

THURSDAY, MAY 31, 1787.

JOURNAL

Thursday May 31. 1787.

The honorable William Pierce Esquire, a Deputy of the State of Georgia attended and took his seat <sup>1</sup>

The following credentials were produced and read  
(here insert the credentials of Mr Few and Mr Pierce) <sup>2</sup>

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

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

And then the House adjourned till to-morrow at 10 o'clock A M.

In a Committee of the whole House

Thursday May 31. 1787.

Mr Gorham in the Chair.

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.” —

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<sup>1</sup> See Appendix A, XXXI.

<sup>2</sup> See Appendix B.

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And on the question to agree to the said resolution it passed in the affirmative.<sup>3</sup>

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:”

and on the question to agree to the said clause of the fourth resolution

it passed in the affirmative [Ayes—6; noes — 2; divided—2.]<sup>4</sup>

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.]<sup>5</sup>

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

and on the question to agree to the said fifth resolution

it passed in the negative [Ayes — 3; noes — 7.]<sup>6</sup>

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:”

<sup>3</sup> *Journal* ascribes to this question Detail of Ayes and Noes, Vote 4, which is probably a mistake. (See May 30, note 6.) Madison’s original record made the vote unanimous, which is apparently confirmed by Yates and McHenry.

<sup>4</sup> Vote 5, Detail of Ayes and Noes.

<sup>5</sup> Question omitted, to which belongs Vote 6, Detail of Ayes and Noes, see Madison’s note, below.

<sup>6</sup> Vote 7, Detail of Ayes and Noes. *Journal* mistakenly assigns Vote 6, this to question.

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MADISON

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"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.]'<sup>7</sup> or

in which the harmony of the united States may be inter-  
 rupted by the exercise of individual legislation

To negative all laws, passed by the several States, contra-  
 vening, 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.

It was then moved and seconded to postpone the consid-  
 eration 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 duty under the articles thereof."

on the question to postpone the consideration of the said  
 clause

it passed in the affirmative

DETAIL OF AYES AND NOES

|     | 1<br>N. H. | 2<br>Massa: | 3<br>C: | 4<br>R. I. | 5<br>N. Y. | 6<br>N. J: | 7<br>P: | 8<br>D: | 9<br>Mary: | 10<br>V: | 11<br>N. C. | 12<br>S. C. | 13.<br>G. |
|-----|------------|-------------|---------|------------|------------|------------|---------|---------|------------|----------|-------------|-------------|-----------|
| [5] |            | aye         | divided |            | aye        | no         | aye     | divided |            | aye      | aye         | no          | aye       |
|     | ayes       |             |         |            |            |            |         |         |            |          |             |             |           |
|     | noes       |             |         |            |            |            |         |         |            |          |             |             |           |
| [6] | 0          | 9           | no      |            | no         | no         | no      | divided |            | no       | no          | no          | no        |
| [7] | 3          | 7           | aye     |            | no         | no         | no      | no      |            | aye      | no          | aye         | no        |
| [8] | 9          | —           | aye     | divided    |            | aye        | aye     | aye     |            | aye      | aye         | aye         | aye       |

MADISON

Thursday May 31.

(William Pierce from Georgia took his seat.)<sup>8</sup>

In Committee of the whole on Mr. R. (andolph's) propositions.

<sup>7</sup> Vote 8, Detail of Ayes and Noes. Assigned here because Madison does so.

<sup>8</sup> Taken from *Journal*.

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(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.)<sup>9</sup>

(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,)<sup>10</sup>

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.<sup>11</sup> 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 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

<sup>9</sup> Revised to conform with what is probably a mistake in *Journal*, see above, note 3. But note also Appendix A, XXXIV, CXCVII.

<sup>10</sup> Revised from *Journal*.

<sup>11</sup> Originally "demagogues"; "pretended patriots" may be a correction made at the time or later.

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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 &. 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<sup>12</sup> 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.

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<sup>12</sup> Crossed out "competition".

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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.

On the question for an election of the first branch of the national Legislature, by the people, Massts. ay. Connect. divid. N. York ay. N. Jersey no. Pena. ay. Delawe. divid. Va. ay. N. C. ay. S. C. no. Georga. ay. [Ayes — 6; noes — 2; divided — 2.]

The (remaining) Clauses (of Resolution 4th.)<sup>18</sup> relating to the qualifications of members of the National Legislature

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<sup>18</sup> Revised according to *Journal*.

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(being) postpd. nem. con. as entering too much into detail for general propositions;

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."<sup>13</sup>

Mr. Spaight contended<sup>14</sup> that the 2d. branch ought to be chosen by the State Legislatures and moved an amendment to that effect.

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

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<sup>14</sup> According to Pierce, all of the discussion following would seem to have taken place before the determination of the question of the election of the first branch.

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100 members to entitle Delaware to the choice of one of them.—  
Mr. Spaight withdrew his motion,

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<sup>15</sup> 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,

Mr. Pinkney moved to strike out the "nomination by the State Legislatures." On this question.

