

THURSDAY, JUNE 28, 1787.

JOURNAL

Thursday June 28. 1787.

It was moved and seconded to amend the seventh resolution reported from the Committee so as to read as follows, namely

Resolved that the right of suffrage in the first branch of the Legislature of the United States ought to be in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each State.

It was moved and seconded to erase the word "not" from the first clause of the seventh resolution so as to read

Resolved that the right of suffrage in the second branch of the Legislature of the United States ought to be according to the rule established in the articles of confederation

The determination of the House on the motion for erasing the word "not" from the first clause of the seventh resolution was postponed, at the request of the Deputies of the State of New-York till tomorrow,

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

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Mr. L. Martin resumed his discourse, contending that the Genl. Govt. ought to be formed for the States, not for individuals: that if the States were to have votes in proportion to their numbers of people, it would be the same thing whether their (representatives) were chosen by the Legislatures or the

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people; the smaller States would be equally enslaved; that if the large States have the same interest with the smaller as was urged, there could be no¹ danger in giving them an equal vote; they would not injure themselves, and they could not injure the large ones on that supposition without injuring themselves (and if the interests were not the same the inequality of suffrage wd — be dangerous to the smaller States.): that it will be in vain to propose any plan offensive to the rulers of the States, whose influence over the people will certainly prevent their adopting it: that the large States were weak at present in proportion to their extent: & could only be made formidable to the small ones, by the weight of their votes; that in case a dissolution of the Union should take place, the small States would have nothing to fear from their power; that if in such a case the three great States should league themselves together, the other ten could do so too: & that he had rather see partial Confederacies take place, than the plan on the table. This was the substance of the residue of his discourse which was delivered with much diffuseness & considerable vehemence.²

Mr. Lansing & Mr. Dayton moved to strike out “not.” so that the 7 art: might read that the rights of suffrage in the 1st branch ought to be according to the rule established by the Confederation”

Mr. Dayton expressed great anxiety that the question might not be put till tomorrow; Governr. Livingston being kept away by indisposition, and the representation of N. Jersey thereby suspended.

Mr. Williamson. thought that if any political truth could be grounded on mathematical demonstration, it was that if the states were equally sovereign now, and parted with equal proportions of sovereignty, that they would remain equally sovereign. He could not comprehend how the smaller States would be injured in the case, and wished some gentleman would vouchsafe a solution of it. He observed that the small

¹ Crossed out “more”.

² For interesting sidelights on this speech, see controversy between Ellsworth and Martin, Appendix A, CLXXXIX—CXCII, CXCIX.

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States, if they had a plurality of votes would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new States from the Westward might be kept in view. They would be small States, they would be poor States,³ they would be unable to pay in proportion to their numbers; their distance from market rendering the produce of their labour less valuable; they would consequently be (tempted) to combine for the purpose of laying burdens on commerce & consumption which would fall with greatest weight on the old States.

Mr. M(adison) sd. he was much disposed to concur in any expedient not inconsistent with fundamental principles, that could remove the difficulty concerning the rule of representation. But he could neither be convinced that the rule contended for was just, nor necessary for the safety of the small States agst. the large States. That it was not just, had been conceded by Mr. Breerly & Mr. Patterson themselves. The expedient proposed by them was a new partition of the territory of the U. States. The fallacy of the reasoning drawn • from the equality of Sovereign States in the formation of compacts, lay in confounding mere Treaties, in which were specified certain duties⁴ to which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority was created paramount to the parties, & making laws for the government of them. If France, England & Spain were to enter into a Treaty for the regulation of commerce &c. with the Prince of Monacho & 4 or 5 other of the smallest sovereigns of Europe, they would not hesitate to treat as equals, and to make the regulations perfectly reciprocal. Wd. the case be the same if a Council were to be formed of deputies from each with authority and discretion, to raise money, levy troops, determine the value of coin &c? Would 30 or 40. million of people submit their fortunes into the hands, of a few thousands? If they did it would only prove that they expected more from the terror of their superior force, than they feared

³ Crossed out "they would have different interests from the Altantic States;".

