

FRIDAY, AUGUST 10, 1787.

JOURNAL

Friday August 10. 1787.

It was moved and seconded to strike out 2nd sect. of the 6. article in order to introduce the following namely

“That the qualifications of the members of the Legislature
“be as follows.

“The members of the House of representatives shall possess
“a clear and unincumbered property of
“The Members of the Senate”

which passed in the negative

It was moved and seconded to strike the following words out of the 2nd sect. of the 6. article, namely

“with regard to property”

which passed in the negative. [Ayes — 4; noes — 6.]

On the question to agree to the 2nd sect. of the 6. article as reported.

it passed in the negative. [Ayes — 3; noes — 7.]

It was moved and seconded to reconsider the 2nd sect. of the 4th article

which passed in the affirmative [Ayes — 6; noes — 5.]
and monday next was assigned for the reconsideration [Ayes — 9; noes — 2.]

It was moved and seconded to amend the 3rd sect. of the 6. article to read as follows, namely.

“not less than 33 members of the House of representa-
“tives, nor less than 14 members of the Senate, shall consti-
“tute a quorum to do business; a smaller number in either
“House may adjourn from day to day, but the number neces-
“sary to form such quorum may be increased by an act of
“the Legislature on the addition of members in either branch”

which passed in the negative [Ayes — 2; noes — 9.]¹

¹ Vote 268, Detail of Ayes and Noes, which notes that the amendment was “offd by Mr. King”.

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It was moved and seconded to add the following amendment to the 3rd sect. of the 6. article

“and may be authorised to compel the attendance of absent members in such manner and under such penalties as each House may provide”

which passed in the affirmative [Ayes — 10; noes — 0; divided — 1.]²

On the question to agree to the 3rd sect. of the 6. article as amended

it passed in the affirmative

On the question to agree to the 4 sect of the 6 article as reported

it passed in the affirmative

On the question to agree to the 5. sect. of the 6 article as reported

it passed in the affirmative

It was moved and seconded to amend the last clause in the 6 sect. of the 6. article by adding the following words

“with the concurrence of two thirds”

which passed in the affirmative [Ayes — 10; noes — 0; divided — 1.]

On the question to agree to the 6 sect. of the 6 article as amended

it passed in the affirmative

It was moved and seconded to strike out the words

“one fifth part” and to insert the words “of every one Member present” in the latter clause of the 7. sect. of the 6 article

which passed in the negative.³

It was moved and seconded to strike out the words “each House” and to insert the words “the House of representatives” in the second clause of the 7 sect of the 6 article — and to add the following words to the section, namely

“and any member of the Senate shall be at liberty to enter his dissent”

² Vote 269, Detail of Ayes and Noes, which notes that the amendment was Randolph's.

³ *Journal* (p. 243) ascribes Vote 271 to this question, but there is nothing in the Detail of Ayes and Noes to indicate this, and according to Madison it belongs to the following question.

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which passed in the negative [Ayes — 3; noes — 8].⁴
It was moved and seconded to strike the following words out of the 7 sect of the 6 article, namely

“when it shall be acting in a legislative capacity”
and to add the following words to the section

“except such parts thereof as in their judgment require secrecy”

which passed in the affirmative. [Ayes — 7; noes — 3; divided — 1.]⁵

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
[264]	no	no	aye	aye	aye			no	no	no	no	no	aye	To strike out the words “with regard to prop- erty”	4	6	
[265]	aye	aye	no	no	no			no	no	no	no	no	aye	To agree to the 2 sect. of ye 6. article as reported	3	7	
[266]	no	no	aye	no	aye	aye	aye	aye	aye	aye	aye	no	no	To reconsider the 2 sect of 4 art.	6	5	
[267]	aye	no	aye	aye	aye	aye	aye	aye	aye	aye	aye	aye	no	Monday assigned	9	2	
[268]	no	aye	no	no	no	aye	no	no	no	no	no	no	no	To agree to the amendmt of ye 3 sect. 6 art. offd by Mr King	2	9	
[269]	aye	aye	aye	aye	dd	aye	aye	aye	aye	aye	aye	aye	aye	To agree to Mr Ran- dolphs amendmt to ye 3 sect 6 art.	10		1
[270]	aye	aye	aye	aye	dd	aye	aye	aye	aye	aye	aye	aye	aye	Two-thirds required to expel a member	10		1
[Beginning of ninth loose sheet]																	
[271]	no	no	no	no	no	no	aye	aye	no	aye	no	aye	no	To agree to the amendmt proposed to the 7 Sect of the 6 article by Mr Carrol	3	8	
[272]	dd	aye	no	no	no	aye	aye	aye	aye	aye	aye	aye	aye	To agree to Mr Gerry's amendment to the 7 section of the 6 article	7	3	1

⁴ Vote 271, Detail of Ayes and Noes, which notes “amendmt proposed . . . by Mr. Carrol”.

