

SATURDAY, JUNE 23, 1787.

JOURNAL

Saturday June 23. 1787.

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.

On the question to agree to the proposition it passed in the negative [Ayes — 5; noes — 5; divided — 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”

On the question to strike out the words it passed in the affirmative [Ayes — 8; noes — 3.]

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”

On the question to agree to the amendment it passed in the negative [Ayes — 2; noes — 8; divided — 1.]<sup>1</sup>

It was moved and seconded to add after the words “ineligible to” the words

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<sup>1</sup> Vote 82, Detail of Ayes and Noes, which notes that the motion was “Mr. Madison’s”.

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“and incapable of holding”

which passed in the affirmative

It was moved and seconded to strike the words

“national government”

out of the third resolution

which passed in the affirmative

It was moved and seconded to strike the word “established”

out of the 3rd resolution

which passed in the affirmative

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

[To agree to the last clause in the 3rd resolution as far as  
the word service inclusive Ayes—8; noes—2; divided—1.]<sup>2</sup>

It was then moved and seconded to agree to the words

“and for the space of one year after its expiration”

On the question to agree to these words

it passed in the negative [ayes—4; noes—6; divided—1.]

And then the House adjourned till monday next at 11  
o'clock, A. M.

<sup>2</sup> Vote 83, Detail of Ayes and Noes.

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## DETAIL OF AYES AND NOES

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Questions	Ayes	Noes	Divided
[80]	aye	no	no	aye	aye	no	aye	aye	no	no	no	no	dd	To agree to the following clause To receive an adequate compensation for their services—to be paid out of the pub: Treasy	5	5	1
[81]	no	aye	aye	aye	no	no	aye	aye	aye	aye	aye	aye	aye	To strike out these words in ye 3rd resolution “by a particular State”	8	3	
[82]	dd	aye	no	aye	no	no	no	no	no	no	no	no	no	To amend the 3rd resolution by strikg out these wds and inserting the followg words on Mr Madison’s motion	2	8	1
[83]	dd	aye	aye	aye	no	aye	aye	aye	aye	aye	aye	no	no	To agree to the last clause in the 3rd resolution as far as the word service inclusive.	8	2	1
[84]	no	no	aye	no	dd	aye	aye	no	no	aye	no	no	no	To agree to the following words “and for the space of one year after it’s expiration”	4	6	1

## MADISON

Saturday June 23. in Convention

⟨The 3. Resol: resumed.⟩

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.]<sup>3</sup> So the question was lost, & the sentence not inserted.

<sup>3</sup> Madison inserted “Pena. ay” and changed Maryland’s vote from “divd.” to “ay”. This was probably, but not certainly, done at a later date to conform to *Journal and Yates*.

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Genl. Pinkney moves to strike out the ineligibility of members of the 1st. branch to offices established "by a particular State."<sup>4</sup> He argued from the inconveniency to which such a restriction would expose both the members of the 1st. branch, and the States wishing for their services; from the<sup>5</sup> 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.⟩<sup>6</sup>

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.⟩<sup>6</sup> on the question

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.]

Mr. M(adison) renewed his motion yesterday made & waved<sup>7</sup> 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.

⟨Mr. Butler. The amendt. does not go far eno' & wd. be easily evaded⟩<sup>8</sup>

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.

<sup>4</sup> See further, references under September 3 note 7.

<sup>5</sup> Madison struck out "& the small additional addition which the removal of it would make to the dependence of this branch wch was meant to be dependant."

<sup>6</sup> These remarks ascribed to both Pinckney and Sherman were taken from Yates, who attributes them to Sherman. Madison doubtless first inserted them in the wrong place, and after recopying them in their proper place, he forgot to strike out his first insertion.

<sup>7</sup> See "Madison Memoranda" below, note 17.

<sup>8</sup> Taken from Yates,

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Mr. Mason. The motion of ⟨my colleague⟩<sup>9</sup> is but a partial remedy for the evil. He appealed to ⟨him⟩<sup>10</sup> 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,

<sup>9</sup> "My colleague" is Yates's phrase, Madison had originally written "Mr. Madison".

<sup>10</sup> Originally "Mr. M."

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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)<sup>11</sup> (Col. Mason). He appealed however to (him)<sup>11</sup> 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 char-

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<sup>11</sup> See above notes 9 and 10.

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acters 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.)<sup>12</sup>

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

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<sup>12</sup> Taken from Yates.

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chosen for five years, cd. hold no other office & that this circumstance gained them the greatest confidence of the people.)<sup>13</sup>

On the question for agreeing to the motion of Mr. Madison. Massts. divd. 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.]<sup>14</sup>

Mr. Sherman movd. to insert the words “and incapable of holding” after the words “eligible to offices” wch. was agreed to without opposition.

The word “established” & the words “Natl. Govt.” were struck out of Resolution 3d;

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*” — 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.]

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.)<sup>15</sup> Mas. no. Ct. no. N. Y. ay. N. J. no. Pa. divd. Del. ay. (Mard. ay.)<sup>15</sup> Va. (no)<sup>16</sup> N. C. no. S. C. ay. Geo no

[Ayes — 4; noes — 6; divided — 1.]

Adj.

Mem.<sup>16</sup> pa. 342. Mr Ms motion renewed from preceding day — no allusion to it on that nor 3 preceding days.<sup>17</sup>

<sup>13</sup> Taken from Yates.

<sup>14</sup> See below “Madison Memoranda” and note 18.

<sup>15</sup> Vote corrected from *Journal*.

<sup>16</sup> Memoranda by Madison, see May 25, note 13. These notes are undated but seem to refer to this day’s records.

<sup>17</sup> Yates reports speech of Madison to that effect, but without any formal motion.



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pa. 350 quest. to agree to Mr Ms motion 2 ays 6 noes — still seems agreed to.<sup>18</sup>

## Y A T E S

SATURDAY, JUNE 23d, 1787.

Met pursuant to adjournment. Present 11 states.

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.

Question put — 5 ayes — 5 noes — one state divided. So the clause was lost.

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.

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.

Question put to strike out the words moved for, and carried — 8 ayes, 3 noes.

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.*

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.

<sup>18</sup> It is not clear upon what grounds Madison states that this motion "still seems agreed to" in spite of the negative vote.

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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 cabaling 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 inconvenience.

Mr. King. The intimate association of offices will pro-

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duce 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 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.

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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.

The question was put on Mr. Madison's amendment, and lost — 8 noes — 2 ayes — one state divided.

Question on the clause as amended before. Carried — 8 ayes — 2 noes — one state divided.

The question was next on the latter part of the clause.

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.

The question was then put on this clause, to wit: *and for the space of one year after its expiration* — and negatived.

Then adjourned to Monday morning.