

MONDAY, JUNE 25, 1787.

JOURNAL

Monday June 25. 87.

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.

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.]

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.]<sup>1</sup>

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”

On the question to agree

it passed in the affirmative [Ayes — 9; noes — 2.]

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

It was moved and seconded to erase the words

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<sup>1</sup> Vote 86, Detail of Ayes and Noes, which is evidently mistaken in giving the summary of the vote.

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“sufficient to ensure their independency” from the third clause of the fourth resolution

which passed in the affirmative [Ayes — 7; noes — 4.]

It was moved and seconded to add after the words “seven years,” in the fourth resolution, the words

“to go out in fixed proportions”

It was moved and seconded to insert the word “six” instead of “seven”

It was moved and seconded to amend the clause so as to read

“for four years, one fourth to go out annually”

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

which passed in the affirmative [Ayes — 7; noes — 3; divided — 1.]

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.]

[To adjourn Ayes — 5; noes — 5; divided — 1.]<sup>2</sup>

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.]

[To adjourn Ayes — 7; noes — 4.]<sup>3</sup>

And then the House adjourned till to-morrow at 11 o'clock. A. M.

<sup>2</sup> Vote 91, Detail of Ayes and Noes.

<sup>3</sup> Vote 93, Detail of Ayes and Noes. In the space for the question was originally written, but then struck out: “to fill up the blank in ye 4 resolution with the words”. The secretary was evidently preparing to record the vote on “four years.” See Yates, below.

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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
[85]	no	no	no	aye	no	no	no	no	no	aye	no	aye	aye	To postpone the 1st clause of the fourth resolution, to take up the eighth resolution	4	7	
[86]	no	no	no	no	no	no	no	aye	aye	aye	aye	aye	aye	To postpone the 4th resolution to take up the seventh	3	8	
[87]	aye	aye	aye	aye	aye	no	aye	aye	no	aye	aye	aye	aye	That the second branch be elected by the State Legislatures	9	2	
[88]	no	aye	aye	aye	aye	aye	aye	no	no	no	no	aye	aye	To strike out the words sufficient to secure their independency	7	4	
[89]	aye	aye	aye	aye	aye	no	no	dd	no	aye	aye	aye	aye	To strike the word "Seven" out of the 4th resolution	7	3	1
[90]	no	aye	no	no	aye	aye	dd	aye	aye	no	no	no	no	To fill up the blank in the 4 resolution wh the the word Six	5	5	1
[91]	no	aye	no	aye	aye	aye	dd	aye	no	no	no	no	no	To adjourn	5	5	1
[92]	no	aye	no	no	aye	aye	dd	aye	aye	no	no	no	no	To fill up the blank in the 4 resolution wh the word five	5	5	1
[93]	aye	aye	no	no	aye	aye	aye	aye	aye	aye	aye	no	no	To adjourn	7	4	

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Monday. June 25. in Convention.

Resolution 4.<sup>4</sup> (being taken up.)

Mr. Pinkney (spoke as follows). — The efficacy of the System will depend on this article. In order to form a right judgmt. in the case it will be proper to examine the situation of this Country more accurately than it has yet been done.<sup>5</sup>

<sup>4</sup> Relating to the composition of the upper house.

<sup>5</sup> Crossed out: "It differed materially from that of Europe. We have no hereditary distinction of ranks, property is more equally divided. Few deserve the appellation of rich. The right of suffrage is more diffusive here, than in any other Country. This equality of property & rank is likely to be continued for".

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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 Constitution. — that we neither

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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

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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.

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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

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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



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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

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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)<sup>6</sup>) (like the above by Mr. Pinckney.)<sup>7</sup>

(The mode of constituting the 2d. branch being under consideration

The word “national” was struck out and “United States” inserted.)<sup>8</sup>

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 appli-

<sup>6</sup> Crossed out “obtained”.

<sup>7</sup> This speech in Pinckney’s own handwriting is among the Madison Papers. Madison has edited it slightly, and the order of the paragraphs is different, but Madison’s order corresponds to Yates’s report. The concluding paragraph in Yates, which Madison omits, is important. See also Appendix A, CCLXXIX.

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

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cable 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)<sup>9</sup> 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.

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)<sup>10</sup> 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

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<sup>9</sup> Probably but not certainly a later revision.

<sup>10</sup> Probably taken from Yates.