⁵ Vote 272, Detail of Ayes and Noes, which notes that it was “Mr. Gerry’s amend-
ment”.

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Friday Augst. 10. in Convention

Art. VI. sect. 2. taken up.⁶

Mr. Pinkney — The Committee as he had conceived were instructed to report the proper qualifications of property for the members of the Natl. Legislature; instead of which they have referred the task to the Natl. Legislature itself. Should it be left on this footing, the first Legislature will meet without any particular qualifications of property; and if it should happen to consist of rich men they might fix such such qualifications as may be too favorable to the rich; if of poor men, an opposite extreme might be run into. He was opposed to the establishment of an undue aristocratic influence in the Constitution but he thought it essential that the members of the Legislature, the Executive, and the Judges — should be possessed of competent property to make them independent & respectable. It was prudent when such great powers were to be trusted to connect the tie of property with that of reputation in securing a faithful administration. The Legislature would have the fate of the Nation put into their hands. The President would also have a very great influence on it. The Judges would have not only important causes between Citizen & Citizen but also where foreigners are concerned. They will even be the Umpires between the U. States and individual States as well as between one State & another. Were he to fix the quantum of property which should be required, he should not think of less than one hundred thousand dollars for the President, half of that sum for each of the Judges, and in like proportion for the members of the Natl. Legislature. He would however leave the sums blank. His motion was that the President of the U. S. the Judges, and members of the Legislature should be required to swear that they were respectively possessed of a clear unincumbered

⁶ Article VI, Sect. 2. "The Legislature of the United States shall have authority to establish such uniform qualifications of the members of each House, with regard to property, as to the said Legislature shall seem expedient."

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Estate to the amount of ——— in the case of the President, &c &c —

Mr. Rutledge seconded the motion; observing, that the Committee had reported no qualifications because they could not agree on any among themselves, being embarrassed by the danger on (one) side of displeasing the people by making them (high), and on the other of rendering them nugatory by making them low.

Mr. Elseworth. The different circumstances of different parts of the U. S. and the probable difference between the present and future circumstances of the whole, render it improper to have either *uniform* or *fixed* qualifications. Make them so high as to be useful in the S. States, and they will be inapplicable to the E. States. Suit them to the latter, and they will serve no purpose in the former. In like manner what may be accommodated to the existing State of things among us, may be very inconvenient in some future state of them. He thought for these reasons that it was better to leave this matter to the Legislative discretion than to attempt a provision for it in the Constitution.

Doctr Franklin expressed his dislike of every thing that tended to debase the spirit of the common people. If honesty was often the companion of wealth, and if poverty was exposed to peculiar temptation, it was not less true that the possession of property increased the desire of more property—Some of the greatest rogues he was ever acquainted with, were the richest rogues. We should remember the character which the Scripture requires in Rulers, that they should be men hating covetousness— This Constitution will be much read and attended to in Europe, and if it should betray a great partiality to the rich— will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this Country.

The Motion of Mr. Pinkney was rejected by so general a *no*, that the States were not called.

Mr (Madison) was opposed to the Section as vesting an improper & dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a

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Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorised to elect. In all cases where the representatives of the people will have a personal interest distinct from that of their Constituents, there was the same reason for being jealous of them, as there was for relying on them with full confidence, when they had a common interest. This was one of the former cases. It was as improper as to allow them to fix their own wages, or their own privileges. It was a power also, which might be made subservient to the views of one faction agst. another. Qualifications founded on artificial distinctions may be devised,⁷ by the stronger in order to keep out partizans of (a weaker)⁸ faction.

Mr. Elseworth, admitted that the power was not unexceptionable; but he could not view it as dangerous. Such a power with regard to the electors would be dangerous because it would be much more liable to abuse.

Mr. Govr. Morris moved to strike out "with regard to property" in order to leave the Legislature entirely at large.

Mr. Williamson. This could surely never be admitted. Should a majority of the Legislature be composed of any particular description of men, of lawyers for example, which is no improbable supposition, the future elections might be secured to their own body.

Mr. (Madison) observed that the British Parliamt. possessed the power of regulating the qualifications both of the electors, and the elected; and the abuse they had made of it was a lesson worthy of our attention. They had made the changes in both cases subservient to their own views, or to the views of political or Religious parties.

Question on the motion to strike out with regard to property
N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. ay. Del. no.* Md.
no. Va. no. N. C. no. S. C. no. Geo- ay. [Ayes—4; noes—7.]

* (In the printed Journal Delaware did not vote.)

⁷ Crossed out "which may exclude obnoxious".

⁸ Crossed out "the opposite".

