

SATURDAY, JUNE 16, 1787.

JOURNAL

Saturday June 16. 1787.

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 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 on monday next 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 Monday next at 11 o'Clock A. M.

In a Committee of the whole House

Saturday June 16. 1787.

Mr Gorham in the Chair.

After some time passed in debate on the propositions offered by the honorable Mr Paterson.

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

The Committee then rose.

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Saturday June 16. In Committee of the whole on Resolutions
proposd. by Mr. P. & Mr. R¹

Mr. Lansing called for the reading of the 1st. resolution of each plan, which he considered as involving principles directly in contrast; that of Mr. Patterson says he sustains the sovereignty of the respective States, that of Mr. Randolph destroys it: the latter requires a negative on all the laws of the particular States; the former, only certain general powers for the general good. The plan of Mr. R. in short absorbs all power except what may be exercised in the little local matters of the States which are not objects worthy of the supreme cognizance. He grounded his preference of Mr. P's plan, chiefly on two objections agst that of Mr. R. 1. want of power in the Convention to discuss & propose it.² 2 the improbability of its being adopted. 1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. The Act of Congress The tenor of the Acts of the States, the commissions produced by the several deputations all proved this. and this limitation of the power to an amendment of the Confederacy, marked the opinion of the States, that it was unnecessary & improper to go farther. He was sure that this was the case with his State. N. York would never have concurred in sending deputies to the convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government. 2. was it probable that the States would adopt & ratify a scheme, which they had never authorized us to propose? and which so far exceeded what they regarded as sufficient? We see by their several acts (particularly in relation to the plan of revenue proposed by Cong. in 1783 not authorized by the articles of

¹ For this debate June 16-18, Martin's *Genuine Information* (Appendix A, CLVIII) is important.

² On this question, see debates of June 16-18, and Appendix A, CXLIII, CLXVII, CLXX, CLXXI, CLXXIV, CCXXX.

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Confederation, what were)³ the ideas they then entertained. Can so great a change be supposed to have already taken place. To rely on any change which is hereafter to take place in the sentiments of the people would be trusting to too great an uncertainty. We know only what their present sentiments are, and it is in vain to propose what will not accord with these. The States will never feel a sufficient confidence in a general Government to give it a negative on their laws. The Scheme is itself totally novel. There is (no) parallel to it to be found. The authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

Mr. Patterson. said (as) he had on a former occasion given his sentiments on the plan proposed by Mr. R. he would now avoiding repetition as much as possible give his reasons in favor of that proposed by himself. He preferred it because it accorded 1. with the powers of the Convention.⁴ 2 with the sentiments of the people. If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them of ourselves. I came here not to speak my own sentiments, but (the sentiments of) those who sent me. Our object is not such a Governmt. as may be best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no Confederacy at present exists, it can not be denied that all the States stand on the footing of equal sovereignty. All therefore must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the fact⁵ that a federal compact actually exists, and consult the articles of it we still find an equal Sovereignty to be the basis of it. He reads the 5th. art: of Confederation giving each State a vote — & the 13th. declaring that no alteration shall be made without unanimous consent. This is the nature of all treaties. What is unanimously done, must be unanimously undone. It was observed (by Mr. Wilson) that the larger State gave up the

³ Taken from Yates.⁴ See above, note 2.⁵ Crossed out, "supposition".

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point, not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that reason at liberty to take it back. Can the donor resume his gift Without the consent of the donee. This doctrine may be convenient, but it is a doctrine that will sacrifice the lesser States. The large States acceded readily to the confederacy. It was the small ones that came in reluctantly and slowly. N. Jersey & Maryland were the two last, the former objecting to the want of power in Congress over trade: both of them to the want of power to appropriate the vacant territory to the benefit of the whole. If the sovereignty of the States is to be maintained, the Representatives must be drawn immediately from the States, not from the people: and we have no power to vary the idea of equal sovereignty. The only expedient that will cure the difficulty, is that of throwing the States into Hotchpot. To say that this is impracticable, will not make it so. Let it be tried, and we shall see whether the Citizens of Massts. Pena. & Va. accede to it. It will be objected that Coercion will be impracticable. But will it be more so in one plan than the other? Its efficacy will depend on the quantum of power collected, not on its being drawn from the States, or from the individuals; and according to his plan it may be exerted on individuals as well as according that of Mr. R. a distinct executive & Judiciary also were equally provided by this plan. It is urged that two branches in the Legislature are necessary. Why? for the purpose of a check. But the reason of the precaution is not applicable to this case. Within a particular State, when party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of the different States are checks on each other. Do the people at large complain of Congs.? No: what they wish is that Congs. may have more power. If the power now proposed be not eno'. the people hereafter will make additions to it. With proper powers Congs. will act with more energy & wisdom than the proposed Natl. Legislature; being fewer in number, and more secreted & refined by the mode of election. The plan of Mr. R. will also be enormously expensive. Allowing Georgia & Del. two

