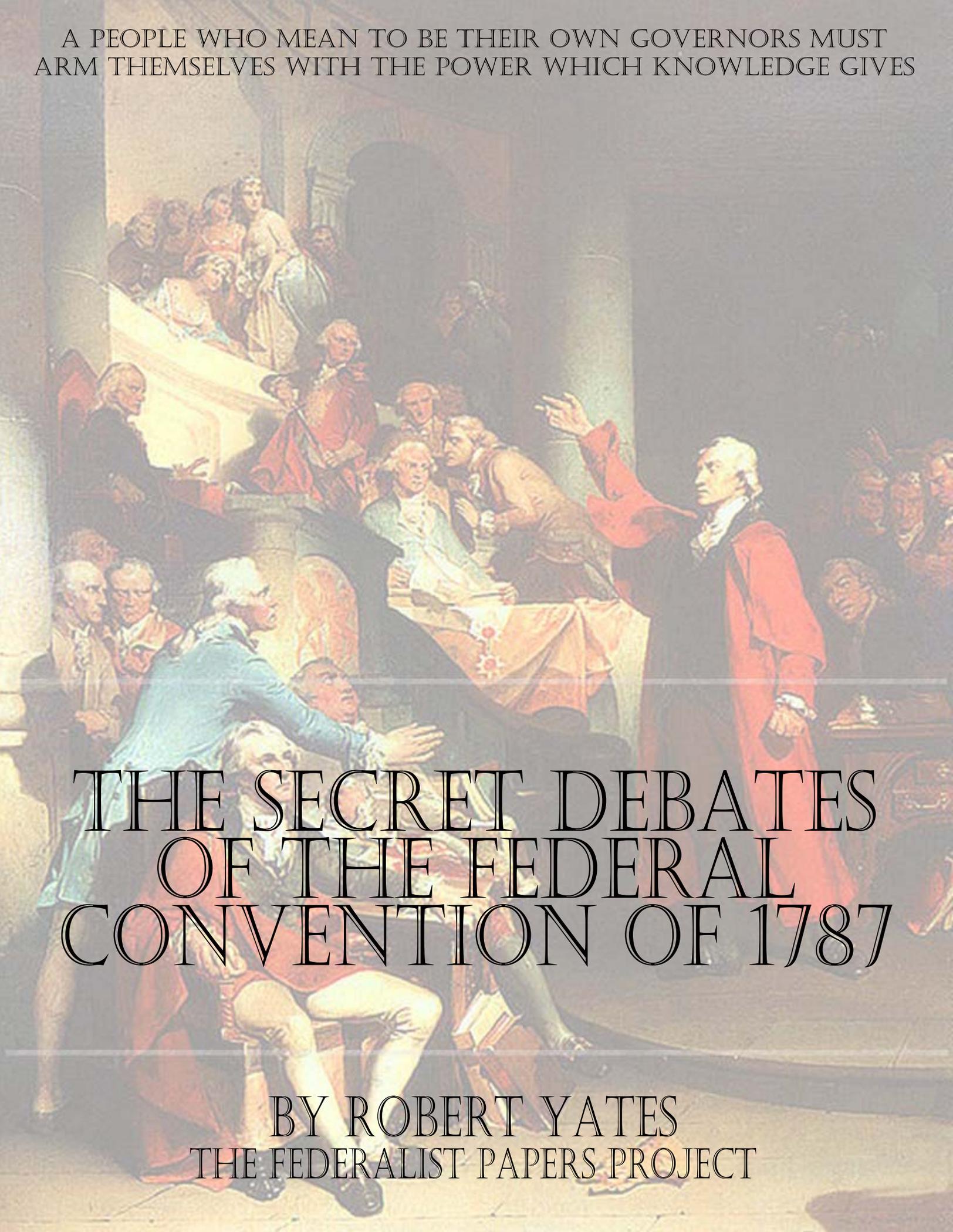


A PEOPLE WHO MEAN TO BE THEIR OWN GOVERNORS MUST
ARM THEMSELVES WITH THE POWER WHICH KNOWLEDGE GIVES



THE SECRET DEBATES
OF THE FEDERAL
CONVENTION OF 1787

BY ROBERT YATES
THE FEDERALIST PAPERS PROJECT

NOTES OF THE SECRET DEBATES OF THE FEDERAL CONVENTION OF 1787



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**Notes of the Secret Debates of the Federal Convention of 1787,
Taken by the Late Hon Robert Yates, Chief Justice of the State of New York,
and One of the Delegates from That State to the Said Convention.**

Robert Yates

WEDNESDAY, MAY 30TH, 1787.

Convention met pursuant to adjournment.

The convention, pursuant to order, resolved itself into a committee of the whole-Mr. Gorham (a member from Massachusetts) appointed chairman.

Mr. Randolph then moved his first resolve, to wit: "Resolved, that the articles of the confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution, namely, common defence, security of liberty, and general welfare."

Mr. G. Morris observed, that it was an unnecessary resolution, as the subsequent resolutions would not agree with it. It was then withdrawn by the proposer, and in lieu thereof the following were proposed, to wit:

1. Resolved, That a union of the States merely federal, will not accomplish the objects proposed by the articles of the confederation, namely, common defence, security of liberty, and general welfare.
2. Resolved, That no treaty or treaties among any of the States as sovereign, will accomplish or secure their common defence, liberty, or welfare.
3. Resolved, That a national government ought to be established, consisting of a supreme judicial, legislative, and executive.

In considering the question on the first resolve, various modifications were proposed, when Mr. Pinkney observed, at last, that if the convention agreed to it, it appeared to him that their business was at an end; for as the powers of the house in general were to revise the present confederation, and to alter or amend it as the case might require; to determine its insufficiency or incapability of amendment or improvement, must end in the dissolution of the powers.

This remark had its weight, and in consequence of it, the 1st and 2d resolve was dropt, and the question agitated on the third.

This last resolve had also its difficulties; the term supreme required explanation. It was asked whether it was intended to annihilate State governments? It was answered, only so far as the powers intended to be granted to the new government should clash with the States, when the latter was to yield.

For the resolution-Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina.

Against it-Connecticut, New York divided, Jersey, and the other States unrepresented.

The next question was on the following resolve:

In substance that the mode of the present representation was unjust-the suffrage ought to be in proportion to number or property.

To this Delaware objected, in consequence of the restrictions in their credentials, and moved to have the consideration thereof postponed, to which the house agreed.

Adjourned to to-morrow.

THURSDAY, MAY 31ST, 1787.

Met pursuant to adjournment.

This day the State of Jersey was represented, so that there were now ten States in convention.

The house went again into committee of the whole, Mr. Gorham in the chair.

The 3d resolve, to wit, "That the national legislature ought to consist of two branches," was taken into consideration, and without any debate agreed to. [N. B. As a previous resolution had already been agreed to, to have a supreme legislature, I could not see any objection to its being in two branches.]

The 4th resolve, "That the members of the first branch of the national legislature ought to be elected by the people of the several States," was opposed; and strange to tell, by Massachusetts and Connecticut, who supposed they ought to be chosen by the legislatures; and Virginia supported the resolve, alleging that this ought to be the democratic branch of government, and as such, immediately vested in the people.

This question was carried, but the remaining part of the resolve detailing the powers, was postponed.

The 5th resolve, That the members of the second branch of the national legislature ought to be elected by those of the first out of a proper number of persons nominated by the individual legislatures, and the detail of the mode of election and duration of office, was postponed.

The 6th resolve is taken in detail: "That each branch ought to possess the right of originating acts." Agreed to.

"That the national legislature ought to be empowered to enjoy the legislative rights vested in congress by the confederation." -Agreed to.

"And, moreover, to legislate in all cases to which the separate States are incompetent." -Agreed to.

FRIDAY, JUNE 1ST, 1787.

Met pursuant to adjournment.

The 7th resolve, that a national executive be instituted. Agreed to.

To continue in office for seven years. Agreed to.

A general authority to execute the laws. Agreed to.

To appoint all officers not otherwise provided for. Agreed to.

Adjourned to the next day.

SATURDAY, JUNE 2D, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. Pinkney called for the order of the day.

The convention went into committee of the whole.

Mr. Wilson moved that the States should be divided into districts, consisting of one or more States, and each district to elect a number of senators to form the second branch of the national legislature-The senators to be elected, and a certain proportion to be annually dismissed-avowedly on the plan of the New York senate. Question put-rejected.

In the 7th resolve, the words to be chosen by the national legislature, were agreed to.

President Franklin moved, that the consideration of that part of the 7th resolve, which had in object the making provision for a compensation for the service of the executive, be postponed for the purpose of considering a motion, that the executive should receive no salary, stipend, or emolument for the devotion of his time to the public services, but that his expenses should be paid.

Postponed.

Mr. Dickinson moved that in the seventh resolution, the words, and removable on impeachment and conviction for mal conduct or neglect in the execution of his office, should be inserted after the words ineligible a second time. Agreed to. The remainder postponed.

Mr. Butler moved to fill the number of which the executive should consist.

Mr. RANDOLPH. -The sentiments of the people ought to be consulted-they will not hear of the semblance of monarchy-He preferred three divisions of the States, and an executive to be taken from each. If a single executive, those remote from him would be neglected-local views would be attributed to him, frequently well founded, often without reason. This would excite disaffection. He was therefore for an executive of three.

Mr. BUTLER. -Delays, divisions, and dissensions arise from an executive consisting of many. Instanced Holland's distracted state, occasioned by her many counsellor's. Further consideration postponed.

Mr. C. Pinkney gave notice for the re-consideration of the mode of election of the first branch.

Adjourned till Monday next.

MONDAY, JUNE 4TH, 1787.

Met pursuant to adjournment.

Mr. Pinkney moved that the blank in the 7th resolve consisting of ----- be filled up with an individual.

Mr. Wilson, in support of the motion, asserted, that it would not be obnoxious to the minds of the people, as they in their State governments were accustomed and reconciled to a single executive. Three executives might divide, so that two could not agree in one proposition-the consequence would be anarchy and confusion.

Mr. Sherman thought there ought to be one executive, but that he ought to have a council. Even the king of Great Britain has his privy council.

Mr. Gerry was for one executive-if otherwise, it would be absurd to have it consist of three. Numbers equally in rank would oddly apply to a general or admiral.

Question put-7 States for, and 3 against. New York against it.

The 8th resolve, That the executive and a number of the judicial officers ought to compose a council of revision.

Mr. Gerry objects to the clause-moves its postponement in order to let in a motion-that the right of revision should be in the executive only.

Mr. Wilson contends that the executive and judicial ought to have a joint and full negative-they cannot otherwise preserve their importance against the legislature.

Mr. King was against the interference of the judicial-they may be biased in the interpretation-He is therefore to give the executive a complete negative.

Carried to be postponed, 6 States against 4-New York for it.

The next question, that the executive have a complete negative; and it was therefore moved to expunge the remaining part of the clause.

Dr. Franklin against the motion-The power dangerous, and would be abused so as to get money for passing bills.

Mr. Madison against it-because of the difficulty of an executive venturing on the exercise of this negative, and is therefore of opinion that the revisional authority is better.

Mr. Bedford is against the whole, either negative or revisional-the two branches are sufficient checks on each other-no danger of subverting the executive, because his powers may by the convention be so well defined that the legislature cannot overleap the bounds.

Mr. Mason against the negative power in the executive, because it will not accord with the genius of the people.

On this the question was put and carried, nem. con. against expunging part of the clause so as to establish a complete negative.

Mr. Butler then moved that all acts passed by the legislature be suspended for the space of ---- days by the executive.

Unanimously in the negative.

It was resolved and agreed, that the blank be filled up with the words two thirds of the legislature. Agreed to.

The question was then put on the whole of the resolve as amended and filled up. Carried, 8 states for-2 against. New York for it.

Mr. Wilson then moved for the addition of a convenient number of the national judicial to the executive as a council of revision. Ordered to be taken into consideration to-morrow.

Adjourned until to-morrow.

TUESDAY, JUNE 5TH, 1787.

Met pursuant to adjournment.

The 9th resolve, That a national judicial be established, to consist of one supreme tribunal, and of inferior tribunals, to hold their offices during good behavior, and no augmentation or diminution in the stipends during the time of holding their offices. Agreed to.

Mr. Wilson moved that the judicial be appointed by the executive, instead of the national legislature.

Mr. Madison opposed the motion, and inclined to think that the executive ought by no means to make the appointments, but rather that branch of the legislature called the senatorial; and moves that the words, of the appointment of the legislature, be expunged.

Carried by 8 states-against it 2.

The remaining part of the resolve postponed.

The 10th resolve read and agreed to

The 11th resolve agreed to be postponed.

The 12th resolve agreed to without debate.

The 13th and 14th resolves postponed.

The 15th or last resolve, That the amendment which shall be offered to the confederation, ought at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people, to consider and decide thereon, was taken into consideration.

Mr. Madison endeavored to enforce the necessity of this resolve-because the new national constitution ought to have the highest source of authority, at least paramount to the powers of the respective constitutions of the States- points out the mischiefs that have arisen in the old confederation, which depends upon no higher authority than the confirmation of an ordinary act of a legislature-instances the law operation of treaties, when contravened by any antecedent acts of a particular State.

Mr. King supposes, that as the people have tacitly agreed to a federal government, that therefore the legislature in every State have a right to confirm any alterations or amendments in it-a convention in each State to approve of a new government he supposes however the most eligible.

Mr. Wilson is of opinion that the people by a conventions are the only power that can ratify the proposed system of the new government.

It is possible that not all the States, nay, that not even a majority, will immediately come into the measure; but such as do ratify it will be immediately bound by it, and others as they may from time to time accede to it.

Question put for postponement of this resolve. 7 States for postponement-3 against it.

Question on the 9th resolve to strike out the words, and of inferior tribunals.

Carried by 5 States against 4-2 States divided, of which last number New York was one.

Mr. Wilson then moved, that the national legislature shall have the authority to appoint inferior tribunals, be added to the resolve.

Carried by 7 States against 3. New York divided. [N. B Mr. Lansing from New York was prevented by sickness from attending this day.]

Adjourned to to-morrow morning.

WEDNESDAY, JUNE 6TH, 1787.

Met pursuant to adjournment.

Mr. Pinkney moved (pursuant to a standing order forre-consideration) that in the 4th resolve, the words by the people, be expunged, and the words by the legislature, be inserted.

Mr. GERRY. -If the national legislature are appointed by the state legislatures, demagogues and corrupt members will creep in.

Mr. Wilson is of opinion that the national legislative powers ought to flow immediately from the people, so as to contain all their understanding, and to be an exact transcript of their minds. He observed that the people had already parted with as much of their power as was necessary, to form on its basis a perfect government; and the particular states must part with such a portion of it as to make the present national government, adequate to their peace and the security of their liberties. He admitted that the State governments would probably be rivals and opposers of the national government.

Mr. Mason observed that the national legislature, as to one branch, ought to be elected by the people; because the objects of their legislation will not be on States, but on individual persons.

Mr. Dickinson is for combining the State and national legislatures in the same views and measures, and that this object can only be effected by the national legislature flowing from the State legislatures.

Mr. Read is of opinion, that the State governments must sooner or later be at an end, and that therefore we must make the present national government as perfect as possible.

Mr. Madison is of opinion, that when we agreed to the first resolve of having a national government, consisting of a supreme executive, judicial, and legislative power, it was then intended to operate to the exclusion of a federal government, and the more extensive we made the basis, the greater probability of duration, happiness, and good order.

The question for the amendment was negatived, by 8 States against 3. New York in the majority.

On the 8th resolve, Mr. Wilson moved (in consequence of a vote to re-consider the question on the revisional powers vested in the executive) that there be added these words, with a convenient number of the national judicial.

Upon debate, carried in the negative-3 states for and 8 against it. New York for the addition.

THURSDAY, JUNE 7TH, 1787.

Met pursuant to adjournment.

Mr. Rutledge moved to take into consideration the mode of electing the second branch of the national legislature.

Mr. Dickinson thereupon moved, that the second branch of the national legislature be chosen by the legislatures of the individual states. He observed, that this mode will more intimately connect the State governments with the national legislature-it will also draw forth the first characters either as to family or talent, and that it ought to consist of a considerable number.

Mr. Wilson against the motion, because the two branches thus constituted, cannot agree, they having different views and different sentiments.

Mr. Dickinson is of opinion that the mode by him proposed, like the British house of lords and commons, whose powers flow from different sources, are mutual checks on each other, and will thus promote the real happiness and security of the country-a government thus established would harmonize the whole, and like the planetary system, the national council like the sun, would illumine the whole-the planets revolving round it in perfect order; or like the union of several small streams, would at last form a respectable river, gently flowing to the sea.

Mr. WILSON. The State governments ought to be preserved-the freedom of the people and their internal good police depends on their existence in full vigor- but such a government can only answer local purposes-That it is not possible a general government, as despotic as even that of the Roman emperors, could be adequate to the government of the whole without this distinction. He hoped that the national government would be independent of State governments, in order to make it vigorous, and therefore moved that the above resolution be postponed, and that the convention in its room adopt the following resolve: That the second branch of the national legislature be chosen by districts, to be formed for that purpose.

