If agreed to it will decide nothing. The meaning of the States that the confed. is defect. and ought to be amended. In agreeing to the . . .

[Editors’ note: ’The object of the motion from Virginia’ refers to Randolph’s motion, and ’the object of the motion from Delaware’ refers to Read’s proposed amendment. Madison’s comment is cut off, because — as Farrand says in a footnote to his 1911 edition — McHenry’s notes from this day are unfinished.]

(McHenry’s Notes (Max Farrand, 1911), Pages 43-44, Vol. 1)

[e675201] The motion to postpone for this purpose was lost:

Yeas Massachusetts, Connecticut. Delaware S. Carolina — 4 Nays N. Y. Pennsylvania, Virginia, North Carolina — 4

(Madison's Notes (Max Farrand, 1911), Page 35, Vol. 1)

On the question to postpone, in order to take up the last resolution, the question was lost.

(Official Journal (Max Farrand, 1911), Page 30, Vol. 1)

[e675202] On the question as moved by Mr. Butler on the third proposition it was resolved in Committee of the whole that a national Govern. ought to be established consisting of a supreme Legislative Executive & Judiciary." Massts. being ay — Connect. no. N. York divided (Col. Hamilton ay Mr. Yates no) Pena. ay. Delaware ay. Virga. ay. N. C. ay. S. C. ay. [Ayes — 6; noes — 1; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 35, Vol. 1)

On motion to agree to the said resolution moved by Mr Butler it passed in the affirmative [ayes — 6; noes — 1; divided — 1.]² — and the resolution, as agreed to, is as follows.

Resolved that it is the opinion of this Committee that a national government ought to be established consisting of a supreme Legislative, Judiciary, and Executive

(Official Journal (Max Farrand, 1911), Pages 30-31, Vol. 1)

For the resolution — Massachusetts, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina.

Against it — Connecticut, New-York divided, Jersey and the other states unrepresented.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

[e675203] The following resolution was then moved by Mr Randolph,

Resolved that the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

The following Resolution being the 2d. of those proposed by Mr. Randolph was taken up. viz — "that the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases."

(Madison's Notes (Max Farrand, 1911), Page 35, Vol. 1)

The next question was on the following resolve:

In substance that the mode of the present representation was unjust — the suffrage ought to be in proportion to number or property.

(Yates's Diary (Max Farrand, 1911), Page 39, Vol. 1)

The Committee then proceeded to consider the 2 Resolution in Mr. Randolphs paper viz

That the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution or to the number of free inhabitants as the one or the other rule may seem best in different cases.

(McHenry's Notes (Max Farrand, 1911), Page 40, Vol. 1)

[e675204] Mr. M adison observing that the words "or to the number of free inhabitants." might occasion debates which would divert the Committee from the general question whether the principle of representation should be changed, moved that they might be struck out

(Madison's Notes (Max Farrand, 1911), Pages 35-36, Vol. 1)

[e675205] Mr. King observed that the quotas of contribution which would alone remain as the measure of representation, would not answer; because waving every other view of the matter, the revenue might hereafter be so collected by the general Govt. that the sums respectively drawn from the States would not appear; and would besides be continually varying.

Mr. Madison admitted the propriety of the observation, and that some better rule ought to be found.

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e675206] Mr. Madison admitted the propriety of the observation, and that some better rule ought to be found.

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e675207] Col. Hamilton moved to alter the resolution so as to read "that the rights of suffrage in the national Legislature ought to be proportioned to the number of free inhabitants. Mr. Spaight 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

It was moved by Mr Hamilton seconded by Mr Spaight that the resolution be altered so as to read

Resolved that the rights of suffrage in the national legislature ought to be proportioned to the number of free inhabitants

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e732192] It was then moved that the Resolution be postponed

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

It was moved and seconded that the resolution be postponed

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e732193] It was then moved that the Resolution be postponed, which was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

It was moved and seconded that the resolution be postponed — and on the question to postpone it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e675209] Mr. Randolph and Mr. Madison then moved the following resolution — “that the rights of suffrage in the national Legislature ought to be proportioned”

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

The following resolution was moved by Mr Randolph seconded by Mr Madison

Resolved that the rights of suffrage in the national legislature ought to be proportioned

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e675210] It was moved and seconded to add the words “and not according to the present system”.

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

It was moved and 2ded. to amend it by adding “and not according to the present system”

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e675211] On the question to agree to the amendment it passed in the affirmative. [Ayes - 7; noes - 0.]

[Editors' note: Delaware appears not to have voted on this motion. It is possible that this abstention occurred because the delegation briefly dropped below quorum.]

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

It was moved and 2ded. to amend it by adding “and not according to the present system” — which was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e675212] It was then moved and 2ded. to alter the resolution so as to read “that the rights of suffrage in the national Legislature ought not to be according to the present system.”

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

It was then moved and seconded so to alter the resolution that it should read

Resolved that the rights of suffrage in the national legislature ought not to be according

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e732196] It was then moved and seconded to postpone the consideration of the last resolution

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e732197] It was then moved and seconded to postpone the consideration of the last resolution — And, on the question to postpone, it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

[e732199] It was then moved & 2ded. to postpone the Resolution moved by Mr. Randolph & Mr. Madison

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e732200] It was then moved & 2ded. to postpone the Resolution moved by Mr. Randolph & Mr. Madison, which being agreed to

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e675215] The following resolution was then moved by Mr Madison seconded by Mr G. Morris.

Resolved that the equality of suffrage established by the articles of confederation ought not to prevail in the national legislature and that an equitable ratio of representation ought to be substituted

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

Mr. Madison, moved, in order to get over the difficulties, the following resolution — “that the equality of suffrage established by the articles of Confederation ought not to prevail in the national Legislature, and that an equitable ratio of representation ought to be substituted” This was 2ded. by Mr. Govr. Morris, and being generally relished, would have been agreed to

(Madison's Notes (Max Farrand, 1911), Page 36, Vol. 1)

[e732203] Mr. Reed moved that the whole clause relating to the point of Representation be postponed; reminding the Come. that the deputies from Delaware were restrained by their commission from assenting to any change of the rule of suffrage, and in case such a change should be fixed on, it might become their duty to retire from the Convention.

(Madison's Notes (Max Farrand, 1911), Pages 36-37, Vol. 1)

It was moved and seconded to postpone the consideration of the last resolution

(Official Journal (Max Farrand, 1911), Page 31, Vol. 1)

To this Delaware objected, in consequence of the restrictions in their credentials, and moved to have the consideration thereof postponed

(Yates's Diary (Max Farrand, 1911), Pages 39-40, Vol. 1)

[e675216] Mr. Govr. Morris observed that the valuable assistance of those members could not be lost without real concern, and that so early a proof of discord in the convention as a secession of a State, would add much to the regret; that the change proposed was however so fundamental an article in a national Govt. that it could not be dispensed with.

Mr. Madison observed that whatever reason might have existed for the equality of suffrage when the Union was a federal one among sovereign States, it must cease when a national Govern. should be put into the place. In the former case, the acts of Congs. depended so much for their efficacy on the cooperation of the States, that these had a weight both within & without Congress, nearly in proportion to their extent and importance. In the latter case, as the acts of the Genl. Govt. would take effect without the intervention of the State legislatures, a vote from a small State wd. have the same efficacy & importance as a vote from a large one, and there was the same reason for different numbers of representatives from different States, as from Counties of different extents within particular States. He suggested as an expedient for at once taking the sense of the members on this point and saving the Delaware deputies from embarrassment, that the question should be taken in Committee, and the clause on report to the House be postponed without a question there. This however did not appear to satisfy Mr. Read.

By several it was observed that no just construction of the Act of Delaware, could require or justify a secession of her deputies, even if the resolution were to be carried thro' the House as well as the Committee.

(Madison's Notes (Max Farrand, 1911), Page 37, Vol. 1)

As this gave the large States the most absolute controul over the lesser ones it met with opposition which produced an adjournment without any determination.

(Yates's Diary (Max Farrand, 1911), Page 40, Vol. 1)

[e732205] And on the question to postpone it passed in the affirmative. [Ayes — 7; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 32, Vol. 1)

It was finally agreed however that the clause should be postponed: it being understood that in the event the proposed change of representation would certainly be agreed to, no objection or difficulty being started from any other quarter than from Delaware.

The motion of Mr. Read to postpone being agreed to

(Madison's Notes (Max Farrand, 1911), Pages 37-38, Vol. 1)

To this Delaware objected, in consequence of the restrictions in their credentials, and moved to have the consideration thereof postponed, to which the house agreed.

(Yates's Diary (Max Farrand, 1911), Pages 39-40, Vol. 1)

[e675218] It was moved and seconded that the Committee do now rise.

(Official Journal (Max Farrand, 1911), Page 32, Vol. 1)

The Committee then rose.

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

[e675219] It was moved and seconded that the Committee do now rise.

(Official Journal (Max Farrand, 1911), Page 32, Vol. 1)

The Committee then rose.

(Madison's Notes (Max Farrand, 1911), Page 38, Vol. 1)

3.2 Thursday, 31 May 1787, at 10:00 (s6289)

[e675220] The honorable William Pierce Esquire, a Deputy of the State of Georgia attended and took his seat

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

Pierce, William, of Georgia. Attended May 31; absent after July 1. He favored the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

William Pierce from Georgia took his seat.

(Madison's Notes (Max Farrand, 1911), Page 47, Vol. 1)

[e675221] It was moved & seconded that the Committee proceed to the consideration of the following resolution (submitted by Mr Randolph) namely

“Resolved that the national legislature ought to consist of two branches.” —

[Editors' note: The resolution pertaining to a tripartite government is the third of Randolph's resolutions proposed in lieu of his first proposition on 30 May 1787. The resolution pertaining to a bicameral legislature is the third resolution of the Virginia Plan. Therefore, at this point, the Virginia Plan as amended has two resolutions numbered '3'.]

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

Mr. Randolph motioned to take into consideration, vz. That the national legislature ought to consist of two branches.

agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 60, Vol. 1)

The 3d resolve, to wit, “That the national legislature ought to consist of two branches,” was taken into consideration

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1)

On the 30th May Govr. Randolph brought forward the principles of a federal Government. The idea suggested was, a national Government to consist of three branches

(Pierce's Notes (Max Farrand, 1911), Page 57, Vol. 1)

The 3d. Resolution "that the national Legislature ought to consist of two branches"

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 1)

[e675222] The 3d. Resolution "that the national Legislature ought to consist of two branches" was agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Doctr. Franklin who was understood to be partial to a single House of Legislation.

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 1)

The 3d resolve, to wit, "That the national legislature ought to consist of two branches," was taken into consideration, and without any debate agreed to. (N. B. As a previous resolution had already been agreed to, to have a supreme legislature, I could not see any objection to its being in two branches.)

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1)

[e675223] And on the question to agree to the said resolution it passed in the affirmative.

[Editors' note: Madison's notes say that this resolution was 'agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Doctr. Franklin who was understood to be partial to a single House of Legislation.' (Page 48, Vol. 1, Madison's Notes (Max Farrand, 1911)). Farrand, however, notes that Madison copied this information from what was likely a mistake in the Journal that attributed this vote to Vote 4 in the Detail of Ayes and Noes. Originally, Madison recorded this vote as unanimous, which is corroborated by Yates' and McHenry's accounts.

All other accounts attest to this vote being unanimous.]

(Official Journal (Max Farrand, 1911), Page 45, Vol. 1)

On the 30th May Govr. Randolph brought forward the principles of a federal Government. The idea suggested was, a national Government to consist of three branches. Agreed.

(Pierce's Notes (Max Farrand, 1911), Page 57, Vol. 1)

The 3d resolve, to wit, "That the national legislature ought to consist of two branches," was taken into consideration, and without any debate agreed to. (N. B. As a previous resolution had already been agreed to, to have a supreme legislature, I could not see any objection to its being in two branches.)

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1)

Mr. Randolph motioned to take into consideration, *vz.* That the national legislature ought to consist of two branches.

agreed to.

(McHenry's Notes (Max Farrand, 1911), Page 60, Vol. 1)

[*e675224*] It was then moved & seconded to proceed to the consideration of the following clause of the fourth resolution (submitted by Mr Randolph) namely

“Resolved that the members of the first branch of the national legislature ought to be elected by the people of the several States:”

[Editors' note: At this point, the Committee began to debate, amend, and reconstruct the Seventh Resolution clause by clause. The editors have introduced a working version of the amendment to model this process.]

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1)

The 4th resolve

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1)

Part of the 4 resolution moved.

(McHenry's Notes (Max Farrand, 1911), Page 60, Vol. 1)

[*e675225*] It was then moved & seconded to proceed to the consideration of the following clause of the fourth resolution (submitted by Mr Randolph) namely

“Resolved that the members of the first branch of the national legislature ought to be elected by the people of the several States:”

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1)

Resol: 4. first clause “that the members of the first branch of the National Legislature ought to be elected by the people of the several States” being taken up,

(Madison's Notes (Max Farrand, 1911), Page 48, Vol. 1, 31 May 1787)

The first br. to be elected by ye. People.

(King's Diary (Max Farrand, 1911), Page 56, Vol. 1, 31 May 1787)

Part of the 4 resolution moved. *vz.* That the members of the first branch ought to be elected by the people of the several States.

(McHenry's Notes (Max Farrand, 1911), Page 60, Vol. 1, 31 May 1787)

Resolved that the first branch of the Legislature ought to be elected by the People of the several States.

(Pierce's Notes (Max Farrand, 1911), Page 57, Vol. 1, 31 May 1787)

[e675226] Mr. Sherman opposed the election by the people, insisting that it ought to be by the State Legislatures. The people he said, immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.

Mr. Gerry. The evils we experience flow from the excess of democracy. The people do not want virtue; but are the dupes of pretended patriots. In Massts. it has been fully confirmed by experience that they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of Governnt. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamour in Massts. for the reduction of salaries and the attack made on that of the Govr. though secured by the spirit of the Constitution itself. He had he said been too republican heretofore: he was still however republican, but had been taught by experience the danger of the levelling [sic] spirit.

Mr. Mason. argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Govt. It was, so to speak, to be our House of Commons — It ought to know & sympathise with every part of the community; and ought therefore to be taken not only from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances particularly in Virga., different interests and views arising from difference of produce, of habits &c &c. He admitted that we had been too democratic but was afraid we sd. incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity & policy, considering that however affluent their circumstances, or elevated their situations, might be, the course of a few years, not only might but certainly would, distribute their posterity throughout the lowest classes of Society. Every selfish motive therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights — and happiness of the lowest than of the highest orders of Citizens.

Mr. Wilson contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State Legislatures by making them the electors of the national Legislature. All interference between the general and local Governmts. should be obviated as much as possible. On examination it would be found that the opposition of States to federal measures had proceeded much more from the Officers of the States, than from the people at large.

Mr. Madison considered the popular election of one branch of the national Legislature as essential to every plan of free Government. He observed that in some of the States one branch of the Legislature was composed of men already removed from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State Legislatures, the second branch elected by the first — the Executive by the second together

with the first; and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the Legislature, and in the Executive & judiciary branches of the Government. He thought too that the great fabric to be raised would be more stable and durable if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the Legislatures.

Mr. Gerry did not like the election by the people. The maxims taken from the British constitution were often fallacious when applied to our situation which was extremely different. Experience he said had shewn that the State Legislatures drawn immediately from the people did not always possess their confidence. He had no objection however to an election by the people if it were so qualified that men of honor & character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number out of which the State legislatures should be bound to choose.

Mr. Butler thought an election by the people an impracticable mode.

(Madison's Notes (Max Farrand, 1911), Pages 48-50, Vol. 1)

The 4th resolve, "That the members of the first branch of the national legislature ought to be elected by the people of the several states," was opposed; and strange to tell, by Massachusetts and Connecticut, who supposed they ought to be chosen by the legislatures; and Virginia supported the resolve, alledging that this ought to be the democratic branch of government, and as such, immediately vested in the people.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

Ger. opposed to the measure, & prefers appointments by the state Legis — because the people are not imformed [sic] —

Mason. in favor, because the first Br. is to represent the people, we must not go too far, we must preserve a portion of Democ. our own Children will in a short time be among the genl. mass —

Wilson — agrees wt. Mason. we ought to adopt the measure to secure the popular Confidence and to destroy the rivalry between the State & Genl. Govts — They will in this way both proceed immediately from the people &c —

Madison — agrees with Wilson — this mode immediately introduces the people, and naturally inspires that affection for the Genl. Govt. wh. takes place towards our own offspring — The alternative of a Legislative appt. removes the Genl. Govt. too far from the People — in Maryland the Senate is two removes from the People, a Depy. appointed by ym. will be three, the first Br. having power to appt. the 2d. Br. they will be four, the Genl. Legis. appts. the Executive which will be five removes from the People — if the Election is made by the Peop. in large Districts there will be no Danger of Demagogues —

(King's Diary (Max Farrand, 1911), Page 56, Vol. 1, 31 May 1787)

Resolved that the first branch of the Legislature ought to be elected by the People of the several States.

A debate arose on this point.

Mr. Sherman thought the State Legislatures were better qualified to elect the Members than the people were.

Mr. Gerry was of the same opinion.

Mr. Mason was of the opinion that the appointment of the Legislature coming from the people would make the representation actual, but if it came from the State Legislatures it will be only virtual.

Mr. Wilson thought that one branch of the Legislature ought to be drawn from the people, because on the great foundation of the people all Government ought to rest. He would wish to see the new Constitution established on a broad basis, and rise like a pyramid to a respectable point.

Mr. Maddison was of the opinion that the appointment of the Members to the first branch of the national Legislature ought to be made by the people for two reasons, — one was that it would inspire confidence, and the other that it would induce the Government to sympathize with the people.

Mr. Gerry was of opinion that the representation would not be equally good if the people chose them, as if the appointment was made by the State Legislatures. He also touched on the principles of liberal support, and reprobated that idea of œconomy in the different States that has been so injuriously practised.

Mr. Strong would agree to the principle, provided it would undergo a certain modification, but pointed out nothing.

Mr. Butler was opposed to the appointment by the people, because the State Legislatures he thought better calculated to make choice of such Members as would best answer the purpose.

Mr. Spaight thought it necessary previous to the decision on this point that the mode of appointing the Senate should be pointed out. He therefore moved that the second branch of the Legislature should be appointed by the State Legislatures.

Mr. King observed that the Question called for was premature, and out of order, — that unless we go on regularly from one principle to the other we shall draw out our proceedings to an endless length.

Mr. Butler called on Govr. Randolph to point out the number of Men necessary for the Senate, for on a knowledge of that will depend his opinion of the style and manner of appointing the first branch.

Mr. Randolph said he could not then point out the exact number of Members for the Senate, but he would observe that they ought to be less than the House of Commons. He was for offering such a check as to keep up the balance, and to restrain, if possible, the fury of democracy. He thought it would be impossible for the State Legislatures to appoint the Senators, because it would not produce the check intended. The first branch of the fœderal Legislature should have the appointment of the Senators, and then the check would be compleat.

Butler said that until the number of the Senate could be known it would be impossible for him to give a vote on it.

Mr. Wilson was of opinion that the appointment of the 2d branch ought to be made by the people provided the mode of election is as he would have it, and that is to divide the union into districts from which the Senators should be chosen. He hopes that a fœderal Government may be established that will insure freedom and yet be vigorous.

Mr. Maddison thinks the mode pointed out in the original propositions the best.

Mr. Butler moved to have the proposition relating to the first branch postponed, in order to take up another, — which was that the second branch of the Legislature consist of blank.

Mr. King objected to the postponement for the reasons which he had offered before.

Mr. Sherman was of opinion that if the Senate was to be appointed by the first branch and out of that Body that it would make them too dependent, and thereby destroy the end for which the Senate ought to be appointed.

Mr. Mason was of opinion that it would be highly improper to draw the Senate out of the first branch; that it would occasion vacancies which would cost much time, trouble, and expence to have filled up, — besides which it would make the Members too dependent on the first branch.

Mr. Chs. Pinckney said he meant to propose to divide the Continent into four Divisions, out of which a certain number of persons shd. be nominated, and out of that nomination to appoint a Senate.

I was myself of opinion that it would be right first to know how the Senate should be appointed, because it would determine many Gentlemen how to vote for the choice of Members for the first branch, — it appeared clear to me that unless we established a Government that should carry at least some of its principles into the mass of the people, we might as well depend upon the present confederation. If the influence of the States is not lost in some part of the new Government we never shall have any thing like a national institution. But in my opinion it will be right to shew the sovereignty of the State in one branch of the Legislature, and that should be in the Senate.

On the proposition in the words following — “to legislate in all cases where the different States shall prove incompetent.”

Mr. Sherman was of opinion that it would be too indefinitely expressed, — and yet it would be hard to define all the powers by detail. It appeared to him that it would be improper for the national Legislature to negative all the Laws that were connected with the States themselves.

Mr. Maddison said it was necessary to adopt some general principles on which we should act, — that we were wandering from one thing to another without seeming to be settled in any one principle.

Mr. Wythe observed that it would be right to establish general principles before we go into detail, or very shortly Gentlemen would find themselves in confusion, and would be obliged to have recurrence to the point from whence they sat out.

Mr. King was of opinion that the principles ought first to be established before we proceed to the framing of the Act. He apprehends that the principles only go so far as to embrace all the power that is given up by the people to the Legislature, and to the fœderal Government, but no farther.

Mr. Randolph was of opinion that it would be impossible to define the powers and the length to which the federal Legislature ought to extend just at this time.

Mr. Wilson observed that it would be impossible to enumerate the powers which the federal Legislature ought to have.

Mr. Maddison said he had brought with him a strong prepossession for the defining of the limits and powers of the federal Legislature, but he brought with him some doubts about the practicability of doing it: — at present he was convinced it could not be done.

(Pierce's Notes (Max Farrand, 1911), Pages 57-60, Vol. 1, 31 May 1787)

[e675227] On the question for an election of the first branch of the national Legislature, by the people, Massts. ay. Connect. divd. N. York ay. N. Jersey no. Pena. ay. Delawe. divd. Va. ay. N. C. ay. S. C. no. Georga. ay. [Ayes — 6; noes — 2; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 50, Vol. 1)

[O]n the question to agree to the said clause of the fourth resolution it passed in the affirmative [Ayes — 6; noes — 2; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 3, Vol. 1, 1787)

This question was carried

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

Carried thus "that the first Br. be elected by the people of the sevl. States.
Mass. NYk. Penn. Virg. N. Car. & Georg. Ay
Cont. & Delr. divd.
N Jersey & S. Caro. no

(King's Diary (Max Farrand, 1911), Page 56, Vol. 1, 31 May 1787)

6 States aff. 2 neg. 2 divided.

(McHenry's Notes (Max Farrand, 1911), Page 60, Vol. 1, 31 May 1787)

[e675228] [Editors' note: Both the Journal and Madison record that the remaining clauses of the Fourth Resolution were postponed. In order to represent the clauses as being postponed, the editors have introduced them here. Subsequent events show that these clauses were considered as a whole.]

(2019 Editors)

[e738419] It was then moved and seconded to postpone the consideration of the remaining clauses of the said fourth resolution

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1)

The remaining Clauses of Resolution 4th. relating to the qualifications of members of the National Legislature being postpd. nem. con. as entering too much into detail for general propositions

(Madison's Notes (Max Farrand, 1911), Pages 50-51, Vol. 1)

This question [the first resolution of the fourth clause] was carried, but the remaining part of the resolve detailing the powers, was postponed.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

[e738420] The remaining Clauses of Resolution 4th. relating to the qualifications of members of the National Legislature being postpd. nem. con. as entering too much into detail for general propositions

(Madison's Notes (Max Farrand, 1911), Pages 50-51, Vol. 1)

It was then moved and seconded to postpone the consideration of the remaining clauses of the said fourth resolution

and on the question to postpone the remaining clauses of the said fourth resolution

it passed in the affirmative

[Ayes — 0; noes — 9; divided — 1.]

[Editors' note: The journal mistakenly attributes this vote count to this decision.]

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1)

This question [the first resolution of the fourth clause] was carried, but the remaining part of the resolve detailing the powers, was postponed.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

[e675230] [Editors' note: Though the majority of the resolution had been postponed, the first clause was considered part of the plan and influenced how subsequent motions progressed. For this reason, the resolution is shown here as being accepted and the remaining clauses left to be decided.]

(2019 Editors)

[e743960] The Committee proceeded to Resolution 5, "that the second, (or senatorial) branch of the National Legislature ought to be chosen by the first branch out of persons nominated by the State Legislatures.

(Madison's Notes (Max Farrand, 1911), Page 51, Vol. 1)

[e675231] The Committee proceeded to Resolution 5, "that the second, (or senatorial) branch of the National Legislature ought to be chosen by the first branch out of persons nominated by the State Legislatures.

(Madison's Notes (Max Farrand, 1911), Page 51, Vol. 1)

It was then moved and seconded to proceed to the consideration of the following resolution (being the fifth submitted by Mr Randolph)

Resolved that the members of the second branch of the national legislature ought to be elected by those of the first: out of — &ca

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1, 31 May 1787)

5 Reso. so far as follows taken up vz. That the members of the second branch of the national legislature ought to be elected by those of the first out of a proper number of persons nominated by the individual legislatures

(McHenry's Notes (Max Farrand, 1911), Page 60-61, Vol. 1, 31 May 1787)

[e675232] Mr. Spaight contended that the 2d. branch ought to be chosen by the State Legislatures and moved an amendment to that effect.

[Editors' note: According to Pierce's notes, Spaight proposed this amendment during the Committee's discussion of the fourth resolution: 'Mr. Spaight thought it necessary previous to the decision on this point that the mode of appointing the Senate should be pointed out. He therefore moved that the second branch of the Legislature should be appointed by the State Legislatures. Mr. King observed that the Question called for was premature, and out of order, — that unless we go on regularly from one principle to the other we shall draw out our proceedings to an endless length.' (Page 58, Vol. 1, Pierce's Notes (Max Farrand, 1911)).]

(Madison's Notes (Max Farrand, 1911), Page 51, Vol. 1)

[e675233] Mr. Butler apprehended that the taking so many powers out of the hands of the States as was proposed, tended to destroy all that balance and security of interests among the States which it was necessary to preserve; and called on Mr. Randolph the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign to this second branch.

Mr. Randf. observed that he had at the time of offering his propositions stated his ideas as far as the nature of general propositions required; that details made no part of the plan, and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which numerous assemblies are liable. He observed that the general object was to provide a cure for the evils under which the U. S. laboured; that in tracing these evils to their origin every man had found it in the turbulence and follies of democracy: that some check therefore was to be sought for agst. this tendency of our Governments: and that a good Senate seemed most likely to answer the purpose.

Mr. King reminded the Committee that the choice of the second branch as proposed (by Mr. Spaight) viz. by the State Legislatures would be impracticable, unless it was to be very numerous, or the idea of proportion among the States was to be disregarded. According to this idea, there must be 80 or 100 members to entitle Delaware to the choice of one of them.—Mr. Spaight withdrew his motion.

(Madison's Notes (Max Farrand, 1911), Pages 51-52, Vol. 1)

[e675234] Mr. King reminded the Committee that the choice of the second branch as proposed (by Mr. Spaight) viz. by the State Legislatures would be impracticable, unless it was to be very numerous, or the idea of proportion among the States was to be disregarded. According to this idea, there must be 80 or 100 members to entitle Delaware to the choice of one of them.—Mr. Spaight withdrew his motion.

(Madison's Notes (Max Farrand, 1911), Pages 51-52, Vol. 1)

[e675235] Mr. Wilson opposed both a nomination by the State Legislatures, and an election by the first branch of the national Legislature, because the

second branch of the latter, ought to be independent of both. He thought both branches of the National Legislature ought to be chosen by the people, but was not prepared with a specific proposition. He suggested the mode of chusing the Senate of N. York. to wit of uniting several election districts, for one branch, in chusing members for the other branch, as a good model.

Mr. Madison observed that such a mode would destroy the influence of the smaller States associated with larger ones in the same district; as the latter would chuse from within themselves, altho' better men might be found in the former. The election of Senators in Virga. where large & small counties were often formed into one district for the purpose, had illustrated this consequence. Local partiality, would often prefer a resident within the County or State, to a candidate of superior merit residing out of it. Less merit also in a resident would be more known throughout his own State.

Mr. Sherman favored an election of one member by each of the State Legislatures,

(Madison's Notes (Max Farrand, 1911), Page 52, Vol. 1)

Mr. Mason was of opinion that it would be highly improper to draw the Senate out of the first branch; that it would occasion vacancies which would cost much time, trouble, and expence to have filled up, — besides which it would make the Members too dependent on the first branch.

Mr. Chs. Pinckney said he meant to propose to divide the Continent into four Divisions, out of which a certain number of persons shd. be nominated, and out of that nomination to appoint a Senate.

I [Pierce] was myself of opinion that it would be right first to know how the Senate should be appointed, because it would determine many Gentlemen how to vote for the choice of Members for the first branch, — it appeared clear to me that unless we established a Government that should carry at least some of its principles into the mass of the people, we might as well depend upon the present confederation. If the influence of the States is not lost in some part of the new Government we never shall have any thing like a national institution. But in my opinion it will be right to shew the sovereignty of the State in one branch of the Legislature, and that should be in the Senate.

[Editors' note: Pierce does not explicitly say in his notes when the conversation about the national legislature shifts from the Fourth Resolution to the Fifth, and some of the conversations that Madison attaches to the Fifth Resolution, Pierce attaches to the Fourth. As a result, it is unclear which resolution is being discussed in this passage. The content of the conversation he describes suggests that, though he does not indicate as much, the Committee has moved on to the Fifth Resolution and that these observations by Mason, C. Pinckney, and himself refer to that resolution.]

(Pierce's Notes (Max Farrand, 1911), Page 59, Vol. 1)

[e675237] Mr. Pinkney moved to strike out the "nomination by the State Legislatures."

(Madison's Notes (Max Farrand, 1911), Page 52, Vol. 1)

[e675238] On this question.

*Massts. no. Cont. no. N. Y. no. N. J. no. Pena. no. Del. divid. Va. no. N. C. no. S. C. no Georg no. [Ayes — 0; noes — 9; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 52, Vol. 1)

[e675239] On the whole question for electing by the first branch out of nominations by the State Legislatures, Mass. ay. Cont. no. N. Y. no. N. Jersey. no. Pena. no. Del. no. Virga. ay. N. C. no. S. C. ay. Ga. no. [Ayes — 3; noes — 7.]

So the clause was disagreed to & a chasm left in this part of the plan.

(Madison's Notes (Max Farrand, 1911), Page 52, Vol. 1)

and on the question to agree to the said fifth resolution
it passed in the negative [Ayes — 3; noes — 7.]

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1, 31 May 1787)

The 5th resolve, That the members of the second branch of the national legislature ought to be elected by those of the first out of a proper number of persons nominated by the individual legislatures, and the detail of the mode of election and duration of office, was postponed.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

Neg. 7. affirm 3. aff. Mass. S. C. Virginia.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675240] The sixth Resolution stating the cases in which the national Legislature ought to legislate was next taken into discussion. On the question whether each branch shd. originate laws, there was an unanimous affirmative without debate.

[Editors' note: At this point, the Committee began to debate, amend, and reconstruct the Seventh Resolution clause by clause. The editors have introduced a working version of the amendment to model this process.]

(Madison's Notes (Max Farrand, 1911), Pages 52-53, Vol. 1)

It was then moved and seconded to proceed to the consideration of the following resolution (being the sixth submitted by Mr Randolph)

Resolved "that each branch ought to possess the right of originating acts:"

"That the national legislature ought to be empowered"

"to enjoy the legislative rights vested in Congress by the confederation; and moreover

To legislate in all cases, to which the separate States are incompetent: [Ayes — 9; noes — 0; divided — 1.] or

in which the harmony of the united States may be interrupted by the exercise of individual legislation

To negative all laws, passed by the several States, contravening, in the opinion of the national legislature, the articles of union: (the following words were added to this clause on motion of Mr Franklin, "or any Treaties subsisting under the authority of the union

(Official Journal (Max Farrand, 1911), Pages 46-47, Vol. 1, 31 May 1787)

The 6th resolve is taken in detail

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

[e675241] The sixth Resolution stating the cases in which the national Legislature ought to legislate was next taken into discussion. On the question whether each branch shd. originate laws, there was an unanimous affirmative without debate.

(Madison's Notes (Max Farrand, 1911), Pages 52-53, Vol. 1)

The 6th resolve is taken in detail: "That each branch ought to possess the right of originating acts."

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

That each branch ought to possess the right of originating acts.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

It was then moved and seconded to proceed to the consideration of the following resolution (being the sixth submitted by Mr Randolph)

Resolved "that each branch ought to possess the right of originating acts:"

(Official Journal (Max Farrand, 1911), Page 46, Vol. 1, 31 May 1787)

[e675242] On the question whether each branch shd. originate laws, there was an unanimous affirmative without debate.

(Madison's Notes (Max Farrand, 1911), Page 53, Vol. 1)

Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

The 6th resolve is taken in detail: "That each branch ought to possess the right of originating acts." Agreed to.

(Yates's Diary (Max Farrand, 1911), Page 55, Vol. 1, 31 May 1787)

That each branch ought to possess the right of originating acts.
agreed.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675243] On the question for transferring all the Legislative powers of the existing Congs. to this Assembly, there was also a silent affirmative nem. con.

(Madison's Notes (Max Farrand, 1911), Page 53, Vol. 1)

"That the national legislature ought to be empowered to enjoy the legislative rights vested in congress by the confederation."

(Yates's Diary (Max Farrand, 1911), Pages 55-56, Vol. 1, 31 May 1787)

That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confedn. and moreover to legislate in all cases to which the seperate States are incompetent.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

It was then moved and seconded to proceed to the consideration of the following resolution (being the sixth submitted by Mr Randolph)

Resolved "that each branch ought to possess the right of originating acts:"

"That the national legislature ought to be empowered"

"to enjoy the legislative rights vested in Congress by the confederation

(Official Journal (Max Farrand, 1911), Pages 46-47, Vol. 1, 31 May 1787)

[e675244] On the question for transferring all the Legislative powers of the existing Congs. to this Assembly, there was also a silent affirmative nem. con.

(Madison's Notes (Max Farrand, 1911), Page 53, Vol. 1)

Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

"That the national legislature ought to be empowered to enjoy the legislative rights vested in congress by the confederation." — Agreed to.

(Yates's Diary (Max Farrand, 1911), Pages 55-56, Vol. 1, 31 May 1787)

That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confedn. and moreover to legislate in all cases to which the seperate States are incompetent.

agreed.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675245] On the proposition for giving "Legislative power in all cases to which the State Legislatures were individually incompetent".

(Madison's Notes (Max Farrand, 1911), Page 53, Vol. 1)

"And, moreover, to legislate in all cases to which the separate states are incompetent."

(Yates's Diary (Max Farrand, 1911), Page 56, Vol. 1, 31 May 1787)

It was then moved and seconded to proceed to the consideration of the following resolution (being the sixth submitted by Mr Randolph)

Resolved "that each branch ought to possess the right of originating acts:"

"That the national legislature ought to be empowered"

"to enjoy the legislative rights vested in Congress by the confederation; and moreover

To legislate in all cases, to which the separate States are incompetent:

(Official Journal (Max Farrand, 1911), Pages 46-47, Vol. 1, 31 May 1787)

That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confedn. and moreover to legislate in all cases to which the separate [sic] States are incompetent.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675246] Mr. Pinkney, & Mr. Rutledge objected to the vagueness of the term incompetent, and said they could not well decide how to vote until they should see an exact enumeration of the powers comprehended by this definition.

Mr. Butler repeated his fears that we were running into an extreme in taking away the powers of the States, and called on Mr. Randolp [sic] for the extent of his meaning.

Mr. Randolph disclaimed any intention to give indefinite powers to the national Legislature, declaring that he was entirely opposed to such an inroad on the State jurisdictions, and that he did not think any considerations whatever could ever change his determination. His opinion was fixed on this point.

Mr. Madison said that he had brought with him into the Convention a strong bias in favor of an eneration and definition of the powers necessary to be exercised by the national Legislature; but had also brought doubts concerning its practicability. His wishes remained unaltered; but his doubts had become stronger. What his opinion might ultimately be he could not yet tell. But he should shrink from nothing which should be found essential to such a form of Govt. as would provide for the safety, liberty and happiness of the Community. This being the end of all our deliberations, all the necessary means for attaining it must, however reluctantly, be submitted to.

(Madison's Notes (Max Farrand, 1911), Page 53, Vol. 1)

On the proposition in the words following — “to legislate in all cases where the different States shall prove incompetent.”

Mr. Sherman was of opinion that it would be too indefinitely [sic] expressed, — and yet it would be hard to define all the powers by detail. It appeared to him that it would be improper for the national Legislature to negative all the Laws that were connected with the States themselves.

Mr. Maddison [sic] said it was necessary to adopt some general principles on which we should act, — that we were wandering from one thing to another without seeming to be settled in any one principle.

Mr. Wythe observed that it would be right to establish general principles before we go into detail, or very shortly Gentlemen would find themselves in confusion, and would be obliged to have recurrence to the point from whence they sat out.

Mr. King was of opinion that the principles ought first to be established before we proceed to the framing of the Act. He apprehends that the principles only go so far as to embrace all the power that is given up by the people to the Legislature, and to the fœderal Government, but no farther.

Mr. Randolph was of opinion that it would be impossible to define the powers and the length to which the federal Legislature ought to extend just at this time.

Mr. Wilson observed that it would be impossible to enumerate the powers which the federal Legislature ought to have.

[Editors' note: Again, Pierce's timeline does not align perfectly with other accounts of this session, namely Madison's. According to Madison, two separate discussions occurred within the Committee regarding the legislature's power to act 'where the different states shall prove incompetent' and giving the legislature power to negative states' laws. Pierce, however, does not make this distinction, and records Sherman as commenting on the legislature's ability to negative states' laws in the midst of a discussion on whether the legislature can act in the event of a state's incompetence. This suggests the possibility that Pierce misplaced Sherman's objections. Although, if Pierce's timeline is correct, and these observations by Sherman, Madison, Wythe, and King took place before Madison's statement about the impracticability of enumerating the legislature's powers, then this conversation occurred before the discussion of the national legislature's right to negative states' laws.]

(Pierce's Notes (Max Farrand, 1911), Pages 59-60, Vol. 1)

[e675248] On the question for giving powers, in cases to which the States are not competent,

Massts. ay. Cont. divid. (Sharman [sic] no Elseworth [sic] ay) N. Y. ay. N. J. ay. Pa. ay. Del. ay. Va. ay. N. C. ay, S. Carolina ay. Georga. ay. [Ayes — 9; noes — 0; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Pages 53-54, Vol. 1)

Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Paterson's Notes (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

“And, moreover, to legislate in all cases to which the separate states are incompetent.” — Agreed to.

(Yates's Diary (Max Farrand, 1911), Page 56, Vol. 1, 31 May 1787)

That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confedn. and moreover to legislate in all cases to which the sepearate [sic] States are incompetent.

agreed.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

To legislate in all cases, to which the separate States are incompetent: [Ayes — 9; noes — 0; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1)

[e675249] The other clauses giving powers necessary to preserve harmony among the States to negative all State laws contravening in the opinion of the Nat Leg the articles of Union down to the last clause, (the words “or any treaties subsisting under the authority of the Union”, being added after the words “contravening &c. the articles of the Union”; on motion of Dr. Franklin, were agreed to witht. debate or dissent.

(Madison's Notes (Max Farrand, 1911), Pages 54, Vol. 1)

It was then moved and seconded to proceed to the consideration of the following resolution (being the sixth submitted by Mr Randolph)

Resolved "that each branch ought to possess the right of originating acts:"

"That the national legislature ought to be empowered"

"to enjoy the legislative rights vested in Congress by the confederation; and moreover

To legislate in all cases, to which the separate States are incompetent: [Ayes — 9; noes — 0; divided — 1.] or

in which the harmony of the united States may be interrupted by the exercise of individual legislation

To negative all laws, passed by the several States, contravening, in the opinion of the national legislature, the articles of union

(Official Journal (Max Farrand, 1911), Pages 46-47, Vol. 1, 31 May 1787)

or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675250] The words "or any treaties subsisting under the authority of the Union", being added after the words "contravening &c. the articles of the Union"; on motion of Dr. Franklin.

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1)

To negative all laws, passed by the several States, contravening, in the opinion of the national legislature, the articles of union: (the following words were added to this clause on motion of Mr Franklin, "or any Treaties subsisting under the authority of the union

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

To negative all laws passed by the several States contravening in the opinion of the national legislature the articles of union, (or any treaty subsisting under the authority of the union, added by Dr. Franklin).

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675251] The words "or any treaties subsisting under the authority of the Union", being added after the words "contravening &c. the articles of the Union"; on motion of Dr. Franklin, were agreed to witht. debate or dissent.

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1)

To negative all laws, passed by the several States, contravening, in the opinion of the national legislature, the articles of union: (the following words were added to this clause on motion of Mr Franklin, "or any Treaties subsisting under the authority of the union

Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

To negative all laws passed by the several States contravening in the opinion of the national legislature the articles of union, (or any treaty subsisting under the authority of the union, added by Dr. Franklin).
agreed.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675252] Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Official Journal (Max Farrand, 1911), Page 57, Vol. 1)

The other clauses giving powers necessary to preserve harmony among the States to negative all State laws contravening in the opinion of the Nat Leg the articles of Union down to the last clause, (the words "or any treaties subsisting under the authority of the Union", being added after the words "contravening &c. the articles of the Union"; on motion of Dr. Franklin, 19 were agreed to witht. debate or dissent.

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1, 31 May 1787)

To negative all laws passed by the several States contravening in the opinion of the national legislature the articles of union, (or any treaty subsisting under the authority of the union, added by Dr. Franklin).
agreed.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675253] The last clause of Resolution 6. authorizing an exertion of the force of the whole agst. a delinquent State came next into consideration.

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1)

And to call forth the force of the union against any member of the union failing to fulfil its duty under the articles thereof.

(McHenry's Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675255] Mr. Madison, observed that the more he reflected on the use of force, the more he doubted the practicability, the justice and the efficacy of it when applied to people collectively and not individually. —, A Union of the States containing such an ingredient seemed to provide for its own destruction. The use of force agst. a State, would look more like a declaration of war, than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this recourse unnecessary

(Madison's Notes (Max Farrand, 1911), Page 54, Vol. 1)

Mr. E. Gery [sic] thought this clause “ought to be expressed so as the people might not understand it to prevent their being alarmed”.

This idea rejected on account of its artifice, and because the system without such a declaration gave the government the means to secure itself.

(McHenry’s Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e732224] It was then moved and seconded to postpone the consideration of the last clause of the sixth resolution, namely,

“to call forth the force of the union against any member of the union, failing to fulfil it’s [sic] duty under the articles thereof.”

[Editors’ note: Madison’s notes record that Madison moved the postponement of the fifth clause.]

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

He hoped that such a system would be framed as might render this recourse unnecessary, and moved that the clause be postponed.

(Madison’s Notes (Max Farrand, 1911), Page 54, Vol. 1, 31 May 1787)

[e732230] on the question to postpone the consideration of the said clause it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1, 31 May 1787)

This motion was agreed to *nem. con.*

(Madison’s Notes (Max Farrand, 1911), Page 54, Vol. 1, 31 May 1787)

And to call forth the force of the union against any member of the union failing to fulfil its duty under the articles thereof.

postponed.

(McHenry’s Notes (Max Farrand, 1911), Page 61, Vol. 1, 31 May 1787)

[e675257] Questions being taken separately on the foregoing clauses of the sixth resolution they were agreed to.

(Official Journal (Max Farrand, 1911), Page 47, Vol. 1)

[e675258] The Committee then rose & the House
Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 54, Vol. 1)

[e675259] The Committee then rose & the House
Adjourned

(Madison’s Notes (Max Farrand, 1911), Page 54, Vol. 1)

3.3 Friday, 01 June 1787, at 10:00 (s6290)

[e675260] The honorable William Houstoun, Esq a Deputy of the State of Georgia, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

William Houston from Georgia took his seat

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 1)

Houstoun, William, of Georgia. Attended first on June 1, and probably thereafter until July 23. He probably left on July 26 or after Few's return.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675261] 'Recd an express from home that my brother lay dangerously sick in consequence of which I set out immediately for Baltimore.'

[Editors' note: There are no details about this session in the diary, so the editors have chosen to depict McHenry's departure from the Convention at this point, though exactly when he left is not certain.]

(McHenry's Notes (Max Farrand, 1911), Page 75, Vol. 1)

McHenry, James, of Maryland. Commissioned May 26; attended May 28-31; left on June 1; present August 6 and thereafter.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675262] Attended on May 25, and probably before; he left the Convention a few days after and was absent until July 2.

[Editors' note: Madison notes Morris leaving a few days into the Convention, though he would return. In a letter from Jared Sparks to Madison on 30 March 1831, Sparks notes that Morris left following the death of his mother. Richard Brookhiser, in 'Gentleman Revolutionary: Gouverneur Morris, the Rake Who Wrote the Constitution' (2003), records him as leaving on 1 June 1787.]

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

During the sitting of the convention G. Morris was absent several days to attend the funeral of his mother.

(Appendix A (Max Farrand, 1911), Page 498, Vol. 3, James Sparks to James Madison, 30 March 1831)

[e675263] It was moved and seconded to proceed to the consideration of the 7th resolution submitted by Mr Randolph

[Editors' note: At this point, the Committee began to debate, amend, and reconstruct the Seventh Resolution clause by clause. The editors have introduced a working version of the amendment to model this process.]

(Official Journal (Max Farrand, 1911), Page 62, Vol. 1)

The Committee of the whole proceeded to Resolution 7.

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 1)

[e675264] It was moved and seconded to proceed to the consideration of the 7th resolution submitted by Mr Randolph, namely

“Resolved that a national executive be instituted; to be chosen by the national legislature; for the term of ____ years

to receive punctually at stated times a fixed compensation for the services rendered; in which no encrease or diminution shall be made so as to affect the magistracy existing at the time of such encrease or diminution; and

to be ineligible a second time; and that besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the confederation.”

(Official Journal (Max Farrand, 1911), Pages 62-63, Vol. 1)

The Committee of the whole proceeded to Resolution 7.

“that a national Executive be instituted, to be chosen by the national Legislature——— for the term of years &c to be ineligible thereafter, to possess the executive powers of Congress &c”

(Madison's Notes (Max Farrand, 1911), Page 64, Vol. 1)

The 7th resolve, that a national executive be instituted.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1)

[e675265] Mr. Pinkney [sic] was for a vigorous Executive but was afraid the Executive powers of the existing Congress might extend to peace & war &c which would render the Executive a Monarchy, of the worst kind, towit an elective one.

(Madison's Notes (Max Farrand, 1911), Pages 64-65, Vol. 1)

[e675266] Mr. Wilson moved that the Executive consist of a single person. Mr. C Pinkney seconded the motion, so as to read “that a national Ex. to consist of a single person, be instituted —

(Madison's Notes (Max Farrand, 1911), Page 65, Vol. 1)

On motion, by Mr Wilson seconded by Mr C. Pinckney, to amend the first clause of the resolution by adding, after the word instituted, the words “to consist of a single person” — so as to read

“resolved “that a national executive to consist of a single person be instituted”

(Official Journal (Max Farrand, 1911), Page 63, Vol. 1)

1 June. Ex. power to be in one person

This amend. moved by Wilson & sec'd. by Cs. Pinck.

(King's Diary (Max Farrand, 1911), Page 70, Vol. 1)

[e675267] A considerable pause ensuing and the Chairman asking if he should put the question, Doctr. Franklin observed that it was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr. Rutledge [sic] animadverted on the shyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive power in a single person, tho' he was not for giving him the power of war and peace. A single man would feel the greatest responsibility and administer the public affairs best.

Mr. Sherman said he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the despositary of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might not be fixed, but that the legislature should be at liberty to appoint one or more as experience might dictate.

Mr. Wilson preferred a single magistrate, as giving most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of a Legislative nature. Among others that of war & peace &c. The only powers he conceived strictly Executive were those of executing the laws, and appointing officers, not appertaining to and appointed by the Legislature.

Mr. Gerry favored the policy of annexing a Council to the Executive in order to give weight & inspire confidence.

Mr. Randolph strenuously opposed a unity in the Executive magistracy. He regarded it as the foetus of monarchy. We had he said no motive to be governed by the British Governmt. as our prototype. He did not mean however to throw censure on that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed to it; but the fixt genius of the people of America required a different form of Government. He could not see why the great requisites for the Executive department, vigor, despatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore in order to support its independence to consist of more than one.

Mr. Wilson said that Unity in the Executive instead of being the fetus of Monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to the situation of this Country; the extent of which was so great, and the manners so republican, that nothing but a great confederated Republic would do for it.

(Madison's Notes (Max Farrand, 1911), Pages 65-66, Vol. 1)

Rutledge in favor of it. Sherman proposes to leave the number wth. the Legislature —

Wilson — an extive. ought to possess the powers of secresy, vigour & Dispatch — and to be so constituted as to be responsible — Extive. powers are designed for the execution of Laws, and appointing Officers not otherwise to be

appointed — If appointments of Officers are made by a sing. Ex he is responsible for the propriety of the same. not so where the Executive is numerous

Mad: agrees wth. Wilson in his difinition of executive powers — executive powers *ex vi termini*, do not include the Rights of war & peace &c. but the powers shd. be confined and defined — if large we shall have the Evils of elective Monarchies — probably the best plan will be a single Executive of long duration wth. a Council, with liberty to depart from their Opinion at his peril —

Gerry — I am in favr. of a council to advise the Ex — they will be the organs of information of the persons proper for [71] offices — their opinions may be recorded — they may be called to acct. for yr. Opinions. & impeached — if so their Responsibility will be certain, and in Case of misconduct their punishment certain —

Randolph — Danger of Monarchy, or Tyranny, if the ex. consists of three persons they may execute yr. Functions without Danger — if one he can not be impeached until the expiration of his Office, or he will be dependent on the Legislature — such an Unity wd. be agt. the fixed Genius of America &c &c

Wilson

We must consider two points of Importance existing in our Country — the extent & manners of the United States — the former seems to require the vigour of Monarchy, the manners are agt. a King and are purely republican — Montesquieu is in favor of confederated Republicks — I am for such a confedn. if we can take for its basis liberty, and can ensure a vigourous execution of the Laws.

A single ex. will not so soon introduce a Mony. or Despotism, as a complex one.

The people of Amer. did not oppose the British King but the parliament — the opposition was not agt. an Unity but a corrupt multitude —

Wmson — There is no true difference between a complex executive, formed by a single person with a Council, or by three or more persons as the executive

(King's Diary (Max Farrand, 1911), Pages 70-71, Vol. 1)

Mr. Wilson said the great qualities in the several parts of the Executive are vigor and dispatch. Making peace and war are generally determined by Writers on the Laws of Nations to be legislative powers.

Mr. Maddison was of opinion that an Executive formed of one Man would answer the purpose when aided by a Council, who should have the right to advise and record their proceedings, but not to control his authority.

Mr. Gerry was of opinion that a Council ought to be the medium through which the feelings of the people ought to be communicated to the Executive.

Mr. Randolph advanced a variety of arguments opposed to a unity of the Executive, and doubted whether even a Council would be sufficient to check the improper views of an ambitious Man. A unity of the Executive he observed would savor too much of a monarchy.

Mr. Wilson said that in his opinion so far from a unity of the Executive tending to progress towards a monarchy it would be the circumstance to prevent it. A plurality in the Executive of Government would probably produce a tyranny as bad as the thirty Tyrants of Athens, or as the Decemvirs of Rome.

A confederated republic joins the happiest kind of Government with the most certain security to liberty.

(Pierce's Notes (Max Farrand, 1911), Pages 73-74, Vol. 1)

1 — The way to prevent a majority from having an interest to oppress the minority is to enlarge the sphere. Madison 2 — Elective Monarchies turbulent and unhappy — Men unwilling to admit so decided a superiority of merit in an individual as to accede to his appointment to so preeminent a station — If several are admitted as there will be many competitors of equal merit they may be all included — contention prevented — & the republican genius consulted — Randolph — I Situation of this Country peculiar — II — Taught the people an aversion to Monarchy III All their constitutions opposed to it — IV — Fixed character of the people opposed to it — V — If proposed 'twill prevent a fair discussion of the plan. VI — Why cannot three execute? View of America — — Great exertions only requisite on particular occasions Safety to liberty the great object — { — Legislature may appoint a dictator when necessary — { — Seeds of destruction — Slaves might be easily enlisted — { — May appoint men devoted to them — & even bribe the legislature by offices — { — Chief Magistrate must be free from impeachment Wilson — extent — manners — Confederated republic unites advantages & banishes disadvantages of other kinds of governments — ————— rendering the executive ineligible an infringement of the right of election — Bedford — peculiar talents requisite for executive, therefore ought to be opportunity of ascertaining his talents — therefore frequent change — Princ 1 The further men are from the ultimate point of importance the readier they will be concur in a change — 2 Civilization approximates the different species of governments — 3 — Vigour is the result of several principles — Activity wisdom — confidence — 4 — Extent of limits will occasion the non attendance of remote members & tend to throw the government into the hands of the Country near the seat of government — a reason for strengthening the upper branch & multiplying the Inducements to attendance —

(Hamilton's Notes (Max Farrand, 1911), Pages 72-73, Vol. 1)

[e732222] It was moved and seconded to to [sic] postpone the consideration of the amendment

(Official Journal (Max Farrand, 1911), Page 63, Vol. 1)

The Question of the unity or plurality of the Exve. postponed

(King's Diary (Max Farrand, 1911), Page 71, Vol. 1)

Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it

(Madison's Notes (Max Farrand, 1911), Page 66, Vol. 1)

[e732223] It was moved and seconded to to postpone the consideration of the amendment — and on the question to postpone
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 63, Vol. 1)

Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it

(Madison's Notes (Max Farrand, 1911), Page 66, Vol. 1)

The Question of the unity or plurality of the Exve. postponed

(King's Diary (Max Farrand, 1911), Page 71, Vol. 1)

[e675271] Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it; and the first part of the clause agreed to, viz. "that a National Executive be instituted."

[Editors' note: In addition to the excerpt from Madison's notes cited above, it is clear from the record that, although Wilson's proposal for a single-person executive was postponed, the first part of his language ('to consist of ___') was left in the working amendment. On 2 June 1787, Jackson writes, 'It was then moved by Mr Rutledge seconded by Mr C Pinckney to fill up the blank after the words "executive to consist of — with the words "One person"' (Page 79, Vol. 1, Official Journal (Max Farrand, 1911)). For this reason, the editors have included this language as part of the resolution.]

(Madison's Notes (Max Farrand, 1911), Page 67, Vol. 1)

[e675272] Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it; and the first part of the clause agreed to, viz. "that a National Executive be instituted."

[Editors' note: In addition to the excerpt from Madison's notes cited above, it is clear from the record that, although Wilson's proposal for a single-person executive was postponed, the first part of his language ('to consist of ___') was left in the working amendment. On 2 June 1787, Madison writes, 'It was then moved by Mr Rutledge seconded by Mr C Pinckney to fill up the blank after the words "executive to consist of — with the words "One person."' (Page 79, Vol. 1, Madison's Notes (Max Farrand, 1911)). For this reason, the editors have included this language as part of the resolution.]

(Madison's Notes (Max Farrand, 1911), Page 67, Vol. 1)

[e675273] It was then moved and seconded to agree to the first clause of the resolution, namely

"Resolved that a national executive be instituted" and on the question to agree to the said clause

it passed in the affirmative.

[Editors' note: The voting record is unclear.]

(Official Journal (Max Farrand, 1911), Page 63, Vol. 1)

The 7th resolve, that a national executive be instituted. Agreed to.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1)

the first part of the clause agreed to, viz. “that a National Executive be instituted.”

(Madison’s Notes (Max Farrand, 1911), Page 66, Vol. 1)

[e675274] Mr. Madison — thought it would be proper, before a choice shd. be made between a unity and a plurality in the Executive, to fix the extent of the Executive authority; that as certain powers were in their nature Executive, and must be given to that departmt. whether administered by one or more persons, a definition of their extent would assist the judgment in determining how far they might be safely entrusted to a single officer. He accordingly moved that so much of the clause before the Committee as related to the powers of the Executive shd. be struck out & that after the words “that a national Executive ought to be instituted” there be inserted the words following viz, “with power to carry into effect. the national laws. to appoint to offices in cases not otherwise provided for, and to execute such other powers “not Legislative nor Judiciary in their nature.” as may from time to time be delegated by the national Legislature”. The words “not legislative nor judiciary in their nature” were added to the proposed amendment in consequence of a suggestion by Genl Pinkney that improper powers might otherwise be delegated.

Mr. Wilson seconded this motion.

[Editors’ note: Madison’s record is the most detailed here. The wording of the amendment, however, comes from the Journal.]

(Madison’s Notes (Max Farrand, 1911), Pages 66-67, Vol. 1)

It was then moved, by Mr Madison, seconded by Mr Wilson, after the word instituted to add the words

“with power to carry into execution the national laws, — to appoint to offices in cases not otherwise provided for; and to execute such powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature”

(Official Journal (Max Farrand, 1911), Page 63, Vol. 1)

A general authority to execute the laws. Agreed to.

To appoint all officers not otherwise provided for. Agreed to.

(Yates’s Diary (Max Farrand, 1911), Page 70, Vol. 1)

[e675275] Mr. Pinkney [sic] moved to amend the amendment by striking out the last member of it; viz. “and to execute such other powers not Legislative nor Judiciary in their nature as may from time to time be delegated.” He said they were unnecessary, the object of them being included in the “power to carry into effect the national laws”.

Mr. Randolph seconded the motion.

(Madison’s Notes (Max Farrand, 1911), Page 67, Vol. 1)

[e675276] Mr. Madison did not know that the words were absolutely necessary, or even the preceding words. “to appoint to offices &c. the whole being perhaps included in the first member of the proposition. He did not however see any inconveniency in retaining them, and cases might happen in which they might serve to prevent doubts and misconstructions.

(Madison's Notes (Max Farrand, 1911), Page 67, Vol. 1)

[e675277] [Editors' note: The Journal record for the votes on Madison's and Pinckney's amendments reads: 'It was then moved, by Mr Madison, seconded by Mr Wilson, after the word instituted to add the words

"with power to carry into execution the national laws, — to appoint to offices in cases not otherwise provided for; and to execute such powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature"

and on a division of the amendment the following clauses were agreed to — namely

"with power to carry into execution the national laws"; "to appoint to offices in cases not otherwise provided for"

On the question to continue the last clause of the amendment namely

"and to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature."

it passed in the negative' (Pages 63-64, Vol. 1, Official Journal (Max Farrand, 1911)).

Madison copies this version of events into his notes after the fact, striking out a far more plausible version. As Farrand writes: 'Madison had originally written: "The motion was agreed to. as was the amendment of Mr M. thus amended by the motion." Later he added "(Note — this was done by a division of the Question, the first part of Mr — amendt. being agreed to — the last disagreed to in consequence of the Objection of Mr. P. & Mr. R. —)", but then substituted the form in the text above, taken from Journal, which is in error in assigning these votes to these questions' (Page 68, Vol. 1, Madison's Notes (Max Farrand, 1911)).

The editors have followed Farrand in taking Madison's original version as the most plausible and leaving the voting record uncertain, since the Journal record was mistaken.]

(2019 Editors)

[e675278] [Editors' note: The Journal record for the votes on Madison's and Pinckney's amendments reads: 'It was then moved, by Mr Madison, seconded by Mr Wilson, after the word instituted to add the words

"with power to carry into execution the national laws, — to appoint to offices in cases not otherwise provided for; and to execute such powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature"

and on a division of the amendment the following clauses were agreed to — namely

"with power to carry into execution the national laws"; "to appoint to offices in cases not otherwise provided for"

On the question to continue the last clause of the amendment namely

"and to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature."

it passed in the negative' (Pages 63-64, Vol. 1, Official Journal (Max Farrand, 1911)).

Madison copies this version of events into his notes after the fact, striking out a far more plausible version. As Farrand writes: 'Madison had originally

written: “The motion was agreed to. as was the amendment of Mr M. thus amended by the motion.” Later he added “(Note — this was done by a division of the Question, the first part of Mr — amendt. being agreed to — the last disagreed to in consequence of the Objection of Mr. P. & Mr. R. —)”, but then substituted the form in the text above, taken from Journal, which is in error in assigning these votes to these questions’ (Page 68, Vol. 1, Madison’s Notes (Max Farrand, 1911)).

The editors have followed Farrand in taking Madison’s original version as the most plausible and leaving the voting record uncertain, since the Journal record was mistaken.]

(2019 Editors)

A general authority to execute the laws. Agreed to.

To appoint all officers not otherwise provided for. Agreed to.

(Yates’s Diary (Max Farrand, 1911), Page 70, Vol. 1)

[e675279] The next clause in Resolution 7, relating to the mode of appointing, & the duration of, the Executive being under consideration.

[Editors’ note: Madison writes that the issues of appointment and duration were debated together. In fact, the Journal states that they were debated separately. Therefore, the two issues will be raised as separate amendments.]

(Madison’s Notes (Max Farrand, 1911), Pages 67-68, Vol. 1)

The Question of the unity or plurality of the Exve. postponed — and the Come. proceeded to examine the powers — these points being discussed — the Come took into consideration the Duration of the Office of the Ex —

(King’s Diary (Max Farrand, 1911), Page 71, Vol. 1)

[e732235] Mr. Wilson said he was almost unwilling to declare the mode which he wished to take place, being apprehensive that it might appear chimerical. He would say however at least that in theory he was for an election by the people; Experience, particularly in N. York & Massts, shewed that an election of the first magistrate by the people at large, was both a convenient & successful mode. The objects of choice in such cases must be persons whose merits have general notoriety.

Mr. Sherman was for the appointment by the Legislature, and for making him absolutely dependent on that body, as it was the will of that which was to be executed. An independence of the Executive on the supreme Legislative, was in his opinion the very essence of tyranny if there was any such thing.

(Madison’s Notes (Max Farrand, 1911), Page 68, Vol. 1)

[e675280] Mr. Wilson moves that the blank for the term of duration should be filled with three years, observing at the same time that he preferred this short period, on the supposition that a re-eligibility would be provided for.

(Madison’s Notes (Max Farrand, 1911), Page 68, Vol. 1)

Wilson for 3 Yrs and no exclusion or rotation —

(King's Diary (Max Farrand, 1911), Page 71, Vol. 1)

[e675281] Mr. Pinkney [sic] moves for seven years.

(Madison's Notes (Max Farrand, 1911), Page 68, Vol. 1)

It was then moved and seconded to fill up the blank with the word "seven"
— so as to read
"for the term of seven years"

(Official Journal (Max Farrand, 1911), Page 64, Vol. 1)

To continue in office for seven years.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1)

Mad. 7 years and an exclusion for ever after — or during good behavior —

(King's Diary (Max Farrand, 1911), Page 71, Vol. 1)

[e675282] Mr. Sherman was for three years, and agst. the doctrine of rotation as throwing out of office the men best qualified to execute its duties.

Mr. Mason was for seven years at least, and for prohibiting a re-eligibility as the best expedient both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters; and a temptation on the side of the Executive to intrigue with the Legislature for a re-appointment.

Mr. Bedford was strongly opposed to so long a term as seven years. He begged the committee to consider what the situation of the Country would be, in case the first magistrate should be saddled on it for such period and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment he said would be no cure for this evil, as an impeachment would reach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years.

(Madison's Notes (Max Farrand, 1911), Pages 68-69, Vol. 1)

Mason — in Favor of 7 years. and an exclusion afterwards — thereby he is made independent of the Legislature, who are proposed as his Electors — if he is capable of reelection by the Leg: the Ex. will be complaisant, & reelect — the Executive will be subservient and court a reelection — on the Quest to fill the Blank for seven yrs

(King's Diary (Max Farrand, 1911), Pages 71-72, Vol. 1)

Every Government has certain moral and physical qualities engrafted in their very nature, — one operates on the sentiments of men, the other on their fears.

Mr. Dickinson was of opinion that the powers of the Executive ought to be defined before we say in whom the power shall vest.

Mr. Bedford said he was for appointing the Executive Officer for three years, and that he should be eligible for nine years only.

Mr. Maddison observed that to prevent a Man from holding an Office longer than he ought, he may for malpractice be impeached and removed; — he is not for any ineligibility.

[Editors' note: it is unclear where this debate takes place in the timeline, however, Bedford's remarks on the duration of Executive Office place it in the area of the debate on Wilson and Pinkney's amendments.]

(Pierce's Notes (Max Farrand, 1911), Page 74, Vol. 1)

[e675283] On the question for seven years,

Massts. dividd. Cont. no. N. Y. ay. N. J. ay. Pena. ay. Del. ay. Virga. ay. N. C. no. S. C. no. Georg. no [Ayes — 5; noes — 4; divided — 1.]

There being 5. ays, 4 noes, 1 divid. a question was asked whether a majority had voted in the affirmative? The President decided that it was an affirmative vote.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

And on the question to fill up the blank with the word "seven" it passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 64, Vol. 1)

To continue in office for seven years. Agreed to.

(Yates's Diary (Max Farrand, 1911), Page 70, Vol. 1)

Mass. divid. Gor. & K. ay } Ger. & Sg. no }
 Con no NC. no SC. no G. no
 NY. ay } NJ. ay } Pen. ay } Del. ay } Vir ay }

(King's Diary (Max Farrand, 1911), Page 72, Vol. 1)

[e675284] [Editors' note: With Pinckney's amendment for seven year terms having been accepted, Wilson's motion was implicitly dropped from consideration.]

(2019 Editors)

[e675285] [Editors' note: Madison's notes state that the Convention then went on to debate the next clause, so the editors assume that the amended clause regarding terms was accepted.]

(2019 Editors)

[e675286] On the question for seven years,

Massts. dividd. Cont. no. N. Y. ay. N. J. ay. Pena. ay. Del. ay. Virga. ay. N. C. no. S. C. no. Georg. no [Ayes — 5; noes — 4; divided — 1.]

There being 5. ays, 4 noes, 1 divid. a question was asked whether a majority had voted in the affirmative? The President decided that it was an affirmative vote.

[Editors' note: The record suggests that there was some confusion regarding how to proceed with a vote that resulted in a divided state. It is possible someone suggested that a tied vote in a single state ought to be counted as a

negative, as was the case when the states' votes were tied. This would then mean that the whole vote was tied, and the amendment would fall. The other logical case for regarding the vote as inconclusive or negative would be if it were argued that the 'ayes' would need a clear majority over all other votes. Either way, in this instance, George Washington, as President of the Convention, acted as the deciding figure, and the question of seven years passes in the affirmative.]

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

[e675287] There being 5. ays, 4 noes, 1 divid. a question was asked whether a majority had voted in the affirmative? The President decided that it was an affirmative vote.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

[e675288] The mode of appointing the Executive was the next question.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

[e675289] Mr. Wilson renewed his declarations in favor of an appointment by the people. He wished to derive not only both branches of the Legislature from the people, without the intervention of the State Legislatures but the Executive also; in order to make them as independent as possible of each other, as well as of the States;

Col. Mason favors the idea, but thinks it impracticable. He wishes however that Mr. Wilson might have time to digest it into his own form.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

[e732227] It was then moved and seconded to postpone the consideration of the following words — namely

“to be chosen by the national legislature”

(Official Journal (Max Farrand, 1911), Page 64, Vol. 1)

[e732228] It was then moved and seconded to postpone the consideration of the following words — namely

“to be chosen by the national legislature”

and on the question to postpone it passed in the affirmative.

(King's Diary (Max Farrand, 1911), Page 64, Vol. 1)

[e675291] Mr. Rutledge [sic] suggests an election of the Executive by the second branch only of the national Legislature —

[Editors' note: Madison records that Rutledge's suggestion took place after the Committee's decision to postpone consideration of this clause, although it seems likely that his contribution would have occurred during the debate itself.]

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

[e675292] The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

It was then moved and seconded that the Committee do now rise — and report a further progress

(Official Journal (Max Farrand, 1911), Page 64, Vol. 1)

[e675293] The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 69, Vol. 1)

It was then moved and seconded that the Committee do now rise — and report a further progress

(Official Journal (Max Farrand, 1911), Page 64, Vol. 1)

3.4 Saturday, 02 June 1787, at 10:00 (s6291)

[e675294] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland,

and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

Johnson, William Samuel, of Connecticut. Attended on June 2, and thereafter.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryld — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

[e675295] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland,

and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryld — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

Saturday 2d. Majr Jenifer coming in with sufficient powers for the purpose, gave representation to Maryland; which brought all the States in Union into Convention except Rhode Island which had refused to send delegates thereto.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 44, George Washington's Diary)

Jenifer, Daniel of St. Thomas, of Maryland. Commissioned on May 26; first attended on June 2.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

[e675296] The honorable William Samuel Johnson Esquire, a Deputy of the State of Connecticut, and the honorable Daniel of St Thomas Jenifer, a Deputy of the State of Maryland,

and the honorable John Lansing junior a Deputy of the State of New-York attended and took their seats.

[Editors' note: Farrand's record of Lansing's attendance at the Convention reads, 'First attended on June 2, though he may have been present before May 25' (Page 588, Vol. 3, Appendix B (Max Farrand, 1911)). Farrand notes the rest of the New York delegation, Hamilton and Yates, as arriving on 18 May 1787. In his 16 May diary entry, Washington says that only two states – Pennsylvania and Virginia – are represented. His 17 May diary entry records the arrival of C. Pinckney and Rutledge giving representation to South Carolina. However, in a letter from the same day, addressed to George Augustine Washington, G. Washington says that four states – Virginia, South Carolina, Pennsylvania, and New York – are represented. According to his own notes as well as Farrand's, New York was not yet represented at this point. Presumably, Washington's letter means that delegates from only those four states were present, not that they were quorate, especially when considering that his journal entry from the following day (18 May) says that 'representation from New York appeared on the floor to day' (Page 7, George Washington: Diary, Supplement to the Records of the Federal Convention (James Hutson, 1987)).