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representatives each in the popular branch the aggregate number of that branch will be 180. Add to it half as many for the other branch and you have 270. members coming once at least a year from the most distant parts as well as the most central parts of the republic. In the present deranged State of our finances can so expensive a system be seriously thought of? By enlarging the powers of Congs. the greatest part of this expense will be saved, and all purposes will be answered. At least a trial ought to be made.

Mr. Wilson⁶ entered into a contrast of the principal points of the two plans so far (he said) as there had been time to examine the one last proposed. These points were 1. in the Virga. plan there (are) 2 & in some degree 3 branches in the Legislature ÷ in the plan from N. J. there is to be a *single* legislature only — 2. Representation of the people at large is the basis of the one ÷ the State Legislatures the pillars of the other — 3. proportional representation prevails in one ÷ equality of suffrage in the other — 4. a single Executive Magistrate is at the head of the one: — a plurality is held out in the other. — 5. in the one the majority of (the people of)⁷ the U. S. must prevail: — in the other a minority may prevail. 6. the Natl. Legislature is to make laws in all cases to which the separate States are incompetent & —: — (in place of this) Congs. are to have additional power in a few cases only — 7. a negative on the laws of the States: — (in place of this) coercion to be substituted — 8. The Executive to be removeable on impeachment & conviction; — (in one plan: in the other) to be removeable at the instance of majority of the Executives of the States — 9. Revision of the laws (provided for in one:) — no such check (in the other) — 10. inferior national tribunals (in one:) — none such (in the other) — 11 (In ye. one) jurisdiction of Natl. tribunals to extend &c —; an appellate jurisdiction only (allowed in the other). 12. (Here) the jurisdiction is to extend to all cases affecting the Natl. peace & harmony: — (there) a few cases only (are) marked out.

⁶ For Wilson's outline of this speech, see below, also Appendix A, CXLII.

⁷ This modification would seem to have been made on the authority of King, whose notes Madison may have seen.

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13. (finally ye) ratification (is in this to be) by the people themselves — (in that) by the legislative authorities according to the 13 art: of Confederation.

With regard to the *power of the Convention*,⁸ he conceived himself authorized to *conclude nothing*, but to be at liberty to *propose any thing*. In this particular he felt himself perfectly indifferent to the two plans.

With regard to the *sentiments of the people*, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved, were commonly mistaken for the general voice. He could not persuade himself that the State Govts. & sovereignties were so much the idols of the people, nor a Natl. Govt. so obnoxious to them, as some supposed. Why sd. a Natl. Govt. be unpopular? Has it less dignity? will each Citizen enjoy under it less liberty or protection? Will a Citizen of *Delaware* be degraded by becoming a Citizen of the *United States*? Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their Govt.? No. Sir, It is from the Natl. Councils that relief is expected. For these reasons he did not fear, that the people would not follow us into a national Govt. and it will be a further recommendation of Mr. R.'s plan that it is to be submitted to *them* and not to the *Legislatures*, for ratification.

proceeding now to the 1st. point on which he had contrasted the two plans, he observed that anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance indeed that he could ever consent to give powers to Congs. he had two reasons either of wch. was sufficient.

1. Congs. as a Legislative body does not stand on the people.⁹
2. it is a *single* body. 1. He would not repeat the remarks he had formerly made on the principles of Representation. he would only (say) that an inequality in it, has ever been a poison contaminating every branch of Govt. In G. Britain where this poison has had a full operation, the security of private

⁸ The italicized words in this and the following paragraph were underscored by Madison when he revised his notes.

⁹ Crossed out: "Here then a fundamental principle of free Govt. is violated".

