

TUESDAY, JUNE 19, 1787.

JOURNAL

Tuesday June 19. 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, having spent some time in the consideration of the propositions submitted to the House by the honorable Mr Paterson — and of the resolutions heretofore reported from a Committee of the whole House, both of which had been to them referred, were prepared to report thereon — and had directed him to report to the House that the Committee do not agree to the propositions offered by the honorable Mr Paterson — and that they again submit the resolutions, formerly reported, to the consideration of the House.

It was then moved and seconded to postpone the consideration of the first resolution, reported from the Committee till to-morrow.

and on the question to postpone
it passed in the affirmative

And then the House adjourned till to-morrow at 11 o'Clock
A. M.

In a Committee of the whole House

Tuesday June 19. 1787

Mr Gorham in the Chair

On a question to adopt Mr Dickinson's motion — moved yesterday —

Tuesday

MADISON

June 19

it passed in the negative [Ayes — 4; noes — 6; divided — 1.]
It was then moved and seconded to postpone the consideration of the first proposition offered by Mr Paterson.

passed in the affirmative [Ayes — 9; noes — 2.]

It was then moved and seconded that the Committee do now rise — and report to the House that they do not agree to the propositions offered by the honorable Mr Paterson — and that they report the resolutions offered by the honorable Mr Randolph, heretofore reported from a Committee of the whole House

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

The Committee then rose.

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
[65]	no	aye	aye	aye	aye	no	aye	dd	no	no	no	no	no	To adopt Mr Dickinson's motion offered as a substitute for Mr Paterson's	4	6	1
[66]	aye	aye	no	no	aye	aye	aye	aye	aye	aye	aye	aye	aye	To postpone the first proposition offered by Mr Paterson	9	2	
[67]	aye	aye	no	no	aye	no	dd	aye	aye	aye	aye	aye	aye	not to agree to the Jersey propositions but to report those offered by Mr Randolph	7	3	1

MADISON

Tuesday June 19th. in Committee of whole. on the propositions of Mr. Patterson.

(The Substitute offered yesterday by Mr. Dickenson being rejected by a vote now taken on it; Con. N. Y. N. J. Del. ay. Mas. Pa. V. N. C. S. C. Geo. no Mayd. divided Mr. Patterson's plan was again at large before the Committee)¹

¹ Taken from *Journal*.

Tuesday

MADISON

June 19

Mr. M(adison). Much stress had been laid by some gentlemen on the want of power in the Convention to propose any other than a *federal* plan.² To what had been answered by others, he would only add, that neither of the characteristics attached to a *federal* plan would support this objection. One characteristic, was that in a *federal* Government, the power was exercised not on the people individually; but on the people *collectively*, on the *States*. Yet in some instances as in piracies, captures &c. the existing Confederacy, and in many instances, the amendments to it (proposed by Mr. Patterson) must operate immediately on individuals. The other characteristic was, that a *federal* Govt. derived its appointments not immediately from the people, but from the States which they respectively composed. Here too were facts on the other side. In two of the States, Connect. and Rh. Island, the delegates to Congs. were chosen, not by the Legislatures, but by the people at large; and the plan of Mr. P. intended no change in this particular.

It had been alledged (by Mr. Patterson) that the Confederation having been formed by unanimous consent, could be dissolved by unanimous Consent only Does this doctrine result from the nature of compacts? does it arise from any particular stipulation in the articles of Confederation? If we consider the federal union as analagous to the fundamental compact by which individuals compose one Society, and which must in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. a breach of the fundamental principles of the compact by a part of the Society would certainly absolve the other part from their obligations to it.³ If the breach of *any* article by *any* of the parties, does not set the others at liberty, it is because, the contrary is *implied* in the compact itself, and particularly by that law of it, which gives an indefinite author-

² See above June 16, note 2.

³ Crossed out as the next sentence: "Again a fundamental base of Civil Society the social compact is that a majority in preserving the objects of the compact, the majority shall in all cases But to be satisfied".

