

FRIDAY, JUNE 1, 1787.

JOURNAL

Friday June 1. 1787.

The honorable William Houstoun, Esq a Deputy of the State of Georgia, attended and took his seat.

The following credential was produced and read  
(here insert Mr Houstoun's credential) <sup>1</sup>

The Order of the day being read,

The House resolved itself into a Committee of the whole House to consider of the State of the American Union — Mr President left the Chair.

Mr Gorham took the Chair of the Committee  
Mr President resumed the Chair

Mr Gorham reported from the Committee that the Committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again

Resolved that this House will to-morrow again resolve itself into a Committee of the whole House to consider of the State of the american union.

And then the House adjourned till to-morrow at 10 o'clock. A.M.

In a Committee of the whole House

Friday June 1. 1787.

Mr Gorham in the Chair

It was moved and seconded to proceed to the consideration of the 7th resolution submitted by Mr Randolph, namely  
"Resolved that a national executive be instituted; to

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<sup>1</sup> See Appendix B.

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“be chosen by the national legislature; for the term of  
“years

“to receive punctually at stated times a fixed compensa-  
“tion for the services rendered; in which no encrease or dimi-  
“nution shall be made so as to affect the magistracy existing  
“at the time of such encrease or diminution; and

“to be ineligible a second time; and that besides a general  
“authority to execute the national laws, it ought to enjoy the  
“executive rights vested in Congress by the confederation.”

On motion, by Mr Wilson seconded by Mr C. Pinckney,  
to amend the first clause of the resolution by adding, after  
the word instituted, the words “to consist of a single per-  
son” — so as to read

“resolved “that a national executive to consist of a single  
person be instituted”

It was moved and seconded to to postpone the considera-  
tion of the amendment — and on the question to postpone  
it passed in the affirmative

It was then moved and seconded to agree to the first clause  
of the resolution, namely

“Resolved that a national executive be instituted” and on  
the question to agree to the said clause

it passed in the affirmative

It was then moved, by Mr Madison, seconded by Mr Wilson,  
after the word instituted to add the words

“with power to carry into execution the national laws, —  
“to appoint to offices in cases not otherwise provided for; and  
“to execute such powers, not legislative or judiciary in their  
“nature, as may from time to time be delegated by the na-  
“tional legislature”

and on a division of the amendment the following clauses  
were agreed to — namely

“with power to carry into execution the national laws”;  
“to appoint to offices in cases not otherwise provided for”<sup>2</sup>

On the question to continue the last clause of the amend-  
ment namely

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<sup>2</sup> *Journal* assigns to this question, Vote 8, Detail of Ayes and Noes. This is doubtless a mistake, see *Records*, May 31, notes 5, 6, and 16.

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“and to execute such other powers, not legislative or “judiciary in their nature, as may from time to time be delegated by the national legislature.”

it passed in the negative.<sup>3</sup>

It was then moved and seconded to fill up the blank with the word “seven” — so as to read

“for the term of seven years”

And on the question to fill up the blank with the word “seven”

it passed in the affirmative [Ayes—5; noes—4; divided—1.]<sup>4</sup>

It was then moved and seconded to postpone the consideration of the following words — namely

“to be chosen by the national legislature”

and on the question to postpone it passed in the affirmative.

It was then moved and seconded that the Committee do now rise — and report a further progress

## DETAIL OF AYES AND NOES

1 N. H.		2 Massa:	3 C:	4 R. I.	5 N. Y.	6 N. J:	7 P:	8 D:	9 Mary:	10 V.	11 N. C.	12 S. C.	13. G.
aycs	noes												
[9] 5	4	divided	no	on the questn of 7 years to ye executive	aye	aye	aye	aye		aye	no	no	no

## MADISON

Friday June 1st. 1787.

⟨William Houston from Georgia took his seat⟩<sup>5</sup>

⟨The⟩ Committee of the whole ⟨proceeded to Resolution 7.⟩  
“that a national Executive be ⟨instituted, to be chosen⟩ by  
the national Legislature ————— for the term of  
years ⟨&c⟩ to be ineligible thereafter, to possess the executive  
powers of Congress &c” —<sup>6</sup>

Mr. Pinkney was for a vigorous Executive but was afraid

<sup>3</sup> *Journal* mistakenly assigns to this question Vote 7, Detail of Ayes and Noes. See above note 2, and below note 12.

<sup>5</sup> Taken from *Journal*.