Given the known dates of the attendance of the New York delegates and the votes recorded in the Detail of Ayes and Noes, it seems as though New York required two delegates to be present to achieve quorum, though their credentials do not say as much (Farrand, *The Records of the Federal Convention of 1787*, vol. III, Appendix B). For example, during Hamilton's absence in the middle of the Convention, New York was still represented in the votes, because two delegates were present. By the time Hamilton returns to the Convention, Yates and Lansing had left, and the subsequent votes record New York as unrepresented, despite the fact that Hamilton was present. For this reason, it seems possible that Lansing could have been present at the Convention before New York achieved quorum.

On 1 June, Lansing writes to William Coxe that he was travelling to Philadelphia. The letter is dated from Bristol, Pennsylvania, which is only a short distance from Philadelphia. If Lansing was spending time or temporarily residing in Bristol, it is feasible that he could have been in Philadelphia before 25 May, that Washington was referring to him in the 17 May letter, and that he travelled to Bristol afterwards. In fact, Yates writes in a 1 June letter to Abraham Yates that Lansing arrived in Philadelphia on this day, which suggests that Lansing departed Bristol and arrived in Philadelphia on the same day and attests to the proximity between the two places. However, the wording of Lansing's letter leaves his starting point ambiguous. He says, 'I am now on my Way to Philadelphia...' He does not write that he is departing for Philadelphia, which would suggest that Bristol is his starting point and strengthen the assumption that he was present in Philadelphia before May 25. It suggests, rather, that he

was en route from New York or some other place and stopped in Bristol for a time, mailed his letter, and continued on to Philadelphia, arriving on the same day he leaves Bristol.

Regardless, at the end of his 1 June notes, Lansing writes, 'Thus far Judge Yates—I have been prevented from attending the Convention at an earlier day.' 2 June is the first entry of Lansing's notes of the Convention that was not copied from Yates ("Friday, June 1st" and "Saturday, June 2d", Vol. 1, Lansing's Notes (Joseph Strayer, 1939)).

Though it is possible that Lansing was in Philadelphia before 25 May, the record is not clear. As a result, he represented as joining on the day of his first confirmed appearance in an official session.]

(Official Journal (Max Farrand, 1911), Page 76, Vol. 1)

William Saml. Johnson, from Connecticut, Daniel of St. Thomas Jennifer, from Maryld — & John Lansing Jr. from N. York, took their seats —

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

[e675297] It was moved and seconded to postpone the farther consideration of the resolution, submitted by Mr Randolph, which respects the Executive — in order to take up the consideration of the resolution respecting the second branch of the Legislature.

(Official Journal (Max Farrand, 1911), Pages 76-77, Vol. 1)

It was movd. & 2ded. to postpone ye Resol: of Mr. Randolph respecting the Executive in order to take up the 2d. branch of the Legislature

(Madison's Notes (Max Farrand, 1911), Page 79, Vol. 1, 2 June 1787)

[e675298] And on the question to postpone it passed in the negative

(Official Journal (Max Farrand, 1911), Page 77, Vol. 1)

It was movd. & 2ded. to postpone ye Resol: of Mr. Randolph respecting the Executive in order to take up the 2d. branch of the Legislature; which being negatived by Mas: Con: Del: Virg: N. C. S. C. Geo: agst. N. Y. Pena. Maryd

(Madison's Notes (Max Farrand, 1911), Page 75, Vol. 1, 2 June 1787)

[e675299] Mr. Wilson made the following motion, to be substituted for the mode proposed by Mr. Randolph's resolution.

"that the Executive Magistracy shall be elected in the following manner: That the States be divided into districts: & that the persons qualified to vote in each district for members of the first branch of the national Legislature elect members for their respective districts to be electors of the Executive magistracy. that the said Electors of the Executive magistracy meet at and they or any of them so met shall proceed to elect by ballot, but not out of their own body person in whom the Executive authority of the national Government shall be vested."

(Madison's Notes (Max Farrand, 1911), Page 80, Vol. 1)

it was then moved and seconded to postpone the consideration of these words namely

“to be chosen by the Natl. Lege”

in order to take up the following resolution submitted by Mr Wilson. namely.

“Resolved that the Executive Magistracy shall be elected in manner following.

That the States be divided into Districts — and that the persons, qualified to vote in each District, elect Members for their respective Districts to be electors of the Executive Magistracy

That the electors of the Executive Magistracy meet and they or any of them shall elect by ballot, but not out of their own Body, Person in whom the Executive authority of the national government shall be vested.”

(Official Journal (Max Farrand, 1911), Pages 76- 77, Vol. 1)

Mr. Wilson moved that the states should be divided into districts, consisting of one or more states, and each district to elect a number of senators to form the second branch of the national legislature — The senators to be elected, and a certain proportion to be annually dismissed — avowedly on the plan of the New-York senate.

(Yates’s Diary (Max Farrand, 1911), Page 89, Vol. 1)

Mr. Wilson proposed that the U. States should be divided into districts, each of which should elect a certain number of persons, who should have the appointment of the Executive.

(Pierce’s Notes (Max Farrand, 1911), Page 91, Vol. 1)

[e675300] Mr. Wilson repeated his arguments in favor of an election without the intervention of the States. He supposed too that this mode would produce more confidence among the people in the first magistrate, than an election by the national Legislature.

Mr. Gerry, opposed the election by the national legislature. There would be a constant intrigue kept up for the appointment. The Legislature & the candidates wd. bargain & play into one another’s hands. votes would be given by the former under promises or expectations from the latter, of recompensing them by services to members of the Legislature or to their friends. He liked the principle of Mr. Wilson’s motion, but fears it would alarm & give a handle to the State partizans, as tending to supersede altogether the State authorities. He thought the Community not yet ripe for stripping the States of their powers, even such as might not be requisite for local purposes. He was for waiting till people should feel more the necessity of it. He seemed to prefer the taking the suffrages of the States instead of Electors, or letting the Legislatures nominate, and the electors appoint. He was not clear that the people ought to act directly even in the choice of electors, being too little informed of personal characters in large districts, and liable to deceptions.

Mr Williamson could see no advantage in the introduction of Electors chosen by the people who who would stand in the same relation to them as the State Legislatures, whilst the expedient would be attended with great trouble and expence.

(Madison's Notes (Max Farrand, 1911), Page 80, Vol. 1)

Mr. Charles Pinckney was of opinion that the election of the Executive ought to be by the national Legislature, that then respect will be paid to that character best qualified to fill the Executive department of Government.

Mr. Wilson proposed that the U. States should be divided into districts, each of which should elect a certain number of persons, who should have the appointment of the Executive.

Mr. Gerry observed that if the appointment of the Executive should be made by the national Legislature, it would be done in such a way as to prevent intrigue. If the States are divided into districts, there will be too much inconvenience in nominating the Electors.

Mr. Wm'son observed that if the Electors were to chuse the Executive it would be attended with considerable expence and trouble; whereas the appointment made by the Legislature would be easy, and in his opinion, the least liable to objection.

(Pierce's Notes (Max Farrand, 1911), Pages 91-92, Vol. 1)

[e675301] And on the question to postpone

it passed in the negative [Ayes — 2; noes — 7; divided — 1.]

[Editors' note: Farrand notes that Madison notes New York's vote as 'no' instead of 'divided', but the editors have followed the Journal here, as it is generally a more reliable source. New Jersey is marked as not being quorate for this vote and the rest of the session, as the Journal does not report their delegation as offering a single vote.]

(Official Journal (Max Farrand, 1911), Page 77, Vol. 1)

On the question for agreeing to Mr. Wilson's substitute, it was negatived: Massts. no. Cont. no. N. Y. no. Pa. ay. Del. no. Maryland. ay. Virga. no. N. C. no. S. C. no. Geoa. no. [Ayes — 2; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 81, Vol. 1)

Question put — rejected.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1)

[e675302] It was then moved and seconded to agree to the words in the resolution, submitted by Mr. Randolph, so as to read

“To be chosen by the national legislature for the term of seven years”.

(Official Journal (Max Farrand, 1911), Page 77, Vol. 1)

In the 7th resolve, the words to be chosen by the national legislature, were agreed to.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1)

[e675303] And on the question to agree to these words.

it passed in the affirmative. [Ayes — 8; noes — 2]

(Official Journal (Max Farrand, 1911), Page 77, Vol. 1)

In the 7th resolve, the words to be chosen by the national legislature, were agreed to.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1)

[e675304] On the question for electing the Executive by the national legislature, for the term of seven years, it was agreed to Massts. ay. Cont. ay. N. Y. ay. Pena. no. Del. ay. Maryd. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 82, Vol. 1)

[e675305] It was then moved and seconded to postpone the consideration of that part of the resolution, as submitted by Mr Randolph, which respects the stipend of the Executive, in Order to introduce the following motion made by Dr Franklin namely

“whose necessary expences shall be defrayed, but who shall receive no salary, stipend, Fee or reward whatsoever for their services.”

[Editors' note: This extract from the official journal shows that the Committee took the clause on compensation into consideration.]

(Official Journal (Max Farrand, 1911), Page 77, Vol. 1)

[e675306] Doctr. Franklin moved that what related to the compensation for the services of the Executive be postponed, in order to substitute — “whose necessary expences shall be defrayed, but who shall receive no salary, stipend fee or reward whatsoever for their services” — He said that being very sensible of the effect of age on his memory, he had been unwilling to trust to that for the observations which seemed to support his motion, and had reduced them to writing, that he might with the permission of the Committee, read instead of speaking them. Mr. Wilson made an offer to read the paper, which was accepted —

The following is a literal copy of the paper.

Sir.

It is with reluctance that I rise to express a disapprobation of any one article of the plan for which we are so much obliged to the honorable gentleman who laid it before us. From its first reading I have borne a good will to it, and in general wished it success. In this particular of salaries to the Executive branch I happen to differ; and as my opinion may appear new and chimerical, it is only from a persuasion that it is right, and from a sense of duty that I hazard it. The Committee will judge of my reasons when they have heard them, and their judgment may possibly change mine. — I think I see inconveniences in the appointment of salaries; I see none in refusing them, but on the contrary, great advantages.

Sir, there are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money. Separately each of these has great force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. place before the eyes of such men a post of honour that shall at the

same time be a place of profit, and they will move heaven and earth to obtain it. The vast number of such places it is that renders the British Government so tempestuous. The struggles for them are the true sources of all those factions which are perpetually dividing the Nation, distracting its councils, hurrying sometimes into fruitless & mischievous wars, and often compelling a submission to dishonorable terms of peace.

And of what kind are the men that will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of characters? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your Government and be your rulers. And these too will be mistaken in the expected happiness of their situation: For their vanquished competitors of the same spirit, and from the same motives will perpetually be endeavouring to distress their administration, thwart their measures, and render them odious to the people.

Besides these evils, Sir, tho' we may set out in the beginning with moderate salaries, we shall find that such will not be of long continuance. Reasons will never be wanting for proposed augmentations. And there will always be a party for giving more to the rulers, that the rulers may be able in return to give more to them. —Hence as all history informs us, there has been in every State & Kingdom a constant kind of warfare between the Governing & Governed: the one striving to obtain more for its support, and the other to pay less. And this has alone occasioned great convulsions, actual civil wars, ending either in dethroning of the Princes or enslaving of the people. Generally indeed the ruling power carries its point, the revenues of princes constantly increasing, and we see that they are never satisfied, but always in want of more. The more the people are discontented with the oppression of taxes; the greater need the prince has of money to distribute among his partizans and pay the troops that are to suppress all resistance, and enable him to plunder at pleasure. There is scarce a king in a hundred who would not, if he could, follow the example of Pharoah, get first all the peoples money, then all their lands, and then make them and their children servants forever. It will be said, that we don't propose to establish Kings. I know it. But there is a natural inclination in mankind to Kingly Government. It sometimes relieves them from Aristocratic domination. They had rather have one tyrant than five hundred. It gives more of the appearance of equality among Citizens, and that they like. I am apprehensive therefore, perhaps too apprehensive, that the Government of these States, may in future times, end in a Monarchy. But this Catastrophe I think may be long delayed, if in our proposed system we do not sow the seeds of contention, faction & tumult, by making our posts of honor, places of profit. If we do, I fear that tho' we do employ at first a number, and not a single person, the number will in time be set aside, it will only nourish the fœtus of a King, as the honorable gentleman from Virginia very aptly expressed it, and a King will the sooner be set over us.

It may be imagined by some that this is an Utopian Idea, and that we can never find men to serve us in the Executive department, without paying them well for their services. I conceive this to be a mistake. Some existing facts present themselves to me, which incline me to a contrary opinion. The high Sheriff of a County in England is an honorable office, but it is not a profitable one. It is rather expensive and therefore not sought for. But yet, it is exe-

cuted and well executed, and usually by some of the principal Gentlemen of the County. In France the office of Counsellor or Member of their Judiciary Parliaments is more honorable. It is therefore purchased at a high price: There are indeed fees on the law proceedings, which are divided among them, but these fees do not amount to more than three per Cent on the sum paid for the place. Therefore as legal interest is there at five per Ct. they in fact pay two per Ct. for being allowed to do the Judiciary business of the Nation, which is at the same time entirely exempt from the burden of paying them any salaries for their services. I do not however mean to recommend this as an eligible mode for our Judiciary department. I only bring the instance to shew that the pleasure of doing good & serving their Country and the respect such conduct entitles them to, are sufficient motives with some minds to give up a great portion of their time to the Public, without the mean inducement of pecuniary satisfaction.

Another instance is that of a respectable Society who have made the experiment, and practiced it with success more than an hundred years. I mean the Quakers. It is an established rule with them, that they are not to go to law; but in their controversies they must apply to their monthly, quarterly and yearly meetings. Committees of these sit with patience to hear the parties, and spend much time in composing their differences. In doing this they are supported by a sense of duty, and the respect paid to usefulness. It is honorable to be so employed, but it was never made profitable by salaries, fees, or perquisites. And indeed in all cases of public service the less the profit the greater the honor.

To bring the matter nearer home, have we not seen the great and most important of our officers, that of General of our armies executed for eight years together without the smallest salary, by a Patriot whom I will not now offend by any other praise; and this through fatigues and distresses in common with the other brave men his military friends & companions, and the constant anxieties peculiar to his station? And shall we doubt finding three or four men in all the U. States, with public spirit enough to bear sitting in peaceful Council for perhaps an equal term, merely to preside over our civil concerns, and see that our laws are duly executed. Sir, I have a better opinion of our country. I think we shall never be without a sufficient number of wise and good men to undertake and execute well and faithfully the Office in question.

Sir, The saving of the salaries that may at first be proposed is not an object with me. The subsequent mischiefs of proposing them are what I apprehend. And therefore it is that I move the amendment. If it is not seconded or accepted I must be contented with the satisfaction of having delivered my opinion frankly and done my duty.

(Madison's Notes (Max Farrand, 1911), Pages 81-85, Vol. 1)

It was then moved and seconded to postpone the consideration of that part of the resolution, as submitted by Mr Randolph, which respects the stipend of the Executive, in Order to introduce the following motion made by Dr Franklin namely

“whose necessary expences shall be defrayed, but who shall receive no salary, stipend, Fee or reward whatsoever for their services.”

(Official Journal (Max Farrand, 1911), Pages 77-78, Vol. 1)

On the subject of salary to the Executive Dr. Franklin arose and produced a written Speech. It was, on account of his age, read by Mr. Wilson, in which

was advanced an opinion that no salaries should be allowed the public Officers, but that their necessary expences should be defrayed. This would make Men, he said, more desirous of obtaining the Esteem of their Countrymen, — than avaricious or eager, in the pursuit of wealth.

(Pierce's Notes (Max Farrand, 1911), Pages 91-92, Vol. 1)

President Franklin moved, that the consideration of that part of the 7th resolve, which had in object the making provision for a compensation for the service of the executive, be postponed for the purpose of considering a motion, that the executive should receive no salary, stipend or emolument for the devotion of his time to the public services, but that his expenses should be paid.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1)

[e675307] The motion was seconded by Col. Hamilton with the view he said merely of bringing so respectable a proposition before the Committee, and which was besides enforced by arguments that had a certain degree of weight. No debate ensued, and the proposition was postponed for the consideration of the members. It was treated with great respect, but rather for the author of it, than from any apparent conviction of its expediency or practicability.

(Madison's Notes (Max Farrand, 1911), Page 85, Vol. 1)

It was then moved and seconded to postpone the consideration of the said motion offered by Dr Franklin.

and on the question to postpone
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

President Franklin moved, that the consideration of that part of the 7th resolve, which had in object the making provision for a compensation for the service of the executive, be postponed for the purpose of considering a motion, that the executive should receive no salary, stipend or emolument for the devotion of his time to the public services, but that his expenses should be paid.

Postponed.

(Yates's Diary (Max Farrand, 1911), Page 89, Vol. 1)

[e675308] And on the question to postpone
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

[e675309] Mr. Dickenson moved "that the Executive be made removeable by the National Legislature on the request of a majority of the Legislatures of individual States". It was necessary he said to place the power of removing somewhere. He did not like the plan of impeaching the Great Officers of State. He did not know how provision could be made for removal of them in a better mode than that which he had proposed. He had no idea of abolishing the State Governments as some gentlemen seemed inclined to do. The happiness of this

Country in his opinion required considerable power to be left in the hands of the States.

Mr. Bedford seconded the motion.

“to be removable by the national legislature upon request by a majority of the legislatures of the individual States”.

(Madison’s Notes (Max Farrand, 1911), Page 85, Vol. 1)

It was then moved by Mr Dickinson seconded by Mr Bedford to amend the resolution, before the Committee, by adding after the words “to be chosen by the national legislature for the term of seven years” the following words

“to be removable by the national legislature upon request by a majority of the legislatures of the individual States”

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

Mr. Dickinson moved that the Executive should be removed at the request of a majority of the State Legislatures.

(Pierce’s Notes (Max Farrand, 1911), Page 92, Vol. 1)

[e675310] Mr. Sherman contended that the National Legislature should have power to remove the Executive at pleasure.

Mr. Mason. Some mode of displacing an unfit magistrate is rendered indispensable by the fallibility of those who choose, as well as by the corruptibility of the man chosen. He opposed decidedly the making the Executive the mere creature of the Legislature as a violation of the fundamental principle of good Government.

Mr. Madison & Mr. Wilson observed that it would leave an equality of agency in the small with the great States; that it would enable a minority of the people to prevent ye removal of an officer who had rendered himself justly criminal in the eyes of a majority; that it would open a door for intrigues agst. him in States where his administration tho’ just might be unpopular, and might tempt him to pay court to particular States whose leading partizans he might fear, or wish to engage as his partizens. They both thought it bad policy to introduce such a mixture of the State authorities, when their agency could be otherwise supplied.

Mr. Dickenson [sic] considered the business as so important that no man ought to be silent or reserved. He went into a discourse of some length, the sum of which was, that the Legislative, Executive, & Judiciary departments ought to be made as independt [sic]. as possible; but that such an Executive as some seemed to have in contemplation was not consistant [sic] with a republic; that a firm Executive could only exist in a limited monarchy. In the British Govt. itself the weight of the Executive arises from the attachments which the Crown draws to itself, & not merely from the force of its prerogatives. In place of these attachments we must look out for something else. One source of stability is the double branch of the Legislature. The division of the Country into distinct States formed the other principal source of stability. This division ought therefore to be maintained, and considerable powers to be left with the States. This was the ground of his consolation for the future fate of his Country. Without this, and in case of a consolidation of the States into one great Republic

we might read its fate in the history of smaller ones. A limited Monarchy he considered as one of the best Governments in the world. It was not certain that the same blessings were derivable from any other form. It was certain that equal blessings had never yet been derived from any of the republican form. A limited monarchy however was out of the question. The spirit of the times — the state of our affairs, forbade the experiment, if it were desirable [sic]. Was it possible moreover in the nature of things to introduce it even if these obstacles were less insuperable. A House of Nobles was essential to such a Govt. Could these be created by a breath, or by a stroke of the pen? No. They were the growth of ages, and could only arise under a complication of circumstances none of which existed in this Country. But though a form the most perfect perhaps in itself be unattainable. we must not despair. If antient republics have been found to flourish for a moment only & then vanish forever, it only proves that they were badly constituted; and that we ought to seek for every remedy for their diseases. One of these remedies he conceived to be the accidental lucky division of this country into distinct States; a division which some seemed desirous to abolish altogether.

As to the point of representation in the national legislature as it might affect States of different sizes, he said it must probably end in mutual concession. He hoped that each State would retain an equal voice at least in one branch of the National Legislature, and supposed the sums paid within each state would form a better ratio for the other branch than either the number of inhabitants or the quantum of property.

(Madison's Notes (Max Farrand, 1911), Pages 85-87, Vol. 1)

No Government can produce such good consequences as a limited monarchy, especially such as the English Constitution.

The application of the several Legislatures brings with it no force to the national Legislature.

Mr. Maddison said it was far from being his wish that every executive Officer should remain in Office, without being amenable to some Body for his conduct.

(Pierce's Notes (Max Farrand, 1911), Page 92, Vol. 1)

Saturday 2 June Dickinson

A vigs. executive with checks &c can not be republican, it is peculiar to monarchy —

The monarchl. Ex is vigour — not alone from power but attachment or respect —

The Repub. plan may have an equivalent to the attachmt. that is the 3d Br. of the Legis:

We cannot have a limited monarchy instanter — our situation will not allow it — Repubs. are for a while industrious but finally destroy ymselves — they were badly constituted —

I dread a Consolidation of the States

I hope for a good national Govt. from the present Division of the State —

With a feeble executive — We are to have a Legis: of 2 Br. or 2 Legislatures the Sovereign of the nation. This will bring a Change unless you have the Judicial to aid and correct the Executive — The first Br: will be on another

plan, but the 2d. may be on the present plan — 1st. Br. to be formed by the Quotas pd. into ye. Genl Treasury — 2d B.

The Ex to be removed on the, petition of 7. Sts by the national Legislature

(King's Diary (Max Farrand, 1911), Pages 90-91, Vol. 1)

[e675311] A motion, being made to strike out “on request by a majority of the Legislatures of the individual States” and rejected, Connecticut. S. Carol: & Geo. being ay. the rest no: the question was taken —

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 1)

it was moved and seconded to strike out the words “upon request by a majority of the legislatures of the individual States”

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

[e675312] On the question to strike out
it passed in the negative.

[Editors' note: Madison provides the voting record as: 'Connecticut. S. Carol: & Geo. being ay. the rest no'.]

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

A motion, being made to strike out “on request by a majority of the Legislatures of the individual States” and rejected, Connecticut. S. Carol: & Geo. being ay. the rest no: the question was taken —

(Madison's Notes (Max Farrand, 1911), Page 87, Vol. 1)

[e675313] The question being taken to agree to the amendment, offered by Mr Dickinson

it passed in the negative. [Ayes — 1; noes — 9.]

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

On Mr. Dickenson's motion for making Executive removeable by Natl. Legislature at request of majority of State Legislatures was also rejected all the States being in the negative except Delaware which gave an affirmative vote.

(Madison's Notes (Max Farrand, 1911), page 87, Vol. 1)

[e675314] The question being then taken on the words contained in the resolution submitted by Mr Randolph, namely “to be ineligible a second time”

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

The Question for making ye. Executive ineligible after seven years, was next next taken, and agreed to:

(Madison's Notes (Max Farrand, 1911), Pages 87-88, Vol. 1)

[e675315] The question being then taken on the words contained in the resolution submitted by Mr Randolph, namely “to be ineligible a second time” it passed in the affirmative. [Ayes — 7; noes — 2; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

he Question for making ye. Executive ineligible after seven years, was next next taken, and agreed to:

Massts. ay. Cont. no. N Y — ay Pa. divid. Del. ay. Maryd. ay. Va. ay. N. C. ay. S. C. ay. Geo. no: [Ayes — 7; noes — 2; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Pages 87-88, Vol. 1)

[e675316] It was then moved by Mr. Williamson seconded by Mr Davie to add the following words to the last clause of the resolution respecting the executive namely “and to be removable on impeachment and conviction of mal-practice or neglect of duty”.

[Editors’ note: Yates records Mr. Dickinson as the proposer of this amendment.]

(Official Journal (Max Farrand, 1911), Page 78, Vol. 1)

Mr. Williamson 2ded. by Mr. Davie moved to add to the last Clause, the words — “and to be removeable on impeachment & conviction of mal-practice or neglect of duty”

(Madison’s Notes (Max Farrand, 1911), Page 88, Vol. 1)

Mr. Dickinson moved that in the seventh resolution, the words, and removable on impeachment and conviction for malconduct or neglect in the execution of his office, should be inserted after the words ineligible a second time.

(Yates’s Diary (Max Farrand, 1911), Pages 89-90, Vol. 1)

[e675317] On the question to add the words it passed in the affirmative.

[Editors’ note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 78-79, Vol. 1)

Mr. Williamson 2ded. by Mr. Davie moved to add to the last Clause, the words — “and to be removeable on impeachment & conviction of mal-practice or neglect of duty” — which was agreed to.

(Madison’s Notes (Max Farrand, 1911), Page 88, Vol. 1)

Mr. Dickinson moved that in the seventh resolution, the [90] words, and removable on impeachment and conviction for malconduct or neglect in the execution of his office, should be inserted after the words ineligible a second time. Agreed to. The remainder postponed.

(Yates’s Diary (Max Farrand, 1911), Pages 89-90, Vol. 1)

[e675318] It was then moved by Mr Rutledge seconded by Mr C Pinckney to fill up the blank after the words “executive to consist of —” with the words “One person.”

(Official Journal (Max Farrand, 1911), Page 79, Vol. 1)

Mr. Rutledge & Mr. C. Pinkney moved that the blank for the no. of persons in the Executive be filled with the words “one person”. He supposed the reasons to be so obvious & conclusive in favor of one that no member would oppose the motion.

(Madison’s Notes (Max Farrand, 1911), Page 80, Vol. 1)

[e675319] Mr. Randolph opposed it with great earnestness, declaring that he should not do justice to the Country which sent him if he were silently to suffer the establishment. of a Unity in the Executive department. He felt an opposition to it which he believed he should continue to feel as long as he lived. He urged 1. that the permanent temper of the people was adverse to the very semblance of Monarchy. 2. that a unity was unnecessary a plurality being equally competent to all the objects of the department. 3. that the necessary confidence would never be reposed in a single Magistrate. 4. that the appointments would generally be in favor of some inhabitant near the center of the Community, and consequently the remote parts would not be on an equal footing. He was in favor of three members of the Executive to be drawn from different portions of the Country.

Mr. Butler contended strongly for a single magistrate as most likely to answer the purpose of the remote parts. If one man should be appointed he would be responsible to the whole, and would be impartial to its interests. If three or more should be taken from as many districts, there would be a constant struggle for local advantages. In Military matters this would be particularly mischievous. He said his opinion on this point had been formed under the opportunity he had had of seeing the manner in which a plurality of military heads distracted Holland when threatened with invasion by the imperial troops. One man was for directing the force to the defence of this part, another to that part of the Country, just as he happened to be swayed by prejudice or interest.

(Madison’s Notes (Max Farrand, 1911), Page 88, Vol. 1)

Mr. Randolph. — The sentiments of the people ought to be consulted — they will not hear of the semblance of monarchy — He preferred three divisions of the states, and an executive to be taken from each. If a single executive, those remote from him would be neglected — local views would be attributed to him, frequently well founded, often without reason. This would excite disaffection. He was therefore for an executive of three.

Mr. Butler. — Delays, divisions and dissensions arise from an executive consisting of many. Instanced Holland’s distracted state, occasioned by her many counsellors. Further consideration postponed.

(Yates’s Diary (Max Farrand, 1911), Page 90, Vol. 1)

Mr. Randolph was for appointing three Persons, from three districts of the Union, to compose the Executive. A single Person may be considered the foetus of a Monarchy.

Mr. Butler was of opinion that a unity of the Executive would be necessary in order to promote dispatch; — that a plurality of Persons would never do. When he was in Holland the States general were obliged to give up their power to a French Man to direct their military operations.

(Pierce's Notes (Max Farrand, 1911), Page 92, Vol. 1)

[e738423] It was then moved and seconded to postpone the consideration of the last motion,

(Official Journal (Max Farrand, 1911), Page 80, Vol. 1)

[e738424] It was then moved and seconded to postpone the consideration of the last motion, and on the question to postpone, it passed in the affirmative. [Editors' note: None of the sources provides a voting record.]

(Official Journal (Max Farrand, 1911), Page 80, Vol. 1)

The motion was then postpd.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1)

[e675320] It was then moved and seconded to postpone the consideration of the last motion,

and on the question to postpone,
it passed in the affirmative.

[Editors' note: None of the sources provides a voting record.]

(Official Journal (Max Farrand, 1911), Page 80, Vol. 1)

The motion was then postpd.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1)

[e675321] The motion was then postpd. the Committee rose & the House Adjd.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1)

It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again the Committee then rose.

(Official Journal (Max Farrand, 1911), Page 79, Vol. 1)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 90, Vol. 1)

[e675322] The motion was then postpd. the Committee rose & the House Adjd.

(Madison's Notes (Max Farrand, 1911), Page 89, Vol. 1)

It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again the Committee then rose.

(Official Journal (Max Farrand, 1911), Page 79, Vol. 1)

Adjourned till Monday next.

(Yates's Diary (Max Farrand, 1911), Page 90, Vol. 1)

3.5 Monday, 04 June 1787, at 11:00 (s6292)

[e675323] Wythe, George, of Virginia. Attended as early as May 15; left Convention June 4; resigned June 16.

[Editors' note: On 10 June 1787, Madison writes to James Monroe that 'All the deputies from Virga. remain except Mr. Wythe who was called away some days ago by information from Williamsburg concerning the increase of his lady's ill health' (Page 67, James Madison to James Monroe, Supplement to the Records of the Federal Convention (James Hutson, 1987)). In a 16 June letter to Edmund Randolph, Wythe writes, 'Mrs. W[ythe]'s state of health is so low and she is so emaciated, that my apprehensions are not a little inflicting, and, if the worst should not befall, she must linger, I fear, a long time. In no other circumstances would I withdraw from the employment, to which I had the honour to be appointed but, as probably I shall not return to Philadelphia, if, sir, to appoint one in my room be judged adviseable, I hereby authorize you to consider this letter as a resignation no less valid than a solemn act for that express purpose. My best wishes attend you and the other respectable personages with whom I was thought worthy to be associated.' (Page 80, George Wythe to Edmund Randolph, Supplement to the Records of the Federal Convention (James Hutson, 1987)).]

(Appendix B (Max Farrand, 1911), Page 590, Vol. 3)

[e732346] It was moved and seconded to proceed to the farther consider of the propositions submitted to the Committee by Mr Randolph

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e732347] It was moved and seconded to proceed to the farther consider of the propositions submitted to the Committee by Mr Randolph — when

[Editors' note: While there is no official vote on the motion, the discussion concerning Randolph's propositions continues.]

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

[e675324] [Editors' note: It seems that the Committee dropped this amendment in favour of a similar one by Pinckney and Wilson.]

(2019 Editors)

[e675325] On motion of Mr C. Pinckney seconded by Mr Wilson to fill up the blank after the words "that a national executive be instituted to consist of" with the words "a single person".

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

The Question was resumed on motion of Mr. Pinkney 2ded. by Wilson "shall the blank for the number of the Executive be filled with "a single person"?"

(Madison's Notes (Max Farrand, 1911), Page 96, Vol. 1)

Mr. Pinkney moved that the blank in the 7th resolve consisting of be filled up with an individual.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

Mr. Pinkney moved that the Blank in the 7th Resolution fixing the Number of the Executive be filled with the Word one.

(Lansing's Notes (Joseph Strayer, 1939), Page 31)

[e675326] Mr. Wilson was in favor of the motion. It had been opposed by the gentleman from Virga. Mr. Randolph but the arguments used had not convinced him. He observed that the objections of Mr. R. were levelled not so much agst. the measure itself, as agst. its unpopularity. If he could suppose that it would occasion a rejection of the plan of which it should form a part, though the part was an important one, yet he would give it up rather than lose the whole. On examination he could see no evidence of the alledged antipathy of the people. On the contrary he was persuaded that it does not exist. All know that a single magistrate is not a King. one fact has great weight with him. All the 13 States tho' agreeing in scarce any other instance, agree in placing a single magistrate at the head of the Governmt. The idea of three heads has taken place in none. The degree of power is indeed different: but there are no co-ordinate heads. In addition to his former reasons for preferring a Unity, he would mention another. The tranquility not less than the vigor of the Govt. he thought would be favored by it. Among three equal members, he foresaw nothing but uncontroled, continued, & violent animosities; which would not only interrupt the public administration; but diffuse their poison thro' the other branches of Govt., thro' the States, and at length thro' the people at large. If the members were to be unequal in power the principle of the opposition to the Unity was given up. If equal, the making them an odd number would not be a remedy. In Courts of Justice there are two sides only to a question. In the Legislative & Executive departmts. questions have commonly many sides. Each member therefore might espouse a separate one & no two agree.

Mr. Sherman. This matter is of great importance and ought to be well considered before it is determined. Mr. Wilson he said had observed that in each State a single magistrate was placed at the head of the Govt. It was so he admitted, and properly so, and he wished the same policy to prevail in the federal Govt. But then it should be also remarked that in a all the States there was a Council of advice, without which the first magistrate could not act. A Council he thought necessary to make the establishment acceptable to the people. Even in G. B. the King has a council; and though he appoints it himself, its advice has its weight with him, and attracts the Confidence of the people.

Mr. Williamson asks Mr. Wilson whether he means to annex a Council.

Mr. Wilson means to have no Council, which oftener serves to cover, than prevent malpractices.

Mr Gerry. was at a loss to discover the policy of three members for the Executive. It wd. be extremely inconvenient in many instances, particularly in military matters, whether relating to the militia, an army, or a navy. It would be a general with three heads.

(Madison's Notes (Max Farrand, 1911), Pages 96-97, Vol. 1)

Mr. Wilson, in support of the motion, asserted, that it would not be obnoxious to the minds of the people, as they in their state governments were accustomed and reconciled to a single executive. Three executives might divide so that two could not agree in one proposition — the consequence would be anarchy and confusion.

Mr. Sherman thought there ought to be one executive, but that he ought to have a council. Even the king of Great Britain has his privy council.

Mr. Gerry was for one executive — if otherwise, it would be absurd to have it consist of three Numbers equally in rank would oddly apply to a general or admiral.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

Mr. Wilson said that all the Constitutions of America from New Hampshire to Georgia have their Executive in a single Person. A single Person will produce vigor and activity. Suppose the Executive to be in the hands of a number they will probably be divided in opinion.

(Pierce's Notes (Max Farrand, 1911), Page 109, Vol. 1)

Mr. Wilson—It is congenial to the Feelings of the People to have a single Executive—they have been accustomed to it—Every State has a single Person as Executive—three may divide and adopt distinct Propositions.

Mr. Sherman—ought to have a single Executive but a Council to aid him.

(Lansing's Notes (Joseph Strayer, 1939), Page 31)

[e675327] On the question to fill up the blank with the words "a single person" it passed in the affirmative. [Ayes — 7; noes — 3.]

[Editors' note: As in the previous session, it appears that New Jersey was not quorate for this session and so was unable to vote.]

(Official Journal (Max Farrand, 1911), Page 93, Vol. 1)

On the question for a single Executive it was agreed to Massts. ay. Cont. ay. N. Y. no. Pena. ay. Del. no. Maryd. no. Virg. ay. (Mr. R & Mr. Blair no — Docr. Mc.Cg. Mr. M. & Gen W. ay. Col. Mason being no, but not in house, Mr. Wythe ay but gone home). N. C. ay. S. C. ay. Georga. ay. [Ayes — 7; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 97, Vol. 1)

Question put — 7 states for, and 3 against. New-York against it.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

On the Question of vesting the executive powers in one or more persons — it was carried for the former

Mas. Cont. NYk. Pen. Virg. NC. SC. Geor. Ay N Jer. Del. Mar. No.

[Editors' note: Farrand comments that, 'Journal, Madison and Yates omit New Jersey and make New York's vote "no":']

(King's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Question whether Blank shall be filled with the Word one. Affirm. Massachusetts I Connecticut I Pennsylvania I Virginia I North Carolina I South Carolina I Georgia I — 7 Neg. New York I Delaware I Maryland I — 3

(Lansing's Notes (Joseph Strayer, 1939), Page 31)

[e675328] [Editors' note: Since the Committee now moved on to the Eighth Resolution, the editors assume that the Seventh Resolution as amended was adopted into the working document.]

(2019 Editors)

[e675329] It was then moved and seconded to take into consideration the first clause of the eighth resolution, submitted by Mr Randolph. namely

“Resolved that the national executive and a convenient number of the national judiciary ought to compose a Council of revision”

[Editors' note: Though the formal introduction of the whole Eighth Resolution is not recorded, the editors assume that the Committee proceeded with their usual process for clause by clause readings.]

(Official Journal (Max Farrand, 1911), Pages 93-94, Vol. 1)

[e675330] It was then moved and seconded to take into consideration the first clause of the eighth resolution, submitted by Mr Randolph. namely

“Resolved that the national executive and a convenient number of the national judiciary ought to compose a Council of revision”

(Official Journal (Max Farrand, 1911), Pages 93-94, Vol. 1)

First Clause of Proposition 8th relating to a Council of Revision taken into con-consideration.

(Madison's Notes (Max Farrand, 1911), Page 97, Vol. 1)

The 8th resolve, That the executive and a number of the judicial officers ought to compose a council of revision.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

The 8th Clause was then considered.

[Editors' note: It is likely that Lansing wrote '8th Clause' instead of '8th Resolution' mistakenly.]

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e732362] Mr. Gerry doubts whether the Judiciary ought to form a part of it, as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. In some States the Judges had actually set aside laws as being agst. the Constitution. This was done too with general approbation. It was quite foreign from the nature of ye. office to make them judges of the policy of public measures. He moves to postpone the clause in order to propose “that the National Executive shall have a right to negative any Legislative act which

shall not be afterwards passed by _____ parts of each branch of the national Legislature.

Mr. King seconds the motion, observing that the Judges ought to be able to expound the law as it should come before them, free from the bias of having participated in its formation.

(Madison's Notes (Max Farrand, 1911), Pages 97-98, Vol. 1)

It was then moved and seconded to postpone the consideration of the said clause in order to introduce the following resolution submitted by Mr Gerry namely

“resolved that the national Executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by parts of each branch of the national legislature.”

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

Mr. Gerry objects to the clause — moves its postponement in order to let in a motion — that the right of revision should be in the executive only.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

Mr. Gerry moved its Postpone- ment to take up the following ”that a national Executive shall have a Right to negative every national Act which shall not be afterward past unless by— Part of each Branch of the National Legislature.”

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675331] Mr. Gerry doubts whether the Judiciary ought to form a part of it, as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. In some States the Judges had actually set aside laws as being agst. the Constitution. This was done too with general approbation. It was quite foreign from the nature of ye. office to make them judges of the policy of public measures. He moves to postpone the clause in order to propose “that the National Executive shall have a right to negative any Legislative act which shall not be afterwards passed by _____ parts of each branch of the national Legislature.

Mr. King seconds the motion, observing that the Judges ought to be able to expound the law as it should come before them, free from the bias of having participated in its formation.

(Madison's Notes (Max Farrand, 1911), Pages 97-98, Vol. 1)

It was then moved and seconded to postpone the consideration of the said clause in order to introduce the following resolution submitted by Mr Gerry namely

“resolved that the national Executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by parts of each branch of the national legislature.”

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

Mr. Gerry objects to the clause — moves its postponement in order to let in a motion — that the right of revision should be in the executive only.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

Motion by Mr Gerry & Mr Kg to postpone the article for a Council of Revision and adopt one vesting a qualified negative in the Executive —

(King's Diary (Max Farrand, 1911), Page 107, Vol. 1)

[e675332] Mr. Wilson thinks neither the original proposition nor the amendments go far enough. If the Legislative Exētiv & Judiciary ought to be distinct & independent, The Executive ought to have an absolute negative. Without such a Self-defence the Legislature can at any moment sink it into non-existence. He was for varying the proposition in such a manner as to give the Executive & Judiciary jointly an absolute negative

(Madison's Notes (Max Farrand, 1911), Page 98, Vol. 1)

Mr. Wilson contends that the executive and judicial ought to have a joint and full negative — they cannot otherwise preserve their importance against the legislature.

Mr. King was against the interference of the judicial — they may be biased in the interpretation — He is therefore to give the executive a complete negative.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

It was proposed that the Judicial should be joined with the Executive to revise the Laws.

Mr. King was of opinion that the Judicial ought not to join in the negative of a Law, because the Judges will have the expounding of those Laws when they come before them; and they will no doubt stop the operation of such as shall appear repugnant to the constitution.

(Pierce's Notes (Max Farrand, 1911), Page 109, Vol. 1)

Mr. Wilson and Mr. King spoke in its Favor.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e732363] On the question to postpone in order to take Mr. Gerry's proposition into consideration it was agreed to Massts. ay. Cont. no. N. Y. ay. Pa. ay. Del. no. Maryd. no. Virga. no. N. C. ay. S. C. ay. Ga. ay. [Ayes — 6; noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 98, Vol. 1)

and on the question to postpone
it passed in the affirmative [Ayes — 6; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

Carried to be postponed, 6 states against 4 — New-York for it.

(Yates's Diary (Max Farrand, 1911), Page 105, Vol. 1)

Motion by Mr Gerry & Mr Kg to postpone the article for a Council of Revision and adopt one vesting a qualified negative in the Executive —

8 ays 2 no — Cont. & Mard.

[Editors' note: This contradicts the Journal, Madison, Lansing, and Yates; which all record the vote as Ayes — 6, Noes — 4.]

(King's Diary (Max Farrand, 1911), Page 107, Vol. 1)

Question carried for postponing 6 Ayes—4 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675334] Mr. Gerry's proposition being now before Committee, Mr. Wilson & Mr. Hamilton move that the last part of it (viz wch. sl. not be afterwds. passed" unless by parts of each branch of the National legislature) be struck out, so as to give the Executive an absolute negative on the laws. There was no danger they thought of such a power being too much exercised. It was mentioned (by Col: Hamilton) that the King of G. B. had not exerted his negative since the Revolution.

(Madison's Notes (Max Farrand, 1911), Page 98, Vol. 1)

It was then moved by Mr Wilson seconded by Mr Hamilton to strike out the words

"shall not be afterwards passed but but byparts of each branch of the national legislature."

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

The next question, that the executive have a complete negative; and it was therefore moved to expunge the remaining part of the clause.

(Yates's Diary (Max Farrand, 1911), Pages 105-106, Vol. 1)

Wilson moves & Hamilton seconds him that the Executive shd. have a complete and full negative — the former is in favor because the natural operation of the Legislature will be to swallow up the Executive — power divided is the object of Contest — the strongest will finally acquire the whole

(King's Diary (Max Farrand, 1911), Page 107, Vol. 1)

Next Question on Motion by Mr. Wilson that the Executive have an uncontrolled Negative by expunging the Words scored.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675335] Mr. Gerry sees no necessity for so great a controul over the legislature as the best men in the Community would be comprised in the two branches of it.

Docr. Franklin, said he was sorry to differ from his colleague for whom he had a very great respect, on any occasion, but he could not help it on this.

He had had some experience of this check in the Executive on the Legislature, under the proprietary Government of Pena. The negative of the Governor was constantly made use of to extort money. No good law whatever could be passed without a private bargain with him. An increase of his salary, or some donation, was always made a condition; till at last it became the regular practice, to have orders in his favor on the Treasury, presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter. When the Indians were scalping the western people, and notice of it arrived, the concurrence of the Governor in the means of self-defence could not be got, till it was agreed that his Estate should be exempted from taxation. so that the people were to fight for the security of his property, whilst he was to bear no share of the burden. This was a mischievous sort of check. If the Executive was to have a Council, such a power would be less objectionable. It was true the King of G. B. had not, As was said, exerted his negative since the Revolution: but that matter was easily explained. The bribes and emoluments now given to the members of parliament rendered it unnecessary, everything being done according to the will of the Ministers. He was afraid, if a negative should be given as proposed, that more power and money would be demanded, till at last eno' would be gotten to influence & bribe the Legislature into a compleat subjection to the will of the Executive.

Mr. Sherman was agst. enabling any one man to stop the will of the whole. No one man could be found so far above all the rest in wisdom. He thought we ought to avail ourselves of his wisdom in revising the laws, but not permit him to overrule the decided and cool opinions of the Legislature.

Mr. M adison supposed that if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute negative. It would rarely if ever happen that the Executive constituted as ours is proposed to be would, have firmness eno' to resist the Legislature, unless backed by a certain part of the body itself. The King of G. B. with all his splendid attributes would not be able to withstand ye. unanimous and eager wishes of both houses of Parliament. To give such a prerogative would certainly be obnoxious to the temper of this country; its present temper at least. Mr. Wilson believed as others did that this power would seldom be used. The Legislature would know that such a power existed, and would refrain from such laws, as it would be sure to defeat. Its silent operation would therefore preserve harmony and prevent mischief. The case of Pena. formerly was very different from its present case. The Executive was not then as now to be appointed by the people. It will not in this case as in the one cited be supported by the head of a Great Empire, actuated by a different & sometimes opposite interest. The salary too is now proposed to be fixed by the Constitution, or if Dr. F's idea should be adopted all salary whatever interdicted. The requiring a large proportion of each House to overrule the Executive check might do in peaceable times; but there might be tempestuous moments in which animosities may run high between the Executive and Legislative branches, and in which the former ought to be able to defend itself.

Mr. Butler had been in favor of a single Executive Magistrate; but could he have entertained an idea that a compleat negative on the laws was to be given him he certainly should have acted very differently. It had been observed that in all countries the Executive power is in a constant course of increase. This was certainly the case in G. B. Gentlemen seemed to think that we had nothing to

apprehend from an abuse of the Executive power. But why might not a Cataline or a Cromwell arise in this Country as well as in others.

Mr. Bedford was opposed to every check on the Legislative, even the Council of Revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The Representatives of the People were the best judges of what was for their interest, and ought to be under no external controul whatever. The two branches would produce a sufficient controul within the Legislature itself.

Col. Mason observed that a vote had already passed he found (he was out at the time) for vesting the executive powers in a single person. Among these powers was that of appointing to offices in certain cases. The probable abuses of a negative had been well explained by Dr. F as proved by experience, the best of all tests. Will not the same door be opened here. The Executive may refuse its assent to necessary measures till new appointments shall be referred to him; and having by degrees engrossed all these into his own hands, the American Executive, like the British, will by bribery & influence, save himself the trouble & odium of exerting his negative afterwards. We are Mr. Chairman going very far in this business. We are not indeed constituting a British Government, but a more dangerous monarchy, an elective one. We are introducing a new principle into our system, and not necessary as in the British Govt. where the Executive has greater rights to defend. Do gentlemen mean to pave the way to hereditary Monarchy? Do they flatter themselves that the people will ever consent to such an innovation? If they do I venture to tell them, they are mistaken. The people never will consent. And do gentlemen consider the danger of delay, and the still greater danger of a rejection not for a moment but forever, of the plan which shall be proposed to them. Notwithstanding the oppressions & injustice experienced among us from democracy; the genius of the people is in favor of it, and the genius of the people must be consulted. He could not but consider the federal system as in effect dissolved by the appointment of this Convention to devise a better one. And do gentlemen look forward to the dangerous interval between the extinction of an old, and the establishment of a new Government. and to the scenes of confusion which may ensue. He hoped that nothing like a monarchy would ever be attempted in this Country. A hatred to its oppressions had carried the people through the late Revolution. Will it not be eno' to enable the Executive to suspend offensive laws, till they shall be coolly revised, and the objections to them overruled by a greater majority than was required in the first instance. He never could agree to give up all the rights of the people to a single Magistrate. If more than one had been fixed on, greater powers might have been entrusted to the Executive. He hoped this attempt to give such powers would have its weight hereafter as an argument for increasing the number of the Executive.

Docr. Franklin. A Gentleman from S. C. (Mr. Butler) a day or two ago called our attention to the case of the U. Netherlands. He wished the gentleman had been a little fuller, and had gone back to the original of that Govt. The people being under great obligations to the Prince of Orange whose wisdom and bravery had saved them, chose him for the Stadtholder. He did very well. Inconveniences however were felt from his powers; which growing more & more oppressive, they were at length set aside. Still however there was a party for the P. of Orange, which descended to his son who excited insurrections, spilt a

great deal of blood, murdered the de Witts, and got the powers re-vested in the Stadtholder. Afterwards another Prince had power to excite insurrections & to make the Stadtholdership hereditary. And the present Stadthder. is ready to wade thro' a bloody civil war to the establishment of a monarchy. Col. Mason had mentioned the circumstance of appointing officers. He knew how that point would be managed. No new appointment would be suffered as heretofore in Pensa. unless it be referred to the Executive; so that all profitable offices will be at his disposal. The first man, put at the helm will be a good one. No body knows what sort may come afterwards. The Executive will be always increasing here, as elsewhere, till it ends in a monarchy

[Editors' note: The final speech by Franklin can be found in his own papers. Farrand copies it as follows:

'The Steady Course of public Measures is most probably to be expected from a Number.

A single Person's Measures may be good. The Successor, often differs in Opinion of those Measures, & adopts others. Often is ambitious of distinguishing himself, by opposing them, and offering new Projects. One is peaceably dispos'd. Another may be food of War, &c: Hence foreign States can never have that Confidence, in the Treaties or Friendship of such a Government as in that which is conducted by a Number.

The Single Head may be Sick. Who is to conduct the Public Affairs in that Case? When he dies, who are to conduct, till a new Election? — If a Council why not continue them? — Shall we not be harass'd with Factions for the Election of Successors? become like Poland, weak from our Dissensions?

Consider the present distracted Condition of Holland. They had at first a Stadtholder, the Prince of Orange, a Man of undoubted and great Merit. They found some Inconveniencies however in the Extent of Powers annex'd to that Office, and exercis'd by a single Person. On his Death They resum'd and divided those Powers among the States and Cities. But there has been a constant Struggle since between that Family & the Nation. In the last Century the then Prince of Orange found Means to inflame the Populace against their Magistrates, excite a general Insurrection in which an excellent Minister, Dewit, was murdered, all the old Magistrates displac'd, and the Stadtholder re-invested with all the former Powers. In this Century, the Father of the present Stadtholder, having married a British Princess, did, by exciting another Insurrection, force from the Nation a Decree that the Stadtholdership should be thenceforth hereditary in his Family. And now his Son, being suspected of having favoured England in the late War, and thereby lost the Confidence of the Nation, he is forming an internal Faction to support his Power, & reinstate his Favourite the Duke of Brunswick; and he holds up his Family Alliances with England and Prussia to terrify Opposition. It was this Conduct of the Statholder which induc'd the States to recur to the Protection of France, and put their Troops under a French rather than the Stadtholder's German General the Duke of Brunswick. And this is the Source of all the present Disorders in Holland, which if the Stadtholder has Abilities equal to his Inclinations, will probably after a ruinous & bloody civil War, end in establishing an hereditary Monarchy in his Family' (Page 102, Vol. 1, Madison's Notes (Max Farrand, 1911)).

In Franklin's 'Works' (Page 142, Vol. 5, Sparks edition; Pages 603-604, Vol. 4, Smyth edition), these notes are mistakenly attached to a proposal by Franklin on 30 June 1787.]

(Madison's Notes (Max Farrand, 1911), Pages 98-103, Vol. 1)

Dr. Franklin against the motion — the power dangerous, and would be abused so as to get money for passing bills.

Mr. Madison against it — because of the difficulty of an executive venturing on the exercise of this negative, and is therefore of opinion that the revisional authority is better.

Mr. Bedford is against the whole, either negative or revisional — the two branches are sufficient checks on each other — no danger of subverting the executive, because his powers may by the convention be so well defined that the legislature cannot overleap the bounds.

Mr. Mason against the negative power in the executive, because it will not accord with the genius of the people.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Butler agt. it — it will terminate in a King — Franklin agt. it — one former Govr. abused his power of negative and extorted Money from the Legislature before he wd. sign yr. Acts. — in one instance of an indian Invasion, he wd. not agree to an act for marching the Militia agt. the Indians unless the Estate of the Proprietors was exempted from Taxes for the support of the Militia —

We ought not to believe that one man Can possess more wisdom than both br's. of the Legislature — The Negative of the King of G. B. has not been exercised since the Revolution — he effects that by Corruption wh. he might with hazard accomplish by his negative —

Mad: I am opposed to the complete negative, because no man will dare exercise it whn. the law was passed almost unanimously. I doubt whether the Kng of Eng. wd. have firmness sufficient to do it.

Mason. opposed to the Complete negative, We have voted that the Ex. powers be vested in one person, we now propose to give that single person a negative in all Cases. You have agreed that he shall appoint all Officers not otherwise to be appointed — and those which he has not the sole right of appointing, he has a power to negative — with these powers the executive may soon currupt the Legislature & we shall [108] have a monarchy & we must consult the Genius of our People wh. is republican — this Genius will not receive a King —

Franklin

The Pr. of Orange first had limited powers and for life — his son raised a faction and caused himself to be elected by force — in the present Century the Pr. of Orange caused himself to be declared hereditary & — we shall meet with the same misfortune —

[...]

Mad. The Judicial ought to be introduced in the business of Legislation — they will protect their Department, and uniting wh. the Executive render their Check or negative more respectable — there is weight in the objections agt. this measure — but a Check is necessary experience proves it, and teaches us that what we once thought the Calumny of the Enemies of Republican Govts. is undoubtedly true — There is diversity of Interest in every Country the Rich & poor, the Dr. & Cr. the followers of different Demagogues, the diversity of religious Sects — The Effects of these parties are obvious in the ant'. Govts. — the same causes will operate with us —

We must introduce the Checks, which will destroy the measures of an interested majority — in this view a negative in the Ex: is not only necessary for its own safety, but for the safety of a minority in Danger of oppression from an unjust and interested majority — The independent condition of the Ex. who has the Eyes of all Nations on him will render him a just Judge — add the Judiciary and you increase the respectability —

[Editors' note: Madison's speech is not included in the Journal, Madison's or Yates' notes. Farrand notes that 'Professor Jameson (American Historical Review, III, 323 note) ascribes this speech by Madison and the one following by Dickinson to June 6. But the text above shows that Madison's records at the close of this day's sessions were quite defective. It is possible that he inserted in his record of his remarks on June 6 a portion of his speech on June 4.' As it is unclear from Pierce's and King's notes where the speech occurs in the timeline, it has been added as it appear in Pierce's notes - following the debate involving Franklin, Butler, Bedford and Mason.]

(King's Diary (Max Farrand, 1911), Pages 107-108, Vol. 1)

Dr. Franklin thinks it would be improper to put it in the power of any Man to negative a Law passed by the Legislature because it would give him the controul of the Legislature; and mentioned the influence of the British King, and the influence which a Governor of Pennsylvania once had in arresting (for the consideration of an encrease of salary) the power out of the hands of the Legislature.

Mr. Maddison was of opinion that no Man would be so daring as to place a veto on a Law that had passed with the assent of the Legislature²⁴

Mr. Butler observed that power was always encreasing on the part of the Executive. When he voted for a single Person to hold the Executive power he did it that Government be expeditiously executed, and not that it should be clogged.

Mr. Bedford was of opinion that no check was necessary on a Legislature composed as the national Legislature would be, with two branches, — an upper and a lower House.

Mr. Mason was of opinion that it would be so dangerous for the Executive in a single Person to negative a Law that the People will not accept of it. He asked if Gentlemen had ever reflected on that awful period of time between the passing and final adoption of this constitution; — what alarm might possibly take place in the public mind.

Mr. Maddison in a very able and ingenious Speech,²⁵ ran through the whole Scheme of the Government, — pointed out all the beauties and defects of ancient Republics; compared their situation with ours wherever it appeared to bear any analogy, and proved that the only way to make a Government answer all the end of its institution was to collect the wisdom of its several parts in aid of each other whenever it was necessary. Hence the propriety of incorporating the Judicial with the Executive in the revision of the Laws. He was of opinion that by joining the Judges with the Supreme Executive Magistrate would be strictly proper, and would by no means interfere with that indepenence so much to be approved and distinguished in the several departments.

Mr. Dickinson could not agree with Gentlemen in blending the national Judicial with the Executive, because the one is the expounder, and the other the Executor of the Laws.

[Editors' note: The last two speeches from Madison and Dickinson are not included in the Journal, Madison's or Yates' notes. Farrand notes that 'Professor Jameson (*American Historical Review*, III, 323 note) ascribes this speech by Madison and the one following by Dickinson to June 6. But the text above shows that Madison's records at the close of this day's sessions were quite defective. It is possible that he inserted in his record of his remarks on June 6 a portion of his speech on June 4.' As it is unclear from Pierce's and King's notes where these speeches occur in the timeline, they have been added as they appear in Pierce's notes - following the debate involving Franklin, Butler, Bedford and Mason.]

(Pierce's Notes (Max Farrand, 1911), Pages 109-110, Vol. 1)

It is not yet determined how the Executive is to be regulated, whether it is to act solely from its own judgment, or with the advice of others; whether there is, or is not to be a council annexed to it, and if a council how far their advice shall operate in controlling the judgment of the supreme magistracy. If there is no Council of State and the executive power be vested in a single person, what are the provisions for its proper operation, upon casual disability by sickness or otherwise. These are subjects which must come under our consideration, and perhaps some of the most important objections would be obviated by placing the executive power in the hands of three, instead of one person.

There is also to be a council of revision, invested, in a great measure, with a power of negative upon the laws; and an idea has been suggested, either within or without doors, that this council should be formed of the principal officers of the state, I presume of the members of the Treasury Board, the Board of War, the Navy Board, and the Department for Foreign Affairs. It is unnecessary, if not improper, to examine this part of the subject now, but I will venture to hazard an opinion, when it comes to be thoroughly investigated, that we can hardly find worse materials out of which to create a council of revision, or more improper or unsafe hands in which to place the power of a negative upon our laws. It is proposed, I think, sir, in the plan upon your table, that this council of revision shall be formed out of the members of the Judiciary departments joined with the Executive; and I am inclined to think, when the subject shall be taken up, it may be demonstrated, that this will be the wisest and safest mode of constituting this important council of revision. But the federal inferior courts of justice must, I presume, be fixed in the several respective States, and consequently most of them at a great distance from the seat of the federal government. The almost continual operation of the council of revision upon the acts of the national parliament, and upon their negative of the acts of the several State legislatures, will require that this council should be easily and speedily convened, and consequently, that only the judges of the Supreme Federal Court, fixed near the seat of government, can be members of it. Their number will be small. By placing the Executive in three persons, instead of one, we shall not only increase the number of the council of revision (which I have endeavored to show will want increasing), but by giving to each of the three a vote in the council of revision, we shall increase the strength of the Executive in that particular circumstance in which it will most want strength — in the power of defending itself against the encroachments of the legislature. These, I must acknowledge, are, with me, weighty considerations for vesting the Executive rather in three than in one person.

The chief advantages which have been urged in favor of unity in the Executive, are the secrecy, the dispatch, the vigor and energy which the government will derive from it, especially in time of war. That these are great advantages, I shall most readily allow. They have been strongly insisted on by all monarchical writers; they have been acknowledged by the ablest and most candid defenders of republican government; and it cannot be denied that a monarchy possesses them in a much greater degree than a republic. Yet perhaps a little reflection may incline us to doubt whether these advantages are not greater in theory than in practice, or lead us to enquire whether there is not some pervading principle in republican government which sets at naught and tramples upon this boasted superiority, as hath been experienced to their cost, by most monarchies which have been imprudent enough to invade or attack their republican neighbors. This invincible principle is to be found in the love, the affection, the attachment of the citizens to their laws, to their freedom, and to their country. Every husbandman will be quickly converted into a soldier when he knows and feels that he is to fight not in defence of the rights of a particular family, or a prince, but for his own. This is the true construction of the *pro aris et focis* which has, in all ages, performed such wonders. It was this which in ancient times enabled the little cluster of Grecian republics to resist, and almost constantly to defeat, the Persian monarch. It was this which supported the States of Holland against a body of veteran troops through a thirty years' war with Spain, then the greatest monarchy in Europe, and finally rendered them victorious. It is this which preserves the freedom and independence of the Swiss Cantons in the midst of the most powerful nations. And who that reflects seriously upon the situation of America, in the beginning of the late war — without arms — without soldiers — without trade, money or credit, in a manner destitute of all resources, but must ascribe our success to this pervading, all-powerful principle?

We have not yet been able to define the powers of the Executive, and however moderately some gentlemen may talk or think upon the subject, I believe there is a general tendency to a strong Executive, and I am inclined to think a strong Executive necessary. If strong and extensive powers are vested in the Executive, and that executive consists only of one person, the government will of course degenerate (for I will call it degeneracy) into a monarchy — a government so contrary to the genius of the people that they will reject even the appearance of it. I consider the federal government as in some measure dissolved by the meeting of this Convention. Are there no dangers to be apprehended from procrastinating the time between the breaking up of this Assembly and the adoption of a new system of government? I dread the interval. If it should not be brought to an issue in the course of the first year the consequences may be fatal. Have not the different parts of this extensive government, the several States of which it is composed a right to expect an equal participation in the Executive, as the best means of securing an equal attention to their interests? Should an insurrection, a rebellion or invasion happen in New Hampshire when the single supreme magistrate is a citizen of Georgia, would not the people of New Hampshire naturally ascribe any delay in defending them to such a circumstance and vice versa? If the Executive is vested in three persons, one chosen from the Northern, one from the Middle, and one from the Southern States, will it not contribute to quiet the minds of the people and convince them that there will be proper attention paid to their respective concerns? Will not three men so chosen bring with them, into office, a more perfect and extensive knowledge of

the real interests of this great Union? Will not such a mode of appointment be the most effectual means of preventing cabals and intrigues between the legislature and the candidates for this office, especially with those candidates who from their local situation, near the seat of the federal government, will have the greatest temptations and the greatest opportunities? Will it not be the most effectual means of checking and counteracting the aspiring views of dangerous and ambitious men, and consequently the best security for the stability and duration of our government upon the invaluable principles of liberty? These Sir, are some of my motives for preferring an Executive consisting of three persons rather than of one.

[Editors' note: Farrand writes that 'This document in Mason's handwriting was found among the Mason papers. It is evidently the draft of a speech in the Convention and probably of this date. The copy in the text is taken from K. M. Rowland, *Life of George Mason, II*, 112-115.' The text has been added to this event as it contains the only speech of Mason's attributed to this day.]

(Mason's Notes (Max Farrand, 1911), Pages 110-115, Vol. 1)

Dr. Franklin— Mr. Maddison and Mr. Bedford against expunging.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675336] On the question for striking out so as to give Executive an absolute Negative —

Massts. no. Cont. no. N. Y. no. Pa. no. Dl. no. Md. no. Va. no. N. C. no. S. C. no. Georga. no. [Ayes — 0; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 103, Vol. 1)

It was then moved by Mr Wilson seconded by Mr Hamilton to strike out the words

“shall not be afterwards passed but but byparts of each branch of the national legislature.”

and on the question to strike out the words

it passed unan: in the negative

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

On this the question was put and carried, nem. con. against expunging part of the clause so as to establish a complete negative.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Wil } Ham } ay Unanimous negative Kg }

(King's Diary (Max Farrand, 1911), Page 108, Vol. 1)

Carried unanimously against it.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675337] It was then moved by Mr Butler seconded by Dr Franklin that the resolution be altered so as to read

”resolved that the national executive have a power to suspend any legislative act for _____”

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

Mr. Butler moved that the Resoln. be altered so as to read — “Resolved that the National Executive have a power to suspend any legislative act for the term of.” 16

Doctr. Franklin seconds the motion.

(Madison’s Notes (Max Farrand, 1911), Page 103, Vol. 1)

Mr. Butler then moved that all acts passed by the legislature be suspended for the space of days by the executive.

(Yates’s Diary (Max Farrand, 1911), Page 106, Vol. 1)

Motion by Mr. Butler that the Executive be vested with a Power to suspend all Act of national Legislature for Days.

(Lansing’s Notes (Joseph Strayer, 1939), Page 32)

[e675338] Mr. Gerry observed that a power of suspending might do all the mischief dreaded from the negative of useful laws; without answering the salutary purpose of checking unjust or unwise ones.

(Madison’s Notes (Max Farrand, 1911), Pages 103-104, Vol. 1)

[e675339] and on the question to agree to the alteration
it passed unan: in the negative.

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

On question “for giving this suspending power”. all the States, to wit Massts. Cont. N. Y. Pa. Del. Maryland. Virga. N. C. S. C. Georgia. were no.

(Madison’s Notes (Max Farrand, 1911), Page 104, Vol. 1)

Unanimously in the negative.

(Yates’s Diary (Max Farrand, 1911), Page 106, Vol. 1)

Unanimously carried in the Negative.

(Lansing’s Notes (Joseph Strayer, 1939), Page 32)

[e675340] On a question for enabling two thirds of each branch of the Legislature to overrule the revisionary check: it passed in the affirmative sub silentio; and was inserted in the blank of Mr. Gerry’s motion.

(Madison’s Notes (Max Farrand, 1911), Page 104, Vol. 1)

It was resolved and agreed, that the blank be filled up with the words two thirds of the legislature.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

[e675341] On a question for enabling two thirds of each branch of the Legislature to overrule the revisionary check: it passed in the affirmative sub silentio; and was inserted in the blank of Mr. Gerry's motion.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

It was resolved and agreed, that the blank be filled up with the words two thirds of the legislature. Agreed to.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

[e675342] A question was then taken on the resolution submitted by Mr Gerry namely

“resolved that the national executive shall have a right to negative any legislative act which shall not be afterwards passed unless by two third parts of each branch of the national legislature”

And on the question to agree to the same
it passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 94, Vol. 1)

On the question on Mr. Gerry's motion which gave the Executive alone without the Judiciary the revisionary controul on the laws unles overruled by of each branch. Massts. ay. Cont. no. N. Y. ay. Pena. ay. Del. ay. Maryd. no. Va. ay N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

The question was then put on the whole of the resolve as amended and filled up. Carried, 8 states for — 2 against. New-York for it.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

[e675343] It was then moved by Mr Wilson seconded by Mr Madison that the following amendment be made to the last resolution after the words “national Executive” to add the words “a convenient number of the national judiciary.”

(Official Journal (Max Farrand, 1911), Pages 94-95, Vol. 1)

It was moved by Mr. Wilson 2ded. by Mr. Madison — that the following amendment be made to the last resolution — after the words “National Ex.” to add “& a convenient number of the National Judiciary.”

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

Mr. Wilson then moved for the addition of a convenient number of the national judicial to the executive as a council of revision.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

Wilson moves the addition of the Judiciary — Madison seconds —

(King's Diary (Max Farrand, 1911), Page 108, Vol. 1)

[e738428] Dickerson — agt. it — you must separate the Leg. Jud. & Ex. — but you propose to give the Executive a share in Legislation — why not the Judicial —

There is a Difference — the Judges must interpret the Laws they ought not to be legislators. The Executive is merely ministerial — besides we have Experience in the British Constitution of the Executive's having a negative —

(King's Diary (Max Farrand, 1911), Pages 108-109, Vol. 2)

[e738425] An objection of order being taken by Mr Hamilton to the introduction of the last amendment at this time.

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

An Objection of order being taken by Mr. Hamilton to the introduction of the last amendment at this time

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

[e738426] An objection of order being taken by Mr Hamilton to the introduction of the last amendment at this time. — notice was given by Mr Wilson seconded by Mr Madison that the same would be moved to-morrow.

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

An Objection of order being taken by Mr. Hamilton to the introduction of the last amendment at this time, notice was given by Mr. W. & Mr. M — that the same wd. be moved tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

The motion was waved —

(King's Diary (Max Farrand, 1911), Page 109, Vol. 2)

[e675345] An objection of order being taken by Mr Hamilton to the introduction of the last amendment at this time. — notice was given by Mr Wilson seconded by Mr Madison that the same would be moved to-morrow. —

[Editors' note: Wilson's motion was not in fact resumed until 6 June.]

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

An Objection of order being taken by Mr. Hamilton to the introduction of the last amendment at this time, notice was given by Mr. W. & Mr. M — that the same wd. be moved tomorrow.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

Mr. Wilson then moved for the addition of a convenient number of the national judicial to the executive as a council of revision. Ordered to be taken into consideration to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

[e675346] — Wednesday assigned to reconsider

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

— whereupon Wednesday (the day after) was assigned to reconsider the amendment of Mr. Gerry.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

Mr. Wilson then moved for the addition of a convenient number of the national judicial to the executive as a council of revision. Ordered to be taken into consideration to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 106, Vol. 1)

[e675347] It was then moved and seconded to proceed to the consideration of the 9th resolution submitted by Mr Randolph

[Editors' note: At this point, the Committee began to debate, amend, and reconstruct the Ninth Resolution clause by clause. The editors have introduced a working version of the amendment to model this process.]

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

It was then moved & 2ded. to proceed to the consideration of the 9th. resolution submitted by Mr. Randolph

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

[e675348] When on motion to agree to the first clause namely
"resolved that a national judiciary be established"

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

when on motion to agree to the first clause namely "Resolved that a National Judiciary be established" It passed in the Affirmative nem. con.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

9th Resolve—that a national Judiciary be established.

