

WEDNESDAY, JUNE 27, 1787.

JOURNAL

Wednesday June 27. 1787.

It was moved and seconded to postpone the consideration of the sixth resolution reported from the Committee in order to take up the seventh and eighth resolutions

On the question to postpone
it passed in the affirmative

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

“Resolved that the right of suffrage in the first branch of
“the national Legislature ought not to be according to the
“rule established in the articles of confederation”

Before a determination was taken on the clause, the House adjourned till to-morrow at 11 o’Clock A. M.

MADISON

Wednesday June 27. in Convention

Mr. Rutledge moved to postpone the 6th. (Resolution, defining the powers of Congs.): in order to take up the 7 & 8 which involved the most fundamental points; (the rules of suffrage in the 2 branches) which was agreed to nem. con.¹

(A question being proposed on Resol: 7 declaring that the suffrage in the first branch sh. be according to an equitable ratio)²

¹ Madison had next recorded, but later struck out: “Mr. Lansing moved that the word ‘not’ be struck so that it might read ‘that the right of suffrage in the first branch ought to be according to the rule established in the articles of Confederation’.” Madison, Yates and *Journal* all record this motion on June 28.

² Here begins the important debate on proportional representation, which continued until the adoption of the Great Compromise on July 16. It had been discussed previously on May 30, June 9 and June 11. For a summary of the arguments for

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Mr L. Martin³ contended at great length and with great eagerness that the General Govt. was meant merely to preserve the State Governrs: not to govern individuals: that its powers ought to be kept within narrow limits; that if too little power was given to it, more might be added; but that if too much, it could never be resumed: that individuals as such have little to do but with their own States; that the Genl. Govt. has no more to apprehend from the States composing (the Union) while it pursues proper measures, that a Govt. over individuals has to apprehend from its subjects: that to resort to the Citizens at large for their-sanction to a new Governr. will be throwing them back into a State of Nature: that the dissolution of the State Govts. is involved in the nature of the process: that the people have no right to do this without the consent of those to whom they have delegated their power for State purposes; through their tongue only they can speak, through their ears, only, can hear: that the States have shewn a good disposition to comply with the Acts, of Congs. weak, contemptibly weak as that body has been; and have failed through inability alone to comply: that the heaviness of the private debts, and the waste of property during the war, were the chief causes of this inability; that he did not conceive the instances mentioned by Mr. M(adison) of compacts between Va. & Md. between Pa. & N. J. or of troops raised by Massts. for defence against the Rebels, to be violations of the articles of confederation — that an equal vote in each State was essential to the federal idea, and was founded in justice & freedom, not merely in policy: that tho' the States may give up this right of sovereignty, yet they had not, and ought not: that the States like individuals were in a State of nature equally sovereign & free. In order to prove that individuals in a State of nature are equally free & independent he read passages from Locke, Vattel, Lord Summers — Priestly. To prove that the case is the same with States till they sur-

and against proportional representation, see Martin's *Genuine Information* in Appendix A, CLVIII (17-24), also further references on particular questions in the course of the debates June 27 to July 16.

³ See June 28 note 2.

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render their equal sovereignty, he read other passages in Locke & Vattel, and also Rutherford: that the States being equal cannot treat or confederate so as to give up an equality of votes without giving up their liberty: that the propositions on the table were a system of slavery for 10 States: that as Va. Masts. & Pa. have $\frac{4}{9}$ of the votes they can do as they please without a miraculous Union of the other ten: that they will have nothing to do, but to gain over one of the ten to make them compleat masters of the rest, that they can then appoint an Execute: & Judiciary & legislate for them as they please: that there was & would continue a natural predilection & partiality in men for their own States; that the States, particularly the smaller, would never allow a negative to be exercised over their laws: that no State in ratifying the Confederation had objected to the equality of votes; that the complaints at present run not agst. this equality but the want of power; that 16 members from Va. would be more likely to act in concert than a like number formed of members from different States; that instead of a junction of the small States as a remedy, he thought a division of the large States would be more eligible.—This was the substance of a speech (which was continued) more than three hours. He was too much exhausted he said to finish his remarks, and reminded the House that he should tomorrow, resume them.