Monday

MADISON

June 19

ity to the majority to bind the whole in all cases. This latter circumstance shews that we are not to consider the federal Union as analogous to the social compact of individuals: for if it were so, a Majority would have a right to bind the rest, and even to form a new Constitution for the whole, which the Gentn: from N. Jersey would be among the last to admit. If we consider the federal union as analogous not to the (social) compacts among individual men: but to the conventions among individual States. What is the doctrine resulting from these conventions? ⁴ Clearly, according to the Expositors of the law of Nations, that a breach of any one article, by any one party, leaves all the other parties at liberty, to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties indeed it is expressly stipulated that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during war, which in general is understood to dissolve all subsisting Treaties. But are there any exceptions of this sort to the Articles of confederation? So far from it that there is not even an express stipulation that force shall be used to compell an offending member of the Union to discharge its duty. He observed that the violations of the federal articles had been numerous & notorious. Among the most notorious was an Act of N. Jersey herself; by which she *expressly refused* to comply with a constitutional requisition of Congs. — and yielded no farther to the expostulations of their deputies, than barely to rescind her vote of refusal without passing any positive act of compliance. He did not wish to draw any rigid inferences from these observations. He thought it proper however that the true nature of the existing confederacy should be investigated, and he was not anxious to strengthen the foundations on which it now stands

Proceeding to the consideration of Mr. Patterson's plan, he stated the object of a proper plan to be twofold. 1. to preserve the Union. 2. to provide a Governmt. that will remedy ⁵

⁴ Crossed out: "is that the intention of the parties?"

⁵ Crossed out "all".

Monday

MADISON

June 19

the evils felt by the States⁶ both in their united and individual capacities. Examine Mr. P.'s plan, & say whether it promises satisfaction in these respects.

1. Will it prevent those violations of the law of nations & of Treaties which if not prevented must involve us in the calamities of foreign wars? The tendency of the States to these violations has been manifested in sundry instances. The files of Congs. contain complaints already, from almost every nation with which treaties have been formed. Hitherto indulgence has been shewn to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities. It ought therefore to be effectually provided that no part of a nation shall have it in its power to bring them on the whole. The existing confederacy does (not) sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the States as uncontrouled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified among ourselves, as well in every other confederated republic antient and Modern. By the federal articles, transactions with the Indians appertain to Congs. Yet in several instances, the States⁷ have entered into treaties & wars with them. In like manner no two or more States can form among themselves any treaties &c without the consent of Congs. yet Virga & Maryland in one instance — Pena. & N. Jersey in another, have entered into compacts, without previous application or subsequent apology. No State again can of right raise troops in time of peace without the like consent⁸ Of all cases of the league, this seems to require the most scrupulous observance. Has not Masss, notwithstanding, the most powerful member of the Union, already raised a body of troops? Is she not now augmenting them, without having even deigned to apprise Congs. of Her intention? In fine Have we not seen the public

⁶ Crossed out "U. S."

⁷ Crossed out "in question Georgia".

⁸ Madison originally had written but struck out as the beginning of the sentence after "consent": "If any usurpation in the federal authority be worthy attention".

Monday

MADISON

June 19

land dealt out to Cont. to bribe her acquiescence in the decree constitutionally awarded agst. her claim on the territory of Pena. —? for no other possible motive can account for the policy of Congs. in that measure? — if we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphycetrician & Achæan confederacies among the antients, and the Helvetic, Germanic & Belgic among the moderns, tracing their analogy to the U. States⁹ — in the constitution and extent of their federal authorities — in the tendency of the particular members to usurp on these authorities; and¹⁰ to bring confusion & ruin on the whole. — He observed that the plan of Mr. Pat—son besides omitting a controul over the States as a general defence of the federal prerogatives was particularly defective in two of its provisions. 1. Its ratification was not to be by the people at large, but by the *Legislatures*. It could not therefore render the acts of Congs. in pursuance of their powers even legally *paramount* to the Acts of the States. 2. It gave (to the federal tribunal) an appellate jurisdiction only — even in the criminal cases enumerated, The necessity of any such provision supposed a danger of undue acquittals in the State tribunals. Of what avail wd. an appellate tribunal be, after an acquittal? Besides in most if not all of the States, the Executives have by their respective *Constitutions* the right of pardg. How could this be taken from them by a *legislative ratification* only?