(Lansing's Notes (Joseph Strayer, 1939), Page 32)

[e675349] It was then moved & 2ded. to proceed to the consideration of the 9th. resolution submitted by Mr. Randolph — when on motion to agree to the first clause namely "Resolved that a National Judiciary be established" It passed in the Affirmative nem. con.

(Madison's Notes (Max Farrand, 1911), Page 104, Vol. 1)

When on motion to agree to the first clause namely
“resolved that a national judiciary be established”
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 5, Vol. 1)

9th Resolve—that a national Judiciary be established. Agreed 8 States to 2—
Connecticut and Maryland negative.

(Lansing’s Notes (Joseph Strayer, 1939), Page 32)

[e675350] It was then moved and seconded to add these words to the first clause
of the ninth resolution namely

“to consist of One supreme tribunal, and of one or more inferior tribunals.

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

It was then moved and 2ded. to add these words to the first clause of the
ninth resolution namely — “to consist of one supreme tribunal, and of one or
more inferior tribunals”.

(Madison’s Notes (Max Farrand, 1911), Pages 104-105, Vol. 1)

[e675351] and on the question to agree to the same.

it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

which passed in the affirmative —

(Madison’s Notes (Max Farrand, 1911), Page 105, Vol. 1)

[e675352] It was then moved and seconded that the Committee do now rise,
report a further progress, and request leave to sit again

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

The Comme. then rose and the House
Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 105, Vol. 1)

[e675353] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 95, Vol. 1)

The Comme. then rose and the House
Adjourned.

(Madison’s Notes (Max Farrand, 1911), Page 105, Vol. 1)

3.6 Tuesday, 05 June 1787, at 11:00 (s6293)

[e675354] His Excellency William Livingston Esquire, a Deputy of the State of New Jersey, attended and took his seat

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

Governor Livingston from New Jersey took his seat.

(Madison's Notes (Max Farrand, 1911), Page 119, Vol. 1)

[e732475] It was moved and seconded to proceed to the further considn of the 9th resolution, submitted by Mr Randolph.

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e732476] It was moved and seconded to proceed to the further considn of the 9th resolution, submitted by Mr Randolph.

[Editors' note: While there appears to be no official vote on the motion, the discussion considering Randolph's propositions continues.]

(Official Journal (Max Farrand, 1911), Page 115, Vol. 1)

[e675355] It was then moved and seconded to amend the last clause by striking out the words "One or more" so as to read "and of inferior to [sic] tribunals".

(Official Journal (Max Farrand, 1911), Pages 115-116, Vol. 1)

The words, "one or more" were struck out before "inferior tribunals" as an amendment to the last clause of Resoln. 9th.

(Madison's Notes (Max Farrand, 1911), Page 119, Vol. 1)

The 9th Resolve. That a national Judicial be established to consist of one Supreme Tribunal and of Inferior Tribunals agreed to unanimously.

[Editors' note: Lansing writes of this session, 'Being indisposed I did not attend but Judge Yates gave me the following Account of their Proceedings.' His notes appear to be a more condensed version of Yates' records of the proceedings. Strayer comments that 'It looks as if Y. gave L. his rough notes and that when Y. later copied these notes into his own journal he filled in ellipses and touched up the style.']

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

[e675356] and on the question to strike out
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

The words, "one or more" were struck out before "inferior tribunals" as an amendment to the last clause of Resoln. 9th.

(Madison's Notes (Max Farrand, 1911), Page 119, Vol. 1)

The 9th Resolve. That a national Judicial be established to consist of one Supreme Tribunal and of Inferior Tribunals agreed to unanimously.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

[e675357] The Clause — “that the national Judiciary be chosen by the National Legislature”, being under consideration.

(Madison's Notes (Max Farrand, 1911), Page 119, Vol. 1)

[e675358] Mr. Wilson opposed the appointmt of Judges by the national Legisl: Experience shewed the impropriety of such appointmts. by numerous bodies. Intrigue, partiality, and concealment were the necessary consequences. A principal reason for unity in the Executive was that officers might be appointed by a single, responsible person.

Mr. Rutledge [sic] was by no means disposed to grant so great a power to any single person. The people will think we are leaning too much towards Monarchy. He was against establishing any national tribunal except a single supreme one. The State Tribunals are most proper to decide in all cases in the first instance.

Docr. Franklin observed that two modes of chusing the Judges had been mentioned, to wit, by the Legislature and by the Executive. He wished such other modes to be suggested as might occur to other gentlemen; it being a point of great moment. He would mention one which he had understood was practiced in Scotland. He then in a brief and entertaining manner related a Scotch mode, in which the nomination proceeded from the Lawyers, who always selected the ablest of the profession in order to get rid of him, and share his practice among themselves. It was here he said the interest of the electors to make the best choice, which should always be made the case if possible.

Mr. Madison disliked the election of the Judges by the Legislature or any numerous body. Besides, the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. The Legislative talents which were very different from those of a Judge, commonly recommended men to the favor of Legislative Assemblies. It was known too that the accidental circumstances of presence and absence, of being a member or not a member, had a very undue influence on the appointment. On the other hand He was not satisfied with referring the appointment to the Executive. He rather inclined to give it to the Senatorial branch, as numerous eno' to be confided in — as not so numerous as to be governed by the motives of the other branch; and as being sufficiently stable and independent to follow their deliberate judgments.

(Madison's Notes (Max Farrand, 1911), Pages 119-120, Vol. 1)

Mr. Wilson moved that the Judicial be appointed by the Executive instead of the national Legislature.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

Mr. Wilson moved that the judicial be appointed by the executive, instead of the national legislature.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

How shall the Judiciary be appointed by the Legislative or Executive —

Wilson in favor of the latter because the Executive will be responsible —

Rutledge agt. it because the States in genl. appt. in yt. way

Franklin. The 16 lords of Sessions in Scotland are the Judicial — they are appointed by the Barristers or Doctors. They elect the most learned, Doctor, because he has the most business wh. they may divide when he becomes a Judge —

Madison — I am for farther Diliberation perhaps it will be best that the appointment shd. be by the Senate

(King's Diary (Max Farrand, 1911), Pages 127-128, Vol. 1)

[e675359] He [Madison] hinted this only and moved that the appointment by the Legislature might be struck out, & a blank left to be hereafter filled on maturer reflection. Mr. Wilson seconds it.

(Madison's Notes (Max Farrand, 1911), Page 120, Vol. 1)

It was then moved and seconded to strike out the words "the national legislature" so as to read

to be appointed by ____.

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

Mr. Maddison opposed—the Judges ought to be appointed by the Senetorial Branch of the Legislature. Moves that the words the national Legislature be struck out.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

Mr Madison opposed the motion, and inclined to think that the executive ought by no means to make the appointments, but rather that branch of the legislature called the senatorial; and moves that the words, of the appointment of the legislature, be expunged.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675360] It was then moved and seconded to strike out the words "the national legislature" so as to read

to be appointed by.

On the question to strike out

it passed in the affirmative [Ayes — 8; noes — 2.]

[Editors' note: Madison records the voting as: 'Massts. ay. Cont. no. N. Y. ay. N. J. ay. Pena. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 9; noes — 2.]' (Page 120, Vol. 1, Madison's Notes (Max Farrand, 1911)). However, Farrand notes that Madison includes New Jersey in the affirmative, making eleven votes in all, but Yates and the Journal give only ten in the affirmative. This is because, for the first part of the session, New Jersey was not quorate, though it would be able to vote later in the session.]

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

Carried 8 for and 2 against.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

Carried by 8 states — against it 2.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675361] [Editors' note: Once the Committee adopts Madison's proposal to strike out 'the National Legislature', this clause was taken into the working document, and the Committee moved on to consider the resolution's subsequent clauses.]

(2019 Editors)

[e675362] Mr. Wilson gave notice that he should at a future day move for a reconsideration of that clause which respects "inferior tribunals"

(Madison's Notes (Max Farrand, 1911), Page 120, Vol. 1)

Notice was given by Mr. Wilson that he should at a future day move for a reconsideration of that clause which respects "inferior tribunals"

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

[e675363] Mr. Pinkney gave notice that when the clause respecting the appointment of the Judiciary should again come before the Committee, he should move to restore the "appointment by the national Legislature"

(Madison's Notes (Max Farrand, 1911), Pages 120-121, Vol. 1)

Mr C. Pinckney gave notice that when the clause which respects the appointment of the Judiciary came before the Committee he should move to restore the words

"the national legislature"

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

[e675364] It was then moved and seconded to agree to the following part of the 9th resolution namely,

"To hold their offices during good behaviour and to receive punctually, at stated times, a fixed compensation for their services, in which no encrease or diminution shall be made, so as to affect the persons actually in office at the time of such encrease or diminution".

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

The following clauses of Resol: 9. were agreed to viz "to hold their offices during good behaviour, and to receive punctually at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution"

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 1)

[e675365] On the question to agree to the same
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

The following clauses of Resol: 9. were agreed to viz “to hold their offices during good behaviour, and to receive punctually at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution”

(Madison’s Notes (Max Farrand, 1911), Page 121, Vol. 1)

Good Behaviour and fixed Salaries carried unanimously.

(Lansing’s Notes (Joseph Strayer, 1939), Page 33)

[e675366] It was then moved and seconded to postpone the remaining clause of the 9th resolution

[Editors’ note: In order to show the remaining clauses of the ninth resolution being postponed, the editors have chosen to propose them onto the document at this point.]

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

[e732477] It was then moved and seconded to postpone the remaining clause of the 9th resolution

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

[e732478] It was then moved and seconded to postpone the remaining clause of the 9th resolution

and on the question to postpone
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 116, Vol. 1)

The remaining clause of Resolution 9. was postponed.

(Madison’s Notes (Max Farrand, 1911), Page 121, Vol. 1)

The remainder of the Clause postponed.

(Lansing’s Notes (Joseph Strayer, 1939), Page 33)

The remaining part of the resolve postponed.

(Yates’s Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675368] [Editors’ note: Having decided to agree to the first few clauses of the Ninth Resolution and to postpone consideration of the final clause, the Committee took the former into its working document and proceeded to the consideration of the Tenth Resolution.]

(2019 Editors)

[e675369] [Editors' note: The record shows that Randolph's Tenth Resolution now came before the Committee for consideration.]

(2019 Editors)

10. Resolve—Read and agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

The 10th resolve read and agreed to.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675370] On the question to agree to the 10th resolution, as submitted by Mr Randolph namely

“resolved that provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the national legislature less than the whole”

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 116-117, Vol. 1)

Resolution 10 was agreed to — viz — that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory, or otherwise with the consent of a number of voices in the National Legislature less than the whole.

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 1)

10. Resolve—Read and agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

The 10th resolve read and agreed to.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675371] The 11. propos: “for guarantying to States Republican Govt. & territory &c,” being read.

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 1)

11. Resolve—Read and postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

The 11th resolve agreed to be postponed.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e732479] The 11. propos: “for guarantying to States Republican Govt. & territory &c,” being read, Mr. Patterson wished the point of representation could be decided before this clause should be considered, and moved to postpone it

(Madison’s Notes (Max Farrand, 1911), Page 121, Vol. 1)

It was moved and seconded to postpone the consideration of the 11th resolution submitted by Mr Randolph.

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

[e732480] The 11. propos: “for guarantying to States Republican Govt. & territory &c,” being read, Mr. Patterson wished the point of representation could be decided before this clause should be considered, and moved to postpone it: which was not. opposed, and agreed to: Connecticut & S. Carolina only voting agst. it.

[Editors’ note: Madison made a mistake in recording this vote. His original record shows that the decision to postpone consideration of the Eleventh Resolution was unanimous. However, when he revised this section of his notes according to the Journal, he copied the details of Vote 22, which was a vote to strike ‘the national legislature’ from the Ninth Resolution.]

(Madison’s Notes (Max Farrand, 1911), Page 121, Vol. 1)

It was moved and seconded to postpone the consideration of the 11th resolution submitted by Mr Randolph.

and on the question to postpone
it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

11. Resolve—Read and postponed.

(Lansing’s Notes (Joseph Strayer, 1939), Page 33)

The 11th resolve agreed to be postponed.

(Yates’s Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675374] On the question to agree to the 12th resolution submitted by Mr Randolph — namely

“resolved that provision ought to be made for the continuance of a Congress and their authorities and privileges, until a given day, after the reform of the articles of union shall be adopted, and for the completion of all their engagements”

it passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

12 “for continuing Congs. till a given day, and for fulfilling their engagements.” produced no debate”

(Madison’s Notes (Max Farrand, 1911), Page 121, Vol. 1)

12. Resolve—Read and agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

[e675375] On the question to agree to the 12th resolution submitted by Mr Randolph — namely

“resolved that provision ought to be made for the continuance of a Congress and their authorities and privileges, until a given day, after the reform of the articles of union shall be adopted, and for the completion of all their engagements”

it passed in the affirmative [Ayes — 8; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

On the question Mass. ay. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N C. ay. S. C. ay. G. ay. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 1)

12. Resolve—Read and agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

The 12th resolve agreed to without debate.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675376] propos: 13. “that provision ought to be made for hereafter amending the system now to be established, without requiring the assent of the Natl. Legislature.” being taken up.

(Madison's Notes (Max Farrand, 1911), Page 121, Vol. 1)

13. Resolve—Read and postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

[e675377] Mr. Pinkney doubted the propriety or necessity of it.

Mr. Gerry favored it. The novelty & difficulty of the experiment requires periodical revision. The prospect of such a revision would also give intermediate stability to the Govt. Nothing had yet happened in the States where this provision existed to prove its impropriety.

(Madison's Notes (Max Farrand, 1911), Pages 121-122, Vol. 1)

[e732481] It was then moved and seconded to postpone the consideration of the 13th resolution submitted by Mr Randolph

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

[e732482] It was then moved and seconded to postpone the consideration of the 13th resolution submitted by Mr Randolph

and on the question to postpone

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

— The Proposition was postponed for further consideration: the votes being. Mas: Con. N. Y. Pa. Del. Ma. N. C. — ay

Virga. S. C. Geo: no

[Editors' note: Regarding this vote to postpone, Farrand says, 'Madison originally recorded that this provision was "postponed nem. con.," but later substituted this vote from the Journal. His original record was doubtless correct as there is no apparent reason for ascribing this vote to this question' (Farrand, *The Records of the Federal Convention*, vol. 1, page 122).]

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 1)

13. Resolve—Read and postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 33)

The 13th and 14th resolves postponed.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675379] propos. 14. "requiring oath from the State officers to support national Govt." was postponed after a short uninteresting conversation;

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 1)

14. Resolve—Same.

(Lansing's Notes (Joseph Strayer, 1939), Page 34)

[e732483] It was moved and seconded to postpone the considn of the 14th resolution submitted by Mr Randolph.

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

[e732484] It was moved and seconded to postpone the considn of the 14th resolution submitted by Mr Randolph.

and on the question to postpone

it passed in the affirmative

[Editors' note: As the New Jersey vote is recorded at this point, the delegation had presumably returned to quorum.]

(Official Journal (Max Farrand, 1911), Page 117, Vol. 1)

propos. 14. "requiring oath from the State officers to support national Govt." was postponed after a short uninteresting conversation; the votes, Con.

N. Jersey. Md. Virg: S. C. Geo. ay

N. Y. Pa. Del. N. C. . . . no

Massachusetts. . . . divided

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 1)

14. Resolve—Same.

(Lansing's Notes (Joseph Strayer, 1939), Page 34)

The 13th and 14th resolves postponed.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675381] propos. 15. for "recommending conventions under appointment of the people to ratify the new Constitution &c." being taken up.

(Madison's Notes (Max Farrand, 1911), Page 122, Vol. 1)

The 15th or last resolve, That the amendment which shall be offered to the confederation, ought at a proper time or times after the approbation of congress to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people, to consider and decide thereon, was taken into consideration.

(Yates's Diary (Max Farrand, 1911), Page 126, Vol. 1)

[e675382] Mr. Sherman thought such a popular ratification unnecessary. the articles of Confederation providing for changes and alterations with the assent of Congs. and ratification of State Legislatures.

Mr. Madison thought this provision essential. The articles of Confedn. themselves were defective in this respect, resting in many of the States on the Legislative sanction only. Hence in conflicts between acts of the States, and of Congs. especially where the former are of posterior date, and the decision is to be made by State Tribunals, an uncertainty must necessarily prevail, or rather perhaps a certain decision in favor of the State authority. He suggested also that as far as the articles of Union were to be considered as a Treaty only of a particular sort, among the Governments of Independent States, the doctrine might be set up that a breach of any one article, by any of the parties, absolved the other parties from the whole obligation. For these reasons as well as others he thought it indispensable that the new Constitution should be ratified in the most unexceptionable form, and by the supreme authority of the people themselves.

Mr. Gerry. Observed that in the Eastern States the Confedn. had been sanctioned by the people themselves. He seemed afraid of referring the new system to them. The people in that quarter have at this time the wildest ideas of Government in the world. They were for abolishing the Senate in Masss. and giving all the other powers of Govt. to the other branch of the Legislature.

Mr. King supposed the last article of ye Confedn. Rendered the legislature competent to the ratification. The people of the Southern States where the federal articles had been ratified by the Legislatures only, had since impliedly given their sanction to it. He thought notwithstanding that there might be policy in varying the mode. A Convention being a single house, the adoption may more easily be carried thro' it. than thro' the Legislatures where there are several branches. The Legislatures also being to lose power, will be most likely to raise objections. The people having already parted with the necessary powers it is immaterial to them, by which Government they are possessed, provided they be well employed.

Mr. Wilson took this occasion to lead the Committee by a train of observations to the idea of not suffering a disposition in the plurality of States to

confederate anew on better principles, to be defeated by the inconsiderate or selfish opposition of a few States. He hoped the provision for ratifying would be put on such a footing as to admit of such a partial union, with a door open for the accession of the rest. —*

Mr. Pinkney hoped that in the case the experiment should not unanimously take place nine States might be authorized to unite under the same Governmt.

(Madison's Notes (Max Farrand, 1911), Pages 122-123, Vol. 1)

15. Resolve—Mr. Maddison enforced the Necessity of this Resolve for that the new Constitution ought to have the highest Source of Authority—at least paramount to the several Constitutions—points out the Mischiefs arising from the present Confederation depending on ordinary State Authorities—Instance the Effect of Treaties when contrasted with antecedent Acts of Legislature. Mr. King—the People have tacitly agreed to the Confederation and that the Legislature have a Right to confirm any Alterations in it. A Convention of the States however the most eligible to confirm new Government. Mr. Wilson—People must ratify—all will not come in soon—but as the States do they will confederate.

(Lansing's Notes (Joseph Strayer, 1939), Page 34)

Mr. Madison endeavored to enforce the necessity of this resolve — because the new national constitution ought to have the highest source of authority, at least paramount to the powers of the respective constitutions of the states — points out the mischiefs that have arisen in the old confederation, which depends upon no higher authority than the confirmation of an ordinary act of a legislature — Instances the law operation of treaties, when contravened by any antecedent acts of a particular state.

Mr. King supposes, that as the prople have tacitly agreed to a federal government, that therefore the legislature in every state have a right to confirm any alterations or amendments in it — a convention in each state to approve of a new government he supposes however the most eligible.²⁶

Mr. Wilson is of opinion, that the people by a convention are the only power that can ratify the proposed system of the new government.

It is possible that not all the states, nay, that not even a majority, will immediately come into the measure; but such as do ratify it will be immediately bound by it, and others as they may from time to time accede to it.

(Yates's Diary (Max Farrand, 1911), Pages 126-127, Vol. 1)

Mr. Rutledge was of opinion that it would be right to make the adjudications of the State Judges, appealable to the national Judicial.

Mr. Madison was for appointing the Judges by the Senate.

Mr. Hamilton suggested the idea of the Executive's appointing or nominating the Judges to the Senate which should have the right of rejecting or approving.

Mr. Butler was of opinion that the alteration of the confederation ought not to be confirmed by the different Legislatures because they have sworne to support the Government under which they act, and therefore that Deputies should be chosen by the People for the purpose of ratifying it.

Mr. King thought that the Convention would be under the necessity of referring the amendments to the different Legislatures, because one of the Articles of the confederation expressly made it necessary.

As the word perpetual in the Articles of confederation gave occasion for several Members to insist upon the main principles of the confederacy, i e that the several States should meet in the general Council on a footing of compleat equality each claiming the right of sovereignty, Mr. Butler observed that the word perpetual in the confederation meant only the constant existence of our Union, and not the particular words which compose the Articles of the union.

Some general discussions came on. —

(Pierce's Notes (Max Farrand, 1911), Pages 128-129, Vol. 1)

[e732487] It was moved and seconded to postpone the considn of the 15th resolution submitted by Mr Randolph

(Official Journal (Max Farrand, 1911), Pages 117-118, Vol. 1)

[e732490] It was moved and seconded to postpone the considn of the 15th resolution submitted by Mr Randolph

and on the question to postpone

it passed in the affirmative

(Official Journal (Max Farrand, 1911), Pages 117-118, Vol. 1)

The propos. 15. was postponed nem. cont:

(Madison's Notes (Max Farrand, 1911), Page 123, Vol. 1)

Postponed 7 States to 3.

(Lansing's Notes (Joseph Strayer, 1939), Page 34)

Question put for postponement of this resolve. 7 states for postponment — 3 against it.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

[e675385] It was moved by Mr C Pinckney seconded by Mr Rutledge that tomorrow be assigned to reconsider that clause of the 4th resolution which respects the election of the first branch of the national legislature.

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

Mr. Pinkney & Mr. Rutlidge moved that tomorrow be assigned to reconsider that clause of Propos. 4: which respects the elections of the first branch of the National Legislature

(Madison's Notes (Max Farrand, 1911), Pages 123-124, Vol. 1)

[e675386] And on the question to reconsider the same to-morrow it passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

which passed in affirmative: Con: N. Y. Pa. Del: Md. Va. ay — 6 Mas. N
J. N. C. S. C. Geo. no. 5

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 1)

[e741871] Mr. Rutledge havg. obtained a rule for reconsideration of the clause for establishing inferior tribunals under the national authority, now moved that that part of the clause in propos. 9. should be expunged

[Editors' note: The phrasing here implies that Rutledge made a motion to reconsider proposition 9 that was subsequently agreed to.]

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 1)

[e741872] Mr. Rutledge havg. obtained a rule for reconsideration of the clause for establishing inferior tribunals under the national authority, now moved that that part of the clause in propos. 9. should be expunged

[Editors' note: The phrasing here implies that Rutledge made a motion to reconsider proposition 9 that was subsequently agreed to.]

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 1)

[e741873] Mr. Rutledge [sic] havg. obtained a rule for reconsideration of the clause for establishing inferior tribunals under the national authority, now moved that that part of the clause in propos. 9. should be expunged: arguing that the State Tribunals might and ought to be left in all cases to decide in the first instance the right of appeal to the supreme national tribunal being sufficient to secure the national rights & uniformity of Judgmts: that it was making an unnecessary encroachment on the jurisdiction of the States, and creating unnecessary obstacles to their adoption of the new system. — Mr. Sherman 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 124, Vol. 1)

It was moved by Mr Rutledge seconded by Mr. Sherman

To strike out the following words in the 9th resolution submitted by Mr Randolph namely

“and of inferior tribunals”

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

Question on the 9th resolve to strike out the words, and of inferior tribunals.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

Rutledge proposes to have a supreme Tribunal to be appointed by the Genl. Govt. but no subordinate Tribunals — except those already in the several States

(King's Diary (Max Farrand, 1911), Page 128, Vol. 1)

[e741874] Mr. Madison observed that unless inferior tribunals were dispersed throughout the Republic with final jurisdiction in many cases, appeals would be multiplied to a most oppressive degree; that besides, an appeal would not in many cases be a remedy. What was to be done after improper Verdicts in State tribunals obtained under the biassed directions of a dependent Judge, or the local prejudices of an undirected jury? To remand the cause for a new trial would answer no purpose. To order a new trial at the supreme bar would oblige the parties to bring up their witnesses, tho' ever so distant from the seat of the Court. An effective Judiciary establishment commensurate to the legislative authority, was essential. A Government without a proper Executive & Judiciary would be the mere trunk of a body without arms or legs to act or move.

Mr. Wilson opposed the motion on like grounds. he said the admiralty jurisdiction ought to be given wholly to the national Government, as it related to cases not within the jurisdiction of particular states, & to a scene in which controversies with foreigners would be most likely to happen.

Mr. Sherman was in favor of the motion. He dwelt chiefly on the supposed expensiveness of having a new set of Courts, when the existing State Courts would answer the same purpose. Mr. Dickinson contended strongly that if there was to be a National Legislature, there ought to be a national Judiciary, and that the former ought to have authority to institute the latter.

(Madison's Notes (Max Farrand, 1911), Pages 124-125, Vol. 1)

— Wilson agt. it — Dickerson — agt. Wilson the State and Genl. Tribunals will interfere — we want a National Judicial — let it be entire and originate from the Genl. Govt.

Madison proposes to vest the Genl. Govt. with authority to erect an Independent Judicial, coextensive wt. ye. Nation

(King's Diary (Max Farrand, 1911), Page 128, Vol. 1)

[e741875] And on the question to strike out
it passed in the affirmative [Ayes — 5; noes — 4; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

On the question for Mr. Rutledge's motion to strike out "inferior tribunals"
Massts. divided, Cont. ay. N. Y. divd. N. J. ay. Pa. no. Del. no. Md. no.
Va. no. N. C. ay. S. C. ay. Geo ay [Ayes — 5; noes — 4; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

Question on 9th Resolve to strike out Inferior Tribunals. Carried by 5 States against 4. 2 States divided—New York of that Number.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

Question on the 9th resolve to strike out the words, and of inferior tribunals.

Carried by 5 states against 4 — 2 states divided, of which last number New-York was one.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

5 A. 4 No. 2 divd.

(King's Diary (Max Farrand, 1911), Page 128, Vol. 1)

[e741881] Mr. Wilson & Mr. Madison then moved, in pursuance of the idea expressed above by Mr. Dickinson, to add to Resol: 9. the words following "that the National Legislature be empowered to institute inferior tribunals". They observed that there was a distinction between establishing such tribunals absolutely, and giving a discretion to the Legislature to establish or not establish them. They repeated the necessity of some such provision.

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

It was then moved and seconded that the following clause be added to the 9th resolution namely

"That the national legislature be empowered to appoint inferior Tribunals"

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

Mr. Wilson—in Addition to this Clause—that the National Legislature shall have the Authority to appoint Inferior Tribunals.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

Mr. Wilson then moved, that the national legislature shall have the authority to appoint inferior tribunals, be added to the resolve.

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

[e741882] Mr. Butler. The people will not bear such innovations. The States will revolt at such encroachments. Supposing such an establishment to be useful, we must not venture on it. We must follow the example of Solon who gave the Athenians not the best Govt. he could devise; but the best they wd. receive.

Mr. King remarked as to the comparative expence that the establishment of inferior tribunals wd. cost infinitely less than the appeals that would be prevented by them.

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

[e741883] And on the question to agree to the same

it passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

[Editors' note: Madison's notes give a different vote count, recording that New Jersey voted for the motion: 'On this question as moved by Mr. W. and Mr. M. Mass. ay. Ct. no. N. Y. divd. N. J.* ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 8; noes — 2; divided — 1.] * In the printed Journal N. Jersey — no.' (Page 125, Vol. 1, Madison's Notes (Max Farrand, 1911))

Yates also records New Jersey as voting against the motion. Accordingly, the delegation has been noted as voting in the negative.]

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

Carried 7 States against 3—New York divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

Carried by 7 states against 3. New-York divided. (N. B. Mr. Lansing from New-York was prevented by sickness from attending this day.)

(Yates's Diary (Max Farrand, 1911), Page 127, Vol. 1)

[e741878] [Editors' note: Having finished amending the 9th resolution, it is implicitly adopted.]

(2019 Editors)

[e675393] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again.

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

The Committee then rose

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

[e675394] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again.

The Committee then rose

(Official Journal (Max Farrand, 1911), Page 118, Vol. 1)

The Committee then rose

(Madison's Notes (Max Farrand, 1911), Page 125, Vol. 1)

3.7 Wednesday, 06 June 1787, at 11:00 (s6294)

[e675395] [Editors' note: In a 19 May letter from Livingston to Brearley, Livingston writes, 'I suspect that by the middle of next week at farthest we shall have a full representation by the attendance of Mr. Clark and Mr. Patterson. Mr. Houston's ill state of health which I sincerely regret will I fear prevent his going tho' he told me that he intended it' (Page 8, William Livingston to David Brearley, Supplement to the Records of the Federal Convention (James Hutson, 1987)). Houston does, however, arrive at the Convention as early as the 25th (see note to e672188), and stays for about a week. He was definitely at the Convention on 1 June, which is confirmed by a letter to the Council and General Assembly of New Jersey signed by Brearley, Houston, and Patterson. He leaves the Convention some point after that (Farrand indicates 6 June), and Dayton writes to Brearley on 7 June that 'Mr. Houston has formally resigned in consequence of his ill state of health...' (Page 59, Jonathan Dayton to David Brearley, Supplement to the Records of the Federal Convention (James Hutson, 1787)). Brearley responds to the letter on 9 June saying, 'I am distressed that Mr. Houston's [sic] health is so bad as to make it necessary for him to decline. He did not hint such a thing to us when he left us; altho it was pretty certain that he could not have attended very closely' (Page 64, David Brearley to Jonathan Dayton, Supplement to the Records of the Federal Convention (James Hutson, 1987)).]

(2019 Editors)

Houston, William Churchill, of New Jersey. Attended as early as May 25; was absent on June 6.

(Appendix B (Max Farrand, 1911), Page 588, Vol. 3)

That the Convention now sitting in Philadelphia, of which they are Members on the Part of New Jersey, have found it indispensably necessary to employ a Secretary, a Messenger, and a Doorkeeper. That to defray the wages of these Persons and the Expense of Stationary etc. some Funds will be requisite and the Convention possess none of any Kind. That as Congress have recommended the Meeting, they will no Doubt ultimately discharge the necessary Expenses attending it, but that there is little or no Prospect that they will be again in Session until sometime after the Convention rises. That the Proposition of New Jersey will be, upon a rough Estimate, about five Shillings a Day, and, to Appearances the Convention will sit about two or three Months. The Subscribers therefore pray, that the Honourable the Legislature will authorize them to draw on the Treasury, not exceeding a certain Amount, of which they, in their wisdom, will determine, for the Purpose of paying the Wages and Expenses aforesaid as far as the Proportion of the State shall require; the Account to be settled on proper Vouchers to be taken for what is paid and disbursed.

David Brearley William Paterson William Houston

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 40, Letter from David Brearley, William Houston, William Paterson to the Council and General Assembly of New Jersey, 1 June 1787)

[e675396] It was moved by Mr C. Pinckney seconded by Mr Rutledge to strike the word “people” out of the 4th resolution submitted by Mr Randolph, and to insert in it’s place the word

“Legislatures” so as to read “resolved that the Members of the first branch of the national legislature ought to be elected by the Legislatures of the several states”

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

Mr. Pinkney according to previous notice & rule obtained, moved “that the first branch of the national Legislature be elected by the State Legislatures, and not by the people”. contending that the people were less fit Judges in such a case, and that the Legislatures would be less likely to promote the adoption of the new Government, if they were to be excluded from all share in it.

Mr. Rutledge 2ded. the motion.

(Madison’s Notes (Max Farrand, 1911), Page 132, Vol. 1)

Mr. Pinkney moved (pursuant to a standing order for re-consideration) that in the 4th resolve, the words by the people, be expunged, and the word by the legislature, be inserted.

(Yates’s Diary (Max Farrand, 1911), Page 140, Vol. 1)

Pinckney Cs. proposes that the Election of the members of the first Br. or Commons, shd. be by the State Legis: and not by the people —

(King's Diary (Max Farrand, 1911), Page 142, Vol. 1)

Mr. Charles Pinckney said he was for appointing the first branch of the Legislature by the State Legislatures, and that the rule for appointing it ought to be by the contributions made by the different States.

(Pierce's Notes (Max Farrand, 1911), Page 147, Vol. 1)

4th Resolve—C. Pinkney moves—dele People and insert Legislature.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

[e675397] Mr. Gerry. Much depends on the mode of election. In England, the people will probably lose their liberty from the smallness of the proportion having a right of suffrage. Our danger arises from the opposite extreme: hence in Massts. the worst men get into the Legislature. Several members of that Body had lately been convicted of infamous crimes. Men of indigence, ignorance & baseness, spare no pains however dirty to carry their point agst. men who are superior to the artifices practiced. He was not disposed to run into extremes. He was as much principled as ever agst. aristocracy and monarchy. It was necessary on the one hand that the people should appoint one branch of the Govt. in order to inspire them with the necessary confidence. But he wished the election on the other to be so modified as to secure more effectually a just preference of merit. His idea was that the people should nominate certain persons in certain districts, out of whom the State Legislatures shd. make the appointment.

Mr. Wilson. He wished for vigor in the Govt. but he wished that vigorous authority to flow immediately from the legitimate source of all authority. The Govt. ought to possess not only 1st. the force but 2ndly. the mind or sense of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively. The opposition was to be expected he said from the Governments, not from the Citizens of the States. The latter had parted as was observed (by Mr. King) with all the necessary powers; and it was immaterial to them, by whom they were exercised, if well exercised. The State officers were to be losers of power. The people he supposed would be rather more attached to the national Govt. than to the State Govts. as being more important in itself, and more flattering to their pride. There is no danger of improper elections if made by large districts. Bad elections proceed from the smallness of the districts which give an opportunity to bad men to intrigue themselves into office.

Mr. Sherman. If it were in view to abolish the State Govts. the elections ought to be by the people. If the State Govts. are to be continued, it is necessary in order to preserve harmony between the national & State Govts. that the elections to the former shd. be made by the latter. The right of participating in the National Govt. would be sufficiently secured to the people by their election of the State Legislatures. The objects of the Union, he thought were few. 1. defence agst. foreign danger. 2. agst. internal disputes & a resort to force. 3. Treaties with foreign nations 4 regulating foreign commerce, & drawing revenue

from it. These & perhaps a few lesser objects alone rendered a Confederation of the States necessary. All other matters civil & criminal would be much better in the hands of the States. The people are more happy in small than large States. States may indeed be too small as Rhode Island, & thereby be too subject to faction. Some others were perhaps too large, the powers of Govt not being able to pervade them. He was for giving the General Govt. power to legislate and execute within a defined province.

Col. Mason. Under the existing Confederacy, Congs. represent the States not the people of the States: their acts operate on the States not on the individuals. The case will be changed in the new plan of Govt. The people will be represented; they ought therefore to choose the Representatives. The requisites in actual representation are that the Reps. should sympathize with their constituents; shd. think as they think, & feel as they feel; and that for these purposes shd. even be residents among them. Much he sd. had been alledged agst. democratic elections. He admitted that much might be said; but it was to be considered that no Govt. was free from imperfections & evils; and that improper elections in many instances, were inseparable from Republican Govts. But compare these with the advantage of this Form in favor of the rights of the people, in favor of human nature. He was persuaded there was a better chance for proper elections by the people, if divided into large districts, than by the State Legislatures. Paper money had been issued by the latter when the former were against it. Was it to be supposed that the State Legislatures then wd. not send to the Natl. legislature patrons of such projects. if the choice depended on them.

Mr. Madison considered an election of one branch at least of the Legislature by the people immediately, as a clear principle of free Govt. and that this mode under proper regulations had the additional advantage of securing better representatives, as well as of avoiding too great an agency of the State Governments in the General one. — He differed from the member from Connecticut (Mr. Sherman) in thinking the objects mentioned to be all the principal ones that required a National Govt. Those were certainly important and necessary objects; but he combined with them the necessity, of providing more effectually for the security of private rights, and the steady dispensation of Justice. Interferences with these were evils which had more perhaps than any thing else, produced this convention. Was it to be supposed that republican liberty could long exist under the abuses of it practiced in some of the States. The gentleman (Mr. Sherman) had admitted that in a very small State, faction & oppression wd. prevail. It was to be inferred then that wherever these prevailed the State was too small. Had they not prevailed in the largest as well as the smallest tho' less than in the smallest; and were we not thence admonished to enlarge the sphere as far as the nature of the Govt. would admit. This was the only defence agst. the inconveniences of democracy consistent with the democratic form of Govt. All civilized Societies would be divided into different Sects, Factions, & interests, as they happened to consist of rich & poor, debtors & creditors, the landed the manufacturing, the commercial interests, the inhabitants of this district, or that district, the followers of this political leader or that political leader, the disciples of this religious sect or that religious sect. In all cases where a majority are united by a common interest or passion, the rights of the minority are in danger. What motives are to restrain them? A prudent regard to the maxim that honesty is the best policy is found by experience to be as little

regarded by bodies of men as by individuals. Respect for character is always diminished in proportion to the number among whom the blame or praise is to be divided. Conscience, the only remaining tie is known to be inadequate in individuals: In large numbers, little is to be expected from it. Besides, Religion itself may become a motive to persecution & oppression. — These observations are verified by the Histories of every Country antient & modern. In Greece & Rome the rich & poor, the creditors & debtors, as well as the patricians & plebeians alternately oppressed each other with equal unmercifulness. What a source of oppression was the relation between the parent Cities of Rome, Athens & Carthage, & their respective provinces: the former possessing the power & the latter being sufficiently distinguished to be separate objects of it? Why was America so justly apprehensive of Parliamentary injustice? Because G. Britain had a separate interest real or supposed, & if her authority had been admitted, could have pursued that interest at our expense. We have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man. What has been the source of those unjust laws complained of among ourselves? Has it not been the real or supposed interest of the major number? Debtors have defrauded their creditors. The landed interest has borne hard on the mercantile interest. The Holders of one species of property have thrown a disproportion of taxes on the holders of another species. The lesson we are to draw from the whole is that where a majority are united by a common sentiment and have an opportunity, the rights of the minor party become insecure. In a Republican Govt. the Majority if united have always an opportunity. The only remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests & parties, that in the 1st. place a majority will not be likely at the same moment to have a common interest separate from that of the whole or of the minority; and in the 2d. place, that in case they shd. have such an interest, they may not be apt to unite in the pursuit of it. It was incumbent on us then to try this remedy, and with that view to frame a republican system on such a scale & in such a form as will controul all the evils wch. have been experienced.

Mr. Dickinson considered it as essential that one branch of the Legislature shd. be drawn immediately from the people; and as expedient that the other shd. be chosen by the Legislatures of the States. This combination of the State Govts. with the National Govt. was as politic as it was unavoidable. In the formation of the Senate we ought to carry it through such a refining process as will assimilate it as near as may be to the House of Lords in England. He repeated his warm eulogiums on the British Constitution. He was for a strong National Govt. but for leaving the States a considerable agency in the System. The objection agst. making the former dependent on the latter might be obviated by giving to the Senate an authority permanent & irrevocable for three, five or seven years. Being thus independent they will speak & decide with becoming freedom.

Mr. Read. Too much attachment is betrayed to the State Governmts. We must look beyond their continuance. A national Govt. must soon of necessity swallow all of them up. They will soon be reduced to the mere office of electing the national Senate. He was agst. patching up the old federal System: he hoped the idea wd. be dismissed. It would be like putting new cloth on an old garment. The confederation was founded on temporary principles. It cannot last: it cannot be amended. If we do not establish a good Govt. on new

principles, we must either go to ruin, or have the work to do over again. The people at large are wrongly suspected of being averse to a Genl. Govt. The aversion lies among interested men who possess their confidence.

Mr. Pierce was for an election by the people as to the 1st. branch & by the States as to the 2d. branch; by which means the Citizens of the States wd. be represented both individually & collectively.

General Pinkney wished to have a good national Govt. & at the same time to leave a considerable share of power in the States. An election of either branch by the people scattered as they are in many States, particularly in S. Carolina was totally impracticable. He differed from gentlemen who thought that a choice by the people wd. be a better guard agst. bad measures, than by the Legislatures. A majority of the people in S. Carolina were notoriously for paper money as a legal tender; the Legislature had refused to make it a legal tender. The reason was that the latter had some sense of character and were restrained by that consideration. The State Legislatures also he said would be more jealous, & more ready to thwart the National Govt. if excluded from a participation in it. The Idea of abolishing these Legislatures wd. never go down.

Mr. Wilson, would not have spoken again, but for what had fallen from Mr. Read; namely, that the idea of preserving the State Govts. ought to be abandoned. He saw no incompatibility between the national & State Govts. provided the latter were restrained to certain local purposes; nor any probability of their being devoured by the former. In all confederated systems antient & modern the reverse had happened; the Generality being destroyed gradually by the usurpations of the parts composing it.

(Madison's Notes (Max Farrand, 1911), Pages 132-137, Vol. 1)

Mr. Gerry. — If the national legislature are appointed by the state legislatures, demagogues and corrupt members will creep in.

Mr. Wilson is of opinion that the national legislative powers ought to flow immediately from the people, so as to contain all their understanding, and to be an exact transcript of their minds. He observed that the people had already parted with as much of their power as was necessary, to form on its basis a perfect government; and the particular states must part with such a portion of it as to make the present national government, adequate to their peace and the security of their liberties. He admitted that the state governments would probably be rivals and opposers of the national government.

Mr. Mason observed that the national legislature, as to one branch, ought to be elected by the people; because the objects of their legislation will not be on states, but on individual persons.

Mr. Dickinson is for combining the state and national legislatures in the same views and measures, and that this object can only be effected by the national legislature flowing from the state legislatures.

Mr. Read is of opinion, that the state governments must sooner or later be at an end, and that therefore we must make the present national government as perfect as possible.

Mr. Madison is of opinion, that when we agreed to the first resolve of having a national government, consisting of a supreme executive, judicial and legislative power, it was then intended to operate to the exclusion of a federal government, and the more extensive we made the basis, the greater probability of duration, happiness and good order.

(Yates's Diary (Max Farrand, 1911), Pages 140-141, Vol. 1)

Gerry — proposes that the people shd. choose double the Number required, & the Legislature shd. out of them elect the members to the first Br — he states yt. the people will be imposed on by corrupt & unworthy men &c

Wilson contra — they shd. be appointed by the people you will then come nearer to the will or sense of the majority — the protrait is excellent in proportion to its being a good likeness — if you leave the Election with the Legislature you leave it wt. the Rivals of the Genl. Govt. for the people have already parted with powers sufficient to form a vigorous Govt: it remains only to divide the granted powers between the Genl. & State Govts & the people will love and respect the Genl. Govt. if it is immediately founded in yr. consent — it will take rank over the State Governments —

Mason — at present the representation in congress are not representatives of the people, but of the States — now it is proposed to form a Govt for men & not for Societies of men or States, therefore you shd. draw the Representatives immediately from the people. it shd. be so much so, that even the Diseases of the people shd. be represented — if not, how are they to be cured —? but how will this be remedied by an appt. by the Legislature — suppose a majority of the Legislat. in favor of paper money or any other Bad measure, wd. they not consider the opinions of the candidates on these favorite measures?

Sherman — If the State Govts. are to remain it will be best to appoint by their Legislatures; if they are to be totally abolished then the people must elect — but the State Governments must continue — Few objects then will be before the Genl. Government — foreign War, Treaties of commerce &c — in short let the Genl. Government be a sort of collateral Government which shall secure the States in particular difficulties such as foreign war, or a war between two or more States — I am agt. a Genl. Govt. and in favor of the independence and confederation of the States, with powers to regulate comerce & draw therefrom a revenue—

Dickson. We cannot form a national Govt. as is proposed unless we draw a Br. from the people, & a Br. from the legislature — it is necessary in theory — And essential to the success of the project — The objections to an election by the people arise from the nature of a Free Government and are slight when compared with the excellence of the Government — The 2d Br. must come from the State sovereignties or Legislature, they will be more respectable and they must for yr respectability & duration be something like the British House of peers —

But can one Br. be drawn from the Legislatures who are and have been opposed to ye Genl. Govt. It can— the appointment of the Legislature. of the States, to be in office 3-5 or 7. yrs; not subject to a recall and to depend on the Genl. Govt. for yr. support —

Read — We must come to a consolidation — The State Govts must be swept away — We had better speak out — the Idea that the people will not approve perhaps is a mistake — The State Magistrates may disagree but the people are with us —

Gnl. Pinckney — I think that an election by the people is impracticable in So. Car. the Inhabitants are so sparse that four or five thousand men can not be brought together to vote — I am in favor of the appointment by the Legis: in S. Car. they are agt. an issue of paper with a Tender; but I think the majority

of the people are in favor of yt. measure —

Wilson — I am in favor of a preservation of the State Govts there is no apprehension of the State Govts being swallowed up by the Genl. Govt. in every instance of a Confedn. of States; the contrary has been the Case — the Amphictionic Council — the Achaian Leagues were dissolved by the encroachments of the constituent members —

Madison — The election may safely be made by the People if you enlarge the Sphere of Election — Experience proves it — if bad elections have taken place from the people, it will generally be found to have happened in small Distracts —

Butler — I am agt: determining the mode of election until the ratio of Representation is fixed — if that proceeds on a principle favorable to wealth as well as numbers of Free Inhabitants, I am content to unite wh. Delaware (Mr Read) in abolishing the State Legislatures, and becoming one Nation instead of a confedn. of Republics —

(King's Diary (Max Farrand, 1911), Pages 142-144, Vol. 1)

Maddisons Theory —

Two principles upon which republics ought to be constructed —

I that they have such extent as to render combinations on the ground of interest difficult —

II By a process of election calculated to refine the representation of the People —

Answer — There is truth in both these principles but they do not conclude so strongly as he supposes —

— The Assembly when chosen will meet in one room if they are drawn from half the globe — & will be liable to all the passions of popular assemblies.

If more minute links are wanting others will supply then — Distinctions of Eastern middle and Southern states will come into view; between commercial and non commercial states — Imaginary lines will influence &c — Human mind prone to limit its view by near and local objects —

Paper money is capable of giving a general impulse. It is easy to conceive a popular sentiment pervading the E states —

Observ: large districts less liable to be influenced by factious demagogues than small — Note — This is in some degree true but not so generally as may be supposed — Frequently small portions of [mutilated] large districts carry elections — An influential demagogue will give an impulse to the whole — Demagogues are not always inconsiderable persons — Patricians were frequently demagogues — Characters are less known & a less active interest taken in them —

[Editors' note: Farrand includes these notes of Hamilton's on the 6th of June, stating that 'They are included here because they seem to refer to Madison's speeches of this day.']

(Hamilton's Notes (Max Farrand, 1911), Pages 146-147, Vol. 1)

Mr. Wilson was of opinion that the Judicial, Legislative and Executive departments ought to be commensurate.

Mr. Cotesworth Pinckney was of opinion that the State Legislatures ought to appoint the 1st branch of the national Legislature; — that the election cannot

be made from the People in South Carolina. If the people choose it will have a tendency to destroy the foundation of the State Governments.

Mr. Maddison observed that Gentlemen reasoned very clear on most points under discussion, but they drew different conclusions. What is the reason? Because they reason from different principles. The primary objects of civil society are the security of property and public safety.

(Pierce's Notes (Max Farrand, 1911), Page 147, Vol. 1)

Messrs. Wilson, Gerry, Sherman spoke in Favor of Amendment. Mr. Mason, Mr. Reed, Mr. Dickinson and Mr. Maddison against it. Mr. Sherman in the Course of his Remarks observed that the general Government could only have the Regulation of Trade and some other matters of general Concern and not to all the Affairs of the Union.

(Lansing's Notes (Joseph Strayer, 1939), Page 35)

[e675399] It was moved by Mr C. Pinckney seconded by Mr Rutledge to strike the word "people" out of the 4th resolution submitted by Mr Randolph, and to insert in it's place the word

"Legislatures" so as to read "resolved that the Members of the first branch of the national legislature ought to be elected by the Legislatures of the several states"

and On the question to strike out
it passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 130, Vol. 1)

On the question for electing the 1st. branch by the State Legislatures as moved by Mr. Pinkney; it was negatived:

Mass no. Ct. ay. N. Y. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Pages 137-138, Vol. 1)

The question for the amendment was negatived, by 8 states against 3. New-York in the majority.

(Yates's Diary (Max Farrand, 1911), Page 141, Vol. 1)

On the Question to agree to the amendmt. Cont. N Jersey & S Car Aythe eight other states No.

(King's Diary (Max Farrand, 1911), Page 144, Vol. 1)

[e675400] Mr. Wilson moved to reconsider the vote excluding the Judiciary from a share in the revision of the laws, and to add after "National Executive" the words "with a convenient number of the national Judiciary"; remarking the expediency of reinforcing the Executive with the influence of that Department.

Mr. Madison 2ded. the motion.

(Madison's Notes (Max Farrand, 1911), Page 138, Vol. 1)

On motion of Mr Wilson seconded by Mr Madison to amend the resolution, which respects the negative to be vested in the national executive by adding after the words “national executive” the words

“with a convenient number of the national Judiciary”

(Official Journal (Max Farrand, 1911), Page 130-131, Vol. 1)

On the 8th resolve, Mr. Wilson moved (in consequence of a vote to re-consider the question on the revisional powers vested in the executive) that there be added these words, with a convenient number of the national judicial.

(Yates’s Diary (Max Farrand, 1911), Page 141, Vol. 1)

Motion by Mr. Wilson secd. by Madison to reconsider the vote vesting the Executive with a partial negative, and vesting that power in him jointly wh a part of the Judicial —

(King’s Diary (Max Farrand, 1911), Page 144, Vol. 1)

Wilson moved to reconsider that Part of the System which gives the Executive a Right of objecting to national Laws and to Judicial as a Council of Revision. Mr. Maddison seconded it.

(Lansing’s Notes (Joseph Strayer, 1939), Pages 35-36)

[e675401] Mr. Madison [...] observed that the great difficulty in rendering the Executive competent to its own defence arose from the nature of Republican Govt. which could not give to an individual citizen that settled pre-eminence in the eyes of the rest, that weight of property, that personal interest agst. betraying the National interest, which appertain to an hereditary magistrate. In a Republic personal merit alone could be the ground of political exaltation, but it would rarely happen that this merit would be so pre-eminent as to produce universal acquiescence. The Executive Magistrate would be envied & assailed by disappointed competitors: His firmness therefore wd. need support. He would not possess those great emoluments from his station, nor that permanent stake in the public interest which wd. place him out of the reach of foreign corruption: He would stand in need therefore of being controuled as well as supported. An association of the Judges in his revisionary function wd both double the advantage and diminish the danger. It wd. also enable the Judiciary Department the better to defend itself agst. Legislative encroachments. Two objections had been made 1st. that the Judges ought not to be subject to the bias which a participation in the making of laws might give in the exposition of them. 2dly. that the Judiciary Departmt. ought to be separate & distinct from the other great Departments. The 1st. objection had some weight; but it was much diminished by reflecting that a small proportion of the laws coming in question before a Judge wd. be such wherein he had been consulted; that a small part of this proportion wd. be so ambiguous as to leave room for his prepossessions; and that but a few cases wd. probably arise in the life of a Judge under such ambiguous passages. How much good on the other hand wd. proceed from the perspicuity, the conciseness, and the systematic character wch. the Code of laws wd. receive from the Judiciary talents. As to the 2d. objection,

it either had no weight, or it applied with equal weight to the Executive & to the Judiciary revision of the laws. The maxim on which the objection was founded required a separation of the Executive as well as of the Judiciary from the Legislature & from each other. There wd. in truth however be no improper mixture of these distinct powers in the present case. In England, whence the maxim itself had been drawn, the Executive had an absolute negative on the laws; and the supreme tribunal of Justice (the House of Lords) formed one of the other branches of the Legislature. In short, whether the object of the revisionary power was to restrain the Legislature from encroaching on the other co-ordinate Departments, or on the rights of the people at large; or from passing laws unwise in their principle, or incorrect in their form, the utility of annexing the wisdom and weight of the Judiciary to the Executive seemed incontestable.

Mr. Gerry thought the Executive, whilst standing alone wd. be more impartial than when he cd. be covered by the sanction & seduced by the sophistry of the Judges

Mr. King. If the Unity of the Executive was preferred for the sake of responsibility, the policy of it is as applicable to the revisionary as to the Executive power.

Mr. Pinkney [sic] had been at first in favor of joining the heads of the principal departmts. the Secretary at War, of foreign affairs & — in the council of revision. He had however relinquished the idea from a consideration that these could be called on by the Executive Magistrate whenever he pleased to consult them. He was opposed to an introduction of the Judges into the business.

Col Mason was for giving all possible weight to the revisionary institution. The Executive power ought to be well secured agst. Legislative usurpations on it. The purse & the sword ought never to get into the same hands whether Legislative or Executive.

Mr. Dickinson. Secrecy, vigor & despatch are not the principal properties reqd. in the Executive. Important as these are, that of responsibility is more so, which can only be preserved; by leaving it singly to discharge its functions. He thought too a junction of the Judiciary to it, involved an improper mixture of powers.

Mr Wilson remarked, that the responsibility required belonged to his Executive duties. The revisionary duty was an extraneous one, calculated for collateral purposes.

Mr. Williamson, was for substituting a clause requiring for every effective act of the Legislature, in place of the revisionary provision

(Madison's Notes (Max Farrand, 1911), Page 138-140, Vol. 1)

Madison

A check is devised for three purposes — to prevent encroachments by the Legislature on the Executive, the Judicial, or on private Rights. If on the executive, his negative will be corroborated by an union with the Judicial; and so in every other case — The Difficulty is this; the check will be too weak if in the Executive only — perhaps the British King wd not interpose his negative agt. the unanimous voice of both houses of Parliament —

Gerry — The motion unites orders wh. ought to be separate — it connects with the Executive numbers to divide the infamy of bad conduct.

Pinckney Cs. agt. the motion because the responsibility —

Mason. The purse and sword must not be in the same hands, if this is true, and the Legislature are able to raise revenues and make & direct a war; I shall agree to a restraining power of the Legislature either in the Executive or a council of Revision —

Dickerson — Secresy, vigour & Dispatch, are not the properties of Repubs — we cannot have them in that Form — but Responsibility is the great point — if you unite the Judicial the Executive will no longer be responsible — it is bad because it mingles separate Orders — and the Object may be acquired by the acquisition of the voluntary Opinions of wise and discreet men —

It will require as great Talents, Firmness, & Abilities, to discharge the proper Duties of the Executive, as to interpose their veto, or negative which shall require of both Branches to remove —

but the Comee have not thought proper to introduce a plurality in the Executive in the former instance, why then in this —

(King's Diary (Max Farrand, 1911), Pages 144-145, Vol. 1)

Principle — Danger that the Executive by too frequent communication with the judicial may corrupt it — They may learn to enter into his passions — Note — At the period which terminates the duration of the Executive there will be always an awful crisis — in the National situation. Note — The arguments to prove that a negative would not be used would go so far as to prove that the revisionary power would not be exercised. Mr. Mason — The purse & sword will be in the hands of the — legislature.

(Hamilton's Notes (Max Farrand, 1911), Page 145, Vol. 1)

[e675402] On the question for joining the Judges to the Executive in the revisionary business Mass. no. Cont. ay. N. Y. ay. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

On the question to agree to the addition of these words
it passed in the negative. [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 131, Vol. 1)

Upon debate, carried in the negative — 3 states for and 8 against. New-York for the addition.

(Yates's Diary (Max Farrand, 1911), Page 141, Vol. 1)

On the Question to agree to the reconsideration Con. NYk. Virg. Ay — 8 States No —

(King's Diary (Max Farrand, 1911), Page 145, Vol. 1)

Neg. 8 States—Affirm. 3. New York aff.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

[e738431] Mr C. Pinckney gave notice that to-morrow he should move for the reconsideration of that clause in the resolution, adopted by the Committee, which vests a negative in the national legislature [sic] on the laws of the several States.

(Official Journal (Max Farrand, 1911), Page 131, Vol. 1)

Mr. Pinkney gave notice⁶ that to morrow he should move for the reconsideration of that clause in the sixth Resolution adopted by the Commē. which vests a negative in the National Legislature on the laws of the several States.

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

C. Pinkney gave Notice that on Friday he would move to reconsider the Clause authorizing national Legislature to negative all Laws.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

[e675405] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again.

(Official Journal (Max Farrand, 1911), Page 131, Vol. 1)

The Come rose & the House adjd. to 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

[e675406] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 131, Vol. 1)

The Come rose & the House adjd. to 11 OC.

(Madison's Notes (Max Farrand, 1911), Page 140, Vol. 1)

3.8 Thursday, 07 June 1787, at 11:00 (s6295)

[e675407] Mr. Pinkney [sic] according to notice moved to reconsider the clause respecting the negative on State laws which was agreed to and tomorrow fixed for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 150, Vol. 1)

C. Pinkney—the Number of which the second Branch was to consist ought previously to be fixed. If each of the smaller States is to have one will amount at least to 86.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

[e675408] Mr. Pinkney [sic] according to notice moved to reconsider the clause respecting the negative on State laws which was agreed to and tomorrow fixed for the purpose.

(Madison's Notes (Max Farrand, 1911), Page 150, Vol. 1)

[e738429] Mr. Rutledge moved to take into consideration the mode of electing the second branch of the national legislature.

[Editors' note: Yates is the only source that records this motion.]

(Yates's Diary (Max Farrand, 1911), Page 156, Vol. 1)

[e738430] [Editors' note: It's clear this motion was agreed to as the committee proceeded to consider the mode of electing the second branch.]

(2019 Editors)

[e675409] Mr. Dickinson thereupon moved, that the second branch of the national legislature be chosen by the legislatures of the individual states. He observed, that this mode will more intimately connect the state governments with the national legislature — it will also draw forth the first characters either as to family or talent, and that it ought to consist of a considerable number.

[Editors' note: This proposal returns to the question of the upper house of the legislature, which had originally been addressed by the Fifth Resolution of the Virginia Plan, debated on 31 May. The whole resolution had been rejected at that time. Madison's notes suggest that the Committee considered this proposal as a replacement.]

(Yates's Diary (Max Farrand, 1911), Page 156, Vol. 1)

The following resolution was submitted by Mr Dickinson seconded by Mr Sherman. namely

Resolved that the members of the second branch of the national Legislature ought to be chosen by the individual Legislatures.

(Official Journal (Max Farrand, 1911), Page 148, Vol. 1)

The Clause providing for ye appointment of the 2d branch of the national Legislature, having lain blank since the last vote on the mode of electing it, to wit, by the 1st. branch, Mr. Dickenson now moved "that the members of the 2d. branch ought to be chosen by the individual Legislatures."

(Madison's Notes (Max Farrand, 1911), Page 150, Vol. 1)

Dickerson — proposed an amendment so that the appointment of the Senate shd. be by the Legislatures of the individual States — for two reasons, first, that the mind & body of the State as such shd. be represented in the national Legislature. Second, that the men of first Talents may be employed in the national Legislature; they first will have a chance in the Election of the people, failing there, wealth, family, or Talents may hold them up to the State Legislatures as fit characters for the Senate — let their numbers be more than 200; by enlarging their Numbers you increase their consequence & weight & by combining the families and wealth of the aristocracy, you establish a balance that will check the Democracy —

(King's Diary (Max Farrand, 1911), Page 158, Vol. 1)

Dickenson—Supposed Legislatures ought to elect—he was for House of Peers or something similar. He moved the following Resolve— Resolved that Members of the second Branch of the national Legislature ought to be elected by the Individual Legislatures.

(Lansing's Notes (Joseph Strayer, 1939), Page 36)

[e675410] Mr. Sherman seconded the motion; observing that the particular States would thus become interested in supporting the National Governmt. and that a due harmony between the two Governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

Mr. Pinkney [sic]. If the small States should be allowed one Senator only, the number will be too great, there will be 80 at least.

Mr. Dickenson [sic] had two reasons for his motion. 1. because the sense of the States would be better collected through their Governments; than immediately from the people at large. 2. because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State Legislatures, than in any other mode. The greatness of the number was no objection with him. He hoped there would be 80 and twice 80. of them. If their number should be small, the popular branch could not be [ba]lanced by them. The legislature of a numerous people ought to be a numerous body.

Mr. Williamson, preferred a small number of Senators, but wished that each State should have at least one. He suggested 25 as a convenient number. The different modes of representation in the different branches, will serve as a mutual check.

Mr. Butler was anxious to know the ratio of representation before he gave any opinion.

(Madison's Notes (Max Farrand, 1911), Pages 150-151, Vol. 1)

Dickinson II — He would have the state legislatures elect senators, because he would bring into the general government the sense of the state Governments & II — because the more respectable choices would be made — Note — Separate states may give stronger organs to their governments & engage more the good will of Ind: — while Genl Gov — Consider the Principle of Rivalship by excluding the state Legislatures —

(Hamilton's Notes (Max Farrand, 1911), Page 160, Vol. 1)

Mr. Williamson moved that after Legislature the words 'consisting of ...' should be inserted. Suppose 100 Senators would be agreed to—he would be content to reduce them to 25.

Mr. Wilson—As Convention have already voted a national Government foederal Principles cannot obtain. If so, we ought to try and procure different Views and different Sentiments—Representation cannot be proportioned by Numbers—Propagation by best Calculation so rapid as to double Number of Inhabitants every 25 years, Of Consequence if Representation increased in proposition to Population the older the Government the weaker and more debilitated

would it be. He proposed a Division into Districts for Representation—that Division be permanent.

Mr. Janifer—Representation ought to be proportioned by Contribution.

Mr. Mason—Can Gentleman suppose that so extended an Empire can be benefited in proportion to the Burthens to which they submit to support it.— Is not for annihilating Individual States—a large Majority of the Legislature on most local Questions cannot be properly informed of those Circumstances which perhaps are indispensably necessary to enable them to form a Judgment. Maddison—If each State retained its Sovereignty an Equality of Suffrage would be proper, but not so now. Dickenson—National Government like the Sun the Centre of the Planetary System should rule attract pervade and brighten all the States—but cannot abolish State Governments. Wilson—Does not wish to extinguish State Governments—but believes they will neither warm nor brighten the Sun—Rome in her most powerful Imperial State could not effectually pervade and protect every Part of its Dominion nor could the U.S.

[Editors' note: In Joseph Strayer's edition of Lansing's Notes, the quoted text in this paragraph is indicated by italics, instead of quotation marks.]

(Lansing's Notes (Joseph Strayer, 1939), Pages 36-38)

[e675411] Wilson — If this amendment passes — we shall not have a national Govt: the Senate will be too numerous, and will not represent the property or numbers of the Nation, but they will represent the States, whose interests may oppose the Genl. Government — the consequence will be unfavorable to the Harmony of the Nation.

Madison — We are about to form a national Govt. and therefore must abandon Ideas founded alone in the plan of confedn. the Senate ought to come from, & represent, the Wealth of the nation, and this being the Rule, the amendment cannot be adopted — besides the numbers will be too large — the Proofs of History establish this position, that delegated power will have the most weight & consequence in the hands of a few — when the Roman Tribunes were few, they checked the Senate; when multiplied, they divided, were weak, ceased to be that Guard to the people which was expected in their institution —

Dickerson [sic] — The objection is that you attempt to unite distinct Interests — I do not consider this an objection, Safety may flow from this variety of Interests — there exists this Diversity in the constitution of G. Britain — We cannot abolish the States and consolidate them into one Govt — Indeed if we could I shd. be agt. it — Let our Govt. be like that of the solar System; let the Genl. Govt. be the Sun and the States the Planets repelled yet attracted, and the whole moving regularly and harmoniously in their respective Orbits — the Objection from Virginia [sic]. (Madison) that power delegated to a few will be a better & more weighty check to the Democy. & the Instance of the Roman Tribunes proves too much; they never exceeded ten in number; no Gentlemen has an Idea that the Senate shd. be so small as the number of Roman Tribunes at any Time, much less when their Numbers were only three —

Wilson — I am not in favor of an abolition of the States — I revere the theory of the Brit. Govt. but we can't adopt it — we have no laws in favor of primogeniture — no distinction of families — the partition of Estates destroys the influence of the Few — But I know that all confederations have been destroyed by the growth & ambition of some of their members — if the State

Legislatures [sic]. appoint the Senate, the principle, which has formerly operated the ruin of antient [sic] Confederacies, will be received and cherished, in that we are abt. to establish —

(King's Diary (Max Farrand, 1911), Pages 158-159, Vol. 1)

Mr. Wilson against the motion, because the two branches thus constituted, cannot agree, they having different views and different sentiments.

Mr. Dickinson is of opinion that the mode by him proposed, like the British house of lords and commons, whose powers flow from different sources, are mutual checks on each other, and will thus promote the real happiness and security of the country — a government thus established would harmonize the whole, and like the planetary system, the national council like the sun, would illuminate the whole — the planets revolving round it in perfect order; or like the union of several small streams, would at last form a respectable river, gently flowing to the sea.

(Yates's Diary (Max Farrand, 1911), Pages 156-157, Vol. 1)

[e675412] It was then moved and seconded to postpone the last resolution, in order to introduce the following — submitted by Mr Wilson seconded by Mr Morris, namely

Resolved that the second Branch of the national Legislature be elected by the people in Districts to be formed for that purpose.

[Editors' note: None of the sources states which 'Mr Morris' seconded the amendment, but as Gouverneur Morris was absent during this period, it must have been Robert Morris.]

(Official Journal (Max Farrand, 1911), Pages 148-149, Vol. 1)

Mr. Wilson. If we are to establish a national Government, that Government ought to flow from the people at large. If one branch of it should be chosen by the Legislatures, and the other by the people, the two branches will rest on different foundations, and dissensions will naturally arise between them. He wished the Senate to be elected by the people as well as the other branch, and the people might be divided into proper districts for the purpose & moved to postpone the motion of Mr. Dickenson, in order to take up one of that import.

Mr Morris 2ded. him.

(Madison's Notes (Max Farrand, 1911), Page 151, Vol. 1)

Mr. Wilson. The state governments ought to be preserved — the freedom of the people and their internal good police depends on their existence in full vigor — but such a government can only answer local purposes — That it is not possible a general government, as despotic as even that of the Roman emperors, could be adequate to the government of the whole without this distinction. He hoped that the national government would be independent of state governments, in order to make it vigorous, and therefore moved that the above resolution be postponed, and that the convention in its room adopt the following resolve: That the second branch of the national legislature be chosen by districts, to be formed for that purpose.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

Wilson — I am not in favor of an abolition of the States — I revere the theory of the Brit. Govt. but we can't adopt it — we have no laws in favor of primogeniture — no distinction of families — the partition of Estates destroys the influence of the Few — But I know that all confederations have been destroyed by the growth & ambition of some of their members — if the State Legislatures. appoint the Senate, the principle, which has formerly operated the ruin of antient Confederacies, will be received and cherished, in that we are abt. to establish —

I therefore propose that the Senate be elected by the people and that the Territory be thrown into convenient Districts —

(King's Diary (Max Farrand, 1911), Page 159, Vol. 1)

Moved by Mr. Wilson—'that the second Branch be elected by the People of certain Districts to be formed for that Purpose.' And that the Resolution be postponed.

[Editors' note: In Joseph Strayer's edition of Lansing's Notes, the quoted text in this paragraph is indicated by italics, instead of quotation marks.]

(Lansing's Notes (Joseph Strayer, 1939), Page 38)

[e675413] Mr. Read proposed "that the Senate should be appointed by the Executive Magistrate out of a proper number of persons to be nominated by the individual legislatures." He said he thought it his duty, to speak his mind frankly. Gentlemen he hoped would not be alarmed at the idea. Nothing short of this approach towards a proper model of Government would answer the purpose, and he thought it best to come directly to the point at once. — His proposition was not seconded nor supported.

Mr. Madison, if the motion (of Mr. Dickenson) should be agreed to, we must either depart from the doctrine of proportional representation; or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, & with more wisdom, than the popular branch. Enlarge their number and you communicate to them the vices which they are meant to correct. He differed from Mr. D. who thought that the additional number would give additional weight to the body. On the contrary it appeared to him that their weight would be in an inverse ratio to their number. The example of the Roman Tribunes was applicable. They lost their influence and power, in proportion as their number was augmented. The reason seemed to be obvious: They were appointed to take care of the popular interests & pretensions at Rome, because the people by reason of their numbers could not act in concert; were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries. The more the representatives of the people therefore were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to be divided among themselves either from their own indiscretions or the artifices of the opposite factions, and of course the less capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters; the greater the number the greater the weight. When it depends on the degree of political authority lodged

in them the smaller the number the greater the weight. These considerations might perhaps be combined in the intended Senate; but the latter was the material one.

Mr. Gerry. 4. modes of appointing the Senate have been mentioned. 1. by the 1st. branch of the National Legislature. This would create a dependence contrary to the end proposed. 2. by the National Executive. This is a stride towards monarchy that few will think of. 3. by the people. the people have two great interests, the landed interest, and the commercial including the stockholders. To draw both branches from the people will leave no security to the latter interest; the people being chiefly composed of the landed interest, and erroneously, supposing, that the other interests are adverse to it. 4 by the Individual Legislatures. The elections being carried thro' this refinement, will be most likely to provide some check in favor of the commercial interest agst. the landed; without which oppression will take place, and no free Govt. can last long when that is the case. He was therefore in favor of this last.

Mr. Dickenson [sic].* The preservation of the States in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the Councils of our Country, would be impracticable, would be ruinous. He compared the proposed National System to the Solar System, in which the States were the planets, and ought to be left to move freely in their proper orbits. The Gentleman from Pa. (Mr. Wilson) wished he said to extinguish these planets. If the State Governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be that the national Govt. would move in the same direction as the State Govts. now do, and would run into all the same mischiefs. The reform would only unite the 13 small streams into one great current pursuing the same course without any opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence from family weight & other causes would be increased thereby. He did not admit that the Tribunes lost their weight in proportion as their no. was augmented and gave a historical sketch of this institution. If the reasoning of (Mr. Madison) was good it would prove that the number of the Senate ought to be reduced below ten, the highest no. of the Tribunital corps.