⁴ Crossed out "rules by".

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from the selfishness of their feeble (associates) Why are Counties of the same States represented in proportion to their numbers? Is it because the representatives are chosen by the people themselves? so will be the representatives in the National Legislature. Is it because, the larger have more at stake than the smaller? The case will be the same with the larger & smaller States. Is it because the laws are to operate immediately on their persons & properties? The same is the case in some degree as the articles of confederation stand; the same will be the case in (a far greater degree)⁵ under the plan proposed to be substituted. In the cases of captures, of piracies, and of offenses in a federal army, the property & persons of individuals depend on the laws of Congs. By the plan (proposed) a compleat power of taxation, the highest prerogative of supremacy is proposed to be vested in the National Govt. Many other powers are added which assimilate it to the Govt. of individual States. The negative (on the State laws) proposed, will make it an essential branch of the State Legislatures & of course will require that it should be exercised by a body established on like principles with the other branches of those Legislatures.—That it is not necessary to secure the small States agst. the large ones he conceived to be equally obvious: Was a combination of the large ones dreaded? this must arise either from some interest common to Va. Masts. & Pa. & distinguishing them from the other States (or from the mere circumstance of similarity of size)⁶. Did any such common interest exist? In point of situation they could not have been more effectually separated from each other by the most jealous citizen of the most jealous State. In point of manners, Religion and the other circumstances, which sometimes beget affection between different communities, they were not more assimilated than the other States.—In point of the staple productions they were as dissimilar as any three other States in the Union.

The Staple of Masts. was *fish*, of Pa. *flower*, of Va. *Tobo*. Was a Combination to be apprehended from the mere circum-

⁵ Crossed out "an essential manner"; probably but not certainly a later revision.

⁶ Probably but not certainly a later revision.

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stance of equality of size? Experience suggested no such danger. The journals of Congs. did not present any peculiar association of these States in the votes recorded. It had never been seen that different Counties in the same State, conformable in extent, but disagreeing in other circumstances, betrayed a propensity to such combinations. Experience rather taught a contrary lesson. Among individuals of superior eminence & weight in society, rivalships were much more frequent than coalitions. Among independent nations preeminent over their neighbours, the same remark was verified. Carthage & Rome tore one another to pieces instead of uniting their forces to devour the weaker nations of the Earth. The Houses of Austria & France were hostile as long as they remained the greatest powers of Europe. England & France have succeeded to the pre-eminence & to the enmity. To this principle we owe perhaps our liberty. A coalition between those powers would have been fatal to us. Among the principal members of antient & modern confederacies, we find the same effect from the same cause. The contentions, not the coalitions of Sparta, Athens & Thebes, proved fatal to the smaller members of the Amphyctionic Confederacy. The contentions, not the combinations of Prussia & Austria, have distracted & oppressed the Germanic empire. Were the large States formidable *singly* to their smaller neighbours? On this supposition the latter ought to wish for such a general Govt. as will operate with equal energy on the former as on themselves. The more lax the band, the more liberty the larger will have to avail themselves of their superior force. Here again Experience was an instructive monitor. What is ye situation of the weak compared with the strong in those stages of civilization in which the violence of individuals is least controuled by an efficient Government? The Heroic period of Antient Greece the feudal licentiousness of the middle ages of Europe, the existing condition of the American Savages, answer this question. What is the situation of the minor sovereigns in the great society of independent nations, in which the more powerful are under no controul but the nominal authority of the law of Nations? Is not the