3. Will it prevent trespasses of the States on each other? Of these enough has been already seen. He instanced Acts of Virga. & Maryland which give a preference to their own citizens in cases where the Citizens (of other states)¹¹ are entitled to equality of privileges by the Articles of Confederation. He considered the emissions of paper money (& other kindred measures)¹¹ as also aggressions. The States relatively to one another being each of them either Debtor or Creditor;

⁹ Crossed out "vesting their federal authorities both".

¹⁰ Crossed out "in the obstinacy which".

¹¹ Probably but not certainly a later insertion.

Monday

MADISON

June 19

The Creditor States must suffer unjustly from every emission by the debtor States. We have seen retaliating acts on this subject which threatened danger not to the harmony only, but the tranquillity of the Union. The plan of Mr. Paterson, not giving even a negative on the Acts of the States, left them as much at liberty as ever to execute their unrighteous projects agst. each other.

4. Will it secure ¹² the internal tranquillity of the States themselves? The insurrections in Massts. admonished all the States of the danger to which they were exposed. Yet the plan of Mr. P. contained no provisions for supplying the defect of the Confederation on this point. According to the Republican theory indeed, Right & power being both vested in the majority, are held to be synonymous. According to fact & experience, a minority may in an appeal to force be an overmatch for the majority. 1. If the minority happen to include all such as possess the skill & habits of military life, with such as possess the great pecuniary resources, one third ¹³ may conquer the remaining two thirds. 2. one third of those who participate in the choice of rulers may be rendered a majority by the accession of those whose poverty disqualifies them from a suffrage, & who for obvious reasons may be more ready to join the standard of sedition than that of the established Government. 3. Where slavery exists, the Republican Theory becomes still more fallacious.

5. Will it secure a good internal legislation & administration to the particular States? In developing the evils which vitiate the political system of the U. S. it is proper to take into view those which prevail within the States individually as well as those which affect them collectively: Since the former indirectly affect the whole; and there is great reason to believe that the pressure of them had a full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on 1. the multiplicity of the laws passed by the several States. 2. the mutability of their laws. 3. the injustice of them. 4. the impotence of

¹² Crossed out "a good internal Legis".

¹³ Crossed out "or less".

Monday

MADISON

June 19

them: observing that Mr. Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the Community.

6. Will it secure the Union agst. the influence of foreign powers over its members. He pretended not to say that any such influence had yet been tried: but it naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practiced among the Amphictionic Confederates first by the Kings of Persia, and afterwards fatally by Philip of Macedon: Among the Achæans, first by Macedon & afterwards no less fatally by Rome: Among the Swiss by Austria, France & the lesser neighbouring Powers; among the members of the Germanic (Body) by France, England,¹⁴ Spain & Russia —: and in the Belgic Republic, by all the great neighbouring powers. The plan of Mr. Patterson, not giving to the general Councils any negative on the will of the particular States, left the door open for the ¹⁵ like pernicious machinations among ourselves.

7. He begged the smaller States which were most attached to Mr. Pattersons plan to consider the situation in which it would leave them. In the first place they would continue to bear the whole expense of maintaining their Delegates in Congress. It ought not to be said that if they were willing to bear this burden, no others had a right to complain. As far as it led the small States to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. An examination of the minutes of Congress would satisfy every one that the public business had been frequently delayed by this cause; and that the States most frequently unrepresented in Congs. were not the larger States. He reminded the convention of another consequence of leaving on a small State the burden of Maintaining a Representation in Congs. During a considerable period of the War, one of the Representatives of Delaware, in whom alone before the signing of the Confederation the entire

¹⁴ Crossed out "Prussia".

¹⁵ Crossed out "same invidious policy from same".