Mr. Sherman supposes the election of the national legislature will be better vested in the State legislatures, than by the people, for by pursuing different objects, persons may be returned who have not one tenth of the votes.

Mr. Gerry observed, that the great mercantile interest and of stockholders, is not provided for in any mode of election-they will however be better represented if the State legislatures choose the second branch.

Question carried against the postponement-10 states against 1.

Mr. Mason then spoke to the general question-observing on the propriety, that the second branch of the national legislature should flow from the legislature of each State, to prevent the encroachments on each other and to harmonize the whole.

The question put on the first motion, and carried unanimously. Adjourned to to-morrow morning.

FRIDAY, JUNE 8, 1787.

Met pursuant to adjournment-11 states.

Mr. Pinkney moved, That the national legislature shall have the power of negating all laws to be passed by the State legislatures which they may judge improper, in the room of the clause as it stood reported.

He grounds his motion on the necessity of one supreme controlling power, and he considers this as the corner-stone of the present system; and hence the necessity of retrenching the State authorities in order to preserve the good government of the national council.

Mr. Williamson against the motion. The national legislature ought to possess the power of negating such laws only as will encroach on the national government.

Mr. Madison wished that the line of jurisprudence could be drawn-he would be for it-but upon reflection he finds it impossible, and therefore lie is for the amendment. If the clause remains without the amendment it is inefficient-The judges of the State must give the State laws their operation, although the law abridges the rights of the national government-how is it to be repealed? By the power who made it? How shall you compel them? By force? To prevent this disagreeable expedient, the power of negating is absolutely necessary-this is the only attractive principle which will retain its centrifugal force, and without this the planets will fly from their orbits.

Mr. Gerry supposes that this power ought to extend to all laws already made; but the preferable mode would be to designate the powers of the national legislature, to which the negative ought to apply-he has no objection to restrain the laws which may be made for issuing paper money. Upon the whole he does not choose on this important trust, to take a leap in the dark.

Mr. Pinkney supposes that the proposed amendment had no retrospect to the State laws already made. The adoption of the new government must operate as a complete repeal of all the constitutions and State laws, as far as they are inconsistent with the new government.

Mr. Wilson supposes the surrender of the rights of a federal government to be a surrender of sovereignty. True, we may define some of the rights, but when we come near the line it cannot be found. One general excepting clause must therefore apply to the whole. In the beginning of our troubles, congress themselves were as one State-dissentions or State interests were not known-they gradually crept in after the formation of the constitution, and each took to himself a slice. The original draft of confederation was drawn on the first ideas, and the draft concluded on how different!

Mr. Bedford was against the motion, and states the proportion of the intended representation of the number 90: Delaware 1-Pennsylvania and Virginia one third. On this computation where is the weight of the small States when the interest of the one is in competition with the other on trade, manufactures, and agriculture? When he sees this mode of government so strongly advocated by the members of the great States, he must suppose it a question of interest.

Mr. Madison confesses it is not without its difficulties on many accounts-some may be removed, others modified, and some are unavoidable. May not this power be vested in the senatorial branch? they will probably be always sitting. Take the question on the other ground, who is to determine the line when drawn in doubtful cases? The State legislatures cannot, for they will be partial in support of their own powers-no tribunal can be found. It is impossible that the articles of confederation can be amended-they are too tottering to be invigorated-nothing but the present system, or something like it, can restore the peace and harmony of the country.

The question put on Mr. Pinkney's motion-7 States against it-Delaware divided- Virginia, Pennsylvania and Massachusetts for it.

Adjourned to to-morrow morning.

SATURDAY, JUNE 9TH, 1787.

Met pursuant to adjournment.

Motion by Mr. Gerry to reconsider the appointment of the national executive.

That the national executive be appointed by the State executives.

He supposed that in the national legislature there will be a great number of bad men of various descriptions-these will make a wrong appointment. Besides, an executive thus appointed, will have his partiality in favor of those who appointed him-that this will not be the case by the effect of his motion, and the executive will by this means be independent of the national legislature, but the appointment by the State executives ought to be made by votes in proportion to their weight in the scale of the representation.

Mr. Randolph opposes the motion. The power vested by it is dangerous- confidence will be wanting-the large States will be masters of the election-an executive ought to have great experience, integrity, and activity. The executives of the States cannot know the persons properly qualified as possessing these. An executive thus appointed will court the officers of his appointment, and will relax him in the duties of commander of the militia-Your single executive is already invested with negating laws of the State. Will he duly exercise the power? Is there no danger in the combinations of States to appoint such an executive as may be too favorable to local State governments? Add to this the expense and difficulty of bringing the executives to one place to exercise their powers. Can you suppose they will ever cordially raise the great oak, when they must sit as shrubs under its shade?

Carried against the motion, 10 noes, and Delaware divided.

On motion of Mr. Patterson, the consideration of the 2d resolve was taken up, which is as follows: Resolved, therefore, that the rights of suffrage in the national legislature ought to be apportioned to the quotas of contribution, or to the number of inhabitants, as the one or other rule may seem best in different cases.

Judge BREARLY. -The present question is an important one. On the principle that each State in the Union was sovereign, congress, in the articles of confederation, determined that each State in the public councils had one vote. If the States still remain sovereign, the form of the present resolve is founded on principles of injustice. He then stated the comparative weight of each State-the number of votes 90. Georgia would be 1, Virginia 16, and so of the rest. This vote must defeat itself, or end in despotism. If we must have a national government, what is the remedy? Lay the map of the confederation on the table, and extinguish the present boundary lines of the respective State jurisdictions, and make a new division so that each State is equal-then a government on the present system will be just.

Mr. Patterson opposed the resolve. Let us consider with what powers are we sent here? (moved to have the credentials of Massachusetts read, which was done.) By this and the other credentials we see, that the basis of our present authority is founded on a revision of the articles of the present confederation, and to alter or amend them in such parts where they may appear defective. Can we on this ground form a national government? I fancy not. - Our commissions give a complexion to the business; and can we suppose that when we exceed the bounds of our duty, the people will approve our proceedings?

We are met here as the deputies of 13 independent, sovereign States, for federal purposes. Can we consolidate their sovereignty and form one nation, and annihilate the sovereignties of our States who have sent us here for other purposes?

What, pray, is intended by a proportional representation? Is property to be considered as part of it? Is a man, for example, possessing a property of 4000 to have 40 votes to one possessing only 100? This has been asserted on a former occasion. If State distinctions are still to be held up, shall I submit the welfare of the State of New Jersey, with 5 votes in the national council, opposed to Virginia who has 16 votes? Suppose, as it was in agitation before the war, that

America had been represented in the British parliament, and had sent 200 members; what would this number avail against 600? We would have been as much enslaved in that case as when unrepresented; and what is worse, without the prospect of redress. But it is said that this national government is to act on individuals and not on States; and cannot a federal government be so framed as to operate in the same way? It surely may. I therefore declare, that I will never consent to the present system, and I shall make all the interest against it in the State which I represent that I can. Myself or my State will never submit to tyranny or despotism.

Upon the whole, every sovereign State, according to a confederation, must have an equal vote, or there is an end to liberty. As long, therefore, as State distinctions are held up, this rule must invariably apply; and if a consolidated national government must take place, then State distinctions must cease, or the States must be equalized.

Mr. Wilson was in favor of the resolve. He observed that a majority, nay, even a minority of the States, have a right to confederate with each other, and the rest may do as they please. He considered numbers as the best criterion to determine representation. Every citizen of one State possesses the same rights with the citizen of another. Let us see how this rule will apply to the present question. Pennsylvania, from its numbers, has a right to 12 votes, when on the same principle New Jersey is entitled to 5 votes. Shall New Jersey have the same right or influence in the councils of the nation with Pennsylvania? I say no. It is unjust-I never will confederate on this plan. The gentleman from New Jersey is candid in declaring his opinion-I commend him for it-I am equally so. I say again, I never will confederate on his principles. If no State will part with any of its sovereignty, it is in vain to talk of a national government. The State who has five times the number of inhabitants ought, nay must have the same proportion of weight in the representation. If there was a probability of equalizing the States, he would be for it. But we have no such power. If, however, we depart from the principles of representation in proportion to numbers, we will lose the object of our meeting.

The question postponed for farther consideration.

Adjourned to to-morrow morning.

MONDAY, JUNE 11TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. Sherman moved that the first branch of the national legislature be chosen in proportion to the number of the whole inhabitants in each State. He observed that as the people ought to have the election of one of the branches of the legislature, the legislature of each State ought to have the election of the second branch, in order to preserve the State sovereignty; and that each State ought in this branch to have one vote.

Governor Rutledge moved, as an amendment of the first proposition, that the proportion of representation ought to be according to, and in proportion to the contribution of each State.

Mr. Butler supported the motion, by observing that money is strength, and every State ought to have its weight in the national council in proportion to the quantity it possesses. He further observed, that when a boy he read this as one of the remarks of Julius Caesar, who declared if he had but money he would find soldiers, and every thing necessary to carry on a war.

Mr. King observed, that it would be better first to establish a principle (that is to say) whether we will depart from federal grounds in forming a national government; and therefore, to bring this point to view, he moved, as a previous question, that the sense of the committee be taken on the following question:

That the right of suffrage in the first branch of the national legislature, ought not to be according to the rule in the articles of confederation, but according to some equitable ratio of representation.

Gov. Franklin's written remarks on this point were read by Mr. Wilson. In these Gov. Franklin observes, that representation ought to be in proportion to the importance of numbers or wealth in each State-that there can be no danger of undue influence of the greater against the lesser States. This was the apprehension of Scotland when the union with England was proposed, when in parliament they were allowed only 16 peers and 45 commons; yet experience has proved that their liberties and influence were in no danger.

The question on Mr. King's motion was carried in the affirmative-7 ayes-3 noes, and Maryland divided. New York, New Jersey, and Delaware in the negative.

Mr. Dickinson moved as an amendment, to add the words, according to the taxes and contributions of each State actually collected and paid into the national treasury.

Mr. Butler was of opinion that the national government will only have the right of making and collecting the taxes, but that the States individually must lay their own taxes.

Mr. Wilson was of opinion, and therefore moved, that the mode of representation of each of the States ought to be from the number of its free inhabitants, and of every other description three fifths to one free inhabitant. He supposed that the impost will not be the only revenue-the post office he supposes would be another substantial source of revenue. He observed further, that this mode had already received the approbation of eleven States in their acquiescence to the quota made by congress. He admitted that this resolve would require further restrictions, for where numbers determined the representation a census at different periods of 5, 7 or 10 years, ought to be taken.

Mr. GERRY. The idea of property ought not to be the rule of representation. Blacks are property, and are used to the southward as horses and cattle to the northward: and why should their representation be increased to the southward on account of the number of slaves, than horses or oxen to the north?

Mr. Madison was of opinion at present, to fix the standard of representation, and let the detail be the business of a sub-committee.

Mr. Rutledge's motion was postponed.

Mr. Wilson's motion was then put, and carried by 9 States against 2. New York in the majority.

Mr. Wilson then moved, as an amendment to Mr. Sherman's motion, That the same proportion be observed in the election of the second branch as the first.

The question however was first put on Mr. Sherman's motion, and lost-6 States against, and 5 for it.

Then Mr. Wilson's motion was put and carried-6 ayes, 5 noes.

The eleventh resolve was then taken into consideration. Mr. Madison moved to add after the word junctions, the words, or separation.

Mr. Read against the resolve in toto. We must put away State governments, and we will then remove all cause of jealousy. The guarantee will confirm the assumed rights of several States to lands which do belong to the confederation.

Mr. Madison moved an amendment, to add to or alter the resolution as follows: The republican constitutions and the existing laws of each State, to be guaranteed by the United States.

Mr. Randolph was for the present amendment, because a republican government must be the basis of our national union; and no State in it ought to have it in their power to change its government into a monarchy. -Agreed to.

13th Resolve-the first part agreed to.

14th Resolve-taken into consideration.

Mr. WILLIAMSON. This resolve will be unnecessary, as the union will become the law of the land.

Governor RANDOLPH. He supposes it to be absolutely necessary. Not a State government, but its officers will infringe on the rights of the national government. If the State judges are not sworn to the observance of the new government, will they not judicially determine in favor of their State laws? We are erecting a supreme national government; ought it not to be supported, and can we give it too many sinews?

Mr. Gerry rather supposes that the national legislators ought to be sworn to preserve the State constitutions, as they will run the greatest risk to be annihilated-and therefore moved it.

For Mr. Gerry's amendment, 7 ayes, 4 noes.

Main question then put on the clause or resolve-6 ayes, 5 noes. New York in the negative.

Adjourned to to-morrow morning.

TUESDAY, JUNE 12TH, 1787.

Met pursuant to adjournment. Present 11 States.

The 15th, or last resolve, was taken into consideration. No debate arose on it, and the question was put and carried-5 States for it, 3 against, and 2 divided. New York in the negative.

Having thus gone through with the resolves, it was found necessary to take up such parts of the preceding resolves as had been postponed, or not agreed to. The remaining part of the 4th resolve was taken into consideration.

Mr. Sherman moved that the blank of the duration of the first branch of the national legislature, be filled with one year. Mr. Rutledge with two years, and Mr. Jenifer with three years.

Mr. Madison was for the last amendment-observing that it will give it stability, and induce gentlemen of the first weight to engage in it.

Mr. Gerry is afraid the people will be alarmed, as savoring of despotism.

Mr. MADISON. The people's opinions cannot be known, as to the particular modifications which may be necessary in the new government-In general, they believe there is something wrong in the present system that requires amendment; and he could wish to make the republican system the basis of the change-because if our amendments should fail of securing their happiness, they will despair it can be done in this way, and incline to monarchy.

Mr. Gerry could not be governed by the prejudices of the people-Their good sense will ever have its weight. Perhaps a limited monarchy would be the best government, if we could organize it by creating a house of peers; but that cannot be done.

The question was put on the three years' amendment, and carried-7 ayes-4 noes. New York in the affirmative.

On motion to expunge the clause of the qualification as to age, it was carried, 10 States against one.

On the question for fixed stipends, without augmentation or diminution, to this branch of the legislature, it was moved that the words, to be paid by the national treasury, be added-Carried, 8 States for-3 against. New York in the negative.

The question was then put on the clause as amended, and carried, 8 ayes-3 noes. New York in the negative.

On the clause respecting the ineligibility to any other office, it was moved that the words, by any particular State, be expunged. 4 States for-5 against, and 2 divided. New York affirmative.

The question was then put on the whole clause, and carried, 10 ayes-1 no.

The last blank was filled up with one year, and carried-8 ayes-2 noes, 1 divided.

Mr. Pinkney moved to expunge the clause. Agreed to, nem. con.

The question to fill up the blank with 30 years. Agreed to-7 States for-4 against.

It was moved to fill the blank, as to the duration, with seven years.

Mr. Pierce moved to have it for three years-instanced the danger of too long a continuance, from the evils arising in the British parliaments from their septennial duration, and the clamors against it in that country by its real friends.

Mr. Sherman was against the 7 years, because if they are bad men it is too long, and if good they may be again elected.

Mr. Madison was for 7 years-Considers this branch as a check on the democracy- it cannot therefore be made too strong.

For the motion, 8 ayes-1 no-2 States divided. New York one of the last.

Mr. Butler moved to expunge the clause of the stipends. Lost-7 against-3 for- 1 divided.

Agreed that the second branch of the national legislature be paid in the same way as the first branch.

Upon the subject of ineligibility, it was agreed that the same rule should apply as to the first branch.

6th resolve agreed to be postponed, sine die.

9th resolve taken into consideration, but postponed to to-morrow. Then adjourned to to-morrow morning.

WEDNESDAY, JUNE 13TH, 1787.

Met pursuant to adjournment. Present 11 States.

Gov. Randolph observed the difficulty in establishing the powers of the judiciary-the object however at present is to establish this principle, to wit, the security of foreigners where treaties are in their favor, and to preserve the harmony of States and that of the citizens thereof. This

being once established, it will be the business of a sub-committee to detail it; and therefore moved to obliterate such parts of the resolve so as only to establish the principle, to wit, that the jurisdiction of the national judiciary shall extend to all cases of national revenue, impeachment of national officers, and questions which involve the national peace or harmony. Agreed to unanimously.

It was further agreed, that the judiciary be paid out of the national treasury.

Mr. Pinkney moved that the judiciary be appointed by the national legislature.

Mr. Madison is of opinion that the second branch of the legislature ought to appoint the judiciary, which the convention agreed to.

Mr. Gerry moved that the first branch shall have the only right of originating bills to supply the treasury.

Mr. Butler against the motion. We are constantly running away with the idea of the excellence of the British parliament, and with or without reason copying from them; when in fact there is no similitude in our situations. With us both houses are appointed by the people, and both ought to be equally trusted.

Mr. GERRY. If we dislike the British government for the oppressive measures by them carried on against us, yet he hoped we would not be so far prejudiced as to make ours in every thing opposite to theirs.

Mr. Madison's question carried.