Adjd.⁴

YATES

WEDNESDAY, JUNE 27th, 1787.

Met pursuant to adjournment. Present 11 states.

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

(Mr. Martin, the attorney general from Maryland, spoke on this subject upwards of three hours. As his arguments

⁴ See further, Appendix A, XLIX.

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were too diffuse, and in many instances desultory, it was not possible to trace him through the whole, or to methodize his ideas into a systematic or argumentative arrangement. I shall therefore only note such points as I conceive merit most particular notice.)

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

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

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

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are lost. If I err on this point, it is the error of the head, not of the heart.

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

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

Unequal confederacies can never produce good effects. Apply this to the Virginia plan. Out of the number 90, Virginia has 16 votes, Massachusetts 14, Pennsylvania 12 — in all 42. Add to this a state having four votes, and it gives a majority in the general legislature. Consequently a combination of these states will govern the remaining nine or ten states. Where is the safety and independency of those states? Pursue this subject farther. The executive is to be appointed by the legislature, and becomes the executive in consequence of this undue influence. And hence flows the appointment of all your officers, civil, military and judicial. The executive is also to have a negative on all laws. Suppose the possibility of a combination of ten states — he negatives

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a law — it is totally lost, because those states cannot form two thirds of the legislature. I am willing to give up private interest for the public good — but I must be satisfied first, that it is the public interest — and who can decide this point? A majority only of the union.

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

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

Adjourned till to-morrow morning.

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KING

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KING

Wednesday 27. June ⁵

Martin I think that the proposed Reform of the confedn. must rest upon the State Govts: the reform ought to be for yr. safety and protection — whatever is of an external & merely general nature shall belong to the US. Whatever is internal and existing between the separate states & individuals shall belong to the particular States. if there shall be occasion for farther powers being given to the US. a future convention may propose ym. if you give more than enough, it never can be reclaimed — It is said if the Genl. Govt. legislates for individuals & not for States, the Govt. is not federal — but if the object of this Legislation is of an external nature, the Govt. is federal — Our Reform must be federal — The States are equal & must have equal Influence and equal votes — I will proceed on first principls. every man out of society is equal, in Freedom, & every other quality of man — Lock, Vattel, & others prove this position —

Martin —⁶

The States all agree to the equality of Votes except Virgin. & N. Car. the latter of wh. was divided — Remark. admit the Fact, yet the rule of Taxation was fixed — Congress could not raise a penny except agreeably to Rule of Taxation in the 8th Art — not even from the Post Office — But now we are to tax the people by any Rule the Legislat. may prefer — now then it is necessary to apportion the Representatives — 3 States will have 42 out of 90 votes. they will tyrannize — 10 States will be slaves.

Remark — The laws will be general and apply to the whole —

⁵ King's notes are very confused in arrangement for June 27 and 28. It is impossible to determine the order satisfactorily. He has inserted one part, so that the date of June 27 comes twice and he has then endorsed the whole:

27 June | The States in the | Legislature 2 Br to | be equal — | Martin aye | Madison no | Ch Pinkney aye

⁶ This might be ascribed to June 28, but it is uncertain.

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PATERSON

June 27

7. States may now combine — they are the lawful majority, and every one is bound —

The principles ⁷ are right but cannot be carried into effect.

PATERSON ⁸

June 27. 1787.

Have those who upon the present plan hold $\frac{1}{13}$ part of the Votes, a 13th part of the weight, — certainly not — upon this plan they sink to nothing

The Individual right of Citizens is given up in the State Govts. they cannot exercise it again in the Genl. Government.

It has never been complained of in Congress — the complaint there is the want of proper powers.⁹

⁷ Place of this is uncertain, but probably belongs here.

⁸ Found among the Paterson Papers, with Paterson's other notes of the Convention. These notes are in Brearley's handwriting.

⁹ A hand drawn on the margin points to this argument as if indicating its importance.