Monday

MADISON

June 19

vote of that State and after that event one half of its vote, frequently resided, was a Citizen & Resident of Penna. and held an office in his own State incompatible with an appointment from it to Congs. During another period, the same State was represented by three delegates two of whom were citizens of Penna. — and the third a Citizen of New Jersey.¹⁶ These expedients must have been intended to avoid the burden of supporting delegates from their own State. But whatever might have been ye. cause, was not in effect the vote of one State doubled, and the influence of another increased by it? (In the 2d. place) The coercion, on which the efficacy of the plan depends, can never be exerted but on themselves. The larger States will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the history of the Amphyctionic Confederates: and the ban of the German Empire, It was the cobweb wch. could entangle the weak, but would be the sport of the strong.

8. He begged them to consider the situation in which they would remain in case their pertinacious adherence to an inadmissible plan, should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that the means of escaping it might be the more readily embraced. Let the union of the States be dissolved and one of two consequences must happen. Either the States must remain individually independent & sovereign; or two or more Confederacies must be formed among them. In the first event would the small States be more secure agst. the ambition & power of their larger neighbours, than they would be under a general Government pervading with equal energy every part of the Empire, and having an equal interest in protecting every part agst. every other part? In the second, can the

¹⁶ "Thomas McKean represented the State of Delaware in the Congress of the Confederation from 1774 to 1783, and was Chief Justice of Pennsylvania from 1777 to 1799.

"On the 2d February, 1782, Thomas McKean and Samuel Wharton, citizens of Pennsylvania, and Philemon Dickinson, a citizen of New Jersey, were elected delegates to Congress for the State of Delaware." (Gilpin, *Papers of James Madison*, Vol. III, Appendix, p. lx, note 215.)

Monday

MADISON

June 19

smaller expect that their larger neighbours would confederate with them on the principle of the present confederacy, which gives to each member, an equal suffrage; or that they would exact less severe concessions from the smaller States, than are proposed in the scheme of Mr. Randolph?

The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from N. Jersey, (Mr. Brearly and Mr. Patterson) that it would not be *just to allow Virga*. which was 16 times as large as Delaware an equal vote only. Their language was that it would not be *safe for Delaware* to allow Virga. 16 times as many votes. The expedient proposed by them was that all the States should be thrown into one mass and a new partition be made into 13 equal parts. Would such a scheme be practicable?¹⁷ The dissimilarities existing in the rules of property, as well as in the manners, habits and prejudices of the different States, amounted to a prohibition of the attempt. It had been found impossible for the power of one of the most absolute princes in Europe (K. of France) directed by the wisdom of one of the most enlightened and patriotic Ministers (Mr. Neckar) that any age has produced, to equalize in some points only the different usages & regulations of the different provinces. But admitting a general amalgamation and repartition of the States, to be practicable, and the danger apprehended by the smaller States from a proportional representation to be real; would not a particular and voluntary coalition of these with their neighbours, be less inconvenient to the whole community, and equally effectual for their own safety. If N. Jersey or Delaware conceive that an advantage would accrue to them from an equalization of the States, in which case they would necessarily form a junction with their neighbors, why might not this end be attained by leaving them at liberty¹⁷ by the Constitution to form such a junction whenever they pleased? and why should they wish to obtrude a like arrangement on all the States, when it was, to say the least, extremely difficult, would

¹⁷ Crossed out: "He thought not".

Tuesday

MADISON

June 19

be obnoxious to many of the States, and when neither the inconveniency, nor the benefit of the expedient to themselves, would be lessened, by confining it to themselves. — The prospect of many new States to the Westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but but few inhabitants. If they shd. be entitled to vote according to their proportions of inhabitants, all would be right & safe. Let them have an equal vote, and a more objectionable minority than ever might give law to the whole.

(On a question for postponing generally the 1st. proposition of Mr. Patterson's plan, it was agreed to: N. Y. & N. J. only being no —)¹⁸

On the question (moved by Mr. King)¹⁹ whether the Committee should rise & Mr. Randolphs propositions be re-reported without alteration, which was in fact a question whether Mr. R's should be adhered to 'as preferable to those of Mr. Patterson;²⁰

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

(insert here from Printed Journal p. 13[4]. Copy of the Resoln. of Mr. R. as altered in the Come: and reported to the House)

(Of Mr. Randolph's plan as reported from the Committee). the 1. propos: "that Natl. Govt. ought to be established consisting &c", (being) taken up in (the House.)

