

THURSDAY, JULY 5, 1787.

JOURNAL

Thursday July 5. 1787.

The honorable Mr Gerry reported from the Committee, to whom were referred the eighth resolution and such part of the seventh resolution as had not already been decided on by the House, that the Committee had directed him to submit the following report to the consideration of the House,—and the same being delivered in at the Secretary's table was read once throughout, and then by paragraphs and is as follows. namely.

The Committee to whom were referred the eighth resolution reported from the Committee of the whole House, and so much of the seventh as hath not been decided on submit the following report.

“That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted.

1st That in the first branch of the Legislature each of the States now in the Union be allowed one Member for every forty thousand inhabitants of the description reported in the seventh resolution of the Committee of the whole House. That each State not containing that number shall be allowed one Member — That all Bills for raising or appropriating money and for fixing the salaries of the Officers of the Government of the United States, shall originate in the first Branch of the Legislature, and shall not be altered or amended by the second Branch — and that no money shall be drawn from the public Treasury but in pursuance of appropriations to be originated by the first Branch.

2ndly That in the second Branch of the Legislature each State shall have an equal Vote.<sup>1</sup>

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<sup>1</sup> A copy of this report is among the Brearley Papers. In the margin opposite the 2d proposition is written — “Agreed 6 ay. 3 no. 2 divided.” See July 7, Vote 120.

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It was moved and seconded to postpone the consideration of the first proposition contained in the report, in order to take up the second.

On the question to postpone

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

It was then moved and seconded to postpone the first clause of the report in order to take up the following namely.

That the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the General Revenue by the inhabitants of each State respectively — That an apportionment of suffrages, according to the ratio aforesaid, shall be made and regulated at the end of years from the first Meeting of the Legislature of the United-States — and so from time to time at the end of every years thereafter — but that for the present, and until the period first above mentioned shall have one suffrage &ca

and on the question to postpone

it passed in the negative [Ayes — 1; noes — 8.]<sup>2</sup>

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

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
[113]	no	no	no	aye	no	no	no	no	no	no	no	aye	no	To postpone the first proposition reported from the grand Committee, in order to take up the second.	2	8	
[114]	no	no	no	no	no	no	no	no	no	no	no	aye	no	To postpone the first clause of the report to take up Mr Rutledge's motion	1	8	

<sup>2</sup> Vote 114, Detail of Ayes and Noes, which states that the motion was "Mr. Rutledge's".

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## MADISON

Thursday July 5th. in Convention

Mr. Gerry delivered in from the Committee appointed on Monday last the following Report.<sup>3</sup>

"The Committee to whom was referred the 8th Resol. of the Report from the Committee of the whole House, and so much of the 7th. as has not been decided on submit the following Report: That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted. I. that in the 1st. branch of the Legislature each of the States now in the Union shall be allowed 1 member for every 40,000 inhabitants of the description reported in the 7th Resolution of the Come. of the whole House: that each State not containing that number shall be allowed 1 member: that all bills for raising or appropriating money, and for fixing the Salaries of the Officers of the Govern. of the U. States shall originate in the 1st branch of the Legislature, and shall not be altered or amended by the 2d branch: and that no money shall be drawn from the public Treasury, but in pursuance of appropriations to be originated in the 1st branch" II. that in the 2d branch each State shall have an equal vote" \*

Mr. Ghorum observed that as the report consisted of propositions mutually conditional he wished to hear some explana-

\* This report was founded on a motion in the Committee made by Dr. Franklin. It was barely acquiesced in by the members from the States opposed to an equality of votes in the 2d. branch and was evidently considered by the members on the other side, as a gaining of their point. A motion was made by Mr. Sherman† in the Committee to the following effect "that each State should have an equal vote in the 2d branch; provided that no decision therein should prevail unless the majority of States concurring should also comprize a majority of the inhabitants of the U. States". This motion was not much deliberated on nor approved in the Committee. A similar proviso had been proposed in the debates on the articles of Confederation in 1777. to the articles giving certain powers to "nine States." See Journals of Congs. for 1777. p. 462.

† He acted in place of Mr. Elseworth who was kept away by indisposition.