The committee having now gone through the whole of the propositions from Virginia-Resolved, That the committee do report to the convention their proceedings-This was accordingly done. [See a copy of it hereunto annexed.]

The house resolved on the report being read, that the consideration thereof be postponed to to-morrow, and that members have leave to take copies thereof.

Adjourned to to-morrow morning.

THURSDAY, JUNE 14TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. Patterson moved that the further consideration of the report be postponed until to-morrow, as he intended to give in principles to form a federal system of government materially different from the system now under consideration. Postponement agreed to.

Adjourned until to-morrow morning.

FRIDAY, JUNE 15TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. Patterson, pursuant to his intentions as mentioned yesterday, read a set of resolves as the basis of amendment to the confederation. [See those resolves annexed.

He observed that no government could be energetic on paper only, which was no more than straw-that the remark applied to the one as well as to the other system, and is therefore of opinion that there must be a small standing force to give every government weight.

Mr. Madison moved for the report of the committee, and the question may then come on whether the convention will postpone it in order to take into consideration the system now offered.

Mr. Lansing is of opinion that the two systems are fairly contrasted. The one now offered is on the basis of amending the federal government, and the other to be reported as a national government, on propositions which exclude the propriety of amendment. Considering therefore its importance, and that justice may be done to its weighty consideration, he is for postponing it a day.

Col. Hamilton cannot say he is in sentiment with either plan-supposes both might again be considered as federal plans, and by this means they will be fairly in committee, and be contrasted so as to make a comparative estimate of the two.

Thereupon it was agreed, that the report be postponed, and that the house will resolve itself into a committee of the whole, to take into consideration both propositions to-morrow. Then the convention adjourned to to-morrow morning.

SATURDAY, JUNE 16TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. Lansing moved to have the first article of the last plan of government read; which being done, he observed, that this system is fairly contrasted with the one ready to be reported-the one federal, and the other national. In the first, the powers are exercised as flowing from the respective State governments-The second, deriving its authority from the people of the respective States-which latter must ultimately destroy or annihilate the State governments. To determine the powers on these grand objects with which we are invested, let us recur to the credentials of the respective States, and see what the views were of those who sent us. The language is there expressive-it is upon the revision of the present confederation, to alter and amend such parts as may appear defective, so as to give additional strength to the union. And he would venture to assert, that had the legislature of the State of New York, apprehended that their powers would have been construed to extend to the formation of a national government, to the extinguishment of their independency, no delegates would have here appeared on the part of that State. This sentiment must have had its weight on a former occasion, even in this house; for when the

second resolution of Virginia, which declared, in substance, that a federal government could not be amended for the good of the whole, the remark of an honorable member of South Carolina, that by determining this question in the affirmative their deliberative powers were at an end, induced this house to waive the resolution. It is in vain to adopt a mode of government which we have reason to believe the people gave us no power to recommend-as they will consider themselves on this ground authorized to reject it. See the danger of exceeding your powers by the example which the requisition of congress of 1783 afforded. They required an impost on all imported articles, to which, on federal grounds, they had no right unless voluntarily granted. What was the consequence? Some, who had least to give, granted it; and others, under various restrictions and modifications, so that it could not be systematized. If we form a government, let us do it on principles which are likely to meet the approbation of the States. Great changes can only be gradually introduced. The States will never sacrifice their essential rights to a national government. New plans, annihilating the rights of the States (unless upon evident necessity) can never be approved. I may venture to assert, that the prevalent opinion of America is, that granting additional powers to congress would answer their views; and every power recommended for their approbation exceeding this idea, will be fruitless.

Mr. PATTERSON. -As I had the honor of proposing a new system of government for the union, it will be expected that I should explain its principles.

1st. The plan accords with our own powers.

2d. It accords with the sentiments of the people.

But if the subsisting confederation is so radically defective as not to admit of amendment, let us say so and report its insufficiency, and wait for enlarged powers. We must, in the present case, pursue our powers, if we expect the approbation of the people. I am not here to pursue my own sentiments of government, but of those who have sent me; and I believe that a little practical virtue is to be preferred to the finest theoretical principles, which cannot be carried into effect. Can we, as representatives of independent States, annihilate the essential powers of independency? Are not the votes of this convention taken on every question under the idea of independency? Let us turn to the 5th article of confederation-in this it is mutually agreed, that each State should have one vote-It is a fundamental principle arising from confederated governments. The 13th article provides for amendments; but they must be agreed to by every State-the dissent of one renders every proposal null. The confederation is in the nature of a compact; and can any State, unless by the consent of the whole, either in politics or law, withdraw their powers? Let it be said by Pennsylvania, and the other large States, that they, for the sake of peace, assented to the confederation; can she now resume her original right without the consent of the donee?

And although it is now asserted that the larger States reluctantly agreed to that part of the confederation which secures an equal suffrage to each, yet let it be remembered, that the smaller States were the last who approved the confederation.

On this ground representation must be drawn from the States to maintain their independency, and not from the people composing those States.

The doctrine advanced by a learned gentleman from Pennsylvania, that all power is derived from the people, and that in proportion to their numbers they ought to participate equally in the benefits and rights of government, is right in principle, but unfortunately for him, wrong in the application to the question now in debate.

When independent societies confederate for mutual defence, they do so in their collective capacity; and then each State, for those purposes, must be considered as one of the contracting parties. Destroy this balance of equality, and you endanger the rights of the lesser societies by the danger of usurpation in the greater.

Let us test the government intended to be made by the Virginia plan on these principles. The representatives in the national legislature are to be in proportion to the number of inhabitants in each State. So far it is right, upon the principles of equality, when State distinctions are done away; but those to certain purposes still exist. Will the government of Pennsylvania admit a participation of their common stock of land to the citizens of New Jersey? I fancy not. It therefore follows, that a national government upon the present plan, is unjust, and destructive of the common principles of reciprocity. Much has been said that this government is to operate on persons, not on States. This, upon examination, will be found equally fallacious; for the fact is, it will, in the quotas of revenue, be proportioned among the States, as States; and in this business Georgia will have one vote, and Virginia sixteen. The truth is, both plans may be considered to compel individuals to a compliance with their requisitions, although the requisition is made on the States.

Much has been said in commendation of two branches in a legislature, and of the advantages resulting from their being checks to each other. This may be true when applied to State governments, but will not equally apply to a national legislature, whose legislative objects are few and simple.

Whatever may be said of congress, or their conduct on particular occasions, the people in general are pleased with such a body, and in general wish an increase of their powers for the good government of the union. Let us now see the plan of the national government on the score of expense. The least the second branch of the legislature can consist of is 90 members-The first branch of at least 270. How are they to be paid in our present improverished situation? Let us, therefore, fairly try whether the confederation cannot be mended, and if it can, we shall do our duty, and I believe the people will be satisfied.

Mr. Wilson first stated the difference between the two plans

Virginia plan proposes two branches in the legislature.

Jersey a single legislative body.

Virginia, the legislative powers derived from the people.

Jersey, from the States.

Virginia, a single executive.

Jersey, more than one.

Virginia, a majority of the legislature can act.

Jersey, a small minority can control.

Virginia, the legislature can legislate on all national concerns.

Jersey, only on limited objects.

Virginia, legislature to negative all State laws.

Jersey, giving power to the executive to compel obedience by force.

Virginia, to remove the executive by impeachment.

Jersey, on application of a majority of the States.

Virginia, for the establishment of inferior judiciary tribunals.

Jersey, no provision.

It is said and insisted on, that the Jersey plan accords with our powers. As for himself, he considers his powers to extend to every thing or nothing; and therefore that he has a right, and is at liberty to agree to either plan or none. The people expect relief from their present embarrassed situation, and look up for it to this national convention; and it follows that they expect a national government, and therefore the plan from Virginia has the preference to the other. I would (says he) with a reluctant hand add any powers to congress, because they are not a body chosen by the people, and consist only of one branch, and each State in it has one vote. Inequality in representation poisons every government. The English courts are hitherto pure, just and incorrupt, while their legislature are base and venal. The one arises from unjust representation, the other from their independency of the legislature. Lord Chesterfield remarks that one of the states of the United Netherlands withheld its assent to a proposition until a major of their state was provided for. He needed not to have added (for the conclusion was self evident) that it was one of the lesser states. I mean no reflection, but I leave it to gentlemen to consider whether this has not also been the case in congress? The argument in favor of the Jersey plan goes too far, as it cannot be completed, unless Rhode Island assents. A single legislature is very dangerous. - Despotism may present itself in various shapes. May there not be legislative despotism if in the exercise of their power they are unchecked or unrestrained by another branch? On the contrary

an executive to be restrained must be an individual. The first triumvirate of Rome combined, without law, was fatal to its liberties; and the second, by the usurpation of Augustus, ended in despotism. -The two kings of Sparta and the consuls of Rome, by sharing the executive, distracted their governments.

Mr. C. C. Pinkney supposes that if New Jersey was indulged with one vote out of 13, she would have no objection to a national government. He supposes that the convention have already determined, virtually, that the federal government cannot be made efficient. A national government being therefore the object, this plan must be pursued-as our business is not to conclude but to recommend.

Judge Elsworth is of opinion that the first question on the new plan will decide nothing materially on principle, and therefore moved the postponement thereof, in order to bring on the second.

Gov. RANDOLPH. -The question now is which of the two plans is to be preferred. If the vote on the first resolve will determine it, and it is so generally understood, he has no objection that it be put. The resolutions from Virginia must have been adopted on the supposition that a federal government was impracticable-And it is said that power is wanting to institute such a government. -But when our all is at stake, I will consent to any mode that will preserve us. View our present deplorable situation-France, to whom we are indebted in every motive of gratitude and honor, is left unpaid the large sums she has supplied us with in the day of our necessity-Our officers and soldiers, who have successfully fought our battles-and the loaners of money to the public, look up to you for relief.

The bravery of our troops is degraded by the weakness of our government.

It has been contended that the 5th article of the confederation cannot be repealed under the powers to new modify the confederation by the 13th article. This surely is false reasoning, since the whole of the confederation upon revision is subject to amendment and alteration; besides our business consists in recommending a system of government, not to make it. There are great seasons when persons with limited powers are justified in exceeding them, and a person would be contemptible not to risk it. Originally our confederation was founded on the weakness of each State to repel a foreign enemy; and we have found that the powers granted to congress are insufficient. The body of congress is ineffectual to carry the great objects of safety and protection into execution. What would their powers be over the commander of the military, but for the virtue of the commander? As the State assemblies are constantly encroaching on the powers of congress, the Jersey plan would rather encourage such encroachments than be a check to it; and from the nature of the institution, congress would ever be governed by cabal and intrigue-They are besides too numerous for an executive, nor can any additional powers be sufficient to enable them to protect us against foreign invasion. Amongst other things congress was intended to be a body to preserve peace among the States, and in the rebellion of Massachusetts it was found they were not authorized to use the troops of the confederation to quell it. Every one is impressed with the idea of a general regulation of trade and commerce. Can congress do this? when from the nature of their institution they are subject to cabal and intrigue? And would it not be dangerous

to entrust such a body with the power, when they are dreaded on these grounds? I am certain that a national government must be established, and this is the only moment when it can be done-And let me conclude by observing, that the best exercise of power is to exert it for the public good.

Then adjourned to Monday morning.

MONDAY, JUNE 19TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. HAMILTON-To deliver my sentiments on so important a subject, when the first characters in the union have gone before me, inspires me with the greatest diffidence, especially when my own ideas are so materially dissimilar to the plans now before the committee-My situation is disagreeable, but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the confederation can answer the purpose of a good government, so long as State sovereignties do, in any shape, exist; and I have great doubts whether a national government on the Virginia plan can be made effectual. What is federal? An association of several independent States into one. How or in what manner this association is formed, is not so clearly distinguishable. We find the diet of Germany has in some instances the power of legislation on individuals. We find the United States of America have it in an extensive degree in the cases of piracies.

Let us now review the powers with which we are invested. We are appointed for the sole and express purpose of revising the confederation, and to alter or amend it, so as to render it effectual for the purpose of a good government. Those who suppose it must be federal, lay great stress on the terms sole and express, as if these words intended a confinement to a federal government; when the manifest import is no more than that the institution of a good government must be the sole and express object of your deliberations. Nor can we suppose an annihilation of our powers by forming a national government, as many of the States have made in their constitutions no provision for any alteration; and thus much I can say for the State I have the honor to represent, that when our credentials were under consideration in the senate, some members were for inserting a restriction in the powers, to prevent an encroachment on the constitution: it was answered by others, and then upon the resolve carried on the credentials, that it might abridge some of the constitutional powers of the State, and that possibly in the formation of a new union it would be found necessary. This appears reasonable, and therefore leaves us at liberty to form such a national government as we think best adapted to the good of the whole. I have therefore no difficulty as to the extent of our powers, nor do I feel myself restrained in the exercise of my judgment under them. We can only propose and recommend-the power of ratifying or rejecting is still in the States. But on this great question I am still greatly embarrassed. I have before observed my apprehension of the inefficacy of either plan, and I have great doubts whether a more energetic government can pervade this wide and extensive country. I shall now show that both plans are materially defective.

1. A good government ought to be constant, and ought to contain an active principle.

2. Utility and necessity.
3. An habitual sense of obligation.
4. Force.
5. Influence.

I hold it, that different societies have all different views and interests to pursue, and always prefer local to general concerns. For example: New York legislature made an external compliance lately to a requisition of congress; but do they not at the same time counteract their compliance by gratifying the local objects of the State so as to defeat their concession? And this will ever be the case. Men always love power, and States will prefer their particular concerns to the general welfare; and as the States become large and important, will they not be less attentive to the general government? What in process of time will Virginia be? She contains now half a million of inhabitants-in twenty-five years she will double the number. Feeling her own weight and importance, must she not become indifferent to the concerns of the union? And where, in such a situation, will be found national attachment to the general government.

By force, I mean the coercion of law and the coercion of arms. Will this remark apply to the power intended to be vested in the government to be instituted by their plan? A delinquent must be compelled to obedience by force of arms. How is this to be done? If you are unsuccessful, a dissolution of your government must be the consequence; and in that case the individual legislatures will reassume their powers; nay, will not the interest of the States be thrown into the State governments?

By influence, I mean the regular weight and support it will receive from those who will find it their interest to support a government intended to preserve the peace and happiness of the community of the whole. The State governments, by either plan will exert the means to counteract it. They have their State judges and militia, all combined to support their State interests; and these will be influenced to oppose a national government. Either plan is therefore precarious. The national government cannot long exist when opposed by such a weighty rival. The experience of ancient and modern confederacies evince this point, and throw considerable light on the subject. The amphycionian council of Greece had a right to require of its members troops, money, and the force of the country. Were they obeyed in the exercise of those powers? Could they preserve the peace of the greater States and republics? or where were they obeyed? History shows that their decrees were disregarded, and that the stronger states, regardless of their power, gave law to the lesser.

Let us examine the federal institution of Germany. It was instituted upon the laudable principle of securing the independency of the several states of which it was composed, and to protect them against foreign invasion. Has it answered these good intentions? Do we not see that their councils are weak and distracted, and that it cannot prevent the wars and confusion which the respective electors carry on against each other? The Swiss cantons, or the Helvetic union, are equally inefficient.

Such are the lessons which the experience of others affords us, and from whence results the evident conclusion that all federal governments are weak and distracted. To avoid the evils deducible from these observations, we must establish a general and national government, completely sovereign, and annihilate the State distinctions and State operations; and unless we do this, no good purpose can be answered. What does the Jersey plan propose? It surely has not this for its object. By this we grant the regulation of trade and a more effectual collection of the revenue, and some partial duties. These, at five or ten per cent. would only perhaps amount to a fund to discharge the debt of the corporation.

Let us take a review of the variety of important objects which must necessarily engage the attention of a national government. You have to protect your rights against Canada on the north, Spain on the south, and your western frontier against the savages. You have to adopt necessary plans for the settlement of your frontiers, and to institute the mode in which settlements and good government are to be made.

How is the expense of supporting and regulating these important matters to be defrayed? By requisition on the States, according to the Jersey plan? Will this do it? We have already found it ineffectual. Let one State prove delinquent, and it will encourage others to follow the example; and thus the whole will fail. And what is the standard to quota among the States their respective proportions? Can lands be the standard? How would that apply between Russia and Holland? Compare Pennsylvania with North-Carolina, or Connecticut with New York. Does not commerce or industry in the one or other make a great disparity between these different countries, and may not the comparative value of the States from these circumstances, make an unequal disproportion when the data is numbers? I therefore conclude that either system would ultimately destroy the confederation, or any other government which is established on such fallacious principles. Perhaps imposts, taxes on specific articles, would produce a more equal system of drawing a revenue.

Another objection against the Jersey plan is, the unequal representation. Can the great States consent to this? If they did it would eventually work its own destruction. How are forces to be raised by the Jersey plan? By quotas? Will the States comply with the requisition? As much as they will with the taxes.

