

WEDNESDAY, SEPTEMBER 5, 1787.

JOURNAL

Wednesday September 5. 1787.

The honorable Mr Brearley from the Committee of eleven informed the House that the Committee were prepared to report farther —.He then read the report in his place — and, the same being delivered in at the Secretary's table, was again read, and is as follows.

To add to the clause "To declare war" the words "and grant letters of marque and reprisal" agreed<sup>1</sup>

To add to the clause "To raise and support armies" the words "But no appropriation of money to that use shall be for a longer term than two years" agreed<sup>1</sup>

Instead of the twelfth section of the 6th article say

all Bills for raising revenue shall originate in the House of representatives and shall be subject to alterations and amendments by the Senate: No money shall be drawn from the Treasury but in consequence of appropriations made by law. postponed<sup>1</sup>

Immediately before the last clause of the first section of the seventh article

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States and the acceptance of the Legislature become the seat of the Government of the United States, and to exercise like authority over all Places purchased for the erection of Forts, Magazines, Arsenals, Dock Yards and other needful buildings. agd<sup>1</sup>

"To promote the progress of science and useful arts by securing for limited times to Authors and Inventors the exclusive right to their respective writings and discoveries. agreed<sup>1</sup>

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<sup>1</sup> In margin opposite paragraph preceding.

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On the question to agree to the first clause of the report  
it passed in the affirmative

On the question to agree to the second clause of the report  
it passed in the affirmative

It was moved and seconded to postpone the consideration of  
the third clause of the report

which passed in the affirmative. [Ayes—9; noes — 2.]<sup>1a</sup>

It was moved and seconded to insert the following words after  
the word “purchased” in the fourth clause of the report “by  
the consent of the Legislature of the State”

which passed in the affirmative

On the question to agree to the fourth clause of the report  
as amended

it passed in the affirmative

On the question to agree to the fifth clause of the report  
it passed in the affirmative.

The following resolution and order - - - reported from the  
Committee of eleven were read.

Resolved

“That the United States in Congress be requested to allow  
“and cause to be paid to the Secretary and other officers of  
“this Convention such sums in proportion to their respective  
“times of service as are allowed to the Secretary and similar  
“Officers of Congress”

Ordered That the Secretary make out and transmit to  
the Treasury Office of the United States an account for the  
said services, and for the incidental expences of this Conven-  
tion.

Separate questions being taken on the foregoing resolve  
and Order

They passed in the affirmative

It was moved and seconded to take up the remainder of the  
report from the Committee of eleven entered on the Journal  
of the 4. instant

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<sup>1a</sup> According to Madison the vote on this question is the same as Vote 389, Detail of Ayes and Noes (see August 28). Probably the secretary did not have a new page ready on which to record the first vote taken (the two questions preceding being agreed to unanimously) and made use of a convenient blank space.

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It was moved and seconded to postpone the consideration of the report in order to take up the following.

“He shall be elected by joint ballot by the Legislature, to which election a majority of the votes of the Members present shall be required: He shall hold his office during the term of seven years: but shall not be elected a second “time” —

On the question to postpone

it passed in the negative. [Ayes — 2; noes — 8; divided — 1.]

It was moved and seconded to strike out the words

“if such number be a majority of that of the Electors”

which passed in the negative. [Ayes — 1; noes — 10.]

It was moved and seconded to strike out the word “Senate” and to insert the word “Legislature”

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

It was moved and seconded to strike out the words “such majority” and to insert the words “one third.”

which passed in the negative [Ayes — 2; noes — 9.]

[To strike out the word “five” to insert “three” Ayes — 2; noes — 9.]<sup>2</sup>

It was moved and seconded to strike out the word “five” and to insert the word “thirteen”

which passed in the negative. [Ayes — 2; noes — 9.]

It was moved and seconded to add after the word “electors” the words “who shall have balloted”

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

It was moved and seconded to add after the words “if such number be a majority of the whole number of the Electors” the word “appointed”

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

It was moved and seconded to insert after the words “The Legislature may determine the time of chusing and assembling the Electors” the words “and of their giving their votes”

which passed in the affirmative

The House adjourned

<sup>2</sup> Vote 449, Detail of Ayes and Noes.