<sup>3</sup> Madison's report is identical with that of the Journal and Yates except for a very few verbal differences too slight to be worth noticing, — e. g., "was" for "were", "has" for "hath", etc.

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tions touching the grounds on which the conditions were estimated.

Mr. Gerry. The Committee were of different opinions as well as the Deputations from which the Come. were taken, and agreed to the Report merely in order that some ground of accommodation might be proposed. Those opposed to the equality of votes have only assented conditionally; and if the other side do not generally agree will not be under any obligation to support the Report.

(Mr. Wilson. thought the Committee had exceeded their powers.

Mr. Martin was for taking the question on the whole report.

Mr. Wilson was for a division of the question: otherwise it wd. be a leap in the dark.)<sup>4</sup>

Mr- (Madison.) could not regard the exclusive privilege of originating money bills as any concession on the side of the small States. Experience proved that it had no effect. If seven States in the upper branch wished a bill to be originated, they might surely find some member from some of the same States in the lower branch who would originate it. The restriction as to amendments was of as little consequence. Amendments could be handed privately by the Senate to members in the other house. Bills could be negatived that they might be sent up in the desired shape. If the Senate should yield to the obstinacy of the 1st. branch the use of that body as a check would be lost. If the 1st. branch should yield to that of the Senate, the privilege would be nugatory. Experience had also shewn both in G. B. and the States having a similar regulation that it was a source of frequent & obstinate altercations. These considerations had produced a rejection of a like motion on a former occasion when judged by its own merits. It could not therefore be deemed any concession on the present, and left in force all the objections which had prevailed agst. allowing each State an equal voice. He conceived that the Convention was reduced to the alternative <sup>5</sup> of either departing from justice in order to conciliate

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<sup>4</sup> Taken from Yates.

<sup>5</sup> Crossed out "delusion".

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the smaller States, and the minority of the people of the U. S. or of displeasing these by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. The Convention with justice & the majority of the people on their side, had nothing to fear. With injustice and the minority on their side they had every thing to fear. It was in vain to purchase concord in the Convention on terms which would perpetuate discord among their Constituents. The Convention ought to pursue a plan which would bear the test of examination, which would be espoused & supported by the enlightened and impartial part of America, & which they could themselves vindicate & urge. It should be considered that altho' at first many may judge of the system recommended, by their opinion of the Convention, yet finally all will judge of the Convention by the system. The merits of the system alone can finally & effectually obtain the public suffrage. He was not apprehensive that the people of the small States would obstinately refuse to accede to a Govt. founded on just principles, and promising them substantial protection.<sup>6</sup> He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather than submit to such a Govt: much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives (Mr. Bedford) had suggested, or if she shd. that any foreign nation wd. be so rash as to hearken to the overture. As little could he suspect that the people of N. Jersey notwithstanding the decided tone of the gentlemen from that State, would choose rather to stand on their own legs, and bid defiance to events,<sup>7</sup> than to acquiesce under an establishment founded on principles the justice of which they could not dispute, and<sup>8</sup> absolutely necessary to redeem them from the exactions levied on them by the commerce of the neighbouring States. A review of other States would prove that there was as little reason to apprehend an inflexible opposition elsewhere. Harmony in the Convention was no

<sup>6</sup> Crossed out "justice".<sup>7</sup> Crossed out "all consequen".<sup>8</sup> Crossed out "calculated to".

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doubt much to be desired. Satisfaction to all the States, in the first instance still more so. But if the principal States comprehending a majority of the people of the U. S. should concur in a just & judicious plan, he had the firmest hopes that all the other States would by degrees accede to it.<sup>9</sup>

Mr. Butler said he could not let down his idea of the people of America so far as to believe they, would from mere respect to the Convention adopt a plan evidently unjust. He did not consider the privilege concerning money bills as of any consequence. He urged that the 2d. branch ought to represent the States according to their property.