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Mr Rutledge was opposed to leaving the power to the Legislature— He proposed that the qualifications should be the same as for members of the State Legislatures.

Mr. Wilson thought it would be best on the whole to let the Section go out. A uniform rule would probably be never fixed by the Legislature. and this particular power would constructively exclude every other power of regulating qualifications—

On the question for agreeing to Art- VI- sect- 2d

N. H. ay. Mas. ay. Ct. no. N. J. no. Pa. no. Md. no. Va. no. (N. C. no) S. C. no. Geo. ay- [Ayes — 3; noes — 7.]

On Motion of Mr Wilson to reconsider Art: IV. sect. 2. so as to restore 3 in place of seven years of citizenship as a qualification for being elected into the House of Represents.

N. H- no. Mas- no. Ct. ay. N. J. no. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 6; noes — 5.]

(Monday next was then assigned for the reconsideration: all the States being ay- except Massts. & Georgia)⁹

Art: VI. sect. 3. taken up.¹⁰

Mr. Ghorum contended that less than a Majority (in each House) should be made of Quorum, otherwise great delay might happen in business, and great inconvenience from the future increase of numbers.

Mr. Mercer was also for less than a majority. So great a number will put it in the power of a few by seceding at a critical moment to introduce convulsions, and endanger the Governmt. Examples of secession have already happened in some of the States. He was for leaving it to the Legislature to fix the Quorum, as in Great Britain, where the requisite number is small & no inconveniency has been experienced.

Col. Mason. This is a valuable & necessary part of the plan. In this extended Country, embracing so great a diversity of interests, it would be dangerous to the distant parts to

⁹ Taken from *Journal*. Madison originally included this question as a part of the one preceding.

¹⁰ Article VI, sect. 3. "In each House a majority of the members shall constitute a quorum to do business; but a smaller number may adjourn from day to day."

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allow a small number of members of the two Houses to make laws. The Central States could always take care to be on the Spot and by meeting earlier than the distant ones, or wearying their patience, and outstaying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number: But he had also known good produced by an apprehension of it. He had known a paper emission prevented by that cause in Virginia. He thought the Constitution as now moulded was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard agst abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it pleased & the U. States might be governed by a Juncto— A majority of the number which had been agreed on, was so few that he feared it would be made an objection agst. the plan.

Mr. King admitted there might be some danger of giving an advantage to the Central States; but was of opinion that the public inconveniency on the other side was more to be dreaded.

Mr. Govr. Morris moved to fix the quorum at 33 members in the H. of Reps. & 14 in the Senate. This is a majority of the present number, and will be a bar to the Legislature: fix the number low and they will generally attend knowing that advantage may be taken of their absence. the Secession of a small number ought not to be suffered to break a quorum. Such events in the States may have been of little consequence. In the national Councils, they may be fatal. Besides other mischiefs, if a few can break up a quorum, they may sieze a moment when a particular (part) of the Continent may be in need of immediate aid, to extort, by threatening a secession, some unjust & selfish measure.

Mr. Mercer 2ded. the motion

Mr. King said he had just prepared a motion¹¹ which instead of fixing the numbers proposed by Mr. Govr Morris as Quorums, made those the lowest numbers, leaving the

¹¹ In the MS. the word "motion" has a cross (X) above it, evidently referring to the motion as given on the following page and similarly marked.

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Legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

Mr. Mercer agreed to substitute Mr. Kings motion in place of Mr. Morris's.

Mr. Elsworth was opposed to it. It would be a pleasing ground of confidence to the people that no law or burden could be imposed on them, by a few men. He reminded the movers that the Constitution proposed to give such a discretion with regard to the number of Representatives that a very inconvenient number was not to be apprehended. The inconveniency of secessions may be guarded agst by giving to each House an authority to require the attendance of absent members.

Mr. Wilson concurred in the sentiments of Mr. Elsworth.

Mr. Gerry seemed to think that some further precautions than merely fixing the quorum might be necessary. He observed that as 17 wd. be a majority of a quorum of 33, and 8 of 14, questions might by possibility be carried in the H. of Reps. by 2 large States, and in the Senate by the same States with the aid of two small ones. — He proposed that the number for a quorum in the H. of Reps. should not exceed 50 (nor be less than 33). leaving the intermediate discretion to the Legislature.

Mr. King. as the quorum could not be altered witht. the concurrence of the President by less than $\frac{2}{3}$ of each House, he thought there could be no danger in trusting the Legislature.

Mr Carrol this will be no security agst. a continuance of the quorums at 33 & 14. when they ought to be increased.