Examine the present confederation, and it is evident they can raise no troops nor equip vessels before war is actually declared. They cannot therefore take any preparatory measure before an enemy is at your door. How unwise and inadequate their powers! and this must ever be the case when you attempt to define powers. -Something will always be wanting. Congress, by being annually elected, and subject to recall, will ever come with the prejudices of their States rather than the good of the union. Add therefore additional powers to a body thus organized, and you establish a sovereignty of the worst kind, consisting of a single body. Where are the checks? None. They must either prevail over the State governments, or the prevalence of the State governments must end in their dissolution. This is a conclusive objection to the Jersey plan.

Such are the insuperable objections to both plans: and what is to be done on this occasion? I confess I am at a loss. I foresee the difficulty on a consolidated plan of drawing a representation

from so extensive a continent to one place. What can be the inducements for gentlemen to come 600 miles to a national legislature? The expense would at least amount to 100,000. This however can be no conclusive objection if it eventuates in an extinction of State governments. The burthen of the latter would be saved, and the expense then would not be great. State distinctions would be found unnecessary, and yet I confess, to carry government to the extremities, the State governments reduced to corporations, and with very limited powers, might be necessary, and the expense of the national government become less burdensome.

Yet, I confess, I see great difficulty of drawing forth a good representation. What, for example, will be the inducements for gentlemen of fortune and abilities to leave their houses and business to attend annually and long? It cannot be the wages; for these, I presume, must be small. Will not the power, therefore, be thrown into the hands of the demagogue or middling politician, who, for the sake of a small stipend and the hopes of advancement, will offer himself as a candidate, and the real men of weight and influence, by remaining at home, add strength to the State governments? I am at a loss to know what must be done-I despair that a republican form of government can remove the difficulties. Whatever may be my opinion, I would hold it however unwise to change that form of government. I believe the British government forms the best model the world ever produced, and such has been its progress in the minds of the many, that this truth gradually gains ground. This government has for its object public strength and individual security. It is said with us to be unattainable. If it was once formed it would maintain itself. All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontroled disposition requires checks. The senate of New York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good executive upon a democratic plan. See the excellency of the British executive-He is placed above temptation-He can have no distinct interests from the public welfare. Nothing short of such an executive can be efficient. The weak side of a republican government is the danger of foreign influence. This is unavoidable, unless it is so constructed as to bring forward its first characters in its support. I am therefore for a general government, yet would wish to go the full length of republican principles.

Let one body of the legislature be constituted during good behavior or life.

Let one executive be appointed who dares execute his powers.

It may be asked, is this a republican system? It is strictly so, as long as they remain elective.

And let me observe, that an executive is less dangerous to the liberties of the people when in office during life, than for seven years.

It may be said this constitutes an elective monarchy! Pray what is a monarchy? May not the governors of the respective States be considered in that light? But by making the executive subject to impeachment, the term monarchy cannot apply. These elective monarchs have produced tumults in Rome, and are equally dangerous to peace in Poland; but this cannot apply to the mode in which I would propose the election. Let the electors be appointed in each of the States to elect the executive-[Here Mr. H. produced his plan, a copy whereof is hereunto annexed]-to consist of two branches-and I would give them the unlimited power of passing all laws without exception. The assembly to be elected for three years by the people in districts-the senate to be elected by electors to be chosen for that purpose by the people, and to remain in office during life. The executive to have the power of negating all laws-to make war or peace, with the advice of the senate-to make treaties with their advice, but to have the sole direction of all military operations, and to send ambassadors and appoint all military officers, and to pardon all offenders, treason excepted, unless by advice of the senate. On his death or removal, the president of the senate to officiate, with the same powers, until another is elected. Supreme judicial officers to be appointed by the executive and the senate. The legislature to appoint courts in each State, so as to make the State governments unnecessary to it.

All State laws to be absolutely void which contravene the general laws. An officer to be appointed in each State to have a negative on all State laws. All the militia and the appointment of officers to be under the national government.

I confess that this plan and that from Virginia are very remote from the idea of the people. Perhaps the Jersey plan is nearest their expectation. But the people are gradually ripening in their opinions of government-they begin to be tired of an excess of democracy-and what even is the Virginia plan, but pork still, with a little change of the sauce.

Then adjourned to to-morrow.

TUESDAY, JUNE 19TH, 1787.

Met pursuant to adjournment. Present 11 States.

On the consideration of the first resolve of the Jersey plan.

Mr. MADISON. This is an important question-Many persons scruple the powers of the convention. If this remark had any weight, it is equally applicable to the adoption of either plan. The difference of drawing the powers in the one from the people and in the other from the States, does not affect the powers. There are two States in the union where the members of congress are chosen by the people. A new government must be made. Our all is depending on it; and if we have but a clause that the people will adopt, there is then a chance for our preservation. Although all the States have assented to the confederation, an infraction of any one article by one of the States is a dissolution of the whole. This is the doctrine of the civil law on treaties.

Jersey pointedly refused complying with a requisition of congress, and was guilty of this infraction, although she afterwards rescinded her non-complying resolve. What is the object of a confederation? It is two-fold-1st, to maintain the union; 2dly, good government. Will the Jersey plan secure these points? No; it is still in the power of the confederated States to violate treaties-Has not Georgia, in direct violation of the confederation, made war with the Indians, and concluded treaties? Have not Virginia and Maryland entered into a partial compact? Have not Pennsylvania and Jersey regulated the bounds of the Delaware? Has not the State of Massachusetts, at this time, a considerable body of troops in pay? Has not congress been obliged to pass a conciliatory act in support of a decision of their federal court between Connecticut and Pennsylvania, instead of having the power of carrying into effect the judgment of their own court? Nor does the Jersey plan provide for a ratification by the respective States of the powers intended to be vested. It is also defective in the establishment of the judiciary, granting only an appellate jurisdiction, without providing for a second trial; and in case the executive of a State should pardon an offender, how will it effect the definitive judgment on appeal? It is evident, if we do not radically depart from a federal plan, we shall share the fate of ancient and modern confederacies. The amphycionic council, like the American congress, had the power of judging in the last resort in war and peace-call out forces-send ambassadors. What was its fate or continuance? Philip of Macedon, with little difficulty, destroyed every appearance of it. The Athenian had nearly the same fate-The Helvetic confederacy is rather a league-In the German confederacy the parts are too strong for the whole-The Dutch are in a most wretched situation-weak in all its parts, and only supported by surrounding contending powers.

The rights of individuals are infringed by many of the State laws-such as issuing paper money, and instituting a mode to discharge debts differing from the form of the contract. Has the Jersey plan any checks to prevent the mischief? Does it in any instance secure internal tranquillity? Right and force, in a system like this, are synonymous terms. When force is employed to support the system, and men obtain military habits, is there no danger they may turn their arms against their employers? Will the Jersey plan prevent foreign influence? Did not Persia and Macedon distract the councils of Greece by acts of corruption? And is not Jersey and Holland at this day subject to the same distractions? Will not the plan be burdensome to the smaller States, if they have an equal representation? But how is military coercion to enforce government? True, a smaller State may be brought to obedience, or crushed; but what if one of the larger States should prove disobedient, are you sure you can by force effect a submission? Suppose we cannot agree on any plan, what will be the condition of the smaller States? Will Delaware and Jersey be safe against Pennsylvania, or Rhode Island against Massachusetts? And how will the smaller States be situated in case of partial confederacies? Will they not be obliged to make larger concessions to the greater States? The point of representation is the great point of difference, and which the greater States cannot give up; and although there was an equalization of States, State distinctions would still exist. But this is totally impracticable; and what would be the effect of the Jersey plan if ten or twelve new States were added?

Mr. King moved that the committee rise and report that the Jersey plan is not admissible, and report the first plan.

Mr. Dickinson supposed that there were good regulations in both. Let us therefore contrast the one with the other, and consolidate such parts of them as the committee approve.

Mr. King's motion was then put-For it 7 States-3 against-one divided. New York in the minority.

The committee rose and reported again the first plan, and the inadmissibility of the Jersey plan.

The convention then proceeded to take the first plan into consideration.

The first resolve was read.

Mr. WILSON. I am (to borrow a sea-phrase) for taking a new departure, and I wish to consider in what direction we sail, and what may be the end of our voyage. I am for a national government, though the idea of federal is, in my view, the same. With me it is not a desirable object to annihilate the State governments, and here I differ from the honorable gentleman from New York. In all extensive empires a subdivision of power is necessary. Persia, Turkey, and Rome, under its emperors, are examples in point. These, although despots, found it necessary. A general government, over a great extent of territory, must, in a few years, make subordinate jurisdictions. -Alfred the great, that wise legislator, made this gradation, and the last division on his plan amounted only to ten territories. With this explanation, I shall be for the first resolve.

Mr. HAMILTON. I agree to the proposition. I did not intend yesterday a total extinguishment of State governments; but my meaning was, that a national government ought to be able to support itself without the aid or interference of the State governments, and that therefore it was necessary to have full sovereignty. Even with corporate rights the States will be dangerous to the national government, and ought to be extinguished, new modified, or reduced to a smaller scale.

Mr. KING. None of the States are now sovereign or independent-Many of these essential rights are vested in congress. Congress, by the confederation, possesses the rights of the United States. This is a union of the men of those States. None of the States, individually or collectively, but in congress, have the rights of peace or war. The magistracy in congress possesses the sovereignty-To certain points we are now a united people. Consolidation is already established. The confederation contains an article to make alterations-Congress have the right to propose such alterations. The 8th article respecting the quotas of the States, has been altered, and eleven States have agreed to it. Can it not be altered in other instances? It can, excepting the guarantee of the States.

Mr. MARTIN. When the States threw off their allegiance on Great Britain, they became independent of her, and each other. They united and confederated for mutual defence, and this was done on principles of perfect reciprocity-They will now again meet on the same ground. But when a dissolution takes place, our original rights and sovereignties are resumed. -Our accession to the union has been by States. If any other principle is adopted by this convention, he will give it every opposition.

Mr. WILSON. The declaration of independence preceded the State constitutions. What does this declare? In the name of the people of these States, we are declared to be free and independent. The power of war, peace, alliances and trade, are declared to be vested in congress.

Mr. HAMILTON. I agree to Mr. Wilson's remark. -Establish a weak government and you must at times overleap the bounds. Rome was obliged to create dictators. Cannot you make propositions to the people because we before confederated on other principles? -The people can yield to them, if they will. The three great objects of government, agriculture, commerce, and revenue, can only be secured by a general government.

Adjourned to to-morrow morning.

WEDNESDAY, JUNE 20TH, 1787.

Met pursuant to adjournment. Present 11 States.

Judge ELSWORTH. I propose, and therefore move, to expunge the word national, in the first resolve, and to place in the room of it, government of the United States-which was agreed to, nem. con.

Mr Lansing then moved, that the first resolve be postponed, in order to take into consideration the following: That the powers of legislation ought to be vested in the United States in congress.

I am clearly of opinion that I am not authorized to accede to a system which will annihilate the State governments and the Virginia plan is declarative of such extinction. It has been asserted that the public mind is not known. To some points it may be true, but we may collect from the fate of the requisition of the impost, what it may be on the principles of a national government. - When many of the States were so tenacious of their rights on this point, can we expect that thirteen States will surrender their governments up to a national plan? Rhode Island pointedly refused granting it. Certainly she had a federal right so to do; and I hold it as an undoubted truth, as long as State distinctions remain, let the national government be modified as you please, both branches of your legislature will be impressed with local and State attachments. The Virginia plan proposes a negative on the State laws where, in the opinion of the national legislature, they contravene the national government: and no State Laws can pass unless approved by them. -They will have more than a law in a day to revise; and are they competent to judge of the wants and necessities of remote States?

This national government will, from their power, have great influence in the State governments; and the existence of the latter are only saved in appearance. And has it not been asserted that they expect their extinction? If this be the object, let us say so, and extinguish them at once. But remember, if we devise a system of government which will not meet the approbation of our constituents, we are dissolving the union-but if we act within the limits of our power, it will be approved of; and should it upon experiment prove defective, the people will entrust a future convention again to amend it. Fond as many are of a general government, do any of you believe it can pervade the whole continent so effectually as to secure the peace, harmony, and happiness

of the whole? The excellence of the British model of government has been much insisted on; but we are endeavoring to complicate it with State governments, on principles which will gradually destroy the one or the other. You are sowing the seeds of rivalship, which must at last end in ruin.

Mr. MASON. The material difference between the two plans has already been clearly pointed out. The objection to that of Virginia arises from the want of power to institute it, and the want of practicability to carry it into effect. Will the first objection apply to a power merely recommendatory? In certain seasons of public danger it is commendable to exceed power. The treaty of peace, under which we now enjoy the blessings of freedom, was made by persons who exceeded their powers. It met the approbation of the public, and thus deserved the praises of these who sent them. The impracticability of the plan is still less groundless. These measures are supported by one who, at his time of life, has little to hope or expect from any government. Let me ask, will the people entrust their dearest rights and liberties to the determination of one body of men, and those not chosen by them, and who are invested both with the sword and purse? They never will—they never can—to a conclave, transacting their business secret from the eye of the public. Do we not discover by their public journals of the years 1778-9, and 1780, that factions and party spirit had guided many of their acts? The people of America, like all other people, are unsettled in their minds, and their principles fixed to no object, except that a republican government is the best, and that the legislature ought to consist of two branches. The constitutions of the respective States, made and approved of by them, evince this principle. Congress, however, from other causes, received a different organization. What, would you use military force to compel the observance of a social compact? It is destructive to the rights of the people. Do you expect the militia will do it, or do you mean a standing army? The first will never, on such an occasion, exert any power; and the latter may turn its arm against the government which employs them. I never will consent to destroy State governments, and will ever be as careful to preserve the one as the other. If we should, in the formation of the latter, have omitted some necessary regulation, I will trust my posterity to amend it. That the one government will be productive of disputes and jealousies against the other, I believe; but it will produce mutual safety, I shall close with observing, that though some gentlemen have expressed much warmth on this and former occasions, I can excuse it, as the result of sudden passion; and hope that although we may differ in some particular points, if we mean the good of the whole, that our good sense upon reflection, will prevent us from spreading our discontent further.

Mr. MARTIN. I know that government must be supported; and if the one was incompatible with the other, I would support the State government at the expense of the union—for I consider the present system as a system of slavery. Impressed with this idea, I made use on a former occasion, of expressions perhaps rather harsh. If gentlemen conceive that the legislative branch is dangerous, divide them into two. They are as much the representatives of the States, as the State assemblies are the representatives of the people. Are not the powers which we here exercise given by the legislatures? [After giving a detail of the revolution and of State governments, Mr. M. continued.] I confess when the confederation was made, congress ought to have been invested with more extensive powers; but when the States saw that congress indirectly aimed at sovereignty, they were jealous, and therefore refused any farther concessions. The time is now come that we can constitutionally grant them not only new powers, but to modify their

government, so that the State governments are not endangered. But whatever we have now in our power to grant, the grant is a State grant, and therefore it must be so organized that the State governments are interested in supporting the union. Thus systematized, there can be no danger if a small force is maintained.

Mr. SHERMAN. We have found during the war that though congress consisted of but one branch, it was that body which carried us through the whole war, and we were crowned with success. We closed the war, performing all the functions of a good government, by making a beneficial peace. But the great difficulty now is, how we shall pay the public debt incurred during that war. The unwillingness of the States to comply with the requisitions of congress, has embarrassed us greatly. -But to amend these defects in government I am not fond of speculation. I would rather proceed on experimental ground. We can so modify the powers of congress, that we will all be mutual supporters of one another. The disparity of the States can be no difficulty. We know this by experience-Virginia and Massachusetts were the first who unanimously ratified the old confederation. They then had no claim to more votes in congress than one. -Foreign States have made treaties with us as confederated States, not as a national government. Suppose we put an end to that government under which those treaties were made, will not these treaties be void?

Mr. WILSON. The question before us may admit of the three following considerations:

1. Whether the legislature shall consist of one or two branches.
2. Whether they are to be elected by the State governments or by the people.
3. Whether in proportion to State importance, or States individually.

Confederations are usually of a short date. The amphycionic council was instituted in the infancy of the Grecian republics-as those grew in strength, the council lost its weight and power. The Achaean league met the same fate- Switzerland and Holland are supported in their confederation, not by its intrinsic merit, but the incumbent pressure of surrounding bodies. Germany is kept together by the house of Austria. True, congress carried us through the war even against its own weakness. That powers were wanting, you Mr. President, must have felt. To other causes, not to congress, must the success be ascribed. That the great States acceded to the confederation, and that they in the hour of danger, made a sacrifice of their interest to the lesser States is true. Like the wisdom of Solomon in adjudging the child to its true mother, from tenderness to it, the greater States well knew that the loss of a limb was fatal to the confederation-they too, through tenderness, sacrificed their dearest rights to preserve the whole. But the time is come, when justice will be done to their claims-Situations are altered.

Congress have frequently made their appeal to the people. I wish they had always done it-the national government would have been sooner extricated.

Question then put on Mr. Lansing's motion and lost. -6 States against 4-one divided. New York in the minority.

Adjourned till to-morrow morning.

THURSDAY, JUNE 21ST, 1787.

