

TUESDAY, JUNE 12, 1787.

JOURNAL

Tuesday June 12. 1787.

The Order of the day being read

The House resolved 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 tomorrow 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 11 o'Clock A. M.

In a Committee of the whole House

Tuesday June 12. 1787

Mr Gorham in the Chair

[To agree to the 15 resolution submitted by Mr. Randolph  
Ayes — 5; noes — 3; divided — 2.]<sup>1</sup>

It was moved and seconded to fill up the blank in the resolution respecting the term for which the members of the first branch of the national Legislature should be chosen with the words "three years"

On the question to fill up with three years

it passed in the affirmative. [Ayes — 7; noes — 4.]

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<sup>1</sup> Vote 46, Detail of Ayes and Noes. The resolutions adopted by the Convention up to this point will be found below *Records*, June 13, Journal (document A).

*Tuesday*

JOURNAL

*June 12*

It was moved and seconded to strike out the following words in the resolution namely

to be of years at least.

And on the question to strike out

it passed in the affirmative [Ayes — 10; noes — 1.]

It was moved and seconded to add the words

“and fixed” after the word “liberal” in that clause of the resolution which respects the stipend of the first branch

passed in the affirmative [Ayes — 8; noes — 3.]

It was then moved and seconded to add the words

“to be paid out of the public Treasury”

agreed to [Ayes — 8; noes — 3.]

[To agree to the clause respectg the salary of the first branch Ayes — 8; noes — 3.]<sup>2</sup>

It was moved and seconded to strike out the words

“by a particular State”

passed in the negative [Ayes — 4; noes — 5; divided — 2.]

a question being taken on the clause which respects the ineligibility of the members of the first branch

it passed in the affirmative [Ayes — 10; noes — 1.]

It was moved and seconded to amend the resolution by inserting the words

“and under the national government for the space of three years after it's expiration.”

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

Moved and seconded to fill up the blank with

“One year”

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

it was moved and seconded to strike out the following words namely

“to be incapable of re-election for the space of after the expiration of their term of service and to be subject to re-call.

On the question to strike out

passed in the affirmative

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<sup>2</sup> Vote 51, Detail of Ayes and Noes.

*Tuesday*

JOURNAL

*June 12*

It was moved and seconded to strike out the words to be of \_\_\_\_\_ years at least

passed in the negative [Ayes—3; noes—6; divided—2.]

Moved to fill up the blank with

“Thirty”

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

Moved and seconded to fill up the blank after the words “sufficient to ensure their independency” with

“seven years”

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

It was moved by Mr Rutledge seconded by Mr Butler to strike out the clause which respects stipends to be allowed to the second branch

On the question to strike out

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

It was then moved and seconded that the clause which respects the stipends to be given to the second branch be the same as that of the first

passed in the affirmative

It was moved and seconded that the ineligibility of the second branch to office be the same as the first.

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

It was moved and seconded to alter the resolution submitted by Mr Randolph, so as to read as follows namely.

“That the jurisdiction of the supreme Tribunal shall be “to hear and determine in the dernier resort all piracies, “felonies &c”

It was moved and seconded to postpone the whole of the last clause generally.

It was then moved and seconded to strike out the words “all piracies and felonies on the high seas”

passed in the affirmative

It was moved and seconded to strike out the words

“all captures from an enemy”

passed in the affirmative

It was moved and seconded to strike out the words “other States” and to insert the words “two distinct States in the union”

passed in the affirmative

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*Tuesday*

JOURNAL

*June 12*

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It was moved and seconded to postpone the consideration of the resolution which respects the Judiciary.

passed in the affirmative

It was then moved and seconded that the Committee do now rise, report a further progress, and request leave to sit again