<sup>4</sup> Vote 9, Detail of Ayes and Noes.

<sup>6</sup> Revised from *Journal*.

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the Executive powers of (the existing) Congress might extend to peace & war &c which would render the Executive a Monarchy, of the worst kind, towit an elective one.

Mr. Wilson moved that the Executive consist of a single person. Mr. C Pinkney seconded the motion, (so as to read "that a national Ex. to consist of a single person, be instituted—")<sup>6</sup>

A considerable pause ensuing and the Chairman asking if he should put the question, Docr. Franklin observed that it was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr. Rutledge animadverted on the shyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive power in a single person, tho' he was not for giving him the power of war and peace. A single man would feel the greatest responsibility and administer the public affairs best.

Mr. Sherman said he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depository of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might (not) be fixed, but<sup>7</sup> that the legislature should be at liberty to appoint one or more as experience might dictate.

Mr. Wilson preferred a single magistrate, as giving most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of a Legislative nature. Among others that

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<sup>7</sup> Crossed out "left to be determined by the Legislature from time to time".

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of war & peace &c. The only powers he conceived strictly Executive were those of executing the laws, and appointing officers, not (appertaining to and) appointed by the Legislature.

Mr. Gerry favored the policy of annexing a Council (to the Executive) in order to give weight & inspire confidence.

Mr. Randolph strenuously opposed a unity in the Executive magistracy.<sup>8</sup> He regarded it as the foetus of monarchy. We had he said no motive to be governed by the British Government, as our prototype. He did not mean however to throw censure on that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed to it; but the first genius of the people of America required a different form of Government. He could not see why the great requisites for the Executive department, vigor, despatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore (in order to support its independence) to consist of more than one.<sup>9</sup>

Mr. Wilson said that Unity in the Executive instead of being the fetus of Monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to the situation of this Country; the extent of which was so great, and the manners so republican, that nothing but a great confederated Republic would do for it.

Mr. Wilson's motion for a single magistrate was postponed by common consent, the (Committee) seeming unprepared for any decision on it; (and the first part of the clause agreed to, viz. "that a National Executive be instituted.")<sup>10</sup>

Mr. (Madison) — (thought) it would be proper, before a choice shd. be made between a unity and a plurality in the Executive, to fix the extent of the Executive authority; that

<sup>8</sup> See Appendix A, CXXXVII.

<sup>9</sup> Madison had added at the end of Randolph's remarks, but later struck out, "Three distinct from one wd. use it to his equal partialities: Three taken from so many divisions of the Union wd. inspire more confidence."

<sup>10</sup> Taken from *Journal*.

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as certain powers were in their nature Executive, and must be given to that departmt. whether administered by one or more persons, a definition of their extent would assist the judgment in determining how far they might be safely entrusted to a single officer. He accordingly moved that so much of the clause before the Committee as related to the powers of the Executive shd. be struck out & that (after the words) "that a national Executive ought to be instituted" (there be inserted the words following) viz, "with power to carry into effect. the national laws. to appoint to offices in cases not otherwise provided for, and to execute such other powers ("not Legislative nor Judiciary in their nature.") as may from time to time be delegated by the national Legislature". The words ("not legislative nor judiciary in their nature") were added to the proposed amendment in consequence of a suggestion by Genl Pinkney that improper powers might (otherwise) be delegated,<sup>11</sup>

(Mr. Wilson seconded this motion)<sup>10</sup>

Mr. Pinkney moved to amend the amendment by striking out the last member of it; viz. "and to execute such other powers not Legislative nor Judiciary in their nature as may from time to time be delegated." He said they were unnecessary, the object of them being included in the "power to carry into effect the national laws".

Mr. Randolph seconded the motion.

Mr. Madison did not know that the words were absolutely necessary, or even the preceding words. "to appoint to offices &c. the whole being perhaps included in the first member of the proposition. He did not however see any inconveniency in retaining them, and cases might happen in which they might serve to prevent doubts and misconstructions.

(In consequence of the motion of Mr. Pinkney, the question on Mr. Madison's motion was divided; and the words objected to by Mr. Pinkney struck out; by the votes of Connecticut. N. Y. N. J. Pena. Del. N. C. & Geo: agst. Mass. Virga. & S. Carolina the preceding part of the motion being first agreed to: Connecticut divided, all the other States in the affirmative.

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<sup>11</sup> Crossed out "as the motion first stood". The whole resolution revised from *Journal*.