Met pursuant to adjournment. Present 11 States.

Dr. JOHNSON-It appears to me that the Jersey plan has for its principal object, the preservation of the State governments. So far it is a departure from the plan of Virginia, which although it concentrates in a distinct national government, it is not totally independent of that of the States. A gentleman from New York, with boldness and decision, proposed a system totally different from both; and though he has been praised by every body, he has been supported by none. How can the State governments be secured on the Virginia plan? I could have wished, that the supporters of the Jersey system could have satisfied themselves with the principles of the Virginia plan, and that the individuality of the States could be supported. It is agreed on all hands that a portion of government is to be left to the States. How can this be done? It can be done by joining the States in their legislative capacity with the right of appointing the second branch of the national legislature, to represent the States individually.

Mr. WILSON. If security is necessary to preserve the one, it is equally so to preserve the other. How can the national government be secured against the States? Some regulation is necessary. Suppose the national government had a component number in the State legislature? But where the one government clashed with the other, the State government ought to yield, as the preservation of the general interest must be preferred to a particular. But let us try to designate the powers of each, and then no danger can be apprehended, nor can the general government be possessed of any ambitious views to encroach on the State rights.

Mr. MADISON. I could have wished that the gentleman from Connecticut had more accurately marked his objections to the Virginia plan. I apprehend the greatest danger is from the encroachment of the States on the national government-This apprehension is justly founded on the experience of ancient confederacies, and our own is a proof of it.

The right of negating in certain instances the State laws, affords one security to the national government. But is the danger well founded? Have any State governments ever encroached on the corporate rights of cities? And if it was the case that the national government usurped the State government, if such usurpation was for the good of the whole, no mischief could arise. -To draw the line between the two, is a difficult task. I believe it cannot be done, and therefore I am inclined for a general government.

If we cannot form a general government, and the States become totally independent of each other, it would afford a melancholy prospect.

The 2d resolve was then put and carried-7 States for-3 against-one divided. New York in the minority.

The 3d resolve was then taken into consideration by the convention.

Mr. PINKNEY. I move that the members of the first branch be appointed in such manner as the several State legislatures shall direct, instead of the mode reported. If this motion is not agreed to, the other will operate with great difficulty, if not injustice-If you make district elections and join, as I presume you must, many counties in one district, the largest county will carry the election as its united influence will give a decided majority in its favor.

Mr. MADISON. I oppose the motion-there are difficulties, but they may be obviated in the details connected with the subject.

Mr. HAMILTON. It is essential to the democratic rights of the community, that this branch be directly elected by the people. Let us look forward to probable events-There may be a time when State legislatures may cease, and such an event ought not to embarrass the national government.

Mr. MASON. I am for preserving inviolably the democratic branch of the government-True, we have found inconveniencies from pure democracies; but if we mean to preserve peace and real freedom, they must necessarily become a component part of a national government. Change this necessary principle, and if the government proceeds to taxation, the States will oppose your powers.

Mr. Sherman thought that an amendment to the proposed amendment is necessary.

Gov. RUTLEDGE. It is said that an election by representatives is not an election by the people. This proposition is not correct. What is done by my order is done by myself. I am convinced that the mode of election by legislatures will be more refined, and better men will be sent.

Mr. WILSON. The legislature of the States by the proposed motion will have an uncontrollable sway over the general government. Election is the exercise of original sovereignty in the people-but if by representatives, it is only relative sovereignty.

Mr. KING. The magistrates of the States will ever pursue schemes of their own, and this, on the proposed motion, will pervade the national government-and we know the State governments will be ever hostile to the general government.

Mr. PINKNEY. All the reasoning of the gentlemen opposed to my motion has not convinced me of its impropriety. There is an esprit de corps which has made heretofore every unfederal member of congress, after his election, become strictly federal, and this I presume will ever be the case in whatever manner they may be elected.

Question put on Mr. Pinkney's motion and carried by 6 States against 4-one divided.

Question then put on the resolve-9 States for-1 against-one divided.

Gov. RANDOLPH. I move that in the resolve for the duration of the first branch of the general legislature, the word three be expunged, and the words two years be inserted.

Mr. DICKINSON. I am against the amendment. I propose that the word three shall remain, but that they shall be removable annually in classes.

Mr. SHERMAN. I am for one year. Our people are accustomed to annual elections. Should the members have a longer duration of service, and remain at the seat of government, they may forget their constituents, and perhaps imbibe the interest of the State in which they reside, or there may be danger of catching the esprit de corps.

Mr. MASON. I am for two years. One year is too short. -In extensive States four months may elapse before the returns can be known. Hence the danger of their remaining too long unrepresented.

Mr. HAMILTON. There is a medium in every thing. I confess three years is not too long-A representative ought to have full freedom of deliberation, and ought to exert an opinion of his own. I am convinced that the public mind will adopt a solid plan-The government of New York, although higher toned than that of any other State, still we find great listlessness and indifference in the electors; nor do they in general bring forward the first characters to the legislature. The public mind is perhaps not now ready to receive the best plan of government, but certain circumstances are now progressing which will give a different complexion to it.

Two years duration agreed to.

Adjourned till to-morrow morning.

FRIDAY JUNE 22D, 1787.

Met pursuant to adjournment.

The clause of the 3d resolve, respecting the stipends, taken into consideration.

Judge ELSWORTH. I object to this clause. I think the State legislatures ought to provide for the members of the general legislature, and as each State will have a proportionate number, it will not be burdensome to the smaller States. I therefore move to strike out the clause.

Mr. GORHAM. If we intend to fix the stipend, it may be an objection against the system, as the States would never adopt it. I join in sentiment to strike out the whole.

Gov. RANDOLPH. I am against the motion. Are the members to be paid? Certainly-We have no sufficient fortunes to induce gentlemen to attend for nothing. If the State legislatures pay the members of the national council, they will control the members, and compel them to pursue State measures. I confess the payment will not operate impartially, but the members must be paid, and be made easy in their circumstances. Will they attend the service of the public without being paid?

Mr. SHERMAN. The States ought to pay their members; and I judge of the approbation of the people on matters of government by what I suppose they will approve.

Mr. WILSON. I am against going as far as the resolve. If, however, it is intended to throw the national legislature into the hand of the States, I shall be against it. It is possible the States may become unfederal, and they may then shake the national government. The members ought to be paid out of the national treasury.

Mr. MADISON. Our attention is too much confined to the present moment, when our regulations are intended to be perpetual. Our national government must operate for the good of the whole, and the people must have a general interest in its support; but if you make its legislators subject to and at the mercy of the State governments, you ruin the fabric-and whatever new States may be added to the general government the expense will be equally borne.

Mr. HAMILTON. I do not think the States ought to pay the members, nor am I for a fixed sum. It is a general remark, that he who pays is the master. If each State pays its own members, the burden would be disproportionate, according to the distance of the States from the seat of government. If a national government can exist, members will make it a desirable object to attend, without accepting any stipend-and it ought to be so organized as to be efficient.

Mr. WILSON. I move that the stipend be ascertained by the legislature, and paid out of the national treasury.

Mr. MADISON. I oppose this motion. Members are too much interested in the question. Besides, it is indecent that the legislature should put their hands in the public purse to convey it into their own.

Question put on Mr. Wilson's motion and negatived-7 States against-2 for, and 2 divided.

Mr. Mason moved to change the phraseology of the resolve, that is to say, to receive an adequate compensation for their services, and to be paid out of the treasury. This motion was agreed to.

Mr. RUTLEDGE. I move that the question be taken on these words, to be paid out of the national treasury.

Mr. HAMILTON. It has been often asserted, that the interests of the general and of the State legislatures are precisely the same. This cannot be true. The views of the governed are often materially different from those who govern. The science of policy is the knowledge of human nature. A State government will ever be the rival power of the general government. It is therefore highly improper that the State legislatures should be the paymasters of the members of the national government. All political bodies love power, and it will often be improperly attained.

Judge ELSWORTH. If we are so exceedingly jealous of State legislatures, will they not have reason to be equally jealous of us? If I return to my State and tell them, we made such and such regulations for a general government, because we dared not trust you with any extensive powers,

will they be satisfied? nay, will they adopt your government? and let it ever be remembered, that without their approbation your government is nothing more than a rope of sand.

Mr. WILSON. I am not for submitting the national government to the approbation of the State legislatures. I know that they and the State officers will oppose it. I am for carrying it to the people of each State.

Mr. Rutledge's motion was then put-4 States for the clause-5 against-2 divided. New York divided.

The clause, to be ineligible to any office, &c., came next to be considered.

Mr. Mason moved that after the words, two years, be added, and to be of the age of 25 years.

Question put and agreed to-7 ayes-3 noes. New York divided.

Mr. GORHAM. I move that after the words, and under the national government for one year after its expiration, be struck out.

Mr. King for the motion. It is impossible to carry the system of exclusion so far; and in this instance we refine too much by going to utopian lengths. It is a mere cobweb.

Mr. BUTLER. We have no way of judging of mankind but by experience. Look at the history of the government of Great Britain, where there is a very flimsy exclusion-Does it not ruin their government? A man takes a seat in parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption.

Mr. WILSON. I am for striking out the words moved for. Strong reasons must induce me to disqualify a good man from office. If you do, you give an opportunity to the dependent or avaricious man to fill it up, for to them offices are objects of desire. If we admit there may be cabal and intrigue between the executive and legislative bodies, the exclusion of one year will not prevent the effects of it. But we ought to hold forth every honorable inducement for men of abilities to enter the service of the public. -This is truly a republican principle. Shall talents, which entitle a man to public reward, operate as a punishment? While a member of the legislature, he ought to be excluded from any other office, but no longer. Suppose a war breaks out, and a number of your best military characters were members; must we lose the benefit of their services? Had this been the case in the beginning of the war, what would have been our situation? -and what has happened may happen again.

Mr. MADISON. Some gentlemen give too much weight, and others too little to this subject. If you have no exclusive clause, there may be danger of creating officers or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature.

Mr. MASON. It seems as if it was taken for granted, that all offices will be filled by the executive, while I think many will remain in the gift of the legislature. In either case, it is necessary to shut the door against corruption. If otherwise, they may make or multiply offices, in order to fill them. Are gentlemen in earnest when they suppose that this exclusion will prevent the first characters from coming forward? Are we not struck at seeing the luxury and venality which has already crept in among us? If not checked, we shall have ambassadors to every petty state in Europe-the little republic of St. Marino not excepted. We must, in the present system, remove the temptation. I admire many parts of the British constitution and government, but I detest their corruption. -Why has the power of the crown so remarkably increased the last century? A stranger, by reading their laws, would suppose it considerably diminished; and yet, by the sole power of appointing the increased officers of government, corruption pervades every town and village in the kingdom. If such a restriction should abridge the right of election, it is still necessary, as it will prevent the people from ruining themselves; and will not the same causes here produce the same effects? I consider this clause as the corner-stone on which our liberties depend-and if we strike it out we are erecting a fabric for our destruction.

Mr. GORHAM. The corruption of the English government cannot be applied to America. This evil exists there in the venality of their boroughs: but even this corruption has its advantage, as it gives stability to their government. We do not know what the effect would be if members of parliament were excluded from offices. The great bulwark of our liberty is the frequency of elections, and their great danger is the septennial parliaments.

Mr. HAMILTON. In all general questions which become the subjects of discussion, there are always some truths mixed with falsehoods. I confess there is danger where men are capable of holding two offices. Take mankind in general, they are vicious-their passions may be operated upon. We have been taught to reprobate the danger of influence in the British government, without duly reflecting how far it was necessary to support a good government. We have taken up many ideas upon trust, and at last, pleased with our own opinions, establish them as undoubted truths. Hume's opinion of the British constitution confirms the remark, that there is always a body of firm patriots, who often shake a corrupt administration. Take mankind as they are, and what are they governed by? Their passions. There may be in every government a few choice spirits, who may act from more worthy motives. One great error is that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions, in order to make them subservient to the public good-for these ever induce us to action. Perhaps a few men in a state may, from patriotic motives, or to display their talents, or to reap the advantage of public applause, step forward; but if we adopt the clause we destroy the motive. I am, therefore, against all exclusions and refinements, except only in this case; that when a member takes his seat, he should vacate every other office. It is difficult to put any exclusive regulation into effect. We must, in some degree, submit to the inconvenience.

The question was then put for striking out-4 ayes-4 noes-3 States divided. New York of the number.

Adjourned till to-morrow morning.

SATURDAY JUNE 23D, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. GORHAM. I move that the question which was yesterday proposed on the clause, to be paid out of the national treasury, be now put.

Question put-5 ayes-5 noes-one State divided. So the clause was lost.

Mr. Pinkney moved that that part of the clause which disqualifies a person from holding an office in the State, be expunged, because the first and best characters in a State may thereby be deprived of a seat in the national council.

Mr. WILSON. I perceive that some gentlemen are of opinion to give a bias in favor of State governments-This question ought to stand on the same footing.

Mr. SHERMAN. By the conduct of some gentlemen, we are erecting a kingdom to act against itself. The legislature ought to be free and unbiassed.

Question put to strike out the words moved for, and carried-8 ayes-3 noes.

Mr. Madison then moved, that after the word established, be added, or the emoluments whereof shall have been augmented by the legislature of the United States, during the time they were members thereof, and for one year thereafter.

Mr. BUTLER. The proposed amendment does not go far enough. How easily may this be evaded. What was the conduct of George the second to support the pragmatic sanction? To some of the opposers he gave pensions-others offices, and some, to put them out of the house of commons, he made lords. The great Montesquieu says, it is unwise to entrust persons with power, which by being abused operates to the advantage of those entrusted with it.

Governor Rutledge was against the proposed amendment. No person ought to come to the legislature with an eye to his own emolument in any shape.

Mr. MASON. I differ from my colleague in his proposed amendment. Let me state the practice in the State where we came from. There, all officers are appointed by the legislature. Need I add, that many of their appointments are most shameful. Nor will the check proposed by this amendment be sufficient. It will soon cease to be any check at all. It is asserted that it will be very difficult to find men sufficiently qualified as legislators without the inducement of emolument. I do believe that men of genius will be deterred unless possessed of great virtues. We may well dispense with the first characters when destitute of virtue-I should wish them never to come forward- But if we do not provide against corruption, our government will soon be at an end: nor would I wish to put a man of virtue in the way of temptation. Evasions and caballing would evade the amendment. Nor would the danger be less, if the executive has the appointment of officers. The first three or four years we might go on well enough; but what would be the case

afterwards? I will add, that such a government ought to be refused by the people-and it will be refused.

Mr. MADISON. My wish is that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support its members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconvenience.

Mr. KING. The intimate association of offices will produce a vigorous support to your government. To check it would produce no good consequences. Suppose connections are formed? Do they not all tend to strengthen the government under which they are formed? Let therefore preferment be open to all men. We refine otherwise too much-nor is it possible we can eradicate the evil.

Mr. WILSON. I hope the amendment will be adopted. -By the last vote it appears that the convention have no apprehension of danger of State appointments. It is equally imaginary to apprehend any from the national government. That such officers will have influence in the legislature, I readily admit; but I would not therefore exclude them. If any ill effects were to result from it, the bargain can as well be made with the legislature as with the executive. We ought not to shut the door of promotion against the great characters in the public councils, from being rewarded by being promoted. If otherwise, will not these gentlemen be put in the legislatures to prevent them from holding offices, by those who wish to enjoy them themselves?

Mr. SHERMAN. If we agree to this amendment, our good intentions may be prostrated by changing offices to avoid or evade the rule.

Mr. GERRY. This amendment is of great weight, and its consequences ought to be well considered. At the beginning of the war we possessed more than Roman virtue. It appears to me it is now the reverse. We have more land and stock- jobbers than any place on earth. -It appears to me, that we have constantly endeavored to keep distinct the three great branches of government; but if we agree to this motion, it must be destroyed by admitting the legislators to share in the executive, or to be too much influenced by the executive, in looking up to him for offices.

Mr. MADISON. This question is certainly of much moment. There are great advantages in appointing such persons as are known. The choice otherwise will be chance. How will it operate on the members themselves? Will it not be an objection to become members when they are to be excluded from office? For these reasons I am for the amendment.

Mr. BUTLER. These reasons have no force. Characters fit for offices will always be known.

Mr. MASON. It is said it is necessary to open the door to induce gentlemen to come into the legislature. This door is open, but not immediately. A seat in the house will be the field to exert talents, and when to a good purpose, they will in due time be rewarded.

Mr. JENIFER. Our senators are appointed for 5 years and they can hold no other office. This circumstance gives them the greatest confidence of the people.

The question was put on Mr. Madison's amendment, and lost-8 noes-2 ayes-one State divided.

Question on the clause as amended before. Carried-8 ayes-2 noes-one State divided.

The question was next on the latter part of the clause.

Mr. MASON. We must retain this clause, otherwise evasions may be made. The legislature may admit of resignations and thus make members eligible-places may be promised at the close of their duration, and that a dependency may be made.

Mr. GERRY. And this actually has been the case in congress-a member resigned to obtain an appointment, and had it failed he would have resumed it.