Mr. Wilson observed that by a Natl. Govt. he did not mean one that would swallow up the State Govts. as seemed to be wished by some gentlemen.²¹ He was tenacious of the idea of preserving the latter. He thought, contrary to the opinion of (Col. Hamilton) that they might (not) only subsist but subsist on friendly terms with the former.²² They were abso-

¹⁸ Taken from *Journal*. See also Appendix A, CLVIII (35).

¹⁹ Taken from Yates.

²⁰ See Appendix A, CLVIII (12-15).

²¹ See Appendix A, CXLVI.

²² See Hamilton's statement following and debate of June 21, also Appendix A, CCXXI.

Tuesday

MADISON

June 19

lutely necessary for certain purposes which the former could not reach. All large Governments must be subdivided into lesser jurisdictions. as Examples he mentioned Persia, Rome, and particularly the divisions & subdivisions of (England by) Alfred.

Col. Hamilton coincided with the proposition (as it stood in the Report). He had not been understood yesterday. By an abolition of the States, he meant that no boundary could be drawn between the National & State Legislatures; that the former must therefore have indefinite authority. If it were limited at all, the rivalry of the States would gradually subvert it. Even as Corporations the extent of some of them as Va. Massts. &c. would be formidable. *As States*, he thought they ought to be abolished. But he admitted the necessity of leaving in them, subordinate jurisdictions. The examples of Persia & the Roman Empire, cited by (Mr Wilson) were, he thought in favor of his doctrine: the great powers delegated to the Satraps & proconsuls, having frequently produced revolts, and schemes of independence.

Mr. King, wished as everything depended on this proposition, that no objections might be improperly indulged agst. the phraseology of it. He conceived that the import of the terms "States" "Sovereignty" "*national*" "federal," had been often used & applied in the discussion inaccurately & delusively. The States were not "sovereigns" in the sense contended for by some. They did not possess the peculiar features of sovereignty. They could not make war, nor peace, nor alliances, nor treaties. Considering them as political Beings, they were dumb, for they could not speak to any foreign Sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war. On the other side, if the Union of the States comprises the idea of a confederation, it comprises that also of consolidation. A Union of the States is a union of the men composing them, from whence a *national* character results to the whole. Congs. can act alone without the States — they can act & their acts will

Tuesday

MADISON

June 19

be binding agst. the Instructions of the States. If they declare war, war is de jure declared, captures made in pursuance of it are lawful. No acts of the States can vary the situation, or prevent the judicial consequences. If the States therefore retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects — they formed a Nation in others. The Convention could clearly deliberate on & propose any alterations that Congs. could have done under ye. federal articles. and could not Congs. propose by virtue of the last article, a change in any article whatever: And as well that relating to the equality of suffrage, as any other. He made these remarks to obviate some scruples which had been expressed. He doubted much the practicability of annihilating the States; but thought that much of their power ought to be taken from them.

Mr. Martin, said he considered that the separation from G. B. placed the 13 States in a state of nature towards each other; that they would have remained in that state till this time, but for the confederation; that they entered into the confederation on the footing of equality; that they met now to to amend it on the same footing, and that he could never accede to a plan that would introduce an inequality and lay 10 States at the mercy of Va. Massts. and Penna.

Mr. Wilson, could not admit the doctrine that when the Colonies became independent of G. Britain, they became independent also of each other. He read the declaration of Independence, observing thereon that the *United Colonies* were declared to be free & independent States; and inferring that they were independent, not *Individually* but *Unitedly* and that they were confederated as they were independent, States.²³

Col. Hamilton, assented to the doctrine of Mr. Wilson. He denied the doctrine that the States were thrown into a State of nature. He was not yet prepared to admit the doctrine that the Confederacy, could be dissolved by partial infractions of

²³ Crossed out "In support of this exposition, he remarked that the Constitutions of all the States except that of So Ca were subsequent to the".