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rights is owing entirely to the purity of her tribunals of Justice, the Judges of which are neither appointed nor paid by a venal Parliament. The political liberty of that Nation, owing to the inequality of representation is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that country & ours at present. But it is a lesson we ought not to disregard, that the smallest bodies in G. B. are notoriously the most corrupt. Every other source of influence must also be stronger in small than large bodies of men. When Lord Chesterfield had told us that one of the Dutch provinces had been seduced into the views of France, he (need) not have added, that it was not Holland, but one of the *smallest* of them. There are facts among ourselves which are known to all. Passing over others, he will only remark that the *Impost*, so anxiously wished for by the public was defeated not by any of the *larger* States in the Union. 2. *Congress is a single Legislature.* Despotism comes on mankind in different shapes. sometimes in an Executive, sometimes in a military, one. Is there no danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single house there is no check, but the inadequate one, of the virtue & good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan reported by the Committee of the Whole. It vested the Executive powers in a single Magistrate. The plan of N. Jersey, vested them in a plurality. In order to controul the Legislative authority, you must divide it. In order to controul the Executive you must unite it. One man will be more responsible than three. Three will contend among themselves till one becomes the master of his colleagues. In the triumvirates of Rome first Cæsar, then Augustus, are witnesses of this truth. The Kings of Sparta, & the Consuls of Rome prove also the factious consequences of dividing the Executive Magistracy. Having already taken up so much time he wd. not he sd. proceed to any of the other points. Those

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on which he had dwelt, are sufficient of themselves: and on a decision of them, the fate of the others will depend.

Mr. Pinkney, the whole comes to this, as he conceived. Give N. Jersey an equal vote, and she will dismiss her scruples, and concur in the Natil. system. He thought the Convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this Convention.

Mr. Elseworth proposed as a more distinctive form of collecting the mind of the Committee on the subject, "that the Legislative power of the U. S. should remain in Congs. This was not seconded, though it seemed better calculated for the purpose than the 1st. proposition of Mr. Patterson in place of which Mr. E. wished to substitute it.

Mr. Randolph. was not scrupulous on the point of power.¹⁰ When the salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted in strong colours, the imbecility of the existing confederacy, & the danger of delaying a substantial reform. In answer to the objection drawn from the sense of our Constituents as denoted by their acts relating to the Convention and the objects of their deliberation, he observed that as each State acted separately in the case, it would have been indecent for it to have charged the existing Constitution with all the vices which it might have perceived in it. The first State that set on foot this experiment would not have been justified in going so far, ignorant as it was of the opinion of others, and sensible as it must have been of the uncertainty of a successful issue to the experiment. There are certainly reasons of a peculiar nature where the ordinary cautions must be dispensed with; and this is certainly one of them. He wd. (not) as far as depended on him leave any thing that seemed necessary, undone. The present moment is favorable, and is probably the last that will offer.

The true question is whether we shall adhere to the federal plan, or introduce the national plan. The insufficiency of the

¹⁰ See above note 2.

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former has been fully displayed by the trial already made. There are but two modes, by which the end of a Genl. Govt. can be attained: the 1st. is by coercion as proposed by Mr. Ps. plan. 2. by real legislation as propd. by the other plan. Coercion he pronounced to be *impracticable, expensive, cruel to individuals*. It tended also to habituate the instruments of it to shed the blood & riot in the spoils of their fellow Citizens, and consequently trained them up for the service of Ambition. We must resort therefore to a national *Legislation over individuals*, for which Congs. are unfit. To vest such power in them, would be blending the Legislative with the Executive, contrary to the recd. maxim on this subject: If the Union of these powers heretofore in Congs. has been safe, it has been owing to the general impotency of that body. Congs. are moreover not elected by the people, but by the Legislatures who retain even a power of recall. They have therefore no will of their own, they are a mere diplomatic body, and are always obsequious to the views of the States, who are always encroaching on the authority of the U. States. A provision for harmony among the States, as in trade, naturalization &c. — for crushing rebellion whenever it may rear its crest — and for certain other general benefits, must be made. The powers for these purposes, can never be given to a body, inadequate as Congress are in point of representation, elected in the mode in which they are, and possessing no more confidence than they do: for notwithstanding what has been said to the contrary, his own experience satisfied him that a rooted distrust of Congress pretty generally prevailed. A Natl. Govt. alone, properly constituted, will answer the purpose; and he begged it to be considered that the present is the last moment for establishing one. After this select experiment, the people will yield to despair.

The Committee rose & the House adjourned.