Mr. HAMILTON. The clause may be evaded many ways. Offices may be held by proxy-they may be procured by friends, &c.

Mr. RUTLEDGE. I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible.

The question was then put on this clause, to wit: and for the space of one year after its expiration-and negatived.

Then adjourned to Monday morning.

MONDAY, JUNE 25TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. C. PINKNEY. On the question upon the second branch of the general legislature, as reported by the committee in the fourth resolve, now under consideration, it will be necessary to inquire into the true situation of the people of this country. Without this we can form no adequate idea what kind of government will secure their rights and liberties. There is more equality of rank and fortune in America than in any other country under the sun; and this is likely to continue as long as the unappropriated western lands remain unsettled. They are equal in rights, nor is extreme of poverty to be seen in any part of the union. If we are thus singularly situated, both as to fortune and rights, it evidently follows, that we cannot draw any useful lessons from the examples of any

of the European states or kingdoms; much less can Great Britain afford us any striking institution, which can be adapted to our own situation-unless we indeed intend to establish an hereditary executive, or one for life. Great Britain drew its first rude institutions from the forests of Germany, and with it that of its nobility. These having originally in their hands the property of the State, the crown of Great Britain was obliged to yield to the claims of power which those large possessions enabled them to assert. The commons were then too contemptible to form part of the national councils. Many parliaments were held, without their being represented until in process of time, under the protection of the crown, and forming distinct communities, they obtained some weight in the British government. From such discordant materials brought casually together, those admirable checks and balances, now so much the boast of the British constitution, took their rise. -But will we be able to copy from this original? I do not suppose that in the confederation, there are one hundred gentlemen of sufficient fortunes to establish a nobility; and the equality of others as to rank would never admit of the distinctions of nobility. I lay it therefore down as a settled principle, that equality of condition is a leading axiom in our government. It may be said we must necessarily establish checks, lest one rank of people should usurp the rights of another. Commerce can never interfere with the government, nor give a complexion to its councils. Can we copy from Greece or Rome? Have we their nobles or patricians? With them offices were open to few- The different ranks in the community formed opposite interests and produced unceasing struggles and disputes. Can this apply equally to the free yeomanry of America? We surely differ from the whole. Our situation is unexampled, and it is in our power, on different grounds, to secure civil and religious liberty; and when we secure these we secure every thing that is necessary to establish happiness. We cannot pretend to rival the European nations in their grandeur or power; nor is the situation of any two nations so exactly alike as that the one can adopt the regulations or government of the other. If we have any distinctions they may be divided into three classes.

1. Professional men.
2. Commercial men.
3. The landed interest.

The latter is the governing power of America, and the other two must ever be dependent on them-Will a national government suit them? No. The three orders have necessarily a mixed interest, and in that view, I repeat it again, the United States of America compose in fact but one order. The clergy and nobility of Great Britain can never be adopted by us. Our government must be made suitable to the people, and we are perhaps the only people in the world who ever had sense enough to appoint delegates to establish a general government. I believe that the propositions from Virginia, with some amendments, will satisfy the people. But a general government must not be made dependent on the State governments.

The United States include a territory of about 1500 miles in length, and in breadth about 400; the whole of which is divided into States and districts.

While we were dependent on the crown of Great Britain, it was in contemplation to have formed the whole into one-but it was found impracticable. No legislature could make good laws for the whole, nor can it now be done. It would necessarily place the power in the hands of the few, nearest the seat of government. State governments must therefore remain, if you mean to prevent confusion. The general negative powers will support the general government. Upon these considerations I am led to form the second branch differently from the report. Their powers are important and the number not too large, upon the principle of proportion. I have considered the subject with great attention: and I propose this plan (reads it) and if no better plan is proposed, I will then move its adoption.

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

Mr. Gorham moved the question on the first resolve. -Sixteen members from one State will certainly have greater weight, than the same number of members from different States. We must therefore depart from this rule of apportionment in some shape or other-perhaps on the plan Mr. Pinkney has suggested.

Mr. READ. Some gentlemen argue, that the representation must be determined according to the weight of each State-That we have heretofore been partners in trade, in which we all put in our respective proportions of stock-That the articles of our co-partnership were drawn in forming the confederation-And that before we make a new co-partnership, we must first settle the old business. But to drop the allusion-we find that the great States have appropriated to themselves the common lands in their respective States-These lands having been forfeited as heretofore belonging to the king, ought to be applied to the discharge of our public debts. -Let this still be done, and then if you please, proportion the representation, and we shall not be jealous of one another-A jealousy, in a great measure, owing to the public property appropriated by individual States-and which, as it has been gained by the united power of the confederation, ought to be appropriated to the discharge of the public debts.

Mr. GORHAM. This motion has been agitated often in congress; and it was owing to the want of power, rather than inclination, that it was not justly settled. Great surrenders have been made by the great States, for the benefit of the confederation.

Mr. WILSON. The question now before us is, whether the second branch of the general legislature shall or shall not be appointed by the State legislatures. In every point of view it is an important question. The magnitude of the object is indeed embarrassing. The great system of Henry the IV of France, aided by the greatest statesmen, is small when compared to the fabric we are now about to erect-In laying the stone amiss we may injure the superstructure; and what will be the consequence, if the corner-stone should be loosely placed? It is improper that the State legislatures should have the power contemplated to be given them. A citizen of America may be considered in two points of view-as a citizen of the general government, and as a citizen of the particular State in which he may reside. We ought to consider in what character he acts in forming a general government. I am both a citizen of Pennsylvania and of the United States. I must therefore lay aside my State connections and act for the general good of the whole. -We must forget our local habits and attachments. The general government should not depend on the

State governments. This ought to be a leading distinction between the one and the other; nor ought the general government to be composed of an assemblage of different State governments- We have unanimously agreed to establish a general government-That the powers of peace, war, treaties, coinage and regulating of commerce, ought to reside in that government. And if we reason in this manner, we shall soon see the impropriety of admitting the interference of State governments into the general government. Equality of representation can not be established, if the second branch is elected by the State legislatures. When we are laying the foundation of a building, which is to last for ages, and in which millions are interested, it ought to be well laid. If the national government does not act upon State prejudices, State distinctions will be lost. I therefore move, that the second branch of the legislature of the national government be elected by electors chosen by the people of the United States.

Judge ELSWORTH. I think the second branch of the general legislature ought to be elected agreeable to the report. The other way, it is said, will be more the choice of the people-The one mode is as much so as the other. No doubt every citizen of every State is interested in the State governments; and elect him in whatever manner you please, whenever he takes a seat in the general government, it will prevail in some shape or other. The State legislatures are more competent to make a judicious choice, than the people at large. Instability pervades their choice. In the second branch of the general government we want wisdom and firmness. As to balances, where nothing can be balanced, it is a perfect utopian scheme. But still greater advantages will result in having a second branch endowed with the qualifications I have mentioned. Their weight and wisdom may check the inconsiderate and hasty proceedings of the first branch.

I cannot see the force of the reasoning in attempting to detach the State governments from the general government. In that case, without a standing army, you cannot support the general government, but on the pillars of the State governments. Are the larger States now more energetic than the smaller? Massachusetts cannot support a government at the distance of one hundred miles from her capital, without an army; and how long Virginia and Pennsylvania will support their governments it is difficult to say. Shall we proceed like unskilful workmen, and make use of timber, which is too weak to build a first rate ship? We know that the people of the States are strongly attached to their own constitutions. If you hold up a system of general government, destructive of their constitutional rights, they will oppose it. Some are of opinion that if we cannot form a general government so as to destroy State governments, we ought at least to balance the one against the other. On the contrary, the only chance we have to support a general government is to graft it on the State governments. I want to proceed on this ground, as the safest, and I believe no other plan is practicable. In this way, and in this way only, can we rely on the confidence and support of the people.

Dr. JOHNSON. The State governments must be preserved: but this motion leaves them at the will and pleasure of the general government.

Mr. MADISON. I find great differences of opinion in this convention on the clause now under consideration. Let us postpone it in order to take up the 8th resolve, that we may previously determine the mode of representation.

Mr. MASON. All agree that a more efficient government is necessary. It is equally necessary to preserve the State governments, as they ought to have the means of self-defence. On the motion of Mr. Wilson, the only means they ought to have would be destroyed.

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

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

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

Mr. Gorham proposed that the senators be classed, and to remain 4 years in office; otherwise great inconveniences may arise if a dissolution should take place at once.

Governor RANDOLPH. This body must act with firmness. They may possibly always sit perhaps to aid the executive. The State governments will always attempt to counteract the general government. They ought to go out in classes; therefore I move, that they go out of office in fixed proportions of time, instead of the words, seven years.

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

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

Mr. PINKNEY. I am for four years. Longer time would give them too great attachment to the States where the general government may reside. They may be induced, from the proposed length of time, to sell their estates, and become inhabitants near the seat of government.

Mr. MADISON. We are proceeding in the same manner that was done when the confederation was first formed. Its original draft was excellent, but in its progress and completion it became so insufficient as to give rise to the present convention. By the vote already taken, will not the temper of the State legislatures transfuse itself into the senate? Do we create a free government?

Question on Governor Randolph's motion-7 ayes-3 noes-one divided.

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

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

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

TUESDAY JUNE 26TH, 1787.

Met pursuant to adjournment. Present 11 States.

Mr. GORHAM. My motion for 4 years' continuance, was not put yesterday. I am still of opinion that classes will be necessary, but I would alter the time. I therefore move that the senators be elected for 6 years, and that the rotation be triennial.

Mr. PINKNEY. I oppose the time, because of too long a continuance. The members will by this means be too long separated from their constituents, and will imbibe attachments different from that of the State; nor is there any danger that members, by a shorter duration of office, will not support the interest of the union, or that the States will oppose the general interest. The State of South Carolina was never opposed in principle to congress, nor thwarted their views in any case, except in the requisition of money, and then only for want of power to comply-for it was found there was not money enough in the State to pay their requisition.

Mr. Read moved that the term of nine years be inserted, in triennial rotation.

Mr. MADISON. We are now to determine whether the republican form shall be the basis of our government. -I admit there is weight in the objection of the gentleman from South Carolina; but no plan can steer clear of objections. That great powers are to be given, there is no doubt; and that those powers may be abused is equally true. It is also probable that members may lose their attachments to the States which sent them-Yet the first branch will control them in many of their abuses. But we are now forming a body on whose wisdom we mean to rely, and their permanency in office secures a proper field in which they may exert their firmness and knowledge. Democratic communities may be unsteady, and be led to action by the impulse of the moment. -Like individuals, they may be sensible of their own weakness, and may desire the counsels and checks of friends to guard them against the turbulency and weakness of unruly passions. Such are the various pursuits of this life, that in all civilized countries, the interest of a community will be divided. There will be debtors and creditors, and an unequal possession of property, and hence arises different views and different objects in government. This indeed is the ground-work of aristocracy; and we find it blended in every government, both ancient and modern. Even where titles have survived property, we discover the noble beggar haughty and assuming.

The man who is possessed of wealth, who lolls on his sofa, or rolls in his carriage, cannot judge of the wants or feelings of the day laborer. The government we mean to erect is intended to last for ages. The landed interest, at present, is prevalent; but in process of time, when we approximate to the states and kingdoms of Europe; when the number of landholders shall be comparatively small, through the various means of trade and manufactures, will not the landed interest be overbalanced in future elections, and unless wisely provided against, what will become of your government? In England, at this day, if elections were open to all classes of people, the property of the landed proprietors would be insecure. An agrarian law would soon take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests, and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority. The senate, therefore, ought to be this body; and to answer these purposes, they ought to have permanency and

stability. Various have been the propositions; but my opinion is, the longer they continue in office, the better will these views be answered.

Mr. SHERMAN. The two objects of this body are permanency and safety to those who are to be governed. A bad government is the worse for being long. Frequent elections give security and even permanency. In Connecticut we have existed 132 years under an annual government; and as long as a man behaves himself well, he is never turned out of office. Four years to the senate is quite sufficient when you add to it the rotation proposed.

Mr. HAMILTON. This question has already been considered in several points of view. We are now forming a republican government. Real liberty is neither found in despotism or the extremes of democracy, but in moderate governments.

Those who mean to form a solid republican government, ought to proceed to the confines of another government. As long as offices are open to all men, and no constitutional rank is established, it is pure republicanism. But if we incline too much to democracy, we shall soon shoot into a monarchy. The difference of property is already great amongst us. Commerce and industry will still increase the disparity. Your government must meet this state of things, or combinations will in process of time, undermine your system. What was the tribunitial power of Rome? It was instituted by the plebeians as a guard against the patricians. But was this a sufficient check? No-The only distinction which remained at Rome was, at last, between the rich and the poor. The gentleman from Connecticut forgets that the democratic body is already secure in a representation. -As to Connecticut, what were the little objects of their government before the revolution? Colonial concerns merely. They ought now to act on a more extended scale, and dare they do this? Dare they collect the taxes and requisitions of congress? Such a government may do well, if they do not tax, and this is precisely their situation.

Mr. GERRY. It appears to me that the American people have the greatest aversion to monarchy, and the nearer our government approaches to it, the less chance have we for their approbation. Can gentlemen suppose that the reported system can be approved of by them? Demagogues are the great pests of our government, and have occasioned most of our distresses. If four years are insufficient, a future convention may lengthen the time.

Mr. WILSON. The motion is now for nine years, and a triennial rotation. Every nation attends to its foreign intercourse-to support its commerce-to prevent foreign contempt, and to make war and peace. Our senate will be possessed of these powers, and therefore ought to be dignified and permanent. What is the reason that Great Britain does not enter into a commercial treaty with us? Because congress has not the power to enforce its observance. But give them those powers, and give them the stability proposed by the motion, and they will have more permanency than a monarchical government. The great objection of many is, that this duration would give birth to views inconsistent with the interests of the union. This can have no weight, if the triennial rotation is adopted; and this plan may possibly tend to conciliate the minds of the members of the convention on this subject, which have varied more than on any other question.

The question was then put on Mr. Read's motion, and lost, 8 noes-3 ayes.

The question on 5 years, and a biennial rotation, was carried-7 ayes-4 noes. New York in the minority.

Mr. PINKNEY. I move that the clause for granting stipends, be stricken out.

Question put-5 ayes-6 noes.

On the amendment to the question, to receive a compensation-10 ayes-1 no.

Judge ELSWORTH. I move that the words, out of the national treasury, be stricken out, and the words, the respective State legislatures, be inserted.

If you ask the States what is reasonable, they will comply-but if you ask of them more than is necessary to form a good government, they will grant you nothing.

Capt. DAYTON. The members should be paid from the general treasury, to make them independent.

The question was put on the amendment and lost-5 ayes 6 noes.

Mr. MASON. I make no motion, but throw out for the consideration of the convention, whether a person in the second branch ought not to be qualified as to property?

The question was then put on the clause, and lost-5 ayes-6 noes.

It was moved to strike out the clause, to be ineligible to any State office.

Mr. MADISON. Congress heretofore depended on State interests-we are now going to pursue the same plan.

Mr. WILSON. Congress has been ill managed, because particular States controlled the union. In this convention, if a proposal is made promising independency to the general government, before we have done with it, it is so modified and changed as to amount to nothing. In the present case, the States may say, although I appoint you for six years, yet if you are against the State, your table will be unprovided. Is this the way you are to erect an independent government?

Mr. BUTLER. This second branch I consider as the aristocratic part of our government; and they must be controlled by the States, or they will be too independent.

Mr. PINKNEY. The States and general government must stand together. On this plan have I acted throughout the whole of this business. I am therefore for expunging the clause. Suppose a member of this house was qualified to be a State judge, must the State be prevented from making the appointment?

Question put for striking out-8 ayes-3 noes.

The 5th resolve, that each house have the right of originating bills, was taken into consideration, and agreed to.

Adjourned till to-morrow morning.

WEDNESDAY, JUNE 27TH, 1787.

Met pursuant to adjournment. Present 11 States.

The 6th resolve was postponed, in order to take into consideration the 7th and 8th resolves. The first clause of the 7th was proposed for consideration, which respected the suffrage of each State in the first branch of the legislature.

[Mr. Martin, the attorney general from Maryland, spoke on this subject upwards of three hours. As his arguments were too diffuse, and in many instances desultory, it was not possible to trace him through the whole, or to methodize his ideas into a systematic or argumentative arrangement. I shall therefore only note such points as I conceive merit most particular notice.]

The question is important, (said Mr. Martin,) and I have already expressed my sentiments on the subject. -My opinion is, that the general government ought to protect and secure the State governments-others, however, are of a different sentiment, and reverse the principle.

The present reported system is a perfect medley of confederated and national government, without example and without precedent. Many who wish the general government to protect the State governments, are anxious to have the line of jurisdiction well drawn and defined, so that they may not clash. This suggests the necessity of having this line well detailed-possibly this may be done. If we do this, the people will be convinced that we meant well to the State governments; and should there be any defects, they will trust a future convention with the power of making further amendments.