Mr. Wilson. The subject it must be owned is surrounded with doubts and difficulties. But we must surmount them. The British Governmt. cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the National. Govt. On the contrary, he wished to keep them from devouring the national Govt. He was not however for extinguishing these planets as was supposed by Mr. D. — neither did he on the other hand, believe that they would warm or enlighten the Sun. Within their proper orbits they must still be suffered to act for subordinate purposes for which their existence is made essential by the great extent of our Country. He could not comprehend in what manner the landed interest wd. be rendered less predominant in the Senate, by an election through the medium of the Legislatures than by the people themselves. If the Legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views. He was for an election by the people in large

districts which wd. be most likely to obtain men of intelligence & uprightness; subdividing the districts only for the accomodation [sic] of voters.

Mr. Madison could as little comprehend in what manner family weight, as desired by Mr. D. would be more certainly conveyed into the Senate through elections by the State Legislatures, than in some other modes. The true question was in what mode the best choice wd. be made? If an election by the people, or thro' any other channel than the State Legislatures promised as uncorrupt & impartial a preference of merit, there could surely be no necessity for an appointment by those Legislatures. Nor was it apparent that a more useful check would be derived thro' that channel than from the people thro' some other. The great evils complained of were that the State Legislatures run into schemes of paper money &c, whenever solicited by the people, & sometimes without even the sanction of the people. Their influence then, instead of checking a like propensity in the National Legislature, may be expected to promote it. Nothing can be more contradictory than to say that the Natl. Legislature witht. a proper check will follow the example of the State legislatures, & in the same breath, that the State Legislatures are the only proper check.

Mr. Sharman [sic] opposed elections by the people in districts, as not likely to produce such fit men as elections by the State Legislatures.

Mr. Gerry insisted that the commercial & monied interest wd. be more secure in the hands of the State Legislatures, than of the people at large. The former have more sense of character, and will be restrained by that from injustice. The people are for paper money when the Legislatures are agst. it. In Massts. the County Conventions had declared a wish for a depreciating paper that wd. sink itself. Besides, in some States there are two Branches in the Legislature, one of which is somewhat aristocratic. There wd. therefore be so far a better chance of refinement in the choice. There seemed, he thought to be three powerful objections agst. elections by districts 1. It is impracticable; the people can not be brought to one place for the purpose; and whether brought to the same place or not, numberless frauds wd. be unavoidable. 2. small States forming part of the same district with a large one, or large part of a large one, wd. have no chance of gaining an appointment for its citizens of merit. 3 a new source of discord wd. be opened between different parts of the same district.

Mr. Pinkney [sic] thought the 2d. branch ought to be permanent & independent, & that the members of it wd. be rendered more so by receiving their appointment from the State Legislatures. This mode wd. avoid the rivalships & discontents incident to the election by districts. He was for dividing the States into three classes according to their respective sizes, & for allowing to the 1st. class three members — to the 2d. two. & to the 3d. one.

* It will throw light on this discussion, to remark that an election by the State Legislatures involved a surrender of the principle insisted on by the large States & dreaded by the small ones, namely that of a proportional representation in the Senate. Such a rule wd make the body too numerous. As the smallest State must elect one member at least.

(Madison's Notes (Max Farrand, 1911), Pages 151-155, Vol. 1)

Mr. Sherman supposes the election of the national legislature will be better vested in the state legislatures, than by the people, for by pursuing different objects, persons may be returned who have not one tenth of the votes.

Mr. Gerry observed, that the great mercantile interest and of stockholders, is not provided for in any mode of election — they will however be better represented if the state legislatures choose the second branch.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

Dickerson — opposed the substitute proposed by Wilson because the same is either impracticable or unfair — the Districts must be either parts of States, or entire States, or parts of distinct States united — if the first, how will you prevent fraudulent or corrupt Elections, if the second, how will you establish an intermediate body to elect from those who have the most votes and are not elected — if the third the small States will never have a member therefore it is unfair —

(King's Diary (Max Farrand, 1911), Page 159, Vol. 1)

Mr. Maddison same Opinion.

(Lansing's Notes (Joseph Strayer, 1939), Page 38)

[e675414] And on the question to postpone
it passed in the negative. [Ayes — 1; noes — 10.]

[Editors' note: The postponement of Dickinson's original amendment was negatived, and the subsequent proceedings show that Wilson's proposal was henceforth ignored.]

(Official Journal (Max Farrand, 1911), Page 149, Vol. 1)

On the question for postponing Mr. Dickinson's motion referring the appointment of the Senate to the State Legislatures, in order to consider Mr. Wilson's for referring it to the people.

Mass. no. Cont. no. N. Y. no. N. J. no. Pa. ay Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 155, Vol. 1)

Question carried against the postponement — 10 states against 1.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

On the Question to agree to Wilson's substitute providing for an Election in Districts

Pen. ay — the 10. other States no —

(King's Diary (Max Farrand, 1911), Page 159, Vol. 1)

Question put. Negatived.

(Lansing's Notes (Joseph Strayer, 1939), Page 38)

[e675415] Col. Mason. whatever power may be necessary for the Natl. Govt. a certain portion must necessarily be left in the States. It is impossible for one power to pervade the extreme parts of the U. S. so as to carry equal justice to them. The State Legislatures also ought to have some means of defending themselves agst. encroachments of the Natl. Govt. In every other department we have studiously endeavored to provide for its self-defence. Shall we leave the States alone unprovided with the means for this purpose? And what better means can we provide than the giving them some share in, or rather to make them a constituent part of, the Natl. Establishment. There is danger on both sides no doubt; but we have only seen the evils arising on the side of the State Govts. Those on the other side remain to be displayed. The example of Cong: does not apply. Congs. had no power to carry their acts into execution as the Natl. Govt. will have.

(Madison's Notes (Max Farrand, 1911), Pages 155-156, Vol. 1)

Mr. Mason then spoke to the general question — observing on the propriety, that the second branch of the national legislature should flow from the legislature of each state, to prevent the encroachments on each other and to harmonize the whole.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

Mason — It is true that the antient confederacies were dissolved by the overgrown power and unreasonable ambition of some one of its members. but their situation was different from that which is proposed for the U. S. — we have agreed that the national Legislature shall have a negative on the State Legislatures — the Danger is that the national, will swallow up the State Legislatures — what will be a reasonable guard agt. this Danger, and operate in favor of the State authorities — The answer seems to me to be this, let the State Legislatures appoint the Senate —

(King's Diary (Max Farrand, 1911), Pages 159-160, Vol. 1)

Mason General government could not know how to make laws for every part — such as respect agriculture &c particular governments would have no defensive power unless let into the constitution as a Constituent part — — —

(Hamilton's Notes (Max Farrand, 1911), Page 160, Vol. 1)

At a time when our government is approaching to dissolution, when some of its principles have been found utterly inadequate to the purposes for which it was established, and it is evident that without some material alterations it can not much longer subsist, it must give real concern to every man who has his country's interest at heart to find such a difference of sentiment and opinion in an assembly of the most respectable and confidential characters in America, appointed for the special purpose of revising and amending the federal constitution, so as to obtain and preserve the important objects for which it was instituted — the protection, safety and happiness of the people. We all agree in the necessity of new regulations; but we differ widely in our opinions of what are the safest and most effectual. Perhaps this contrariety of sentiment arises from our not thoroughly considering the peculiar circumstances, situation, character

and genius of the people of America, differing materially from that of any other nation. The history of other nations has been minutely investigated, examples have been drawn from and arguments founded on the practice of countries very dissimilar to ours. The treaties, leagues, and confederacies between different sovereign, independent powers have been urged as proofs in support of the propriety and justice of the single and equal representation of each individual State in the American Union; and thence conclusions have been drawn that the people of these United States would refuse to adopt a government founded more on an equal representation of the people themselves, than on the distinct representation of each separate, individual State. If the different States in our Union always had been as now substantially and in reality distinct, sovereign and independent, this kind of reasoning would have great force; but if the premises on which it is founded are mere assumptions not founded on facts, or at best upon facts to be found only upon a paper of yesterday, and even these contradictory to each other, no satisfactory conclusions can be drawn from them.

[Editors' note: Farrand observes that 'This document in Mason's handwriting was found among the Mason Papers and is printed in K. M. Rowland, *Life of George Mason*, II, 386-387. There are erasures and interlineations, and it would seem to represent a part of a speech in the first days of the Convention. It is assigned to this date because it corresponds more closely to the ideas reported of his speech on this day than on any other occasion.']

(Mason's Notes (Max Farrand, 1911), Pages 160-161, Vol. 1)

[e675416] A question was then taken on the resolution submitted by Mr Dickinson namely

“Resolved that the members of the second branch of the national Legislature ought to be chosen by the individual Legislatures”

And on the question to agree to the same it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Page 149, Vol. 1)

On Mr. Dickinson's motion for an appointment of the Senate by the State-Legislatures.

Mass. ay. Ct. ay. N. Y. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 10; noes — 0.]

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

The question put on the first motion, and carried unanimously.

(Yates's Diary (Max Farrand, 1911), Page 157, Vol. 1)

On the Question whether the Senate shd. be appointed by the State Legislatures the Question was carried unanimously in the affirmative —

(King's Diary (Max Farrand, 1911), Page 160, Vol. 1)

Question on original Clause as moved by Dickenson. Carried Unanimously.

(Lansing's Notes (Joseph Strayer, 1939), Pages 38-39)

[e675417] Mr Gerry gave notice that he would to-morrow move for the reconsideration of the resolution which respects the appointment of the national executive — when he should offer to substitute the following mode of appointing the national Executive namely

by the Executives of the several States

(Official Journal (Max Farrand, 1911), Page 149, Vol. 1)

Mr. Gerry gave notice that he wd. tomorrow move for a reconsideration of the mode of appointing the Natl. Executive in order to substitute an appointm. by the State Executives

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

[e675418] [Editors' note: There is no record of a vote, suggesting that Gerry's motion was adopted without one.]

(2019 Editors)

[e675419] The Committee then rose. [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 149, Vol 1)

The Committee rose & The House adjd.

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

[e675420] The Committee then rose. [Ayes — 11; noes — 0.]

(Official Journal (Max Farrand, 1911), Page 149, Vol. 1)

The Committee rose & The House adjd.

(Madison's Notes (Max Farrand, 1911), Page 156, Vol. 1)

3.9 Friday, 08 June 1787, at 11:00 (s6296)

[e738551] Motion by Mr. C. Pinkney to reconsider 6th Resolve to substitute instead of the Words 'contravening in the Opinion of the national Legislature the Articles of Union' the Words 'which shall appear improper'.

(Lansing's Notes (Joseph Strayer, 1939), Page 39)

On a reconsideration of the clause giving the Natl. Legislature a negative on such laws of the States as might be contrary to the articles of Union, or Treaties with foreign nations,

(Madison's Notes (Max Farrand, 1911), Page 164, Vol. 1)

Conee. of the whole — Mr. C. Pinckney moves to reconsider a former vote of the Comee. vesting the national Legislatr. with a negative on the State Laws in certain instances, for the purpose of vesting them with the power of a general Negative —

The interruption of the Laws and Treaties passed and entered into by Congress, by particular State laws have been sufficiently experienced, the Harmony of the Union makes this measure necessary, and the national independence must in a great Degree rest on its adoption —

(King's Diary (Max Farrand, 1911), Page 171, Vol. 1)

[e738552] The Committee having agreed to a reconsideration

[Editors' note: There is no note of a vote record for this agreement.]

(King's Diary (Max Farrand, 1911), Page 172, Vol. 1)

On a reconsideration of the clause giving the Natl. Legislature a negative on such laws of the States as might be contrary to the articles of Union, or Treaties with foreign nations,

(Madison's Notes (Max Farrand, 1911), Page 164, Vol. 1)

Motion by Mr. C. Pinkney to reconsider 6th Resolve to substitute instead of the Words 'contravening in the Opinion of the national Legislature the Articles of the Union' the Words 'which shall appear improper.'

(Lansing's Notes (Joseph Strayer, 1939), Page 39)

[e738553] Motion by Mr. C. Pinkney to reconsider 6th Resolve to substitute instead of the Words 'contravening in the Opinion of the national Legislature the Articles of the Union' the Words 'which shall appear improper.'

(Lansing's Notes (Joseph Strayer, 1939), Page 39)

It was moved by Mr C Pinckney seconded by Mr Madison to strike out the following words in the 6th resolution adopted by the Committee namely.

“to negative all laws passed by the several States contravening, in the opinion of the national legislature, the articles of union; or any treaties subsisting under the authority of the union.”

— and to insert the following words in their place namely

“to negative all laws which to them shall appear improper.”

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

Mr. Pinkney moved “that the National Legislature shd. have authority to negative all Laws which they shd. judge to be improper”. He urged that such a universality of the power was indispensably necessary to render it effectual; that the States must be kept in due subordination to the nation; that if the States were left to act of themselves in any case, it wd. be impossible to defend the national prerogatives, however extensive they might be on paper; that the acts of Congress had been defeated by this means; nor had foreign treaties escaped repeated violations; that this universal negative was in fact the corner stone of

an efficient national Govt.; that under the British Govt. the negative of the Crown had been found beneficial, and the States are more one nation now, than the Colonies were then.

Mr. Madison seconded the motion. He could not but regard an indefinite power to negative legislative acts of the States as absolutely necessary to a perfect system. Experience had evinced a constant tendency in the States to encroach on the federal authority; to violate national Treaties, to infringe the rights & interests of each other; to oppress the weaker party within their respective jurisdictions. A negative was the mildest expedient that could be devised for preventing these mischiefs. The existence of such a check would prevent attempts to commit them. Should no such precaution be engrafted, the only remedy wd. lie in an appeal to coercion. Was such a remedy eligible? was it practicable? Could the national resources, if exerted to the utmost enforce a national decree agst. Massts. abetted perhaps by several of her neighbours? It wd. not be possible. A; small proportion of the Community in a compact situation, acting on the defensive, and at one of its extremities might at any time bid defiance to the National authority. Any Govt. for the U. States formed on the supposed practicability of using force agst. the unconstitutional proceedings of the States, wd. prove as visionary & fallacious as the Govt. of Congs. The negative wd. render the use of force unnecessary. The States cd. of themselves then pass no operative act, any more than one branch of a Legislature where there are two branches, can proceed without the other. But in order to give the negative this efficacy, it must extend to all cases. A discrimination wd. only be a fresh source of contention between the two authorities. In a word, to recur to the illustrations borrowed from the planetary System, This prerogative of the General Govt. is the great pervading principle that must controul the centrifugal tendency of the States; which, without it, will continually fly out of their proper orbits and destroy the order & harmony of the political system.

(Madison's Notes (Max Farrand, 1911), Pages 164-165, Vol. 1)

Mr. Pinkney moved, 'That the national legislature shall have the power of negating all laws to be passed by the state legislatures which they may judge improper', in the room of the clause as it stood reported.

He grounds his motion on the necessity of one supreme controlling power, and he considers this as the corner-stone of the present system; and hence the necessity of retrenching the state authorities in order to preserve the good government of the national council.

(Yates's Diary (Max Farrand, 1911), Page 169, Vol. 1)

[e738555] Mr. Williamson was agst. giving a power that might restrain the States from regulating their internal police.

Mr. Gerry cd. not see the extent of such a power, and was agst. every power that was not necessary. He thought a remonstrance agst. unreasonable acts of the States wd. reclaim them. If it shd. not force might be resorted to. He had no objection to authorize a negative to paper money and similar measures. When the confederation was depending before Congress, Massachusetts was then for inserting the power of emitting paper money amg. the exclusive powers of Congress. He observed that the proposed negative wd. extend to the regulations

of the militia, a matter on which the existence of a State might depend. The Natl. Legislature with such a power may enslave the States. Such an idea as this will never be acceded to. It has never been suggested or conceived among the people. No speculative projector, and there are eno' of that character among us, in politics as well as in other things, has in any pamphlet or newspaper thrown out the idea. The States too have different interests and are ignorant of each other's interests. The negative therefore will be abused, New States too having separate views from the old States will never come into the Union, They may even be under some foreign influence; are they in such case to participate in the negative on the will of the other States?

Mr. Sherman thought the cases in which the negative ought to be exercised, might be defined. He wished the point might not be decided till a trial at least shd. be made for that purpose

Mr. Wilson would not say what modifications of the proposed power might be practicable or expedient. But however novel it might appear the principal of it when viewed with a close & steady eye, is right. There is no instance in which the laws say that the individuals shd. be bound in one case, & at liberty to judge whether he will obey or disobey in another. The cases are parallel, Abuses of the power over the individual person may happen as well as over the individual States. Federal liberty is to States, what civil liberty, is to private individuals. And States are not more unwilling to purchase it, by the necessary concession of their political sovereignty, than the savage is to purchase Civil liberty by the surrender of the personal sovereignty. which he enjoys in a State of nature. A definition of the cases in which the Negative should be exercised, is impracticable. A discretion must be left on one side or the other? Will it not be most safely lodged on the side of the Natl. Govt.? — Among the first sentiments expressed in the first Congs. one was that Virga. is no more. That Massts. is no [more], that Pa. is no more &c. We are now one nation of brethren. We must bury all local interests & distinctions. This language continued for some time. The tables at length began to turn. No sooner were the State Govts. formed than their jealousy & ambition began to display themselves. Each endeavoured to cut a slice from the common loaf, to add to its own morsel, till at length the confederation became frittered down to the impotent condition in which it now stands. Review the progress of the articles of Confederation thro' Congress & compare the first & last draught of it. To correct its vices is the business of this convention. One of its vices is the want of an effectual controul in the whole over its parts. What danger is there that the whole will unnecessarily sacrifice a part? But reverse the case, and leave the whole at the mercy of each part, and will not the general interest be continually sacrificed to local interests?

Mr. Dickenson deemed it impossible to draw a line between the cases proper & improper for the exercise of the negative. We must take our choice of two things. We must either subject the States to the danger of being injured by the power of the Natl. Govt. or the latter to the danger of being injured by that of the States. He thought the danger greater from the States. To leave the power doubtful, would be opening another spring of discord, and he was for shutting as many of them as possible.

Mr. Bedford. In answer to his colleagues question, where wd. be the danger to the States from this power, would refer him to the smallness of his own State which may be injured at pleasure without redress. It was meant he found to strip the small States of their equal right of suffrage. In this case Delaware

would have about 190 for its share in the General Councils, whilst Pa. & Va. would possess of the whole. Is there no difference of interests, no rivalry of commerce, of manufactures? Will not these large States crush the small ones whenever they stand in the way of their ambitions or interested views. This shows the impossibility of adopting such a system as that on the table, or any other founded on a change in the principle of representation. And after all, if a State does not obey the law of the new System, must not force be resorted to as the only ultimate remedy, in this as in any other system. It seems as if Pa. & Va. by the conduct of their deputies wished to provide a system in which they would have an enormous & monstrous influence. Besides, How can it be thought that the proposed negative can be exercised? are the laws of the States to be suspended in the most urgent cases until they can be sent seven or eight hundred miles, and undergo the deliberations of a body who may be incapable of Judging of them? Is the National Legislature too to sit continually in order to revise the laws of the States?

Mr. Madison observed that the difficulties which had been started were worthy of attention and ought to be answered before the question was put. The case of laws of urgent necessity must be provided for by some emanation of the power from the Natl. Govt. into each State so far as to give a temporary assent at least. This was the practice in Royal Colonies before the Revolution and would not have been inconvenient; if the supreme power of negating had been faithful to the American interest, and had possessed the necessary information. He supposed that the negative might be very properly lodged in the senate alone, and that the more numerous & expensive branch therefore might not be obliged to sit constantly. — He asked Mr. B. what would be the consequence to the small States of a dissolution of the Union wch. seemed likely to happen if no effectual substitute was made for the defective System existing, and he did not conceive any effectual system could be substituted on any other basis than that of a proportional suffrage? If the large States possessed the Avarice & ambition with which they were charged, would the small ones in their neighbourhood, be more secure when all controul of a Genl. Govt. was withdrawn.

Mr. Butler was vehement agst. the Negative in the proposed extent, as cutting off all hope of equal justice to the distant States. The people there would not he was sure give it a hearing.

(Madison's Notes (Max Farrand, 1911), Page 165-168, Vol. 1)

Mr. Williamson against the motion. The national legislature ought to possess the power of negating such laws only as will encroach on the national government.

Mr. Madison wished that the line of jurisprudence could be drawn — he would be for it — but upon reflection he finds it impossible, and therefore he is for the amendment. If the clause remains without the amendment it is inefficient — The judges of the state must give the state laws their operation, although the law abridges the rights of the national government — how is it to be repealed? By the power who made it? How shall you compel them? By force? To prevent this disagreeable expedient, the power of negating is absolutely necessary — this is the only attractive principle which will retain its centrifugal force, and without this the planets will fly from their orbits.

Mr. Gerry supposes that this power ought to extend to all laws already made; but the preferable mode would be to designate the powers of the national

legislature, to which the negative ought to apply — he has no objection to restrain the laws which may be made for issuing paper money. Upon the whole he does not choose on this important trust, to take a leap in the dark.

Mr. Pinkney supposes that the proposed amendment had no retrospect to the state laws already made. The adoption of the new government must operate as a complete repeal of all the constitutions and state laws, as far as they are inconsistent with the new government.

Mr. Wilson supposes the surrender of the rights of a federal government to be a surrender of sovereignty. True, we may define some of the rights, but when we come near the line it cannot be found. One general excepting clause must therefore apply to the whole. In the beginning of our troubles, congress themselves were as one state — dissensions or state interests were not known — they gradually crept in after the formation of the constitution, and each took to himself a slice. The original draft of confederation was drawn on the first ideas, and the draft concluded on how different!

Mr. Bedford was against the motion, and states the proportion of the intended representation of the number 90: Delaware 1 — Pennsylvania and Virginia one third. On this computation where is the weight of the small states when the interest of the one is in competition with the other on trade, manufactures and agriculture? When he sees this mode of government so strongly advocated by the members of the great states, he must suppose it a question of interest.

Mr. Madison confesses it is not without its difficulties on many accounts — some may be removed, others modified, and some are unavoidable. May not this power be vested in the senatorial branch? they will probably be always sitting. Take the question on the other ground, who is to determine the line when drawn in doubtful cases? The state legislatures cannot, for they will be partial in support of their own powers — no tribunal can be found. It is impossible that the articles of confederation can be amended — they are too tottering to be invigorated — nothing but the present system, or something like it, can restore the peace and harmony of the country.

(Yates's Diary (Max Farrand, 1911), Pages 169-171, Vol. 1)

Williamson — agt. the reconsideration because he thinks the State Legislatures ought to possess independent powers in cases purely local, and applying to their internal policy —

Madison — The amendment or a reconsideration for discussion seems necessary — I am of opinion that ye Genl. Govt. will not be able to compel the large and important State to rescind a popular law passed by their Legislature. If this power does not rest in the national Legisl: there will be wanting a check to the centrifugal Force which constantly operates in the several states to force them off from a common Centre, or a national point —

Gerry — this power may enable the Genl. Govt. to depress a part for the benefit of another part — it may prevent the encouragements which particular States may be disposed to give to particular manufactures, it may prevent the States from traing. their militia, and thereby establish a military Force & finally a Despotism —

Wilson — In the Establishment of society every man yields his life, his liberty, property & Character to the society. there is no reservation of this sort,

that the individual shall be subject to one and exempt from another Law — Indeed we have seen the Legislatures in our own Country deprive the citizen of Life, of Liberty, & property we have seen Attainers, Banishment, & Confiscations.

If we mean to establish a national Govt. the States must submit themselves as individuals — the lawful Government must be supreme — either the Genl. or the State Government must be supreme — We must remember the language with wh. we began the Revolution, it was this, Virginia is no more, Massachusetts is no more — we are one in name, let us be one in Truth & Fact — Unless this power is vested in the Genl. Govt. the States will be used by foreign powers as Engines agt the Whole — New States will be soon formed, the Inhabitants may be foreigners and possess foreign affections, unless the Genl. Govt. can check their State laws they may involve the Nation in Tumult and Confusion.

Dickerson — There can be no line of separation dividing the powers of legislation between the State & Genl. Govts. The consequence is inevitable that there must be a supreme & august national Legislature — the objection that the States may be prevented from training the Militia, is obviated by the mode of appointing the Senate and the actual representation of the people —

Bedford — Agt. the amendment — Delaware now stands 113th of the whole — when the system of equal representation obtains Delaware will be 190th — Virginia & Pennsylvania will stand 2890th — Suppose a rivalry in commerce or manufacture between Delaware and these two States; what chance has Delaware agt. them? Bounties may be given in Virginia. & Pennsylvania, and their influence in the Genl. Govt. or Legislature will prevent a negative, not so if the same measure is attempted in Delaware —

(King's Diary (Max Farrand, 1911), Pages 171-172, Vol. 1)

Pinkey — For general Negative — Gerry — Is for a negative on paper emissions — New states will arise which cannot be controuled — & may outweigh & controul — Wilson — Foreign influence may infect certain corners of confederacy which ought to be restrained — Union basis of our oppos & Ind: Bedford — Arithmetical calculation of proportional influence in General Government — { Pensyl. & Delaware may have rivalry in commerce — & influence of Pens — sacrifice delaware If there be a negative in G G — yet if a law can pass through all the forms of S - C. it will require force to abrogate it Butler — Will a man throw afloat his property & confide it to a government a thousand miles distant?

(Hamilton's Notes (Max Farrand, 1911), Page 173, Vol. 1)

[e738554] The Committee having agreed to a reconsideration on the question to agree to the proposed amendment

Mass. Penn. & Virgin. Ay } Dela — divid — } lost7 Cont. NYk. NJ. Mar. N.C SC. & Geor. No. }

(King's Diary (Max Farrand, 1911), Pages 172-173, Vol. 1)

And on the question to strike out
it passed in the negative. [Ayes — 3; noes — 7; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 162, Vol. 1)

On the question for extending the negative power to all cases as proposd. by (Mr. P. & Mr. M —) Mas. ay. Cont. no. N. Y. no. N. J. no. Pa. ay. Del. divid. Mr. Reed & Mr. Dickenson ay. Mr. Bedford & Mr. Basset no. Maryd. no. Va. ay. Mr. R. Mr. Mason no. Mr. Blair, Docr. Mc. Cg. Mr. M. ay. Genl. W. not consulted. N. C. no. S. C. no Geo. no. [Ayes — 3; noes — 7; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 168, Vol. 1)

The question put on Mr. Pinkney's motion — 7 states against it — Delaware divided — Virginia, Pennsylvania and Massachusetts for it.

(Yates's Diary (Max Farrand, 1911), Page 171, Vol. 1)

[e738725] [Editors' note: The motion to reconsider the Sixth Resolution allowed the resolution to be amended again, after being adopted previously. Therefore, the Sixth Resolution must be adopted again, in order to appear in the amended Virginia Plan.]

(2019 Editors)

[e675425] It was moved by Mr Gerry seconded by Mr King to reconsider that clause of the seventh resolution, adopted by the Committee, which respects the appointment of the national Executive

(Official Journal (Max Farrand, 1911), Page 163, Vol. 1)

On motion of Mr. Gerry and Mr. King tomorrow was assigned for reconsidering the mode of appointing the National Executive: the reconsideration being voted for by all the States except Connecticut & N. Carolina.

(Madison's Notes (Max Farrand, 1911), Page 168, Vol. 1)

[e675426] On the question to reconsider it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 163, Vol. 1)

On motion of Mr. Gerry and Mr. King tomorrow was assigned for reconsidering the mode of appointing the National Executive: the reconsideration being voted for by all the States except Connecticut & N. Carolina.

(Madison's Notes (Max Farrand, 1911), Page 168, Vol. 1)

[e675427] It was then moved by Mr C Pinckney seconded by Mr Rutledge that the following resolution be added after the 4th resolution adopted by the Committee namely.

Resolved That the States be divided into three Classes — the first Class to have three members, the second two, and the third One member each — that an estimate be taken of the comparative importance of each State, at fixed periods, so as to ascertain the number of members they may from time to time be entitled to.

(Official Journal (Max Farrand, 1911), Page 163, Vol. 1)

[e675428] Before any debate was had, or determination taken on Mr Pinckney's proposition — it was moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again.

[Editors' note: The decision to rise without debate likely had the effect, and possibly the intention, of postponing Pinckney's amendment.]

(Official Journal (Max Farrand, 1911), Page 163, Vol. 1)

The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 169, Vol. 1)

[e675429] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 163, Vol. 1)

The Committee then rose and the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 169, Vol. 1)

3.10 Saturday, 09 June 1787, at 11:00 (s6297)

[e675430] The honorable Luther Martin Esquire One of the Deputies of the State of Maryland attended and took his Seat.

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

Martin, Luther, of Maryland. Commissioned May 26; first attended June 9; absent August 7-12; left Convention September 4. Opposed to the Constitution.

(Appendix B (Max Farrand, 1911), Page 589, Vol. 3)

[e675431] Mr. Gerry, according to previous notice given by him, moved "that the National Executive should be elected by the Executives of the States whose proportion of votes should be the same with that allowed to the States in the election of the Senate." If the appointmt. should be made by the Natl. Legislature, it would lessen that independence of the Executive which ought to prevail, would give birth to intrigue and corruption between the Executive & Legislature previous to the elections and to partiality in the Executive afterwards to the friends who promoted him. Some other mode therefore appeared to him necessary. He proposed that of appointing by the State Executives as most analogous to the principle observed in electing the other branches of the Natl. Govt.; the first branch being chosen by the people of the States, & the 2d. by the Legislatures of the States; he did not see any objection agst. letting the Executive be appointed by the Executives of the States. He supposed the Executives would be most likely to select the fittest men, and that it would be their interest to support the man of their own choice.

[Editors' note: The Journal offers a slightly different record of Gerry's proposal than that recorded in Madison's notes. The secretary writes, 'A question

being taken, on Mr Gerry's motion, to strike out the following words in that clause of the 7th resolution, adopted by the Committee, which respects the appointment of the national Executive namely "to be chosen by the national legislature" and to insert "to be chosen by the Executives of the individual States". (Page 174, Vol. 1, Official Journal (Max Farrand, 1911)).

Due to the specificity of Madison's record and the agreement between the first clause of his record of Gerry's proposal and the Journal's, it seems most likely that Madison's is the most correct account. For these reasons, the editors have decided to use his language.]

(Madison's Notes (Max Farrand, 1911), Pages 175-176, Vol. 1)

Motion by Mr. Gerry to reconsider the appointment of the national executive.

That the national executive be appointed by the state executives.

He supposed that in the national legislature there will be a great number of bad men of various descriptions — these will make a wrong appointment. Besides, an executive thus appointed, will have his partiality in favor of those who appointed him — that this will not be the case by the effect of his motion, and the executive will by this means be independent of the national legislature, but the appointment by the state executives ought to be made by votes in proportion to their weight in the scale of the representation.

(Yates's Diary (Max Farrand, 1911), Pages 180-181, Vol. 1)

Gerry moved to reconsider Appointment of Executive—agreed to reconsider it— He then moved that the Executives of the several States should elect national Executive—and that each Executive should have the same Number of Votes in the Election as the State he represents has Members of the first Branch. Reason—Fewer Persons greater Responsibility.

(Lansing's Notes (Joseph Strayer, 1939), Pages 41-41)

[e675432] He [Gerry] supposed that in the national legislature there will be a great number of bad men of various descriptions — these will make a wrong appointment. Besides, an executive thus appointed, will have his partiality in favor of those who appointed him — that this will not be the case by the effect of his motion, and the executive will by this means be independent of the national legislature, but the appointment by the state executives ought to be made by votes in proportion to their weight in the scale of the representation.

Mr. Randolph opposes the motion. The power vested by it is dangerous — confidence will be wanting — the large states will be masters of the election — an executive ought to have great experience, integrity and activity. The executives of the states cannot know the persons properly qualified as possessing these. An executive thus appointed will court the officers of his appointment, and will relax him in the duties of commander of the militia — Your single executive is already invested with negating laws of the state. Will he duly exercise the power? Is there no danger in the combinations of states to appoint such an executive as may be too favorable to local state governments? Add to this the expense and difficulty of bringing the executives to one place to exercise their powers. Can you suppose they will ever cordially raise the great oak, when they must sit as shrubs under its shade?

(Yates's Diary (Max Farrand, 1911), Page 181, Vol. 1)

Mr. Randolph urged strongly the inexpediency of Mr. Gerry's mode of appointing the Natl. Executive. The confidence of the people would not be secured by it to the Natl. magistrate. The small States would lose all chance of an appointment. from within themselves. Bad appointments would be made; the Executives of the States being little conversant with characters not within their own small spheres. The State Executives too notwithstanding their constitutional independence, being in fact dependent on the State Legislatures will generally be guided by the views of the latter, and prefer either favorites within the States, or such as it may be expected will be most partial to the interests of the State. A Natl. Executive thus chosen will not be likely to defend with becoming vigilance & firmness the national rights agst. State encroachments. Vacancies also must happen. How can these be filled? He could not suppose either that the Executives would feel the interest in supporting the Natl. Executive which had been imagined. They will not cherish the great Oak which is to reduce them to paltry shrubs.

(Madison's Notes (Max Farrand, 1911), Page 176, Vol. 1)

Randolph—Necessary to cloathe national Executive with every possible Confidence—this cannot be obtained in any Mode more effectually than by Election by national Legislature. Is it probable that all the Executives will be disposed to promote the Growth of the large Oak which is to reduce them to insignificant Shrubs? Individual Executives are not qualified—they have not the Information—their Interests are distinct. It is not their Interest to elect the best Men to fill that Station—It must also cause a periodical Interregnum.

(Lansing's Notes (Joseph Strayer, 1939), Page 42)

[e675433] A question being taken, on Mr Gerry's motion, to strike out the following words in that clause of the 7th resolution, adopted by the Committee, which respects the appointment of the national Executive namely "to be chosen by the national legislature" and to insert

"to be chosen by the Executives of the individual States"
it passed in the negative. [Ayes — 0; noes — 10; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 174, Vol. 1)

On the question for referring the appointment of the Natl. Executive to the State Executives as propd. by Mr. Gerry Massts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. divd. Md. no. Va. no. S. C. no. Geo. no. [Ayes — 0; noes — 9; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 176, Vol. 1)

Carried against the motion, 10 noes, and Delaware divided.

(Yates's Diary (Max Farrand, 1911), Page 181, Vol. 1)

On Question—10 Noes—Delaware divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 42)

[e675434] On motion of Mr. Patterson, the consideration of the 2d resolve was taken up, which is as follows: Resolved, therefore, that the rights of suffrage in the national legislature ought to be apportioned to the quotas of contribution, or to the number of inhabitants, as the one or other rule may seem best in different cases.

[Editors' note: Madison notes that Brearly seconded the motion. Both the Journal and Madison mention this motion and the subsequent debate, though Yates' account is the most clear about the sequence of events.]

(Yates's Diary (Max Farrand, 1911), Page 181, Vol. 1)

It was moved by Mr Patterson seconded by Mr Brearley to enter on the consideration of theresolution submitted by Mr Randolph.

(Official Journal (Max Farrand, 1911), Page 175, Vol. 1)

Mr. Patterson moves that the Committee resume the clause relating to the rule of suffrage in the Natl. Legislature.

Mr. Brearly seconds him.

(Madison's Notes (Max Farrand, 1911), Page 176, Vol. 1)

The 11th Resolve was then read—Upon which Mr. Brearly called for the 2nd general Proposition marked C.

(Lansing's Notes (Joseph Strayer, 1939), Page 42)

[e675435] On motion of Mr. Patterson, the consideration of the 2d resolve was taken up, which is as follows: Resolved, therefore, that the rights of suffrage in the national legislature ought to be apportioned to the quotas of contribution, or to the number of inhabitants, as the one or other rule may seem best in different cases.

[Editors' note: Though it is clear that the resolution was taken under consideration, there is no record of a formal vote.]

(Yates's Diary (Max Farrand, 1911), Page 181, Vol. 1)

[e675436] Mr. Brearly [...] He was sorry he said that any question on this point was brought into view. It had been much agitated in Congs. at the time of forming the Confederation and was then rightly settled by allowing to each sovereign State an equal vote. Otherwise the smaller States must have been destroyed instead of being saved. The substitution of a ratio, he admitted carried fairness on the face of it; but on a deeper examination was unfair and unjust. Judging of the disparity of the States by the quota of Congs. Virga. would have 16 votes, and Georgia but one. A like proportion to the others will make the whole number ninity. There will be 3. large states and 10 small ones. The large States by which he meant Massts. Pena. & Virga. will carry every thing before them. It had been admitted, and was known to him from facts within N. Jersey that where large and small counties were united into a district for electing representatives for the district, the large counties always carried their point, and Consequently that the large States would do so. Virga. with her sixteen votes will be a solid column indeed, a formidable phalanx. While

Georgia with her Solitary vote, and the other little States will be obliged to throw themselves constantly into the scale of some large one, in order to have any weight at all. He had come to the convention with a view of being as useful as he could in giving energy and stability to the Federal Government. When the proposition for destroying the equality of votes came forward, he was astonished, he was alarmed. Is it fair then it will be asked that Georgia should have an equal vote with Virginia? He would not say it was. What remedy then? One only, that a map of the U. S. be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into 13 equal parts

Mr. Patterson considered the proposition for a proportional representation as striking at the existence of the lesser States. He wd. premise however to an investigation of this question some remarks on the nature structure and powers of the Convention. The Convention he said was formed in pursuance of an Act of Congs. that this act was recited in several of the Commissions, particularly that of Masss. which he required to be read: That the amendment of the confederacy was the object of all the laws and commissions on the subject; that the articles of the confederation were therefore the proper basis of all the proceedings of the Convention.

(Madison's Notes (Max Farrand, 1911), Page 176-177, Vol. 1)

After some time passed in debate —

(Official Journal (Max Farrand, 1911), Page 175, Vol. 1)

Judge Brearly. — The present question is an important one. On the principle that each state in the union was sovereign, congress, in the articles of confederation, determined that each state in the public councils had one vote. If the states still remain sovereign, the form of the present resolve is founded on principles of injustice. He then stated the comparative weight of each state — the number of votes 90. Georgia would be 1, Virginia 16, and so of the rest. This vote must defeat itself, or end in despotism. If we must have a national government, what is the remedy? Lay the map of the confederation on the table, and extinguish the present boundary lines of the respective state jurisdictions, and make a new division so that each state is equal — then a government on the present system will be just.

Mr. Patterson opposed the resolve. Let us consider with what powers are we sent here? (moved to have the credentials of Massachusetts read, which was done.) By this and the other credentials we see, that the basis of our present authority is founded on a revision of the articles of the present confederation, and to alter or amend them in such parts where they may appear defective. Can we on this ground form a national government? I fancy not. — Our commissions give a complexion to the business; and can we suppose that when we exceed the bounds of our duty, the people will approve our proceedings?

We are met here as the deputies of 13 independent, sovereign states, for federal purposes. Can we consolidate their sovereignty and form one nation, and annihilate the sovereignties of our states who have sent us here for other purposes?

What, pray, is intended by a proportional representation? Is property to be considered as part of it? Is a man, for example, possessing a property of £4000 to have 40 votes to one possessing only £100? This has been asserted on a

former occasion. If state distinctions are still to be held up, shall I submit the welfare of the state of New-Jersey, with 5 votes in the national council, opposed to Virginia who has 16 votes? Suppose, as it was in agitation before the war, that America had been represented in the British parliament, and had sent 200 members; what would this number avail against 600? We would have been as much enslaved in that case as when unrepresented; and what is worse, without the prospect of redress. But it is said that this national government is to act on individuals and not on states; and cannot a federal government be so framed as to operate in the same way? It surely may. I therefore declare, that I will never consent to the present system, and I shall make all the interest against it in the state which I represent that I can. Myself or my state will never submit to tyranny or despotism.

Upon the whole, every sovereign state according to a confederation must have an equal vote, or there is an end to liberty. As long therefore as state distinctions are held up, this rule must invariably apply; and if a consolidated national government must take place, then state distinctions must cease, or the states must be equalized.

Mr. Wilson was in favor of the resolve. He observed that a majority, nay even a minority, of the states have a right to confederate with each other, and the rest may do as they please. He considered numbers as the best criterion to determine representation. Every citizen of one state possesses the same rights with the citizen of another. Let us see how this rule will apply to the present question. Pennsylvania, from its numbers, has a right to 12 votes, when on the same principle New-Jersey is entitled to 5 votes. Shall New-Jersey have the same right or influence in the councils of the nation with Pennsylvania? I say no. It is unjust — I never will confederate on this plan. The gentleman from New-Jersey is candid in declaring his opinion — I commend him for it — I am equally so. I say again I never will confederate on his principles. If no state will part with any of its sovereignty, it is in vain to talk of a national government. The state who has five times the number of inhabitants ought, nay must have the same proportion of weight in the representation. If there was a probability of equalizing the states, he would be for it. But we have no such power. If however, we depart from the principle of representation in proportion to numbers, we will lose the object of our meeting.

(Yates's Diary (Max Farrand, 1911), Pages 182-183)

Brearily. opposes the equality of Representation, alledges that although it is numerically equal, yet in its operation it will be unequal — illustrates by saying there will be two divisions in the States thus represented, the one made up of Mass. Penn. & Virgin. the other including the Ten other states — when Georga. sends one member, Virginia will send sixteen — These 16 members are united, the members of three or four small States although equal in number are not capable of combination, the influence of the 16 members of Virginia will be different, for these Reasons, from those from three or four small States — I agree that the Rule of confedn. is unequal — I shall be willing to take the map of the U S. and divide it into 13 equal parts — this being done there may fairly be an equality in the representation of the States —

Patterson. Our powers do not extend to the abolition of the State Governments, and the Election of a national Govt. — They only authorise amendments

in the present System, and have for yr. Basis the present Confederation which establishes the principle that each State has an equal vote in Congress — agrees wth. Brearily for an equal Division of the Territory of the US, and then the equality of Territory will be the parent or origin of an equality of Representation — But perhaps the inequality of the present system is not so obvious — the States are equals and they vote equal, in every state the individual Citizens have equal votes although their property is unequal — a man of 4000£ has one vote, and the man of 100£ has one vote, yet one has forty times as much property as the other — why shd. not this be the case in the several States — Mr. Galloway who was early in Cong. proposed that america shd. be represented in the Brith. parl. perhaps they wd. have sent 200 members, and G. Britain 500 members; but it was clearly seen that this project wd. not secure the american Liberties — neither wd. the smaller States be secured in their Liberties — the project of an equality in Representation will never succeed — Admit that a majority of the States in Convention shd. agree in the Measure — they cannot give the assent of the other States — I never will agree to this project here, and I will use my influence agt. it in N Jersey — New Jersey never will agree to the Scheme —

Wilson — the Doctrine of Representation is this — first the representative ought to speak the Language of his Constituents, and secondly that his language or vote shd. have the same influence as though the Constituents gave it — apply this principle and it concludes in favor of an equality of Representation & agt. the present System —

(King's Diary (Max Farrand, 1911), Pages 184-185, Vol. 1)

Brearily—This Mode of Representation just if all considered as one Nation—but if State Distinctions still obtain—if Measures are pursued to perpetuate their separate Interests—let the whole be divided into Districts of nearly equal Size and Numbers of Inhabitants—but in our present Situation the Interests of the Smaller States must be sacraficed. He had made a calculation of the relative Representation which had been repeatedly hinted at which need only be read to enable us to determine the probable Consequence—this was on Number of free Inhabitants.

Georgia	1	Deleware	1	Rhode Island	2	New
Hampshire	3	New Iersey	5	South Carolina	6	North Carolina
.	6	New York	8	Connecticut	8	Maryland
.	6	Massachusetts	14	Pennsylvania	12	Virginia
						16

He was appointed to give foederal powers but these too extensive.

Patterson—Powers of Convention inadequate to this System. Confederation is the Basis of our proceeding.

Representation exemplified by two Men possessing different Shares of Property—both have a Vote—but the Man of Property has more to protect by Government and he has greater Influence. Equal Division of Territory —Hints had been thrown out by Gentlemen from Pennsylvania (Wilson) that a new Confederation between some of States would be formed—If Iersey would not be inattentive to her Interest—that State never would agree to the present System.

Wilson—If Confederation dissolved either Majority or Minority may Con-federate.

Compound Ratio of Property and Numbers would perhaps be best to determine Representation—Pennsylvania has not yet been taught to adapt itself

to the Scale of Representation proposed by Iersey—Never will—The States are now as in State of Nature—Each Individual ought to have an equal Weight in Government. He has no Authority to divide States.

He will uniformly vote against every State Establishment.

(Lansing's Notes (Joseph Strayer, 1939), Pages 42-44)

Mr. Brearly. Against. The proposed mode of representation unfair as by calculation made on the last requisitions of Congress. 16 Townships in one County in N. Jersey. One of them as large as any three others. The large one always sends whom she pleases. Agree it is not fair that Georgia should have the same voice as Virginia. The only way to remedy it by equalizing the states. Mr. Patterson. The powers of Convention not adequate to the present object. If we don't confine ourselves to our powers, our constituents will not assent. Our commissions contain complections of the States. Sovereignty includes equality. Confederation must be made by sovereign states. Equality obtained by equalization. No citizen will be injured by this. A large state should pay more because she has more to protect. By a calculation of the number of Members to be sent to Parliament it appeared they would have one third share. Would this save America from tyranny. The efficacy of Nations depends on the power vested in them and not the source from which the power derived.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 65, Gunning Bedford: Notes on Debates)

[e675437] Mr. Patterson opposed the resolve. Let us consider with what powers are we sent here? (moved to have the credentials of Massachusetts read, which was done.) By this and the other credentials we see, that the basis of our present authority is founded on a revision of the articles of the present confederation, and to alter or amend them in such parts where they may appear defective. Can we on this ground form a national government? I fancy not. — Our commissions give a complexion to the business; and can we suppose that when we exceed the bounds of our duty, the people will approve our proceedings?

We are met here as the deputies of 13 independent, sovereign states, for federal purposes. Can we consolidate their sovereignty and form one nation, and annihilate the sovereignties of our states who have sent us here for other purposes?

[Editors' note: Yates' record of Paterson's speech echoes much of that recorded by Madison. Madison writes that Paterson stated that the Convention 'was formed in pursuance of an Act of Congs. that this act was recited in several of the Commissions, particularly that of Massts. which he required to be read.' (Page 177, Vol. 1, Madison's Notes (Max Farrand, 1911)).]

(Yates's Diary (Max Farrand, 1911), Page 182, Vol. 1)

[e675438] Mr. Patterson [...] We ought to keep within its limits, or we should be charged by our constituents with usurpation. that the people of America were sharp sighted and not to be deceived. But the Commissions under which we acted were not only the measure of our power. they denoted also the sentiments of the States on the subject of our deliberation. The idea of a national Govt. as contradistinguished from a federal one, never entered into the mind of any

of them, and to the public mind we must accommodate ourselves. We have no power to go beyond the federal scheme, and if we had the people are not ripe for any other. We must follow the people; the people will not follow us. The proposition could not be maintained whether considered in reference to us as a nation, or as a confederacy. A confederacy supposes sovereignty in the members composing it & sovereignty supposes equality. If we are to be considered as a nation, all State distinctions must be abolished, the whole must be thrown into hotchpot, and when an equal division is made, then there may be fairly an equality of representation. He held up Virga. Massts. & Pa. as the three large States, and the other ten as small ones; repeating the calculations of Mr. Brearly as to the disparity of votes which wd. take place, and affirming that the small States would never agree to it. He said there was no more reason that a great individual State contributing much, should have more votes than a small one contributing little, than that a rich individual citizen should have more votes than an indigent one. If the rateable property of A was to that of B as 40 to 1. ought A for that reason to have 40 times as many votes as B. Such a principle would never be admitted, and if it were admitted would put B entirely at the mercy of A. As A. has more to be protected than B so he ought to contribute more for the common protection. The same may be said of a large State wch. has more to be protected than a small one. Give the large States an influence in proportion to their magnitude, and what will be the consequence? Their ambition will be proportionally increased, and the small States will have every thing to fear. It was once proposed by Galloway & some others that America should be represented in the British Parlt. and then be bound by its laws. America could not have been entitled to more than of the no. of Representatives which would fall to the share of G. B. Would American rights & interests have been safe under an authority thus constituted? It has been said that if a Natl. Govt. is to be formed so as to operate on the people and not on the States, the representatives ought to be drawn from the people. But why so? May not a Legislature filled by the State Legislatures operate on the people who chuse the State Legislatures? or may not a practicable coercion be found. He admitted that there was none such in the existing System. He was attached strongly to the plan of the existing confederacy, in which the people chuse their Legislative representatives; and the Legislatures their federal representatives. No other amendments were wanting than to mark the orbits of the States with due precision, and provide for the use of coercion, which was the great point. He alluded to the hint thrown out heretofore by Mr. Wilson of the necessity to which the large States might be reduced of confederating among themselves, by a refusal of the others to concur. Let them unite if they please, but let them remember that they have no authority to compel the others to unite. N. Jersey will never confederate on the plan before the Committee. She would be swallowed up. He had rather submit to a monarch, to a despot, than to such a fate. He would not only oppose the plan here but on his return home do everything in his power to defeat it there

Mr. Wilson. hoped if the Confederacy should be dissolved, that a majority, that a minority of the States would unite for their safety. He entered elaborately into the defence of a proportional representation, stating for his first position that as all authority was derived from the people, equal numbers of people ought to have an equal no. of representatives, and different numbers of people different numbers of representatives. This principle had been improperly violated in the

Confederation, owing to the urgent circumstances of the time. As to the case of A. & B, stated by Mr. Patterson, he observed that in districts as large as the States, the number of people was the best measure of their comparative wealth. Whether therefore wealth or numbers were to form the ratio it would be the same. Mr. P. admitted persons, not property to be the measure of suffrage. Are not the citizens of Pena. equal to those of N. Jersey? does it require 150 of the former to balance 50 of the latter? Representatives of different districts ought clearly to hold the same proportion to each other, as their respective constituents hold to each other. If the small States will not confederate on this plan, Pena. & he presumed some other States, would not confederate on any other. We have been told that each State being sovereign, all are equal. So each man is naturally a sovereign over himself, and all men are therefore naturally equal. Can he retain this equality when he becomes a member of civil Government? He can not. As little can a Sovereign State, when it becomes a member of a federal Governnt. If N. J. will not part with her Sovereignty it is in vain to talk of Govt. A new partition of the States is desireable, but evidently & totally impracticable.

Mr. Williamson, illustrated the cases by a comparison of the different States, to Counties of different sizes within the same State; observing that proportional representation was admitted to be just in the latter case, and could not therefore be fairly contested in the former.

(Madison's Notes (Max Farrand, 1911), Pages 178-180, Vol. 1)

[e675439] The question being about to be put Mr. Patterson hoped that as so much depended on it, it might be thought best to postpone the decision till tomorrow, which was done nem. con —

(Madison's Notes (Max Farrand, 1911), Page 180, Vol. 1)

The question postponed for farther consideration.

(Yates's Diary (Max Farrand, 1911), Page 183, Vol. 1)

Postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 44)

[e675440] After some time passed in debate — It was moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again.

(Official Journal (Max Farrand, 1911), Page 175, Vol. 1)

[e675441] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 175, Vol. 1)

The Come. rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 180, Vol. 1)

Adjourned to to-morrow morning.

(Yates's Diary (Max Farrand, 1911), Page 183, Vol. 1)

Ajourned till Monday.

(Lansing's Notes (Joseph Strayer, 1939), Page 44)

3.11 Monday, 11 June 1787, at 11:00 (s6298)

[e675442] The Honorable Abraham Baldwin Esquire, one of the Deputies of the State of Georgia, attended and took his seat.

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

Baldwin, Abraham, of Georgia. Attended on June 11, and probably regularly thereafter.

(Appendix B (Max Farrand, 1911), Page 587, Vol. 3)

Mr Abraham Baldwin from Georgia took His Seat.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 1)

[e675443] The clause concerning the rule of suffrage in the natl. Legislature postponed on Saturday, was resumed.

Mr. Sharman [sic] proposed that the proportion of suffrage in the 1st branch should be according to the respective numbers of free inhabitants; and that in the second branch or Senate, each State should have one vote and no more. He said as the States would remain possessed of certain individual rights, each State ought to be able to protect itself: otherwise a few large States will rule the rest. The House of Lords in England he observed had certain particular rights under the Constitution, and hence they have an equal vote with the House of Commons that they may be able to defend their rights.

[Editors' note: Madison is unclear whether he is recording Sherman's motion verbatim or if he is paraphrasing. The latter seems more likely, so the editors have tried to reconstruct the amendment.]

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 1)

Mr. Sherman moved that the first branch of the national legislature be chosen in proportion to the number of the whole inhabitants in each state. He observed that as the people ought to have the election of one of the branches of the legislature, the legislature of each state ought to have the election of the second branch, in order to preserve the state sovereignty; and that each state ought in this branch to have one vote.

(Yates's Diary (Max Farrand, 1911), Page 204, Vol. 1)

Mr. Sherman—moved that Right of Suffrage be determined by Number of free Inhabitants in each State.—This Motion not seconded. Each State ought to have one Vote—Individual States to be considered as representing House of Lords.

(Lansing's Notes (Joseph Strayer, 1939), Page 45)

[e675444] [Editors' note: Since Madison does not describe a vote, and the Journal does not mention Sherman's proposal, the editors have assumed that the amendment was dropped immediately for lack of a second.]

(2019 Editors)

Mr. Sherman—moved that Right of Suffrage be determined by Number of free Inhabitants in each State.—This Motion not seconded. Each State ought to have one Vote—Individual States to be considered as representing House of Lords.

(Lansing's Notes (Joseph Strayer, 1939), Page 45)

[e675445] Mr. Rutledge [sic] proposed that the proportion of suffrage in the 1st branch should be according to the quotas of contribution. The justice of this rule he said could not be contested. Mr. Butler urged the same idea: adding that money was power; and that the States ought to have weight in the Govt. — in proportion to their wealth.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 1)

Gov. Rutledge moved as an amendment of the first proposition, that the proportion of representation ought to be according to and in proportion to the contribution of each state.

Mr. Butler supported the motion, by observing that money is strength; and every state ought to have its weight in the national council in proportion to the quantity it possesses. He further observed, that when a boy he read this as one of the remarks of Julius Cæsar, who declared if he had but money he would find soldiers, and every thing necessary to carry on a war.

(Yates's Diary (Max Farrand, 1911), Page 204, Vol. 1)

Resolved, That the Rights of Suffrage in the first Branch of the national Legr. ought not to be according to the Article of Confedn., but according to some equitable Ratio of Representation —

Rutledge. Not by the Number of free Inhabitants, but according to the Quotas of Contribution —

(Paterson's Notes (Max Farrand, 1911), Page 207, Vol. 1)

Governor Rutledge moves 'that Representation be apportioned to Contribution'.

(Lansing's Notes (Joseph Strayer, 1939), Page 45)

[e675446] [Editors' note: Madison and the Journal (which omits the proposal) again suggest that Rutledge's suggestion was dropped, in spite of Butler's support.]

(2019 Editors)

[e675447] It was moved by Mr King seconded by Mr Rutledge to agree to the following resolution namely

Resolved that the right of suffrage in the first branch of the national Legislature ought not to be according to the rule established in the articles of confederation; but according to some equitable ratio of representation.

[Editors' note: There is some confusion in the sources as to who officially seconded the motion. While the Journal says Rutledge, Madison says Wilson. It seems likely that both men offered their support for the motion. The editors have therefore included both among the proposers.]

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

Mr. King & Mr. Wilson in order to bring the question to a point moved “that the right of suffrage in the first branch of the national Legislature ought not to be according the rule established in the articles of Confederation, but according to some equitable ratio of representation”.

(Madison’s Notes (Max Farrand, 1911), Page 196, Vol. 1)

Mr. King observed, that it would be better first to establish a principle (that is to say) whether we will depart from federal grounds in forming a national government; and therefore, to bring this point to view, he moved as a previous question, that the sense of the committee be taken on the following question:

’That the right of suffrage in the first branch of the national legislature, ought not to be according to the rule in the articles of confederation, but according to some equitable ratio of representation.’

(Yates’s Diary (Max Farrand, 1911), Pages 204-205, Vol. 1)

Resolved, That the Rights of Suffrage in the first Branch of the national Legr. ought not to be according to the Article of Confedn., but according to some equitable Ratio of Representation —

(Paterson’s Notes (Max Farrand, 1911), Page 207, Vol. 1)

King—moves ’that Representation be not apportioned by the Rule mentioned in the Confederation—but that some other equitable Mode be adopted.’

(Lansing’s Notes (Joseph Strayer, 1939), Page 45)

[e675448] The question being abt. to be put Docr. Franklin sd. he had thrown his ideas of the matter on a paper wch. Mr. Wilson read to the Committee in the words following —

Mr Chairman

It has given me a great pleasure to observe that till this point, the proportion of representation, came before us, our debates were carried on with great coolness & temper. If any thing of a contrary kind, has on this occasion appeared. I hope it will not be repeated; for we are sent here to consult not to contend, with each other; and declarations of a fixed opinion, and of determined resolution, never to change it, neither enlighten nor convince us. Positiveness and warmth on one side, naturally beget their like on the other; and tend to create and augment discord & division in a great concern, wherein harmony & Union are extremely necessary to give weight to our Councils, and render them effectual in promoting & securing the common good.

I must own that I was originally of opinion it would be better if every member of Congress, or our national Council, were to consider himself rather as a representative of the whole, than as an Agent for the interests of a particular State; in which case the proportion of members for each State would be of less consequence, & it would not be very material whether they voted by States or individually. But as I find this is not to be expected, I now think the number of Representatives should bear some proportion to the number of the Represented; and that the decisions shd. be by the majority of members, not by the majority

of States. This is objected to from an apprehension that the greater States would then swallow up the smaller. I do not at present clearly see what advantage the greater States could propose to themselves by swallowing the smaller, and therefore do not apprehend they would attempt it. I recollect that in the beginning of this Century, when the Union was proposed of the two Kingdoms, England & Scotland, the Scotch Patriots were full of fears, that unless they had an equal number of Representatives in Parliament, they should be ruined by the superiority of the English. They finally agreed however that the different proportions of importance in the Union, of the two Nations should be attended to, whereby they were to have only forty members in the House of Commons, and only sixteen in the House of Lords; A very great inferiority of numbers! And yet to this day I do not recollect that any thing has been done in the Parliament of Great Britain to the prejudice of Scotland; and whoever looks over the lists of public officers, Civil & military of that nation will find I believe that the North Britons enjoy at least their full proportion of emolument.

But, Sir, in the present mode of voting by States, it is equally in the power of the lesser States to swallow up the greater; and this is mathematically demonstrable. Suppose for example, that 7 smaller States had each 3 members in the House, and the 6 larger to have one with another 6 members; and that upon a question, two members of each smaller State should be in affirmative and one in the Negative, they will make

Affirmatives 14 Negatives 7

And that all the larger States should be unanimously

in the negative, they would make Negatives 36

In all 43

It is then apparent that the 14 carry the question against the 43. and the minority overpowers the majority, contrary to the common practice of Assemblies in all Countries and Ages.

The greater States Sir are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. An honorable gentleman has, to avoid this difficulty, hinted a proposition of equalizing the States. It appears to me an equitable one, and I should, for my own part, not be against such a measure, if it might be found practicable. Formerly, indeed, when almost every province had a different Constitution, some with greater others with fewer privileges, it was of importance to the borderers when their boundaries were contested, whether by running the division lines, they were placed on one side or the other. At present when such differences are done away, it is less material. The Interest of a State is made up of the interests of its individual members. If they are not injured, the State is not injured. Small States are more easily well & happily governed than large ones. If therefore in such an equal division, it should be found necessary to diminish Pennsylvania, I should not be averse to the giving a part of it to N. Jersey, and another to Delaware. But as there would probably be considerable difficulties in adjusting such a division; and however equally made at first, it would be continually varying by the augmentation of inhabitants in some States, and their [more] fixed proportion in others; and thence frequent occasion for new divisions, I beg leave to propose for the consideration of the Committee another mode which appears to me to be as equitable, more easily carried into practice, and more permanent in its nature.

Let the weakest State say what proportion of money or force it is able and

willing to furnish for the general purposes of the Union.

Let all the others oblige themselves to furnish each an equal proportion.

The whole of these joint supplies to be absolutely in the disposition of Congress.

The Congress in this case to be composed of an equal number of Delegates from each State:

And their decisions to be by the majority of individual members voting.

If these joint and equal supplies should on particular occasions not be sufficient, Let Congress make requisitions on the richer and more powerful States for farther aids, to be voluntarily afforded, leaving to each State the right of considering the necessity and utility of the aid desired, and of giving more or less as it should be found proper.

This mode is not new, it was formerly practiced with success by the British Government with respect to Ireland and the Colonies. We sometimes gave even more than they expected, or thought just to accept; and in the last war carried on while we were united, they gave us back in five years a million Sterling. We should probably have continued such voluntary contributions, whenever the occasions appeared to require them for the common good of the Empire. It was not till they chose to force us, and to deprive us of the merit and pleasure of voluntary contributions that we refused & resisted. Those contributions however were to be disposed of at the pleasure of a Government in which we had no representative. I am therefore persuaded, that they will not be refused to one in which the Representation shall be equal

My learned colleague (Mr. Wilson) has already mentioned that the present method of voting by States, was submitted to originally by Congress, under a conviction of its impropriety, inequality, and injustice. This appears in the words of their Resolution. It is of Sepr. 6. 1774. The words are

“Resolved that in determining questions in this Congs. each colony or province shall have one vote: the Congs. not being possessed of or at present able to procure materials for ascertaining the importance of each Colony.”

(Madison’s Notes (Max Farrand, 1911), Pages 197-200, Vol. 1)

Gov. Franklin’s written remarks on this point were read by Mr. Wilson. In these Gov. Franklin observes, that representation ought to be in proportion to the importance of numbers or wealth in each state — that there can be no danger of undue influence of the the greater against the lesser states. This was the apprehension of Scotland when the union with England was proposed, when in parliament they were allowed only 16 peers and 45 commons; yet experience has proved that their liberties and influence were in no danger.

(Yates’s Diary (Max Farrand, 1911), Page 205, Vol. 1)

Franklin—It does not follow that because States in Union are unequally represented that therefore the greater Representation will oppress the lesser. Instances Great Britain.

(Lansing’s Notes (Joseph Strayer, 1939), Page 45)

[e675449] And on the question to agree to the same
it passed in the affirmative. [Ayes—7; noes—3; divided—1.]

(Official Journal (Max Farrand, 1911), Page 192, Vol. 1)

On the question for agreeing to Mr. Kings and Mr. Wilsons motion. it passed in the affirmative Massts. ay. Ct. ay. N. Y no. N. J. no. Pa. ay. Del. no. Md. divid. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 200, Vol. 1)

The question on Mr. King's motion was carried in the affirmative — 7 ayes — 3 noes, and Maryland divided. New-York, New-Jersey and Delaware in the negative.

(Yates's Diary (Max Farrand, 1911), Page 205, Vol. 1)

[e675450] Mr. Dickinson moved as an amendment, to add the words, "according to the taxes and contributions of each state actually collected and paid into the national treasury".

[Editors' note: Dickinson's amendment is entirely absent from the Journal, while Madison places it directly after King's amendment motion. While it is unclear in what order the events actually unfolded, both the Journal and Yates indicate that the proposal of King's amendment was followed closely by its approval. For this reason, the editors have followed Yates in placing Dickinson's proposal and the subsequent debate after the adoption of King's amendment. Madison notes that 'The clause so far as it related to suffrage in the first branch was postponed in order to consider this [Dickinson's] motion:', however as this motion to postpone is not mentioned by the other sources, the editors have decided against modelling it.]

(Yates's Diary (Max Farrand, 1911), Page 205, Vol. 1)

The clause so far as it related to suffrage in the first branch was postponed in order to consider this motion:

Mr. Dickenson contended for the actual contributions of the States as the rule of their representation & suffrage in the first branch . By thus connecting the interest of the States with their duty, the latter would be sure to be performed.

(Madison's Notes (Max Farrand, 1911), Page 196, Vol. 1)

Dickinson — The Terms, "Quotas of Contribution," very indefinite—it ought to be according to the actual Contribution —

(Paterson's Notes (Max Farrand, 1911), Page 207, Vol. 1)

[e675451] Mr. Dickenson [sic] contended for the actual contributions of the States as the rule of their representation & suffrage in the first branch . By thus connecting the interest of the States with their duty, the latter would be sure to be performed.

Mr. King remarked that it was uncertain what mode might be used in levying a national revenue; but that it was probable, imports would be one source of it. If the actual contributions were to be the rule the non-importing

States, as Cont. & N. Jersey, wd. be in a bad situation indeed. It might so happen that they wd. have no representation. This situation of particular States had been always one powerful argument in favor of the 5 Per Ct. impost.

[Editors' note: Yates includes a statement by Butler, so the editors have added Butler to the list of speakers in this debate.]

(Madison's Notes (Max Farrand, 1911), Pages 196-197, Vol. 1)

Mr. Butler was of opinion that the national government will only have the right of making and collecting the taxes, but that the states individually must lay their own taxes.

(Yates's Diary (Max Farrand, 1911), Page 205, Vol. 1)

Wm.son. Supposes, that there will not be any Assignment or Quotas to States; the Governmt. to operate individually, and not on States —

Dickinson The Power to be in Proportion to actual Contribution —

King — Suppose an Impost — Connecticut and Jersey do not import — they will have no Representatives —

Butler. This to be left to the State Legrs. — Sum to be proportioned —

Wilson. Either Rule good — by Numbers best to ascertain the Right of Representn. this agreeably to the Sentiments of 11 States — Impost alone will not be sufficient to answer the national Exigencies — Revenues arising from Postage — The present Quota not a lasting Rule — People to be numbered at fixed Periods — A Rule arising from Property and Numbers —

Gerry. Rule of Taxation not the Rule of Representation — 4 might then have more Voices than ten — Slaves not to be put upon the Footing of freemen — Freemen of Massts. not to be put upon a Footing with the Slaves of other States — Horses and Cattle ought to have the Right of Representn. Negroes — Mules —

The Taxes must be drawn by the natl. Governmt. immediately from the People; otherwise will never be collected —

Madison. Leave the particular Rule for the present. A common Standard ought to be provided —

(Paterson's Notes (Max Farrand, 1911), Pages 207-208, Vol. 1)

Dickenson—Quota of Contribution would throw too great a Share of Power in State that pays most—which Power may be directed to exempt itself from Contribution. Taxes, Contributions and Impost collected in the State ought to be Criterion.

Butler—Individual States ought to retain distinguished Marks of Sovereignty—Let them levy Tax.

(Lansing's Notes (Joseph Strayer, 1939), Page 46)

[e675452] [Editors' note: Dickinson's proposal is not mentioned again in any of the accounts for this day. However, it does appear in later sessions, so though it may not have been considered in this instance, it does not appear to have been dropped entirely. For this reason, Dickinson's proposal is designated as 'postponed'.]

(2019 Editors)

[e675453] It was then moved by Mr Rutledge seconded by Mr Butler to add the following words to the last resolution

“namely, according to the quotas of contribution”

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

It was then moved by Mr. Rutledge 2ded. by Mr. Butler to add to the words “equitable ratio of representation” at the end of the motion just agreed to, the words “according to the quotas of Contribution.

(Madison’s Notes (Max Farrand, 1911), Pages 200-201, Vol. 2)

[e675454] It was moved by Mr Wilson seconded by Mr C. Pinckney to postpone the consideration of the last motion in order to introduce the following words, after the words “equitable ratio of representation” namely.

“in proportion to the whole number of white and other free Citizens and inhabitants of every age, sex and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each State”

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

Mr. Wilson was of opinion, and therefore moved, that the mode of representation of each of the states ought to be from the number if its free inhabitants, and of every other description three fifths to one free inhabitant.

(Yates’s Diary (Max Farrand, 1911), Page 205, Vol. 1)

Mr. Wilson seconded by Mr. C. Pinckney, this was postponed; in order to add, after, after the words “equitable ratio of representation” the words following “in proportion to the whole number of white & other free Citizens & inhabitants of every age sex & condition including those bound to servitude for a term of years and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State.” this being the rule in the Act of Congress agreed to by eleven States, for apportioning quotas of revenue on the States. and requiring a census only every 5 — 7, or 10 years.

(Madison’s Notes (Max Farrand, 1911), Page 201, Vol. 1)

Wilson—There are some great national Objects to be attained by Government so constituted as this is supposed—Post Office an important one. Moves that Representation of the first Branch be in Proportion to the free Inhabitants and 35 of all others.

(Lansing’s Notes (Joseph Strayer, 1939), Page 46, Vol. 1)

[e675455] He [Wilson] supposed that the impost will not be the only revenue — the post office he supposes would be another substantial source of revenue. He observed further, that this mode had already received the approbation of eleven states in their acquiescence to the quota made by congress. He admitted that this resolve would require further restrictions, for where numbers determined

the representation a census at different periods of 5, 7 or 10 years, ought to be taken.

Mr. Gerry. The idea of property ought not to be the rule of representation. Blacks are property, and are used to the southward as horses and cattle to the northward; and why should their representation be increased to the southward on account of the number of slaves, than horses or oxen to the north?

Mr. Madison was of opinion at present, to fix the standard of representation, and let the detail be the business of a subcommittee.

(Yates's Diary (Max Farrand, 1911), Pages 205-206, Vol. 1)

Mr. Gerry thought property not the rule of representation. Why then shd. the blacks, who were property in the South, be in the rule of representation more than the cattle & horses of the North.

