

SATURDAY, JUNE 30, 1787.

JOURNAL

Saturday, June 30. 1787.

The following resolution was moved and seconded namely  
 “Resolved that the President be requested to write to  
 “the supreme Executive of the State of New Hampshire and  
 “inform him that the business before the Convention is of  
 “such a nature as to require the immediate attendance of the  
 “Gentlemen appointed by that State to this Convention.”

On the question to agree to the resolution  
 it passed in the negative. [Ayes—2; noes—5; divided—1.]  
 It was then moved and seconded to take up the resolution sub-  
 mitted to the consideration of the House yesterday. namely.

Resolved that in the second Branch of the Legislature  
 of the United States each State shall have an equal vote.

After some time passed in debate.

[To adjourn Ayes — 11; noes — 0.]<sup>1</sup>

The House adjourned till Monday next at 11 oClock a. m.

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
[108]	no	no	no	aye	aye				dd	no	no	no		That the Presidt be requested to write to the President of New Hampshire to direct the attendance of the Deputies of that State	2	5	1
[109]	aye	aye	aye	aye	aye	aye	aye	aye	aye	aye	aye	aye	aye	To adjourn	11		

<sup>1</sup> Vote 109, Detail of Ayes and Noes.

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Saturday June 30. 1787. in Convention

Mr. Brearly moved that the Presidt. write to the Executive of N. Hamshire, informing it that the business depending before the Convention was of such a nature as to require the immediate attendance of the deputies of that State. In support of his motion he observed that the difficulties of the subject and the diversity of opinions called for all the assistance we could possibly obtain. (it was well understood that the object was to add N. Hamshire to the no. of States opposed to the doctrine of proportional representation, which it was presumed from her relative size she must be adverse to).

Mr. Patterson seconded the motion

Mr. Rutledge could see neither the necessity nor propriety of such a measure. They are not unapprized of the meeting, and can attend if they choose. Rho. Island might as well be urged to appoint & send deputies. Are we to suspend the business until the deputies arrive? if we proceed he hoped all the great points would be adjusted before the letter could produce its effect.

Mr. King. said he had written more than once as a private correspondent, & the answers gave him every reason to expect that State would be represented very shortly, if it shd. be so at all. Circumstances of a personal nature had hitherto prevented it. A letter cd. have no effect.

Mr. Wilson wished to know whether it would be consistent with the rule or reason of secrecy, to communicate to N. Hamshire<sup>2</sup> that the business was of such a nature as the motion described. It wd. spread a great alarm. Besides he doubted the propriety of soliciting any State on the subject; the meeting being merely voluntary — on the motion of Mr Brearly

Massts. no. Cont. no. N. Y. ay. N. J. ay. Pa. not on ye. floor. Del not on floor. Md. divid. Va. no. N. C. no. S. C.

<sup>2</sup> Crossed out "& not to other States".

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no. Geo. not on floor. [Ayes — 2; noes — 5; divided — 1; absent — 3.]

The motion of Mr. Elsworth resumed for allowing each State an equal vote in ye 2d branch

Mr. Wilson did not expect such a motion after the establishment of ye. contrary principle in the 1st. branch; and considering the reasons which would oppose it, even if an equal vote had been allowed in the 1st. branch. The Gentleman from Connecticut (Mr. Elsworth) had pronounced that if the motion should not be acceded to, of all the States North of Pena. one only would agree to any Genl. Government. He entertained more favorable hopes of Connt. and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a Country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen on better grounds. The votes of yesterday agst. the just principle of representation, were as 22 to 90 of the people of America. Taking the opinions to be the same on this point, and he was sure if there was any room for change it could not be on the side of the majority, the question will be shall less than  $\frac{1}{4}$  of the U. States withdraw themselves from the Union, or shall more than  $\frac{3}{4}$  renounce the inherent, indisputable, and unalienable rights of men, in favor of the artificial systems of States. If issue must be joined, it was on this point he would chuse to join it, The gentleman from Connecticut in supposing that the prepondenancy secured to the majority in the 1st. branch had removed the objections to an equality of votes in the 2d. branch for the security of the minority narrowed the case extremely. Such an equality will enable the minority to controul in all cases whatsoever, the sentiments and interests of the majority. Seven States will controul six: seven States according to the estimates that had been used, composed  $\frac{3}{4}$ . of the whole people. It would be in the power then of less than  $\frac{1}{3}$  to overrule  $\frac{2}{3}$  whenever a question should happen to divide