A general government may operate on individuals in cases of general concern, and still be federal. This distinction is with the States, as States, represented by the people of those States. States will take care of their internal police and local concerns. The general government has no interest but the protection of the whole. Every other government must fail. We are proceeding in forming this government as if there were no State governments at all. The States must approve, or you will have none at all. I have never heard of a confederacy having two legislative branches. Even the celebrated Mr. Adams, who talks so much of checks and balances, does not suppose it necessary in a confederacy. Public and domestic debts are our great distress. The treaty between Virginia and Maryland about the navigation of the Chesapeake and Potomac, is no infraction of the confederacy. The cornerstone of a federal government is equality of votes. States may surrender this right; but if they do, their liberties are lost. If I err on this point, it is the error of the head, not of the heart.

The first principle of government is founded on the natural rights of individuals, and in perfect equality. Locke, Vattel, Lord Somers, and Dr. Priestly, all confirm this principle. This principle

of equality, when applied to individuals, is lost in some degree, when he becomes a member of a society, to which it is transferred; and this society, by the name of state or kingdom, is, with respect to others, again on a perfect footing of equality—a right to govern themselves as they please. Nor can any other state, of right, deprive them of this equality. If such a state confederates, it is intended for the good of the whole; and if it again confederate, those rights must be well guarded. Nor can any state demand a surrender of any of those rights; if it can, equality is already destroyed. We must treat as free States with each other, upon the same terms of equality that men originally formed themselves into societies. Vattel, Rutherford, and Locke, are united in support of the position, that states, as to each other, are in a state of nature.

Thus, says Mr. Martin, have I travelled with the most respectable authorities in support of principles, all tending to prove the equality of independent states. This is equally applicable to the smallest as well as the largest states, on the true principles of reciprocity and political freedom.

Unequal confederacies can never produce good effects. Apply this to the Virginia plan. Out of the number 90, Virginia has 16 votes, Massachusetts 14, Pennsylvania 12—in all 42. Add to this a State having four votes, and it gives a majority in the general legislature. Consequently, a combination of these States will govern the remaining nine or ten states. Where is the safety and independency of those States? Pursue this subject farther. The executive is to be appointed by the legislature, and becomes the executive in consequence of this undue influence. And hence flows the appointment of all your officers, civil, military, and judicial. The executive is also to have a negative on all laws. Suppose the possibility of a combination of ten States—he negatives a law—it is totally lost, because those States cannot form two-thirds of the legislature. I am willing to give up private interest for the public good—but I must be satisfied first, that it is the public interest—and who can decide this point? A majority only of the union.

The Lacedemonians insisted, in the amphycyonic council, to exclude some of the smaller states from a right to vote, in order that they might tyrannize over them. If the plan now on the table be adopted, three States in the union have the control, and they may make use of their power when they please.

If there exists no separate interests, there is no danger of an equality of votes; and if there be danger, the smaller States cannot yield. If the foundation of the existing confederation is well laid, powers may be added—You may safely add a third story to a house where the foundation is good. Read then the votes and proceedings of congress on forming the confederation—Virginia only was opposed to the principle of equality—The smaller States yielded rights, not the large States—They gave up their claim to the unappropriated lands with the tenderness of the mother recorded by Solomon—they sacrificed affection to the preservation of others. New Jersey and Maryland rendered more essential services during the war than many of the larger States. The partial representation in congress is not the cause of its weakness, but the want of power. I would not trust a government organized upon the reported plan, for all the slaves of Carolina or the horses and oxen of Massachusetts. Price says, that laws made by one man, or a set of men, and not by common consent, is slavery—And it is so when applied to States, if you give them an

unequal representation. What are called human feelings in this instance are only the feelings of ambition and the lust of power.

Adjourned till to-morrow morning

THURSDAY, JUNE 28TH, 1787.

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 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 then 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 amphycionian council were equal, though Lacedaemon, 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 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. 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 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 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 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.

FRIDAY, JUNE 29TH, 1787.

Met pursuant to adjournment. Present 11 States.

Dr. JOHNSON. As the debates have hitherto been managed, they may be spun out to an endless length; and as gentlemen argue on different grounds, they are equally conclusive on the points they advance, but afford no demonstration either way. States are political societies. -For whom are we to form a government? for the people of America, or for those societies? Undoubtedly for the latter. They must, therefore, have a voice in the second branch of the general government, if you mean to preserve their existence. The people already compose the first branch. This mixture is proper and necessary-For we cannot form a general government on any other ground.

Mr. GORHAM. I perceive no difficulty in supposing a union of interest in the different States. Massachusetts formerly consisted of three distinct provinces-they have been united into one, and we do not find the least trace of party distinctions arising from their former separation. Thus it is that the interest of the smaller States will unite in a general government. It is thus they will be supported. Jersey, in particular, situated between Philadelphia and New York, can never become a commercial State. It would be her interest to be divided, and part annexed to New York and part to Pennsylvania-or otherwise the whole to the general government. -Massachusetts cannot long remain a large State. The province of Maine must soon become independent of her. Pennsylvania can never become a dangerous State-her western country must, at some period, become separated from her, and consequently her power will be diminished. If some States will not confederate on a new plan, I will remain here, if only one State will consent to confederate with us.

Judge ELSWORTH. I do not despair but that we shall be so fortunate as to devise and adopt some good plan of government.

Judge READ. I would have no objection, if the government was more national- but the proposed plan is so great a mixture of both, that it is best to drop it altogether. -A State government is incompatible with a general government. If it was more national, I would be for a representation proportionate to population. The plan of the gentleman from New York is certainly the best-but the great evil is the unjust appropriation of the public lands. If there was but one national government, we would be all equally interested.

Mr. MADISON. Some gentlemen are afraid that the plan is not sufficiently national, while others apprehend that it is too much so. If this point of representation was once well fixed, we would come nearer to one another in sentiment. The necessity would then be discovered of circumscribing more effectually the State governments, and enlarging the bounds of the general government. Some contend that States are sovereign, when, in fact, they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The States never possessed the essential rights of sovereignty. These were always vested in congress. Their voting, as States, in congress, is no evidence of sovereignty. The State of Maryland voted by counties-did this make the counties sovereign? The States, at present, are only great corporations, having the power of making by- laws, and these are effectual only if they are not contradictory to the general confederation. The States ought to be placed under the control of the general government-at least as much so as they formerly were under the king and British parliament. The arguments, I observe, have taken a different turn, and I hope may tend to convince all of the necessity of a strong energetic government, which would equally tend to give energy to, and protect the State governments. What was the origin of the military establishments of Europe? It was the jealousy which one State or kingdom entertained of another. This jealousy was ever productive of evil. In Rome the patricians were often obliged to excite a foreign war to divert the attention of the plebeians from encroaching on the senatorial rights. -In England and France, perhaps this jealousy may give energy to their governments, and contribute to their existence. But a state of danger is like a state of war, and it unites the various parts of the government to exertion. May not our distractions, however, invite danger from abroad? If the power is not immediately derived from the people, in proportion to their numbers, we may make a paper confederacy, but that will be all. We know the effects of the old confederation, and without a general government this will be like the former.

Mr. HAMILTON. The course of my experience in human affairs might perhaps restrain me from saying much on this subject. I shall, however, give birth to some of the observations I have made during the course of this debate. The gentleman from Maryland has been at great pains to establish positions which are not denied. Many of them, as drawn from the best writers on government, are become almost self-evident principles. -But I doubt the propriety of his application of those principles in the present discussion. He deduces from them the necessity that States entering into a confederacy must retain the equality of votes-this position cannot be correct-Facts plainly contradict it. The parliament of Great Britain asserted a supremacy over the whole empire, and the celebrated Judge Blackstone labors for the legality of it, although many parts were not represented. This parliamentary power we opposed as contrary to our colonial rights. With that exception, throughout that whole empire, it is submitted to. May not the smaller and greater States so modify their respective rights as to establish the general interest of the whole, without adhering to the right of equality? Strict representation is not observed in any of

the State governments. The senate of New York are chosen by persons of certain qualifications, to the exclusion of others. The question, after all is, is it our interest in modifying this general government to sacrifice individual rights to the preservation of the rights of an artificial being, called States? There can be no truer principle than this-that every individual of the community at large has an equal right to the protection of government. If therefore three States contain a majority of the inhabitants of America, ought they to be governed by a minority? Would the inhabitants of the great States ever submit to this? If the smaller States maintain this principle, through a love of power, will not the larger, from the same motives, be equally tenacious to preserve their power? They are to surrender their rights-for what? for the preservation of an artificial being. We propose a free government-Can it be so if partial distinctions are maintained? I agree with the gentleman from Delaware, that if the State governments are to act in the general government, it affords the strongest reason for exclusion. In the State of New-York, five counties form a majority of representatives, and yet the government is in no danger, because the laws have a general operation. The small States exaggerate their danger, and on this ground contend for an undue proportion of power. But their danger is increased, if the larger States will not submit to it. Where will they form new alliances for their support? Will they do this with foreign powers? Foreigners are jealous of our increasing greatness, and would rejoice in our distractions. Those who have had opportunities of conversing with foreigners respecting sovereigns in Europe, have discovered in them an anxiety for the preservation of our democratic governments, probably for no other reason, but to keep us weak. Unless your government is respectable, foreigners will invade your rights; and to maintain tranquillity it must be respectable-even to observe neutrality you must have a strong government. -I confess our present situation is critical. We have just finished a war which has established our independency, and loaded us with a heavy debt. We have still every motive to unite for our common defence-Our people are disposed to have a good government, but this disposition may not always prevail. It is difficult to amend confederations-it has been attempted

in vain, and it is perhaps a miracle that we are now met-We must therefore improve the opportunity, and render the present system as perfect as possible. Their good sense, and above all, the necessity of their affairs, will induce the people to adopt it.

Mr. PIERCE. The great difficulty in congress arose from the mode of voting. Members spoke on the floor as State advocates, and were biassed by local advantages. -What is federal? No more than a compact between States; and the one heretofore formed is insufficient. We are now met to remedy its defects, and our difficulties are great, but not, I hope, insurmountable. State distinctions must be sacrificed so far as the general government shall render it necessary-without, however, destroying them altogether. Although I am here as a representative from a small State, I consider myself as a citizen of the United States, whose general interest I will always support.

Mr. GERRY. It appears to me that the States never were independent-they had only corporate rights. Confederations are a mongrel kind of government, and the world does not afford a precedent to go by. Aristocracy is the worst kind of government, and I would sooner submit to a monarchy. We must have a system that will execute itself.

The question was then put on Mr. Lansing's motion, and lost-4 ayes-6 noes-one State divided.

Question on the clause-6 ayes-4 noes-and one State divided.

Judge ELSWORTH. I move that the consideration of the 8th resolve be postponed. Carried-9 ayes-2 noes.

I now move the following amendment to the resolve-that in the second branch each State have an equal vote. I confess that the effect of this motion is, to make the general government partly federal and partly national. This will secure tranquility, and still make it efficient; and it will meet the objections of the larger States. In taxes they will have a proportional weight in the first branch of the general legislature-If the great States refuse this plan, we will be forever separated. Even in the executive the larger States have ever had great influence. -The provinces of Holland ever had it. If all the States are to exist they must necessarily have an equal vote in the general government. Small communities when associating with greater, can only be supported by an equality of votes. I have always found in my reading and experience, that in all societies the governors are ever gradually rising into power.

The larger States, although they may not have a common interest for combination, yet they may be partially attached to each other for mutual support and advancement. This can be more easily effected than the union of the remaining small States to check it; and ought we not to regard antecedent plighted faith to the confederation already entered into, and by the terms of it declared to be perpetual? And it is not yet obvious to me that the States will depart from this ground. When in the hour of common danger we united as equals, shall it now be urged by some that we must depart from this principle when the danger is over? Will the world say that this is just? We then associated as free and independent States, and were well satisfied-To perpetuate that independence, I wish to establish a national legislature, executive, and judiciary, for under these we shall I doubt not preserve peace and harmony-nor should I be surprised (although we made the general government the most perfect in our opinion,) that it should hereafter require amendment- But at present this is as far as I possibly can go-If this convention only chalk outlines of a good government we shall do well.

Mr. BALDWIN. It appears to be agreed that the government we should adopt ought to be energetic and formidable, yet I would guard against the danger of becoming too formidable. The second branch ought not to be elected as the first. Suppose we take the example of the constitution of Massachusetts, as it is commended for its goodness: There the first branch represents the people, and the second its property.

Mr. MADISON. I would always exclude inconsistent principles in framing a system of government. The difficulty of getting its defects amended are great, and sometimes insurmountable. The Virginia State government was the first which was made, and though its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend their system without success. The few alterations made in it were by tumult and faction, and for the worse. If there was real danger, I would give the smaller States the defensive weapons-But there is none from that quarter. The great danger to our general government is the great southern and northern interests of the continent, being opposed to each

other. Look to the votes in congress, and most of them stand divided by the geography of the country, not according to the size of the States.

Suppose the first branch granted money, may not the second branch, from State views, counteract the first? In congress, the single State of Delaware prevented an embargo, at the time that all the other States thought it absolutely necessary for the support of the army. Other powers, and those very essential, besides the legislative, will be given to the second branch-such as the negating all State laws. I would compromise on this question, if I could do it on correct principles, but otherwise not-if the old fabric of the confederation must be the ground-work of the new, we must fail.

Adjourned till to-morrow morning.

SATURDAY, JUNE 30TH, 1787.

Met pursuant to adjournment. Present 11 States.

Judge Brearsly moved that the president be directed to write to the executive of New Hampshire, requesting the attendance of its delegates.

Negatived-2 ayes-5 noes-one State divided.

The discussion of yesterday resumed.

Mr. WILSON. The question now before us is of so much consequence, that I cannot give it a silent vote-Gentlemen have said, that if this amendment is not agreed to, a separation to the north of Pennsylvania may be the consequence. - This neither staggers me in my sentiments or my duty. If a minority should refuse their assent to the new plan of a general government, and if they will have their own will, and without it, separate the union, let it be done; but we shall stand supported by stronger and better principles. The opposition to this plan is as 22 is to 90, in the general scale-not quite a fourth part of the union-Shall three-fourths of the union surrender their rights for the support of that artificial being, called State interest? If we must join issue I am willing. -I cannot consent that one-fourth shall controul the power of three-fourths.

If the motion is adopted, seven States will controul the whole, and the lesser seven compose 24 out of 90. One third must controul two-thirds-24 overrule 66. For whom do we form a constitution, for men, or for imaginary beings called States, a mere metaphysical distinction? Will a regard to State rights justify the sacrifice of the rights of men? If we proceed on any other foundation than the last, our building will neither be solid nor lasting. Weight and numbers is the only true principle-every other is local, confined or imaginary. Much has been said of the danger of the three larger States combining together to give rise to monarchy, or an aristocracy. Let the probability of this combination be explained, and it will be found that a rivalry rather than a confederacy will exist among them. Is there a single point in which this interest coincides? Supposing that the executive should be selected from one of the larger States, can the other two be gratified? Will not this be a source of jealousy amongst them, and will they not separately

court the interest of the smaller States, to counteract the views of a favorite rival? How can an aristocracy arise from this combination more than amongst the smaller States? On the contrary, the present claims of the smaller States lead directly to the establishment of an aristocracy, which is the government of the few over the many, and the Connecticut proposal removes only a small part of the objection. There are only two kinds of bad governments-the one which does too much, and therefore oppressive, and the other which does too little, and therefore weak. Congress partakes of the latter, and the motion will leave us in the same situation and as much fettered as ever we were. The people see its weakness, and would be mortified in seeing our inability to correct it.

The gentleman from Georgia has his doubts how to vote on this question, and wishes some qualification of it to be made-I admit there ought to be some difference as to the numbers in the second branch; and perhaps there are other distinctions which could with propriety, be introduced-such, for example, as the qualifications of the elected, &c. However, if there are leading principles in the system which we adopt, much may be done in the detail. We all aim at giving the general government more energy. The State governments are necessary and valuable-No liberty can be obtained without them. On this question depends the essential rights of the general government and of the people.

Judge ELSWORTH. I have the greatest respect for the gentleman who spoke last. I respect his abilities, although I differ from him on many points-He asserts that the general government must depend on the equal suffrage of the people. But will not this put it in the power of few States to controul the rest? It is a novel thing in politics that the few controul the many. In the British government, the few, as a guard, have an equal share in the government. The house of lords, although few in number, and sitting in their own right, have an equal share in their legislature. They cannot give away the property of the community, but they can prevent the commons from being too lavish in their gifts. Where is or was a confederation ever formed, where equality of voices was not a fundamental principle? Mankind are apt to go from one extreme to another, and because we have found defects in the confederation, must we therefore pull down the whole fabric, foundation and all, in order to erect a new building totally different from it, without retaining any of its materials? What are its defects? It is said equality of votes has embarrassed us; but how? Would the real evils of our situation have been cured, had not this been the case? Would the proposed amendment in the Virginia plan, as to representation, have relieved us? I fancy not. Rhode Island has been often quoted as a small State, and by its refusal once defeated the grant of the impost. Whether she was right in so doing is not the question; but was it a federal requisition? And if it was not, she did not, in this instance, defeat a federal measure.