Mr. Govr. Morris. thought the form as well as the matter of the Report objectionable. It seemed in the first place to render amendments impracticable.<sup>10</sup> In the next place, it seemed to involve a pledge to agree to the 2d. part if the 1st. shd. be agreed to. He conceived the whole aspect of it to be wrong. He came here as a Representative of America; he flattered himself he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If he were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular States. He can— not descend to think that any gentlemen are really actuated by these views. We must look forward to the effects of what we do. These alone ought to guide us. Much has been said of the sentiments of the people. They were unknown. They could not be known. All that we can infer is that if the plan we recommend be reasonable & right; all who have reasonable minds and sound intentions will embrace it,<sup>11</sup>

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<sup>9</sup> Crossed out: "These observations wd. show that he was not only fixed in his opposition to the Report of the Comme. but was prepared for any want that might follow a negative of its".

<sup>10</sup> Crossed out "and to require an adoption or negation in the lump".

<sup>11</sup> Crossed out: "He did not like the desponding language But we should never agree, that the States will, unite in".

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notwithstanding what had been said by some Gentlemen. Let us suppose that the larger States shall agree; and that the smaller refuse: and let us trace the consequences. The opponents of the system in the smaller States will no doubt make a party, and a noise for a time, but the ties of interest, of kindred & of common habits which connect them with the other States will be too strong to be easily broken. In N. Jersey particularly he was sure a great many would follow the sentiments of Penna. & N. York. This Country must be united. If persuasion does not unite it, the sword will. He begged that this consideration might have its due weight. The scenes of horror attending civil commotion can not be described, and the conclusion of them will be worse than the term of their continuance. The stronger party will then make traytors of the weaker; and the Gallows & Halter will finish the work of the sword. How far foreign powers would be ready to take part in the confusions he would not say. Threats that they will be invited have it seems been thrown out. He drew the melancholy picture of foreign intrusions as exhibited in the History of Germany, and urged it as a standing lesson to other nations. He trusted that the Gentlemen who may have hazarded such expressions, did not entertain them till they reached their own lips. But returning to the Report he could not think it in any respect calculated for the public good. As the 2d. branch is now constituted, there will be constant disputes & appeals to the States which will undermine the Genl. Government & controul & annihilate the 1st branch. Suppose that the Delegates from Masss. & Rho I. in the upper House disagree, and that the former are outvoted. What Results? they will immediately declare that their State will not abide by the decision, and make such representations as will produce that effect — The same may happen as to Virga. & other States. Of what avail then will be what is on paper. State attachments, and State importance — have been the bane of this Country. We cannot annihilate;<sup>12</sup> but we may perhaps take out the teeth of the serpents. He

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<sup>12</sup> Crossed out "the States".

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wished our ideas to be enlarged to the true interest of man, instead of being circumscribed within the narrow compass of a particular Spot. And after all how little can be the motive yielded by selfishness for such a policy. Who can say whether he himself, much less whether his children, will the next year be an inhabitant of this or that State.

Mr. Bedford. He found that what he had said as to the small States being taken by the hand, had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid & interposition of foreign powers. He meant that they would not consider the federal compact as dissolved until it should be so by the acts of the large States. In this case the consequence of the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign nations having demands on this Country would find it their interest to take the small States by the hand, in order to do themselves justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural & sometimes necessary. But is there not an apology in what was said by (Mr. Govr. Morris) that the sword is to unite: by Mr. Ghorum that Delaware must be annexed to Penna. and N. Jersey divided between Penna. and N. York. To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen — As to the propositions of the Committee, the lesser States have thought it necessary to have a security somewhere. This has been thought necessary for the Executive Magistrate of the proposed Govt. who has a sort of negative on the laws; and is it not of more importance that the States should be protected, than that the Executive branch of the Govt. shd. be protected. In order to obtain this, the smaller (States) have conceded as to the (constitution of the) first branch, and as to money bills. If they be not gratified by correspondent concessions as to the 2d. branch is it to be supposed they will ever accede to the plan; and what will be the consequence if nothing should



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be done! The condition of the U. States requires that something should be immediately done. It will be better that a defective plan should be adopted, than that none should be recommended. He saw no reason why defects might not be supplied by meetings 10, 15 or 20 years hence.

Mr. Elseworth said he had not attended the proceedings of the Committee, but was ready to accede to the compromise they had reported. Some compromise was necessary; and he saw none (more) convenient or reasonable.