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The next clause in Resolution 7, relating to the mode of appointing, & the duration of, the Executive being under consideration,) <sup>12</sup>

Mr. Wilson said he was almost unwilling to declare the mode which he wished to take place, being apprehensive that it might appear chimerical. He would say however at least that in theory he was for an election by the people; Experience, particularly in N. York & Massts, shewed that an election of the first magistrate by the people at large, was both a convenient & successful mode. The objects of choice in such cases must be persons whose merits have general notoriety.

Mr. Sherman was for the appointment by the Legislature, and for making him absolutely dependent on that body, as it was the will of that which was to be executed. An independence of the Executive on the supreme Legislative, was in his opinion the very essence of tyranny if there was any such thing.

Mr. Wilson moves that the blank for the term of duration should be filled with three years, observing at the same time that he preferred this short period, on the supposition that a re-eligibility would be provided for.

Mr. Pinkney moves for seven years.

Mr. Sherman was for three years, and agst. the doctrine of rotation as throwing out of office the men best qualified to execute its duties.

Mr. Mason was for seven years at least, and for prohibiting a re-eligibility as the best expedient both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters; and a temptation on the side of the Executive to intrigue with the Legislature for a re-appointment.

Mr. Bedford was strongly opposed to so long a term as seven years. He begged the committee to consider what the

<sup>12</sup>Madison had originally written: "The motion was agreed to. as was the amendment of Mr. thus amended by the motion." Later he added "(Note — this was done by a division of the Question, the first part of Mr — amendt. being agreed to — the last disagreed to in consequence of the Objection of Mr. P. & Mr. R. —)", but then substituted the form in the text above, taken from *Journal*, which is in error in assigning these votes to these questions. See May 31, note 16.

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situation of the Country would be, in case the first magistrate should be saddled on it for such period and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment he said would be no cure for this evil, as an impeachment would reach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years.

On the question for seven years,

Massts. dividd. Cont. no. N. Y. ay. N. J. ay. Pena. ay. Del. ay. Virga. ay. N. C. no. S. C. no. Georg. no [Ayes—5; noes—4; divided—1.]

There being 5. ays, 4 noes, 1 divid. a question was asked whether a majority had voted in the affirmative? The President decided that it was an affirmative vote.

The *mode of appointing* the Executive was the next question.

Mr. Wilson renewed his declarations in favor of an appointment by the people. He wished to derive not only both branches of the Legislature from the people, without the intervention of the State Legislatures (but the Executive also;) in order to make them as independent as possible of each other, as well as of the States;

Col. Mason favors the idea, but thinks it impracticable. He wishes however that Mr. W(ilson) might have time to digest it into his own form.—(the clause “to be chosen by the National Legislature” — was accordingly postponed. —) <sup>13</sup>

Mr. Rutledge suggests an election of the Executive by the second branch only of the national Legislature —

(The Committee then rose and the House  
(adjourned.) <sup>14</sup>

<sup>13</sup> Taken from *Journal*.

<sup>14</sup> See further Appendix A, XXXII.

*Friday*

KING

*June 1*

## YATES

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.

## KING

Comee. of the Whole

*1 June.* Ex. power to be in one person

Friday 1 June

This amend. moved by Wilson & secd. by Cs. Pinck.

Rutledge in favor of it. Sherman proposes to leave the number wth. the Legislature —

Wilson — an extive. ought to possess the powers of secrecy, vigour & Dispatch — and to be so constituted as to be responsible — Extive. powers are designed for the execution of Laws, and appointing Officers not otherwise to be appointed — If appointments of Officers are made by a sing. Ex he is responsible for the propriety of the same. not so where the Executive is numerous

Mad: agrees wth. Wilson in his definition of executive powers — executive powers *ex vi termini*, do not include the Rights of war & peace &c. but the powers shd. be confined and defined — if large we shall have the Evils of elective Monarchies — probably the best plan will be a single Executive of long duration wth. a Council, with liberty to depart from their Opinion at his peril —

Gerry — I am in favr. of a council to advise the Ex — they will be the organs of information of the persons proper for

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offices—their opinions may be recorded—they may be called to acct. for yr. Opinions. & impeached — if so their Responsibility will be certain, and in Case of misconduct their punishment certain —

Randolph — Danger of Monarchy, or Tyranny, if the ex. consists of three persons they may execute yr. Functions without Danger — if one he can not be impeached until the expiration of his Office, or he will be dependent on the Legislature — such an Unity wd. be agt. the fixed Genius of America &c &c —

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Wilson

We must consider two points of Importance existing in our Country — the extent & manners of the United States — the former seems to require the vigour of Monarchy, the manners are agt. a King and are purely republican — Montesquieu is in favor of confederated Republicks — I am for such a confedn. if we can take for its basis liberty, and can ensure a vigorous execution of the Laws.