(Madison's Notes (Max Farrand, 1911), Page 201, Vol. 1)

Gerry. Rule of Taxation not the Rule of Representation — might then have more Voices than ten — Slaves not to be put upon the Footing of freemen — Freemen of Massts. not to be put upon a Footing with the Slaves of other States — Horses and Cattle ought to have the Right of Representn. Negroes — Mules —

The Taxes must be drawn by the natl. Governmt. immediately from the People; otherwise will never be collected —

Madison. Leave the particular Rule for the present. A common Standard ought to be provided —

(Paterson's Notes (Max Farrand, 1911), Page 208, Vol. 1)

Gerry—If Negroes represented why not Horses and Cows—Slaves not to be taken in under any Idea of Representation.

(Lansing's Notes (Joseph Strayer, 1939), Page 46)

[e675456] On the question to postpone

it passed in the affirmative. [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

Mr. Rutledge's motion was postponed.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

[e675457] On the question to agree to Mr Wilson's motion

it passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

On the question.

Mass: Con: N. Y. Pen: Maryd. Virga. N. C. S. C. and Geo: were in the affirmative: N. J. &. Del: in the negative. [Ayes — 9; noes — 2.]

(Madison's Notes (Max Farrand, 1911), Page 201, Vol. 1)

Mr. Wilson's motion was then put, and carried by 9 states against 2. New York in the majority.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

Question on Wilson's. 10 States Affirmative, one Negative.

(Lansing's Notes (Joseph Strayer, 1939), Pages 46, Vol. 1)

[e675458] It was moved by Mr Sherman seconded by Mr Ellsworth

“That in the second branch of the National Legislature each State have One vote”

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

Mr. Sharman moved that a question be taken whether each State shall have one vote in the 2d. branch. Every thing he said depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch. Mr. Elsworth seconded the motion. On the question for allowing each State one vote in the 2d. branch.

(Madison's Notes (Max Farrand, 1911), Page 201, Vol. 1)

Sherman moves that in the second Branch of Legislature each State have one Vote.

(Lansing's Notes (Joseph Strayer, 1939), Page 46, Vol. 1)

Mr. Wilson then moved, as an amendment to Mr. Sherman's motion, That the same proportion be observed in the election of the second branch as the first.

[Editors' note: Yates does not explicitly mention the details of Sherman's motion in this passage. It is possible to assume, however, that it is similar to the motion Yates records Sherman proposing at the beginning of the session: 'Mr. Sherman moved that the first branch of the national legislature be chosen in proportion to the number of the whole inhabitants in each state. He observed that as the people ought to have the election of one of the branches of the legislature, the legislature of each state ought to have the election of the second branch, in order to preserve the state sovereignty; and that each state ought in this branch to have one vote.']

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

[e675459] It was moved by Mr Sherman seconded by Mr Ellsworth

“That in the second branch of the National Legislature each State have One vote”

On the question to agree to the same
it passed in the negative. [Ayes — 5; noes — 6.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

Mr. Sharman moved that a question be taken whether each State shall have one vote in the 2d. branch. Every thing he said depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch. Mr. Elsworth seconded the motion. On the question for allowing each State one vote in the 2d. branch.

Massts. no. Cont. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 5; noes — 6.]

(Madison's Notes (Max Farrand, 1911), Pages 201-202, Vol. 1)

Sherman moves that in the second Branch of Legislature each State have one Vote. 5 Ayes—6 Noes. Ayes—New York, New Jersey, Connecticut, Delaware, and Maryland.

(Lansing's Notes (Joseph Strayer, 1939), Page 46)

The question however was first put on Mr. Sherman's motion, and lost — 6 states against, and 5 for it.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

[e675460] It was then moved by Mr Wilson seconded by Mr Hamilton to adopt the following resolution, namely,

“Resolved that the right of suffrage in the second branch of the national Legislature ought to be according to the rule established for the first”

[Editors' note: Yates records that Wilson's amendment was first proposed as an amendment to Sherman's amendment, before being moved again separately when Sherman's amendment was lost: 'Mr. Wilson then moved, as an amendment to Mr. Sherman's motion, 'That the same proportion be observed in the election of the second branch as the first' (Page 206, Vol. 1, Yates's Diary (Max Farrand, 1911)).]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

Mr. Wilson & Mr. Hamilton moved that the right of suffrage in the 2d. branch ought to be according to the same rule as in the 1st. branch.

(Madison's Notes (Max Farrand, 1911), Page 202, Vol. 1)

Mr. Wilson then moved, as an amendment to Mr. Sherman's motion, That the same proportion be observed in the election of the second branch as the first.

The question however was first put on Mr. Sherman's motion, and lost — 6 states against, and 5 for it.

Then Mr. Wilson's motion was put

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

That second Branch be apportioned as the first.

(Lansing's Notes (Joseph Strayer, 1939), Page 47)

[e675461] It was then moved by Mr Wilson seconded by Mr Hamilton to adopt the following resolution, namely,

“Resolved that the right of suffrage in the second branch of the national Legislature ought to be according to the rule established for the first”

On the question to agree to the same
it passed in the affirmative [Ayes—6; noes 5.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

On this question for making the ratio of representation the same in the 2d. as in the 1st. branch it passed in the affirmative: Massts. ay. Cont. no. N. Y. no. N. J. no. Pa. ay. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 5.]

(Madison’s Notes (Max Farrand, 1911), Page 202, Vol. 1)

Mr. Wilson then moved, as an amendment to Mr. Sherman’s motion, That the same proportion be observed in the election of the second branch as the first.

The question however was first put on Mr. Sherman’s motion, and lost — 6 states against, and 5 for it.

Then Mr. Wilson’s motion was put and carried — 6 ayes, 5 noes.

(Yates’s Diary (Max Farrand, 1911), Page 206, Vol. 1)

That second Branch be apportioned as the First. On Question 6 Ayes—5 Noes.

(Lansing’s Notes (Joseph Strayer, 1939), Page 47, Vol. 1)

[e675462] [Editors’ note: Though there is no evidence of a formal vote, the editors assume that the amended Second Resolution was taken into the document, as the Committee moved on to the consideration of the Eleventh Resolution.]

(2019 Editors)

[e675463] The eleventh resolve was then taken into consideration. Madison moved to add after the word ‘junctions’, the words, ‘or separation’.

[Editors’ note: While Yates records the amendment as reading ‘or separation’, both Madison and the Journal record ‘or partition’. For this reason, the editors have represented the amendment according to the majority.]

(Yates’s Diary (Max Farrand, 1911), Page 206, Vol. 1)

Resol: 11. for guarantying Republican Govt. & territory to each State being considered: the words “or partition” were, on motion of Mr. Madison added, after the words “voluntary junction”

(Madison’s Notes (Max Farrand, 1911), Page 202, Vol. 1)

To amend the 11th resolution submitted by Mr Randolph by adding the words voluntary junction or partition.

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

[e675464] Mr. Read against the resolve in toto. We must put away state governments, and we will then remove all cause of jealousy. The guarantee will confirm the assumed rights of several states to lands which do belong to the confederation.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

Mr. Read disliked the idea of guarantying territory. It abetted the idea of distinct States wch. would be a perpetual source of discord. There can be no cure for this evil but in doing away States altogether and uniting them all into one great Society.

[Editors' note: Madison records this debate as occurring after the vote has been taken.]

(Madison's Notes (Max Farrand, 1911), Page 202, Vol. 1)

[e675465] Resol: 11. for guarantying Republican Govt. & territory to each State being considered: the words "or partition" were, on motion of Mr. Madison added, after the words "voluntary junction": Mas. N. Y. P. Va. N. C. S. C. G. ay. Con: N. J. Del. Md. - - - no.

(Madison's Notes (Max Farrand, 1911), Page 202, Vol. 1)

To amend the 11th resolution submitted by Mr Randolph by adding the words voluntary junction or partition. Ayes — 7; noes — 4.

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

[e675466] To amend the ____ resolution by adding the words "national government" after the words [...]

[Editors' note: The Official Journal is the only source to note this small amendment. It is unclear where exactly the words were meant to be added.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

[e675467] To amend the resolution by adding the words "national government" after the words [Ayes — 7; noes — 4.]

[Editors' note: Again, the Journal is the only source for this vote.]

(Official Journal (Max Farrand, 1911), Page 193, Vol. 1)

[e675468] Mr. Madison moved an amendment, to add to or alter the resolution as follows: 'The republican constitutions and the existing laws of each state, to be guaranteed by the United States.'

Mr. Randolph was for the present amendment, because a republican government must be the basis of our national union; and no state in it ought to have it in their power to change its government into a monarchy.

[Editors' note: Yates seems most reliable here (Madison copied his own note on this amendment from Yates) in terms of substance and timeline, but the exact wording of the amendment is taken from the Journal, as Yates' version of the amendment is an incomplete sentence.]

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

It was moved and seconded to agree to the 11th resolution submitted by Mr Randolph — and amended to read as follows —

“Resolved that a republican constitution, and it’s existing laws ought to be guaranteed to each State by the United States.”

(Official Journal (Max Farrand, 1911), Pages 193-194, Vol. 1)

Alterations having been made in the Resolution, making it read “that a republican Constitution [sic] & its existing laws ought to be guaranteed to each State by the U. States”

(Madison’s Notes (Max Farrand, 1911), Page 202, Vol. 1)

Mr. Reed moved that ‘Government’ be obliterated and the ‘Constitution and Laws of each State’ be inserted.

Mr Madison moved that those Words be inserted after ‘Government’.

[Editors’ note: The text enclosed in quotation marks is originally italicized in Joseph Strayer’s edition of Lansing’s Notes.]

(Lansing’s Notes (Joseph Strayer, 1939), Page 47)

[e675469] It was moved and seconded to agree to the 11th resolution submitted by Mr Randolph — and amended to read as follows —

“Resolved that a republican constitution, and it’s existing laws ought to be guaranteed to each State by the United States.”

And on the question to agree to the same
it passed unanimously in the affirmative.

(Official Journal (Max Farrand, 1911), Pages 193-194, Vol. 1)

Alterations having been made in the Resolution, making it read “that a republican Constitution [sic] & its existing laws ought to be guaranteed to each State by the U. States” the whole was agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 202, Vol. 1)

Mr. Madison moved an amendment, to add to or alter the resolution as follows: The republican constitutions and the existing laws of each state, to be guaranteed by the United States.

Mr. Randolph was for the present amendment, because a republican government must be the basis of our national union; and no state in it ought to have it in their power to change its government into a monarchy. — Agreed to

(Yates’s Diary (Max Farrand, 1911), Page 206, Vol. 1)

Mr. Reed moved that ‘Government’ be obliterated and the ‘Constitution and Laws of each State’ be inserted.

Mr. Madison moved that those Words be inserted after ‘Government’.

Agreed to Mr. Madison’s M(otio)n.

(Lansing’s Notes (Joseph Strayer, 1939), Page 47)

[e675470] It was moved and seconded to agree to the 11th resolution submitted by Mr Randolph — and amended to read as follows —

“Resolved that a republican constitution, and it’s existing laws ought to be guaranteed to each State by the United States.”

And on the question to agree to the same it passed unanimously in the affirmative

(Official Journal (Max Farrand, 1911), Pages 193-194, Vol. 1)

Alterations having been made in the Resolution, making it read “that a republican Constition [sic] & its existing laws ought to be guaranteed to each State by the U. States” the whole was agreed to nem. con.

(Madison’s Notes (Max Farrand, 1911), Page 202, Vol. 1)

[e675471] Resolution 13. for amending the national Constitution hereafter without consent of Natl. Legislature being considered, several members did not see the necessity of the Resolution at all, nor the propriety of making the consent of the Natl. Legisl. unnecessary.

Col. Mason urged the necessity of such a provision. The plan now to be formed will certainly be defective, as the Confederation has been found on trial to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent on that very account. The opportunity for such an abuse, may be the fault of the Constitution calling for amendmt.

Mr. Randolph enforced these arguments.

(Madison’s Notes (Max Farrand, 1911), Pages 203-204, Vol. 1)

[e675472] [Editors’ note: The Thirteenth Resolution now came before the Committee. The resolution originally proposed by Randolph was set aside and the individual clauses considered separately. The original resolution is therefore shown as being dropped, a blank amendment proposed, and the individual clauses proposed onto to the blank amendment.]

(2019 Editors)

13th Resolve agreed to.

[Editors’ note: Joseph Strayer notes that ‘[a]ll other authorities agree that only the first clause was accepted, the second being postponed.’]

(Lansing’s Notes (Joseph Strayer, 1939), Page 47)

[e675473] [Editors’ note: At this point, the Committee began to debate, amend, and reconstruct the Thirteenth Resolution clause by clause. The editors have introduced a working version of the amendment to model this process.]

(2019 Editors)

[e675474] It was then moved and seconded to agree to the following resolution

Resolved that provision ought to be made for the amendment of the articles of union whensoever it shall seem necessary.

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

13th Resolve — the first part agreed to.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

The other provision in the clause passed *nem. con.*

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

[e675475] On the question to agree to the same
it passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

The other provision in the clause passed *nem. con.*

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

13th Resolve — the first part agreed to.

(Yates's Diary (Max Farrand, 1911), Page 206, Vol. 1)

[e675476] It was agreed to postpone the following clause in the 13th resolution
submitted by Mr Randolph namely

“and that the assent of the national legislature ought not to be required
thereto”

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

The words, “without requiring the consent of the Natl. Legislature” were
postponed.

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

[e675477] It was agreed to postpone the following clause in the 13th resolution
submitted by Mr Randolph namely

“and that the assent of the national legislature ought not to be required
thereto”

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

The words, “without requiring the consent of the Natl. Legislature” were
postponed.

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

[e675478] [Editors' note: When the first clause of the Thirteenth Resolution
was adopted, it was taken into the working document.]

(2019 Editors)

[e675479] Resolution 14. requiring oaths from the members of the State Govts. to observe the Natl. Constitution & laws, being considered.

Mr. Sharman opposed it as unnecessarily intruding into the State jurisdictions.

Mr. Randolph considered it as necessary to prevent that competition between the National Constitution & laws & those of the particular States, which had already been felt. The officers of the States are already under oath to the States. To preserve a due impartiality they ought to be equally bound to the Natl. Govt. The Natl. authority needs every support we can give it. The Executive & Judiciary of the States, notwithstanding their nominal independence on the State Legislatures are in fact, so dependent on them, that unless they be brought under some tie to the Natl. system, they will always lean too much to the State systems, whenever a contest arises between the two.

Mr. Gerry did not like the clause. He thought there was as much reason for requiring an oath of fidelity to the States, from Natl. officers, as vice. versa.

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

14th Resolve — taken into consideration.

Mr. Williamson. This resolve will be unnecessary, as the union will become the law of the land.

Governor Randolph. He supposes it to be absolutely necessary. Not a state government, but its officers will infringe on the rights of the national government. If the state judges are not sworn to the observance of the new government, will they not judicially determine in favor of their state laws? We are erecting a supreme national government; ought it not to be supported, and can we give it too many sinews?

(Yates's Diary (Max Farrand, 1911), Pages 206-207, Vol. 1)

Randolph—There is no Constitution that does not contravene Confederation—Judicial Officers sworn to observe Constitution—Wherever National and State Views are opposed those of State will be preferred.

(Lansing's Notes (Joseph Strayer, 1939), Pages 47-48)

[e675481] Mr. Luther Martin moved to strike out the words requiring such an oath from the State Officers viz “within the several States.” observing that if the new oath should be contrary to that already taken by them it would be improper; if coincident the oaths already taken will be sufficient.

[Editors' note: Jackson evidently was not sure who seconded this motion. He leaves a blank in the document where the seconder's name would be, presumably with the intention to fill it in after the fact. This blank, however, is never filled in. Madison's notes do not provide the name of the seconder either, although they do specify that it was Luther Martin, rather than Alexander Martin, who proposed the amendment.]

(Madison's Notes (Max Farrand, 1911), Page 203, Vol. 1)

It was then moved by Mr Martin seconded byto strike out the words “within the several States”

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

[e675482] It was then moved by Mr Martin seconded by _____ to strike out the words “within the several States” and on the question to strike out.

it passed in the negative [Ayes — 4; noes — 7.]

[Editors’ note: Yates’s Notes attribute this vote not to L. Martin’s motion but to a motion by Gerry to require national legislatures to swear to preserve state constitutions. In the other accounts of this debate, however, no such motion is made. Madison and Jackson note Gerry as simply debating the point, not moving any text. Additionally, Yates seems to have incorrectly recorded the votes as being 7 ayes and 4 noes, whereas Jackson and Madison note 4 ayes and 7 noes.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

On the question for striking out as proposed by Mr. L. Martin

Massts. no. Cont. ay. N. Y. no. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 7.]

(Madison’s Notes (Max Farrand, 1911), Pages 203-204, Vol. 1)

[e675483] It was then moved and seconded to agree to the 14th resolution as submitted by Mr. Randolph And on the question to agree to the same. it passed in the affirmative [Ayes — 6; noes — 5.]

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

Question on whole Resolution as proposed by Mr. Randolph;

Massts. ay. Cont. no. N. Y. no. N. J. no. Pa. ay. Del. no. Md. no. Va. ay. N. C. ay. S. C. ay. Geo. ay. Ayes — 6; noes — 5.]

(Madison’s Notes (Max Farrand, 1911), Page 204, Vol. 1)

Main question then put on the clause or resolve — 6 ayes, 5 noes. New-York in the negative.

(Yates’s Diary (Max Farrand, 1911), Page 207, Vol. 1)

[e675484] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

Come. rose & House adjd.

(Madison’s Notes (Max Farrand, 1911), Page 204, Vol. 1)

Adjourned to to-morrow morning.

(Yates’s Diary (Max Farrand, 1911), Page 207, Vol. 1)

[e675485] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 194, Vol. 1)

Come. rose & House adjd.

(Madison’s Notes (Max Farrand, 1911), Page 204, Vol. 1)

Adjourned to to-morrow morning.

(Yates’s Diary (Max Farrand, 1911), Page 207, Vol. 1)

3.12 Tuesday, 12 June 1787, at 11:00 (s6299)

[e675486] The 15th or last resolve was taken into consideration. No debate arose on it, and the question was put and carried — 5 states for it, 3 against, and 2 divided. New-York in the negative.

[Editors' note: The Journal records this vote in full in the Detail of Ayes and Noes. It shows that the Pennsylvania delegation was not quorate for this vote.]

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

[To agree to the 15 resolution submitted by Mr. Randolph
Ayes — 5; noes — 3; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

The Question taken on Resolution 15, to wit, referring the new system to the people of the States for ratification it passed in the affirmative: Massts. ay. Cont. no. N. Y. no. N. J. no. Pa. ay* Del. divd. Md. divd. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 6; noes — 3; divided — 2.]

* Pennsylvania omitted in the printed Journal. The vote is there entered as of June 11th.

(Madison's Notes (Max Farrand, 1911), Page 214, Vol. 1)

15th Resolve— Question— 5 Ayes, 3 Nos, and two divided. Connecticut, New York, and New Jersey No.

(Lansing's Notes (Joseph Strayer, 1939), Page 48)

[e675487] Having thus gone through with the resolves, it was found necessary to take up such parts of the preceding resolves as had been postponed, or not agreed to.

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

[e675488] Having thus gone through with the resolves, it was found necessary to take up such parts of the preceding resolves as had been postponed, or not agreed to.

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

[e675489] Mr. Sharman & Mr. Elseworth moved to fill the blank left in the 4th Resolution for the periods of electing the members of the first branch with the words "every year." Mr. Sharman observing that he did it in order to bring on some question.

(Madison's Notes (Max Farrand, 1911), Page 214, Vol. 1)

Mr. Sherman moved that the blank of the duration of the first branch of the national legislature, be filled with one year.

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

4th Resolve was then considered. The Words for the term of Sherman moves that Members of the first branch be elected every year.

(Lansing's Notes (Joseph Strayer, 1939), Page 48)

[e675490] Mr. Rutledge proposed "every two years."

(Madison's Notes (Max Farrand, 1911), Page 214, Vol. 1)

Mr. Sherman moved that the blank of the duration of the first branch of the national legislature, be filled with one year. Mr. Rutledge with two years, and Mr. Jenifer with three years.

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

Rutlege—Triennial Election perhaps best, but moves that the Words two Years be inserted in Blank.

(Lansing's Notes (Joseph Strayer, 1939), Page 48)

[e675491] Mr. Jennifer propd. "every three years." observing that the too great frequency of elections rendered the people indifferent to them, and made the best men unwilling to engage in so precarious a service.

Mr. M adison seconded the motion for three years. Instability is one of the great vices of our republics, to be remedied. Three years will be necessary, in a Government so extensive, for members to form any knowledge of the various interests of the States to which they do not belong, and of which they can know but little from the situation and affairs of their own. One year will be almost consumed in preparing for and traveling to & from the seat of national business

(Madison's Notes (Max Farrand, 1911), Page 214, Vol. 1)

It was moved and seconded to fill up the blank in the resolution respecting the term for which the members of the first branch of the national Legislature should be chosen with the words "three years"

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

Mr. Sherman moved that the blank of the duration of the first branch of the national legislature, be filled with one year. Mr. Rutledge with two years, and Mr. Jenifer with three years.

(Yates's Diary (Max Farrand, 1911), Page 220, Vol. 1)

Janifer—moves three Years.

(Lansing's Notes (Joseph Strayer, 1939), Page 48)

[e675492] Mr. Gerry. The people of New England will never give up the point of annual elections. they know of the transition made in England from triennial to Septennial elections, and will consider such an innovation here as the prelude to a like usurpation. He considered annual Elections as the only defence of

the people agst. tyranny. He was as much agst. a triennial House as agst. a hereditary Executive.

Mr. M adison. observed that if the opinions of the people were to be our guide, it wd. be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his Constituents were at this time; much less could he say what they would think if possessed of the information & lights possessed by the members here; & still less what would be their way of thinking 6 or 12 months hence. We ought to consider what was right & necessary in itself for the attainment of a proper Governmt. A plan adjusted to this idea will recommend itself — The respectability of this convention will give weight to their recommendation of it. Experience will be constantly urging the adoption of it. and all the most enlightened & respectable citizens will be its advocates. Should we fall short of the necessary & proper point, this influential class of citizens will be turned against the plan, and little support in opposition to them can be gained to it from the unreflecting multitude.

Mr. Gerry repeated his opinion that it was necessary to consider what the people would approve. This had been the policy of all Legislators. If the reasoning of Mr. M adison were just, and we supposed a limited Monarchy the best form in itself, we ought to recommend it, tho' the genius of the people was decidedly adverse to it, and having no hereditary distinctions among us, we were destitute [sic] of the essential materials for such an innovation.

[Editors' note: In his notes, Lansing includes a comment by Madison in response to Gerry's statement that public opinion would not allow triennial elections. This comment — that '[l]ocal Attachments and temporary Opinions ought to be laid aside' — is not paralleled in either Madison's or Yates' notes (Page 49, Lansing's Notes (Joseph Strayer, 1939)).]

(Madison's Notes (Max Farrand, 1911), Pages 214-215, Vol. 1)

Mr. Madison was for the last amendment — observing that it will give it stability, and induce gentlemen of the first weight to engage in it.

Mr. Gerry is afraid the people will be alarmed, as savoring of despotism.

Mr. Madison. The people's opinions cannot be known, as to the particular modifications which may be necessary in the new government — In general they believe there is something wrong in the present system that requires amendment; and he could wish to make the republican system the basis of the change — because if our amendments should fail of securing their happiness, they will despair it can be done in this way, and incline to monarchy.

Mr. Gerry could not be governed by the prejudices of the people — Their good sense will ever have its weight. Perhaps a limited monarchy would be the best government, if we could organize it by creating a house of peers; but that cannot be done.

(Yates's Diary (Max Farrand, 1911), Pages 220-221, Vol. 1)

Madison—Instability of popular Government his Reason for wishing three Years. Distance of Extremities of Union renders it necessary. The Lessons the Representative have to learn another Reason. Gerry—If you fix this at three Years how long must the Senate be elected for. Madison—Public Opinion fluctuating—it has no Standard—is changing Rapidly. Local Attachments and temporary Opinions ought to be laid aside.

(Lansing's Notes (Joseph Strayer, 1939), Pages 48-49)

[e675493] On the question to fill up with three years
it passed in the affirmative. [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 209, Vol. 1)

On the question for triennial election of the 1st branch
Mass. no. (Mr King ay.) Mr. Ghorum wavering. Cont. no. N. Y. ay. N. J.
ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. no. Geo. ay. [Ayes — 7;
noes — 4.]

(Madison's Notes (Max Farrand, 1911), Page 215, Vol. 1)

The question was put on the three year's amendment and carried — 7 ayes —
4 noes. New-York in the affirmative.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Question on three Years. Aff. 7 Ayes—4 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675494] [Editors' note: As Jenifer's motion for triennial elections was adopted,
Sherman's motion was likely dropped. The confused spacing seen here is a
result of the Quill platform being unable to represent the amendment due to
the number of subsequent changes after its proposal. The original text can be
found in the event which proposes the amendment.]

(2019 Editors)

[e675495] [Editors' note: As Jenifer's motion for triennial elections was adopted,
Rutledge's motion was likely dropped. The confused spacing seen here is a
result of the Quill platform being unable to represent the amendment due to
the number of subsequent changes after its proposal. The original text can be
found in the event which proposes the amendment.]

(2019 Editors)

[e675496] It was moved and seconded to strike out the following words in the
resolution namely
to be of ___ years at least.

(Official Journal (Max Farrand, 1911), Pages 209-210, Vol. 1)

The words requiring members of ye. 1st. branch to be of the age of _ years
were struck out

(Madison's Notes (Max Farrand, 1911), Page 215, Vol. 1)

On motion to expunge the clause of the qualification as to age

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Agreed to strike out Clause limiting Age—10 Ayes—1 No.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675497] It was moved and seconded to strike out the following words in the resolution namely

to be of ___ years at least.

And on the question to strike out

it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Pages 209-210, Vol. 1)

The words requiring members of ye. 1st. branch to be of the age of _ years were struck out Maryland alone, no

(Madison's Notes (Max Farrand, 1911), Page 215, Vol. 1)

On motion to expunge the clause of the qualification as to age, it was carried, 10 states against one.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Agreed to strike out Clause limiting Age—10 Ayes—1 No.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675498] The words "liberal compensation for members" being consid. Mr. Madison moves to inset the words "& fixt." He observed that it would be improper to leave the members of the Natl. legislature to be provided for by the State Legisl: because it would create an improper dependence; and to leave them to regulate their own wages, was an indecent thing, and might in time prove a dangerous one. He thought wheat or some other article of which the average price throughout a reasonable period precedn'g might be settled in some convenient mode, would form a proper standard.

Col. Mason seconded the motion; adding that it would be improper for other reasons to leave the wages to be regulated by the States. 1. the different States would make different provision for their representatives, and an inequality would be felt among them, whereas he thought they ought to be in all respects equal. 2. the parsimony of the States might reduce the provision so low that as had already happened in choosing delegates to Congress, the question would be not who were most fit to be chosen, but who were most willing to serve.

(Madison's Notes (Max Farrand, 1911), Pages 215-216, Vol. 1)

It was moved and seconded to add the words
"and fixed" after the word "liberal" in that clause of the resolution which respects the stipend of the first branch

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

Motion to insert fixed after liberal.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675499] It was moved and seconded to add the words

“and fixed” after the word “liberal” in that clause of the resolution which respects the stipend of the first branch

passed in the affirmative [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the question for inserting the words “and fixt.”

Massts. no. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 8; noes — 3.]

(Madison’s Notes (Max Farrand, 1911), Page 216, Vol. 1)

Motion to insert fixed after liberal. Affirmative 8—Negative 3.

(Lansing’s Notes (Joseph Strayer, 1939), Page 49)

[e675500] Doctr. Franklyn said he approved of the amendment just made for rendering the salaries as fixed as possible; but disliked the word “liberal”. He would prefer the word moderate if it was necessary to substitute any other. He remarked the tendency of abuses in every case, to grow of themselves when once begun. and related very pleasantly the progression in ecclesiastical benefices, from the first departure from the gratuitous provision for the Apostles, to the establishment of the papal system.

[Editors’ note: Neither the Journal nor Yates corroborates this event. Lansing, however, does include this event in his notes. He writes, ‘Franklin—moved to strike out “liberal”—carried’ (Page 49, Lansing’s Notes (Joseph Strayer, 1939)).]

(Madison’s Notes (Max Farrand, 1911), Page 216, Vol. 1)

[e675501] The word “liberal” was struck out nem. com.

(Madison’s Notes (Max Farrand, 1911), Page 216, Vol. 1)

Franklin—Moved to strike out liberal—carried.

(Lansing’s Notes (Joseph Strayer, 1939), Page 49)

[e675502] Pierce—moved to add ‘to be paid out of the national Treasury’.

[Editors’ note: That Pierce proposed this amendment is corroborated by Lansing’s and Madison’s notes, but the wording of the amendment comes from the Journal.]

(Lansing’s Notes (Joseph Strayer, 1939), Page 49)

It was then moved and seconded to add the words

“to be paid out of the public Treasury”

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the motion of Mr. Pierce, that the wages should be paid out of the National Treasury

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 1)

On the question for fixed stipends, without augmentation or diminution, to this branch of the legislature, it was moved that the words, to be paid by the national treasury, be added

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

[e675503] It was then moved and seconded to add the words
 "to be paid out of the public Treasury"
 agreed to [Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the motion of Mr. Pierce, that the wages should be paid out of the National Treasury, Massts. ay. Ct. no. N. Y. no. N. J. ay. Pa. ay. Del. ay Md. ay. Va. ay. N. C. ay. S. C. no. G. ay. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 1)

Carried, 8 states for — 3 against. New-York in the negative.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Pierce—moved to ass to be paid out of national Treasury. Affirmative 6—
 Negative 5.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675504] [Editors' note: At this point, the sources suggest that the consideration of the remaining clauses of the Fourth Resolution as a whole was abandoned in favour of voting on selected elements clause by clause.]

(2019 Editors)

[e675505] Question on the clause relating to term of service & compensation of 1st. branch

(Madison's Notes (Max Farrand, 1911), Page 216, Vol. 1)

[To agree to the clause respectg [sic] the salary of the first branch Ayes —
 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

The question was then put on the clause as amended

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Question on Paragraph to Word Service.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675506] Question on the clause relating to term of service & compensation of 1st. branch

Massts. ay. Ct. no. N. Y no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes — 8; noes — 3.]

(Madison's Notes (Max Farrand, 1911), Pages 216-217, Vol. 1)

[To agree to the clause respectg [sic] the salary of the first branch Ayes — 8; noes — 3.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

The question was then put on the clause as amended, and carried, 8 ayes — 3 noes. New-York in the negative.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Question on Paragraph to World Service. 8 Ayes—3 Noes.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675507] [Editors' note: The records indicate that the clause on ineligibility for other offices was put up for debate at this point, as the next recorded events are attempts to amend this clause.]

(2019 Editors)

[e675508] It was moved and seconded to strike out the words "by a particular State".

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the clause respecting the ineligibility to any other office, it was moved that the words, by any particular state, be expunged.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

[e675509] It was moved and seconded to strike out the words "by a particular State" passed in the negative [Ayes — 4; noes — 5; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

4 states for — 5 against, and 2 divided. New-York affirmative.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

[e675510] a question being taken on the clause which respects the ineligibility of the members of the first branch it passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the question for agreeing to the clause as amended.

Massts. ay. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 10; noes — 1.]

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

The question was then put on the whole clause, and carried 10 ayes — 1 no.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

[e675511] It was moved and seconded to amend the ____ resolution by inserting the words

“and under the national government for the space of three years after it's [sic] expiration.”

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On a question for making Members of Natl. legislature ineligible to any Office under the Natl. Govt. for the term of 3 years after ceasing to be members.

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

[e675512] It was moved and seconded to amend the ____ resolution by inserting the words “and under the national government for the space of three years after it's expiration.” passed in the negative [Ayes — 1; noes — 10.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On a question for making Members of Natl. legislature ineligible to any Office under the Natl. Govt. for the term of 3 years after ceasing to be members.

Massts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

[e675513] Gerry moved after 'Service and' to insert 'under the national Government.' Carried unanimously.

[Editors' note: Lansing's is the only account that records this motion, though as Strayer suggests, 'M. notes that an amendment was made' (Page 154, Lansing's Notes (Joseph Strayer, 1939)). That Madison notes this amendment is not immediately clear from notes, but the final version of the Committee's report contains this phrase. The exact timing of the motion is also unclear from Lansing's partial note taking. As a result it has been placed in the timeline as best fits the other events.]

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675514] Gerry moved after 'Service and' to insert 'under the national Government.' Carried unanimously.

[Editors' note: Lansing's is the only account that records this motion, though as Strayer suggests, 'M. notes that an amendment was made' (Page 154, Lansing's Notes (Joseph Strayer, 1939)). That Madison notes this amendment is not immediately clear from notes, but the final version of the Committee's report contains this phrase. The exact timing of the motion is also unclear from Lansing's partial note taking. As a result it has been placed in the timeline as best fits the other events.]

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675515] Moved and seconded to fill up the blank with
"One year"

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the question for such ineligibility for one year.

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

The last blank was filled up with one year

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

In Blank after Space of agreed to insert one Year.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675516] Moved and seconded to fill up the blank with "One year" passed in
the affirmative [Ayes — 8; noes — 2; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On the question for such ineligibility for one year.

Massts. ay. Ct. ay. N. Y. no. N. J. ay. Pa. ay. Del. ay. Md. divid. Va. ay.
N. C. ay. S. C. ay. Geo. no. [Ayes — 8; noes — 2; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

The last blank was filled up with one year, and carried — 8 ayes — 2 noes, 1
divided.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

In Blank after Space of agreed to insert one Year.

(Lansing's Notes (Joseph Strayer, 1939), Page 49)

[e675517] [Editors' note: The record shows that the Committee now took the
last clause of Randolph's Fourth Resolution into consideration.]

(2019 Editors)

[e675518] On question moved by Mr. Pinckney for striking out "incapable of
re-election into 1st. branch of Natl. Legisl. for ____ years and subject to recall"
agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

it was moved and seconded to strike out the following words namely

"to be incapable of re-election for the space of after the expiration of their
term of service and to be subject to re-call.

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

Mr. Pinkney moved to expunge the clause.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

C. Pinkney Moved to strike out to be incapable and etc. to the End of Paragraph.

(Lansing's Notes (Joseph Strayer, 1939), Pages 49-50)

[e675519] it was moved and seconded to strike out the following words namely "to be incapable of re-election for the space of ____ after the expiration of their term of service and to be subject to re-call. On the question to strike out passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On question moved by Mr. Pinckney for striking out "incapable of re-election into 1st. branch of Natl. Legisl. for years and subject to recall" agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

Mr. Pinkney moved to expunge the clause. Agreed to, nem. con.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

C. Pinkney Moved to strike out to be incapable and etc. to the End of Paragraph. Struck out unanimously.

(Lansing's Notes (Joseph Strayer, 1939), Pages 49-50)

[e675520] [Editors' note: Pinckney's motion to strike out the final clause was accepted, which the editors have portrayed by rejecting the clause.]

(2019 Editors)

[e675521] [Editors' note: Madison's record indicates that the remainder of the Fifth Resolution was now taken into consideration.]

(2019 Editors)

[e675522] It was moved and seconded to strike out the words to be of ____ years at least

(Official Journal (Max Farrand, 1911), Page 210, Vol. 1)

On question for striking out from Resol: 5 the words requiring members of the Senatorial branch to be of the age of ____ years at least

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

[e675523] It was moved and seconded to strike out the words to be of ____ years at least

passed in the negative [Ayes — 3; noes — 6; divided — 2.]

(Official Journal (Max Farrand, 1911), Pages 210-211, Vol. 1)

On question for striking out from Resol: 5 the words requiring members of the Senatorial branch to be of the age of ____ years at least

Massts. no. Cont. ay. N. Y. no. N. J. ay. Pa. .ay. Del. no. Md. no. Va. no. N. C. divd. S. C. no. Geo. divd. [Ayes — 3; noes — 6; divided — 2.]

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

[e675524] Moved to fill up the blank with
"Thirty"

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

On the question for filling the blank with 30 years as the qualification

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

The question to fill up the blank with 30 years.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Age of Members of second Branch fixed at thirty.

(Lansing's Notes (Joseph Strayer, 1939), Page 50)

[e675525] Moved to fill up the blank with
"Thirty"
passed in the affirmative [Ayes — 7; noes — 4.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

On the question for filling the blank with 30 years as the qualification; it was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 217, Vol. 1)

Agreed to — 7 states for — 4 against.

(Yates's Diary (Max Farrand, 1911), Page 221, Vol. 1)

Age of Members of second Branch fixed at thirty.

(Lansing's Notes (Joseph Strayer, 1939), Page 50)

[e675526] Mr. Spaight moved to fill the blank for the duration of the appointmts. to the 2d branch of the National Legislature with the words "7 years."

[Editors' note: Madison, Yates, and the Journal all simply state that the blank was filled up, but that does not fit with the text of the Virginia Plan as recorded by Madison and corroborated by others. In order to make sense of this discrepancy, the editors have used the wording from the final report as a guide.]

(Madison's Notes (Max Farrand, 1911), Page 218, Vol. 1)

Moved and seconded to fill up the blank after the words “sufficient to ensure their independency” with
 “seven years”

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved to fill the blank, as to the duration, with seven years.

(Yates’s Diary (Max Farrand, 1911), Page 221, Vol. 1)

7 Years moved by Governor Randolph Duration of Office of second Branch.

(Lansing’s Notes (Joseph Strayer, 1939), Page 50)

[e675527] Mr. Sherman thought 7 years too long. He grounded his opposition he said on the principle that if they did their duty well, they would be reelected. And if they acted amiss, an earlier opportunity should be allowed for getting rid of them. He preferred 5 years which wd. be between the terms of 1st branch & of the executive.

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 1)

Mr. Sherman was against the 7 years, because if they are bad men it is too long, and if good they may be again elected.

(Yates’s Diary (Max Farrand, 1911), Page 222, Vol. 1)

Sherman for 5 years.

(Lansing’s Notes (Joseph Strayer, 1939), Page 50)

[e675528] Mr. Pierce proposed 3 years. 7 years would raise an alarm. Great mischiefs had arisen in England from their septennial act which was reprobated by most of their patriotic Statesmen.

[Editors’ note: This amendment has been inserted in the same way as the previous amendment. Madison, Yates, and the Journal stated that the blank was filled up, but that does not fit with the text of the Virginia Plan as recorded by Madison and corroborated by others. In order to make sense of this discrepancy, the editors have used the wording from the final report as a guide.]

(Madison’s Notes (Max Farrand, 1911), Page 218, Vol. 1)

Mr. Pierce moved to have it for three years — instanced the danger of too long a continuance, from the evils arising in the British parliaments from their septennial duration, and the clamors against it in that country by its real friends.

(Yates’s Diary (Max Farrand, 1911), Pages 221-222, Vol. 1)

[e675529] Mr. Randolph was for the term of 7 years. The Democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this 2d. branch is to controul the democratic branch of the Natl. Legislature. If it be not a firm body, the other branch being more numerous, and coming

immediately from the people, will overwhelm it. The Senate of Maryland constituted on like principles had been scarcely able to stem the popular torrent. No mischief can be apprehended, as the concurrence of the other branch, and in some measure, of the Executive, will in all cases be necessary. A firmness & independence may be the more necessary also in this branch, as it ought to guard the Constitution agst. encroachments of the Executive who will be apt to form combinations with the demagogues of the popular branch.

Mr. Madison, considered 7 years as a term by no means too long. What we wished was to give to the Govt. that stability which was every where called for, and which the enemies of the Republican form alleged to be inconsistent with its nature. He was not afraid of giving too much stability by the term of seven years. His fear was that the popular branch would still be too great an overmatch for it. It was to be much lamented that we had so little direct experience to guide us. The Constitution of Maryland was the only one that bore any analogy to this part of the plan. In no instance had the Senate of Maryland created just suspicions of danger from it. In some instances perhaps it may have erred by yielding to the H. of Delegates. In every instance of their opposition to the measures of the H. of D. they had had with them the suffrages of the most enlightened and impartial people of the other States as well as of their own. In the States where the Senates were chosen in the same manner as the other branches, of the Legislature, and held their seats for 4 years, the institution was found to be no check whatever agst. the instabilities of the other branches. He conceived it to be of great importance that a stable & firm Govt. organized in the republican form should be held out to the people. If this be not done, and the people be left to judge of this species of Govt. by ye. operations of the defective systems under which they now live, it is much to be feared the time is not distant when, in universal disgust, they will renounce the blessing which they have purchased at so dear a rate, and be ready for any change that may be proposed to them.

(Madison's Notes (Max Farrand, 1911), Pages 218-219, Vol. 1)

Mr. Madison was for 7 years — Considers this branch as a check on the democracy — It cannot therefore be made too strong.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

Mr. Pierce against—it will give too much Alarm.

(Lansing's Notes (Joseph Strayer, 1939), Page 50)

[e675530] [Editors' note: Both Madison and the Journal show that the Committee did not vote on the proposal for three year terms in the second branch. The proposal was effectively dropped, and the seven year term proposal voted on.]

(2019 Editors)

[e675531] Moved and seconded to fill up the blank after the words "sufficient to ensure their independency" with "seven years"

passed in the affirmative. [Ayes — 8; noes — 1; divided — 2.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

On the question for “seven years”, as the term for the 2d. branch
 Massts. divided. (Mr. King. Mr. Ghorum ay — Mr. Gerry, Mr. Strong,
 no.) Cont. no. N. Y. divid. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay.
 S. C. ay. Geo. ay. [Ayes — 8; noes — 1; divided — 2.]

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 1)

For the motion, 8 ayes — 1 no — 2 states divided. New-York one of the last.

(Yates’s Diary (Max Farrand, 1911), Page 222, Vol. 1)

Question on 7 Years. 8 Ayes—1 No and 2 divided. N.B. New York divided,
 Judge Yates being in the Negative and I affirmative.

(Lansing’s Notes (Joseph Strayer, 1939), Page 50)

[e675532] It was moved by Mr Rutledge seconded by Mr Butler to strike out
 the clause which respects stipends to be allowed to the second branch

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

Mr. Butler & Mr. Rutlidge proposed that the members of the 2d. branch
 should be entitled to no salary or compensation for their services.

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 1)

Mr. Butler moved to expunge the clause of the stipends.

(Yates’s Diary (Max Farrand, 1911), Page 222, Vol. 1)

Rutlege moved seconded by Butler that the Clause resp(ectin)g Pay of second
 Branch be struck out.

(Lansing’s Notes (Joseph Strayer, 1939), Page 50)

[e675533] On the question to strike out
 passed in the negative [Ayes — 3; noes — 7; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

Mr. Butler & Mr. Rutlidge proposed that the members of the 2d. branch
 should be entitled to no salary or compensation for their services. on the ques-
 tion

Masts. divid. Cont. ay. N. Y. no. N. J. no. P. no. Del. ay. Md. no. Va. no.
 N. C. no. S. C. ay. Geo. no.* [Ayes — 3; noes — 7; divided — 1.]

(Madison’s Notes (Max Farrand, 1911), Page 219, Vol. 1)

Lost — 7 against — 3 for — 1 divided.

(Yates’s Diary (Max Farrand, 1911), Page 222, Vol. 1)

3 Ayes—7 Noes—1 divided. Connecticut, Delaware, and South Carolina Aye, Massachusetts divided.

(Lansing's Notes (Joseph Strayer, 1939), Page 50)

[e675534] It was then moved and seconded that the clause which respects the stipends to be given to the second branch be the same as that of the first

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was then moved & agreed that the clauses respecting the stipends & ineligibility of the 2d. branch be the same as, of the 1st. branch: Con: disagreeing to the ineligibility.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 1)

Agreed that the second branch of the national legislature be paid in the same way as the first branch.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[e675535] It was then moved and seconded that the clause which respects the stipends to be given to the second branch be the same as that of the first passed in the affirmative

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was then moved & agreed that the clauses respecting the stipends & ineligibility of the 2d. branch be the same as, of the 1st. branch: Con: disagreeing to the ineligibility.

(Madison's Notes (Max Farrand, 1911), Page 219, Vol. 1)

Agreed that the second branch of the national legislature be paid in the same way as the first branch.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[e675536] It was moved and seconded that the ineligibility of the second branch to office be the same as the first.

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

Upon the subject of ineligibility, it was agreed that the same rule should apply as to the first branch.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[e675537] It was moved and seconded that the ineligibility of the second branch to office be the same as the first.

passed in the affirmative [Ayes — 10; noes — 1.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

Upon the subject of ineligibility, it was agreed that the same rule should apply as to the first branch.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[*e675538*] [Editors' note: Lansing writes in his notes from this day: 'Question on the whole Clause, 10 Ayes—1 No' (Page 50, Lansing's Notes (Joseph Strayer, 1939)). This appears to be the same vote count that Madison and the Journal attribute to the Ineligibility Clause. It is likely that there was not a separate vote on the whole clause and that, with the adoption of the Ineligibility Clause, the remaining clauses as amended were taken in to the working document.]

(2019 Editors)

[*e743969*] [Editors' note: It is likely that there was not a separate vote on the whole clause and that, with the adoption of the Ineligibility Clause, the remaining clauses as amended were taken in to the working document.]

(2019 Editors)

[*e675539*] 6th resolve agreed to be postponed, sine die.

[Editors' note: Yates is the only account that mentions this decision, which presumably refers to the final clause alone.]

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[*e675540*] 6th resolve agreed to be postponed, sine die.

[Editors' note: Yates is the only account that mentions this decision, which presumably refers to the final clause alone. He does not include a vote count.]

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

[*e675541*] It was moved and seconded to alter the resolution submitted by Mr Randolph, so as to read as follows namely.

“That the jurisdiction of the supreme Tribunal shall be to hear and determine in the dernier resort all piracies, felonies &ca”

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & 2ded. to alter Resol: 9. so as to read “that the jurisdiction of the supreme tribunal shall be to hear & determine in the dernier resort, all piracies, felonies, &c”

(Madison's Notes (Max Farrand, 1911), Pages 219-220, Vol. 1)

[*e675542*] [Editors' note: Only the Journal mentions this motion and does not record a vote. There is no further record of this amendment, so the editors therefore assume that the amendment was dropped.]

(2019 Editors)

[*e675543*] It was moved and seconded to postpone the whole of the last clause generally.

[Editors' note: Madison's original notes make no mention of this proposal, which is recorded only in the Journal. There is no record of a vote, and it appears not to have passed, as debate and amendments continued.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

[e675544] [Editors' note: Madison's original notes make no mention of this proposal, which is recorded only in the Journal. There is no record of a vote, and it appears not to have passed, as debate and amendments continued. For these reasons, the editors assume that the motion was rejected.]

(2019 Editors)

[e675545] It was then moved and seconded to strike out the words "all piracies and felonies on the high seas"

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & 2ded. to strike out "all piracies & felonies on the high seas,"

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

Piracies and Felonies on the High Seas struck out— so 'Captures from Enemy'.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675546] It was then moved and seconded to strike out the words "all piracies and felonies on the high seas"

passed in the affirmative

[Editors' note: None of the sources provide a vote count.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & 2ded. to strike out "all piracies & felonies on the high seas," which was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

Piracies and Felonies on the High Seas struck out— so 'Captures from Enemy'.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675547] It was moved and seconded to strike out the words "all captures from an enemy"

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & agreed to strike out "all captures from an enemy".

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

[e675548] It was moved and seconded to strike out the words "all captures from an enemy"

passed in the affirmative

[Editors' note: None of the sources provide a vote count.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & agreed to strike out "all captures from an enemy".

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

[e675549] It was moved and seconded to strike out the words "other States" and to insert the words "two distinct States in the union"

[Editors' note: Lansing records that 'C. C. Pinkney moved to insert after Foreigners to insert or Citizens of two distinct States of the Union' (Page 51, Lansing's Notes (Joseph Strayer, 1939)). Though the wording is different, the intention and proposer is clear. The exact wording of the amendment comes from the Journal.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & agreed to strike out "other States" and insert "two distinct States of the Union"

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

C.C. Pinkney moved to insert after 'Foreigners' to insert 'or Citizens of two distinct States of the Union'.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675550] It was moved and seconded to strike out the words "other States" and to insert the words "two distinct States in the union"

passed in the affirmative

[Editors' note: None of the sources provides a vote count.]

(Official Journal (Max Farrand, 1911), Page 211, Vol. 1)

It was moved & agreed to strike out "other States" and insert "two distinct States of the Union"

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

[e733828] It was moved and seconded to postpone the consideration of the resolution which respects the Judiciary.

(Official Journal (Max Farrand, 1911), Pages 211-212, Vol. 1)

It was moved & agree to postpone the consideration of Resolution 9. relating to the Judiciary:

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

9th resolve taken into consideration, but postponed to to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

Postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e733829] It was moved and seconded to postpone the consideration of the resolution which respects the Judiciary. passed in the affirmative

[Editors' note: None of the sources provide a vote count.]

(Official Journal (Max Farrand, 1911), Pages 211-212, Vol. 1)

It was moved & agree to postpone the consideration of Resolution 9. relating to the Judiciary:

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

9th resolve taken into consideration, but postponed to to-morrow.

(Yates's Diary (Max Farrand, 1911), Page 222, Vol. 1)

Postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675552] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again

(Official Journal (Max Farrand, 1911), Page 212, Vol. 1)

The Come. then rose & the House adjourned

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

[e675553] The Committee then rose

(Official Journal (Max Farrand, 1911), Page 212, Vol. 1)

The Come. then rose & the House adjourned

(Madison's Notes (Max Farrand, 1911), Page 220, Vol. 1)

3.13 Wednesday, 13 June 1787, at 11:00 (s6300)

[e675554] Resol: 9. being resumed The latter parts of the clause relating to the jurisdiction of the Natl. tribunals, was struck out nem. con in order to leave full room for their organization.

(Madison's Notes (Max Farrand, 1911), Page 232, Vol. 1)

[e675555] It was moved by Mr Randolph seconded by Mr Madison to adopt the following resolution respecting the national Judiciary namely

“That the jurisdiction of the national Judiciary shall extend to cases which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony”

(Official Journal (Max Farrand, 1911), Pages 223-224, Vol. 1)

Mr. Randolph & Mr. Madison, then moved the following resolution respecting a National Judiciary, viz “that the jurisdiction of the national Judiciary shall extend to cases, which respect the collection of the National revenue, impeachments of any national officers, and questions which involve the national peace and harmony”

(Madison's Notes (Max Farrand, 1911), Page 232, Vol. 1)

Gov. Randolph observed the difficulty in establishing the powers of the judiciary — the object however at present is to establish this principle, to wit, the security of foreigners where treaties are in their favor, and to preserve the harmony of states and that of the citizens thereof. This being once established, it will be the business of a sub-committee to detail it; and therefore moved to obliterate such parts of the resolve so as only to establish the principle, to wit, that the jurisdiction of the national judiciary shall extend to all cases of national revenue, impeachment of national officers, and questions which involve the national peace or harmony.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

Mr. Randolph moved that the 9th Article shall extend to Collection of national Revenue Impeachment of any national Officers and Questions which involve the national Peace and Harmony.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675556] It was moved by Mr Randolph seconded by Mr Madison to adopt the following resolution respecting the national Judiciary namely

“That the jurisdiction of the national Judiciary shall extend to cases which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony”

passed in the affirmative

[Editors' note: Yates notes that Randolph's motion passed unanimously.]

(Official Journal (Max Farrand, 1911), Pages 223-224, Vol. 1)

Mr. Randolph & Mr. Madison, then moved the following resolution respecting a National Judiciary, viz “that the jurisdiction of the national Judiciary shall extend to cases, which respect the collection of the National revenue, impeachments of any national officers, and questions which involve the national peace and harmony” which was agreed to.

(Madison's Notes (Max Farrand, 1911), Page 232, Vol. 1)

Agreed to unanimously.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

Agreed to.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675557] Mr. Pinkney & Mr. Sherman moved to insert after the words “one supreme tribunal” the words “the Judges of which to be appointed by the national Legislature”

[Editors' note: The Journal account is confused here, combining this motion and the subsequent one into a single motion. Farrand suggests that Madison and Yates, together, show the Journal record to be wrong. Lansing's notes also corroborate Madison's account.]

(Madison's Notes (Max Farrand, 1911), Page 232, Vol. 1)

It was moved by Mr Pinckney seconded by Mr Sherman to insert after the words "One supreme Tribunal" "the Judges of which to be appointed by the second branch of the national Legislature.

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

Mr. Pinkney moved that the judiciary be appointed by the national legislature.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

7th Resolve—Mr. C. Pinkney moved that the Words to be chosen by the national Legislature be inserted in the Blank left for that Purpose.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675558] Mr. M adison , objected to an appt. by the whole Legislature. Many of them were incompetent Judges of the requisite qualifications. They were too much influenced by their partialities. The candidate who was present, who had displayed a talent for business in the legislative field, who had perhaps assisted ignorant members in business of their own, or of their Constituents, or used other winning means, would without any of the essential qualifications for an expositor of the laws prevail over a competitor not having these recommendations but possessed of every necessary accomplishment. He proposed that the appointment should be made by the Senate, which as a less numerous & more select body, would be more competent judges, and which was sufficiently numerous to justify such a confidence in them.

[Editors' note: The Journal account is confused here, combining this motion and the subsequent one into a single motion. Farrand suggests that Madison and Yates, together, show the Journal record to be wrong. Lansing's notes also corroborate Madison's account.]

(Madison's Notes (Max Farrand, 1911), Pages 232-233, Vol. 1)

Mr. Madison of is opinion that the second branch of the legislature ought to appoint the judiciary

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

Madison moves second Branch to appoint.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

[e675559] Mr. Sharman [sic] & Mr. Pinkney [sic] withdrew their motion, and the appt. by the Senate was agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 233, Vol. 1)

[e675560] Mr. Sharman [sic] & Mr. Pinkney [sic] withdrew their motion, and the appt. by the Senate was agd. to nem. con.

(Madison's Notes (Max Farrand, 1911), Page 233, Vol. 1)

Mr. Madison of is opinion that the second branch of the legislature ought to appoint the judiciary, which the convention agreed to.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

Question carried.

(Lansing's Notes (Joseph Strayer, 1939), Page 51)

It was moved by Mr Pinckney seconded by Mr Sherman to insert after the words "One supreme Tribunal" "the Judges of which to be appointed by the second branch of the national Legislature.

passed in the affirmative.

[Editors' note: Farrand writes that Madison and Yates, together, show the Journal record to be wrong in its statement of this motion. Lansing's notes also corroborate Madison's account.]

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

[e675561] Mr. Gerry. moved to restrain the Senatorial branch from originating money bills. The other branch was more immediately the representatives of the people, and it was a maxim that the people ought to hold the purse-strings. If the Senate should be allowed to originate such bills, they wd. repeat the experiment, till chance should furnish a sett of representatives in the other branch who will fall into their snares.

[Editors' note: The Journal notes Gerry's motion as being seconded by C. Pinckney. However, as Farrand suggests, it is unlikely that he did so if Madison's record of Pinckney's sentiments on this issue are correct. The exact text for the amendment comes from the Journal.]

(Madison's Notes (Max Farrand, 1911), Page 233, Vol. 1)

It was moved by Mr Gerry seconded by Mr Pinckney2 to add the following words to the fifth resolution adopted by the Committee namely

"excepting money bills, which shall originate in the first branch of the national Legislature"

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

Mr. Gerry moved that the first branch shall have the only right of originating bills to supply the treasury.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

6th Resolve that each Branch ought to possess Right of originating Acts. Mr. Gerry moves Exception as to the upper House excepting Bills to supply to public Treasury.

(Lansing's Notes (Joseph Strayer, 1939), Pages 51-52)

[e675562] Mr. Butler saw no reason for such a discrimination. We were always following the British Constitution when the reason of it did not apply. There was no analogy between the Ho of Lords and the body proposed to be established. If the Senate should be degraded by any such discriminations, the best men would be apt to decline serving in it in favor of the other branch. And it will lead the latter into the practice of tacking other clauses to money bills.

Mr. Madison observed that the Commentators on the Brit: Const: had not yet agreed on the reason of the restriction on the H. of L. in money bills. Certain it was there could be no similar reason in the case before us. The Senate would be the representatives of the people as well as the 1st. branch. If they sd. have any dangerous influence over it, they would easily prevail on some member of the latter to originate the bill they wished to be passed. As the Senate would be generally a more capable sett of men, it wd. be wrong to disable them from any preparation of the business, especially of that which was most important and in our republics, worse prepared than any other. The Gentleman in pursuance of his principle ought to carry the restraint to the amendment; as well as the originating of money bills. Since, an addition of a given sum wd. be equivalent to a distinct proposition of it.

Mr. King differed from Mr. Gerry, and concurred in the objections to the proposition.

Mr. Read favored the proposition, but would not extend the restraint to the case of amendments.

Mr. Pinkney thinks the question premature. If the Senate shd. be formed on the same proportional representation as it stands at present, they sd. have equal power; otherwise if a different principle sd. be introduced.

Mr. Sherman. As both branches must concur, there can be no danger whichever way the Senate be formed. We establish two branches in order to get more wisdom, which is particularly needed in the finance business — The Senate bear their share of the taxes, and are also the representatives of the people. What a man does by another, he does by himself is a maxim. In Cont. both branches can originate in all cases, and it has been found safe & convenient. Whatever might have been the reason of the rule as to The H. of Lords, it is clear that no good arises from it now even there.

Genl. Pinkney [sic]. This distinction prevails in S. C. & has been a source of pernicious disputes between ye. 2 branches. The constitution is now evaded, by informal schedules of amendments handed from ye. Senate to the other House.

Mr. Williamson wishes for a question chiefly to prevent re-discussion. The restriction will have one advantage, it will oblige some member in lower branch to move, & people can then mark him

(Madison's Notes (Max Farrand, 1911), Pages 233-234, Vol. 1)

Mr. Butler against the motion. We are constantly running away with the idea of the excellence of the British parliament, and with or without reason copying from them; when in fact there is no similitude in our situations. With us both houses are appointed by the people, and both ought to be equally trusted.

Mr. Gerry. If we dislike the British government for the oppressive measures by them carried on against us, yet he hoped we would not be so far prejudiced as to make ours in every thing opposite to theirs.

(Yates's Diary (Max Farrand, 1911), Page 238, Vol. 1)

[e675564] It was moved by Mr Gerry seconded by Mr Pinckney to add the following words to the fifth resolution adopted by the Committee namely

“excepting money bills, which shall originate in the first branch of the national Legislature” passed in the negative [Ayes — 3; noes — 8.]

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

On the question for excepting money bills as propd. by Mr. Gerry. Mas. no. Cont. no. N. Y. ay. N. J. no. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 7.]

(Madison's Notes (Max Farrand, 1911), Page 234, Vol. 1)

8 Noes—3 Ayes.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e675565] [Editors' note: It seems possible that a neat copy was written up after the decision to report progress to the Convention. The precise ordering—and indeed division—of motions in this copy is markedly different from the resolutions as composed in the Virginia Plan. This may be as a result of rationalizing the text in light of the decisions made, but may also reflect the state of the papers from which it was copied.

Farrand writes that he included the version of the document found 'among the papers of the Convention turned over to the Secretary of State by President Washington in 1796.' The other copy of the amended plan among the official documents does not include those amendments made on 13 June 1787. A third version can be found among Madison's notes, which Farrand states differs very slightly, 'except in Resolution 19 where Madison omits the words "of representatives" after "Assemblies."' (Page 235, Vol. 1, Madison's Notes (Max Farrand, 1911)).

The text shown here is therefore taken from Washington's copy. The original can be found at <https://catalog.archives.gov/id/5730363>.]

(Official Journal (Max Farrand, 1911), Pages 228-232, Vol. 1)

Report of the Committee of Whole on Mr. Randolphs propositions

1. Resd. that it is the opinion of this Committee that a National Government. ought to be established, consisting of a supreme Legislative, Executive & Judiciary.

2. Resold. that the National Legislature ought to consist of two branches.

3. Resd. that the members of the first branch of the National Legislature ought to be elected by the people of the several States for the term of three years, to receive fixed Stipends by which they may be compensated for the devotion of their time to public service, to be paid out of the National Treasury: to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the first branch), during the term of service, and under the national Government for the space of one year after its expiration.

4. Resd. that the members of the second branch of the Natl. Legislature ought to be chosen by the individual Legislatures, to be of the age of 30 years at least, to hold their offices for a term sufficient to ensure their independency, namely, seven years, to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury; to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the second branch) during the term of service, and under the Natl. Govt. for the space of one year after its expiration.

5. Resd. that each branch ought to possess the right of originating Acts

6. Resd. that the Natl. Legislature ought to be empowered to enjoy the Legislative rights vested in Congs. by the Confederation, and moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union, or any treaties subsisting under the authority of the Union.

7. Resd. that the rights of suffrage in the 1st. branch of the National Legislature, ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation, namely, in proportion to the whole number of white & other free citizens & inhabitants, of every age sex and condition, including those bound to servitude for a term of years, & three fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each State:

8. Resolved that the right of suffrage in the 2d. branch of the National Legislature ought to be according to the rule established for the first.

9. Resolved that a National Executive be instituted to consist of a single person, to be chosen by the Natl. Legislature for the term of seven years, with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for — to be ineligible a second time, & to be removeable on impeachment and conviction of malpractices or neglect of duty — to receive a fixed stipend by which he may be compensated for the devotion of his time to public service to be paid out of the national Treasury.

10. Resold. that the natl. Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature

11. Resold. that a Natl. Judiciary be established, to consist of one supreme tribunal, the Judges of which to be appointed by the 2d. branch of the Natl. Legislature, to hold their offices during good behaviour, & to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. Resold. that the Natl. Legislature be empowered to appoint inferior Tribunals.

13. Resd. that the jurisdiction of the Natl. Judiciary shall extend to all cases which respect the collection of the Natl. revenue, impeachments of any Natl. Officers, and questions which involve the national peace & harmony.

14. Resd. that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory or otherwise, with the consent of a number

of voices in the Natl. Legislature less than the whole.

15. Resd. that provision ought to be made for the continuance of Congress and their authorities and privileges untill a given day after the reform of the articles of Union shall be adopted and for the completion of all their engagements.

16. Resd. that a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States.

17. Resd. that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary.

18. Resd. that the Legislative, Executive, & Judiciary powers within the several States ought to be bound by oath to support the articles of Union

19. Resd. that the amendments which shall be offered to the confederation by the convention ought at a proper time or times after the approbation of Congs. to be submitted to an Assembly or Assemblies recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon.

(Madison's Notes (Max Farrand, 1911), Pages 235-237, Vol. 1)

[e675566] The committee having now gone through the whole of the propositions from Virginia — Resolved, That the committee do report to the convention their proceedings — This was accordingly done. (See a copy of it hereunto annexed.)

The house resolved on the report being read, that the consideration thereof be postponed to to-morrow, and that members have leave to take copies thereof.

(Yates's Diary (Max Farrand, 1911), Page 239, Vol. 1)

It was then moved and seconded that the Committee do rise and report their proceedings to the House.

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

Committee reported. Copies of Report ordered—Consideration postponed.

(Lansing's Notes (Joseph Strayer, 1939), Page 52)

[e675567] It was then moved and seconded that the Committee do rise and report their proceedings to the House.

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

[e675568] The Committee then rose

(Official Journal (Max Farrand, 1911), Page 224, Vol. 1)

3.14 Saturday, 16 June 1787, at 11:00 (s6301)

[e675569] [Editors' note: While the Journal notes Patterson's plan alone as coming under consideration in this session, Madison suggests that the Committee took the opportunity to compare the New Jersey and Virginia Plans. He heads the relevant section of his notes, 'In Committee of the whole on Resolutions proposd. by Mr. P. & Mr. R', and notes that Lansing asked for the first resolution from each plan to be read out (Page 249, Vol. 1, Madison's Notes (Max Farrand, 1911)).]

(2019 Editors)

[e675570] [Editors' note: The Virginia Plan is referred to the Convention but was referred back to the Committee of the Whole in order to debate it alongside the New Jersey Plan.

While the Journal notes Patterson's plan alone as coming under consideration in this session, Madison suggests that the Committee took the opportunity to compare the New Jersey and Virginia Plans. He heads the relevant section of his notes, 'In Committee of the whole on Resolutions proposd. by Mr. P. & Mr. R', and notes that Lansing asked for the first resolution from each plan to be read out (Page 249, Vol. 1, Madison's Notes (Max Farrand, 1911)).]

(2019 Editors)

[e675572] [Editors' note: The Committee does not give the New Jersey Plan the same meticulous attention the Virginia Plan received, but for the purpose of reconstructing the debate surrounding the New Jersey Plan, the editors have used a working-document version to record any proposed changes or additions to the original.]

(2019 Editors)

[e675573] Mr. Lansing called for the reading of the 1st. resolution of each plan, which he considered as involving principles directly in contrast

[Editors' note: Madison and Yates show that the First Resolution came under consideration.]

(Madison's Notes (Max Farrand, 1911), Page 249, Vol. 1)

Mr. Lansing moved to have the first article of the last plan of government read;

(Yates's Diary (Max Farrand, 1911), Page 257, Vol. 1)

[e733939] Mr. Lansing called for the reading of the 1st. resolution of each plan, which he considered as involving principles directly in contrast; that of Mr. Patterson says he sustains the sovereignty of the respective States, that of Mr. Randolph distroys it: the latter requires a negative on all the laws of the particular States; the former, only certain general powers for the general good. The plan of Mr. R. in short absorbs all power except what may be exercised in the little local matters of the States which are not objects worthy of the supreme cognizance. He grounded his preference of Mr. P's plan, chiefly on

two objections agst that of Mr. R. 1. want of power in the Convention to discuss & propose it. 2 the improbability of its being adopted. 1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. The Act of Congress The tenor of the Acts of the States, the commissions produced by the several deputations all proved this. and this limitation of the power to an amendment of the Confederacy, marked the opinion of the States, that it was unnecessary & improper to go farther. He was sure that this was the case with his State. N. York would never have concurred in sending deputies to the convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government. 2. was it probable that the States would adopt & ratify a scheme, which they had never authorized us to propose? and which so far exceeded what they regarded as sufficient? We see by their several acts particularly in relation to the plan of revenue proposed by Congs. in 1783 not authorized by the articles of Confederation, what were the ideas they then entertained. Can so great a change be supposed to have already taken place. To rely on any change which is hereafter to take place in the sentiments of the people would be trusting to too great an uncertainty. We know only what their present sentiments are, and it is in vain to propose what will not accord with these. The States will never feel a sufficient confidence in a general Government to give it a negative on their laws. The Scheme is itself totally novel. There is no parallel to it to be found. The authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

Mr. Patterson. said as he had on a former occasion given his sentiments on the plan proposed by Mr. R. he would now avoiding repetition as much as possible give his reasons in favor of that proposed by himself. He preferred it because it accorded 1. with the powers of the Convention. 2 with the sentiments of the people. If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them of ourselves. I came here not to speak my own sentiments, but the sentiments of those who sent me. Our object is not such a Governmt. as may be best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no Confederacy at present exists, it can not be denied that all the States stand on the footing of equal sovereignty. All therefore must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the fact that a federal compact actually exists, and consult the articles of it we still find an equal Sovereignty to be the basis of it. He reads the 5th. art: of Confederation giving each State a vote — & the 13th. declaring that no alteration shall be made without unanimous consent. This is the nature of all treaties. What is unanimously done, must be unanimously undone. It was observed (by Mr. Wilson) that the larger State gave up the point, not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that reason at liberty to take it back. Can the donor resume his gift Without the consent of the donee. This doctrine may be convenient, but it is a doctrine that will sacrifice the lesser States. The large States acceded readily to the confederacy. It was the small ones that came in reluctantly and slowly. N. Jersey & Maryland were the two last, the former objecting to the want of power in Congress over trade: both of them to the want of power to appropriate the

vacant territory to the benefit of the whole. If the sovereignty of the States is to be maintained, the Representatives must be drawn immediately from the States, not from the people: and we have no power to vary the idea of equal sovereignty. The only expedient that will cure the difficulty, is that of throwing the States into Hotchpot. To say that this is impracticable, will not make it so. Let it be tried, and we shall see whether the Citizens of Massts. Pena. & Va. accede to it. It will be objected that Coercion will be impracticable. But will it be more so in one plan than the other? Its efficacy will depend on the quantum of power collected, not on its being drawn from the States, or from the individuals; and according to his plan it may be exerted on individuals as well as according that of Mr. R. a distinct executive & Judiciary also were equally provided by this plan. It is urged that two branches in the Legislature are necessary. Why? for the purpose of a check. But the reason of the precaution is not applicable to this case. Within a particular State, when party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of the different States are checks on each other. Do the people at large complain of Congs.? No: what they wish is that Congs. may have more power. If the power now proposed be not eno'. the people hereafter will make additions to it. With proper powers Congs. will act with more energy & wisdom than the proposed Natl. Legislature; being fewer in number, and more secreted & refined by the mode of election. The plan of Mr. R. will also be enormously expensive. Allowing Georgia & Del. two representatives each in the popular branch the aggregate number of that branch will be 180. Add to it half as many for the other branch and you have 270. members coming once at least a year from the most distant parts as well as the most central parts of the republic. In the present deranged State of our finances can so expensive a system be seriously thought of? By enlarging the powers of Congs. the greatest part of this expense will be saved, and all purposes will be answered. At least a trial ought to be made.