Mr. Williamson hoped that the expressions of individuals would not be taken for the sense of their colleagues, much less of their States which was not & could not be known. He hoped also that the meaning of those expressions would not be misconstrued or exaggerated. He did not conceive that (Mr. Govr. Morris) meant that the sword ought to be drawn agst. the smaller States. He only pointed out the probable consequences of anarchy in the U. S. A similar exposition ought to be given of the expressions (of Mr. Ghorum). He was ready to hear the Report discussed; but thought the propositions contained in it, the most objectionable of any he had yet heard.

Mr. Patterson said that he had when the Report was agreed to in the Come. reserved to himself the right of freely discussing it. He acknowledged that the warmth complained of was improper; but he thought the Sword & the Gallows as little calculated to produce conviction. He complained of the manner in which Mr. M— & Mr. Govr. Morris had treated the small States.

Mr. Gerry. Tho' he had assented to the Report in the Committee, he had very material objections to it. We were however in a peculiar situation. We were neither the same Nation nor different Nations. We ought not therefore to pursue the one or the other of these ideas too closely. If no compromise should take place what will be the consequence. A secession he foresaw would take place; for some gentlemen seem decided on it; two different plans will be proposed, and the result no man could foresee. If we do not come to some agreement among ourselves some foreign sword will probably do the work for us.

Mr. Mason. The Report was meant not as specific propositions to be adopted, but merely as a general ground of ac-

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comodation. There must be some accomodation on this point, or we shall make little further progress in the work. Accomodation was the object of the House in the appointment of the Committee; and of the Committee in the Report they had made. And however liable the Report might be to objections, he though it preferable to an appeal to the world by the different sides, as had been talked of by some Gentlemen. It could not be more inconvenient to any gentleman to remain absent from his private affairs, than it was for him: but he would bury his bones in this city rather than expose his Country to the Consequences of a dissolution of the Convention without any thing being done.

The 1st. proposition in the Report for fixing the representation in the 1st. branch, one member for every 40,000 inhabitants, being taken up.

Mr. Govr. Morris objected to that scale of apportionment. He thought property ought to be taken into the estimate as well as the number of inhabitants. Life and liberty were generally said to be of more value, than property. An accurate view of the matter would nevertheless prove that property was the main object of Society. The savage State was more favorable to liberty than the Civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was only renounced for the sake of property which could only be secured by the restraints of regular Government. These ideas might appear to some new, but they were nevertheless just. If property then was the main object of Govt. certainly it ought to be one measure of the influence due to those who were to be affected by the Governmt. He looked forward also to that range of New States which wd. soon be formed in the west. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the National Councils. The new States will know less of the public interest than these, will have an interest in many respects different, in particular will be little scrupulous of involving the Community in wars the burdens & operations of which would fall chiefly on the maritime States. Provision ought therefore to

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be made to prevent the maritime States from being hereafter outvoted by them. He thought this might be easily done by irrevocably fixing the number of representatives which the Atlantic States should respectively have, and the number which each new State will have. This wd. not be unjust, as the western settlers wd. previously know the conditions on which they were to possess their lands. It would be politic as it would recommend the plan to the present as well as future interest of the States which must decide the fate of it.

Mr. Rutledge. The gentleman last up had spoken some of his sentiments precisely. Property was certainly the principal object of Society. If numbers should be made the rule of representation, the Atlantic States will be subjected to the Western. He moved <sup>x</sup> that the first proposition in the report be postponed in order to take up the following viz. "that the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each State respectively; that an apportionment of suffrages, according to the ratio aforesaid shall be made and regulated at the end of        years from the 1st. meeting of the Legislature of the U. S. and at the end of every        years but that for the present, and until the period above mentioned, the suffrages shall be for N. Hampshire        Massachts.        &c — <sup>13</sup>

Col. Mason said the case of new States was not unnoticed in the Committee; but it was thought and he was himself decidedly of opinion that if they made a part of the Union, they ought to be subject to no unfavorable discriminations. Obvious considerations required it.

Mr. Radolph concurred with Col. Mason.

On question on Mr. Rutlidges motion.<sup>x</sup>

Masts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. no. Maryd. no. Va. no. N. C. no. S. C. ay. Geo. not on floor [Ayes — 1; noes — 9; absent — 1.]<sup>14</sup>

adjd.<sup>15</sup>

<sup>13</sup> Taken from *Journal*, Madison had originally recorded only the substance of the motion.