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SATURDAY, JUNE 16, 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 wave 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

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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

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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 1 vote, and

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Virginia 16. 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 impoverished 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.

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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

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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

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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 so 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.

	K I N G ¹¹	
Natl.	<i>Lansing</i>	Fedl.

One Br. to come from the people in propn. to yr. numbers	To come from the State Legislatures equally & to represent the States
--	---

All acts of ind. States subject to a national Negative	To possess enumerated powers
--	------------------------------

Will absorb the State sovereignties & leave them mere Corporations, & Electors of the natl. Senate —

¹¹ King's notes of these proceedings are somewhat confused in their arrangement as they are now bound in his MSS. Internal evidence points clearly to the order in which they are here given, and there is nothing in their external form which would prevent this.

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Remarks — The confedn. admits the sovereignties of the States—it speaks of an Union—but it never meant a consolidation — If this had been in view NYk never wd. have sent Delegates — we must attend to the Disposition of the People — They never will agree to a consolidation — the System of Imp: proved the Jealousies of the States — they introduced provisos &c &c — If the people are unfavorable at will it be prudent to form a plan for Futurity — I think not — Experience dont warnt. our forming a Natl. Govt. — Where we have no experiance there can be no reliance on Reason ¹²

Patterson

The plan from Jersey —

1. accd. wt. our powers —

2 in accord with the Sentiments of the People

If we are of opinion that the confedn. is incapable of amendment, let us tell them so & obtain larger powers —

I dont expect to deliver my own Sentiments — I aim at a delivery of the Opinions of my Constituents

I am willing to take it on the Plan of no confed — we are then all Equal — The confedn. was formed unanimously — it can be altered or dissolved only by unanimous Consent —

Federal or national — It is sd. that to be national the Representation shd. be from & proportionable to, the people and operate on the people — the first part is unnecessary — if so a federal Govt. may operate on the people individually — It is proposed to have two Brs. because one will check the other — this is unnecessary because the Delegates in Cong. are a Check to each other—two Br. will be expensive and the plan will be burdensome in the extreme—they will be less segacious and able than Congress—because the latter will be few & the former numerous —

¹² This page of King's MS. is endorsed "Genl. Remarks on Natl. & fedl. Govt."

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Wilson — contrasts the two —

Nat.	Fed.
1	
Legis. of 2 Brs.	A Congress or one Br.
2	
The People are the basis of Rep —	The Legislatures of the State
3	
A repn. according to Numbers or Wealth	The States are equal
4	
A single person as Ex.	More than one person
5	
A majority of the People are to govern	A minority
6	
The Nal. Legis. to legislate in national Cases	enumerated and partial In- stances
7	
Nat. Leg. to negative State laws	The Right to call out the force of the Union
8	
Ex. removeable for Misbe- havior by impeach of ye. Legis —	Majory. Executives of the States
to possess a qualified Neg. infr. Tribunls.	None but the States Courts to have cognizance in cases of Revenue

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Relative to the powers of this convention — We have powers to conclude nothing — we have power to propose anything — we expect the Approbation of Cong. we hope for that of the Legis. of the several States perhaps it will not be inconsistent wth Revolution principles, to promise ourselves the Assent of the People provided a more regular establishment cannot be obtained &c &c

As to the Sentiments of the People

I don't think that State Governments and State Sovereignties is so much the Idol of the People, or that they are averse to receive a national Government—the latter is as precious as the former — a Citizen of N. Jersey will not conceive himself complimented by that epithet, and degraded by being called a citizen of the US — the people expect Relief from national & not from State measures — They therefore expect it from a national & not from State Governments —

It is said we may enlarge the powers of Congress — there are two Objections agt. this proposal

1st Congress as a legislative body dont stand on the principles of a Free Govt. the authority of the people

2d. They are a legislature of a single Br. when they ought to be divided ¹³ —

1st Where the principle of unequal Represtn. prevails there exists a poison wh. eventually will destroy it the Government — A measure has been prevented in the S Genl. until a particular person was made a majr. this was one of the small Gratifications of a small Province —

2d. The single Br — we dread a military despot — is there no danger of a Legislative Despotism there is it must therefore be limited — It cannot be limited or restrained when single — The restraint must be in its own formation, namely a Division — Although it is true that to restrain the powers of a Legislature you must divide them and make them independent; the contrary is true in the Executive — if divided the respon-

¹³ The sheet containing this portion of Wilson's speech is endorsed:
"One or two Branches."