A single ex. will not so soon introduce a Mony. or Despotism, as a complex one.

The people of Amer. did not oppose the British King but the parliament — the opposition was not agt. an Unity but a corrupt multitude —

Wmson — There is no true difference between a complex executive, formed by a single person with a Council, or by three or more persons as the executive —

The Question of the unity or plurality of the Exve. postponed — and the Come. proceeded to examine the powers — these points being discussed — the Come took into consideration the Duration of the Office of the Ex —

Wilson for 3 Yrs and no exclusion or rotation —

Mad. 7 years and an exclusion for ever after — or during good behavior —

Mason — in Favor of 7 years. and an exclusion afterwards — thereby he is made independent of the Legislature, who are proposed as his Electors — if he is capable of reelection by the Leg: the Ex. will be complaisant, & reelect — the Execu-

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HAMILTON

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tive will be subservient and court a reelection — on the Quest to fill the Blank for seven yrs

Mass. divid.	Con	no	NY.	ay	} filled <sup>15</sup>
Gor. & K. ay	NC.	no	NJ.	ay	
Ger. & Sg. no	SC.	no	Pen.	ay	
	G.	no	Del.	ay	
			Vir	ay	

## HAMILTON

I — The way to prevent a majority from having an interest to oppress the minority is to enlarge the sphere.

Madison 2 — Elective Monarchies turbulent and unhappy — Men unwilling to admit so decided a superiority of merit in an individual as to accede to his appointment to so preeminent a station —

If several are admitted as there will be many competitors of equal merit they may be all included — contention prevented — & the republican genius consulted —

Randolph — I Situation of this Country peculiar —

II — Taught the people an aversion to Monarchy

III All their constitutions opposed to it —

IV — Fixed character of the people opposed to it —

V — If proposed 'twill prevent a fair discussion of the plan.

VI — Why cannot three execute?

View of America } — Great exertions only requisite on particular occasions

<sup>15</sup>[Endorsed: June 1 — | Number power and duration of Ex. | Duration 7 yrs and no reelection | Mass. divid | Con N Car S Car Geor No. | N Y N J Pen Del Virg Aye | Madison 7 yrs or good Behaviour



*Friday*

PIERCE

*June 1*

war are generally determined by Writers on the Laws of Nations to be legislative powers.

Mr. Maddison was of opinion that an Executive formed of one Man would answer the purpose when aided by a Council, who should have the right to advise and record their proceedings, but not to control his authority.

Mr. Gerry was of opinion that a Council ought to be the medium through which the feelings of the people ought to be communicated to the Executive.

Mr. Randolph advanced a variety of arguments opposed to a unity of the Executive, and doubted whether even a Council would be sufficient to check the improper views of an ambitious Man. A unity of the Executive he observed would savor too much of a monarchy.

Mr. Wilson said that in his opinion so far from a unity of the Executive tending to progress towards a monarchy it would be the circumstance to prevent it. A plurality in the Executive of Government would probably produce a tyranny as bad as the thirty Tyrants of Athens, or as the Decemvirs of Rome.

A confederated republic joins the happiest kind of Government with the most certain security to liberty.

(A CONSIDERATION.)

Every Government has certain moral and physical qualities engrafted in their very nature, — one operates on the sentiments of men, the other on their fears.

Mr. Dickinson was of opinion that the powers of the Executive ought to be defined before we say in whom the power shall vest.

Mr. Bedford said he was for appointing the Executive Officer for three years, and that he should be eligible for nine years only.

Mr. Maddison observed<sup>16</sup> that to prevent a Man from holding an Office longer than he ought, he may for malpractice be impeached and removed; — he is not for any ineligibility.

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<sup>16</sup> This speech of Madison's may belong to the records of June 2. See June 2 note 25.

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*Friday*

McHENRY

*June 1*

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## McHENRY

*June 1st.*

Recd an express from home that my brother lay dangerously sick in consequence of which I set out immediately for Baltimore.