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danger to the former exactly in proportion to their weakness. But there are cases still more in point. What was the condition of the weaker members of the Amphyctionic Confederacy. Plutarch (life of Themistocles) will inform us that it happened but too often that the strongest cities corrupted & awed the weaker, and that Judgment went in favor of the more powerful party. What is the condition of the lesser States in the German Confederacy? We all know that they are exceedingly trampled upon and that they owe their safety as far as they enjoy it, partly to their enlisting themselves, under the rival banners of the preeminent members, partly to alliances with neighbouring Princes which the Constitution of the Empire does not prohibit. What is the state of things in the lax system⁷ of the Dutch Confederacy? Holland contains about $\frac{1}{2}$ the people, supplies about $\frac{1}{2}$ of the money, and by her influence, silently & indirectly governs the whole Republic. In a word; the two extremes before us are a perfect separation⁸ & a perfect incorporation, of the 13 States. In the first case they would be independent nations subject to no law, but the law of nations. In the last, they would be mere counties of one entire republic, subject to one common law. In the first case the smaller states would have every thing to fear from the larger. In the last they would have nothing to fear. The true policy of the small States therefore lies in promoting those principles & that form of Govt. which will most approximate the States to the condition of Counties. Another consideration may be added. If the Genl. Govt. be feeble, the large States distrusting its continuance, and foreseeing that their importance & security may depend on their own size & strength, will never submit to a partition. Give to the Genl. Govt. sufficient energy & permanency, & you remove the objection. Gradual partitions of the large, & junctions of the small (States) will be facilitated, and time (may)⁹ effect that equalization, which is wished for by the small States, now, but can never be accomplished at once.

Mr. Wilson. The leading argument of those who contend

⁷ Crossed out "more tranquil sessions".

⁸ Crossed out "independence".

Crossed out "will".

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for equality of votes among the States is that the States as such being equal, and being represented not as districts of individuals, but in their political & corporate capacities, are entitled to an equality of suffrage. According to this mode of reasoning the representation of the burroughs in Engl^d which has been allowed on all hands to be the rotten part of the Constitution, is perfectly right & proper. They are like the States represented in their corporate capacity like the States therefore they are entitled to equal voices, old Sarum to as many as London. And instead of the injury supposed hitherto to be done to London, the true ground of complaint lies with old Sarum; for London instead of two which is her proper share, sends four representatives to Parliament.

Mr. Sherman. The question is not what rights naturally belong to men; but how they may be most equally & effectually¹⁰ guarded in Society. And if some give up more than others in order to obtain this end, there can be (no) room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into Society along with the poor man, gives up more than the poor man. yet with an equal vote he is equally safe. Were he to have more votes than the poor man in proportion to his superior stake, the rights of the poor man would immediately cease to be secure. This consideration prevailed when the articles of confederation were formed.

(The determination of the question from striking out the word "not" was put off till to morrow at the request of the Deputies of N. York.)¹¹

[Dr. Franklin.]¹²

Mr. President

The small progress we have made after 4 or five weeks close

¹⁰ Crossed out "best".

¹¹ Taken from *Journal*.

¹² Madison originally made an abstract of Franklin's speech in about 200 words. This was later stricken out — and this note made: "see opposite page & insert the speech of Doctr F in this place." On the opposite page under the heading "June 28, in convention" is the speech which is here given — but without Franklin's name.

Among the Franklin Papers in the Library of Congress is a copy of this speech differing hardly at all from the text except in more frequent use of capitals.

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attendance & continual reasonings with each other — our different sentiments on almost every question, several of the last producing as many noes as ays, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to feel¹³ our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of Government, and examined the different forms of those Republics which having been formed with the seeds of their own dissolution now no longer exist. And we have viewed Modern States all round Europe, but find none of their Constitutions suitable to our circumstances.

In this situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the Contest with G. Britain, when we were sensible of danger we had daily prayer in this room for the divine protection.—Our prayers, Sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a Superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? or do we imagine that we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth — *that God¹⁴ governs in the affairs of men.* And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings, that “except the Lord build the House they labour in vain that build it.” I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little

¹³ “feel” is underscored in Franklin MS.

¹⁴ “God” twice underscored in Franklin MS.

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partial local interests; our projects will be confounded, and we ourselves shall become a reproach and by word down to future ages. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human Wisdom and leave it to chance, war and conquest.

I therefore beg leave to move — that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service —

Mr. Sharman seconded the motion.