Tuesday

YATES

June 19

it. He admitted that the States met now on an equal footing but could see no inference from that against concerting a change of the system in this particular. He took this occasion of observing for the (purpose of) appeasing the fears of the (small)²⁴ States, that two circumstances would render them secure under a national Govt. in which they might lose the equality of rank they now hold: one was the local situation of the 3 largest States Virga. Masts. & Pa. They were separated from each other by distance of place, and equally so by all the peculiarities which distinguish the interests of one State from those of another. No combination therefore could be dreaded. In the second place, as there was a gradation in the States from Va. the largest down to Delaware the smallest, it would always happen that ambitious combinations among a few States might & wd. be counteracted by defensive combinations of greater extent among the rest. No combination has been seen among large Counties merely as such, agst. lesser Counties. The more close the Union of the States, and the more compleat the authority of the whole; the less opportunity will be allowed the stronger States to injure the weaker.

Adjd.

Y A T E S

TUESDAY, JUNE 19th, 1787.

Met pursuant to adjournment. Present 11 states.

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

Mr. Madison. — This is an important question — Many persons scruple the powers of the convention. If this remark had any weight, it is equally applicable to the adoption of either plan. The difference of drawing the powers in the one from the people and in the other from the states, does not affect the powers. There are two states in the union where the members of congress are chosen by the people. A new government must be made. Our all is depending on it; and

²⁴ Probably but not certainly a later insertion.

Tuesday

YATES

June 19

if we have but a clause that the people will adopt, there is then a chance for our preservation. Although all the states have assented to the confederation, an infraction of any one article by one of the states is a dissolution of the whole. This is the doctrine of the civil law on treaties.²⁵

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

²⁵ For Genet's interpretation of this speech, see Appendix A, CCCX.

Tuesday

YATES

June 19

whole — The Dutch are in a most wretched situation — weak in all its parts, and only supported by surrounding contending powers.

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

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

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

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

Tuesday

YATES

June 19

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

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

The first resolve was read.

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

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

Mr. King. None of the states are now sovereign or independent— Many of these essential rights are vested in congress. Congress, by the confederation, possesses the rights of the United States. This is a union of the men of those states. None of the states, individually or collectively, but in congress, have the rights of *peace* or *war*. The magistracy in congress possesses the sovereignty—To certain points we are now a united people. Consolidation is already established. The confederation contains an article to make alterations — Congress have the right to propose such altera-

Tuesday

KING

June 19

tions. The 8th article respecting the quotas of the states, has been altered, and eleven states have agreed to it. Can it not be altered in other instances? It can, excepting the guarantee of the states.

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

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

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

Adjourned to to-morrow morning.

KING

18 [19] June

Madison

Confedn. unanimously adopted can be dissolved only by unanimous consent — this Position is not true — A contract entered into by men or societies may be dissolved by the breach of a single Articles — this is the case in Treaties — sometimes however provision is made that the Breach of a single Article shall not dissolve the Contn. or Treaty

Tuesday

KING

June 19

Georgia has declared & prosecuted a war agt. the Indians — they have treated with them — N Jersey has expressly refused a constitutional Requisition — Virginia & Maryland have formed a Contract relative to the Potomack — Pennsylvania & NYk have agreed about their boundary — Massachussets has raised an Army, & are now about to augment that Establishment —

Will a federal Govt. answer —

Amphictions — to decide between the members — to mulct offenders — command the forces, sent Embass. chose the Comr. in Chief, and used the Genl. Forces agt. the deficient —

Athenian confed. similar to the Amphictions — their fate terminated by the strength of the members

Helvetic Confed. loose & weak and not like our situation —

Germanic Confedy.