Mr. Wilson entered into a contrast of the principal points of the two plans so far he said as there had been time to examine the one last proposed. These points were 1. in the Virga. plan there are 2 & in some degree 3 branches in the Legislature ÷ in the plan from N. J. there is to be a single legislature only — 2. Representation of the people at large is the basis of the one ÷ the State Legislatures the pillars of the other — 3. proportional representation prevails in one ÷ equality of suffrage in the other — 4. a single Executive Magistrate is at the head of the one: — a plurality is held out in the other. — 5. in the one the majority of the people of the U. S. must prevail: — in the other a minority may prevail. 6. the Natl. Legislature is to make laws in all cases to which the separate States are incompetent & —: — in place of this Congs. are to have additional power in a few cases only — 7. a negative on the laws of the States: — in place of this coercion to be substituted — 8. The Executive to be removeable on impeachment & conviction; — in one plan: in the other to be removeable at the instance of majority of the Executives of the States — 9. Revision of the laws provided for in one: — no such check in the other — 10. inferior national tribunals in one: — none such in the other — 11 In ye. one jurisdiction of Natl. tribunals to extend &c —; an appellate jurisdiction only allowed in the other . 12. Here the jurisdiction is to extend to all cases affecting the Natl. peace & harmony: — there a few cases only are marked out. 13. finally ye ratification is in this to be by the people themselves — in

that by the legislative authorities according to the 13 art: of Confederation.

With regard to the power of the Convention, he conceived himself authorized to conclude nothing, but to be at liberty to propose any thing. In this particular he felt himself perfectly indifferent to the two plans.

With regard to the sentiments of the people, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved, were commonly mistaken for the general voice. He could not persuade himself that the State Govts. & sovereignties were so much the idols of the people, nor a Natl. Govt. so obnoxious to them, as some supposed. Why sd. a Natl. Govt. be unpopular? Has it less dignity? will each Citizen enjoy under it less liberty or protection? Will a Citizen of Delaware be degraded by becoming a Citizen of the United States? Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their Govt.? No. Sir, It is from the Natl. Councils that relief is expected. For these reasons he did not fear, that the people would not follow us into a national Govt. and it will be a further recommendation of Mr. R.'s plan that it is to be submitted to them and not to the Legislatures, for ratification.

proceeding now to the 1st. point on which he had contrasted the two plans, he observed that anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance indeed that he could ever consent to give powers to Congs. he had two reasons either of wch. was sufficient. 1. Congs. as a Legislative body does not stand on the people. 2. it is a single body. 1. He would not repeat the remarks he had formerly made on the principles of Representation. he would only say that an inequality in it, has ever been a poison contaminating every branch of Govt. In G. Britain where this poison has had a full operation, the security of private rights is owing entirely to the purity of her tribunals of Justice, the Judges of which are neither appointed nor paid by a venal Parliament. The political liberty of that Nation, owing to the inequality of representation is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that country & ours at present. But it is a lesson we ought not to disregard, that the smallest bodies in G. B. are notoriously the most corrupt. Every other source of influence must also be stronger in small than large bodies of men. When Lord Chesterfield had told us that one of the Dutch provinces had been seduced into the views of France, he need not have added, that it was not Holland, but one of the smallest of them. There are facts among ourselves which are known to all. Passing over others, he will only remark that the Impost, so anxiously wished for by the public was defeated not by any of the larger States in the Union. 2. Congress is a single Legislature. Despotism comes on mankind in different shapes. sometimes in an Executive, sometimes in a military, one. Is there no danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single house there is no check, but the inadequate one, of the virtue & good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan reported by the Committee of the Whole. It vested the Executive powers in a single Magistrate. The plan of N. Jersey, vested them in a plurality. In order to controul the Legislative authority, you must divide it. In order to controul the Executive you must unite it. One man will be more responsible than three.

Three will contend among themselves till one becomes the master of his colleagues. In the triumvirates of Rome first Caesar, then Augustus, are witnesses of this truth. The Kings of Sparta, & the Consuls of Rome prove also the factious consequences of dividing the Executive Magistracy. Having already taken up so much time he wd. not he sd. proceed to any of the other points. Those on which he had dwelt, are sufficient of themselves: and on a decision of them, the fate of the others will depend.

Mr. Pinkney, the whole comes to this, as he conceived. Give N. Jersey an equal vote, and she will dismiss her scruples, and concur in the Natil. system. He thought the Convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this Convention.

[Editors' note: While this debate essentially involved the comparison of the two plans, it has been represented here as a debate on the New Jersey Plan. Additionally, Lansing adds to Pinckney's comments, saying, 'Grecian Confederation - Lycia League - 23 - Some had 1 others 2 and the largest 3 Votes' (Page 57, Lansing's Notes (Joseph Strayer, 1939)).]

(Madison's Notes (Max Farrand, 1911), Pages 249-255, Vol. 1)

Mr. Lansing moved to have the first article of the last plan of government read; which being done, he observed, that this system is fairly contrasted with the one ready to be reported — the one federal, and the other national. In the first, the powers are exercised as flowing from the respective state governments — The second, deriving its authority from the people of the respective states — which latter must ultimately destroy or annihilate the state governments. To determine the powers on these grand objects with which we are invested, let us recur to the credentials of the respective states, and see what the views were of those who sent us. The language is there expressive — it is, upon the revision of the present confederation, to alter and amend such parts as may appear defective, so as to give additional strength to the union. And he would venture to assert, that had the legislature of the state of New-York, apprehended that their powers would have been construed to extend to the formation of a national government, to the extinguishment of their independency, no delegates would have here appeared on the part of that state. This sentiment must have had its weight on a former occasion, even in this house; for when the second resolution of Virginia, which declared, in substance, that a federal government could not be amended for the good of the whole, the remark of an honorable member of South-Carolina, that by determining this question in the affirmative their deliberative powers were at an end, induced this house to wave the resolution. It is in vain to adopt a mode of government, which we have reason to believe the people gave us no power to recommend — as they will consider themselves on this ground authorized to reject it. See the danger of exceeding your powers by the example which the requisition of congress of 1783 afforded. They required an impost on all imported articles; to which, on federal grounds, they had no right unless voluntarily granted. What was the consequence? Some, who had least to give, granted it; and others, under various restrictions and modifications, so that it could not be systematized. If we form a government, let us do it on principles which are likely to meet the approbation of the states. Great changes can only be gradually introduced. The states will never sacrifice their essential rights to a national government. New plans, annihilating the rights of the states (unless upon evident necessity) can never be approved. I may venture to assert, that

the prevalent opinion of America is, that granting additional powers to congress would answer their views; and every power recommended for their approbation exceeding this idea, will be fruitless.

Mr. Patterson. — As I had the honor of proposing a new system of government for the union, it will be expected that I should explain its principles.

1st. The plan accords with our own powers.

2d. It accords with the sentiments of the people.

But if the subsisting confederation is so radically defective as not to admit of amendment, let us say so and report its insufficiency, and wait for enlarged powers. We must, in the present case, pursue our powers, if we expect the approbation of the people. I am not here to pursue my own sentiments of government, but of those who have sent me; and I believe that a little practical virtue is to be preferred to the finest theoretical principles, which cannot be carried into effect. Can we, as representatives of independent states, annihilate the essential powers of independency? Are not the votes of this convention taken on every question under the idea of independency? Let us turn to the 5th article of confederation — in this it is mutually agreed, that each state should have one vote — It is a fundamental principle arising from confederated governments. The 13th article provides for amendments; but they must be agreed to by every state — the dissent of one renders every proposal null. The confederation is in the nature of a compact; and can any state, unless by the consent of the whole, either in politics or law, withdraw their powers? Let it be said by Pennsylvania, and the other large states, that they, for the sake of peace, assented to the confederation; can she now resume her original right without the consent of the donee?

And although it is now asserted that the larger states reluctantly agreed to that part of the confederation which secures an equal suffrage to each, yet let it be remembered, that the smaller states were the last who approved the confederation.

On this ground, representation must be drawn from the states to maintain their independency, and not from the people composing those states.

The doctrine advanced by a learned gentleman from Pennsylvania, that all power is derived from the people, and that in proportion to their numbers they ought to participate equally in the benefits and rights of government, is right in principle, but unfortunately for him, wrong in the application to the question now in debate.

When independent societies confederate for mutual defence, they do so in their collective capacity; and then each state for those purposes must be considered as one of the contracting parties. Destroy this balance of equality, and you endanger the rights of the lesser societies by the danger of usurpation in the greater.

Let us test the government intended to be made by the Virginia plan on these principles. The representatives in the national legislature are to be in proportion to the number of inhabitants in each state. So far it is right upon the principles of equality, when state distinctions are done away; but those to certain purposes still exist. Will the government of Pennsylvania admit a participation of their common stock of land to the citizens of New-Jersey? I fancy not. It therefore follows, that a national government, upon the present plan, is unjust, and destructive of the common principles of reciprocity. Much has been said that this government is to operate on persons, not on states.

This, upon examination, will be found equally fallacious; for the fact is, it will, in the quotas of revenue, be proportioned among the states, as states; and in this business Georgia will have 1 vote, and Virginia 16. The truth is both plans may be considered to compel individuals to a compliance with their requisitions, although the requisition is made on the states.

Much has been said in commendation of two branches in a legislature, and of the advantages resulting from their being checks to each other. This may be true when applied to state governments, but will not equally apply to a national legislature, whose legislative objects are few and simple.

Whatever may be said of congress, or their conduct on particular occasions, the people in general, are pleased with such a body, and in general wish an increase of their powers, for the good government of the union. Let us now see the plan of the national government on the score of expense. The least the second branch of the legislature can consist of is 90 members — The first branch of at least 270. How are they to be paid in our present impoverished situation? Let us therefore fairly try whether the confederation cannot be mended, and if it can, we shall do our duty, and I believe the people will be satisfied.

Mr. Wilson first stated the difference between the two plans.

Virginia plan proposes two branches in the legislature.

Jersey a single legislative body.

Virginia, the legislative powers derived from the people.

Jersey, from the states.

Virginia, a single executive.

Jersey, more than one.

Virginia, a majority of the legislature can act.

Jersey, a small minority can control.

Virginia, the legislature can legislate on all national concerns.

Jersey, only on limited objects.

Virginia, legislature to negative all state laws.

Jersey, giving power to the executive to compel obedience by force.

Virginia, to remove the executive by impeachment.

Jersey, on application of a majority of the states.

Virginia, for the establishment of inferior judiciary tribunals.

Jersey, no provision.

It is said and insisted on, that the Jersey plan accords with our powers. As for himself he considers his powers to extend to every thing or nothing; and therefore that he has a right and is at liberty to agree to either plan or none. The people expect relief from their present embarrassed situation, and look up for it to this national convention; and it follows that they expect a national government, and therefore the plan from Virginia has the preference to the other. I would (says he) with a reluctant hand add any powers to congress, because they are not a body chosen by the people, and consist only of one branch, and each state in it has one vote. Inequality in representation poisons every government. The English courts are hitherto pure, just and incorrupt, while their legislature are base and venal. The one arises from unjust representation, the other from their independency of the legislature. Lord Chesterfield remarks, that one of the States of the United Netherlands withheld its assent to a proposition until a major of their state was provided for. He needed not to have added (for the conclusion was self evident) that it was one of the lesser states. I mean no reflection, but I leave it to gentlemen to consider whether this has not also been

the case in congress? The argument in favor of the Jersey plan goes too far, as it cannot be completed, unless Rhode-Island assents. A single legislature is very dangerous. — Despotism may present itself in various shapes. May there not be legislative despotism if in the exercise of their power they are unchecked or unrestrained by another branch? On the contrary an executive to be restrained must be an individual. The first triumvirate of Rome combined, without law, was fatal to its liberties; and the second, by the usurpation of Augustus, ended in despotism. — The two kings of Sparta and the consuls of Rome, by sharing the executive, distracted their governments.

Mr. C. C. Pinkney supposes that if New-Jersey was indulged with one vote out of 13, she would have no objection to a national government. He supposes that the convention have already determined, virtually, that the federal government cannot be made efficient. A national government being therefore the object, this plan must be pursued — as our business is not to conclude but to recommend.

(Yates's Diary (Max Farrand, 1911), Pages 257-262, Vol. 1)

Lansing

Natl.

One Br. to come from the people in propn. to yr. numbers

All acts of ind. States subject to a national Negative

Will absorb the State sovereignties & leave them mere Corporations, & Electors of the natl. Senate —

Fedl.

To come from the State Legislatures equally & to represent the States

To possess enumerated powers

Remarks — The confedn. admits the sovereignties of the States — it speaks of an Union — but it never meant a consolidation — If this had been in view NYk never wd. have sent Delegates — we must attend to the Disposition of the People — They never will agree to a consolidation — the System of Imp: proved the Jealousies of the States — they introduced provisos &c &c — If the people are unfavorable at will it be prudent to form a plan for Futurity — I think not — Experience dont warnt. our forming a Natl. Govt. — Where we have no experience there can be no reliance on Reason

[Editors' note: King's notes on this day's proceedings are unclear in their arrangement. The interpretation of the layout created by Farrand has been followed as closely as possible.]

(King's Diary (Max Farrand, 1911), Pages 263-264, Vol. 1)

The plan from Jersey —

1. accd. wt. our powers —

2 in accord with the Sentiments of the People

If we are of opinion that the confedn. is incapable of amendment, let us tell them so & obtain larger powers —

I dont expect to deliver my own Sentiments — I aim at a delivery of the Opinions of my Constituents

I am willing to take it on the Plan of no confed — we are then all Equal — The confedn. was formed unanimously — it can be altered or dissolved only by unanimous Consent —

Federal or national — It is sd. that to be national the Representation shd. be from & proportionable to, the people and operate on the people — the first part is unnecessary — if so a federal Govt. may operate on the people individually — It is proposed to have two Brs. because one will check the other — this is unnecessary because the Delegates in Cong. are a Check to each other — two Br. will be expensive and the plan will be burdensome in the extreme — they will be less sagacious and able than Congress — because the latter will be few & the former numerous —

Wilson — contrasts the two —

Nat. Fed.

1

Nat. Legis. of 2 Brs.

Fed. A Congress or one Br.

2

Nat. The People are the basis of Rep —

Fed. The Legislatures of the State

3

Nat. A repn. according to Numbers or Wealth

Fed. The States are equal

4

Nat. A single person as Ex.

Fed. More than one person

5

Nat. A majority of the People are to govern

Fed. A minority

6

Nat. The Nal. Legis. to legislate in national Cases

Fed. enumerated and partial Instances

7

Nat. Nat. Leg. to negative State laws

Fed. The Right to call out the force of the Union

8

Nat. Ex. removeable for Misbehavior by impeach of ye. Legis —

Fed. Major. Executives of the States

to possess a qualified Neg.

infr. Tribunls.

None but the States Courts to have cognizance in cases of Revenue

Relative to the powers of this convention — We have powers to conclude nothing — we have power to propose anything — we expect the Approbation of Cong. we hope for that of the Legis. of the several States perhaps it will not be inconsistent wth Revolution principles, to promise ourselves the Assent of the People provided a more regular establishment cannot be obtained &c &c

As to the Sentiments of the People

I don't think that State Governments and State Sovereignties is so much the Idol of the People, or that they are averse to receive a national Government — the latter is as precious as the former — a Citizen of N. Jersey will not conceive himself complimented by that epithet, and degraded by being called a citizen of the US — the people expect Relief from national & not from State measures — They therefore expect it from a national & not from State Governments —

It is said we may enlarge the powers of Congress — there are two Objections agt. this proposal

1st Congress as a legislative body dont stand on the principles of a Free Govt. the authority of the people

2d. They are a legislature of a single Br. when they ought to be devided —

1st Where the principle of unequal Represtn. prevails there exists a poison wh. eventually will destroy it the Government — A measure has been prevented in the S Genl. until a particular person was made a majr. this was one of the small Gratifications of a small Province —

2d. The single Br — we dread a military despot — is there no danger of a Legislative Despotism there is it must therefore be limited — It cannot be limited or restrained when single — The restraint must be in its own formation, namely a Division — Although it is true that to restrain the powers of a Legislature you must divide them and make them independent; the contrary is true in the Executive — if divided the responsibility of the Executive is destroyed; they will contend wh. each other or combine for wicked purposes — this was the case of the first triumvirs of Rome, and afterwards with the Congress.

[Editors' note: Patterson's table representing Wilson's comparison of a national or federal government has been approximated in order to be legible in a plain text format. The headings of National (Nat.) and Federal (Fed.) have been repeated throughout the table to improve clarity.]

(Paterson's Notes (Max Farrand, 1911), Pages 264-267, Vol. 1)

Mr. Lansing — N S — proposes to draw representation from the whole body of people, without regard to S Sovereignties —

Subs: proposes to preserve the state Sovereignties

— Powers — { — Different Legislatures had a different object —

{ — Revise the Confederation —

{ Ind. States cannot be supposed to be willing to annihilate the States —

{ State of New York would not have agreed to send members on this ground

— In vain to devise systems however good which will not be adopted —

If convulsions happen nothing we can do will give them a direction —

Legislatures cannot be expected to make such a sacrifice —

The wisest men in forming a system from theory apt to be mistaken —

The present national government has no precedent or experience to support it —

General opinion that certain additional powers ought to be given to Congress

Mr. Patterson — 1 — plan accords with powers

2 — accords with sentiment of the People —

If Confederation radically defective we ought to return to our states and tell them so —

Comes not here to sport sentiments of his own but to speak the sense of his Constitu[en]ts —

— States treat as equal —

— Present Compact gives one Vote to each state.

alterations are to be made by Congress and all the Legislatures —

All parties to a Contract must assent to its dissolution —

— States collectively have advantages in which the smaller states do not participate — therefore individual rules do not apply.

— Force of government will not depend on proportion of representation — but on Quantity of power —

— Check not necessary in a ge[ne]ral government of communities — but in an individual state spirit of faction is to be checked —

— How have Congress hitherto conducted themselves?

The People approve of Congress but think they have not powers enough —

— body constituted like Congress from the fewness of their numbers more wisdom and energy — than the complicated system of Virginia

— Expence enormous —

180 — commons

90 — senators

270 —

Wilson — Points of Disagreement —

V — 1 2 or three branches . . . N J { one branch —

2 Derives authority from People { from states —

3 Proportion of suffrage { Equality —

4 Single Executive { Plural —

5 — Majority to govern { Minority to govern —

6 — Legislate in all matters of general Concern { partial objects —

7 Negative { None —

8 Removeable by impeachment { on application of majority of Executives

9 — Qualified Negative by Executive None

10 — Inf. tribunals None —

11 — Orig: Jurisdiction in all cases of Nat: Rev. None —

12. National Government to be ratified by People to be ratified by Legislatures —

— Empowered to propose every thing to conclude nothing —

— Does not think state governments the idols of the people —

Thinks a competent national government will be a favourite of the people

—
Complaints from every part of United States that the purposes of government cannot be answered

— In constituting a government — not merely necessary to give proper powers — but to give them to proper powers — but to give them to proper hands —

Two reasons against giving additional powers to Congress —

— First it does not stand on the authority of the people —

Second — It is a single branch —

Inequality — the poison of all governments —

— Lord Chesterfield speaks of a Commission to be obtained for a member of a small province.

Pinkney —

(Hamilton's Notes (Max Farrand, 1911), Pages 267-269, Vol. 1)

Lansing—Contrasts the Principles of the two Systems —

The national Plan proposes to draw Representn. from the People.

The federal Plan proposes to draw Representn. from the States.

The first will absorb the State-Governmts.

1. The Powers of the Convention.

2. The Probability as to the Adoption of either System —

Publick Acts — particularly the Act respecting the Impost.

Reasoning upon Systems unsupported by Experience generally erroneous — Paterson.

Wilson — The Plans do not agree in the following Instances.

1. The Govt. consists of 2 Branches.

to connect them together as States. 2. The original Authority of the People at Large is brought forward.

3. Representation to be according to the Number and Importance of the Citizens.

4. A single Executive.

5. A Majority of the United States are to control.

6. The national Leg. can operate in all Cases in which the State Leg. cannot.

7. The national Leg. will have a Right to negative all State-Acts contravening Treaties, etc.

8. Ex. Mag. removable on Conviction.

9. The Ex. to have a qualified Negative over Acts of the Legr. —

10. Provision is made for superior Tribunals —

11. The Jurisdn. of the national Legr. is to extend to all Cases of a national Nature.

12. National Peace, all Questions comprehending it, will be the Object of the national Judiciary —

13. Delegates to come from the People.

The relative Merit of the two Plans.

1. Upon Principles 2. Upon Experience. 3. The joint Result of both. He can conclude finally Nothing; and to propose every Thing — he may propose any Plan —

Sentiments of the People; those with whom we converse we naturally conclude to be the Sentiments of the People.

States Sovereignments and State Governmts. not so much an Idol as is apprehended — a national Government to protect Property and promote Happiness, the Wish of the People.

Will a Citizen of New Jersey think himself honoured when addressed as a Citzn. of that State, and degraded when addressed as a Citizen of the U. S.

The People expect Relief from the national Councils; it can be had only from a national Governmt. —

Equalization1—A new Proposal thrown out for the Sentiments of the People.

Adl Powers ought not to be given to Congress. Objns. to that Body.

1. Congress as a legislative Body does not stand upon the Authority of the People.

2. Congress consists of but one Branch.

An equal Representn. in Proportion to Numbers.

Answr. Citizens of the same State.— The Foundation, the Progress, and Principles of Representation — Look at England — Holland — the Vote of every Province necessary. Ld. Chesterfield —

Impost opposed and defeated not by one of the large States —

The Consent of Rhode-Island will be necessary on the Jersey-Plan —

A single Legr.

Despotism presents itself in several various Shapes — military Despot — ex. Despot — Is there no such Thing as a leg. Despot — The Leg. Authority ought to be restrained —

The Restraints upon the Legr. must be such as will operate within itself — No Check in a single Branch — Should have distinct and independant Branches — reciprocal Controul.

A single Executive — Triumvirate of Rome — 2 Triumvirate — Augustus rose superior — Sparta — Rome —

Pinckney — If Jersey can have an equal Representn. she will come into the Plan from Virginia —

Views — to amend the Confedn. if not amendable, then to propose a new Governmt. —

Solely recommendatory — Powers sufficient. Division of Territory; not seriously proposed — The due Settlemt. of the Importance of the States necessary — this done at present with Respect to Contribution.

England.

1 Congress unfortunately fixed on equal Representn. — they had not the Means of determining the Quota — If each State must have a Vote, each State must contribute equally —

[Editors' note: Farrand writes that this set of Paterson's notes were taken from American Historical Review, IX, pages 331-334.]

(Paterson's Notes (Max Farrand, 1911), Pages 270-272, Vol. 1)

1. Because it accords with our Powers. Suppose an Attorney. Who can vote agt. it — If Confedn. cannot be amended, say so — The Experimt. has not been made.

2. Because it accords with the Sentiments of the People.

1. Coms.

2. News-papers — Political Barometer. Jersey never would have sent Delegates under the first Plan —

Not to sport Opinions of my own. Wt. can be done. A little practicable Virtue preferable to Theory —

1. As States — independant of any Treaty or Confedn.

Each State is sovereign, free, and independant — Sovereignty includes Equality. We come here as States and as Equals — Why vote by States in Convention — We will not give up the Right —

Mr. Wilson — A Principle given up in the first Confedn.

2. As under the existing Articles of the Confedn.

5th. Article — unanimously entered into.

Back Lands — Jersey — Maryland —

A Contract. The Nature of a Contract. Solemnly entered into — Why break it — why not the new or present one be broke in the same Manner —

Convenience.

The last Clause in the Confedn. —

Some of the States will not consent —

Self-Destruction.

Abolition of the lesser States — Hitherto argued upon Principle — as States — as subsisting Treaties — The Danger to the lesser States — The Natural

Progress of Power — Combination of Parts — Orders — States — Proportion of Votes — State-Politicks and Attachments — Great Britain and America

Objns. The larger States contribute most, and therefore Representn. ought to be in Proportion —

No — they have more to protect.

A rich State and poor State in same Relation as a rich individual and a poor one. 2. For the Sake of preserving the Liberty of the others —

3. Wealth will have its Influence —

Objn. — Mr. Wilson — first Principles — All Authority derived from the People — The People entitled to exercise Authority in Person. One free Citizen ought to be of equal Importance with another — true — One free State of equal Importance with another — Both true when properly applied. The Beauty of all Knowledge consists in the Application —

A large County and a small County — One free Citizen ought to be of equal Importance with another — they are Members of the Society, and therefore true — England and Switzerland. Pennsylv. and Jersey — they have the same Privileges, partake in the same common Stock, for Instance, in back and unlocated Lands. The Genn. soon found out the Diffe. between a Pennsylv. and a Jersey-Man when we talked of Consolidn. then the Pennsylv. gave up — No; no — A Nation, when it is necessary to go by Majority of Votes, a State, when it is necessary to divide the common Stock —

Equalize the States — No Harm — no Hurt. No authority for that Purpose — and then it is impracticable —

Authority — Why talk of the first set of Propositions —

Impracticable — how does that appear — Make the Experiment — Propose the Measure to the Consideration of the States —

Objn. — There must be a national Governmt. to operate individually upon the People in the first Instance, and not upon the States — and therefore a Representation from the People at Large and not from the States —

1. Will the Operation and Force of the Govt. depend upon the mode of Representn. — No — it will depend upon the Quantum of Power lodged in the leg. ex. and judy. Departments — it will operate individually in the one Case as well as in the other —

2. Congress are empowered to act individually or to carry the Reqt. into Execn. in the same Manner as is set forth in the first Plan —

3. If not, it may be modified to answer the Purpose.

4. If it cannot be done, better than to have some States devoured by others —

Objn. — Congress not sufficient — there must be two Branches — a House of Delegates and a Senate; why, they will be a Check — This not applicable to the supreme Council of the States — The Representatives from the several States are Checks upon each other.

In a single State Party Heat and Spirit may pervade the whole, and a single Branch may of a sudden do a very improper Act — A second Branch gives Time for Reflexion; the Season of Calmness will return, etc. Is this likely to be the Case among the Representatives of 13 States —

What is the Fact — Congress has hitherto conducted with great Prudence and Sagacity — the People have been satisfied — Give Congress the same Powers, that you intend to give the two Branches, and I apprehend they will act with as much Propriety and more Energy than the latter.

The Chance for Wisdom greater — Refinement — Secretion —
 The Expence will be enormous —
 Congress the Sun of our political World.

[Editors' note: Farrand's records indicate that these notes are Paterson's outline for his speech.]

(Paterson's Notes (Max Farrand, 1911), Pages 274-277, Vol. 1)

Propositions

from Virginia

1. A Legislature consisting of two or three branches
2. On the original Authority of the People
3. Representation of Citizens according to Numbers and Importance
4. A single Executive Magistrate.
5. A Majority empowered to act
6. The national Legislature to legislate in all Cases to which the State Legislatures are incompetent, or in which the Harmony of the Union may be interrupted.

7. To negative Laws contrary to the Union or Treaties

8. Executive removeable on Impeachment and Conviction.

9. The Executive to have a qualified Negative

10. Provision made for inferior national Tribunals

11. The Jurisdiction of the national Tribunal to extend to Cases of national Revenue.

12. — to Questions that may involve the national Peace

13. The national Government to be ratified under the authority of the People by Delegates expressly appointed for that Purpose.

from New Jersey

1. A single Legislature.

2. On the derivative Authority of the Legislatures of the States

3. Representation of States without Regard to Numbers and Importance

4. More than one Executive Magistrate.

5. A small Minority able to control

6. The United States in Congress vested with additional Powers only in a few inadequate Instances.

7. To call forth the Powers of the confederated States in order to compel Obedience.

8. — by Congress on Application by a Majority of the Executives of the States.

9. — to have none.

10 — None

11 — Only by Appeal in the dernier Resort.

12 — Only limited and appellate Jurisdiction.

13. The Alterations in the Confederation must be confirmed by the "Legislatures of every State"

[Editors' note: This document, found among the Wilson papers in the Library of the Historical Society of Pennsylvania, appears to be an outline of Wilson's speech. In the original document the two lists of propositions are written side by side, however, they have been written consecutively here so as to be legible in a plain text format.]

(Wilson's Papers (Max Farrand, 1911), Page 279, Vol. 1)

[A — 2]

Consider the different Points in Question — 1. on Principle — 2. on the declared Sense of the Committee — 3. By some striking Instances, which may happen, if the Plan from New-Jersey be adopted.

Uncertain what the Sense of the People is on several Points —

Reasons why it should be in Favour of national Government — 1. from Interest — 2. from Honour.

Distinction between Citizens and State-Officers.

Uncertain how long the present Opinion of the People may continue unaltered.

But we mean that our Plan of national Government shall stand or fall by their Opinion.

In forming a Government for the United States two great Objects demand our Attention — 1. That proper Powers be given — 2. That the different Departments of Government be so instituted and arranged that proper Powers may, with Safety, be lodged in them.

The Plan from New-Jersey is liable to three general Objections

[A — 3]

No. 1. 4. 5.) 1. The Government is instituted in an improper Manner —

To secure the Constitution the Legislature must be restrained: It can be restrained only in its Operations: That can be accomplished only by dividing it into distinct and independent Branches.

— legislative Authority single

— executive divided

No. 2. 3. 13.) 2. It flows from an illegitimate Sources, the Legislative and Executive Powers of the States, and not the People at large.

Inequality of Representation —

— Great Britain —

Experience of the United States.

— Solomon.

No. 6. 7. 8. 9. 10. 11. 12.) 3. It provides not sufficiently for the true Ends of Government.

The legislative and executive Powers are too feeble and dependent —

They and the judicial Power are too confined.

II. What

[Editors' note: Farrand notes that 'The original document is written on the first three pages of a single folded sheet. A-2 is written on the first inside page opposite A-3.']

(Wilson's Papers (Max Farrand, 1911), Pages 279-280, Vol. 1)

I stated the difference between National and foederal Systems—the first subjects all to the Controul of the general Government and draws its Representation from Individuals—the foederal has its Representation from States collectively and subjects great foederal Concerns to general Government. The one involves a total Subversion of State Sovereignties—the other delegates only Part.—I urged that the Confederation ought to be the Basis of our System. This Power now contended for too great to be given by Implication. Improbable that so

many individual States should adopt same Language to describe an Intention which cannot be inferred from the wording of it.¹ It may be objected Union one of the Articles subject to Revision. But the distinct Sovereignties essential to constitute it. Two Reasons assigned—one that public Mind ripe for System. 2ndly that it must accomodate. If public Mind to be collected from public Acts instead of being fluctuating—it has been uniform a considerable Time. Impost an Instance—Most States annexed Clauses expressive of their Distrusts. What Reason to suppose Change? If public Mind to accomodate it must either happen gradually—then useless—suddenly—then Effect of some great Commotion—it cannot be controul'd or directed. The national System proposes two Houses. All Reasoning on Systems unaided by Experience has generally been productive of false Inferences. Why go into unexplored Ground? The new Government will be regarded with that Jealousy inseperable from new Establishments. Congress is a body respected and known. Patterson—has proposed his Plan. 1. Because it accords with Powers. 2. With Sentiments of the People. If we wish to meet Approbation walk in Sphere assigned to you. Practicable Virtue preferable to finest theoretic System. Larger States have agreed that each should have one Vote. They cannot recal their Assent.

Patterson—Maryland and Jersey came last into Confederation. Wilson's Principles applied to States totally wrong. If you will form national Government equalize the States and throw all your public Lands in common. Two branches of Legislature unnecessary—Congress is competent—the additional Powers ought therefore to be exerted by them. The Expence of national System another Objection.

Wilson—compares Plans. Observe their relative Merits must be drawn from Experience and Reasoning. Powers he will first consider. Supposes himself authorized to propose every Thing—but can conclude Nothing. State Sovereignties not Idols of People. A Citizen of national Government will not be degraded. From every State we hear Complaints that their Governments are inadequate. Does not mean to collect Sentiments from conversing with People—let the System go to the States—and let them consider it. Would give Congress Power with great Reluctance- 1. Congress is not on Principles of a free Government derived from People. 2. Because only one Body. Inequality in Representation is a Poison which will contaminate every Branch of Government. Great Britain Judicial not appointed by a venal Parl't—the Judicial uncorrupt—Not so House of Commons. United States another Instance—Rhode Island one. Executive ought to be single. Triumvirate cemented by Interest—Kings of Sparta and Consuls shew necessity of single Executive.²

C. Pinkney—Discovers if Jersey had a single Vote would agree to national System. Our Powers only recommendatory. Grecian Confederation—Lycia League-23 Towns—Some had 1 others 2 and the largest 3 Votes.

(Lansing's Notes (Joseph Strayer, 1939), Pages 53-57)

Mr. Lancey. Without regard to wealth numbers or anything else.

Mr. Patterson. I came not here to sport sentiments of my own, but to speak the mind of my Constituents. Perpetual is a word of Course as in Common Treaties of peace and Alliance. Shall we alter the plans without any tollerable reason. One free man is equal to another but it is not a just deduction that one free State is equal to another. The Quantum of power will depend upon

the justice of the Representation. Has Congress been composed of weak or bad Men. This is not a fair Question. Speak of Measures not Men.

Willson. Inequality in representation a poison that must destroy the whole.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 79, Pierce Butler: Notes on Debates)

[e675574] Mr. Elsworth proposed as a more distinctive form of collecting the mind of the Committee on the subject, “that the Legislative power of the U. S. should remain in Congs.” This was not seconded, though it seemed better calculated for the purpose than the 1st. proposition of Mr. Patterson in place of which Mr. E. wished to substitute it.

(Madison’s Notes (Max Farrand, 1911), Page 255, Vol. 1)

Mr. Elsworth —

(Hamilton’s Notes (Max Farrand, 1911), Page 269, Vol. 1)

Elsworth.

(Paterson’s Notes (Max Farrand, 1911), Page 272, Vol. 1)

[e675575] Mr. Elsworth proposed as a more distinctive form of collecting the mind of the Committee on the subject, “that the Legislative power of the U. S. should remain in Congs.” This was not seconded, though it seemed better calculated for the purpose than the 1st. proposition of Mr. Patterson in place of which Mr. E. wished to substitute it.

[Editors’ note: Elsworth’s motion was dropped for want of support.]

(Madison’s Notes (Max Farrand, 1911), Page 255, Vol. 1)

[e675576] Judge Elsworth is of opinion that the first question on the new plan will decide nothing materially on principle, and therefore moved the postponement thereof, in order to bring on the second.

(Yates’s Diary (Max Farrand, 1911), Page 262, Vol. 1)

[e675577] [Editors’ note: This motion was not mentioned again, so the editors assume it was dropped due to a lack of support or time.]

(2019 Editors)

[e675578] Mr. Randolph. was not scrupulous on the point of power. When the salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted in strong colours, the imbecility of the existing confederacy, & the danger of delaying a substantial reform. In answer to the objection drawn from the sense of our Constituents as denoted by their acts relating to the Convention and the objects of their deliberation, he observed that as each State acted separately in the case, it would have been indecent for it to have charged the existing Constitution with all the vices which it might have perceived in it. The first State that set on foot this experiment would not have been justified in going so far, ignorant as it was of the opinion

of others, and sensible as it must have been of the uncertainty of a successful issue to the experiment. There are certainly reasons of a peculiar nature where the ordinary cautions must be dispensed with; and this is certainly one of them. He wd. not as far as depended on him leave any thing that seemed necessary, undone. The present moment is favorable, and is probably the last that will offer.

The true question is whether we shall adhere to the federal plan, or introduce the national plan. The insufficiency of the former has been fully displayed by the trial already made. There are but two modes, by which the end of a Genl. Govt. can be attained: the 1st. is by coercion as proposed by Mr. Ps. plan. 2. by real legislation as propd. by the other plan. Coercion he pronounced to be impracticable, expensive, cruel to individuals. It tended also to habituate the instruments of it to shed the blood & riot in the spoils of their fellow Citizens, and consequently trained them up for the service of Ambition. We must resort therefore to a national Legislation over individuals, for which Congs. are unfit. To vest such power in them, would be blending the Legislative with the Executive, contrary to the recd. maxim on this subject: If the Union of these powers heretofore in Congs. has been safe, it has been owing to the general impotency of that body. Congs. are moreover not elected by the people, but by the Legislatures who retain even a power of recall. They have therefore no will of their own, they are a mere diplomatic body, and are always obsequious to the views of the States, who are always encroaching on the authority of the U. States. A provision for harmony among the States, as in trade, naturalization &c. — for crushing rebellion whenever it may rear its crest — and for certain other general benefits, must be made. The powers for these purposes, can never be given to a body, inadequate as Congress are in point of representation, elected in the mode in which they are, and possessing no more confidence than they do: for notwithstanding what has been said to the contrary, his own experience satisfied him that a rooted distrust of Congress pretty generally prevailed. A Natl. Govt. alone, properly constituted, will answer the purpose; and he begged it to be considered that the present is the last moment for establishing one. After this select experiment, the people will yield to despair.

(Madison's Notes (Max Farrand, 1911), Pages 255-257, Vol. 1)

Gov. Randolph. — The question now is which of the two plans is to be preferred. If the vote on the first resolve will determine it, and it is so generally understood, he has no objection that it be put. The resolutions from Virginia must have been adopted on the supposition that a federal government was impracticable — And it is said that power is wanting to institute such a government. — But when our all is at stake, I will consent to any mode that will preserve us. View our present deplorable situation — France, to whom we are indebted in every motive of gratitude and honor, is left unpaid the large sums she has supplied us with in the day of our necessity — Our officers and soldiers, who have successfully fought our battles — and the loaners of money to the public, look up to you for relief.

The bravery of our troops is degraded by the weakness of our government.

It has been contended that the 5th article of the confederation cannot be repealed under the powers to new modify the confederation by the 13th article. This surely is false reasoning, since the whole of the confederation upon revision

is subject to amendment and alteration; besides our business consists in recommending a system of government, not to make it. There are great seasons when persons with limited powers are justified in exceeding them, and a person would be contemptible not to risk it. Originally our confederation was founded on the weakness of each state to repel a foreign enemy; and we have found that the powers granted to congress are insufficient. The body of congress is ineffectual to carry the great objects of safety and protection into execution. What would their powers be over the commander of the military, but for the virtue of the commander? As the state assemblies are constantly encroaching on the powers of congress, the Jersey plan would rather encourage such encroachments than be a check to it; and from the nature of the institution, congress would ever be governed by cabal and intrigue — They are besides too numerous for an executive, nor can any additional powers be sufficient to enable them to protect us against foreign invasion. Amongst other things congress was intended to be a body to preserve peace among the states, and in the rebellion of Massachusetts it was found they were not authorized to use the troops of the confederation to quell it. Every one is impressed with the idea of a general regulation of trade and commerce. Can congress do this? when from the nature of their institution they are so subject to cabal and intrigue? And would it not be dangerous to entrust such a body with the power, when they are dreaded on these grounds? I am certain that a national government must be established, and this is the only moment when it can be done — And let me conclude by observing, that the best exercise of power is to exert it for the public good.

(Yates's Diary (Max Farrand, 1911), Pages 262-263, Vol. 1)

Mr. Randolph — Spirit of the People in favour of the Virginian scheme —
We have powers; but if we had not we ought not to scruple —

(Hamilton's Notes (Max Farrand, 1911), Page 269, Vol. 1)

Randolph. 1. Whether the Articles of the Confedn. can be so reformed as to answer the Purposes of a national Governmt. —

No Usurpation of Power in this Convention. The Spirit of the People in Favour of the Plan from Virginia —

Powers pursued; if Powers wanting, we should do what is right.

Our Debts remain unpaid while the federal Govt. remains as it is —

Delaware. The 13th Article — provides for the alteration of the Articles, then of course for the Alteration of the 5th. Article.

Annapolis Powers in a deliberate Assembly — ridiculous — We are only to compare Sentiments — Disdain Danger, and do what is necessary to our political Salvation — We must avail ourselves of the present Moment.

His Constituents will applaud, when he has done every Thing in his Power to relieve America —

No Provision agt. foreign Powers or Invasions. no Money nor Men — Militia not sufficient —

No Provision agt. internal Insurrections. nor for the Maintenance of Treaties

—

Coercion two Ways — 1. as to Trade — 2. as to an Army —

Legislation affecting Individuals the only Remedy. This Power too great to lodge in one Body —

Congress possess both Legislation and Execution —

The Variety of Interests in the several States require a national Legislation; or else there may be a Combination of States —

The mode of electing Congress an Objn. — the Delegates will be under the Influence of its particular States.

Cabal and Intrigue of which such a Body as Congress may be capable. They are too numerous for an Executive.

No Provision under the Confedn. for supporting the Harmony of the States — their commercial Interests different.

No provision for Congress to settle Disputes —

No Provision made or Power in Congress for the Suppression of Rebellion — no Troops can be raised — Congress ought not to have the Power of raising Troops.

A Navigation Act may be necessary — Give Power to whom — not to Congress — capable of Intrigue and Cabal; Inadequacy of Representation; Want of Confidence in Congress —

Divide leg. and ex. Branches and then Doors may be open—Congress fallen considerably in their Reputation.

Doors not open in Congress.

This the last Moment ever will be offered —

(Paterson's Notes (Max Farrand, 1911), Pages 272-274, Vol. 1)

Governor Randolph—The Resolutions from Virginia were drawn under Conviction of reforming Confederation. If Powers not competent ought not to hesitate. This a great Occasion—Step boldly beyond prudential Rules. King of France unpaid, Creditors ruined, and Soldiers languishing. We would be Traitors to our Country if we did not embrace this parting Angel. States not Objects of Coercion. If done by distressing Trade—some not commercial—by Inroad—tardy, expensive and dangerous. Members of Congress particularly dependent on their own States. This last attempt to confederate—

(Lansing's Notes (Joseph Strayer, 1939), Pages 57-58)

Randolph. The Militia are incompetent to the purposes of defence. It would be very difficult to persuade the Militia of One State to march into another. This Argument was brought forward to prove the weakness of Congress.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Page 79, Pierce Butler: Notes on Debates)

[e675579] After some time passed in debate on the propositions offered by the honorable Mr Paterson.

It was moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again —

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

The Committee rose

(Madison's Notes (Max Farrand, 1911), Page 256, Vol. 1)

[e675580] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 248, Vol. 1)

The Committee rose

(Madison's Notes (Max Farrand, 1911), Page 256, Vol. 1)

3.15 Monday, 18 June 1787, at 11:00 (s6302)

[e675581] It was moved by Mr Dickinson seconded by _____ to postpone the consideration of the first resolution submitted by Mr Paterson namely. in order to introduce the following.

“Resolved that the articles of confederation ought to be revised and amended, so as to render the government of the United States adequate to the Exigencies, the preservation, and the prosperity of the Union.”

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

On motion of Mr. Dickinson to postpone the 1st. Resolution in Mr. Paterson's plan, in order to take up the following. viz: “that the articles of confederation ought to be revised and amended so as to render the Government of the U. S. adequate to the exigencies, the preservation and the prosperity of the union.”

(Madison's Notes (Max Farrand, 1911), Page 282, Vol. 1)

Dickenson—wishes the terms 'national' and 'foederal' to be exploded—Moves to strike out 'foederal Constitution' out of Iersey Propositions and alter it so as to read 'so as to render the Government of the United States adequate to the Exigencies Preservation and Prosperity of the Union.'

[Editors' note: The text enclosed in quotation marks is originally italicized in Joseph Strayer's edition of Lansing's Notes.]

(Lansing's Notes (Joseph Strayer, 1939), Page 61)

[e738738] And on the question to agree to the same it passed in the affirmative [Ayes — 10; noes — 0; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 281, Vol. 1)

[e675583] Mr. Hamilton, had been hitherto silent on the business before the Convention, partly from respect to others whose superior abilities age & experience rendered him unwilling to bring forward ideas dissimilar to theirs, and partly from his delicate situation with respect to his own State, to whose sentiments as expressed by his Colleagues, he could by no means accede. The crisis however which now marked our affairs, was too serious to permit any scruples whatever to prevail over the duty imposed on every man to contribute his efforts for the public safety & happiness. He was obliged therefore to declare himself unfriendly to both plans. He was particularly opposed to that from N. Jersey, being fully convinced, that no amendment of the confederation, leaving

the States in possession of their sovereignty could possibly answer the purpose. On the other hand he confessed he was much discouraged by the amazing extent of Country in expecting the desired blessings from any general sovereignty that could be substituted. — As to the powers of the Convention, he thought the doubts started on that subject had arisen from distinctions & reasonings too subtle. A federal Govt. he conceived to mean an association of independent Communities into one. Different Confederacies have different powers, and exercise them in different ways. In some instances the powers are exercised over collective bodies; in others over individuals. as in the German Diet — & among ourselves in cases of piracy. Great latitude therefore must be given to the signification of the term. The plan last proposed departs itself from the federal idea, as understood by some, since it is to operate eventually on individuals. He agreed moreover with the Honble. gentleman from Va. (Mr. R.) that we owed it to our Country, to do on this emergency whatever we should deem essential to its happiness. The States sent us here to provide for the exigences of the Union. To rely on & propose any plan not adequate to these exigences, merely because it was not clearly within our powers, would be to sacrifice the means to the end. It may be said that the States can not ratify a plan not within the purview of the article of Confederation providing for alterations & amendments. But may not the States themselves in which no constitutional authority equal to this purpose exists in the Legislatures, have had in view a reference to the people at large. In the Senate of N. York, a proviso was moved, that no act of the Convention should be binding untill it should be referred to the people & ratified; and the motion was lost by a single voice only, the reason assigned agst. it, being that it might possibly be found an inconvenient shackle.

The great question is what provision shall we make for the happiness of our Country? He would first make a comparative examination of the two plans — prove that there were essential defects in both — and point out such changes as might render a national one, efficacious. — The great & essential principles necessary for the support of Government. are 1. an active & constant interest in supporting it. This principle does not exist in the States in favor of the federal Govt. They have evidently in a high degree, the esprit de corps. They constantly pursue internal interests adverse to those of the whole. They have their particular debts — their particular plans of finance &c. all these when opposed to, invariably prevail over the requisitions & plans of Congress. 2. the love of power, Men love power. The same remarks are applicable to this principle. The States have constantly shewn a disposition rather to regain the powers delegated by them than to part with more, or to give effect to what they had parted with. The ambition of their demagogues is known to hate the controul of the Genl. Government. It may be remarked too that the Citizens have not that anxiety to prevent a dissolution of the Genl. Govt as of the particular Govts. A dissolution of the latter would be fatal: of the former would still leave the purposes of Govt. attainable to a considerable degree. Consider what such a State as Virga. will be in a few years, a few compared with the life of nations. How strongly will it feel its importance & self-sufficiency? 3. an habitual attachment of the people. The whole force of this tie is on the side of the State Govt. Its sovereignty is immediately before the eyes of the people: its protection is immediately enjoyed by them. From its hand distributive justice, and all those acts which familiarize & endear Govt. to a people, are dispensed to them. 4. Force by which may be understood a coercion of laws or coercion

of arms. Congs. have not the former except in few cases. In particular States, this coercion is nearly sufficient; tho' he held it in most cases, not entirely so. A certain portion of military force is absolutely necessary in large communities. Massts. is now feeling this necessity & making provision for it. But how can this force be exerted on the States collectively. It is impossible. It amounts to a war between the parties. Foreign powers also will not be idle spectators. They will interpose, the confusion will increase, and a dissolution of the Union ensue.

5. influence. he did not mean corruption, but a dispensation of those regular honors & emoluments, which produce an attachment to the Govt. almost all the weight of these is on the side of the States; and must continue so as long as the States continue to exist. All the passions then we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the current of the States, and do not flow in the stream of the Genl. Govt. the former therefore will generally be an overmatch for the Genl. Govt. and render any confederacy, in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphycionian Council had it would seem ample powers for general purposes. It had in particular the power of fining and using force agst. delinquent members. What was the consequence. Their decrees were mere signals of war. The Phocian war is a striking example of it. Philip at length taking advantage of their disunion, and insinuating himself into their Councils, made himself master of their fortunes. The German Confederacy affords another lesson. The authority of Charlemagne seemed to be as great as could be necessary. The great feudal chiefs however, exercising their local sovereignties, soon felt the spirit & found the means of, encroachments, which reduced the imperial authority to a nominal sovereignty. The Diet has succeeded, which tho' aided by a Prince at its head, of great authority independently of his imperial attributes, is a striking illustration of the weakness of Confederated Governments. Other examples instruct us in the same truth. The Swiss cantons have scarce any Union at all, and have been more than once at war with one another — How then are all these evils to be avoided? only by such a compleat sovereignty in the general Governmt. as will turn all the strong principles & passions above mentioned on its side. Does the scheme of N. Jersey produce this effect? does it afford any substantial remedy whatever? On the contrary it labors under great defects, and the defect of some of its provisions will destroy the efficacy of others. It gives a direct revenue to Congs. but this will not be sufficient. The balance can only be supplied by requisitions; which experience proves can not be relied on. If States are to deliberate on the mode, they will also deliberate on the object of the supplies, and will grant or not grant as they approve or disapprove of it. The delinquency of one will invite and countenance it in others. Quotas too must in the nature of things be so unequal as to produce the same evil. To what standard will you resort? Land is a fallacious one. Compare Holland with Russia: France or Engd. with other countries of Europe. Pena. with N. Carolia. will the relative pecuniary abilities in those instances, correspond with the relative value of land. Take numbers of inhabitants for the rule and make like comparison of different countries, and you will find it to be equally unjust. The different degrees of industry and improvement in different Countries render the first object a precarious measure of wealth. Much depends too on situation. Cont. N. Jersey & N. Carolina, not being commercial States & contributing to the wealth of the commercial ones, can never bear quotas assessed by the ordinary rules of proportion. They will &

must fail in their duty. their example will be followed, and the Union itself be dissolved. Whence then is the national revenue to be drawn? from Commerce, even from exports which notwithstanding the common opinion are fit objects of moderate taxation, from excise, &c &c. These tho' not equal, are less unequal than quotas. Another destructive ingredient in the plan, is that equality of suffrage which is so much desired by the small States. It is not in human nature that Va. & the large States should consent to it, or if they did that they shd. long abide by it. It shocks too much the ideas of Justice, and every human feeling. Bad principles in a Govt. tho slow are sure in their operation, and will gradually destroy it. A doubt has been raised whether Congs. at present have a right to keep Ships or troops in time of peace. He leans to the negative. Mr. P.s plan provides no remedy. — If the powers proposed were adequate, the organization of Congs. is such that they could never be properly & effectually exercised. The members of Congs. being chosen by the States & subject to recall, represent all the local prejudices. Should the powers be found effectual, they will from time to time be heaped on them, till a tyrannic sway shall be established. The general power whatever be its form if it preserves itself, must swallow up the State powers. otherwise it will be swallowed up by them. It is agst. all the principles of a good Government to vest the requisite powers in such a body as Congs. Two Sovereignties can not co-exist within the same limits. Giving powers to Congs. must eventuate in a bad Govt. or in no Govt. The plan of N. Jersey therefore will not do. What then is to be done? Here he was embarrassed. The extent of the Country to be governed, discouraged him. The expence of a general Govt. was also formidable; unless there were such a diminution of expence on the side of the State Govts. as the case would admit. If they were extinguished, he was persuaded that great œconomy might be obtained by substituting a general Govt. He did not mean however to shock the public opinion by proposing such a measure. On the other hand he saw no other necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. Subordinate authorities he was aware would be necessary. There must be district tribunals: corporations for local purposes. But cui bono, the vast & expensive apparatus now appertaining to the States. The only difficulty of a serious nature which occurred to him, was that of drawing representatives from the extremes to the center of the Community. What inducements can be offered that will suffice? The moderate wages for the 1st. branch, would only be a bait to little demagogues. Three dollars or thereabouts he supposed would be the Utmost. The Senate he feared from a similar cause, would be filled by certain undertakers who wish for particular offices under the Govt. This view of the subject almost led him to despair that a Republican Govt. could be established over so great an extent. He was sensible at the same time that it would be unwise to propose one of any other form. In his private opinion he had no scruple in declaring, supported as he was by the opinions of so many of the wise & good, that the British Govt. was the best in the world: and that he doubted much whether any thing short of it would do in America. He hoped Gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place and was still going on. It was once thought that the power of Congs was amply sufficient to secure the end of their institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming agst. the vices of democracy. This

progress of the public mind led him to anticipate the time, when others as well as himself would join in the praise bestowed by Mr. Neckar on the British Constitution, namely, that it is the only Govt. in the world “which unites public strength with individual security.” — In every community where industry is encouraged, there will be a division of it into the few & the many. Hence separate interests will arise There will be debtors & Creditors &c. Give all power to the many, they will oppress the few. Give all power to the few they will oppress the many. Both therefore ought to have power, that each may defend itself agst. the other. To the want of this check we owe our paper money — instalment laws &c To the proper adjustment of it the British owe the excellence of their Constitution. Their house of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest by means of their property, in being faithful to the National interest, they form a permanent barrier agst. every pernicious innovation, whether attempted on the part of the Crown or of the Commons. No temporary Senate will have firmness en’o’ to answer the purpose. The Senate (of Maryland) which seems to be so much appealed to, has not yet been sufficiently tried. Had the people been unanimous & eager, in the late appeal to them on the subject of a paper emission they would have yielded to the torrent. Their acquiescing in such an appeal is a proof of it. — Gentlemen differ in their opinions concerning the necessary checks, from the different estimates they form of the human passions. They suppose Seven years a sufficient period to give the Senate an adequate firmness, from not duly considering the amazing violence & turbulence of the democratic spirit. When a great object of Govt. is pursued, which seizes the popular passions, they spread like wild fire, and become irresistible. He appealed to the gentlemen from the N. England States whether experience had not there verified the remark. As to the Executive, it seemed to be admitted that no good one could be established on Republican principles. Was not this giving up the merits of the question; for can there be a good Govt. without a good Executive. The English model was the only good one on this subject. The Hereditary interest of the King was so interwoven with that of the Nation, and his personal emoluments so great, that he was placed above the danger of being corrupted from abroad — and at the same time was both sufficiently independent and sufficiently controlled, to answer the purpose of the institution at home. one of the weak sides of Republics was their being liable to foreign influence & corruption. Men of little character, acquiring great power become easily the tools of intermeddling neighbours. Sweeden was a striking instance. The French & English had each their parties during the late Revolution which was effected by the predominant influence of the former. What is the inference from all these observations? That we ought to go as far in order to attain stability and permanency, as republican principles will admit. Let one branch of the Legislature hold their places for life or at least during good-behaviour. Let the Executive also be for life. He appealed to the feelings of the members present whether a term of seven years, would induce the sacrifices of private affairs which an acceptance of public trust would require, so so as to ensure the services of the best Citizens. On this plan we should have in the Senate a permanent will, a weighty interest, which would answer essential purposes. But is this a Republican Govt. it will be asked? Yes, if all the Magistrates are appointed, and vacancies are filled, by the people, or a process of election originating with the people. He was sensible that an Executive constituted as he proposed would have in fact but little of the power

and independence that might be necessary. On the other plan of appointing him for 7 years, he thought the Executive ought to have but little power. He would be ambitious, with the means of making creatures; and as the object of his ambition wd. be to prolong his power, it is probable that in case of a war, he would avail himself of the emergence, to evade or refuse a degradation from his place. An Executive for life has not this motive for forgetting his fidelity, and will therefore be a safer depository of power. It will be objected probably, that such an Executive will be an elective Monarch, and will give birth to the tumults which characterise that form of Govt. He wd. reply that Monarch is an indefinite term. It marks not either the degree or duration of power. If this Executive Magistrate wd. be a monarch for life — the other propd. by the Report from the Committee of the whole, wd. be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed by judicious writers that elective monarchies wd. be the best if they could be guarded agst. the tumults excited by the ambition and intrigues of competitors. He was not sure that tumults were an inseparable evil. He rather thought this character of Elective Monarchies had been taken rather from particular cases than from general principles. The election of Roman Emperors was made by the Army. In Poland the election is made by great rival princes with independent power, and ample means, of raising commotions. In the German Empire, The appointment is made by the Electors & Princes, who have equal motives & means, for exciting cabals & parties. Might not such a mode of election be devised among ourselves as will defend the community agst. these effects in any dangerous degree?

[Editors' note: It is unclear how close this version of the speech is to the original; although, according to Farrand, some commentators have recorded the story that Hamilton saw Madison's copy of the speech and approved it.]

(Madison's Notes (Max Farrand, 1911), Pages 282-291, Vol. 1)

Mr. Hamilton. — To deliver my sentiments on so important a subject, when the first characters in the union have gone before me, inspires me with the greatest diffidence, especially when my own ideas are so materially dissimilar to the plans now before the committee — My situation is disagreeable, but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the confederation can answer the purpose of a good government, so long as state sovereignties do, in any shape, exist; and I have great doubts whether a national government on the Virginia plan can be made effectual. What is federal? An association of several independent states into one. How or in what manner this association is formed, is not so clearly distinguishable. We find the diet of Germany has in some instances the power of legislation on individuals. We find the United States of America have it in an extensive degree in the cases of piracies.

Let us now review the powers with which we are invested. We are appointed for the sole and express purpose of revising the confederation, and to alter or amend it, so as to render it effectual for the purposes of a good government. Those who suppose it must be federal, lay great stress on the terms sole and express, as if these words intended a confinement to a federal government; when the manifest import is no more than that the institution of a good government must be the sole and express object of your deliberations. Nor can we suppose

an annihilation of our powers by forming a national government, as many of the states have made in their constitutions no provision for any alteration; and thus much I can say for the state I have the honor to represent, that when our credentials were under consideration in the senate, some members were for inserting a restriction in the powers, to prevent an encroachment on the constitution: it was answered by others, and thereupon the resolve carried on the credentials, that it might abridge some of the constitutional powers of the state, and that possibly in the formation of a new union it would be found necessary. This appears reasonable, and therefore leaves us at liberty to form such a national government as we think best adapted for the good of the whole. I have therefore no difficulty as to the extent of our powers, nor do I feel myself restrained in the exercise of my judgment under them. We can only propose and recommend — the power of ratifying or rejecting is still in the states. But on this great question I am still greatly embarrassed. I have before observed my apprehension of the inefficacy of either plan, and I have great doubts whether a more energetic government can pervade this wide and extensive country. I shall now show that both plans are materially defective.

1. A good government ought to be constant, and ought to contain an active principle.
2. Utility and necessity.
3. An habitual sense of obligation.
4. Force.
5. Influence.

I hold it, that different societies have all different views and interests to pursue, and always prefer local to general concerns. For example: New-York legislature made an external compliance lately to a requisition of congress; but do they not at the same time counteract their compliance by gratifying the local objects of the state so as to defeat their cession? And this will ever be the case. Men always love power, and states will prefer their particular concerns to the general welfare; and as the states become large and important, will they not be less attentive to the general government? What in process of time will Virginia be? She contains now half a million of inhabitants — in twenty-five years she will double the number. Feeling her own weight and importance, must she not become indifferent to the concerns of the union? And where, in such a situation, will be found national attachment to the general government?

By force, I mean the coercion of law and the coercion of arms. Will this remark apply to the power intended to be vested in the government to be instituted by their plan? A delinquent must be compelled to obedience by force of arms. How is this to be done? If you are unsuccessful, a dissolution of your government must be the consequence; and in that case the individual legislatures will reassume their powers; nay, will not the interest of the states be thrown into the state governments?

By influence, I mean the regular weight and support it will receive from those who will find it their interest to support a government intended to preserve the peace and happiness of the community of the whole. The state governments, by either plan, will exert the means to counteract it. They have their state judges and militia all combined to support their state interests; and these will be influenced to oppose a national government. Either plan is therefore precarious. The national government cannot long exist when opposed by such a weighty rival. The experience of ancient and modern confederacies evince this point, and

throw considerable light on the subject. The amphyctionic council of Greece had a right to require of its members troops, money and the force of the country. Were they obeyed in the exercise of those powers? Could they preserve the peace of the greater states and republics? or where were they obeyed? History shows that their decrees were disregarded, and that the stronger states, regardless of their power, gave law to the lesser.

Let us examine the federal institution of Germany. It was instituted upon the laudable principle of securing the independency of the several states of which it was composed, and to protect them against foreign invasion. Has it answered these good intentions? Do we not see that their councils are weak and distracted, and that it cannot prevent the wars and confusions which the respective electors carry on against each other? The Swiss cantons, or the Helvetic union, are equally inefficient.

Such are the lessons which the experience of others affords us, and from whence results the evident conclusion that all federal governments are weak and distracted. To avoid the evils deducible from these observations, we must establish a general and national government, completely sovereign, and annihilate the state distinctions and state operations; and unless we do this, no good purpose can be answered. What does the Jersey plan propose? It surely has not this for its object. By this we grant the regulation of trade and a more effectual collection of the revenue, and some partial duties. These, at five or ten per cent, would only perhaps amount to a fund to discharge the debt of the corporation.

Let us take a review of the variety of important objects, which must necessarily engage the attention of a national government. You have to protect your rights against Canada on the north, Spain on the south, and your western frontier against the savages. You have to adopt necessary plans for the settlement of your frontiers, and to institute the mode in which settlements and good government are to be made.

How is the expense of supporting and regulating these important matters to be defrayed? By requisition on the states, according to the Jersey plan? Will this do it? We have already found it ineffectual. Let one state prove delinquent, and it will encourage others to follow the example; and thus the whole will fail. And what is the standard to quota among the states their respective proportions? Can lands be the standard? How would that apply between Russia and Holland? Compare Pennsylvania with North-Carolina, or Connecticut with New-York. Does not commerce or industry in the one or other make a great disparity between these different countries, and may not the comparative value of the states from these circumstances, make an unequal disproportion when the data is numbers? I therefore conclude that either system would ultimately destroy the confederation, or any other government which is established on such fallacious principles. Perhaps imposts, taxes on specific articles, would produce a more equal system of drawing a revenue.

Another objection against the Jersey plan is, the unequal representation. Can the great states consent to this? If they did it would eventually work its own destruction. How are forces to be raised by the Jersey plan? By quotas? Will the states comply with the requisition? As much as they will with the taxes.

Examine the present confederation, and it is evident they can raise no troops nor equip vessels before war is actually declared. They cannot therefore take any preparatory measure before an enemy is at your door. How unwise and

inadequate their powers! and this must ever be the case when you attempt to define powers. — Something will always be wanting. Congress, by being annually elected, and subject to recall, will ever come with the prejudices of their states rather than the good of the union. Add therefore additional powers to a body thus organized, and you establish a sovereignty of the worst kind, consisting of a single body. Where are the checks? None. They must either prevail over the state governments, or the prevalence of the state governments must end in their dissolution. This is a conclusive objection to the Jersey plan.

Such are the insuperable objections to both plans: and what is to be done on this occasion? I confess I am at a loss. I foresee the difficulty on a consolidated plan of drawing a representation from so extensive a continent to one place. What can be the inducements for gentlemen to come 600 miles to a national legislature? The expense would at least amount to £100,000. This however can be no conclusive objection if it eventuates in an extinction of state governments. The burthen of the latter would be saved, and the expense then would not be great. State distinctions would be found unnecessary, and yet I confess, to carry government to the extremities, the state governments reduced to corporations, and with very limited powers, might be necessary, and the expense of the national government become less burthensome.

Yet, I confess, I see great difficulty of drawing forth a good representation. What, for example, will be the inducements for gentlemen of fortune and abilities to leave their houses and business to attend annually and long? It cannot be the wages; for these, I presume, must be small. Will not the power, therefore, be thrown into the hands of the demagogue or middling politician, who, for the sake of a small stipend and the hopes of advancement, will offer himself as a candidate, and the real men of weight and influence, by remaining at home, add strength to the state governments? I am at a loss to know what must be done — I despair that a republican form of government can remove the difficulties. Whatever may be my opinion, I would hold it however unwise to change that form of government. I believe the British government forms the best model the world ever produced, and such has been its progress in the minds of the many, that this truth gradually gains ground. This government has for its object public strength and individual security. It is said with us to be unattainable. If it was once formed it would maintain itself. All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontrolling disposition requires checks. The senate of New-York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good executive upon a democratic plan. See the excellency of the British executive — He is placed above temptation — He can have no distinct interests from the public welfare. Nothing short of such an executive can be efficient. The weak side of a

republican government is the danger of foreign influence. This is unavoidable, unless it is so constructed as to bring forward its first characters in its support. I am therefore for a general government, yet would wish to go the full length of republican principles.

Let one body of the legislature be constituted during good behaviour or life.

Let one executive be appointed who dares execute his powers.

It may be asked is this a republican system? It is strictly so, as long as they remain elective.

And let me observe, that an executive is less dangerous to the liberties of the people when in office during life, than for seven years.

It may be said this constitutes an elective monarchy? Pray what is a monarchy? May not the governors of the respective states be considered in that light? But by making the executive subject to impeachment, the term monarchy cannot apply. These elective monarchs have produced tumults in Rome, and are equally dangerous to peace in Poland; but this cannot apply to the mode in which I would propose the election. Let electors be appointed in each of the states to elect the executive — (Here Mr. H. produced his plan, a copy whereof is hereunto annexed) to consist of two branches — and I would give them the unlimited power of passing all laws without exception. The assembly to be elected for three years by the people in districts — the senate to be elected by electors to be chosen for that purpose by the people, and to remain in office during life. The executive to have the power of negating all laws — to make war or peace, with the advice of the senate — to make treaties with their advice, but to have the sole direction of all military operations, and to send ambassadors and appoint all military officers, and to pardon all offenders, treason excepted, unless by advice of the senate. On his death or removal, the president of the senate to officiate, with the same powers, until another is elected. Supreme judicial officers to be appointed by the executive and the senate. The legislature to appoint courts in each state, so as to make the state governments unnecessary to it.

All state laws to be absolutely void which contravene the general laws. An officer to be appointed in each state to have a negative on all state laws. All the militia and the appointment of officers to be under the national government.

I confess that this plan and that from Virginia are very remote from the idea of the people. Perhaps the Jersey plan is nearest their expectation. But the people are gradually ripening in their opinions of government — they begin to be tired of an excess of democracy — and what even is the Virginia plan, but pork still, with a little change of the sauce.

[Editors' note: Yates' record of Hamilton's speech is included here for comparison alongside Madison's version. Farrand adds the following note:

'J. C. Hamilton (History of the Republic of the United States, III, 283-4), in giving a brief of this speech, states that it "occupied in the delivery between five and six hours, and was pronounced by a competent judge, (Gouverneur Morris), the most able and impressive he had ever heard."

Madison states that Hamilton "happened to call on me when putting the last hand" to the report of this speech. He "acknowledged its fidelity, without suggesting more than a few verbal alterations which were made." See Appendix A, CCCXCV and CCCCL, also CCCXXV, CCCXXIX, CCCXCI.

Gilpin (Papers of Madison II, 892-893) prints the following note, which seems to have been inspired if not written by Madison:

“The speech introducing the plan, as above taken down and written out, was seen by Mr. Hamilton, who approved its correctness with one or two verbal changes, which were made as he suggested. The explanatory observations which did not immediately follow, were to have been furnished by Mr. H. who did not find leisure at the time to write them out, and they were not obtained. Judge Yates, in his notes, appears to have consolidated the explanatory with the introductory observations of Mr. Hamilton (under date of June 19th, a typographical error). It was in the former, Mr. Madison observed, that Mr. Hamilton, in speaking of popular governments, however modified, made the remark attributed to him by Judge Yates, that they were ‘but pork still, with a little change of sauce.’ ”

Hunt makes no reference to this in his Writings of James Madison, and the present editor has not found it among the Madison papers.}]

(Yates’s Diary (Max Farrand, 1911), Pages 294-301, Vol. 1)

Federal is an association of distinct Govts: into one — these fed. Govts. in some instances legislate on collective bodies, in others on individuals. The Confederation partakes of both — Piracies are cognizable by the Congress — &c.

Our powers have this object — the Freedom & Happiness of our Country — we must go all lengths to accomplish this Object — if the Legislatures have no powers to ratify because thereby they diminish their own Sovereignty the people may come in on revolution Principles —

We have power,

Upon the plan of the separation & independence of the States, you encourage those Habits, and opinions, that Esprit de Corps which is peculiar to the State and to every individual. These habits prefer their own State to those of the Genl. or fed. Govt. — this has been the case, State Debts, State Crs. have always stood before the fedl. Debr or Cr. —

Man loves power — State Magistrates will desire to increase yr. own power at the Expense of the Genl. or fed. Govt.