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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.<sup>11</sup> 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.

Mr. Elseworth 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

<sup>11</sup> Crossed out: "We ought to proceed as if no such govts. existed".

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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.)<sup>12</sup>

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.

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.

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.

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

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## 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.]

(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:)<sup>13</sup>

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.]

(On a question on the clause requiring the age of 30 years at least” — it was agreed to unanimously:<sup>14</sup>

On a question to strike out — the words “sufficient to ensure their independency” after the word “term” it was agreed to.<sup>15</sup>)

That the 2d. branch hold their offices for term of seven years”, considered.

Mr. Ghorum suggests a term of “4 years”, ( $\frac{1}{4}$  to be elected every year.)<sup>16</sup>

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.)<sup>18</sup> And moves after “7 years” to add, “to go out in fixt proportion”<sup>19</sup> (which was agreed to.)<sup>20</sup>

\* 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.<sup>17</sup>

<sup>13</sup> Taken from *Journal*.<sup>14</sup> Taken from *Journal* (confirmed by Yates).<sup>15</sup> Taken from *Journal*.<sup>16</sup> Taken from *Journal*, originally Madison had simply “a rotation”.<sup>17</sup> This note may be a later insertion.<sup>18</sup> Taken from Yates.<sup>19</sup> See Appendix A, CCXIX.<sup>20</sup> Taken from Yates, but probably *Journal* (pp. 147-148) more correct that there was “no determination” on this point.

In the later revision of his notes, Madison at this point copied from Yates a sug-

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Mr Williamson. suggests "6 years," as more convenient (for Rotation than 7 years.)<sup>21</sup>

Mr Sherman seconds him.

Mr Reed proposed that they sd. hold their offices "during good" behaviour. Mr. R. Morris seconds him.

Genl. Pinkney 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.

Mr. Sherman moved to strike out "7 (years)"<sup>22</sup> in order to take questions on the several propositions. 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.]

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.

(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.)<sup>23</sup>

On the question for "5 years" it was lost

Masts. no. Cont. ay. N. Y. no. N. J. no. Pa. ay. Del. ay. Md. divd. Va. ay. N. C. ay. S. C. (No.)<sup>24</sup> Geo. No. [Ayes—5; noes — 5; divided — 1.]

Adjd.<sup>25</sup>

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gestion by Read, but found that he had the same record a little farther on in his own notes, so crossed this out.

<sup>21</sup> Probably but not certainly a later insertion.

<sup>22</sup> Originally "states" instead of "years".

<sup>23</sup> Taken from *Journal*.

<sup>24</sup> Originally "S. C. ay" which made the total vote 6 ayes, 4 noes. Evidently a mistake, as Madison had recorded the motion "was lost." In later revision he made the vote conform to *Journal* and Yates.

<sup>25</sup> See further Appendix A, XLVIII.

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MONDAY, JUNE 25th, 1787.

Met pursuant to adjournment. Present 11 states.

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 Britian 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



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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

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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.

Mr. Randolph moved that the 4th resolve be divided, in the same manner as the 3d resolve.

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.

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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.

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,

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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.*

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

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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.

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.

The question was put for postponing, in order to take into consideration the 8th resolve, and lost — 7 noes — 4 ayes.

Question on the 1st clause in the 4th resolve — 9 states for — 2 against it.

The age of the senators (30 years) agreed to.

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.

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*.

Mr. Read moved (though not seconded) that they ought to continue in office during good behaviour.

Mr. Williamson moved that they remain in office for six years.

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.

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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?

Question on Gov. Randolph's motion <sup>26</sup> — 7 ayes — 3 noes — one divided.

Motion to fix the term of service at six years — 5 ayes — 5 noes — one divided.

Do. for 5 years — 5 ayes — 5 noes — one divided.

The question for 4 years was not put; and the convention adjourned till to-morrow morning.

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25 June — Shall the Senate be elected by the State Legislatures?

*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 individl States; Because they are characters peculiarly of a state feature & partaking of the State Citizenship rather yn. of that of the US — The State Legislr. 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 our-

<sup>26</sup> The question was not on Randolph's motion, see Journal and Madison.

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selves 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.

*Ellsworth* — 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 —

*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 —<sup>27</sup>

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<sup>27</sup> [Endorsed:] 25 June | Shall the Senators be elected | by the State Legislatures | Wilson no | Ellsworth aye | Mason aye