Loose & weak, the strength of individual Members exceed that of the whole —

The Netherlands — weak — no powers —

Wilson

I dont agree that the Genl. Govt. will swallow up the states or yr. Government — I think they must be preserved they must be continued — they may live in harmony with the Genl. Government — our Country is too extensive for a single Govt. no Despot ever did govern a country so extensive — Persia is divided into 20 subordinate Govts. Rome governed by her Proconsuls — Alfred adopted the plan and formed societies of 10, to those of 100s towns counties, &c — ²⁶

* [Endorsed] June 19 | Confederation unanimously | formed, may be dissolved | without unanimity

Tuesday

KING

June 19

Objections to a general or national Govt.²⁷

This convention does not possess authority to propose any reform which is not purely federal —

2. If they proposed such power it wd be inexpedient to exercise it, because the small States wd. loose their State influence or equality, and because the Genius of the people is of that sort that such a Reform wd. be rejected —

Answer — The States under the confed. are not sovereign States — they can do no act but such as are of a subordinate nature or such as terminate in themselves — and even then in some instances they are restrained — Coinage. P. Office &c they are wholly incompetent to the exercise of any of the Gt. & distinguishing acts of Sovereignty — They can neither make nor receive to or from any other sovereign they have not the powers of injuring another, or of defending themselves from an Injury offered from another — they are deaf, dumb, and impotent — these Faculties are yielded up and the US in C. assd. hold and possess them, and they alone can exercise them — they are so far out of the controul of the separate States, yt. if every State in the Union was to instruct yr. Deleg. and those Delegates within ye powers of the Arts. of Union shd. do an act in violation of their Instructions it wd. nevertheless be valid
If they declare a war, any giving aid & comfort to the enemy wd. be Treason; if peace any capture on the high Seas wd. be piracy.

This remark proves yt. the States are now subordinate corporations or Societies and not Sovereigns — these imperfect States are the confederates, and they are the Electors of the Magistrates who exercise the national Sovereignty — The articles of Confedn. are perpetual union, — are partly federal & partly of the nature of a constitution or form of Govt. arising from & applying to the Citizens of the US. & not from the individual States —

The only criterion of deterring what is federal and what is national is this, those acts which are for the government of

²⁷ Although not indicated in the MS. this is so evidently an outline of King's speech of this date that it is inserted here without hesitation.

Tuesday

KING

June 19

the states only are purely federal, those which are for the Government of the Citizens of the individual States are national & not federal

If then the articles of Confedn. & perpetl. union have this twofold capacity, and if they provide for an alteration in a certain mode, why may not they be so altered as that the federal article may be changed to a national one and the national to a federal? I see no argument that can be objected to the authority — the 5. art. regulates the influence of the several States and makes them equal — does not the confed. authorise this alteration that instead of this Equality, that one State may have double the Influence of another — I conceive it does — and so of every Article except that wh destroys the Idea of a confedy. I think it may be proved that every article may be totally altered provided you have one guarantying to each State the right of regulating its private & internal affairs in the manner of a subordinate corporation —

But admitting that the Arts. of Confed. & Perpet. Union, or the powers of the Legis. did not extend to the proposed Reform; yet the public Expectations, & the public Danger requires it — the System proposed to be adopted is no scheme of a day, calculated to postpone the hour of Danger, & then leave it to fall with double ruin on our successors — It is no crude and undigested plan, the Child of narrow and unextensive views, brought forward und[er] the auspices of Cowardice & Irresolution. it is a measure of Decision, it is the foundation of Freedom & of national Glory — it will draw on itself, and be able to support the severest scrutiny & Examination — It is no idle Experiment, no romantic Speculation — the measure forces itself upon wise men, and if they have not firmness to look it in the face and protect it — Farwel to the Freedom of our Government — our military Glory will be tarnished, and our boasts of Freedom will be the scorn of the Enemies of Liberty ²⁸

²⁸ [Endorsed] K | Remarks in favour of a | Genl Govt instead of the old | Plan of the Confederation | Question of Powers

Tuesday

HAMILTON

June 19

HAMILTON

Maddison — Breach of compact in one article releases the whole —

Treaties may still be violated by the states under the Jersey plan —

Appellate jurisdiction not sufficient because second trial cannot be had under it —

Attempt made by one of the greatest monarchs of Europe to equalize the local peculiarities of their separate provinces — in which the Agent fell a victim