The Committee then rose

Tuesday

JOURNAL

June 12

DETAIL OF AYES AND NOES

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Questions	Ayes	Noes	Divided
[46]	aye			no	no	no	dd	dd	dd	aye	aye	aye	aye	To agree to the 1 <sup>st</sup> resolution submitted by Mr Randolph	5	3	2
[47]	no			no	aye	aye	aye	aye	aye	aye	no	no	aye	To fill up the term of election for the first branch with three year	7	4	
[48]	aye			aye	aye	aye	aye	aye	no	aye	aye	aye	aye	For striking out the words "to be of age at least.	10	1	
[49]	no			no	aye	aye	aye	aye	aye	aye	aye	aye	aye	For adding the words "& fixed" after the words liberal stipend	8	3	
[50]	aye			no	no	aye	aye	aye	aye	aye	aye	no	aye	To add the words "to be paid out of the national Treasury"	8	3	
[51]	aye			no	no	aye	aye	aye	aye	aye	aye	no	aye	To agree to the clause respectg the salary of the first branch	8	3	
[52]	dd			aye	aye	no	no	dd	no	aye	aye	no	aye	To strike out the words "by a particular State or" in the clause of the resolution	4	5	2
[53]	aye			no	aye	aye	aye	aye	aye	aye	aye	aye	aye	To agree to the clause respecting the ineligibility of the first branch to offices	10	1	
[54]	no			no	no	no	no	aye	no	no	no	no	no	To fill the blank of ineligibility to office after the term with three years	1	10	
[55]	aye			aye	no	aye	aye	dd	aye	aye	aye	no	no	To fill up the blank with One year	8	2	1
[56]	no			aye	no	aye	no	no	no	dd	no	dd	no	To strike out the words "to be of years at least" in the resolution respectg the second bran.	3	6	2
[57]	aye			no	aye	no	aye	no	aye	aye	aye	no	no	To fill up the blank with "Thirty"	7	4	
[58]	dd			no	dd	aye	aye	aye	aye	aye	aye	aye	aye	To fill up the blank in the election of the 2 branch with Seven years:	8	1	2
[59]	dd			aye	no	no	no	no	no	no	no	no	no	To strike out the clause which respects stipends to be allowed to the second branch	3	7	1
[60]	aye			no	aye	aye	aye	aye	aye	aye	aye	aye	aye	That the ineligibility of the 2 branch to office be the same as the first	10	1	

*Tuesday*

MADISON

*June 12*

## MADISON

Teusday June 12th. in Committee of whole.

⟨The⟩ Question taken on ⟨Resolution 15⟩, to wit, referring the new system to the people of the States for ratification (it passed in the affirmative): Massts. ay. Cont. no. N. Y. no. N. J. no. Pa. ay \* Del. divd. Md. divd. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes—6; noes—3; divided — 2.]<sup>3</sup>

Mr. Sharman & Mr. Elseworth moved to fill the blank ⟨left in the 4th Resolution⟩<sup>4</sup> for the periods of electing the members of the first branch with the words “every year.” Mr. Sharman observing that he did it in order to bring on some question.

Mr. Rutledge proposed “every two years.”

Mr. Jennifer propd. “every three years.” observing that the too great frequency of elections rendered the people indifferent to them, and made the best men unwilling to engage in so precarious a service.

Mr. M(adison) seconded the motion for three years. Instability is ⟨one of⟩ the great vices of our republics, to be remedied. Three years will be necessary, in a Government so extensive, for members to form any knowledge of the various interests of the States to which they do not belong, and of which they can know but little from the situation and affairs of their own. One year will be almost consumed in preparing for and traveling to & from the seat of national business.

Mr. Gerry. The people of New England will never give up the point of annual elections. they know of the transition made in England from triennial to Septennial elections, and will consider such an innovation here as the prelude to a like usurpation. He considered annual Elections as the only

\*⟨Pennsylvania omitted in the printed *Journal*. The vote is there entered as of June 11th.⟩<sup>5</sup>

<sup>3</sup>The resolutions adopted by the Convention up to this point will be found below *Records*, June 13, *Journal*, (document A).

<sup>4</sup>Taken from *Journal*.

<sup>5</sup>Yates confirms Madison that this vote was taken on the 12th, but agrees with *Journal* that only ten votes were cast.

Tuesday

MADISON

June 12

defence of the people agst. tyranny. He was as much agst. a triennial House as agst. a hereditary Executive.

Mr. M(adison.) observed that if the opinions of the people were to be our guide, it wd. be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his Constituents were at this time; much less could he say what they would think if possessed of the information & lights possessed by the members here; & still less what would be their way of thinking 6 or 12 months hence. We ought to consider what was right & necessary in itself for the attainment of a proper Governmt. A plan adjusted to this idea will recommend itself — The respectability of this convention will give weight to their recommendation of it. Experience will be constantly urging the adoption of it. and all the most enlightened & respectable citizens will be its advocates. Should we fall short of the necessary & proper point, this influential class of citizens will be turned against the plan, and little support in opposition to them can be gained to it from the unreflecting multitude.

Mr. Gerry repeated his opinion that it was necessary to consider what the people would approve. This had been the policy of all Legislators. If the reasoning of Mr. M(adison) were just, and we supposed a limited Monarchy the best form in itself, we ought to recommend it, tho' the genius of the people was decidedly adverse to it, and having no hereditary distinctions among us, we were destitute of the essential materials for such an innovation.