One great objt. of Govt. is personal protection and the security of Property — if you establish a federal Govt. men will not be interested in the protection or preservation of the Genl. Govt. but they will in the existence of the State Govts. if the latter is dissolved and the former remains their persons & fortune will be safe — Besides the large States will be indisposed to remain connected

Habits of obedience

Men will see their fortunes secured, their persons protected, offenders punished by State laws and State magistrates — they will love the Govt. that is thus immediate —

Force

The Force of law or the strength of Arms — The former is inefficient unless the people have the habits of Obedience — in this case you must have Arms — if this doctrine is applied to States — the system is utopian — you could not coerce Virginia — a fedl. Govt: is impracticable — you must call in foreign powers to aid the Genl. Govt. agt. the individual States — this will desolve the Union and destroy your Freedom

Influence

No govt. will be good without Influence. that is unless Men of Merit or the Pillars of Govt. are rewarded with Offices of Honor & Profit — the State Govts. have this influence — the fed. Govt. will be without it — this being true the Genl. Govt. will fail — as long as the States are rivals of the Genl. Govt. so long the Genl. will be subordinate —

How does History illustrate this point

The amphictions — had power to levy money men &c on the States — it was peculiarly federal — when a State failed the Amphictions fined — this was the case of the Phocians when Philip interposed —

Germany

their Diets are as weak as the amphictions, although the Emperor is bound to carry their Decrees into Execution — they put an Electorate under the Ban, & the Electorate puts the Diet & the Emperor at Defiance —

Switzerland

Their Diet is divided, their union is destroyed — part are in alliance wh France and the other part wh the U Netherlands

The Result is that all the passions of avarice, pride, ambition &c. shd. depend on the Genl. & not the State Govts. — you must make the national Sovereignty transcendent & entire —

The plan of N. Jersey

It proposes Requisitions on the States for such monies as the Impost does not yield — States will not comply — they have not — you have no standard to Quote

Numbers or Lands will not be a just Standard — an equal Difficulty arises in the Quotas of men — the States find men only in proportion to their Zeal — this was the Case in the late war — they cannot now obtain an honest adjustment of yr. Expence — for this gave large pecuniary bounties —

The Hic labor the hoc Opus is the Genl. Government

The Extent of Territory, the Variety of Opinions, & numerous considerations, seem to prevent a General Govt: The expence of the Genl. Govt. is important — not less yn. 100,000£ an y

How will you induce Genl. to come into the Genl. Govt. — what will be yr. inducement: you can give them perhaps 3 Dols. pr. Diem. Men of first consequence will not come forward — it will be managed by undertakers & not by the most able hands — I fear Republicanism will not answr. and yet we cannot go beyond it — I think the British Govt. is the only proper one for such an extensive Country — this govt. unites the highest public strength with the most perfect individual security — we are not in a situation to receive it — perhaps if it was established it wd. maintain itself — I am however sensible that it can't be established by consent, and we ought not to think of other means — We may attempt a general & not a federal Govt: let the senate hold yr. office for life or during good behavior; so of the Executive — This is republican if the people elect and also fill vacancies

(King's Diary (Max Farrand, 1911), Pages 301-304, Vol. 1)

Introduction

I Importance of the occasion II — Solid plan without regard to temporary opinion. III — If an ineffectual plan be again proposed it will beget despair & no government will grow out of consent 1 — Objections to the present confederation

I Entrusts the great interests of the nation to hands incapable of managing them — All matters in which foreigners are concerned — The care of the public peace: Debts Power of treaty without power of execution Common defence without power to raise troops have a fleet — raise money — Power to contract debts without the power to pay — — These great interests of the state must be well managed or the public prosperity must be the victim — Legislates upon communities — Where the legislatures are to act they will deliberate — No sanction — To ask money not to collect — & by an unjust measure

IV There seem to be but three lines of conduct. I A league offensive and defensive, treaty of commerce, & apportionment of the public debt. II An amendment of the present confederation by adding such powers as the public mind seems nearest being matured to grant. III — The forming a new government to pervade the whole with decisive powers in short with complete sovereignty.

B — Last seems to be the prevailing sentiment — I Its practicability to be examined — Immense extent unfavourable to representation — Vast expence — double setts of officers — Difficulty of judging of local circumstances — Distance has a physical effect upon mens minds — Difficulty of drawing proper characters from home — — Execution of laws feeble at a distance from government — particularly in the collection of revenue — Sentiment of Obedience }
Opinion }

C — Amendment of Confederation according to present Ideas 1 — Difficult because not agreed upon any thing Ex — Impost

Commerce different Theories —

— To ascertain the practicability of this let us examine the principles of civil obedience —

Supports of Government —

I — Interest to support it II — Opinion of Utility & necessity III Habitual sense of obligation IV — Force V — Influence.

I C I Interest Particular & general interests Esprit de Corps — — Vox populi vox Dei II II — Opinion of Utility & necessity 1 — First will decrease with the growth of the states. III III Necessity This does not apply to Fœderal Government — This may dissolve & yet the order of the community continue — Anarchy not a necessary consequence IV Habitual sense of obligation. This results from administration of private justice — Demand of service or money odious — V Force of two kinds. Coertion of laws Coertion of arms. First does not exist — & the last useless — Attempt to use it a war between the states — Foreign aid — Delinquency not confined to one. VI — Influence 1 Influence from municipal Jurisdiction 2 Influence appointment of Officers — 4 Military Jurisdiction 5 Fiscal Jurisdiction

D All these now reside in particular states — Their governments are the chief sources of honor and emolument. — Ambition Avarice. To effect any thing Passions must be turned towards general government —? Present Confederation cannot be amended unless the most important powers be given to Congress constituted as they are — This would be liable to all objections against any form of general government with the addition of the want of Checks — E Perpetual effort in each member Influence of Individuals in office employed to excite jealousy & clamour State leaders Experience corresponds Grecian Republics Demosthenes says Athens 73 years Lacedaemon 27 — Thebans after battle of Leuctra — Phocians consecrated ground Philip &c F Germanic Empire Charlemagne & his successors Diet Recesses — Electors now 7 excluding other G Swiss Cantons

Two diets — opposite alliances — Berne Lucerne To strengthen the Foederal government powers too great must be given to a single branch H Leage Offensive & Defensive &c particular Govs. might exert themselves &c But liable to usual Vicissi — — Internal Peace affected — Proximity of situation — natural enemies — Partial confederacies from unequal extent Power inspires ambition — Weakness begets jealousy Western territory — Obj: Genius of republics pacific — Answer — Jealousy of commerce as well as jealousy of power begets war — Sparta Athens Thebes Rome Carthage Venice Hanseatic Leage England as many Popular as Royal Wars Lewis the 14h Austria Bourbon William & Anne — Wars depend on trifling circumstances everywhere Dutchess of Malboroughs Glove Foreign Conquest — Dismemberment — Poland — Foreign Influence — Distractions set afloat Vicious humour Standing armies by dissensions Domestic Factions — Montesquieu — Monarchy in Southern States — Foederal Rights Fisheries — Wars destructive I Loss of advantages — — Foreign Nations would not respect our rights nor grant us reciprocity — Would reduce us to a passive Commerce — Fisheries Navigation of the lakes, of the Mississippi Fleet The general government must, in this case, not only have a strong soul, but strong organs by which that soul is to operate.

Here I shall give my sentiments of the best form of government — not as a thing attainable by us, but as a model which we ought to approach as near as possible.

British constitution best form.

Aristotle — Cicero — Montesquieu — Neckar.

Society naturally divides itself into two political divisions — the few and the many, who have distinct interests.

If government in the hands of the few, they will tyrannize over the many.

If [in] the hands of the many, they will tyrannize over the few. It ought to be in the hands of both; and they should be separated.

This separation must be permanent.

Representation alone will not do.

Demagogues will generally prevail.

And if separated, they will need a mutual check.

This check is a monarch.

Each principle ought to exist in full force, or it will not answer its end.

The democracy must be derived immediately from the people.

The aristocracy ought to be entirely separated; their power should be permanent, and they should have the *caritas liberorum*.

They should be so circumstanced that they can have no interest in a change — as to have an effectual weight in the constitution.

Their duration should be the earnest of wisdom and stability.

'Tis essential there should be a permanent will in a community.

Vox populi, vox Dei.

Source of government — the unreasonableness of the people — separate interests — debtors and creditors, &c.

There ought to be a principle in government capable of resisting the popular current.

No periodical duration will come up to this.

This will always imply hopes and fears.

Creature and Creator.

Popular assemblies governed by a few individuals.

These individuals seeing their dissolution approach, will sacrifice.

The principle of representation will influence.

The most popular branch will acquire an influence over the other.

The other may check in ordinary cases, in which there is no strong public passion; but it will not in cases where there is — the cases in which such a principle is most necessary.

Suppose duration seven years, and rotation.

One-seventh will have only one year to serve.

One-seventh two years. One-seventh three years. One-seventh four years. A majority will look to a dissolution in four years by instalments.

The monarch must have proportional strength. He ought to be hereditary, and to have so much power, that it will not be his interest to risk much to acquire more.

The advantage of a monarch is this — he is above corruption — he must always intend, in respect to foreign nations, the true interest and glory of the people.

Republics liable to foreign corruption and intrigue — Holland — Athens.

Effect of the British government. A vigorous execution of the laws — and a vigorous defence of the people, will result. Better chance for a good administration. It is said a republican government does not admit a vigorous execution. It is therefore bad; for the goodness of a government consists in a vigorous execution. The principle chiefly intended to be established is this — that there must be a permanent will.

Gentlemen say we need to be rescued from the democracy. But what the means proposed?

A democratic assembly is to be checked by a democratic senate, and both these by a democratic chief magistrate.

The end will not be answered — the means will not be equal to the object.

It will, therefore, be feeble and inefficient.

Recapitulation

I. Impossible to secure the union by any modification of foederal government.

II. League, offensive, and defensive, full of certain evils and greater dangers.

III. General government, very difficult, if not impracticable, liable to various objections.

What is to be done?

Answer. Balance inconveniences and dangers, and choose that which seems to have the fewest objections.

Expense admits of this answer. The expense of the state governments will be proportionably diminished.

Interference of officers not so great, because the objects of the general government and the particular ones will not be the same — Finance — Administration of private justice Energy will not be wanting in essential points, because the administration of private justice will be carried home to men's doors by the particular governments.

And the revenues may be collected from imposts, excises &c. If necessary to go further, the general government may make use of the particular governments.

The attendance of members near the seat of government may be had in the lower branch.

And the upper branch may be so constructed as to induce the attendance of members from any part.

But this proves that the government must be so constituted as to offer strong motives.

In short, to interest all the passions of individuals.

And turn them into that channel.

(Hamilton's Notes (Max Farrand, 1911), Pages 304-311)

Hamilton—The Situation of the State he represents and the Diffidence he has of his own Judgment induced him to Silence tho his Ideas are dissimilar from both Plans.

No Amendment of Confederation can answer the Exigencies of the States. State Sovereignities ought not to exist—Supposes we have Powers sufficient—Foederal an Association of States differently modified—Diet of Germany has Power to legislate for Individuals—In United States Confederacy legislate for States and in some Instances on Individuals—'Instances Piracies'. The Term 'sole' he supposes was to impress an Idea only that we were not to govern ourselves, but to revise Government.

Another Difficulty that the Legislature cannot be supposed to have delegated a Power they did not possess themselves—So far as Respects the State of New York one of the Branches of the Legislature considered it—It was 'said they might have Recourse to the People'—this had its Influence and it was carried by one Vote. We ought not to sacrifice the public Good to narrow Scruples. All America, all Europe, the World would condemn us. The only Enquiry ought to be what can we do to save our Country.—Five Essentials indispensable in foederal Government.— 1. A constant and active Interest. 2. Utility and Necessity. 3. A habitual Sense of Obligation. 4. Force. 5. Influence. Every Set of men who associate acquire an 'Esprit de Corps'. This will apply forcibly to States—they will have distinct Views—their own Obligations thwart general Good.

Do not we find a Jealousy subsisting? In the State of New York we had an Instance—The last Requisition was partially paid—the principal Part of their Funds applied to discharge State Obligations—the Individual States hostile to general Interest.

Virginia will in 25 Years contain a Million of Inhabitants—It may then be disposed to give up an Union only burthensome. The Distribution of Justice presents itself to every Eye—this has a powerful Influence and must particular attach Individuals to the State Governments.

Two Modes of Coercion—of Laws—of Military.

Individuals are easily controuled—not so Society—You must carry the Force to Individuals—If only State delinquent it would cause a war—If more they would associate and make a common Cause of it.

We must resort to Influence—Dispensations of Honors and Emoluments of Office necessary—these are all in the Hands of the State Governments—If they exist in State Governments their Influence too great. —our Situation is peculiar—'It leaves us Room to dream' as we think proper. —Groecian Confederacy lost for Want of adequate Powers—German the same. Swiss Cantons—general Diet has lost its Powers. Cannot combine States but by absorbing the 'Ambition and Avarice' of all.

Jersey Propositions—Regulating Trade—Revenue not adequate to meet our Debt—where are we to find it? Requisitions—the several States will deliberate

on them. —Requisitions founded on Quotas must always fail. There is no general Standard for Wealth in Communities—Pennsylvania and North Carolina—Connecticut an New York compared. New York derives great Wealth from Commerce—Connecticut none—Indirect Taxation must be multiplied. Equality of Suffrage ruinous to the Union. Doubts have been entertained whether the United States have a Right to built a Ship or raise a Reg(imen)t in Time of Peace—this Doubt might involve almost our Ruin.

The Organization of Congress exceptionable—They are annually appointed and subject to recal. —They will of Consequence represent the Prejudices of the States not general Interests—No Power will be executed if the States think proper to obstruct it. If general Government preserves itself it must extinguish State Governments.

If Congress remains Legislature the Sovereignty must ultimately vest in them.

The Expenche of national Government is a Consideration with him—it will probably amount to £100,000 per ann. —this however surmountable—It will not do to propose formal Extinction of State Governments—It would shock public Opinion too much. —Some subordinate Jurisdictions—something like limited Corporations. If general Government properly modified it may extinguish State Governments gradually—Representation is another difficulty. British Government the best—Dispairs of ever uniting (?) the great Objects of Government which have been so successfully attained by the British, public Strength and individual Safety, in any Republican System. He thinks here it would support itself—the Citizens of America may be distinguished into the wealthy well born and well educated—'and the many'. If Government in the hands of the latter they sacrifice the few—are as often in the wrong as right.

You can only protect the few by giving them exclusive Rights—they have Nothing to hope from Change—Monarchy is essential to them. One Branch of Legislature ought to be independent to check popular Frenzy—or Democracies will prevail. —Seven Years is no Check—It is no Object for Men of first Importance—Little Daemagogues will fill Assembly—Undertakers your Senate.

In Republics trifling Characters obtrude—they are easily corrupted—the most Important Individuals ought to drawn forth for Government—this can only be effected by establishing upper House for good Behaviour. Congress are Objects of foreign Corruption.

Executive ought to be during good Behaviour—He will part with his Power with Reluctance. You ought to interest him in the Government.

This may be objected to as establishing an elective Monarchy—but he will be liable to Impeachment for mal-conduct. The Election it supposed would cause Tumults—To avoid this the People in each District should chuse Electors—those should elect a few in that (?) State who should meet with Electors from the other States and elect 'the Governor'. Roman Emperor—elective—by Army German Emperor—by great Electors. Polish King—great Barons who have numerous Dependents. These were tumultuous from their Institutions—We may guard against it. The principal Citizens of every State are tired of Democracy

[Editors' note: The text enclosed in quotation marks is originally italicized in Joseph Strayer's edition of Lansing's Notes.]

1. *Espirit de Corps*. 2. Love of power. 3. A constant and active Interest in support of a Government. 4. Force. 5. Influence, as to past—will names of Government Monarchy or Republic increase difficulties. No but Force will supply i.e. a standing army. The *Espirit de Corps* overthrows the whole Plan. Number 1. No Rule for Quota, yet adopted by the Gentleman for determining Representation. Gentleman describes Love of Power and Danger of it in an appointment of the Executive for 7 Years, yet places the Executive in a situation to urge by the most powerful Motives to become a Traitor to his Country.

How the English Constitution grew up. Island No need of standing Armies. Contest between King and Barons. Commons call'd into the Aid of the latter & provided for in every Accommodation. Otherwise in France and all the Rest of Europe where similar Governments were established by barbarous nations. No Instance of a Republic being changed into a limited Monarchy. Always into a despotism and Tyranny. A Giant simple solitary slow heavy unwieldy. The States will give Play to Aristocracy. Agreed, better than hereditary Courtiers. Power to regulate Trade. Imposts Exercise Stamp Post Executive in 3 Office A limited Poll Tax Annual Election of 1st Branch Right of originating Money Bills—what are such—no Tasks Representation in House of Commons to be for the first 3 5 or 7 years according to the present Quotas of Contribution. Afterwards in proportion to the sums actually paid into the Common Treasury within every 3 5 or 7 Years. Expence a point of Detail. Not to be taken for granted, that some Taxes besides Imposts and Excises will not be necessary. 26=£13000 52=£26000

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 91-92, John Dickinson: Notes on Debates)

Col Hambleton. The Diet of Germany legislated on Individuals of the different Electoral Territories. Not only where they attempt to Contravene the Laws, established Laws of the Diet agreed to in the Diet. The States may be disposed to oppose the general Government and she is adequate to it. the defense the Common Militia of a State is not adequate event to state defence as in Massachusetts foreign powers [indecipherable] disaffected states. A dispensation of honors in every state. No vigorous exertion without a distribution of honors in individual states. Men collectively he says are governed by passions. The states will be rivals of the General. No! Make it their Interest by Laws of General Equity and they will support the general Government. The Amphiction Council, as to those made of raising Money and extending the Quota. Quotas would destroy the whole because there is no standard duty on Exports. Staple states take care. Large states will not agree to the small ones to dispose of their property. We must then resort to Equity. Bad principles will produce their Effects. Troops cant be brought forward in proportion to the population. Men will try to extend their power. If the General Govt. prevails the Individual must fall. In the British Constitution Individuals are best secured. What are Impressments. The Executive is above all temptation. is it proved so by the Conduct of the Kings of Britain Sweden Prussia. In Poland, he says there are great Barons who overawe. He will leave power in Individual States respecting Finance the power of carrying on War. I am against it. Witness the Stadholder.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 92-93, Pierce Butler: Notes on Debates)

[e675585] Having made these observations he would read to the Committee a sketch of a plan which he shd. prefer to either of those under consideration. He was aware that it went beyond the ideas of most members. But will such a plan be adopted out of doors? In return he would ask will the people adopt the other plan? At present they will adopt neither. But he sees the Union dissolving or already dissolved — he sees evils operating in the States which must soon cure the people of their fondness for democracies — he sees that a great progress has been already made & is still going on in the public mind. He thinks therefore that the people will in time be unshackled from their prejudices; and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr. R. wd. place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to the Committee. It was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr. R. in the proper stages of its future discussion. He reads his sketch in the words following: to wit

I “The Supreme Legislative power of the United States of America to be vested in two different bodies of men; the one to be called the Assembly, the other the Senate who together shall form the Legislature of the United States with power to pass all laws whatsoever subject to the Negative hereafter mentioned.

II The Assembly to consist of persons elected by the people to serve for three years.

III. The Senate to consist of persons elected to serve during good behaviour; their election to be made by electors chosen for that purpose by the people: in order to this the States to be divided into election districts. On the death, removal or resignation of any Senator his place to be filled out of the district from which he came.

IV. The supreme Executive authority of the United States to be vested in a Governour to be elected to serve during good behaviour — the election to be made by Electors chosen by the people in the Election Districts aforesaid — The authorities & functions of the Executive to be as follows: to have a negative on all laws about to be passed, and the execution of all laws passed, to have the direction of war when authorized or begun; to have with the advice and approbation of the Senate the power of the making all treaties; to have the sole appointment of the heads or chief officers of the departments of Finance, War and Foreign Affairs; to have the nomination of all other officers (Ambassadors to foreign Nations included) subject to the approbation or rejection of the Senate; to have the power of pardoning all offences except Treason; which he shall not pardon without the approbation of the Senate.

V. On the death resignation or removal of the Governour his authorities to be exercised by the President of the Senate till a Successor be appointed.

VI The Senate to have the sole power of declaring war, the power of advising and approving all Treaties, the power of approving or rejecting all appointments of officers except the heads or chiefs of the departments of Finance War and foreign affairs.

VII. The Supreme Judicial authority to be vested in Judges to hold their offices during good behaviour with adequate and permanent salaries. This Court to have original jurisdiction in all causes of capture, and an appellative jurisdiction in all causes in which the revenues of the general Government or the

citizens of foreign nations are concerned.

VIII. The Legislature of the United States to have power to institute Courts in each State for the determination of all matters of general concern.

IX. The Governour Senators and all officers of the United States to be liable to impeachment for mal — and corrupt conduct; and upon conviction to be removed from office, & disqualified for holding any place of trust or profit — all impeachments to be tried by a Court to consist of the Chief or Judge of the Superior Court of Law of each State, provided such Judge shall hold his place during good behavior, and have a permanent salary.

X All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void; and the better to prevent such laws being passed, the Governour or president of each state shall be appointed by the General Government and shall have a negative upon the laws about to be passed in the State of which he is Governour or President

XI No State to have any forces land or Naval; and the Militia of all the States to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them

On these several articles he entered into explanatory observations corresponding with the principles of his introductory reasoning

[Editors' note: Madison's version of Hamilton's speech includes an 11-point plan. Since this plan does not appear so clearly in Hamilton's own notes, Madison's enumeration of it is used here. It is unclear how close this version of the speech is to the original; although, according to Farrand, some commentators have recorded the story that Hamilton saw Madison's copy of the speech and approved it.]

(Madison's Notes (Max Farrand, 1911), Pages 291-293, Vol. 1)

he [Hamilton] then read his Plan and expatiated on it

(Lansing's Notes (Joseph Strayer, 1939), Page 68)

[e675586] It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again

(Official Journal (Max Farrand, 1911), Pages 281-282, Vol. 1)

Committee rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 1)

[e675587] The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 282, Vol. 1)

Committee rose & the House adjourned.

(Madison's Notes (Max Farrand, 1911), Page 293, Vol. 1)

Adjourned till to Morrow.

(Lansing's Notes (Joseph Strayer, 1939), Page 68)

3.16 Tuesday, 19 June 1787, at 11:00 (s6303)

[e675588] On a question to adopt Mr Dickinson's motion — moved yesterday

it passed in the negative [Ayes — 4; noes — 6; divided — 1.]

(Official Journal (Max Farrand, 1911), Page 312, Vol. 1)

The Substitute offered yesterday by Mr. Dickenson being rejected by a vote now taken on it; Con. N. Y. N. J. Del. ay. Mas. Pa. V. N. C. S. C. Geo. no Mayd. divided Mr. Patterson's plan was again at large before the Committee

(Madison's Notes (Max Farrand, 1911), Page 313, Vol. 1)

On the first Resolve when Question put—6 States Affirmative—4 against and Maryland divided.

[Editors' note: Lansing's notes confuse the timeline of this day as well as the reference to this vote, which was lost 6 to 4 instead of won.]

(Lansing's Notes (Joseph Strayer, 1939), Pages 70-71)

[e675589] Mr. Madison. Much stress had been laid by some gentlemen on the want of power in the Convention to propose any other than a federal plan. To what had been answered by others, he would only add, that neither of the characteristics attached to a federal plan would support this objection. One characteristic, was that in a federal Government, the power was exercised not on the people individually; but on the people collectively, on the States. Yet in some instances as in piracies, captures &c. the existing Confederacy, and in many instances, the amendments to it proposed by Mr. Patterson must operate immediately on individuals. The other characteristic was, that a federal Govt. derived its appointments not immediately from the people, but from the States which they respectively composed. Here too were facts on the other side. In two of the States, Connect. and Rh. Island, the delegates to Congs. were chosen, not by the Legislatures, but by the people at large; and the plan of Mr. P. intended no change in this particular.

It had been alledged (by Mr. Patterson) that the Confederation having been formed by unanimous consent, could be dissolved by unanimous Consent only Does this doctrine result from the nature of compacts? does it arise from any particular stipulation in the articles of Confederation? If we consider the federal union as analagous to the fundamental compact by which individuals compose one Society, and which must in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. a breach of the fundamental principles of the compact by a part of the Society would certainly absolve the other part from their obligations to it. If the breach of any article by any of the parties, does not set the others at liberty, it is because, the contrary is implied in the compact itself, and particularly by that law of it, which gives an indefinite authority to the majority to bind the whole in all cases. This latter circumstance shews that we are not to consider the federal Union as analogous to the social compact of individuals: for if it were so, a Majority would have a right to bind the rest, and even to form a new Constitution for the whole, which

the Gentn: from N. Jersey would be among the last to admit. If we consider the federal union as analogous not to the social compacts among individual men: but to the conventions among individual States. What is the doctrine resulting from these conventions? Clearly, according to the Expositors of the law of Nations, that a breach of any one article, by any one party, leaves all the other parties at liberty, to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties indeed it is expressly stipulated that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during war, which in general is understood to dissolve all subsisting Treaties. But are there any exceptions of this sort to the Articles of confederation? So far from it that there is not even an express stipulation that force shall be used to compel an offending member of the Union to discharge its duty. He observed that the violations of the federal articles had been numerous & notorious. Among the most notorious was an Act of N. Jersey herself; by which she expressly refused to comply with a constitutional requisition of Congs. — and yielded no farther to the expostulations of their deputies, than barely to rescind her vote of refusal without passing any positive act of compliance. He did not wish to draw any rigid inferences from these observations. He thought it proper however that the true nature of the existing confederacy should be investigated, and he was not anxious to strengthen the foundations on which it now stands

Proceeding to the consideration of Mr. Patterson's plan, he stated the object of a proper plan to be twofold. 1. to preserve the Union. 2. to provide a Governmt. that will remedy the evils felt by the States⁶ both in their united and individual capacities. Examine Mr. P.s plan, & say whether it promises satisfaction in these respects.

1. Will it prevent those violations of the law of nations & of Treaties which if not prevented must involve us in the calamities of foreign wars? The tendency of the States to these violations has been manifested in sundry instances. The files of Congs. contain complaints already, from almost every nation with which treaties have been formed. Hitherto indulgence has been shewn to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities. It ought therefore to be effectually provided that no part of a nation shall have it in its power to bring them on the whole. The existing confederacy does not sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the States as uncontroled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified among ourselves, as well in every other confederated republic antient and Modern. By the federal articles, transactions with the Indians appertain to Congs. Yet in several instances, the States have entered into treaties & wars with them. In like manner no two or more States can form among themselves any treaties &c without the consent of Congs. yet Virga & Maryd in one instance — Pena. & N. Jersey in another, have entered into compacts, without previous application or subsequent apology. No State again can of right raise troops in time of peace without the like consent Of all cases of the league, this seems to require the most scrupulous observance. Has not Massts, notwithstanding, the most powerful member of the Union, already raised a body of troops? Is she not now augmenting them, without

having even deigned to apprise Congs. of Her intention? In fine Have we not seen the public land dealt out to Cont. to bribe her acquiescence in the decree constitutionally awarded agst. her claim on the territory of Pena. —? for no other possible motive can account for the policy of Congs. in that measure? — if we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphyctronic & Achæan confederacies among the antients, and the Helvetic, Germanic & Belgic among the moderns, tracing their analogy to the U. States — in the constitution and extent of their federal authorities — in the tendency of the particular members to usurp on these authorities; and to bring confusion & ruin on the whole. — He observed that the plan of Mr. Pat—son besides omitting a controul over the States as a general defence of the federal prerogatives was particularly defective in two of its provisions. 1. Its ratification was not to be by the people at large, but by the Legislatures. It could not therefore render the acts of Congs. in pursuance of their powers even legally paramount to the Acts of the States. 2. It gave to the federal tribunal an appellate jurisdiction only — even in the criminal cases enumerated, The necessity of any such provision supposed a danger of undue acquittals in the State tribunals. Of what avail wd. an appellate tribunal be, after an acquittal? Besides in most if not all of the States, the Executives have by their respective Constitutions the right of pardg. How could this be taken from them by a legislative ratification only?

3. Will it prevent trespasses of the States on each other? Of these enough has been already seen. He instanced Acts of Virga. & Maryland which give a preference to their own citizens in cases where the Citizens of other states are entitled to equality of privileges by the Articles of Confederation. He considered the emissions of paper money & other kindred measures as also aggressions. The States relatively to one another being each of them either Debtor or Creditor; The Creditor States must suffer unjustly from every emission by the debtor States. We have seen retaliating acts on this subject which threatened danger not to the harmony only, but the tranquillity of the Union. The plan of Mr. Paterson, not giving even a negative on the Acts of the States, left them as much at liberty as ever to execute their unrighteous projects agst. each other.

4. Will it secure the internal tranquillity of the States themselves? The insurrections in Massts. admonished all the States of the danger to which they were exposed. Yet the plan of Mr. P. contained no provisions for supplying the defect of the Confederation on this point. According to the Republican theory indeed, Right & power being both vested in the majority, are held to be synonymous. According to fact & experience, a minority may in an appeal to force be an overmatch for the majority. 1. If the minority happen to include all such as possess the skill & habits of military life, with such as possess the great pecuniary resources, one third may conquer the remaining two thirds. 2. one third of those who participate in the choice of rulers may be rendered a majority by the accession of those whose poverty disqualifies them from a suffrage, & who for obvious reasons may be more ready to join the standard of sedition than that of the established Government. 3. Where slavery exists, the Republican Theory becomes still more fallacious.

5. Will it secure a good internal legislation & administration to the particular States? In developing the evils which vitiate the political system of the U. S. it is proper to take into view those which prevail within the States individually as

well as those which affect them collectively: Since the former indirectly affect the whole; and there is great reason to believe that the pressure of them had a full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on 1. the multiplicity of the laws passed by the several States. 2. the mutability of their laws. 3. the injustice of them. 4. the impotence of them: observing that Mr. Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the Community.

6. Will it secure the Union agst. the influence of foreign powers over its members. He pretended not to say that any such influence had yet been tried: but it naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practiced among the Amphictionic Confederates first by the Kings of Persia, and afterwards fatally by Philip of Macedon: Among the Achæans, first by Macedon & afterwards no less fatally by Rome: Among the Swiss by Austria, France & the lesser neighbouring Powers; among the members of the Germanic Body by France, England, Spain & Russia — and in the Belgic Republic, by all the great neighbouring powers. The plan of Mr. Patterson, not giving to the general Councils any negative on the will of the particular States, left the door open for the like pernicious machinations among ourselves.

7. He begged the smaller States which were most attached to Mr. Patterson's plan to consider the situation in which it would leave them. In the first place they would continue to bear the whole expense of maintaining their Delegates in Congress. It ought not to be said that if they were willing to bear this burden, no others had a right to complain. As far as it led the small States to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. An examination of the minutes of Congress would satisfy every one that the public business had been frequently delayed by this cause; and that the States most frequently unrepresented in Congs. were not the larger States. He reminded the convention of another consequence of leaving on a small State the burden of Maintaining a Representation in Congs. During a considerable period of the War, one of the Representatives of Delaware, in whom alone before the signing of the Confederation the entire vote of that State and after that event one half of its vote, frequently resided, was a Citizen & Resident of Penna. and held an office in his own State incompatible with an appointment from it to Congs. During another period, the same State was represented by three delegates two of whom were citizens of Penna. — and the third a Citizen of New Jersey. These expedients must have been intended to avoid the burden of supporting delegates from their own State. But whatever might have been ye. cause, was not in effect the vote of one State doubled, and the influence of another increased by it? In the 2d. place The coercion, on which the efficacy of the plan depends, can never be exerted but on themselves. The larger States will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the history of the Amphictionic Confederates: and the ban of the German Empire, It was the cobweb wch. could entangle the weak, but would be the sport of the strong.

8. He begged them to consider the situation in which they would remain in case their pertinacious adherence to an inadmissible plan, should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that

the means of escaping it might be the more readily embraced. Let the union of the States be dissolved and one of two consequences must happen. Either the States must remain individually independent & sovereign; or two or more Confederacies must be formed among them. In the first event would the small States be more secure agst. the ambition & power of their larger neighbours, than they would be under a general Government pervading with equal energy every part of the Empire, and having an equal interest in protecting every part agst. every other part? In the second, can the smaller expect that their larger neighbours would confederate with them on the principle of the present confederacy, which gives to each member, an equal suffrage; or that they would exact less severe concessions from the smaller States, than are proposed in the scheme of Mr. Randolph?

The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from N. Jersey, (Mr. Brearly and Mr. Patterson) that it would not be just to allow Virga. which was 16 times as large as Delaware an equal vote only. Their language was that it would not be safe for Delaware to allow Virga. 16 times as many votes. The expedient proposed by them was that all the States should be thrown into one mass and a new partition be made into 13 equal parts. Would such a scheme be practicable? The dissimilarities existing in the rules of property, as well as in the manners, habits and prejudices of the different States, amounted to a prohibition of the attempt. It had been found impossible for the power of one of the most absolute princes in Europe (K. of France) directed by the wisdom of one of the most enlightened and patriotic Ministers (Mr. Neckar) that any age has produced, to equalize in some points only the different usages & regulations of the different provinces. But admitting a general amalgamation and repartition of the States, to be practicable, and the danger apprehended by the smaller States from a proportional representation to be real; would not a particular and voluntary coalition of these with their neighbours, be less inconvenient to the whole community, and equally effectual for their own safety. If N. Jersey or Delaware conceive that an advantage would accrue to them from an equalization of the States, in which case they would necessarily form a junction with their neighbors, why might not this end be attained by leaving them at liberty by the Constitution to form such a junction whenever they pleased? and why should they wish to obtrude a like arrangement on all the States, when it was, to say the least, extremely difficult, would be obnoxious to many of the States, and when neither the inconveniency, nor the benefit of the expedient to themselves, would be lessened, by confining it to themselves. — The prospect of many new States to the Westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but few inhabitants. If they shd. be entitled to vote according to their proportions of inhabitants, all would be right & safe. Let them have an equal vote, and a more objectionable minority than ever might give law to the whole.

[Editors' note: Farrand notes that there are several places where Madison edited his own speech after the fact.]

(Madison's Notes (Max Farrand, 1911), Pages 313-322, Vol. 1)

On the consideration of the first resolve of the Jersey plan.

Mr. Madison. — This is an important question — Many persons scruple the powers of the convention. If this remark had any weight, it is equally applicable to the adoption of either plan. The difference of drawing the powers in the one from the people and in the other from the states, does not affect the powers. There are two states in the union where the members of congress are chosen by the people. A new government must be made. Our all is depending on it; and if we have but a clause that the people will adopt, there is then a chance for our preservation. Although all the states have assented to the confederation, an infraction of any one article by one of the states is a dissolution of the whole. This is the doctrine of the civil law on treaties.

Jersey pointedly refused complying with a requisition of congress, and was guilty of this infraction, although she afterwards rescinded her non-complying resolve. What is the object of a confederation? It is two-fold — 1st, to maintain the union; 2dly, good government. Will the Jersey plan secure these points? No; it is still in the power of the confederated states to violate treaties — Has not Georgia, in direct violation of the confederation made war with the Indians, and concluded treaties? Have not Virginia and Maryland entered into a partial compact? Have not Pennsylvania and Jersey regulated the bounds of the Delaware? Has not the state of Massachusetts, at this time, a considerable body of troops in pay? Has not congress been obliged to pass a conciliatory act in support of a decision of their federal court, between Connecticut and Pennsylvania, instead of having the power of carrying into effect the judgment of their own court? Nor does the Jersey plan provide for a ratification by the respective states of the powers intended to be vested. It is also defective in the establishment of the judiciary, granting only an appellate jurisdiction, without providing for a second trial; and in case the executive of a state should pardon an offender, how will it effect the definitive judgment on appeal? It is evident, if we do not radically depart from a federal plan, we shall share the fate of ancient and modern confederacies. The amphycion council, like the American congress, had the power of judging in the last resort in war and peace — call out forces — send ambassadors. What was its fate or continuance? Philip of Macedon, with little difficulty, destroyed every appearance of it. The Athenian had nearly the same fate — The Helvetic confederacy is rather a league — In the German confederacy the parts are too strong for the whole — The Dutch are in a most wretched situation — weak in all its parts, and only supported by surrounding contending powers.

The rights of individuals are infringed by many of the state laws — such as issuing paper money, and instituting a mode to discharge debts differing from the form of the contract. Has the Jersey plan any checks to prevent the mischief? Does it in any instance secure internal tranquility? Right and force, in a system like this, are synonymous terms. When force is employed to support the system, and men obtain military habits, is there no danger they may turn their arms against their employers? Will the Jersey plan prevent foreign influence? Did not Persia and Macedon distract the councils of Greece by acts of corruption? And is not Jersey and Holland at this day subject to the same distractions? Will not the plan be burthensome to the smaller states, if they have an equal representation? But how is military coercion to enforce government? True, a smaller state may be brought to obedience, or crushed; but what if one of the larger states should prove disobedient, are you sure you can by force effect a submission? Suppose we cannot agree on any plan, what will be the condition

of the smaller states? Will Delaware and Jersey be safe against Pennsylvania, or Rhode-Island against Massachusetts? And how will the smaller states be situated in case of partial confederacies? Will they not be obliged to make larger concessions to the greater states? The point of representation is the great point of difference, and which the greater states cannot give up; and although there was an equalization of states, state distinctions would still exist. But this is totally impracticable; and what would be the effect of the Jersey plan if ten or twelve new states were added?

(Yates's Diary (Max Farrand, 1911), Pages 325-327, Vol. 1)

Madison

Confedn. unanimously adopted can be dissolved only by unanimous consent — this Position is not true — A contract entered into by men or societies may be dissolved by the breach of a single Articles — this is the case in Treaties — sometimes however provision is made that the Breach of a single Article shall not dissolve the Contn. or Treaty

Georgia has declared & prosecuted a war agt. the Indians — they have treated with them — N Jersey has expressly refused a constitutional Requisition — Virginia & Maryland have formed a Contract relative to the Potomack — Pennsylvania & NYk have agreed about their boundary — Massachusets has raised an Army, & are now about to augment that Establishment —

Will a federal Govt. answer —

Amphictions — to decide between the members — to mulct offenders — command the forces, sent Embass. chose the Comr. in Chief, and used the Genl. Forces agt. the deficient —

Athenian confed. similar to the Amphictions — their fate terminated by the strength of the members

Helvetic Confed. loose & weak and not like our situation —

Germanic Confedy.

Loose & weak, the strength of individual Members exceed that of the whole

—

The Netherlands — weak — no powers —

(King's Diary (Max Farrand, 1911), Pages 329-330, Vol. 1)

Maddison — Breach of compact in one article releases the whole —

Treaties may still be violated by the states under the Jersey plan —

Appellate jurisdiction not sufficient because second trial cannot be had under it —

Attempt made by one of the greatest monarchs of Europe to equalize the local peculiarities of their separate provinces — in which the Agent fell a victim

(Hamilton's Notes (Max Farrand, 1911), Page 333, Vol. 1)

Madison—The Distinction between federal and national Representation—the one from the State collectively—the other from the People is not well taken— There are two States in the Union in which Delegates are chosen by the People. Probability of adopting Plan—We must adopt such an one as will ensure Safety—Let us have a Chance. Confederation on same ground as Compact made by a Number of Persons—If one violates it all are discharged—in Treaties it is

agreed that a Breach of any is a Dissolution of all—Jersey has refused to comply with Requisitions—He is anxious to perpetuate Union—but will not consent to prolong it on its present Principles.— How is Confederation observed? Georgia has entered into War and made Treaties in express Violation of Union. Virginia and Maryland entered into Compact in like Violation.—Massachusetts has a regular Body of Forces without Approbation of Congress. The conciliatory Resolution of Congress resp [ectin]g Wioming Dicism evinces Weakness of general Government. The Power retained by the different States Executives of pardoning would alone defeat national Government.¹ The Amphictionic Council had a Right of judging between Members, mulcting Aggressors—drawing out Force of States—and several other important Powers—The Confederacy was however of very short Duration. It will not be denied that the Convention has as much Power as Congress—They have exercised it in recommending a new Rule of Apportionment—II States agreed to it.

(Lansing's Notes (Joseph Strayer, 1939), Pages 68-69)

Objection to N. J. Plan

1. One Branch of Legislation which unsafe as Counsils not enough matured and will prevent a Deposit of necessary power.
2. All new states must be admitted on the same principle which is dangerous.
3. Supplies depend on Requisitions and Coercion.
4. Quotas to be settled in an unequal Manner.

The great Defect of antient and modern Confederations was and is that the necessary Legislation of the Nation did not operate with sufficient Energy. Let this be prevented and the Legislation be allowed to operate in all proper Cases.

We should consider the great states have something to part with as well as the smaller. The only question is on what terms we shall agree.

Objection to Report

1. Representation in both Branches founded on Numbers—unreasonable and dangerous.
2. Doubtful Indefinite Expressions which give a power to legislate in all Cases.
3. The Executive lodged in a single person. No Instance of its being ever done with safety. The insurmountable Difficulty of effecting a Junction of Government and Territory between two states. What becomes of the *Espirit de Corps*?

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 96)

[e733961] It was then moved and seconded to postpone the consideration of the first proposition offered by Mr Paterson.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 1)

[e733962] It was then moved and seconded to postpone the consideration of the first proposition offered by Mr Paterson. passed in the affirmative [Ayes — 9; noes — 2.]

(Official Journal (Max Farrand, 1911), Page 313, Vol. 1)

On a question for postponing generally the 1st. proposition of Mr. Patterson's plan, it was agreed to: N. Y. & N. J. only being no —

(Madison's Notes (Max Farrand, 1911), Page 322, Vol. 1)

[e675591] Mr. King moved that the committee rise, and report that the Jersey plan is not admissible, and report the first plan.

(Yates's Diary (Max Farrand, 1911), Page 327, Vol. 1)

On the question moved by Mr. King whether the Committee should rise & Mr. Randolphs propositions be re-reported without alteration, which was in fact a question whether Mr. R's should be adhered to as preferable to those of Mr. Patterson;

(Madison's Notes (Max Farrand, 1911), Page 322, Vol. 1)

Motion by Wilson to move that the Committee rise and report that it is the Opinion of the Committee that the Plan submitted by New Jersey is inexpedient

(Lansing's Notes (Joseph Strayer, 1939), Page 70)

[e675592] Mr. Dickinson supposed that there were good regulations in both. Let us therefore contrast the one with the other, and consolidate such parts of them as the committee approve.

(Yates's Diary (Max Farrand, 1911), Page 327, Vol. 1)

[e675593] It was then moved and seconded that the Committee do now rise — and report to the House that they do not agree to the propositions offered by the honorable Mr Paterson — and that they report the resolutions offered by the honorable Mr Randolph, heretofore reported from a Committee of the whole House

passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

The Committee then rose.

(Official Journal (Max Farrand, 1911), Page 313, Vol. 1)

Massts. ay. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. no. Md. divd. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 3; divided — 1.]

(Madison's Notes (Max Farrand, 1911), Page 322, Vol. 1)

Mr. King's motion was then put — For it 7 states — 3 against — one divided. New-York in the minority.

The committee rose and reported again the first plan, and the inadmissibility of the Jersey plan.

(Yates's Diary (Max Farrand, 1911), Pages 327-328, Vol. 1)

Motion by Wilson to move that the Committee rise and report that it is the Opinion of the Committee that the Plan submitted by New Jersey is inexpedient— This was accordingly done and I was disposed to submit to it because the Sentiments of the Committee on the Question of Representation in the first Instance could not be pointedly taken.

(Lansing's Notes (Joseph Strayer, 1939), Page 70)

Chapter 4

First Committee on Representation

Committee consisting of a deputy from each state, charged with finding a suitable method of representation in both houses of the legislature.

4.1 Tuesday, 03 July 1787, at 11:00 (s6304)

[e675595] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675596] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675597] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

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Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675598] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

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Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675599] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675600] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

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Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutledge and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675601] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutledge and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675602] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutledge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675603] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675604] and a Committee by ballot was appointed of

Mr Gerry, Mr Ellsworth, Mr Yates, Mr Paterson, Mr Franklin, Mr Bedford, Mr L Martin, Mr Mason, Mr Davie, Mr Rutledge and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 509, Vol. 1)

The Committee elected by ballot, were Mr. Gerry, Mr. Elsworth, Mr. Yates, Mr. Patterson. Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy. Mr. Rutlidge, Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 516, Vol. 1)

And, by ballot, the following members were appointed:

Massachusetts, Mr. Gerry. Connecticut, Mr. Elsworth. New-York, Mr. Yates. New-Jersey, Mr. Patterson. Pennsylvania, Mr. Franklin. Delaware, Mr. Bedford. Maryland, Mr. Martin. Virginia, Mr. Mason. North Carolina, Mr. Davie. South Carolina, Mr. Rutledge. Georgia, Mr. Baldwin.

(Yates's Diary (Max Farrand, 1911), Page 520, Vol. 1)

the Committee balloted for consisted of Gerry, Elsworth, Yates, Patterson, Franklin, Martin, Bedford, Mason, Davie, Rutlege and Baldwin.

(Lansing's Notes (Joseph Strayer, 1939), Pages 102-103)

[e675605] [Sherman] acted in place of Mr. Ellsworth who was kept away by indisposition.

[Editors' note: Though Ellsworth was elected to represent Connecticut in the Committee, Roger Sherman took his place.]

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 1)

[e675606] The grand committee met. Mr. Gerry was chosen chairman.

(Yates's Diary (Max Farrand, 1911), Page 522, Vol. 1)

[e675607] The committee proceeded to consider in what manner they should discharge the business with which they were entrusted.

(Yates's Diary (Max Farrand, 1911), Page 522, Vol. 1)

[e675608] By the proceedings in the convention they were so equally divided on the important question of representation in the two branches, that the idea of a conciliatory adjustment must have been in contemplation of the house in the appointment of this committee. But still how to effect this salutary purpose was the question. Many of the members, impressed with the utility of a general government, connected with it the indispensable necessity of a representation from the states according to their numbers and wealth; while others, equally tenacious of the rights of the states, would admit of no other representation but such as was strictly federal, or in other words, equality of suffrage. This brought on a discussion of the principles on which the house had divided, and a lengthy recapitulation of the arguments advanced in the house in support of these opposite propositions. As I had not openly explained my sentiments on any former occasion on this question, but constantly in giving my vote, showed my attachment to the national government on federal principles, I took this occasion to explain my motives — (See a copy of my speech hereunto annexed.)

[Editors' note: No copy of Yates's speech has been found at this time. However, Farrand contends that the principles of the speech are likely contained in the letter he and Lansing sent to George Clinton, the Governor of New York, on their leaving the Convention. The relevant sections are as follows:

'We beg leave, briefly, to state some cogent reasons, which, among others, influenced us to decide against a consolidation of the states. These are reducible into two heads.

1st. The limited and well-defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude, as to assent to a general constitution, in subversion of that of the state.

2d. A conviction of the impracticability of establishing a general government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the sole and express purpose of revising the articles of confederation, and reporting such alterations and provisions therein, as should render the federal constitution adequate to the exigencies of government, and the preservation of the union.

From these expressions, we were led to believe, that a system of consolidated government could not in the remotest degree, have been in contemplation of the

legislature of this state? for that so important a trust, as the adopting measures which tended to deprive the state government of its most essential rights of sovereignty, and to place it in a dependent situation, could not have been confided by implication; and the circumstance, that the acts of the convention were to receive a state approbation in the last resort, forcibly corroborated the opinion, that our powers could not involve the subversion of a constitution, which being immediately derived from the people, could only be abolished by their express consent, and not by a legislature, possessing authority vested in them for its presecration. Nor could we suppose, that if it had been the intention of the legislature, to abrogate the existing confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea.

Reasoning in this manner, we were of opinion, that the leading feature of every amendment, ought to be the preservation of the individual states, in their uncontroled constitutional rights, and that in reserving these, a mode might have been devised of granting to the confederacy, the monies arising from a general system of revenue; the power of regulating commerce, and enforcing the observance of foreign treaties, and other necessary matters of less moment.

Exclusive of our objections originating from the want of power, we entertained an opinion, that a general government, however guarded by declarations of rights, or cautionary provisions, must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it: by reason of the extensive territory of the United States, the dispersed situation of its inhabitants, and the insuperable difficulty of controuling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of government; and who from their remoteness from their constituents and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that however wise and energetic the principles of the general government might be, the extremities of the United States could not be kept in due submission and obedience to its laws, at the distance of many hundred miles from the seat of government; that if the general legislature was composed of so numerous a body of men, as to represent the interests of all the inhabitants of the United States, in the usual and true ideas of representation, the expence of supporting it would become intolerably burdensome; and that if a few only were vested with a power of legislation, the interests of a great majority of the inhabitants of the United States, must necessarily be unknown; or if known, even in the first stages of the operations of the new government, unattended to' (Pages 245-246, Vol. 3, Appendix A (Max Farrand, 1911)).]

(Yates's Diary (Max Farrand, 1911), Page 522, Vol. 1)

[e675609] These remarks gave rise to a motion of Dr. Franklin, which after some modification was agreed to, and made the basis of the following report of the committee.

[Editors' note: Yates does not provide the text for the original motion, debate, or modifications.]

(Yates's Diary (Max Farrand, 1911), Pages 522-523, Vol. 1)

[e675610] [Editors' note: Yates notes that Franklin had proposed a motion which became the basis of the Committee report, though he does not provide the text for the original motion, debate, or modifications. This amendment event represents the changes that appear in the report's final form, presented to the Convention on 5 July 1787.]

(2019 Editors)

These remarks gave rise to a motion of Dr. Franklin, which after some modification was agreed to, and made the basis of the following report of the committee.

(Yates's Diary (Max Farrand, 1911), Pages 522-523, Vol. 1)

[e675611] [Editors' note: In his State of Facts (1788), included in a letter from 21 January 1788 to the Vice President of the Convention of Massachusetts, Elbridge Gerry recollects the debate on this report in the First Committee on Representation. The relevant section of which is as follows:

'The number of forty thousand inhabitants to every member in the House of Representatives, was not a subject of much debate, or an object insisted on, as some of the Committee were opposed to it. Accordingly, on the 10th of July, a motion was made "to double the number of representatives, being sixty-five," and it passed in the negative.

The admission, however, of the smaller States to an equal representation in the Senate, never would have been agreed to by the Committee, or by myself, as a member of it, without the provision "that all bills for raising or appropriating money, and for fixing the salaries of the officers of government," should originate in the House of Representatives, and "not be altered or amended" by the Senate, "and that no money should be drawn from the treasury" "but in pursuance of such appropriations."

This provision was agreed to by the Convention, at the same time and by the same vote, as that which allows to each State an equal voice in the Senate, and was afterwards referred to the Committee of Detail, and reported by them as part of the Constitution, as will appear by documents in my possession. Nevertheless, the smaller States having attained their object of an equal voice in the Senate, a new provision, now in the Constitution, was substituted, whereby the Senate have a right to propose amendments to revenue bills, and the provision reported by the Committee was effectually destroyed.

It was conceived by the Committee to be highly unreasonable and unjust that a small State, which would contribute but one sixty-fifth part of any tax, should, nevertheless, have an equal right with a large State which would contribute eight or ten sixty-fifths of the same tax, to take money from the pockets of the latter, more especially as it was intended that the powers of the new legislature should extend to internal taxation. It was likewise conceived, that the right of expending should be in proportion to the ability of raising money — that the larger States would not have the least security for their property if they had not the due command of their own purses — that they would not have such command, if the lesser States in either branch had an equal right with the larger to originate, or even to alter, money bills — that if the Senate should have the power of proposing amendments, they may propose that a bill, originated by the House, to raise one thousand, should be increased to one hundred thousand

pounds — that although the House may negative amendments proposed by the Senate, yet the giving them power to propose amendments, would enable them to increase the grants of the House, because the Senate (as well as the House) would have a right to adhere to their votes, and would oblige the House to consent to such an increase, on the principle of accommodation — that the lesser States would thus have nearly as much command of the property of the greater, as they themselves — that even if the representation in the Senate had been according to numbers, in each State, money bills should not be originated or altered by that branch, because, by their appointments, the members would be farther removed from the people, would have a greater and more independent property in their offices, would be more extravagant, and not being so easily removed, would be ever in favor of higher salaries than members of the House — that it was not reasonable to suppose the aristocratical branch would be as saving of the public money as the democratical branch: — but that, on the other hand, should the Senate have only the power of concurrence or non-concurrence of such bills, they would pass them, although the grants should not equal their wishes, whilst, with the power of amendment, they would never be satisfied with the grants of the House — that the Commons of Great Britain had ever strenuously and successfully contended for this important right, which the Lords had often, but in vain, endeavored to exercise — that the preservation of this right, the right of holding the purse-strings, was essential to the preservation of liberty — and that to this right, perhaps, was principally owing the liberty that still remains in Great Britain.

These are the facts and reasons whereon was grounded the admission of the smaller States to an equal representation in the Senate, and it must appear that there is an essential difference between an unqualified admission of them to an equal representation in the Senate, and admitting them from necessity, on the express condition provided in the recited report of the Committee; and it must also appear, that had that provision been preserved in the Constitution, and the Senate precluded from a right to alter or amend money or revenue bills, agreeably to the said report, the lesser States would not have that undue command of the property of the larger States which they are now to have by the Constitution, and that I never consented to an equal representation of the States in the Senate, as it now stands, in the new system' (Pages 265-267, Vol. 3, Appendix A (Max Farrand, 1911)).]

(2019 Editors)

[e675612] This report was founded on a motion in the Committee made by Dr. Franklin. It was barely acquiesced in by the members from the States opposed to an equality of votes in the 2d. branch and was evidently considered by the members on the other side, as a gaining of their point. A motion was made by Mr. Sherman in the Committee to the following effect "that each State should have an equal vote in the 2d branch; provided that no decision therein should prevail unless the majority of States concurring should also comprize a majority of the inhabitants of the U. States". This motion was not much deliberated on nor approved in the Committee. A similar proviso had been proposed in the debates on the articles of Confederation in 1777. to the articles giving certain powers to "nine States." See Journals of Congs. for 1777. p. 462

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 1)

[e675613] This motion was not much deliberated on nor approved in the Committee.

(Madison's Notes (Max Farrand, 1911), Page 526, Vol. 1)

[e675614] These remarks gave rise to a motion of Dr. Franklin, which after some modification was agreed to, and made the basis of the following report of the committee.

The committee to whom was referred the eighth resolution, reported from the committee of the whole house, and so much of the seventh had not been decided on, submit the following report:

[Editors' note: It is clear that the Committee agreed the report as amended, as the Committee referred the report to the Convention.]

(Yates's Diary (Max Farrand, 1911), Pages 522-523, Vol. 1)

[e675615] [Editor's note: The Journal entry from 5 July 1787 states that 'The honorable Mr Gerry reported from the Committee, to whom were referred the eighth resolution and part of the seventh resolution as had not already been decided on by the House, that the Committee had directed him to submit the following report to the consideration of the House' (Page 524, Vol. 1, Official Journal (Max Farrand, 1911)). From this passage and standard procedure at the Convention, it is clear that the Committee referred its report to the Convention for consideration.]

(2019 Editors)

[e675616] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675617] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 5

Second Committee on Representation

Committee charged with finding a suitable method of representation in the lower house of the legislature.

5.1 Saturday, 07 July 1787, at 11:00 (s6305)

[e675618] It was moved and seconded that the Committee consist of five members. which was unanimously agreed to — and a Committee was appointed by ballot of Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1, 6 July 1787)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. 3 Mr. Randolph. Mr. Rutlidge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1, 6 July 1787)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105, 6 July 1787)

[e675619] It was moved and seconded that the Committee consist of five members. which was unanimously agreed to — and a Committee was appointed by ballot of Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1, 6 July 1787)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. 3 Mr. Randolph. Mr. Rutlidge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1, 6 July 1787)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105, 6 July 1787)

[e675620] It was moved and seconded that the Committee consist of five members. which was unanimously agreed to — and a Committee was appointed by ballot of Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1, 6 July 1787)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. 3 Mr. Randolph. Mr. Rutledge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1, 6 July 1787)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105, 6 July 1787)

[e675621] It was moved and seconded that the Committee consist of five members. which was unanimously agreed to — and a Committee was appointed by ballot of Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1, 6 July 1787)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. 3 Mr. Randolph. Mr. Rutledge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1, 6 July 1787)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105, 6 July 1787)

[e675622] It was moved and seconded that the Committee consist of five members. which was unanimously agreed to — and a Committee was appointed by ballot of Mr G. Morris, Mr Gorham Mr Randolph, Mr Rutledge, and Mr King.

(Official Journal (Max Farrand, 1911), Page 538, Vol. 1, 6 July 1787)

The members appd. by Ballot were Mr. Govr. Morris, Mr. Gorham. 3 Mr. Randolph. Mr. Rutledge. Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 542, Vol. 1, 6 July 1787)

Committee appointed consisting of Mr. Gorham, Mr. Randolph, G. Morris, Rutlege and King.

(Lansing's Notes (Joseph Strayer, 1939), Page 105, 6 July 1787)

[e675623] [Editors' note: On 9 July 1787, the Official Journal records that 'The honorable Mr G. Morris, from the Committee to whom was referred the first clause of the first proposition reported from the grand Committee, informed the House that the Committee were prepared to report' (Page 557, Vol. 1, Official Journal (Max Farrand, 1911)). As the task of delivering the Committee report was usually undertaken by the chairman, the editors assume that he was elected to this position by the Committee.]

(2019 Editors)

Mr. Govr. Morris delivered a report from the Come. of 5 members to whom was committed the clause in the Report of the Come. consisting of a member from each State, stating the proper ratio of Representatives in the 1st. branch, to be as 1 to every 40,000 inhabitants

(Madison's Notes (Max Farrand, 1911), Page 559, Vol. 1, 9 July 1787)

[e675624] [Editors' note: As with previous committees at the Convention, it is likely that the report referred from the Convention would be presented to the Committee for consideration, prior to the Committee's drawing up of their recommendations.]

(2019 Editors)

[e675625] [Editors' note: There are no records of the events which took place in the Committee. There was likely some debate over the proposed representation in the first house of the legislature.

However, Gouverneur Morris's report to the Convention is recorded in the Official Journal on 9 July 1787. This amendment event shows the changes that appear in the report's final form.]

(Official Journal (Max Farrand, 1911), Pages 557-558, Vol. 1, 9 July 1787)

Mr. Govr. Morris delivered a report from the Come. of 5 members to whom was committed the clause in the Report of the Come. consisting of a member from each State, stating the proper ratio of Representatives in the 1st. branch, to be as 1 to every 40,000 inhabitants, as follows viz

"The Committee to whom was referred the 1st. clause of the 1st. proposition reported from the grand Committee, beg leave to report I.¶ that in the 1st. meeting of the Legislature the 1st. branch thereof consist of 56. members of which Number N. Hamshire shall have 2. Massts. 7. R.Id.1. Cont. 4. N. Y. 5. N. J. 3. Pa. 8. Del. 1. Md. 4. Va. 9. N. C. 5, S. C. 5. Geo. 2. II¶ —. But as the present situation of the States may probably alter as well in point of wealth as in the number of their inhabitants, that the Legislature be authorized from time to time to augment ye. number of Representatives. And in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the Legislature shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principles of their wealth and number of inhabitants."

(Madison's Notes (Max Farrand, 1911), Page 559, Vol. 1, 9 July 1787)

The Committee of five reported the following Apportionment of Representation in first Branch of Legislature for first Meeting consisting of 56 Viz.

New Hampshire	2	Massachusetts	7	Rhode Island	1	
Connecticut	4	New York	5	New Jersey	3	
.	1	Maryland	4	Pennsylvania	8	
9	North Carolina	5	South Carolina	5	Georgia	2

(Lansing’s Notes (Joseph Strayer, 1939), Page 106, 9 July 1787)

[e675626] [Editors’ note: On 9 July 1787 the Official Journal records that ‘The honorable Mr G. Morris, from the Committee to whom was referred the first clause of the first proposition reported from the grand Committee, informed the House that the Committee were prepared to report’ (Page 557, Vol. 1, Official Journal (Max Farrand, 1911)). From this passage and standard procedure at the Convention, it is clear that the Committee’s report was referred to the Convention for consideration.]

(2019 Editors)

[e675627] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675628] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 6

Third Committee on Representation

Committee consisting of a deputy from each state, charged with finding a suitable method of representation in the lower house of the legislature.

6.1 Monday, 09 July 1787, at 11:00 (s6306)

[e675629] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675630] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutledge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675631] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675632] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675633] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675634] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675635] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675636] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675637] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675638] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675639] It was moved and seconded to refer the first paragraph of the report to a Committee of One member from each State, which passed in the affirmative [Ayes — 9; noes — 2.] and a Committee was appointed by ballot of. The honorable Mr King, Mr Sherman, Mr Yates, Mr Brearely [sic], Mr G. Morris, Mr Read, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutledge, and Mr Houston.

[Editors' note: All of the records for this day name Houston as the final member of the Third Committee of Representation. However, because Houston is a delegate of New Jersey, and Brearley is definitely New Jersey's representative in the Committee, it is clear that the Journal and Madison are referring to William Houstoun, a delegate of Georgia.]

(Official Journal (Max Farrand, 1911), Page 558, Vol. 1)

The Come. appointed were. Mr King. Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. Govr. Morris, Mr. Reed, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Rutlidge, Mr. Houston.

(Madison's Notes (Max Farrand, 1911), Page 562, Vol. 1)

[e675640] [Editors' note: On 10 July 1787, the Official Journal records that 'The honorable Mr King from the grand Committee to whom was referred the first paragraph of the report of a Committee consisting of Mr G. Morris, Mr Gorham, Mr Randolph, Mr Rutledge, and Mr King, informed the House that the Committee were prepared to report' (Page 563, Vol. 1, Official Journal (Max Farrand, 1911)). As the task of delivering the Committee report was usually undertaken by the chairman, the editors assume that King was elected to this position by the Committee.]

(2019 Editors)

[e675641] [Editors' note: As with previous committees at the Convention, it is likely that the report referred from the Convention would be presented to the Committee for consideration, prior to the Committee's drawing up of their recommendations.]

(2019 Editors)

[e675642] [Editors' note: There are no records of the events that took place in the Third Committee on Representation. There was probably some debate over the proposed representation in the first house of the legislature.

However, King's report to the Convention is recorded in the Official Journal on 10 July 1787. As this shows limited changes from the proposition as referred to the Committee, the original is shown here as the initial draft, then amended.]

(Official Journal (Max Farrand, 1911), Page 557, Vol. 1, 10 July 1787)

[e675643] [Editors' note: There are no records of the events that took place in the Third Committee on Representation. There was probably some debate over the proposed representation in the first house of the legislature.

However, King's report to the Convention is recorded in the Official Journal on 10 July 1787. This amendment event shows the changes that appear in the report's final form.]

(2019 Editors)

[e675644] The augmentation of the no of Masts. from 7 to 8 was made in ye. Come. at the instance of Mr. King

(Madison's Notes (Max Farrand, 1911), Page 601, Vol. 1, 13 July 1787)

[e675645] The augmentation of the no of Masts. from 7 to 8 was made in ye. Come. at the instance of Mr. King

(Madison's Notes (Max Farrand, 1911), Page 601, Vol. 1, 13 July 1787)

[e675646] The honorable Mr King from the grand Committee to whom was referred the first paragraph of the report of a Committee consisting of Mr G. Morris, Mr Gorham, Mr Randolph, Mr Rutledge, and Mr King, informed the House that the Committee were prepared to report

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1, 10 July 1787)

Mr. King reported from the Come. yesterday appointed that the States at the 1st. meeting of the General Legislature, should be represented by 65 members in the following proportions, to wit. N. Hamshire by 3, Masts. 8. R. Isd. 1. Cont. 5. N. Y. 6. N. J. 4. Pa. 8. Del. 1. Md. 6. Va. 10. N:C. 5. S. C. 5, Georgia 3.

(Madison's Notes (Max Farrand, 1911), Page 566, Vol. 1, 10 July 1787)

[e675647] The honorable Mr King from the grand Committee to whom was referred the first paragraph of the report of a Committee consisting of Mr G. Morris, Mr Gorham, Mr Randolph, Mr Rutledge, and Mr King, informed the House that the Committee were prepared to report

[Editors' note: From this passage of the Official Journal from 10 July 1787, and standard procedure at the Convention, it is clear that the Committee's report was referred to the Convention for consideration.]

(Official Journal (Max Farrand, 1911), Page 563, Vol. 1, 10 July 1787)

Mr. King reported from the Come. yesterday appointed that the States at the 1st. meeting of the General Legislature, should be represented by 65 members in the following proportions, to wit. N. Hamshire by 3, Masts. 8. R. Isd. 1. Cont. 5. N. Y. 6. N. J. 4. Pa. 8. Del. 1. Md. 6. Va. 10. N:C. 5. S. C. 5, Georgia 3.

(Madison's Notes (Max Farrand, 1911), Page 566, Vol. 1, 10 July 1787)

[e675648] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675649] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 7

Committee of Detail

Committee charged with creating a Constitution based on the resolutions agreed by the Convention.

7.1 Wednesday, 25 July 1787, at 11:00 (s6307)

[e675650] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

[Editors' note: This text comes from the 24 July 1787 Journal record. There is no record of when the Committee of Detail met; session dates and times are therefore editorial.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2, 24 July 1787)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elsworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

Yesterday we completed the great Principles, which we have been so long considering, and Committed them to five Gentlemen to put into proper form and detail.—The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, David Brearley to Jonathan Dayton, 27 July 1787)

[e675651] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

[Editors' note: This text comes from the 24 July 1787 Journal record. There is no record of when the Committee of Detail met; session dates and times are therefore editorial.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2, 24 July 1787)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were
Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

Yesterday we completed the great Principles, which we have been so long considering, and Committed them to five Gentlemen to put into proper form and detail.—The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, David Brearley to Jonathan Dayton, 27 July 1787)

[e675652] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

[Editors' note: This text comes from the 24 July 1787 Journal record. There is no record of when the Committee of Detail met; session dates and times are therefore editorial.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2, 24 July 1787)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were
Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

Yesterday we completed the great Principles, which we have been so long considering, and Committed them to five Gentlemen to put into proper form and detail.—The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, David Brearley to Jonathan Dayton, 27 July 1787)

[e675653] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

[Editors' note: This text comes from the 24 July 1787 Journal record. There is no record of when the Committee of Detail met; session dates and times are therefore editorial.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2, 24 July 1787)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were
Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

Yesterday we completed the great Principles, which we have been so long considering, and Committed them to five Gentlemen to put into proper form and detail.—The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, David Brearley to Jonathan Dayton, 27 July 1787)

[e675654] The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

[Editors' note: This text comes from the 24 July 1787 Journal record. There is no record of when the Committee of Detail met; session dates and times are therefore editorial.]

(Official Journal (Max Farrand, 1911), Page 97, Vol. 2, 24 July 1787)

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elsworth, Mr. Wilson

(Madison's Notes (Max Farrand, 1911), Page 106, Vol. 2)

Yesterday we completed the great Principles, which we have been so long considering, and Committed them to five Gentlemen to put into proper form and detail.—The Committee are, Mr. Gorham, Mr. Ellsworth, Mr. Wilson, Mr. Randolph and Mr. Rutledge.

(Supplement to the Records of the Federal Convention (James Hutson, 1987), Pages 195-196, David Brearley to Jonathan Dayton, 27 July 1787)

[e675655] [Editors' note: Given the weight of evidence, it appears that the Committee of Detail chose Rutledge as its Chairman. William Ewald comes to this conclusion in his paper 'The Committee of Detail' (Constitutional Commentary, Vol. 28, no. 197: 2012), for which he studied the Committee of Detail papers. Further, throughout the Convention, it was the Chairman's role to present a committee report to the Convention. On 6 August 1787, the Journal records that 'The honorable Mr Rutledge, from the Committee to whom were referred the Proceedings of the Convention for the purpose of reporting a constitution for the establishment of a national Government conformable to these Proceedings, informed the House that the Committee were prepared to report [...]' (Page 179, Vol. 2, Official Journal (Max Farrand, 1911)).]

(2019 Editors)

[e675656] It was moved and seconded that the proceedings of the Convention for the establishment of a national government, except what respects the Supreme Executive, be referred to a Committee for the purpose of reporting a Constitution conformably to the Proceedings aforesaid

(Official Journal (Max Farrand, 1911), Page 85, Vol. 2, 23 July 1787)

[e675657] [Editors' note: Farrand's Document I is a facsimile of Wilson's manuscript copy of the amended Resolutions of the Committee of the Whole House, as referred to the Committee of Detail by the Convention.

Wilson's copy deviates from the recreated version on Quill, primarily in formatting and the order in which resolutions are presented. However, there are a number of other differences of note.

Wilson includes the Ninth Resolution as it stood on 23 July 1787, though the Convention had stated that it would not refer the Ninth Resolution to the Committee. Perhaps Wilson took a note of the resolution's current composition on 23 July for future reference, or perhaps his document reflects the state of the Resolutions as they stood at the end of 24 July, when the Convention agreed to send details of their proceedings to the Committee. The events of that day had not resulted in any material changes to the Resolutions, so they would appear as they had on the 23rd.

Additionally, Wilson has confused, or re-ordered, several resolutions. His Sixth was, in fact, the first clause of the Seventh Resolution, while the Twelfth and Thirteenth Resolutions are swapped.

Wilson's general order of the Resolutions appears to mimic the order in which the Convention decided upon them, but not entirely. For example, the Tenth Resolution was agreed upon after the Twelfth to Sixteenth Resolutions, yet Wilson records it beforehand.

These changes may reflect the order recorded by the Secretary or Wilson's own ordering. The Quill version of the Resolutions represents what appears to the editors to be the clearest method of constructing the document in order to make sense to modern readers.]

(Committee of Detail Papers (Max Farrand, 1911), Pages 129-133, Vol. 2)

[e675658] It was moved and seconded to discharge the Committee of the whole House from acting on the propositions submitted to the Convention by the honorable Mr C. Pinckney — and that the said propositions be referred to the Committee to whom the Proceedings of the Convention are referred

[Editors' note: Farrand provides a summary of Pinckney's Plan, written by Wilson, as Document III. However, Ewald suggests that this summary may not have been drawn up in the Committee of Detail but at an earlier date. For this reason, it is omitted here.]

(Official Journal (Max Farrand, 1911), Pages 97-98, Vol. 2, 24 July 1787)

[e675659] It was moved and seconded to take the like order on the propositions submitted to the Convention by the honorable Mr Paterson

(Official Journal (Max Farrand, 1911), Page 98, Vol. 2, 24 July 1787)

[e675660] [Editors' note: Farrand's Document IV is an initial draft or framework for a constitution, based upon the Convention's Resolutions. It seems likely that Randolph created this draft sometime between 23 and 25 July 1787. It includes the Connecticut Compromise and reflects the state of the Ninth Resolution as it stood at the end of 23 July but not the final resolution from 26 July. In fact, Randolph notes in the margin of his article 3a.5:

'qu: if a certain term of residence and a certain quantity of landed property ought not to be made by the convention further qualifications' (Page 139, Vol. 2, Committee of Detail Papers (Max Farrand, 1911)).

This note suggests the draft was made before the Convention's final resolution on 26 July. It seems probable that in the process of drawing up the draft, this thought led Randolph to ask Mason to propose his resolution on property qualifications, which was accepted after amendment on 26 July.