\* Massts. no. Cont. no. N. Y. no. N. J. no. Pena. no. Del. divd. Va. no. N. C. no. S. C. no. Georg. no. [Ayes — 0; noes — 9; divided — 1.]

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.

The (sixth Resolution) stating the cases in which the

\*(this question omitted in the printed Journal; & the votes applied to the succeeding one, instead of the votes as here stated.)<sup>16</sup>

<sup>15</sup> Crossed out "be sure to".

<sup>16</sup> McHenry confirms Madison on this point.



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MADISON

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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. On the question for transferring all the Legislative powers of the (existing) Congs. to this Assembly,<sup>17</sup> there was also a silent affirmative *nem. con.*

On the proposition for giving "Legislative power in all cases to which the State Legislatures were individually incompetent".

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.<sup>18</sup>

Mr. Butler repeated his fears that we were running into an extreme in taking away the powers of the States, and called on Mr. Randolph 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 enumeration 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.

On the question for giving powers, in cases to which the States are not competent,

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<sup>17</sup> See Appendix A, CLXXXIII.

<sup>18</sup> Pierce adds quite a little to this discussion.

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Massts. ay. Cont. divd. (Sharman no Elseworth 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.]

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,<sup>19</sup> were agreed to witht. debate or dissent.

The (last) clause (of Resolution 6. authorizing) an exertion of the force of the whole agst. a delinquent State came next into consideration.

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, and moved that the clause be postponed.<sup>20</sup> This motion was agreed to nem. con.

(The Committee then rose & the House  
Adjourned)<sup>21</sup>

[May] 31.<sup>22</sup> — Mr Pierce attended.

The 3. res. dividing the Nat. Leg. into 2 branches agreed to without debate.

The 1st clause of 4th res. referring the election of the first branch to the people debated and carried. 6 ays. 2 noes —

<sup>19</sup> Taken from *Journal*.

<sup>20</sup> Madison struck out after postponed “till the contrary should be found on trial to be the case”.

<sup>21</sup> See further Appendix A, XXXI.

<sup>22</sup> Memoranda by Madison, see May 25 note 13.

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YATES

*May 31*

2 divided. The other clauses postponed. The 5. Res. for electing the 2d branch by the first from nominations of State Legislatures, & after debate proposed amendment to leave out the nomination, negatived.

## Y A T E S

THURSDAY, MAY 31st, 1787.

Met pursuant to adjournment.

This day the state of Jersey was represented, so that there were now ten states in convention.

The house went again into committee of the whole, Mr. Gorham in the chair.

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.)

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.

This question was carried, but the remaining part of the resolve detailing the powers, was postponed.

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.<sup>23</sup>

The 6th resolve is taken in detail: "That each branch ought to possess the right of originating acts." Agreed to.

"That the national legislature ought to be empowered

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<sup>23</sup> Journal, Madison, and McHenry all agree that this resolution was negatived, not postponed.

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KING

*May 31*

to enjoy the legislative rights vested in congress by the confederation." — Agreed to.

"And, moreover, to legislate in all cases to which the separate states are incompetent." — Agreed to.

## KING

Thursday 31 May

The first br. to be elected by ye. People.

Ger. opposed to the measure, & prefers appointments by the state Legis — because the people are not informed —

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 —

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. divid.

N Jersey & S. Caro. no —<sup>24</sup>

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\* [Endorsed:] 31 May, | Representatives to be chosen by the People & not State Legislrs | Mass. NYk. Pen. Virg. N Car. Geor aye | Con & Del. divided — | N Jersey & So. Car. no —

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*Thursday*

PIERCE

*May 31*

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PIERCE <sup>25</sup>

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. The Legislature to consist of two branches.<sup>25</sup>

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.

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<sup>25</sup> There are no dates given in Pierce's notes and they are assigned to the records of different days in this edition upon internal evidence alone.

<sup>26</sup> According to the Journal, Pierce attended the Convention May 31, for the first time. In beginning his notes he summed up in a few words what had already taken place. It was on the 29th and not the 30th that Randolph presented the resolutions in question. But it was the 30th when it was agreed that the government should consist "of a supreme legislative, executive, and judiciary."

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*Thursday*

PIERCE

*May 31*

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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.<sup>27</sup>

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

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<sup>27</sup> According to Madison all of this discussion was after the 5th resolution was formally before the Committee, but as Pierce reports the debate it seems clearly to have preceded.

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*Thursday*

PIERCE

*May 31*

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hopes that a federal 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

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McHENRY

*May 31*

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.

## McHENRY

*31 May*

Mr. Randolph motioned to take into consideration, *vz.* That the national legislature ought to consist of two branches.  
agreed to.

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.

6 States aff. 2 neg. 2 divided.



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McHENRY

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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.

Neg. 7. affirm 3. aff. Mass. S. C. Virginia.

Motioned vz.

That each branch ought to possess the right of originating acts.

agreed.

That the national legislature ought to be empowered to enjoy the *legislative rights vested in Congress by the confdn.* and *moreover* to legislate in all cases to which the *seperate States are incompetent.*

agreed.

or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation.

agreed.

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.

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.

Mr. E. Gery 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.