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## DETAIL OF AYES AND NOES

(page 15)

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	No Carolina	So Carolina	Georgia	Questions	ayes	noes	divided
[445]	dd	no	no	no	no	no	no	no	no	no	aye	aye	no	To postpone the report for electg the Presidt by electors, to take up the report for electg him by the Legislature	2	8	1
[446]	no	no	no	no	no	no	no	no	no	no	aye	no	no	To strike out the words if such number &ca	1	10	
[447]	dd	no	no	no	no	aye	no	no	aye	no	aye	no	no	To strike out the word "Senate" to insert "Legislature"	3	7	1
[448]	no	no	no	no	no	no	no	no	aye	aye	no	no	no	To strike out the words "such majority" to insert "One third"	2	9	
[449]	no	no	no	no	no	no	no	no	aye	aye	no	no	no	To strike out the word "five" to insert "three"	2	9	
[450]	no	no	no	no	no	no	no	no	no	aye	aye	no	no	To strike out "five" to insert "thirteen"	2	9	
[451]	no	no	no	no	aye	no	aye	aye	aye	no	no	no	no	To add the words "who shall have ballotted"	4	7	
[452]	aye	aye	aye	aye	aye	aye	aye	aye	no	no	aye	aye	no	To add the word "appointed" after the words "whole number of Electors"	9	2	

## MADISON

Wednesday Sept. 5. 1787 In Convention.

Mr. Brearley from the Committee of Eleven made a farther report as follows,

(1) To add to the clause "to declare war" the words "and grant letters of marque and reprisal"

(2) To add to the clause "to raise and support armies" the words "but no appropriation of money to that use shall be for a longer term than two years"

(3) Instead of sect: 12. art. 6. say — "All bills for raising

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revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate: No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

(4) Immediately before the last clause of Sect. 1. art. 7—insert "To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by Cession of particular States and the acceptance of the Legislature become the seat of the Government of the U—S—<sup>3</sup> and to exercise like authority over all places purchased for the erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful buildings"

(5) "To promote the progress of Science and useful arts by securing for limited times to authors & inventors, the exclusive right to their respective writings and discoveries"

This report being taken up. — The (1) clause was agreed to nem. con:

To the (2) clause Mr. Gerry objected that it admitted of appropriations to an army. for two years instead of one, for which he could not conceive a reason— that it implied there was to be a standing army which he inveighed against as dangerous to liberty, as unnecessary even for so great an extent of Country as this. and if necessary, some restriction on the number & duration ought to be provided: Nor was this a proper time for such an innovation. The people would not bear it.

Mr Sherman remarked that the appropriations were permitted only, not required to be for two years. As the Legislature is to be biennially elected, it would be inconvenient to require appropriations to be for one year, as there might be no Session within the time necessary to renew them. He should himself he said like a reasonable restriction on the number and continuance of an army in time of peace.

The clause (2). was agreed to nem: con:

The (3) clause, Mr. Govr. Morris moved to postpone — It had been agreed to in the Committee on the ground of com-

<sup>3</sup> See Appendix A, CCCVII.

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promise, and he should feel himself at liberty to dissent to it; if on the whole he should not be satisfied with certain other parts to be settled. — Mr. Pinkney 2ded. the motion

Mr. Sherman was for giving immediate ease to those who looked on this clause as of great moment, and for trusting to their concurrence in other proper measures.

On the question for postponing

N— H— ay— Mas— no. Ct. ay. N— J— ay— Pa. ay— Del. ay. Md ay— Va. no. N— C— ay— S. C ay— Geo ay. [Ayes — 9; noes — 2.]

So much of the (4) clause as related to the seat of Government was agreed to nem: con:

On the residue, to wit, “to exercise like authority over all places purchased for forts &c.

Mr Gerry contended that this power might be made use of to enslave any particular State by buying up its territory, and that the strongholds proposed would be a means of awing the State into an undue obedience to the Genl. Government —

Mr. King thought himself the provision unnecessary, the power being already involved: but would move to insert after the word “purchased” the words “by the consent of the Legislature of the State” This would certainly make the power safe.

Mr. Govr Morris 2ded. the motion, which was agreed to nem: con: as was then the residue of the clause as amended.

The (5) clause was agreed to nem: con:

The following resolution & order being reported from the Committee of eleven, to wit,

“Resolved that the U— S— in Congress be requested to allow and cause to be paid to the Secretary and other officers of this Convention such sums in proportion to their respective times of service, as are allowed to the Secretary & similar officers of Congress.”