The initial draft shown here reflects the work of Farrand, Updike Toler, and Ewald in piecing together the changes to this document and its place in the timeline, alongside the editors' own analysis of the original manuscript. From this evidence, the version shown is as close to Randolph's first drafting of the document as is currently possible to ascertain. Subsequent changes will be shown in a later session. There are a small number of omissions from this recreation, which represent any words which Randolph seems to have almost immediately crossed out as he was first composing the text. This editorial decision is for the sake of clarity and to represent the document as it likely appeared when it was first introduced to the other members of the Committee. Additionally, abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675661] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675662] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.2 Friday, 27 July 1787, at 11:00 (s6308)

[e675663] It was moved and seconded to refer such proceedings of the Convention, as have been agreed on since Monday last, to the Committee of detail

[Editors' note: Farrand compiles Document II to represent the Convention's proceedings from 24 to 26 July 1787. These two resolutions were referred to the Committee on the last day of the Convention before the long adjournment.]

(Committee of Detail Papers (Max Farrand, 1911), Page 117, Vol. 2, 26 July 1787)

[e675664] [Editors' note: Farrand's Document V is an initial draft or framework for a constitution, based upon the Convention's Resolutions. It seems likely that Wilson created this draft after 26 July 1787, as it reflects the final resolution on property from 26 July. The initial draft shown here reflects Ewald's work in piecing together the changes to this document. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Page 289)

[e675665] [Editors' note: Wilson appears to have made several rounds of amendments to the document. The version shown here represents the major changes made to the first page. The exact timing of the creation and amendment of the document is unknown, and though it is likely that Wilson made these changes on his own, he may have had input from other committee members. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Page 289)

[e675666] [Editors' note: Though no record remains of these events, the editors have represented these amendments as accepted.]

(2019 Editors)

[e675667] [Editors' note: Wilson appears to have made several rounds of amendments to the document. The version shown here represents the major changes made to the first page. The exact timing of the creation and amendment of the document is unknown, and though it is likely that Wilson made these changes on his own, he may have had input from other committee members. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Page 289)

[e675668] [Editors' note: Though no record remains of these events, the editors have represented these amendments as accepted.]

(2019 Editors)

[e675669] [Editors' note: Wilson's additional suggestions are found on a second sheet of paper. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Page 291)

[e675670] [Editors' note: Though no record remains of these events, the editors have represented these amendments as accepted.]

(2019 Editors)

[e675671] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675672] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.3 Sunday, 29 July 1787, at 11:00 (s6309)

[e675673] [Editors' note: Farrand, Updike Toler, and Ewald identify numerous changes that Randolph made to his manuscript. The exact order of these changes is difficult to ascertain; however, some clauses show signs of being altered several times. Shown here are the minor changes made by Randolph, alongside what appear to be some initial substantive changes, primarily regarding the Senate.

Also shown here are additions likely made as a result of the property qualification resolution being accepted by the Convention. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675674] [Editors' note: Throughout Document IV, there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts. Though, these initial changes may have made by Randolph alone.]

(2019 Editors)

[e675675] [Editors' note: Shown here are those later and substantive changes which can be attributed to Randolph and are possibly the result of committee discussions. Included here are those changes found in Document II, brought about by the resolutions sent from the Convention. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675676] [Editors' note: Throughout Document IV, there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts. These changes may have made by Randolph alone or as the result of committee discussions.]

(2019 Editors)

[e675677] [Editors' note: There are a number of clauses which are subsequently removed from the draft, though when these occurred and who was responsible for them is uncertain. It is possible that they reflect the results of consultation with other committee members. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675678] [Editors' note: The editors assume that the Committee agreed these changes, though there are no available records with which to confirm.]

(2019 Editors)

[e675679] [Editors' note: There are a number of amendments made in John Rutledge's hand. It possible that these changes reflect the results of consultation with other committee members, but when these amendments occurred and how exactly they originated is uncertain. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675680] [Editors' note: The editors assume that the Committee agreed these changes, though there are no available records with which to confirm.]

(2019 Editors)

[e675681] [Editors' note: There are a number of amendments made in John Rutledge's hand. It possible that these changes reflect the results of consultation with other committee members, but when these amendments occurred and how exactly they originated is uncertain. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 265-285)

[e675682] [Editors' note: The editors assume that the Committee agreed these changes, though there are no available records with which to confirm.]

(2019 Editors)

[e675683] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675684] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.4 Monday, 30 July 1787, at 11:00 (s6310)

[e675685] [Editors' note: Ewald argues that the documents Farrand labels VI, VII, and VIII should be treated as a single unit. It is the first real draft of the Constitution, and though it is in Wilson's hand, it is the draft Constitution drawn up by the Committee of Detail.

The exact date of its creation is uncertain, though this rough draft includes elements from both Randolph and Wilson's frameworks. However, we do not have a complete manuscript, as it originally consisted of three folio sheets, folded into four pages with the middle folio sheet missing. The missing middle sheet would have detailed the powers of Congress, President, and Supreme Court.

This will be dealt with in Document VII, while Document VIII is shown as the second part of this draft.

The initial draft shown here reflects the work of Farrand, Updike Toler, and Ewald in piecing together the changes to this document and its place in the timeline, alongside the editors' own analysis of the original manuscript. From this evidence, the version shown is as close to the Committee's first drafting of the document and subsequent changes as is currently possible to ascertain. There are a small number of omissions from this recreation, which represent any words which seem to have been almost immediately crossed out when first composing the text. This editorial decision is for the sake of clarity. Similarly, abbreviations have been expanded for ease of understanding.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 297-303)

[e675686] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the first round of changes made. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 297-303)

[e675687] [Editors' note: Throughout Document VI, there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675688] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the first round of changes made. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 297-303)

[e675689] [Editors' note: Throughout Document VI, there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675690] [Editors' note: Farrand's Document VII was found between Documents VI and VIII in the Wilson papers. It consists of extracts from the New Jersey and Pinckney Plans, written in Wilson's hand. The first portion is taken from the New Jersey Plan and the latter portion (after the break and beginning with 'The Legislature shall consist') is taken from the Pinckney Plan. These passages deal with the powers of Congress, President, and Supreme Court, the exact topics which would have been on the missing sheet of the rough draft. Historians have therefore assumed it to be the first phase of working these plans into a Committee draft of the Constitution. As a result, it is shown here to illustrate what the missing sheet might have looked like. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 306-309)

[e675691] [Editors' note: This event represents the Committee's amendments to the manuscript. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 306-309)

[e675692] [Editors' note: The editors assume that the Committee accepted the changes, though there is no available record with which to confirm.]

(2019 Editors)

[e675693] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675694] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.5 Wednesday, 01 August 1787, at 11:00 (s6311)

[e675695] [Editors' note: Ewald argues that the documents Farrand labels VI, VII, and VIII should be treated as a single unit. It is the first real draft of the Constitution, and though it is in Wilson's hand, it is the draft Constitution drawn up by the Committee of Detail. Shown here is Farrand's Document VIII, which was the second part of this draft.

The initial draft shown here reflects the work of Farrand, Updike Toler, and Ewald in piecing together the changes to this document and its place in the timeline, alongside the editors' own analysis of the original manuscript. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 312-319)

[e675696] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the first round of changes made. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 312-319)

[e675697] [Editors' note: Based on future drafts, the editors assume that the Committee agreed these changes.]

(2019 Editors)

[e675698] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the subsequent round of changes made. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 312-319)

[e675699] [Editors' note: Based on future drafts, the editors assume that the Committee agreed these changes.]

(2019 Editors)

[e675700] [Editors' note: The editors assume that, having agreed to the changes, the Committee accepted the second part of the rough draft.]

(2019 Editors)

[e675701] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the committee followed this practice.]

(2019 Editors)

[e675702] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.6 Friday, 03 August 1787, at 11:00 (s6312)

[e675703] [Editors' note: Farrand's Document IX is the longest of the Committee drafts and the last manuscript before the final report. This draft Constitution written up by Wilson reflects the last stages of the Committee in turning the various schemes into a coherent whole. Several rounds of amendments were made to it, some in Wilson's hand and others in Rutledge's. Some of these are stylistic changes, but many others are substantive. It seems likely that these changes were made by the Committee, with Rutledge as Chairman.

The initial draft shown here reflects the work of Farrand, Updike Toler, and Ewald in piecing together the changes to this document and its place in the timeline, alongside the editors' own analysis of the original manuscript. From this evidence, the version shown is as close to the Committee's first drafting of the document and subsequent changes as is currently possible to ascertain. There are a small number of omissions from this recreation, which represent any words which seem to have been almost immediately crossed out when first composing the text. This editorial decision is for the sake of clarity. Similarly, abbreviations have been expanded for ease of understanding.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 322-365)

[e675704] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the first round of changes – likely the decisions of the Committee as a whole – made in Wilson's hand. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 322-365)

[e675705] [Editors' note: Throughout Document IX there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675706] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the second round of changes – likely the decisions of the Committee as a whole – made in Wilson's hand. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 322-365)

[e675707] [Editors' note: Throughout Document IX there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675708] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the first round of changes – likely the decisions of the Committee as a whole – made in Rutledge's hand. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 322-365)

[e675709] [Editors' note: Throughout Document IX there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675710] [Editors' note: The Committee appears to have made several rounds of amendments to the document. The version shown here represents the second round – likely the decisions of the Committee as a whole – made in Rutledge's hand. Abbreviations have been expanded for clarity.]

(Committee of Detail Documents (William Ewald and Lorianne Updike Toler, 2011), Pages 322-365)

[e675711] [Editors' note: Throughout Document IX there are a number of 'ticks' next to each clause, indicating that they were agreed to and, thereby, that the document was used as an aid in the composition of subsequent committee drafts.]

(2019 Editors)

[e675712] [Editors' note: Once the members of the Committee had finished drafting the Report of the Committee of Detail, the report was printed and distributed to the members of the Convention when they met following adjournment. The printed version of the report had a large left-hand margin to allow them to make notes and record amendments.

There is a well-known mistake in the original printed report, where the printer had numbered both the 6th and 7th articles as 'VI'. The text has been transcribed from the Library of Congress copy and corrected to make it easier to follow the Convention's debates on the report.

The original copy can be viewed here: <https://www.loc.gov/item/90898130>]

(Library of Congress)

[e675713] [Editors' note: McHenry records in his notes that on Saturday, 4 August 1787, the Committee of Detail finished their manuscript draft of the Constitution and that the Report was in the hands of the Philadelphia printer John Dunlap:

'August 4th. Returned to Philada. The committee of Convention ready to report. Their report in the hands of Dunlop the printer to strike off copies for the members.' (Page 175, Vol. 2, McHenry's Notes (Max Farrand, 1911)).

Dunlap had also been responsible for producing the first copies of the Declaration of Independence, and he was now tasked with striking off copies of the Report for the members of the Convention. As the process of preparing and printing the manuscript would have likely taken a significant part of a day, it is likely that the drafting of the Report was finished and referred the day before.]

(2019 Editors)

[e675714] [Editors' note: Having finished their report and agreed to refer it to the Convention, the Committee likely passed a formal motion to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675715] [Editors' note: Having finished their report and agreed to refer it to the Convention, the Committee likely passed a formal motion to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

7.7 Tuesday, 21 August 1787, at 10:00 (s6313)

[e675716] The [...] additional powers proposed to be vested in the Legislature of the United States having been submitted to the consideration of the Convention — It was moved and seconded to refer them to the Committee to whom the proceedings of the Convention were referred.

[Editors' note: This text, from the 18 August 1787 Journal record, describes additional powers proposed to the Convention being referred to the Committee of Detail.]

(Official Journal (Max Farrand, 1911), Page 321, Vol. 2, 18 August 1787)

Mr- Madison submitted in order to be referred to the Committee of detail the following powers as proper to be added to those of the General Legislature [...]

These propositions were referred to the Committee of detail which had prepared the Report and at the same time the following which were moved by Mr. Pinkney

(Madison's Notes (Max Farrand, 1911), Pages 324-325, Vol. 2, 18 August 1787)

[e740282] It was moved and seconded to refer the following propositions to the Committee of five.

[Editors' note: This text, from the 20 August 1787 Journal record, describes further additional powers proposed in the Convention being referred to the Committee of Detail.]

(Official Journal (Max Farrand, 1911), Page 334, Vol. 2, 20 August 1787)

These propositions were referred to the Committee of detail without debate or consideration of them, by the House.

(Madison's Notes (Max Farrand, 1911), Page 342, Vol. 2, 20 August 1787)

[e675718] The honorable Mr Rutledge, from the Committee to whom sundry propositions were referred on the 18 and 20th instant, informed the House that the Committee were prepared to report — he then read the report in his place — and the same, being delivered in at the Secretary's table, was again read throughout, and is as follows

(Official Journal (Max Farrand, 1911), Pages 366-367, Vol. 2, 22 August 1787)

[e675719] The honorable Mr Rutledge, from the Committee to whom sundry propositions were referred on the 18 and 20th instant, informed the House that the Committee were prepared to report — he then read the report in his place — and the same, being delivered in at the Secretary's table, was again read throughout, and is as follows

[Editors' note: From the record, it is clear that the second report of the Committee of Detail is referred to the Convention.]

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

Mr. Rutlidge, from the Committee to whom were referred on the 18 & 20th. instant the propositions of Mr. Madison & Mr. Pinkney, made the Report following. —

(Here insert — the Report from the Journal of the Convention of this date.) —

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

Several additions were reported by the Committee.

(McHenry's Notes (Max Farrand, 1911), Page 379, Vol. 2, 22 August 1787)

[e675720] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675721] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 8

Committee on State Debts and Militia

Committee consisting of a deputy from each state, charged first with deciding if the federal government should assume state debts and then on powers over state militias.

8.1 Monday, 20 August 1787, at 16:00 (s6314)

[e675722] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675723] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675724] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675725] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675726] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675727] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675728] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675729] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675730] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675731] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675732] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States [...]

a Committee was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Sherman, Mr Livingston, Mr Clymer, Mr Dickinson, Mr Mc Henry, Mr Mason, Mr Williamson, Mr C. C. Pinckney, and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

A Grand Committee was appointed consisting of (The Come. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sharman. Mr. Livingston. Mr. Clymer, Mr. Dickenson, Mr. McHenry, Mr. Mason, Mr- Williamson, Mr. C. C. Pinkney, Mr. Baldwin.)

(Madison's Notes (Max Farrand, 1911), Page 328, Vol. 2, 18 August 1787)

[e675733] The honorable Mr Livingston, from the Committee of eleven to whom were referred

a proposition respecting the debts of the several States, entered on the Journal of the 18 instant and a proposition respecting the militia

entered on the Journal of the 18 instant informed the House that the Committee were prepared to report — and had directed him to submit the same to the consideration of the House.

[Editors' note: The Journal record states that Livingston delivered the Committee Report to the Convention on 21 August 1787. As this role was usually undertaken by the chairman, the editors assume that he was elected to this position by the Committee.]

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2, 21 August 1787)

Governour Livingston, from the Committee of Eleven to whom was referred the propositions respecting the debts of the several States, and also the Militia, entered on the 18th. inst: delivered the following report:

(Madison's Notes (Max Farrand, 1911), Page 355, Vol. 2, 21 August 1787)

[e675734] It was moved and seconded That a Committee to consist of a Member from each State be appointed to consider the necessity and expediency of the debts of the several States being assumed by the United States

[Editors' note: This extract from the 18 August 1787 Journal record describes the appointment of a committee and that committee's responsibilities. These responsibilities – to consider the federal government's assumption of state debts – are represented here as an instruction to the Committee that henceforth serves as the report document, onto which the Committee adheres its proposals to the Convention.]

(Official Journal (Max Farrand, 1911), Page 322, Vol. 2, 18 August 1787)

Mr. Rutledge's motion was referred — He then moved that a Grand Committee be appointed to consider the necessity and expediency of the U- States assuming all the State debts

[Editors' note: Rutledge's motion is adopted, and a committee appointed. Therefore, this text serves as a record of the responsibilities which the Committee on State Debts and Militia were tasked with.]

(Madison's Notes (Max Farrand, 1911), Page 327, Vol. 2, 18 August 1787)

[e675735] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675736] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675737] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675738] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675739] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675740] [Editors' note: The Journal records on 18 August that 'it was moved and seconded to refer the last two motions to a Committee' (Page 323, Vol. 2, Official Journal (Max Farrand, 1911)). Madison clarifies that it was 'the latter motion of Col. Mason, & the original one revived by Gel Pinkney' which were to be referred (Page 333, Vol. 2, Madison's Notes (Max Farrand, 1911)). These motions are therefore added to the proposal on debt referred earlier in that session.]

(2019 Editors)

[e675741] Tuesday August 21. 1787.

The honorable Mr Livingston, from the Committee of eleven to whom were referred a proposition respecting the debts of the several States, entered on the Journal of the 18 instant and a proposition respecting the militia entered on the Journal of the 18 instant informed the House that the Committee were prepared to report — and had directed him to submit the same to the consideration of the House.

[Editors' note: The description text of this event also comes from the 21 August 1787 Journal record.]

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2, 21 August 1787)

Governour Livingston, from the Committee of Eleven to whom was referred the propositions respecting the debts of the several States, and also the Militia, entered on the 18th. inst: delivered the following report:

“The Legislature of the U. S. shall have power to fulfil the engagements which have been entered into by Congress, and to discharge as well the debts of the U- S: as the debts incurred by the several States during the late war, for the common defence and general welfare”

“To make laws for organizing arming and disciplining the Militia, and for governing such part of them as may be employed in the service of the U— S reserving to the States respectively, the appointment of the officers, and the authority of training the Militia according to the discipline prescribed by the U. States”

(Madison’s Notes (Max Farrand, 1911), Pages 355-356, Vol. 2, 21 August 1787)

[e675742] Tuesday August 21. 1787.

The honorable Mr Livingston, from the Committee of eleven to whom were referred a proposition respecting the debts of the several States, entered on the Journal of the 18 instant and a proposition respecting the militia entered on the Journal of the 18 instant informed the House that the Committee were prepared to report — and had directed him to submit the same to the consideration of the House.

(Official Journal (Max Farrand, 1911), Page 352, Vol. 2, 21 August 1787)

Governour Livingston, from the Committee of Eleven to whom was referred the propositions respecting the debts of the several States, and also the Militia, entered on the 18th. inst: delivered the following report:

(Madison’s Notes (Max Farrand, 1911), Page 355, Vol. 2, 21 August 1787)

[e675743] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675744] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 9

Committee on Slave Trade and Navigation

Committee consisting of a deputy from each state, charged with resolving the legality of importing slaves, a capitation tax, and shipping restrictions.

9.1 Thursday, 23 August 1787, at 16:00 (s6315)

[e675745] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675746] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675747] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675748] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675749] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675750] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675751] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675752] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675753] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675754] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675755] a Committee (of a Member from each State) was appointed by ballot of the honorable Mr Langdon, Mr King, Mr Johnson, Mr Livingston, Mr Clymer, Mr Dickinson, Mr L. Martin, Mr Madison, Mr Williamson, Mr C. C. Pinckney, & Mr Baldwin. — to whom the 2 remaining clauses of the 4th & ye 5 & 6 sections were referred.

(Official Journal (Max Farrand, 1911), Page 366, Vol. 2, 22 August 1787)

The Committee appointed were Mr. Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 375, Vol. 2, 22 August 1787)

[e675756] The honorable Mr Livingston, from the Committee of eleven to whom were referred the two remaining clauses of the 4th section, and the 5th and 6th sections of the 7 article, informed the House that the Committee were prepared to report.

[Editors' note: The Journal records that Livingston delivered the Committee Report to the Convention on 24 August 1787. As this role was usually undertaken by the chairman, the editors assume that he was elected to this position by the Committee.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2, 24 August Vol. 2)

[e675757] [Editors' note: The Convention referred Clauses 2 and 3 of the Fourth Section, along with the Fifth and Sixth Sections of Article VII of the Constitution proposed by Committee of Detail to the Committee on 22 August 1787.]

(2019 Editors)

[e675758] "Strike out so much of the 4th section of the 7th article as was referred to the Committee and insert "The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800 — but a Tax or Duty may be imposed on such migration or importation at a rate not exceeding the average of the Duties laid on Imports."

"The 5th section to remain as in the report"

"The 6th section to be stricken out"

[Editors' note: The Journal records Livingston reporting the Committee's suggestions on 24 August 1787 as recorded above.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2, 24 August Vol. 2)

[e675759] [Editors' note: The editors assume that these changes were voted on and approved, as they were reported back to the Convention on 24 August 1787.]

(2019 Editors)

[e740472] [Editors' note: The Committee drew up instructions for the Convention.]

(Official Journal (Max Farrand, 1911), Page 396, Vol. 2, 24 August 1787)

[e675760] [Editors' note: The Committee drew up its report.]

(2019 Editors)

[e740473] [Editors' note: The Committee referred their instructions to the Convention.]

(2019 Editors)

[e675761] [Editors' note: The Committee referred their report to the Convention.]

(2019 Editors)

[e675762] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675763] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 10

Committee on Commercial Discrimination

Committee consisting of a deputy from each state, charged with creating rules to prevent states from impeding each others trade.

10.1 Monday, 27 August 1787, at 15:00 (s6316)

[e675764] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675765] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675766] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

1262 CHAPTER 10. COMMITTEE ON COMMERCIAL DISCRIMINATION

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675767] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675768] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675769] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675770] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675771] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675772] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675773] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675774] a Committee was appointed by ballot of the honorable Mr Langdon, Mr Gorham, Mr Sherman, Mr Dayton, Mr Fitz Simmons, Mr Read, Mr Carrol Mr Mason, Mr Williamson, Mr Butler and Mr Few.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

The committee appointed by ballot were Mr. Langdon, Mr. Ghorum, Mr. Sherman, Mr Dayton, Mr. Fitzimmons, Mr. Read, Mr. Carrol, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few.

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675775] The honorable Mr Sherman from the Committee to whom were referred several propositions entered on the Journal of the 25 instant informed the House that the Committee were prepared to report

[Editors' note: The Journal records Sherman as delivering the committee's report on 28 August 1787. As this role was typically reserved for a committee's chairman, the editors assume he was elected to this position.]

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2, 28 August 1787)

Mr. Sherman from the Committee to whom were referred several propositions on the 25th. instant, made the following report —

(Madison's Notes (Max Farrand, 1911), Page 437, Vol. 2, 28 August 1787)

[e675776] It was moved and seconded to refer the above propositions to a Committee of a Member from each State which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Page 410, Vol. 2, 25 August 1787)

These several propositions were referred, nem: con: to a committee composed of a member from each State

(Madison's Notes (Max Farrand, 1911), Page 418, Vol. 2, 25 August 1787)

[e675777] [Editors' note: The Report that the Committee delivered to the Convention on 28 August 1787 shows the changes represented here.]

(2019 Editors)

[e675778] [Editors' note: The editors assume these amendments were accepted.]

(2019 Editors)

[e675779] The honorable Mr Sherman from the Committee to whom were referred several propositions entered on the Journal of the 25 instant informed the House that the Committee were prepared to report — The report was then delivered in at the Secretary's table, was read, and is as follows.

"The Committee report that the following be inserted after the 4 clause of the 7 section

"Nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another or oblige Vessels bound to or from any State to enter, clear, or pay duties in another.

"And all tonnage, duties, imposts, and excises, laid by the Legislature shall be uniform throughout the United States"

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2, 28 August 1787)

Mr. Sherman from the Committee to whom were referred several propositions on the 25th. instant, made the following report —

That there be inserted after the 4 clause of 7th. section

"Nor shall any regulation of commerce or revenue give preference to the ports of one State over 9 those of another, or oblige vessels bound to or from any State to enter clear or pay duties in another and all tonnage, duties, imposts & excises laid by the Legislature shall be uniform throughout the U. S."

(Madison's Notes (Max Farrand, 1911), Page 437, Vol. 2, 28 August 1787)

[e675780] The honorable Mr Sherman from the Committee to whom were referred several propositions entered on the Journal of the 25 instant informed the House that the Committee were prepared to report

(Official Journal (Max Farrand, 1911), Page 434, Vol. 2, 28 August 1787)

Mr. Sherman from the Committee to whom were referred several propositions on the 25th. instant, made the following report

(Madison's Notes (Max Farrand, 1911), Page 437, Vol. 2, 28 August 1787)

[e675781] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675782] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 11

Committee on Interstate Comity and Bankruptcy

Committee charged with encouraging states to accept each others' laws
and to create regulations on bankruptcies.

11.1 Friday, 31 August 1787, at 15:00 (s6317)

[e675783] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2, 29 August 1787)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2, 29 August 1787)

[e675784] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2, 29 August 1787)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2, 29 August 1787)

[e675785] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2, 29 August 1787)

1268 CHAPTER 11. COMMITTEE ON INTERSTATE COMITY AND BANKRUPTCY

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2, 29 August 1787)

[e675786] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2, 29 August 1787)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2, 29 August 1787)

[e675787] the foregoing Propositions together with the 16 article were referred to the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Wilson and Mr Johnson

(Official Journal (Max Farrand, 1911), Page 445, Vol. 2, 29 August 1787)

The committee appointed for these references, were Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr Wilson, & Mr Johnson.

(Madison's Notes (Max Farrand, 1911), Page 448, Vol. 2, 29 August 1787)

[e675788] [Editors' note: The Journal records Rutledge as delivering the Committee Report on 1 September 1787. As this role was usually undertaken by the chairman, the editors assume he was elected to this position by the Committee.]

(2019 Editors)

[e675789] [Editors' note: The Convention referred the propositions to the Committee on the morning of 29 August 1787.]

(2019 Editors)

[e675790] The honorable Mr Rutledge from the Committee to whom sundry propositions, entered on the Journal of the 28th ultimo were referred, informed the House that the Committee were prepared to report. — The following report was then read.

That the following additions be made to the report vizt
after the word "States" in the last line on the margin of the 3rd page, add
"To establish uniform laws on the subject of bankruptcies" — and insert the following as the 16th article vizt.

"Full faith and credit ought to be given in each State to the public Acts, Records, and Judicial proceedings of every other State, and the Legislature shall by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect which judgments obtained in one State shall have in another."

(Official Journal (Max Farrand, 1911), Pages 483-484, Vol. 2, 1 September 1787)

Mr Rutledge from the Committee to whom were referred sundry propositions (see Aug: 29), together with art: XVI, reported that the following additions be made to the Report — viz.

After the word “States” in the last line on the Margin of the 3d. page (see the printed Report) — add “to establish uniform laws on the subject of Bankruptcies”

and insert the following as Art: XVI — viz

“Full faith and credit ought to be given in each State to the public acts, records, and Judicial proceedings of every other State, and the Legislature shall by general laws prescribe the manner in which such acts, Records, & proceedings shall be proved, and the effect which Judgments obtained in one State, shall have in another”.

(Madison’s Notes (Max Farrand, 1911), Pages 483-484, Vol. 2, 1 September 1787)

[e675791] The honorable Mr Rutledge from the Committee to whom sundry propositions, entered on the Journal of the 28th ultimo were referred, informed the House that the Committee were prepared to report. — The following report was then read.

[Editors’ note: The Committee delivered the Report to the Convention on 1 September 1787. Therefore, although there was no vote to refer the report recorded, the Committee on Interstate Comity and Bankruptcy must have agreed to send the report to the Convention.]

(Official Journal (Max Farrand, 1911), Page 483, Vol. 2, 1 September 1787)

Mr Rutledge from the Committee to whom were referred sundry propositions (see Aug: 29), together with art: XVI, reported that the following additions be made to the Report — viz.

(Madison’s Notes (Max Farrand, 1911), Page 484, Vol. 2, 1 September 1787)

[e675792] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675793] [Editors’ note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 12

Committee on Postponed Matters

Committee consisting of a deputy from each state, charged with resolving postponed questions on debt, security, presidential powers and elections, and legislative rights and privileges.

12.1 Friday, 31 August 1787, at 15:00 (s6318)

[e675794] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675795] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675796] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675797] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675798] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675799] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675800] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675801] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675802] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675803] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675804] a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

[e675805] The honorable Mr Brearley from the Committee of eleven to whom such parts of the Constitution, as have been postponed, and such parts of reports, as have not been acted on, were referred — informed the House that the Committee were prepared to report partially

[Editors' note: The Journal records Livingston as delivering the Committee Report on 1 September 1787. As this role was usually undertaken by the chairman, the editors assume he was elected to this position by the Committee.]

(Official Journal (Max Farrand, 1911), Page 483, Vol. 2, 1 September 1787)

Mr. Brearley from the Comme. of eleven to which were referred yesterday, the postponed part of the Constitution, & parts of Reports not acted upon, made the following partial report.

(Madison's Notes (Max Farrand, 1911), Page 484, Vol. 2, 1 September 1787)

[e675806] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On motion of Mr. Sherman it was agreed to refer such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

Referred to a grand committee all the sections of the system under postponement and a report of a committee of 5 with several motions.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e675807] It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

(Official Journal (Max Farrand, 1911), Page 473, Vol. 2)

On motion of Mr. Sherman it was agreed to refer such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State

(Madison's Notes (Max Farrand, 1911), Page 481, Vol. 2)

Referred to a grand committee all the sections of the system under postponement and a report of a committee of 5 with several motions.

(McHenry's Notes (Max Farrand, 1911), Page 482, Vol. 2)

[e675808] [Editors' note: These propositions come from the Pierce Butler papers. James Hutson writes that,

'A briefer version of this document—the last two articles missing, the order different—in James Madison's hand, dated at the bottom edge of the page, August 31, 1787, is in the Madison Papers, Library of Congress. See Farrand, 4:56-57. On the back of the document Madison wrote: "The within paper communicated to Js. Madison Jr. by Docr. McHenry March 16 1788 with a note subjoined that it was given by Mr. Mason to one of the Maryland deputation for their consideration—with information that if the alterations could be obtained the system would be unexceptionable. Their concurrence and assistance to carry them was requested." A longer version of this document, missing the

last article but in other respects virtually identical to the one printed here, has been found in the Dickinson Papers at the Historical Society of Pennsylvania. Since Dickinson and Butler were both members of the so-called Committee on Postponed Parts, appointed on August 31, Mason apparently prepared this document for distribution to members of that committee' (Page 251, Vol. 2, Supplement to the Records of the Federal Convention (James Hutson, 1987)).

It seems likely that several members of the Committee were given a copy, and though it was not officially referred, it seemed to play a part in the deliberations.]

(2019 Editors)

[e675809] [Editors' note: Though there are no records of the Committee's proceedings, certain changes can be inferred from the documents referred to the Committee and its several reports. Modelled here is the creation of a blank report.]

(2019 Editors)

[e675810] [Editors' note: The Committee's first report dealt with Article V: Section 9. Some changes in the section can be discerned by comparing it to the version read in the Convention.]

(2019 Editors)

[e675811] The honorable Mr Brearley from the Committee of eleven to whom such parts of the Constitution, as have been postponed, and such parts of reports, as have not been acted on, were referred — informed the House that the Committee were prepared to report partially —

The following report was then read "That in lieu of the 9th section of the 6th article the following be inserted

The Members of each House shall be ineligible to any civil Office under the authority of the United States during the time for which they shall respectively be elected —And no Person holding any office under the United States shall be a Member of either House during his continuance in office.

(Official Journal (Max Farrand, 1911), Page 483, Vol. 2, 1 September 1787)

Mr. Brearley from the Comme. of eleven to which were referred yesterday, the postponed part of the Constitution, & parts of Reports not acted upon, made the following partial report.

That in lieu of the 9th. sect: of art: 6. the words following be inserted viz "The members of each House shall be ineligible to any civil office under the authority of the U. S. during the time for which they shall respectively be elected, and no person holding an office under the U. S. shall be a member of either House during his continuance in office."

(Madison's Notes (Max Farrand, 1911), Page 484, Vol. 2, 1 September 1787)

[e675812] [Editors' note: As this version of the section was reported to the Convention, it was evidently agreed, though no record of a vote appears to be extant.]

(2019 Editors)

[e675813] [Editors' note: As this version of the section was reported to the Convention, it was evidently agreed, though no record of a vote appears to be extant.]

(2019 Editors)

[e675814] [Editors' note: As this version of the section was reported to the Convention, it was evidently agreed, though no record of a vote appears to be extant.]

(2019 Editors)

[e675815] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675816] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

12.2 Monday, 03 September 1787, at 15:00 (s6319)

[e675817] [Editors' note: The second committee report was delivered to the Convention on 4 September 1787, and both Madison and the Journal record its contents. There are no detailed records of the Committee's workings; however, Pierce Butler's notes from the Committee survive, though they contain little detail. Using these sources and the report read in the Convention, some changes can be discerned and modelled.

Butler's notes appear to have come from the session on 3 September, where he records that 'the Clause restraining the origination of Money Bills—rejected', followed by 'the Clause in the Report of the Committee of five limited the duration of Tax Acts and money appropriations—rejected' (Page 252, Pierce Butler: Notes, Supplement to the Records of the Federal Convention (James Hutson, 1987)).

The first of these appears to have come from Mason's propositions, as no such clause was referred from the Convention, while the second rejection is related to a clause from the Second Report of the Committee of Detail. The exact location where they might have been placed within the reformatted text of the report is unclear but would appear to sit best within the final proposed version of Article VII: Section 1.

The editors have used the final report delivered in the Convention for the main text. Though the Journal's version is preferred, Madison and Farrand both point out that there are four pencilled interpolations in the Journal's text of this report, all except one identifiable as later amendments by the Convention to the original text. These three interpolations have been removed here to correspond with Madison's version, and the later amendments are recorded. The words 'the

whole number' are not recorded as being added by amendment, but only appear in the Journal version, suggesting an unrecorded amendment. The editors have modelled this accordingly and have copied a small amount of punctuation from Madison's version for clarity.]

(Official Journal (Max Farrand, 1911), Pages 493-495, Vol. 2)

[e675818] The Clause restraining the origination of Money Bills—rejected.

[...]

The Clause in the Report of the Committee of five limiting the duration of Tax Acts and money appropriations—rejected.

[Editors' note: The second committee report was delivered to the Convention on 4 September 1787, and both Madison and the Journal record its contents. There are no detailed records of the Committee's workings; however, Pierce Butler's notes from the Committee survive, though they contain little detail. Using these sources and the report read in the Convention, some changes can be discerned and modelled.

Butler's notes appear to have come from the session on 3 September. The clause on money bills appears to have originated from Mason's propositions, as no such clause was referred from the Convention, while the second rejection is related to a clause from the Second Report of the Committee of Detail. The exact location where they might have been placed within the reformatted text of the report is unclear but would appear to sit best within the final proposed version of Article VII: Section 1.]

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 252, Pierce Butler: Notes, 31 August 1787)

[e675819] The Clause restraining the origination of Money Bills—rejected.

[...]

The Clause in the Report of the Committee of five limiting the duration of Tax Acts and money appropriations—rejected.

(Supplement to the Records of the Federal Convention (James Hutson, 1987),
Page 252, Pierce Butler: Notes, 31 August 1787)

[e675820] The honorable Mr Brearley from the Committee of eleven informed the House that the Committee were prepared to report partially — He then read the report in his place; it was afterwards delivered in at the Secretary's table — and was again read: and is as follows.

[Editors' note: The Committee delivered the Report to the Convention on 4 September 1787.]

(Official Journal (Max Farrand, 1911), Page 493, Vol. 2)

[e675821] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675822] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

12.3 Tuesday, 04 September 1787, at 15:00 (s6320)

[e675823] It was moved and seconded to refer the following motion to the committee of eleven.

To prepare and report a plan for defraying the expences of this Convention

(Official Journal (Max Farrand, 1911), Page 496, Vol. 2)

[e675824] [Editors' note: The third committee report was delivered to the Convention on 5 September 1787, and both Madison and the Journal record its contents. As there are no detailed records of the Committee's proceedings, the final report has been presented here alone.

Additionally, Farrand notes that the Journal's text of the report contains additional notes by Jackson regarding the votes on each proposition. These have been removed and a small amount of punctuation has been copied from Madison's version for clarity.

Despite the fact that Butler's notes from the previous session suggest that the Committee rejected Mason's proposition on money bills, there is a similar provision in this report. Mason's text is as follows:

'Bills for raising Money for the purposes of Revenue, or for appropriating the same, or for fixing the Salleries of the Officers of Government, shall originate in the House of Representatives, & shall not be so altered or amended by the Senate as to encrease or diminish the Sum to be raised, or change the Mode of raising, or to Object of its' Appropriation.' (Page 252, George Mason: Alterations Proposed, Supplement to the Records of the Federal Convention (James Hutson, 1987)).]

(Official Journal (Max Farrand, 1911), Page 505, Vol. 2, 5 September 1787)

[e675825] The honorable Mr Brearley from the Committee of eleven informed the House that the Committee were prepared to report farther

(Official Journal (Max Farrand, 1911), Page 505, Vol. 2, 5 September 1787)

[e675826] [Editors' note: The Committee delivered its Resolution and Order on Costs to the Convention on 5 September 1787, and both Madison and the Journal record its contents. As there are no detailed records of the Committee's proceedings, the final document has been presented here alone. The editors prefer the Journal's version of the text but have included some of Madison's punctuation for the sake of clarity.]

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2, 5 September 1787)

[e675827] The following resolution and order - - - reported from the Committee of eleven were read.

(Official Journal (Max Farrand, 1911), Page 506, Vol. 2, 5 September 1787)

[e675828] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675829] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 13

Committee of Style and Arrangement

Committee charged with redrafting the version of the Constitution proposed by the Committee of Detail and amended by the Convention.

13.1 Saturday, 08 September 1787, at 18:00 (s6321)

[e675830] a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e675831] a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e675832] a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e675833] a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e675834] a Committee was appointed by ballot of the honorable Mr Johnson, Mr Hamilton, Mr G. Morris, Mr Madison and Mr King.

(Official Journal (Max Farrand, 1911), Page 547, Vol. 2)

A Committee was then appointed by Ballot to revise the stile of and arrange the articles which had been agreed to by the House. The Committee consisted of Mr. Johnson, Mr. Hamilton, Mr Govr. Morris, Mr. Madison and Mr. King.

(Madison's Notes (Max Farrand, 1911), Page 553, Vol. 2)

Committee Gov. Morris Maddison Hamilton Dr. Johnson King—

(McHenry's Notes (Max Farrand, 1911), Page 554, Vol. 2)

[e675835] The honorable Mr Johnson from the Committee of revision informed the House that the Committee were prepared to report the Constitution as revised and arranged

[Editors' note: The typical practice in the Convention was for a committee's chairman to deliver the report, so the editors assume that Johnson was elected to the position by the Committee.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2, 12 September 1787)

Docr. Johnson from the Committee of stile &c— reported a digest of the plan, of which printed copies were ordered to be furnished to the members— He also reported a letter to accompany the plan to, Congress.

(Madison's Notes (Max Farrand, 1911), Page 585, Vol. 2, 12 September 1787)

[e675836] [Editors' note: Johnson's dairy records that on 8 September he was 'in Conventn. Dind. Mifflins. Eveng. Comee' (Vol. 3, Appendix A (Max Farrand, 1911)). It is therefore likely that the committee met that evening to discuss how to proceed, examine the current state of the draft Constitution, and elect a chairman.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675837] [Editors' note: Johnson's dairy records that on 8 September he was 'in Conventn. Dind. Mifflins. Eveng. Comee' (Vol. 3, Appendix A (Max Farrand, 1911)). It is therefore likely that the committee met that evening to discuss how to proceed, examine the current state of the draft Constitution, and elect a chairman.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

13.2 Monday, 10 September 1787, at 15:00 (s6322)

[e675838] It was moved and seconded to refer the following to the Committee of revision.

"That it be an instruction to the Committee to prepare an address to the People to accompany the present constitution, and to be laid with the same before the United States in Congress."

which passed in the affirmative.

(Official Journal (Max Farrand, 1911), Pages 556-557, Vol. 2)

[e675839] Mr. Randolph moved to refer to the Committee also a motion relating to pardons in cases of Treason — which was agreed to nem: con:

(Madison's Notes (Max Farrand, 1911), Page 564, Vol. 2)

[e675840] [Editors' note: Having appointed the Committee of Style and Arrangement in the previous session, incorporated the several amended committee reports, and finished adding amendments to the Committee of Detail's draft Constitution, the Convention would referred the document to the Committee of Style and Arrangement for redrafting.]

(2019 Editors)

[e675841] [Editors' note: This event is a representation of the Committee of Detail's amended draft of the Constitution (as compiled by Farrand from the proceedings of the Convention), which was referred to the Committee of Style and Arrangement. There are several differences between this version and that recreated using Quill. Some are minor differences in punctuation, spelling, and capitalisation, and are the result of differences in editorial practice.

Other minor differences are the result of mistakes by Farrand or his printer, such as those in Articles X, XI: Sections 3, 4, and 5, XII, XIV, and XIX.

Some more substantial differences between Farrand's and Quill's versions are as follows:

Article VI: Section 8: 'other' is omitted in Farrand's version.

VI: Section 11: Farrand reproduces the text of the Report of the Committee of Detail as recorded by the Journal and Madison. The version recreated in Quill is based on the original printed version given to each delegate, a copy of which can be found in the Library of Congress.

VII: Section 1: Referring to Madison's version of the amended text, Farrand prefers 'navy', whereas the Journal continued to use 'fleets', as had been originally reported.

X: Section 1: Farrand does not include 'and the manner of certifying and transmitting their votes'. His reason for doing so is unclear.

X: Sections 2, 3, and 4 are the result of the changes made by the Committee of Postponed Matters. When their report was integrated into the draft Constitution, there was no guidance about placement. Farrand inserts the new Sections 3 and 4 before the existing Section 2, while this editor has placed them in numerical order.

X: Section 2: The differences between Farrand's and Quill's versions of this section appear to be the result of Farrand's applying an amendment from 7 September too broadly. He adds 'and Consuls' to both Sections 2 and 4, though the records specify the change in only Section 4.

XI: Section 3 likely results from a confusion regarding the order of events on 27 August. The Journal records an amendment to add the words 'the United States or' before the words 'a State shall be a party'. Subsequently, the text of the section is changed by another amendment regarding original and appellate jurisdictions. It is likely that this text was written prior to the adoption of the previous amendment and so intended an addition rather than a decision to reverse a vote taken moments before.

XII: Farrand uses Madison's version of this article which states 'gold or silver' as opposed to the Journal's version of the amendment, which consistently uses 'gold and silver'.]

(2019 Editors, Pages 565-580, Vol. 2)

[e675842] [Editors' note: There are no records of the deliberations and drafting process of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary and editorial judgement based on previous practice in the Convention.

It is likely that debate and redrafting took place on the first day of the Committee meeting. However, there is no evidence available to show this.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675843] [Editors' note: There are no records of the deliberations and drafting process of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary and editorial judgement based on previous practice in the Convention.

It is likely that debate and redrafting took place on the first day of the Committee meeting. However, there is no evidence available to show this.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

13.3 Tuesday, 11 September 1787, at 10:00 (s6323)

[e675844] [Editors' note: There are no records of the deliberations and drafting processes of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as editorial judgement based on previous practice in the Convention.

It is likely that debate and redrafting took place on the first and second day of the Committee meeting. However, there is no evidence available to show this.

Johnson delivered the committee report on the morning of 12 September. The final version is shown here, prior to referring the report to the Convention. Farrand reproduces the version recorded by Madison. The text shown here, however, is taken from the original printed report that was circulated to the delegates. George Washington's copy is held in the Library of Congress and includes his notation of later amendments. The document can be viewed at <https://www.loc.gov/item/gw435950>.]

(Library of Congress)

[e675845] The honorable Mr Johnson from the Committee of revision informed the House that the Committee were prepared to report the Constitution as revised and arranged.

[Editors' note: Johnson delivered the committee report on the morning of 12 September. It is therefore clear that the Committee agreed to refer it to the Convention.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2, 12 September 1787)

[e675846] [Editors' note: On 12 September, the committee also delivered to the Convention a draft of a letter recommending the new Constitution to Congress. Farrand reproduces the letter as part of the Journal's records, though he writes

that 'this document was among the papers of the Convention turned over to the Secretary of State by President Washington in 1796. It is in the handwriting of Gouverneur Morris' (Page 583, Vol. 2, Official Journal (Max Farrand, 1911)). Farrand's rendering of the letter is retained, though some periods have been added in a few places where they were clearly implied.]

(Official Journal (Max Farrand, 1911), Pages 583-584, Vol. 2)

[e675847] The draught of a letter to Congress being at the same time reported [Editors' note: On 12 September, the Committee also delivered to the Convention a draft of a letter recommending the new Constitution to Congress.]

(Official Journal (Max Farrand, 1911), Page 582, Vol. 2, 12 September 1787)

[e675848] [Editors' note: There are no records of the deliberations and drafting processes of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary, and editorial judgement based on previous practice in the Convention.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675849] [Editors' note: There are no records of the deliberations and drafting processes of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary, and editorial judgement based on previous practice in the Convention.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

13.4 Wednesday, 12 September 1787, at 15:00 (s6324)

[e675850] [Editors' note: On 13 September 1787, the Committee of Style and Arrangement reported to the Convention for a second time, this time with proposed changes to the 22nd and 23rd Articles of the Report of the Committee of Detail.

Shown here are those articles as they stood when referred from the Convention to the Committee.]

(Official Journal (Max Farrand, 1911), Page 579, Vol. 2)

[e675851] [Editors' note: Shown here are the changes the Committee made to each article.]

(2019 Editors)

[e675852] [Editors' note: These changes were evidently accepted, as the Journal records the amended propositions as being proposed to the Convention.]

(2019 Editors)

[e675853] The honorable Mr Johnson from the Committee of revision reported the following as a substitute for the 22nd and 23rd articles

[Editors' note: The Report was evidently referred to the Convention.]

(Official Journal (Max Farrand, 1911), Page 604, Vol. 2, 13 September 1787)

[e675854] [Editors' note: There are no records of the deliberations and drafting processes of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary, and editorial judgement based on previous practice in the Convention.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e675855] [Editors' note: There are no records of the deliberations and drafting processes of the Committee of Style and Arrangement. As a result, the meeting times are based on the records of the Convention detailing the formation of the Committee and its reports, as well as Johnson's Diary, and editorial judgement based on previous practice in the Convention.

Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Chapter 14

Committee on Sumptuary Legislation

Committee charged with creating rules to limit consumption of foreign luxury goods and encourage the growth of domestic industry. There is no source that describes the Committee's meetings.

14.1 Thursday, 13 September 1787, at 15:00 (s6325)

[e675856] Col. Mason [...] moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, economy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con: and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston. This motion & appointment of the Comittee, not in the printed Journal. No report was made by the Come.

(Madison's Notes (Max Farrand, 1911), Pages 606-607, Vol. 2)

[e675857] Col. Mason [...] moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, economy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con: and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston. This motion & appointment of the Comittee, not in the printed Journal. No report was made by the Come.

(Madison's Notes (Max Farrand, 1911), Pages 606-607, Vol. 2)

[e675858] Col. Mason [...] moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example

of the members of the Convention, economy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con: and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston. This motion & appointment of the Comittee, not in the printed Journal. No report was made by the Come.

(Madison's Notes (Max Farrand, 1911), Pages 606-607, Vol. 2)

[e675859] Col. Mason [...] moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, economy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con: and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston. This motion & appointment of the Comittee, not in the printed Journal. No report was made by the Come.

(Madison's Notes (Max Farrand, 1911), Pages 606-607, Vol. 2)

[e675860] Col. Mason [...] moved that a Committee be appointed to report articles of Association for encouraging by the advice the influence and the example of the members of the Convention, economy frugality and american manufactures.

Docr Johnson 2ded the motion which was without debate agreed to — nem: con: and a Committee appointed, consisting of Col: Mason, Docr. Franklin, Mr. Dickenson, Docr Johnson, and Mr. Livingston. This motion & appointment of the Comittee, not in the printed Journal. No report was made by the Come.

(Madison's Notes (Max Farrand, 1911), Pages 606-607, Vol. 2)

[e742022] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

[e742023] [Editors' note: Standard practice at the Convention was for committees to end a session by voting to rise. Though there is no record of such a motion or vote, the editors assume that the Committee followed this practice.]

(2019 Editors)

Part IV
Index

Index

- Baldwin, Abraham, 115, 256, 294, 560, 617, 655, 663, 712, 719, 759, 774, 800, 810, 817, 912, 1116, 1215, 1217, 1250, 1252, 1258, 1259, 1271, 1273, 1275–1278
- Basset, Richard, 37, 55, 57, 59, 147, 971
- Bedford, Gunning, 64, 147, 273, 292, 297, 386, 403, 919, 929, 971, 1022, 1033, 1046, 1100, 1213, 1217
- Blair, John, 25, 57, 971
- Blount, William, 133, 296, 486, 959
- Brearley, David, 27, 56, 260, 329, 696, 798, 950, 972, 1109, 1226, 1229, 1272, 1273, 1275–1278
- Broom, Jacob, 26, 57, 147, 210, 338, 392, 395, 396, 418–420, 423, 456, 574, 575, 578, 636, 681, 721, 972
- Butler, Pierce, 47, 58, 76, 123, 167, 176, 201, 222, 297, 306, 327, 334, 347, 356, 368, 381, 408, 465, 469, 480, 495, 506, 513, 523, 558, 574, 575, 597, 607, 609, 623, 647, 650, 658, 690, 691, 706, 719, 755, 761, 764, 768, 782, 800, 817, 863, 899, 972, 983, 984, 997, 1003, 1008, 1038, 1046, 1055, 1074, 1089, 1100, 1117, 1121, 1123, 1148, 1157, 1263, 1264, 1273, 1275–1278
- Carroll, Daniel, 323, 330, 412, 450, 458, 477, 540, 543, 544, 552, 561, 563, 576, 586, 591, 592, 643, 646, 666, 695, 698, 715, 718, 769, 774, 775, 781, 782, 784, 785, 794, 799, 927, 930, 958, 1227, 1229, 1262, 1264, 1272, 1275–1278
- Clymer, George, 64, 615, 652, 661, 710, 753, 761, 784, 787, 835, 888, 972, 1248, 1252, 1256, 1258, 1259
- Davie, William Richardson, 40, 58, 262, 293, 306, 357, 456, 470, 471, 556, 972, 1037, 1214, 1217
- Dayton, Jonathan, 148, 220, 236, 273, 333, 375, 431, 501, 509, 510, 621, 671, 672, 692, 695, 696, 699, 718, 778, 786, 868, 899, 1262, 1264
- Dickinson, John, 77, 147, 158, 465, 475, 495, 504, 512, 563, 576, 578, 585, 603, 606, 615, 618, 623, 631, 637, 645, 650, 655, 662, 684, 703, 704, 711, 727, 729, 730, 737, 768, 773, 777, 778, 782, 799, 829, 832, 865, 899, 901, 905, 907, 972, 985, 1033, 1034, 1057, 1073, 1077, 1084, 1088–1090, 1092, 1100, 1121, 1182, 1210, 1249, 1252, 1256, 1258, 1259, 1272, 1275–1278, 1289
- Ellsworth, Oliver, 63, 66, 134, 159, 162, 163, 166, 198, 218, 219, 245, 256, 262, 273, 290, 297, 322, 336, 358, 363, 365, 366, 375, 418–421, 423, 433, 437, 443, 444, 448, 455, 461, 463, 479, 490, 493, 495, 503, 505, 508, 513, 516, 518, 519, 523, 536, 540, 544, 547, 571, 575–578, 586, 592, 597, 604, 605, 607, 613, 618, 622, 623, 629–631, 633, 637, 641, 644, 645, 647, 650, 654, 655, 660, 665, 668,

- 670, 681, 689, 973, 1125, 1134,
1178, 1232, 1238–1244
- Few, William, 36, 99, 296, 483, 720,
973, 1263, 1264
- Fitzsimmons, Thomas, 50, 56, 495, 650,
718, 794, 859, 886, 899, 924,
973, 1262, 1264
- Franklin, Benjamin, 23, 56, 218, 242,
243, 271, 291, 311, 312, 407,
425, 471, 495, 519, 523, 527,
536, 635, 864, 890, 901, 916,
937, 957–959, 965, 973, 1010,
1015, 1030, 1046, 1055, 1061,
1118, 1139, 1212, 1217, 1289
- Fry, Joseph, 59
- Gerry, Elbridge, 77, 176, 183, 211, 223,
245, 282, 289, 297, 306, 312,
318, 321, 336, 347, 363, 365,
367, 372, 373, 375, 418, 423,
425, 430, 433, 437, 442–444,
451, 454–457, 459, 463, 465,
469, 475, 478, 480, 482, 534,
540, 545, 547, 552, 557, 563,
570, 571, 575, 584, 592, 596,
605, 607, 609, 612, 618, 621,
623, 629, 642, 644, 647, 650,
655, 664–666, 668, 671, 672,
675, 706, 729, 789, 790, 810,
822, 824, 826, 827, 830, 831,
835, 853–855, 859, 863, 868–
872, 877, 882, 886, 890, 895,
897, 912, 920, 921, 924, 926,
943, 947, 949, 950, 953, 959,
973, 985, 986, 997, 1015, 1028,
1041, 1043, 1044, 1046, 1055,
1067, 1069, 1077, 1084, 1092,
1098, 1100, 1105–1107, 1123,
1132, 1135, 1142, 1156, 1211,
1216–1218
- Gilman, Nicholas, 441, 797, 1271, 1275–
1278
- Gorham, Nathaniel, 62, 65, 98, 100,
102, 106, 107, 109, 111–116,
125, 126, 134, 163, 170, 173,
194, 195, 204, 209, 245, 297,
306, 309, 324, 347, 349, 352,
381, 402–404, 408, 412, 433,
443, 444, 449, 461, 474, 477,
480, 486, 489, 490, 501, 508,
513, 531, 539, 544, 560, 579,
583, 586, 597, 599, 618, 645,
660, 684, 692, 695, 709, 712,
715, 717, 746, 757, 759, 761,
785, 794, 810, 817, 846, 863,
869, 886, 897, 899, 914, 944,
958, 974, 979, 1221, 1223, 1232,
1238–1244, 1261, 1264, 1267,
1268
- Hamilton, Alexander, 34, 55, 56, 61,
68–75, 78, 80, 82, 84, 85, 87,
95, 123, 127, 154, 159, 163,
166, 183, 211, 243, 245, 260,
534, 557, 558, 580, 834, 835,
880–882, 886–888, 895, 959,
967–969, 974, 990, 1030, 1046,
1057, 1126, 1182, 1200, 1281,
1285, 1286
- Houston, William Churchill, 43, 56, 110,
974, 1075
- Houstoun, William, 101, 331, 335, 393,
394, 412, 423, 450, 451, 453,
483, 1013, 1228, 1229
- Ingersol, Jared, 35, 56, 959, 974
- Jackson, William, 55
- Jenifer, Daniel of St Thomas, 104, 105,
176, 311, 794, 1025, 1135
- Johnson, William Samuel, 103, 149, 198,
245, 254, 357, 422, 485, 631–
633, 661, 666, 684, 691, 708,
729, 734, 756, 759, 768, 771,
804, 879, 901, 1025, 1256, 1258,
1259, 1268, 1281, 1282, 1285,
1286, 1290
- King, Rufus, 37, 65, 73, 127, 154, 163,
176, 261, 273, 280, 306, 310,
327, 329, 333, 348, 352, 372,
375, 384, 425, 430, 444, 448,
455, 456, 459, 475, 508, 531,
539, 540, 551, 552, 612–614,
633, 636, 637, 642, 648, 655,
661, 670, 671, 712, 752, 753,
783, 785, 797, 809, 811, 824,
830, 835, 849, 850, 859, 862,
867, 881, 886, 888, 911, 914,
917, 924, 928, 939, 944, 958,

- 963, 974, 988, 990, 1003, 1044,
1069, 1074, 1084, 1105, 1117,
1121, 1157, 1210, 1222, 1223,
1225, 1228, 1229, 1247, 1252,
1255, 1258, 1259, 1271, 1275–
1278, 1282, 1285, 1286
- Langdon, John, 441, 469, 478, 480, 575,
597, 605, 614, 621, 623, 643,
647, 650, 655, 659, 660, 672,
681, 696, 706, 712, 717, 765,
768, 794, 899, 927, 928, 931,
1247, 1252, 1255, 1258, 1259,
1261, 1264
- Lansing, John, 104, 123, 135, 136, 236,
282, 341, 1026, 1161
- Livingston, William, 108, 109, 295, 453,
615, 661, 901, 1060, 1248, 1250,
1252, 1256, 1258, 1259, 1290
- Madison, James, 22, 57, 149, 159, 163,
165, 175, 176, 198, 201, 206,
211, 220, 222, 223, 236, 242,
245, 256, 262, 273, 282, 297,
311, 321, 327, 330, 336, 349,
354, 365, 375, 387, 396, 403,
405, 407, 409, 411–413, 422,
425, 433, 437, 439, 444, 463,
465, 474–476, 489–493, 495,
502, 503, 508, 509, 513, 518,
519, 523, 529, 531, 536, 537,
541, 543, 546, 551, 552, 558,
560, 563, 575, 584, 588, 590,
592, 597, 602, 603, 606, 607,
610, 611, 623, 630, 631, 633,
638, 639, 647, 650, 652, 662,
668, 671, 672, 675, 681–684,
687, 696, 703, 710, 712, 714,
725, 727, 730, 731, 733, 734,
738, 748–750, 753, 757, 761,
765, 774, 782, 784, 785, 794,
799, 805, 817, 820, 829–831,
846, 848, 852–854, 863, 865,
868, 870, 872, 873, 880–882,
884, 895, 898, 899, 906, 909,
911, 917–919, 924, 930, 939,
940, 949, 950, 975, 988, 990–
993, 997, 1003, 1008, 1011,
1012, 1019, 1034, 1046, 1056,
1057, 1061, 1062, 1069, 1073,
1074, 1077, 1083, 1084, 1090,
1092, 1100, 1123, 1127, 1128,
1135, 1138, 1146, 1153, 1155,
1157, 1202, 1227, 1229, 1257–
1259, 1273, 1275–1278, 1282,
1285, 1286
- Martin, Alexander, 38, 58, 127, 175,
334, 480, 689, 975
- Martin, Luther, 114, 127, 136, 153, 228,
233, 245, 273, 282, 292, 297,
311, 312, 324, 371, 373, 387,
388, 392, 399, 400, 403, 408,
412, 414, 420, 423, 433, 450,
455, 456, 468, 478, 485, 556,
576, 591, 605, 621, 640, 649,
654, 662, 672, 715, 724, 760,
766, 767, 771, 772, 776, 779,
782, 785, 789, 813, 1106, 1132,
1213, 1217, 1257–1259
- Mason, George, 33, 57, 73, 136, 154,
159, 165, 168, 169, 176, 183,
200, 221, 293, 297, 303, 305,
310–312, 336, 343, 347, 349,
356, 365, 390, 396, 403, 408,
412, 425, 433, 437, 444, 449,
465, 470, 471, 473, 474, 477,
480, 489, 490, 495, 502, 504,
505, 513, 519, 521, 523, 539,
543, 544, 547, 560, 563, 570,
575, 582, 583, 591, 597, 600,
602, 607, 611, 612, 616, 622–
624, 629, 631, 633, 639, 647,
650, 655, 681, 706, 710, 712,
719, 727, 731, 748, 750, 761,
765, 787, 790, 801, 804, 810,
817, 828, 831, 833, 847, 849,
855, 861, 864, 872, 891, 895,
897, 898, 901, 902, 910, 912,
917–921, 923–925, 929, 930,
935, 936, 939, 941–943, 945,
949, 951, 952, 956, 975, 987,
997, 1022, 1024, 1034, 1046,
1077, 1084, 1096, 1130, 1138,
1214, 1217, 1249, 1252, 1263,
1264, 1289
- McClurg, James, 30, 57, 395, 396, 412,
430, 431, 974
- McHenry, James, 41, 67, 101, 483, 563,
616, 649, 650, 664–666, 716,
730, 785, 794, 878, 930, 975,

- 1013, 1249, 1252
- Mercer, John Francis, 483, 495, 501, 503, 504, 513, 539, 540, 547, 552, 559, 560, 570, 571, 583, 584, 592, 596, 597, 600, 603, 605, 610
- Mifflin, Thomas, 65, 569, 975
- Morris, Gouverneur, 48, 56, 75, 89, 101, 279, 282, 297, 303, 306, 308, 312, 321, 326–328, 330, 333, 338, 348, 349, 352, 356, 357, 365, 368, 384–387, 390, 395, 396, 403–405, 407, 408, 411, 412, 417, 425, 430, 433, 437, 444, 448, 457, 459, 465, 474, 475, 479, 480, 488–490, 492, 493, 495, 502, 503, 509, 510, 513, 518, 521–523, 526, 529, 531, 537, 540, 543–545, 551, 552, 559, 560, 563, 571, 574, 575, 583, 585, 586, 592, 597, 602–605, 627, 629–631, 633, 638, 639, 645, 650, 658, 665, 668, 679–684, 698, 700, 701, 705, 708, 710, 712, 714, 721, 725, 726, 730, 731, 733, 736, 738, 743, 744, 748, 750, 753, 758, 761, 765–768, 770, 775, 776, 779, 780, 782, 785, 788–790, 792, 798, 804, 805, 810, 817, 820, 823, 824, 828, 835, 848, 852, 855, 859, 863, 865, 868, 870, 872, 873, 876, 880, 895, 899, 905, 906, 910, 914, 916, 919, 924, 930, 939, 940, 949, 951, 958, 959, 976, 980, 981, 987, 992, 993, 1013, 1221, 1223, 1226, 1229, 1272, 1275–1278, 1282, 1285, 1286
- Morris, Robert, 49, 52, 56, 325, 976, 1091
- Paterson, William, 45, 56, 120, 121, 148, 260, 291, 297, 321, 327, 382, 383, 443, 482, 899, 976, 1066, 1109, 1113, 1161, 1212, 1217
- Pierce, William, 99, 168, 245, 279, 994, 1077, 1139, 1146
- Pinckney, Charles, 32, 58, 60, 61, 68–75, 78, 80, 84, 85, 87, 89, 95, 168, 184, 280, 306, 312, 360, 374, 387, 390, 425, 437, 465, 473, 474, 479, 480, 486, 490, 507, 510, 513, 523, 531, 535, 554, 569, 571, 584, 599, 604, 607, 608, 610–613, 618, 623, 627, 630, 654, 655, 659, 660, 677, 681, 697, 723, 743, 755, 757, 760, 761, 780, 788, 789, 807, 810, 817, 820, 827, 846, 859, 873, 891, 895, 918, 919, 921, 924, 928, 943, 953, 968, 969, 976, 984, 1004, 1008, 1014, 1019, 1022, 1038, 1040, 1067, 1069, 1071, 1076, 1084, 1087, 1089, 1092, 1098, 1099, 1105, 1123, 1143, 1154, 1157, 1161
- Pinckney, Charles Cotesworth, 46, 58, 82, 153, 154, 157, 168, 174, 206, 210, 218, 222, 282, 287–289, 312, 332–335, 347, 356, 357, 361, 383, 451, 474, 489, 507, 526, 560, 574, 617, 621–623, 655, 658, 659, 663, 672, 691, 709, 712, 716, 731, 754, 761, 780, 914, 944, 959, 976, 984, 987, 1077, 1152, 1157, 1250, 1252, 1257–1259
- Randolph, Edmund, 24, 57, 90, 94, 119, 120, 134, 157, 158, 163, 194, 205, 244, 282, 303, 305, 309, 311, 327, 333, 343, 346, 358, 363, 368, 382–384, 386, 403, 408, 412, 413, 425, 437, 444, 460, 491, 493, 515–517, 519–523, 527, 541, 543, 544, 554, 555, 557, 563, 574, 590, 597, 602, 603, 605, 631, 633, 658, 668, 672, 685, 691, 704, 707, 730, 731, 757, 759, 761, 782, 790, 804, 810, 817, 820, 829, 852, 855, 886, 890, 892, 905, 906, 917, 919, 939, 952, 959, 976, 979–985, 989, 991, 994, 996, 1002, 1003, 1005–1009, 1011, 1014, 1015, 1019, 1024, 1030, 1036, 1038, 1043, 1058, 1061, 1063–1069, 1107, 1128,

- 1130, 1132, 1146, 1153, 1178,
1222, 1223, 1231, 1234, 1237–
1244, 1267, 1268
- Read, George, 27, 57, 147, 195, 205,
210, 211, 245, 327, 330, 336,
349, 365, 370, 493, 503, 519,
532, 597, 600, 624, 647, 658,
697, 718, 729, 835, 853, 922,
977, 987, 992, 1077, 1092, 1128,
1157, 1226, 1229, 1262, 1264
- Rutledge, John, 32, 52, 58, 154, 166,
168, 176, 183, 227, 261, 293,
303, 304, 309, 325, 331–333,
336, 348, 373, 381, 413, 418,
433, 460, 494, 495, 503, 506,
527, 531, 535, 538, 546, 560,
563, 583, 586, 590, 592, 612,
613, 617, 630, 654, 655, 658,
659, 666, 678, 681, 691, 694,
730, 734, 743, 748, 759, 761,
769, 774, 827, 831, 869, 885,
888, 910, 913, 927, 937, 977,
1008, 1015, 1024, 1038, 1061,
1071, 1072, 1076, 1088, 1105,
1117, 1123, 1135, 1148, 1215,
1217, 1222, 1223, 1227, 1229,
1231, 1233, 1238–1244, 1267,
1268
- Shallus, Jacob, 956
- Sherman, Roger, 97, 135, 136, 154, 159,
163, 174, 180, 205, 207, 211,
236, 242, 243, 262, 282, 318,
322, 324, 326–329, 336, 343,
349, 352, 365, 366, 372, 373,
375, 385, 387, 390, 394, 396,
403, 405, 408, 422, 485, 489,
490, 502, 503, 508–510, 531,
544, 547, 560, 571, 575, 576,
578, 586, 592, 599, 607, 613,
622, 623, 637, 644, 645, 650,
655, 658, 669, 670, 675, 681,
692, 695, 702, 704, 709, 710,
712, 717, 722, 724, 730, 740,
746–748, 750, 752, 755, 761,
765, 768, 770, 774, 780, 782,
784–786, 796, 798, 805, 810,
817, 822, 823, 828, 831, 835,
847, 855, 859, 868–870, 873,
881, 883, 886, 895, 897, 914,
916, 921, 924, 927, 928, 930,
940, 949, 950, 977, 987, 997,
1003, 1015, 1021, 1022, 1034,
1041, 1046, 1069, 1073, 1077,
1088, 1089, 1092, 1100, 1116,
1125, 1132, 1134, 1146, 1154,
1157, 1216, 1217, 1219, 1225,
1229, 1248, 1252, 1261, 1263,
1264, 1271, 1275–1278
- Spaight, Richard Dobbs, 29, 58, 76,
182, 450, 451, 453, 551, 761,
831, 839, 844, 862, 866, 977,
990, 1003, 1145
- Strong, Caleb, 63, 65, 159, 282, 287–
289, 375, 433, 454, 519, 578,
582, 689, 977
- Washington, George, 21, 53, 54, 57,
102, 312, 625, 643, 654, 670,
688, 706, 723, 741, 756, 768,
783, 801, 812, 833, 851, 867,
882, 892, 899, 959, 978
- Weaver, Nicholas, 59
- Williamson, Hugh, 39, 58, 163, 200,
205, 218, 222, 225, 236, 243,
282, 297, 312, 327, 331, 333,
343, 346, 347, 351–353, 365,
373, 390, 420, 421, 424, 432,
442, 444, 449, 454, 465, 467,
480, 488, 495, 505, 508, 515–
517, 519, 527, 537, 552, 554,
557, 571, 583, 587, 592, 614,
616, 621, 646, 647, 650, 655,
662, 666, 681, 692, 710, 719,
727, 756, 761, 765, 769, 800,
809, 811, 817, 826, 828, 830,
831, 835, 839, 844, 847, 855,
863, 866, 868, 870, 873, 881,
890, 895, 897, 904, 909, 922,
959, 978, 1028, 1037, 1041,
1084, 1089, 1100, 1113, 1157,
1227, 1229, 1250, 1252, 1257–
1259, 1263, 1264, 1273, 1275–
1278
- Wilson, James, 50, 54–56, 127, 136,
149, 154, 159, 163, 164, 166,
169, 174, 176, 196, 209, 211,
222, 236, 261, 262, 282, 297,
306, 308, 310, 312, 318, 349,
352, 356, 359, 360, 365, 368,

- 373–375, 385, 390, 402, 403,
411–414, 425, 430, 432, 433,
443, 456–461, 469, 478, 489,
490, 493, 495, 503, 504, 510,
513, 515–517, 519, 521, 523,
538–540, 545, 547, 557–560,
562, 563, 571, 584, 586, 587,
591, 592, 597, 602, 603, 619,
630–632, 635, 637, 650, 652,
655, 660, 665, 666, 679, 681,
684, 692, 695, 696, 704, 724,
728, 730, 736, 743, 746–748,
755, 756, 759, 761, 768, 769,
774, 781, 782, 787, 804, 810,
817, 820, 828, 829, 835, 859,
862, 865, 867, 868, 878, 883,
884, 886, 888, 905, 916, 917,
919, 924, 939, 963, 978, 997,
1003, 1014, 1015, 1019, 1021,
1024, 1027, 1028, 1034, 1040,
1041, 1045, 1046, 1056, 1057,
1061, 1062, 1069, 1073, 1074,
1077, 1083, 1084, 1090–1092,
1100, 1113, 1117, 1118, 1123,
1126, 1161, 1233–1236, 1238–
1244, 1268
- Wythe, George, 25, 57, 61, 68–75, 78,
80, 82, 84, 85, 87, 107, 967–
969, 978, 984, 1040
- Yates, Robert, 34, 56, 127, 254, 273,
282, 290, 312, 317, 329, 338,
339, 978, 1063, 1211, 1216,
1217, 1226, 1229