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HAMILTON

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sibility of the Executive is destroyed; they will contend with each other or combine for wicked purposes — this was the case of the first triumvirs of Rome, and afterwards with the Congress.

HAMILTON

Mr. Lansing — N S — proposes to draw representation from the whole body of people, without regard to S Sovereignties —

Subs: proposes to preserve the state Sovereignties

— Powers —	{	— Different Legislatures had a different object —
		— Revise the Confederation —
		Ind. States cannot be supposed to be willing to annihilate the States —
		State of New York would not have agreed to send members on this ground —

— In vain to devise systems however good which will not be adopted ———

If convulsions happen nothing we can do will give them a direction —

Legislatures cannot be expected to make such a sacrifice —

The wisest men in forming a system from theory apt to be mistaken —

The present national government has no precedent or experience to support it —

General opinion that certain additional powers ought to be given to Congress —

Mr. Patterson — 1 — plan accords with powers

2 — accords with sentiment of the People —

If Confederation radically defective we ought to return to our states and tell them so —

Comes not here to sport sentiments of his

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- own but to speak the sense of his Constitu[en]ts —
- States treat as equal —
 - Present Compact gives one *Vote* to each state.
alterations are to be made by Congress and all the Legislatures —
All parties to a Contract must assent to its dissolution —
 - States collectively have advantages in which the smaller states do not participate — therefore individual rules do not apply.
 - Force of government will not depend on proportion of representation — but on Quantity of power —
 - Check not necessary in a ge[ne]ral government of communities — but
in an individual state spirit of faction is to be checked —
 - How have Congress hitherto conducted themselves?
The People approve of Congress but think they have not powers enough —
 - body constituted like Congress from the *fewness* of their numbers more wisdom and energy — than the complicated system of Virginia
 - Expence enormous —
180 — commons
90 — senators
—
270 —

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Wilson — Points of Disagreement —

- | | | |
|-------|--|---|
| V — 1 | 2 or three branches . . . N J | } one branch —
from states —
Equality —
Plural —
Minority to govern—
partial objects —
None —
on application of ma-
jority of Execu-
tives |
| 2 | Derives authority from
People | |
| 3 | Proportion of suffrage . . . | |
| 4 | Single Executive | |
| 5 | — Majority to govern . . . | |
| 6 | — Legislate in all matters of
general Concern | |
| 7 | Negative | |
| 8 | Removeable by impeach-
ment | |
| 9 | — Qualified Negative by Ex-
ecutive | |
| 10 | — Inf. tribunals | |
| 11 | — Orig: Jurisdiction in all
cases of Nat: Rev. | |
12. National Government to be { to be ratified by
ratified by People { Legislatures —
- Empowered to propose every thing
to conclude nothing —
- Does not think state governments the idols of the
people —
Thinks a competent national government will be a
favourite of the people —
- Complaints from every part of United States
that the purposes of government cannot be
answered
- In constituting a government — not merely neces-
sary to give proper powers — but to give them to
proper hands —
- Two reasons against giving additional powers to
Congress —
- First it does not stand on the authority of the
people —
Second — It is a single branch —
Inequality — the poison of all governments —

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— Lord Chesterfield speaks of a Commission to be obtained for a member of a small province.

Pinkney —

Mr. Elseworth —

Mr. Randolp — Spirit of the People in favour of the Virginian scheme —

We have powers; but if we had not we ought not to scruple —

PATERSON¹⁴

Lansing^{14a}—Contrasts the Principles of the two Systems—
The national Plan proposes to draw Representn. from the People.

The federal Plan proposes to draw Representn. from the States.

The first will absorb the State-Governmts.

1. The Powers of the Convention.
2. The Probability as to the Adoption of either System — Publick Acts — particularly the Act respecting the Impost. Reasoning upon Systems unsupported by Experience generally erroneous —

Paterson.¹⁵

Wilson^{14a}— The Plans do not agree in the following Instances.

1. The Govt. consists of 2 Branches.
to connect them together as States.^{14a}
2. The original Authority of the People at Large is brought forward.
3. Representation to be according to the Number and Importance of the Citizens.
4. A single Executive.
5. A Majority of the United States are to control.
6. The national Leg. can operate in all Cases in which the State Leg. cannot.