Mr. Hamilton & several others expressed their apprehensions that however proper such a resolution might have been at the beginning of the convention, it might at this late day, 1. bring on it some disagreeable animadversions. & 2. lead the public to believe that the embarrassments and dissensions within the convention, had suggested this measure. It was answered by Doctr. F. Mr. Sherman & others, that the past omission of a duty could not justify a further omission — that the rejection of such a proposition would expose the Convention to more unpleasant animadversions than the adoption of it: and that the alarm out of doors that might be excited for the state of things within. would at least be as likely to do good as ill.

Mr. Williamson, observed that the true cause of the omission could not be mistaken. The Convention had no funds.

Mr. Randolph proposed in order to give a favorable aspect to ye. measure, that a sermon be preached at the request of the convention on 4th of July, the anniversary of Independence, — & thenceforward prayers be used in ye Convention every morning. Dr. Frankn. 2ded. this motion After several unsuccessful attempts for silently postponing the matter by adjourng. the adjournment was at length carried, without any vote on the motion.¹⁵

¹⁵ In the Franklin MS. the following note is added: — "The Convention, except three or four persons, thought Prayers unnecessary." A distorted account of this incident is given in Appendix A, CCCLV; see also CXCV, CCCLXVII, CCCLXXIX and CCCXCIII.

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Met pursuant to adjournment.

Mr. Martin in continuation.

On federal grounds, it is said, that a minority will govern a majority — but on the Virginia plan a minority would tax a majority. In a federal government, a majority of states must and ought to tax. In the local government of states, counties may be unequal — still numbers, not property, govern. What is the government now forming, over states or persons? As to the latter, their rights cannot be the object of a general government — These are already secured by their guardians, the state governments. The general government is therefore intended only to protect and guard the rights of the states as states.

This general government, I believe, is the first upon earth which gives checks against democracies or aristocracies. The only necessary check in a general government ought to be a restraint to prevent its absorbing the powers of the state governments. Representation on federal principles can only flow from state societies. Representation and taxation are ever inseparable — not according to the quantum of property, but the quantum of freedom.

Will the representatives of a state forget state interests? The mode of election cannot change it. These prejudices cannot be eradicated — Your general government cannot be just or equal upon the Virginia plan, unless you abolish state interests. If this cannot be done, you must go back to principles purely federal.

On this latter ground, the state legislatures and their constituents will have no interests to pursue different from the general government, and both will be interested to support each other. Under these ideas can it be expected that the people can approve the Virginia plan? But it is said, the people, not the state legislatures, will be called upon for approbation — with an evident design to separate the interest of the governors

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from the governed. What must be the consequence? Anarchy and confusion. We lose the idea of the powers with which we are entrusted. The legislatures must approve. By them it must, on your own plan, be laid before the people. How will such a government, over so many great states, operate? Wherever new settlements have been formed in large states, they immediately want to shake off their independency. Why? Because the government is too remote for their good. The people want it nearer home.

The basis of all ancient and modern confederacies is the freedom and the independency of the states composing it. The states forming the amphictionic council were equal, though Lacedemon, one of the greatest states, attempted the exclusion of three of the lesser states from this right. The plan reported, it is true, only intends to diminish those rights, not to annihilate them — It was the ambition and power of the great Grecian states which at last ruined this respectable council. The states as societies are ever respectful. Has Holland or Switzerland ever complained of the equality of the states which compose their respective confederacies? Bern and Zurich are larger than the remaining eleven cantons — so of many of the states of Germany; and yet their governments are not complained of. Bern alone might usurp the whole power of the Helvetic confederacy, but she is contented still with being equal.

The admission of the larger states into the confederation, on the principles of equality, is dangerous — But on the Virginia system, it is ruinous and destructive. Still it is the true interest of all the states to confederate — It is their joint efforts which must protect and secure us from foreign danger, and give us peace and harmony at home.

(Here Mr. Martin entered into a detail of the comparative powers of each state, and stated their probable weakness and strength.)