“Ordered that the Secretary make out & transmit to the Treasury office of the U. S. an account for the said Services, & for the incidental expenses of this convention”<sup>4</sup>

<sup>4</sup> See also Appendix A, V, and upon payment of individual delegates, IV, XXXVIII, XLIII, XLIV, LII, LXI, XCII, XCIII, and Appendix B, and notes.

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The resolution & order were separately agreed to nem: con:

Mr. Gerry gave notice that he should move to reconsider articles XIX. XX. XXI. XXII.

Mr. Williamson gave like notice as to the Article fixing the number of Representatives, which he thought too small. He wished also to allow Rho: Island more than one, as due to her probable number of people, and as proper to stifle any pretext arising from her absence on the occasion.

The Report made yesterday as to the appointment of the Executive being then taken up. Mr. Pinkney renewed his opposition to the mode, arguing 1. that the electors will not have sufficient knowledge of the fittest men, & will be swayed by an attachment to the eminent men of their respective States— Hence 2dly the dispersion of the votes would leave the appointment with the Senate, and as the President's reappointment will thus depend on the Senate he will be the mere creature of that body. 3. He will combine with the Senate agst the House of Representatives. 4. This change in the mode of election was meant to get rid of the ineligibility of the President a second time, whereby he will become fixed for life under the auspices of the Senate

Mr. Gerry did not object to this plan of constituting the Executive in itself, but should be governed in his final vote by the powers that may be given to the President.

Mr. Rutledge was much opposed to the plan reported by the Committee. It would throw the whole power into the Senate. He was also against a re-eligibility. He moved to postpone the Report under consideration & take up the original plan of appointment by the Legislature. to wit. "He shall be elected by joint ballot by the Legislature to which election a majority of the votes of the members present shall be required: He shall hold his office during the term of Seven years; but shall not be elected a second time"

On this motion to postpone

N— H— divd. Mas. no— Ct no— N— J. no. Pa. no—  
Del— no. Md. no— Va. no. N. C. ay— S. C. ay— Geo.  
no. [Ayes — 2; noes — 8; divided — 1.]

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Col. Mason admitted that there were objections to an appointment by the Legislature as originally planned. He had not yet made up his mind; but would state his objections to the mode proposed by the Committee. 1. It puts the appointment in fact into the hands of the Senate, as it will rarely happen that a majority of the whole votes will fall on any one candidate: and as the Existing President will always be one of the 5 highest, his re-appointment will of course depend on the Senate. 2. Considering the powers of the President & those of the Senate, if a coalition should be established between these two branches, they will be able to subvert the Constitution. — The great objection with him would be removed by depriving the Senate of the eventual election. He accordingly moved to strike out the words “if such number be a majority of that of the electors”

Mr. Williamson 2ded. the motion. He could not agree to the clause without some such modification. He preferred making the highest tho’ not having a majority of the votes, President, to a reference of the matter to the Senate. Referring the appointment to the Senate lays a certain foundation for corruption & aristocracy.

Mr. Govr Morris thought the point of less consequence than it was supposed on both sides. It is probable that a majority of the votes will fall on the same man, As each elector is to give two votes, more than  $\frac{1}{4}$  will give a majority. Besides as one vote is to be given to a man out of the State, and as this vote will not be thrown away,  $\frac{1}{2}$  the votes will fall on characters eminent & generally known. Again if the President shall have given satisfaction, the votes will turn on him of course, and a majority of them will reappoint him, without resort to the Senate: If he should be disliked, all disliking him, would take care to unite their votes so as to ensure his being supplanted.

Col: Mason those who think there is no danger of there not being a majority for the same person in the first instance, ought to give the point to those who think otherwise.

Mr Sherman reminded the opponents of the new mode proposed that if the Small States had the advantage in the



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Senate's deciding among the five highest candidates, the Large States would have in fact the nomination of these candidates

On<sup>5</sup> the motion of Col: Mason

N. H. no— Mas. no. Ct. no. N. J. no. Pa. no. Del. no. Md. ay.\* Va. no— N. C. ay. S— C. no. Geo. no [Ayes — 2; noes — 9.]

Mr. Wilson moved to strike out "Senate" and insert the word "Legislature"

Mr Madison considered it as a primary object to render an eventual resort to any part of the Legislature improbable. He was apprehensive that the proposed alteration would turn the attention of the large States too much to the appointment of candidates, instead of aiming at an effectual appointment of the officer, as the large States would predominate in the Legislature which would have the final choice out of the Candidates. Whereas if the Senate in which the small States predominate should have the final choice, the concerted effort of the large States would be to make the appointment in the first instance conclusive.