¹⁴ Taken from *American Historical Review*, IX, 331-334, 325-327.

^{14a} In margin opposite words following.

¹⁵ In margin. For Paterson's outline of his own speech, see below.

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7. The national Leg. will have a Right to negative all State-Acts contravening Treaties, etc.

8. Ex. Mag. removable on Conviction.

9. The Ex. to have a qualified Negative over Acts of the Legr. —

10. Provision is made for superior ¹⁶ Tribunals —

11. The Jurisdn. of the national Legr.¹⁷ is to extend to all Cases of a national Nature.

12. National Peace, all Questions comprehending it, will be the Object of the national Judiciary —

13. Delegates ¹⁸ to come from the People.

The relative Merit of the two Plans.

1. Upon Principles

2. Upon Experience.

3. The joint Result of both.

He can conclude finally Nothing; and to propose every Thing — he may propose any Plan —

Sentiments of the People; those with whom we converse we naturally conclude to be the Sentiments of the People.

States Sovereignments and State Governmts. not so much an Idol as is apprehended — a national Government to protect Property and promote Happiness, the Wish of the People.

Will a Citizen of New Jersey think himself honoured when addressed as a Citzn. of that State, and degraded when addressed as a Citizen of the U. S.

The People expect Relief from the national Councils; it can be had only from a national Governmt. —

*Equalization*¹⁶ — A new Proposal thrown out for the Sentiments of the People.

Adl Powers ought not to be given to Congress. Objns. to that Body.

1. Congress as a legislative Body does not stand upon the Authority of the People.

¹⁶ Superior" evident mistake for "inferior".

¹⁷ "Legr" evident mistake for "Judiciary".

¹⁸ "Delegates" evident mistake for "Ratification".

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2. Congress consists of but one Branch.

An equal Representn. in Proportion to Numbers.

Answr. Citizens of the same State.^{18a}—The Foundation, the Progress, and Principles of Representation—Look at England—Holland—the Vote of every Province necessary. Ld. Chesterfield—

Impost opposed and defeated not by one of the large States—

The Consent of Rhode-Island will be necessary on the Jersey-Plan—

A single Legr.

Despotism presents itself in several various Shapes—military Despot—ex. Despot—Is there no such Thing as a leg. Despot—The Leg. Authority ought to be restrained—

The Restraints upon the Legr. must be such as will operate within itself—No Check in a single Branch—Should have distinct and independant Branches—reciprocal Controul.

A single Executive—Triumvirate of Rome—2 Triumvirate—Augustus rose superior—Sparta—Rome—

Pinckney^{18a}—If Jersey can have an equal Representn. she will come into the Plan from Virginia—

Views—to amend the Confedn. if not amendable, then to propose a new Governmt.—

Solely recommendatory—Powers sufficient. Division of Territory; not seriously proposed—The due Settlemt. of the Importance of the States necessary—this done at present with Respect to Contribution.

England.

1 Congress unfortunately fixed on equal Representn.—they had not the Means of determining the Quota—If each State must have a Vote, each State must contribute equally—

Elsworth.^{18a}

Randolph^{18a} 1. Whether the Articles of the Confedn. can be so reformed as to answer the Purposes of a national Governmt.—

No Usurpation of Power in this Convention. The Spirit of the People in Favour of the Plan from Virginia—

^{18a} In margin opposite words following.

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Powers pursued; if Powers wanting, we should do what is right.

Our Debts remain unpaid while the federal Govt. remains as it is —

Delaware.^{18a} The 13th Article — provides for the alteration of the Articles, then of course for the Alteration of the 5th. Article.

Annapolis^{18a} Powers in a deliberate Assembly — ridiculous — We are only to compare Sentiments — Disdain Danger, and do what is necessary to our political Salvation — We must avail ourselves of the present Moment.

His Constituents will applaud, when he has done every Thing in his Power to relieve America —

No Provision agt. foreign Powers or Invasions. no Money nor Men — Militia not sufficient —

No Provision agt. internal Insurrections. nor for the Maintenance of Treaties —

Coercion two Ways — 1. as to Trade — 2. as to an Army —

Legislation affecting Individuals the only Remedy. This Power too great to lodge in one Body —

Congress possess both Legislation and Execution —

The Variety of Interests¹⁹ in the several States require a national Legislation; or else there may be a Combination of States —

The mode of electing Congress an Objn. — the Delegates will be under the Influence of its particular States.