<sup>14</sup> Detail of Ayes and Noes, Vote 114, omits New Jersey.

<sup>15</sup> See further, Appendix A, LVI.

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YATES

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## YATES

THURSDAY, JULY 5th, 1787.

Met pursuant to adjournment.

The report of the committee was read.

Mr. Gorham. I call for an explanation of the principles on which it is grounded.

Mr. Gerry, the chairman, explained the principles.

Mr. Martin. The one representation is proposed as an expedient for the adoption of the other.

Mr. Wilson. The committee has exceeded their powers.

Mr. Martin proposed to take the question on the whole of the report.

Mr. Wilson. I do not chuse to take a leap in the dark. I have a right to call for a division of the question on each distinct proposition.

Mr. Madison. I restrain myself from animadverting on the report, from the respect I bear to the members of the committee. But I must confess I see nothing of concession in it.

The originating money bills is no concession on the part of the smaller states, for if seven states in the second branch should want such a bill, their interest in the first branch will prevail to bring it forward — it is nothing more than a nominal privilege.

The second branch, small in number, and well connected, will ever prevail. The power of regulating trade, imposts, treaties, &c. are more essential to the community than raising money, and no provision is made for those in the report— We are driven to an unhappy dilemma. Two thirds of the inhabitants of the union are to please the remaining one third by sacrificing their essential rights.

When we satisfy the majority of the people in securing their rights, we have *nothing* to fear; in any other way, *every thing*. The smaller states, I hope will at last see their true and real interest. — And I hope that the warmth of the gentleman from Delaware will never induce him to yield to his own suggestion of seeking for foreign aid.

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KING

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(At this period Messrs. YATES and LANSING left the convention,<sup>16</sup> and the remainder of the session was employed to complete the constitution on the principles already adopted. See the revised draft of the constitution and the constitution of the United States, with all the ratified amendments as at present existing, in the appendix.)

~~By~~ The preceding Notes of the late Chief Justice YATES, contained in two hundred and forty-five pages,\* of two volumes, were copied by me, literally, from the original manuscript in his hand writing. — The several papers referred to did not accompany his notes.<sup>17</sup>

JOHN LANSING. Jun.

\*The number of pages in the manuscript.

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KING

5. July 87.

Gr. Morris. On a question reported by a Grand Comee. that in the popular Br. every 40,000 Inhabitants shd. be entitled to send one Member — Observed that Numbers ought not to be the rule — admit that they now are, yet when the Western Country is settled it may not be so — We must take care that we don't establish a Rule wh. will enable the poor but numerous Inhabs. of the western Country to destroy the Atlantic States — Men don't unite for liberty or Life, they possess both in the savage state in the highest perfection they unite for the *protection of property*

Govr. Rutledge — I agree with Mr. Morris Property is the object of Society, I propose that the representation shd. be

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<sup>16</sup> New York's vote continued to be recorded, however, through July 10.

On Yates and Lansing leaving the Convention, and on their general attitude, see Appendix A, CLVIII (27), CLXVII, CLXXXV, CCXVII, CCLXIX, CCCX, CCCXXXIX, CCCLXXVII, CCCLXXXVIII, CCCXCI, CCXCII, CCCXCVII.

<sup>17</sup> The various documents printed in the appendix to Yates were evidently copied from the *Journal* (1819).

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PATERSON

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in proportion to the Taxes paid in a given District — I wish the property to be represented — I do not think numbers are a proper Index of Wealth now, it will be much less so hereafter —

Randolph<sup>18</sup>

## PATERSON

Maddison.

The Interest of the smaller States to come into the Measure — Delaware — foreign Power — New-Jersey. Single and unconnected.

Butler.

The People will not agree to it.

G. Morris.

Suppose the larger States agree — the smaller States must come in.

Jersey would follow the Opinions of New York and Pennsylvania.

The Sword must decide —

The strongest Party will make the weaker Traitors and hang them — foreign Power.

Should be open to Conviction —

— The larger States must prevail — they must decide; they are most powerful.

Not Members of a Synod, or Conventicle —

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<sup>18</sup> [Endorsed:] July 5 | Gov. Mor. M Rutledge | not Numbers but Property the | Principle of Repr.