On the question for triennial election of the 1st branch

Mass. no. (Mr King ay.) Mr. Ghorum wavering. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. no. S. C. no. Geo. ay. [Ayes — 7; noes — 4.]

The <words><sup>6</sup> requiring members of ye. 1st. branch to be of the age of        years were struck out (Maryland alone, no)<sup>7</sup> <The words> "*liberal compensation for members*" <being> consid. Mr. M(adison) moves to inset the words "£<sup>6</sup> *fixt.*" He observed that it would be improper to leave the members

<sup>6</sup> Crossed out "section".

<sup>7</sup> Crossed out "10 ays, 1 no."

Tuesday

MADISON

June 12

of the Natl. legislature to be provided for by the State Legisls: because it would create an improper dependence; and to leave them to regulate their own wages, was an indecent thing, and might in time prove a dangerous one. He thought wheat or some other article (of which) the average price throughout a reasonable period precedn'g might be settled in some convenient mode, would form a proper standard.

Col. Mason seconded the motion; adding that it would be improper for other reasons to leave the wages to be regulated by the States. 1. the different States would make different provision for their representatives, and an inequality would be felt among them, whereas he thought they ought to be in all respects equal. 2. the parsimony of the States might reduce the provision so low that as had already happened in choosing delegates to Congress, the question would be not who were most fit to be chosen, but who were most willing to serve.

On the question for inserting the words "and fixt."

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

Doctr. Franklyn said he approved of the amendment just made for rendering the salaries as fixed as possible; but disliked the word "*liberal*". He would (prefer) the word moderate if it was necessary to substitute any other. He remarked the tendency of abuses in every case, to grow of themselves when once begun. and related very pleasantly the progression in ecclesiastical benefices, from the first departure from the gratuitous (provision for)<sup>8</sup> the Apostles, to the establishment of the papal system. The word "*liberal*" was struck out nem. con.

On the motion of Mr. Pierce,<sup>9</sup> that the wages should be paid out of the National Treasury, Massts. ay. Ct. no. N. Y. no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. G. ay. [Ayes — 8; noes — 3.]<sup>10</sup>

Question on the clause relating to term of service & compensation of 1st. branch

<sup>8</sup> Crossed out "practice of."

<sup>9</sup> Crossed out "words were inserted providing".

<sup>10</sup> See further August 14, note 7.

Tuesday

MADISON

June 12

Massts. ay. Ct. no. N. Y. no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. ay. [Ayes—8; noes—3.]

On a question for striking (out) the “*ineligibility* of members of Natl. Legis: to *State Offices*.”

Massts. divid.<sup>11</sup> Cont. ay. N. Y. ay. N. J. no. Pa. no. Del. no. Md. divid. Va. no. N. C. ay. S. C. ay. Geo. no [Ayes — 4; noes — 5; divided — 2.]

On the question for agreeing to the clause as amended.<sup>12</sup>

Massts. ay. Cont. no. N. Y. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 10; noes — 1.]

On a question for making Members of Natl. legislature *ineligible* to any Office under the Natl. Govt. for the term of 3 years after ceasing to be members.

Massts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 10.]

On the question for such *ineligibility* for one year.<sup>13</sup>

Massts. ay. Ct. ay. N. Y. no. N. J. ay. Pa. ay. Del. ay. Md. divid. Va. ay. N. C. ay. S. C. ay. Geo. no. [Ayes — 8; noes — 2; divided — 1.]

On question (moved by Mr. Pinckney)<sup>14</sup> for striking out “incapable of re-election into 1st. branch of Natl. Legisl. for years and subject to recall” agd. to nem. con.

On question for striking out (from Resol: 5) the words requiring members of the Senatorial branch to be of the age of years (at least)<sup>15</sup>

Massts. no. Cont. ay. N. Y. no. N. J. ay. Pa. .ay. Del. no. Md. no. Va. no. N. C. divid. S. C. no. Geo. divid. [Ayes — 3; noes — 6; divided — 2.]

On the question for filling the blank with 30 years as the qualification; it was agreed to.

<sup>11</sup> Madison first wrote “Massts. ay.” and changed it to “Massts. divid.” It is possible that this change may have been made at a later date in consequence of the records of *Journal* and *Yates*.

<sup>12</sup> The clause had not been amended. The statements of the question in *Journal* and *Yates* are to be preferred.

<sup>13</sup> For further references upon this whole subject, see under September 3 note 7.

<sup>14</sup> Taken from *Yates*.

<sup>15</sup> Revised from *Journal*.

*Tuesday*

MADISON

*June 12*

Massts. ay Ct. no. N. Y. ay N. J. no Pa. ay Del. no Md. ay Va. ay N. C. ay S. C. ay Geo. no [Ayes — 7; noes — 4.]