Cabal and Intrigue of which such a Body as Congress may be capable. They are too numerous for an Executive.

No Provision under the Confedn. for supporting the Harmony of the States — their commercial Interests different.

No provision for Congress to settle Disputes —

No Provision made or Power in Congress for the Suppression of Rebellion — no Troops can be raised — Congress ought not to have the Power of raising Troops.

A Navigation Act may be necessary — Give Power to whom — not to Congress — capable of Intrigue and Cabal;

¹⁹ A hand drawn on the margin points to this, as if indicating its importance.

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Inadequacy of Representation; Want of Confidence in Congress —

Divide leg. and ex. Branches and then Doors may be open ¹⁹⁰—Congress fallen considerably in their Reputatiqn.

Doors not open in Congress.

This the last Moment ever will be offered —

[Paterson]

1. Because it accords with our Powers. Suppose an Attorney. Who can vote agt. it — If Confedn. cannot be amended, say so — The Experimt. has not been made.

2. Because it accords with the Sentiments of the People.

1. Coms.

2. News-papers — Political Barometer. Jersey never would have sent Delegates under the first Plan —

Not to sport Opinions of my own. Wt. can be done. A little practicable Virtue preferable to Theory —

1. As States — independant of any Treaty or Confedn.

Each State is sovereign, free, and independant — Sovereignty includes Equality. We come here as States and as Equals — Why vote by States in Convention — We will not give up the Right —

Mr. Wilson — A Principle given up in the first Confedn.

2. As under the existing Articles of the Confedn.

5th. Article — unanimously entered into.

Back Lands — Jersey — Maryland —

A Contract. The Nature of a Contract. Solemnly entered into — Why break it — why not the new or present one be broke in the same Manner —

Convenience.

The last Clause in the Confedn. —

Some of the States will not consent —

Self-Destruction.

Abolition of the lesser States ¹⁹⁰ — Hitherto argued upon Principle — as States — as subsisting Treaties — The Danger to the lesser States — The Natural Progress of Power — Com-

¹⁹⁰ In margin opposite words following.

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bination of Parts — Orders — States — Proportion of Votes — State-Politicks and Attachments — Great Britain and America

Objns. The larger States contribute most, and therefore Representn. ought to be in Proportion —

No — they have more to protect.

A rich State and poor State in same Relation as a rich individual and a poor one.¹⁹² 2. For the Sake of preserving the Liberty of the others —

3. Wealth will have its Influence —

Objn. — Mr. Wilson — first Principles — All Authority derived from the People — The People entitled to exercise Authority in Person. One free Citizen ought to be of equal Importance with another — true — One free State of equal Importance with another — Both true when properly applied. The Beauty of all Knowledge consists in the Application —

A large County and a small County¹⁹³ — One free Citizen ought to be of equal Importance with another — they are Members of the Society, and therefore true — England and Switzerland. Pennsylv. and Jersey — they have the same Privileges, partake in the same common Stock, for Instance, in back and unlocated Lands. The Genn. soon found out the Diffe. between a Pennsylv. and a Jersey-Man when we talked of Consolidn. then the Pennsylv. gave up $\frac{1}{3}$ — No; no — A Nation, when it is necessary to go by Majority of Votes, a State, when it is necessary to divide the common Stock —

Equalize the States — No Harm — no Hurt. No authority for that Purpose — and then it is impracticable —

Authority — Why talk of the first set of Propositions —

Impracticable — how does that appear — Make the Experiment — Propose the Measure to the Consideration of the States —

Objn. — There must be a national Governmt. to operate individually upon the People in the first Instance, and not upon the States — and therefore a Representation from the People at Large and not from the States —

1. Will the Operation and Force of the Govt. depend upon the mode of Representn. — No — it will depend upon the Quantum of Power lodged in the leg. ex. and judy. Depart-

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ments — it will operate individually in the one Case as well as in the other —

2. Congress are empowered to act individually or to carry the Reqt. into Execn. in the same Manner as is set forth in the first Plan —

3. If not, it may be modified to answer the Purpose.

4. If it cannot be done, better than to have some States devoured by others —

Objn. — Congress not sufficient — there must be two Branches — a House of Delegates and a Senate; why, they will be a Check — This not applicable to the supreme Council of the States — The Representatives from the several States are Checks upon each other.