On question on Mr. Kings motion (<“that not less than 33 in the H. of Reps. nor less than 14 in the Senate shd. constitute a Quorum, which may be increased by a law, on additions of members in either House.> ¹²

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

Mr. Randolph & Mr. — (Madison) moved to add to the

¹² Taken from *Journal*. In the MS. marked by a cross (X), see above, note 11.

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end of Art. VI Sect 3, "and (may) be authorized to compel the attendance of absent members in such manner & under such penalties as each House may provide." Agreed to (by all except Pena — which was divided)¹³

Art: VI. Sect. 3. Agreed to as amended Nem. con.

Sect. 4. } Agreed to nem. con.¹⁴
Sect. 5. }

Mr. (Madison) observed that the right of expulsion (Art. VI. Sect. 6.)¹⁵ was too important to be exercised by a bare majority of a quorum: and in emergencies of faction might be dangerously abused. He moved that "with the concurrence of $\frac{2}{3}$ " might be inserted between may & expel.

Mr. Randolph & Mr. Mason approved the idea.

Mr Govr Morris. This power may be safely trusted to a majority. To require more may produce abuses on the side of the minority. A few men from factious motives may keep in a member who ought to be expelled.

Mr. Carrol thought that the concurrence of $\frac{2}{3}$ at least ought to be required.

On the question for requiring $\frac{2}{3}$ in cases of expelling a member.

N. H. ay— Mas. ay. Ct. ay— N. J— ay. Pa. divd. Del. ay. Md. ay. Va. ay. N— C. ay— S. C. ay. Geo. ay. [Ayes— 10; noes — 0; divided — 1.]

Art. VI— Sect— 6— as thus amended agreed to nem. con.

Art: VI. Sect. 7. taken up.¹⁶

¹³ Taken from *Journal*. Crossed out: "nem. con."

¹⁴ Article VI, Sect. 4. "Each House shall be the judge of the elections, returns and qualifications of its own members."

Sect. 5. "Freedom of speech and debate in the Legislature shall not be impeached or questioned in any Court or place out of the Legislature; and the members of each House shall, in all cases, except treason felony and breach of the peace, be privileged from arrest during their attendance at Congress, and in going to and returning from it."

¹⁵ Article VI, Sect. 6. "Each House may determine the rules of its proceedings; may punish its members for disorderly behaviour; and may expel a member."

¹⁶ Article VI, Sect. 7. "The House of Representatives, and the Senate, when it shall be acting in a legislative capacity, shall keep a Journal of their proceedings, and shall, from time to time, publish them: and the yeas and nays of the members of each House, on any question, shall at the desire of one-fifth part of the members present, be entered on the journal."

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Mr. Govr Morris urged that if the yeas & nays were proper at all any individual ought to be authorized to call for them: and moved an amendment to that effect. — The small States may otherwise be under a disadvantage, and find it difficult. to get a concurrence of $\frac{1}{2}$

Mr. Randolph 2ded. ye motion.

Mr. Sherman had rather strike out the yeas & nays altogether. they never have done any good, and have done much mischief. They are not proper as the reasons governing the voter never appear along with them.

Mr Elseworth was of the same opinion

Col. Mason liked the Section as it stood. it was a middle way between two extremes.

Mr Ghorum was opposed to the motion for allowing a single member to call the yeas & nays, and recited the abuses of it, in Massts. 1 in stuffing the journals with them on frivolous occasions. 2 in misleading the people who never know the reasons determining the votes.

The motion for allowing a single member to call the yeas & nays was disagd. to nem- con-

Mr. Carrol & Mr. Randolph moved (to strike out the words "each House" and to insert the words "the House of Representatives" in sect- 7. art- 6. and to add to the Section the words "and any member of the Senate shall be at liberty to enter his dissent")¹⁷

Mr. Govr Morris & Mr Wilson observed that if the minority were to have a right to enter their votes & reasons, the other side would have a right to complain, if it were not extended to them: & to allow it to both, would fill the Journals, like the records of a Court, with replications, rejoinders &c-

Question on Mr Carrols motion to allow a member to (enter his) dissent

N. H- no. Mas. no. Cont. no. N. J. no. Pa. no. Del. no. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. no. [Ayes — 3; noes — 8.]

Mr Gerry moved to strike out the words "when it shall

¹⁷ Taken from *Journal*, but Madison had recorded the substance of the motion.

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be acting in its legislative capacity" in order to extend the provision to the Senate when exercising its peculiar authorities (and to insert "except such parts thereof as in their judgment require secrecy" after the words "publish them"). — (It was thought by others that provision should be made with respect to these when that part came under consideration which proposed to vest those (additional) authorities in the Senate.)

On this question for striking out the words "when acting in its Legislative capacity"

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

Adjourned

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Sect. 2. dissented to. Sects. 3. 4 5 and 6 agreed to.¹⁸

¹⁸ See Appendix A, CXLVIa.