Mr Randolph. We have in some revolutions of this plan made a bold stroke for Monarchy. We are now doing the same for an aristocracy. He dwelt on the tendency of such an influence in the Senate over the election of the President in addition to its other powers, to convert that body into a real & dangerous Aristocracy —

Mr Dickinson was in favor of giving the eventual election to the Legislature, instead of the Senate — It was too much influence to be superadded to that body —

On the question moved by Mr Wilson

N. H— divd. Mas. no— Ct no— N— J— no. Pa. ay. Del— no. Md. no. Va. ay— N— C. no— S. C. ay. Geo. no. [Ayes — 3; noes — 7; divided — 1.]

\* < In printed Journal Maryland — no >

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<sup>5</sup> The lines preceding were crossed out: "Mr. Wilson remarked that striking the words out would have the effect of inducing the large States to throw away the vote to be given to a person out of the State in order to increase the chances of its own Citizen."

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Mr Madison & Mr. Williamson moved to strike out the word "majority" and insert "one third" so that the eventual power might not be exercised if less than a majority, but not less than  $\frac{1}{3}$  of the Electors should vote for the same person—

Mr. Gerry objected that this would put it in the power of three or four States to put in whom they pleased.

Mr. Williamson. There are seven States which do not contain one third of the people — If the Senate are to appoint, less than one sixth of the people will have the power —

On the question

N. H— no. Mas. no— Ct no— N. J— no. Pa. no. Del. no. Md. no— Va. ay. N— C. ay. S. C no. Geo. no. [Ayes — 2; noes — 9.]

Mr Gerry suggested that the eventual election should be made by six Senators and seven Representatives chosen by joint ballot of both Houses.

Mr King observed that the influence of the Small States in the Senate was somewhat balanced by the influence of the large States in bringing forward the candidates,\* and also by the Concurrence of the small States in the Committee in the clause vesting the exclusive origination of Money bills in the House of Representatives.

Col: Mason moved to strike out the word "five" and insert the word "three" as the highest candidates for the Senate to choose out of —

Mr. Gerry 2ded. the motion

Mr. Sherman would sooner give up the plan. He would prefer seven or thirteen.

On the question moved by Col Mason and Mr Gerry

N. H. no— Mas. no— Ct. no. N— J. no. Pa no. (Delaware) Md. (no)<sup>6</sup> Va ay— N— C— ay— S. C. no— Geo— no. [Ayes — 2; noes — 8.]

\* This explains the compromise mentioned above by Mr. Govr Morris- Col: Mason Mr. Gerry & other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high mounted Govt, endeavored to avail themselves, by making that privilege, the price of arrangements in the constitution favorable to the small States, and to the elevation of the Government.

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Mr Spaight and Mr. Rutledge moved to strike out "five" and insert "thirteen" — to which all the States disagreed — except N— C. & S— C—

Mr Madison & Mr. Williamson moved to insert after "Electors" the words "who shall have balloted" so that the non voting electors not being counted might not increase the number necessary as a majority of the whole — to decide the choice without the agency of the Senate —

On this question

N. H— no. Mas— no. Ct. <no>.<sup>6</sup> N. J— no. Pa ay. Del. no. Md. ay. Va ay— N— C. ay. S— C— no. Geo. no  
[Ayes — 4; noes — 7.]

Mr. Dickinson moved, in order to remove ambiguity from the intention of the clause as explained by the vote, to add, after the words "if such number be a majority of the whole" "number of the Electors" the word "appointed"

On this motion

N. H. ay. Mas— ay— <Con: ay><sup>7</sup> N— J— ay— Pa ay. <Delaware> Md. ay— Va. no. N. C. no. S— C. ay— Geo. ay. [Ayes — 8; noes — 2.]

Col: Mason. As the mode of appointment is now regulated, he could not forbear expressing his opinion that it is utterly inadmissible. He would prefer the Government of Prussia to one which will put all power into the hands of seven or eight men, and fix an Aristocracy worse than absolute monarchy.

The words "and of their giving their votes" being inserted on motion for that purpose, after the words "The Legislature may determine the time of chusing and assembling the Electors"

The House adjourned.

<sup>6</sup> Vote changed from "ay" to "no" to conform to *Journal*.

<sup>7</sup> Taken from *Journal*.

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McHENRY

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## McHENRY

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The greatest part of the day spent in desultory conversation on that part of the report respecting the mode of choosing the President — adjourned without coming to a conclusion —