At the beginning of our troubles with Great Britain, the smaller states were attempted to be cajoled to submit to the views of that nation, lest the larger states should usurp their rights. We then answered them — your present plan is

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slavery, which, on the remote prospect of a distant evil, we will not submit to.

I would rather confederate with any single state, than submit to the Virginia plan. But we are already confederated, and no power on earth can dissolve it but by the consent of *all* the contracting powers — and four states, on this floor, have already declared their opposition to annihilate it. Is the old confederation dissolved, because some of the states wish a new confederation?

Mr. Lansing. I move that the word *not* be struck out of the resolve, and then the question will stand on its proper ground — and the resolution will read thus: *that the representation of the first branch be according to the articles of the confederation*; and the sense of the convention on this point will determine the question of a federal or national government.

Mr. Madison.¹⁶ I am against the motion. I confess the necessity of harmonizing, and if it could be shown that the system is unjust or unsafe, I would be against it. There has been much fallacy in the arguments advanced by the gentleman from Maryland. He has, without adverting to many manifest distinctions, considered confederacies and treaties as standing on the same basis. In the one, the powers act collectively, in the other individually. Suppose, for example, that France, Spain and some of the smaller states in Europe, should treat on war or peace, or on any other general concern, it would be done on principles of equality; but if they were to form a plan of general government, would they give, or are the greater states obliged to give, to the lesser, the same and equal legislative powers? Surely not. They might differ on this point, but no one can say that the large states were wrong in refusing this concession. Nor can the gentleman's reasoning apply to the present powers of congress; for they may and do, in some cases, affect property, and in case of war, the lives of the citizens. Can any of the lesser states be endangered by an adequate representation? Where is the probability of a combination? What the inducements? Where is

¹⁶ For Genet's interpretation of Madison's position see Appendix A, CCCX.

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the similarity of customs, manners or religion? If there possibly can be a diversity of interest, it is the case of the three large states. Their situation is remote, their trade different. The staple of Massachusetts is fish, and the carrying trade — of Pennsylvania, wheat and flour — of Virginia, tobacco. Can states thus situated in trade, ever form such a combination? Do we find those combinations in the larger counties in the different state governments to produce rivalships? Does not the history of the nations of the earth verify it? Rome rivalled Carthage, and could not be satisfied before she was destroyed. The houses of Austria and Bourbon acted on the same view — and the wars of France and England have been waged through rivalry; and let me add, that we, in a great measure, owe our independency to those national contending passions, France, through this motive, joined us. She might, perhaps, with less expense, have induced England to divide America between them. In Greece the contention was ever between the larger states. Sparta against Athens — and these again, occasionally, against Thebes, were ready to devour each other. Germany presents the same prospect — Prussia against Austria. Do the greater provinces in Holland endanger the liberties of the lesser? And let me remark, that the weaker you make your confederation, the greater the danger to the lesser states. They can only be protected by a strong federal government. Those gentlemen who oppose the Virginia plan do not sufficiently analyze the subject. Their remarks, in general, are vague and inconclusive.

Captain Dayton. On the discussion of this question the fate of the state governments depend.

Mr. Williamson. If any argument will admit of demonstration, it is that which declares, that all men have an equal right in society. Against this position, I have heard, as yet, no argument, and I could wish to hear what could be said against it. What is tyranny? Representatives of representatives, if you give them the power of taxation. From equals take equals, and the remainder is equal. What process is to annihilate smaller states, I know not. But I know it must be tyranny, if the smaller states can tax the greater, in order to

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ease themselves. A general government cannot exercise direct taxation. Money must be raised by duties and imposts, &c. and this will operate equally. It is impossible to tax according to numbers. Can a man over the mountains, where produce is a drug, pay equal with one near the shore?

Mr. Wilson. I should be glad to hear the gentleman from Maryland explain himself upon the remark of Old Sarum, when compared with the city of London. This he has allowed to be an unjust proportion; as in the one place one man sends two members, and in the other one million are represented by four members. I would be glad to hear how he applies this to the larger and smaller states in America; and whether the borough, as a borough, is represented, or the people of the borough.