Mr. Spaight moved to fill the blank for the duration of the appointmts. to the 2d branch of the National (Legislature) with the words "7 years.

Mr. Sherman thought 7 years too long. He grounded his opposition he said on the principle that if they did their duty well, they would be reelected. And if they acted amiss, an earlier opportunity should be allowed for getting rid of them. He preferred 5 years which wd. be between the terms of 1st branch & of the executive

Mr. Pierce proposed 3 years. 7 years would raise an alarm. Great mischiefs had arisen in England from their septennial act which was reprobated by most of their patriotic Statesmen.

Mr. Randolph was for the term of 7 years. The Democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this 2d. branch is to controul the democratic branch of the Natl. Legislature. If it be not a firm body, the other branch being more numerous, and coming immediately from the people, will overwhelm it. The Senate of Maryland constituted on like principles had been scarcely able to stem the popular torrent. No mischief can be apprehended, as the concurrence of the other branch, and in some measure, of the Executive, will in all cases be necessary. A firmness & independence may be the more necessary also in this branch, as it ought to guard the Constitution agst. encroachments of the Executive who will be apt to form combinations with the demagogues of the popular branch.

(Mr. ) M(adison), considered 7 years as a term by no means too long. What we wished was to give to the Govt. that stability which was every where called for, and which the enemies of the Republican form alleged to be inconsistent with its nature. He was not afraid of giving too much stability by the term of seven years. His fear was that the popular branch would still be too great an overmatch for it. It was to be much lamented that we had so little direct experience to guide us. The Constitution of Maryland was the only one that bore any analogy to this part of the plan. In no instance had

Tuesday

MADISON

June 12

the Senate of Maryland. created just suspicions of danger from it. In some instances perhaps it may have erred by yielding to the H. of Delegates. In every instance of their opposition to the measures of the H. of D. they had had with them the suffrages of the most enlightened and impartial people of the other States as well as of their own. In the States where the Senates were chosen in the same manner as the other branches, of the Legislature, and held their seats for 4 years, the institution was found to be no check whatever agst. the (instabilities of the other branches.) He conceived it to be of great importance that a stable & firm Govt. organized in the republican form should be held out to the people. If this be not done, and the people be left to judge of this species of Govt. by ye. operations of the defective systems under which they now live, it is much to be feared the time is not distant when, in universal disgust, they will renounce the blessing which they have purchased at so dear a rate, and be ready for any change that may be proposed to them.<sup>16</sup>

On the question for "seven years", as the term for the 2d. branch

Massts. divided. (Mr. King. Mr. Ghorum ay — Mr. Gerry, Mr. Strong, no.) Cont. no. N. Y. divd. N. J. ay. Pa. ay Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay. [Ayes — 8; noes — 1; divided — 2.]

Mr. Butler (& Mr. Rutledge)<sup>17</sup> proposed that the members of the 2d. branch should be entitled to no salary or compensation for their services. on the question

Masts. divd. Cont. ay. N. Y. no. N. J. no. P. no. Del. ay. Md. no Va. no. N. C. no. S. C. ay. Geo. no.\* [Ayes—3; noes—7; divided—1.]

(It was then moved<sup>18</sup> & agreed that the clauses respecting the stipends & ineligibility of the 2d. branch be the same as, of the 1st. branch: Con: disagreeing to the ineligibility.

\*[It is probable ye votes here turned chiefly on the idea that if the salaries were not here provided for, the members would be paid by their respective States.]

<sup>16</sup> Crossed out "He was a friend to Republican".

<sup>17</sup> Taken from *Journal*.

<sup>18</sup> The remainder of this day's records taken from *Journal*.

Tuesday

YATES

June 12

It was moved & 2ded. to alter Resol: 9. so as to read "that the jurisdiction of the supreme tribunal shall be to hear & determine in the dernier resort, all piracies, felonies, &c"

It was moved & 2ded. to strike out "all piracies & felonies on the high seas," which was agreed to.

It was moved & agreed to strike out "all captures from an enemy".

It was moved & agreed to strike out "other States" and insert "two distinct States of the Union"

It was moved & agree to postpone the consideration of Resolution 9. relating to the Judiciary:

The Come. then rose & the House adjourned)<sup>19</sup>

## Y A T E S

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.<sup>20</sup> 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,

<sup>19</sup> See further Appendix A, XLIII.

<sup>20</sup> The resolutions at this stage of the proceedings will be found below, *Records*, June 13, Journal (document A.)

Tuesday

YATES

June 12

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 year's 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

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*Tuesday*

YATES

*June 12*

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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.