If the larger States seek security, they have it fully in the first branch of the general government. But can we turn the tables and say that the lesser States are equally secure? In commercial regulations they will unite. If policy should require free ports, they would be found at Boston, Philadelphia, and Alexandria. In the disposition of lucrative offices they would unite. But I ask no surrender of any of the rights of the great States, nor do I plead duress in the makers of the old confederation, nor suppose they soothed the danger, in order to resume their rights when the danger was over. No; small States must possess the power of self-defence or be ruined. Will any one say there is no diversity of interests in the States? And if there is, should not those interests

be guarded and secured? But if there is none, then the large States have nothing to apprehend from an equality of rights. And let it be remembered, that these remarks are not the result of partial or local views. The State I represent is respectable, and in importance holds a middle rank.

Mr. MADISON. Notwithstanding the admirable and close reasoning of the gentleman who spoke last, I am not yet convinced that my former remarks are not well founded. I apprehend he is mistaken as to the fact on which he builds one of his arguments. He supposes that equality of votes is the principle on which all confederacies are formed—that of Lycia, so justly applauded by the celebrated Montesquieu, was different. He also appeals to our good faith for the observance of the confederacy. We know we have found one inadequate to the purposes for which it was made—Why then adhere to a system which is proved to be so remarkably defective? I have impeached a number of States for the infraction of the confederation, and I have not even spared my own State, nor can I justly spare his. Did not Connecticut refuse her compliance to a federal requisition? Has she paid, for the two last years, any money into the continental treasury? And does this look like government, or the observance of a solemn compact? Experience shows that the confederation is radically defective, and we must, in a new national government, guard against those defects. Although the large States in the first branch have a weight proportionate to their population, yet as the smaller States have an equal vote in the second branch, they will be able to controul and leave the larger without any essential benefit. As peculiar powers are intended to be granted to the second branch, such as the negating State laws, &c., unless the larger States have a proportionate weight in the representation, they cannot be more secure.

Judge ELSWORTH. My State has always been strictly federal, and I can with confidence appeal to your excellency [the president] for the truth of it, during the war. The muster-rolls will show that she had more troops in the field than even the State of Virginia. We strained every nerve to raise them; and we neither spared money or exertions to complete our quotas. This extraordinary exertion has greatly distressed and impoverished us, and it has accumulated out State debts—We feel the effects of it even to this day. But we defy any gentleman to show that we ever refused a federal requisition. We are constantly exerting ourselves to draw money from the pockets of our citizens, as fast as it comes in; and it is the ardent wish of the State to strengthen the federal government. If she has proved delinquent through inability only, it is not more than others have been, without the same excuse.

Mr. SHERMAN. I acknowledge there have been failures in complying with the federal requisition. Many States have been defective, and the object of our convention is to amend these defects.

Col. DAVIE. I have great objection to the Virginia plan as to the manner the second branch is to be formed. It is impracticable. The number may, in time, amount to two or three hundred. This body is too large for the purposes for which we intend to constitute it. I shall vote for the amendment. Some intend a compromise.—This has been hinted by a member from Pennsylvania, but it still has its difficulties. The members will have their local prejudices. The preservation of the State societies must be the object of the general government. It has been asserted that we were one in war, and one in peace. Such we were as States; but every treaty must be the law of

the land as it affects individuals. The formation of the second branch, as it is intended by the motion, is also objectionable. We are going the same round with the old confederation-No plan yet presents sufficient checks to a tumultuary assembly, and there is none therefore which yet satisfies me.

Mr. WILSON. On the present motion it was not proper to propose another plan. I think the second branch ought not to be numerous. I will propose an expedient-Let there be one member for every 100,000 souls, and the smallest States not less than one member each. This would give about twenty-six members. I make this proposal not because I belong to a large State, but in order to pull down a rotten house, and lay a foundation for a new building. To give additional weight to an old building is to hasten its ruin.

Governor FRANKLIN. The smaller States, by this motion, would have the power of giving away the money of the greater States. There ought to be some difference between the first and second branches. Many expedients have been proposed, and I am sorry to remark, without effect. A joiner, when he wants to fit two boards, takes off with his plane the uneven parts from each side, and thus they fit. Let us do the same-we are all met to do something.

I shall propose an expedient: Let the senate be elected by the States equally-in all acts of sovereignty and authority, let the votes be equally taken-the same in the appointment of all officers, and salaries; but in passing of laws, each State shall have a right of suffrage in proportion to the sums they respectively contribute. Amongst merchants, where a ship has many owners, her destination is determined in that proportion. I have been one of the ministers to France from this country during the war, and we should have been very glad, if they would have permitted us a vote in the distribution of the money to carry on the war.

Mr. MARTIN. Mr. Wilson's motion or plan would amount to nearly the same kind of inequality.

Mr. KING. The Connecticut motion contains all the vices of the old confederation. It supposes an imaginary evil-the slavery of State governments. And should this convention adopt the motion, our business here is at an end.

Captain DAYTON. Declamation has been substituted for argument. Have gentlemen shown, or must we believe it, because it is said, that one of the evils of the old confederation was unequal representation? We, as distinct societies, entered into the compact. Will you now undermine the thirteen pillars that support it?

Mr. MADISON. If we cannot confederate on just principles, I will never confederate in any other manner.

Mr. MADISON. I will not answer for supporting chimerical objects-but has experience evinced any good in the old confederation? I know it never can answer, and I have therefore made use of bold language against it. I do assert, that a national senate, elected and paid by the people, will have no more efficiency than congress; for the States will usurp the general government. I mean,

however, to preserve the State rights with the same care as I would trials by jury; and I am willing to go as far as my honorable colleague.

Mr. BEDFORD. That all the States at present are equally sovereign and independent, has been asserted from every quarter of this house. Our deliberations here are a confirmation of the position; and I may add to it, that each of them act from interested, and many from ambitious motives. Look at the votes which have been given on the floor of this house, and it will be found that their numbers, wealth, and local views, have actuated their determinations; and that the larger States proceed as if our eyes were already perfectly blinded. Impartiality, with them, is already out of the question-the reported plan is their political creed, and they support it, right or wrong. Even the diminutive State of Georgia has an eye to her future wealth and greatness-South Carolina, puffed up with the possession of her wealth and negroes, and North Carolina, are all, from different views, united with the great States. And these latter, although it is said they can never, from interested views, form a coalition, we find closely united in one scheme of interest and ambition, notwithstanding they endeavor to amuse us with the purity of their principles and the rectitude of their intentions, in asserting that the general government must be drawn from an equal representation of the people. Pretences to support ambition are never wanting. Their cry is, where is the danger? and they insist that although the powers of the general government will be increased, yet it will be for the good of the whole; and although the three great States form nearly a majority of the people of America, they never will hurt or injure the lesser States. I do not, gentlemen, trust you. If you possess the power, the abuse of it could not be checked; and what then would prevent you from exercising it to our destruction? You gravely allege that there is no danger of combination, and triumphantly ask, how could combinations be effected? "The larger States," you say, "all differ in productions and commerce; and experience shows, that instead of combinations, they would be rivals, and counteract the views of one another." This, I repeat, is language calculated only to amuse us. Yes, sir, the larger States will be rivals, but not against each other-they will be rivals against the rest of the States. But it is urged that such a government would suit the people, and that its principles are equitable and just. How often has this argument been refuted, when applied to a federal government. The small States never can agree to the Virginia plan; and why then is it still urged? But it is said that it is not expected that the State governments will approve the proposed system, and that this house must directly carry it to THE PEOPLE for their approbation! Is it come to this, then, that the sword must decide this controversy, and that the horrors of war must be added to the rest of our misfortunes? But what have the people already said? "We find the confederation defective-go, and give additional powers to the confederation- give to it the imposts, regulation of trade, power to collect taxes, and the means to discharge our foreign and domestic debts." Can we not then, as their delegates, agree upon these points? As their ambassadors, can we not clearly grant those powers? Why then, when we are met, must entire, distinct, and new grounds be taken, and a government, of which the people had no idea, be instituted? And are we to be told, if we wont agree to it, it is the last moment of our deliberations? I say, it is indeed the last moment, if we do agree to this assumption of power. The States will never again be entrapped into a measure like this. The people will say the small States would confederate, and grant further powers to congress; but you, the large States, would not. Then the fault will be yours, and all the nations of the earth will justify us. But what is to become of our public debts if we dissolve the union? Where is your plighted faith? Will you crush the smaller States, or must they be left unmolested? Sooner than

be ruined, there are foreign powers who will take us by the hand. I say not this to threaten or intimidate, but that we should reflect seriously before we act. If we once leave this floor, and solemnly renounce your new project, what will be the consequence? You will annihilate your federal government, and ruin must stare you in the face. Let us then do what is in our power—amend and enlarge the confederation, but not alter the federal system. The people expect this, and no more. We all agree in the necessity of a more efficient government—and cannot this be done? Although my State is small, I know and respect its rights, as much, at least, as those who have the honor to represent any of the larger States.

Judge ELSWORTH. I am asked by my honorable friend from Massachusetts, whether by entering into a national government, I will not equally participate in national security? I confess I should; but I want domestic happiness, as well as general security. A general government will never grant me this, as it cannot know my wants or relieve my distress. My State is only as one out of thirteen. Can they, the general government, gratify my wishes? My happiness depends as much on the existence of my State government, as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to give.

Mr. KING. I am in sentiment with those who wish the preservation of State governments; but the general government may be so constituted as to effect it. Let the constitution we are about forming be considered as a commission under which the general government shall act, and as such it will be the guardian of the State rights. The rights of Scotland are secure from all danger and encroachments, although in the parliament she has a small representation. May not this be done in our general government? Since I am up, I am concerned for what fell from the gentleman from Delaware—"Take a foreign power by the hand!" I am sorry he mentioned it, and I hope he is able to excuse it to himself on the score of passion. Whatever may be my distress, I never will court a foreign power to assist in relieving myself from it.

Adjourned till Monday next.

MONDAY, JULY 2D, 1787.

Met pursuant to adjournment. Present 11 States.

The question was then put on Mr. Elsworth's motion. -5 ayes-5 noes-one State divided. So the question, as to the amendment was lost.

Mr. PINKNEY. As a professional man, I might say, that there is no weight in the argument adduced in favor of the motion on which we were divided; but candor obliges me to own, that equality of suffrage in the States is wrong. Prejudices will prevail, and they have an equal weight in the larger as in the smaller States. There is a solid distinction as to interest between the southern and northern States—To destroy the ill effects thereof, I renew the motion which I made in the early stage of this business. [See the plan of it before mentioned.]

General Pinkney moved for a select committee, to take into consideration both branches of the legislature.

Mr. MARTIN. It is again attempted to compromise. -You must give each State an equal suffrage, or our business is at an end.

Mr. SHERMAN. It seems we have got to a point, that we can not move one way or the other. Such a committee is necessary to set us right.

Mr. MORRIS. The two branches, so equally poised, cannot have their due weight. It is confessed, on all hands, that the second branch ought to be a check on the first-for without its having this effect it is perfectly useless. -The first branch, originating from the people, will ever be subject to precipitancy, changeability, and excess. Experience evinces the truth of this remark without having recourse to reading. This can only be checked by ability and virtue in the second branch. On your present system, can you suppose that one branch will possess it more than the others? The second branch ought to be composed of men of great and established property-an aristocracy. Men, who from pride will support consistency and permanency; and to make them completely independent, they must be chosen for life, or they will be a useless body. Such an aristocratic body will keep down the turbulency of democracy. But if you elect them for a shorter period, they will be only a name, and we had better be without them. Thus constituted, I hope they will show us the weight of aristocracy.

History proves, I admit, that the men of large property will uniformly endeavor to establish tyranny. How then shall we ward off this evil? Give them the second branch, and you secure their weight for the public good. They become responsible for their conduct, and this lust of power will ever be checked by the democratic branch, and thus form a stability in your government. But if we continue changing our measures by the breath of democracy, who will confide in our engagements? Who will trust us? Ask any person whether he reposes any confidence in the government of congress, or that of the State of Pennsylvania-he will readily answer you, no. Ask him the reason, and he will tell you, it is because he has no confidence in their stability.

You intend also that the second branch shall be incapable of holding any office in the general government. -It is a dangerous expedient. They ought to have every inducement to be interested in your government. Deprive them of this right, and they will become inattentive to your welfare. The wealthy will ever exist; and you never can be safe unless you gratify them as a body, in the pursuit of honor and profit. Prevent them by positive institutions, and they will proceed in some left-handed way. A son may want a place-you mean to prevent him from promotion-They are not to be paid for their services-they will in some way pay themselves; nor is it in your power to prevent it. It is good policy that men of property be collected in one body, to give them one common influence in your government. Let vacancies be filled up as they happen, by the executive. Besides, it is of little consequence, on this plan, whether the States are equally represented or not. If the State governments have the division of many of the loaves and fishes, and the general government few, it cannot exist. This senate would be one of the baubles of the general government. If you choose them for seven years, whether chosen by the people or the States; whether by equal suffrage or in any other proportion, how will they be a check? They will still have local and State prejudices. -A government by compact is no government at all. You

may as well go back to your congressional federal government, where, in the character of ambassadors, they may form treaties for each state.

I avow myself the advocate of a strong government, still I admit that the influence of the rich must be guarded; and a pure democracy is equally oppressive to the lower orders of the community. This remark is founded on the experience of history. We are a commercial people, and as such will be obliged to engage in European politics. Local government cannot apply to the general government. These latter remarks I throw out only for the consideration of the committee who are to be appointed.

Gov. RANDOLPH. I am in favor of appointing a committee; but considering the warmth exhibited in debate on Saturday, I have, I confess, no great hopes that any good will arise from it. Cannot a remedy be devised? If there is danger to the lesser States, from an unequal representation in the second branch, may not a check be found in the appointment of one executive, by electing him by an equality of State votes? He must have the right of interposing between the two branches, and this might give a reasonable security to the smaller States. - Not one of the lesser States can exist by itself; and a dissolution of the confederation, I confess, would produce conventions, as well in the larger as in the smaller States. The principle of self-preservation induces me to seek for a government that will be stable and secure.

Mr. Strong moved to refer the 7th resolve to the same committee.

Mr. WILSON. I do not approve of the motion for a committee. I also object to the mode of its appointment-a small committee is the best.

Mr. LANSING. I shall not oppose the appointment, but I expect no good from it.

Mr. MADISON. I have observed that committees only delay business; and if you appoint one from each State, we shall have in it the whole force of State prejudices. The great difficulty is to conquer former opinions. The motion of the gentleman from South Carolina can be as well decided here as in committee.

Mr. GERRY. The world at large expect something from us. If we do nothing, it appears to me we must have war and confusion-for the old confederation would be at an end. Let us see if no concession can be made. Accommodation is absolutely necessary, and defects may be amended by a future convention.

The motion was then put to appoint a committee on the 8th resolve, and so much of the 7th as was not agreed to. Carried-9 States against 2.

And, by ballot, the following members were appointed:

Massachusetts,

Mr. Gerry.

Connecticut,

Mr. Elsworth.

New York,

Mr. Yates.

New Jersey,

Mr. Patterson.

Pennsylvania,

Mr. Franklin.

Delaware,

Mr. Bedford.

Maryland,

Mr. Martin.

Virginia,

Mr. Mason.

North Carolina,

Mr. Davie.

South Carolina,

Mr. Rutledge.

Georgia,

Mr. Baldwin.

The convention then adjourned to Thursday, the 5th of July.

TUESDAY, JULY 3D, 1787.

The grand committee met. Mr. Gerry was chosen chairman.

The committee proceeded to consider in what manner they should discharge the business with which they were entrusted. By the proceedings in the convention they were so equally divided on the important question of representation in the two branches, that the idea of a conciliatory adjustment must have been in contemplation of the house in the appointment of this committee. But still how to effect this salutary purpose was the question. Many of the members, impressed with the utility of a general government, connected with it the indispensable necessity of a representation from the States according to their numbers and wealth; while others, equally tenacious of the rights of the States, would admit of no other representation but such as was strictly federal, or in other words, equality of suffrage. This brought on a discussion of the principles on which the house had divided, and in a lengthly recapitulation of the arguments advanced in the house in support of these opposite propositions. As I had not openly explained my sentiments on any former occasion on this question, but constantly in giving my vote, showed my attachment to the national government on federal principles, I took this occasion to explain my motives-[See a copy of my speech hereunto annexed. (2)]

These remarks gave rise to a motion of Dr. Franklin, which after some modification was agreed to, and made the basis of the following report of the committee.

The committee to whom was referred the eighth resolution, reported from the committee of the whole house, and so much of the seventh as had 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.

That in the first branch of the legislature, each of the States now in the union, be allowed one member for every 40,000 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 apportioning money, and for fixing salaries of the officers of 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 in the first branch.

That in the second branch of the legislature, each State shall have an equal vote.

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 choose 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.

[At this period Messrs. YATES and LANSING left the convention, 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.]

The preceding Notes of the late Chief Justice YATES, contained in two hundred and forty-five pages, (3) 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.

JOHN LANSING, Jun.

NOTES