Mr. Martin rose to explain. Individuals, as composing a part of the whole of one consolidated government, are there represented.

The further consideration of the question was postponed.

Mr. Sherman. In society, the poor are equal to the rich in voting, although one pays more than the other. This arises from an equal distribution of liberty amongst all ranks; and it is, on the same grounds, secured to the states in the confederation — for this would not even trust the important powers to a majority of the states. Congress has too many checks, and their powers are too limited. A gentleman from New-York thinks a limited monarchy the best government, and no state distinctions. The plan now before us gives the power to four states to govern nine states. As they will have the purse, they may raise troops, and can also make a king when they please.

Mr. Madison. There is danger in the idea of the gentleman from Connecticut. Unjust representation will ever produce it. In the United Netherlands, Holland governs the whole, although she has only one vote. The counties in Virginia are exceedingly disproportionate, and yet the smaller has an equal vote with the greater, and no inconvenience arises.

Governor Franklin read some remarks, acknowledging the

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difficulties of the present subject. Neither ancient or modern history, (said Gov. Franklin,) can give us light. As a sparrow does not fall without Divine permission, can we suppose that governments can be erected without his will? We shall, I am afraid, be disgraced through little party views. I move *that we have prayers every morning.*

Adjourned till to-morrow morning.

KING

— 27 [28] June 1787 —

Madison — The Gentlemen who oppose the plan of a representation founded on Numbers, do not distinguish accurately — they use general terms — speake of Tyranny — of the small states being swallowed up by large ones. of combinations between Mass. Penn. & Virgin. no circumstance of Religion, Habits, manners, mode of thinking, course of Business, manufactures, commerce, or natural productions establishes a common interest between them exclusive of all the other States — If this was the case, there is no Fact in ye. History of man or nations that authorities the Jealousy. Engld. & France might have divid America — The great States, of Athens & Sparta members of the Amphictionic Council never combined to oppress the other Cities — they were Rivals and fought each other — The larger members of the Helvetic Union never combined agt. the small states — Those of the Netherlands never entered into such a combination — In Germany the large Members have been at war wh. each other, but never combined agt. the inferior members —

These Facts are founded in an inherent principle in the Nature of man & Nations who are but an aggregate of men — When Men or Nations are large, strong, and also nearly equal, they immediately become Rivals — The Jealousy of each other prevents their Union —

Pinckney. Cs.

Remarks that the honors & Emoluments of the Union may be the object of Combination.

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Remark — The advocates for a confederation purely applying to States — agree that the plan of Representation in proportion to Numbers will have the men free but the states will be degraded their sovereignty will be degraded —

PATERSON¹⁷

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Mr. Martin resumed his argument.

The Genl. Govt. is not to regulate the rights of Individuals, but that of States. The Genl. Govt. is to Govern Sovereignties. then where the propriety of the several Branches — they cannot exist — there can be no such checks.

Amphictyonick Council of Greece represented by two from each town — who were notwithsg. the dispn. of the Towns equal — Rollins Ancient Hist. 4 Vol. pa. 79.

All the *Ancient* and *Modern* Confedns. and Leagues were as *equals* notwithstanding the *vast* disproportions in size and wealth.

If the large States, who have got a Majority, will adhere to their plan, we cannot help it, but we will publish to the world our plan and our principles, and leave it to judge.

Mr. Madison

Have we seen the Great Powers of Europe combining to oppress the small —¹⁸

Yes — the division of Poland.¹⁹

Mr. Williamson

They talk in vague Terms of the great States combining etc

Wants to know how it is possible that the large States can oppress the small¹⁸

The rule to tax the States according to their numbers would be cruel and unjust — it would Create a war.

Mr. Madison.

If you form the present Government, the States will be satisfied — and they will divide and sub-divide so as to become nearly equal —

¹⁷ See June 27, note 8.

¹⁸ Note by Paterson.

¹⁹ A hand is drawn on the margin pointing to this, as if to indicate its importance.