In a single State Party Heat and Spirit may pervade the whole, and a single Branch may of a sudden do a very improper Act — A second Branch gives Time for Reflexion; the Season of Calmness will return, etc. Is this likely to be the Case among the Representatives of 13 States —

What is the Fact — Congress has hitherto conducted with great Prudence and Sagacity — the People have been satisfied — Give Congress the same Powers, that you intend to give the two Branches, and I apprehend they will act with as much Propriety and more Energy than the latter.

The Chance for Wisdom greater — Refinement — Secretion —

The Expence will be enormous —

Congress the Sun of our political World.

W I L S O N

[A — 1] ²⁰

Propositions

from Virginia

from New Jersey

- | | |
|---|--------------------------|
| 1. A Legislature consisting of
two or three branches | 1. A single Legislature. |
|---|--------------------------|

²⁰ This document was found among the Wilson papers in the Library of the Historical Society of Pennsylvania. It is evidently an outline of Wilson's speech of this

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- | | |
|---|--|
| 2. On the original Authority of the People | 2. On the derivative Authority of the Legislatures of the States |
| 3. Representation of Citizens according to Numbers and Importance | 3. Representation of States without Regard to Numbers and Importance |
| 4. A single Executive Magistrate. | 4. More than one Executive Magistrate. |
| 5. A Majority empowered to act | 5. A small Minority able to control |
| 6. The national Legislature to legislate in all Cases to which the State Legislatures are incompetent, or in which the Harmony of the Union may be interrupted. | 6. The United States in Congress vested with additional Powers only in a few inadequate Instances. |
| 7. To negative Laws contrary to the Union or Treaties | 7. To call forth the Powers of the confederated States in order ²¹ to compel Obedience. |
| 8. Executive removeable on Impeachment and Conviction. | 8. ——— by Congress on Application by a Majority of the Executives of the States. |
| 9. The Executive to have a qualified Negative | 9. ——— to have none. |

day. There is also a preliminary draft which differs from this document mainly in the order of arrangement of the various items.

In the preliminary draft there was a sort of headline:

"I Proper Powers — A Body in which they may be safely lodged". And the first three items were in the order — 2, 3, 1.

²¹ Crossed out in the preliminary draft: "To punish Opposition by calling".

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- | | |
|---|---|
| 10. Provision made for inferior national Tribunals | 10 ——— None |
| 11. The Jurisdiction of the national Tribunal to extend to Cases of national Revenue. | 11 ——— Only by Appeal in the dernier Resort. |
| 12. ——— to Questions that may involve the national Peace | 12 ——— Only limited and appellate Jurisdiction. |
| 13. The national Government to be ratified under the authority of the People by Delegates expressly appointed for that Purpose. | 13. The Alterations in the Confederation must be confirmed by the "Legislatures of every State" |

[A — 2] ²²

Consider the different Points in Question — 1. on Principle — 2. on the declared Sense of the Committee — 3. By some striking Instances, which may happen, if the Plan from New-Jersey be adopted.

Uncertain what the Sense of the People is on several Points —

Reasons why it should be in Favour of national Government — 1. from Interest — 2. from Honour.

Distinction between Citizens and State-Officers.

²² The original document is written on the first three pages of a single folded sheet. A-2 is written on the first inside page opposite A-3.

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Uncertain how long the present Opinion of the People may continue unaltered.

But we mean that our Plan of national Government shall stand or fall by their Opinion.

In forming a Government for the United States two great Objects demand our Attention — 1. That proper Powers be given — 2. That the different Departments of Government be so instituted and arranged that proper Powers may, with Safety, be lodged in them.

The Plan from New-Jersey is liable to three general Objections

[A — 3] ²²

No. 1. 4. 5.)

1. The Government is instituted in an improper Manner —

To secure the Constitution the Legislature must be restrained: It can be restrained only in its Operations: That can be accomplished only by dividing it into distinct and independent Branches.

— legislative Authority single

— executive divided

2. It flows from an illegitimate Sources, the Legislative and Executive Powers of the States, and not the People at large.

No. 2. 3. 13.)

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Inequality of Representation —

— Great Britain —

Experience of the United States.

— Solomon.

No. 6. 7. 8. 9. 10. 11. 12.)

3. It provides not sufficiently for the true Ends of Government.

The legislative and executive Powers are too feeble and dependent —

They and the judicial Power are too confined.

II. What