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the States in that manner. Can we forget for whom we are forming a Government? Is it for *men*, or for the imaginary beings called States? Will our honest Constituents be satisfied with metaphysical distinctions? Will they, ought they to be satisfied with being told that the one third, compose the greater number of States. The rule of suffrage ought on every principle to be the same in the 2d. as in the 1st. branch. If the Government be not laid on this foundation, it can be neither solid nor lasting, any other principle will be local, confined & temporary. This will expand with the expansion, and grow with the growth of the U. States. — Much has been said of an imaginary combination of three States. Sometimes a danger of monarchy, sometimes of aristocracy has been charged on it. No explanation however of the danger has been vouchsafed. It would be easy to prove both from reason & history that rivalships would be more probable than coalitions; and that there are no coinciding interests that could produce the latter. No answer has yet been given to the observations of (Mr. (Madison))—on this subject. Should the Executive Magistrate be taken from one of the large States would not the other two be thereby thrown into the scale with the other States? Whence then the danger of monarchy? Are the people of the three large States more aristocratic than those of the small ones? Whence then the danger of aristocracy from their influence? It is all a mere illusion of names. We talk of States, till we forget what they are composed of. Is a real & fair majority, the natural hot-bed of aristocracy? It is a part of the definition of this species of Govt. or rather of tyranny, that the smaller number governs the greater. It is true that a majority<sup>3</sup> of States in the 2d. branch can not carry a law agst. a majority of the people in the 1st. But this removes half only of the objection. Bad Governrs. are of two sorts. 1. that which does too little. 2. that which does too much: that which fails thro' weakness; and that which destroys<sup>4</sup> thro' oppression. Under which of these evils do the U. States at present groan? under the weakness

<sup>3</sup> Crossed out "seven".<sup>4</sup> Crossed out "rules".

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and inefficiency of its Govern<sup>t</sup>. To remedy this weakness we have been sent to this Convention. If the motion should be agreed to, we shall leave the U. S. fettered precisely as heretofore; with the additional mortification of seeing the good purposes of ye fair representation of the people in the 1st. branch, defeated in 2d. Twenty four will still controul sixty six. He lamented that such a disagreement should prevail on the point of representation, as he did not foresee that it would happen on the other point most contested, the boundary between the Genl. & the local authorities. He thought the States necessary & valuable parts of a good system.

Mr. Elseworth. The capital objection of Mr. Wilson "that the minority will rule the majority" is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British Constitution the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who form so small a proportion of the nation a negative on the laws, as a necessary defence of their peculiar rights agst the encroachmts of the Commons. No instance (of a Confederacy)<sup>5</sup> has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are razing the foundations of the building. When we need only repair the roof. No salutary measure has been lost for want of a majority of the States, to favor it. If security be all that the great States wish for the 1st. branch secures them. The danger of combinations among them is not imaginary. Altho' no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. But he could easily conceive cases in which they might result from such combinations. Suppose that in pursuance of some commercial treaty or arrangement, three or four free ports & no more

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<sup>5</sup> Taken from Yates.

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were to be established would not combinations be formed in favor of Boston, Philada. & & some port in Chesapeak? A like concert might be formed in the appointment of the great officers. He appealed again to the obligations of the federal pact which was still in force, and which had been entered into with so much solemnity, persuading himself that some regard would still be paid to the plighted faith under which each State small as well as great, held an equal right of suffrage in the general Councils. (His remarks were not the result of partial or local views. The State he represented (Connecticut) held a middle rank.)<sup>6</sup>

Mr. M(adison. did justice to the able and close reasoning of Mr. E. but must observe that it did not always accord with itself.)<sup>7</sup> On another occasion, the large States were described (by him) as the Aristocratic States, ready to oppress the small. Now the small are the House of Lords requiring a negative to defend them agst the more numerous Commons. Mr. E. had also erred in saying that no instance had existed in which confederated States had not retained to themselves a perfect equality of suffrage. Passing over the German system in which the K. of Prussia has nine voices, he reminded Mr. E. of the Lycian confederacy, in which the component members had votes proportioned to their importance, and which Montesquieu recommends as the fittest model for that form of Government. Had the fact been as stated by Mr. E. it would have been of little avail to him, or rather would have strengthened the arguments agst. him; The History & fate of the several Confederacies modern as well as Antient, demonstrating some radical vice in their structure. In reply to the appeal of Mr. E. to the faith plighted in the existing federal compact, he remarked that the party claiming from others an adherence to a common engagement ought at least to be guiltless itself of a violation. Of all the States however Connecticut was perhaps least able to urge this plea. Besides the various

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<sup>6</sup> Taken from Yates.

<sup>7</sup> Originally Madison had written "observed that the reasoning of Mr. E. at different times did not well accord." This was combined with a statement from Yates to produce the sentence in the text.

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omissions to perform the stipulated acts from which no State was free, the Legislature of that State had by a pretty recent vote *positively refused* to pass a law for complying with the Requisitions of Congs. and had transmitted a copy of the vote to Congs. It was urged, he said, continually that an equality of votes in the 2d. branch was not only necessary to secure the small, but would be perfectly safe to the large ones whose majority in the 1st. branch was an effectual bulwark. But notwithstanding this apparent defence, the Majority of States might still injure the majority of people. 1. they could *obstruct* the wishes and interests of the majority. 2. they could *extort* measures, repugnant to the wishes & interest of the majority. 3. They could *impose* measures adverse thereto; as the 2d branch will probly exercise some great powers, in which the 1st will not participate. He admitted that every peculiar interest whether in any class of citizens, or any description of States, ought to be secured as far as possible. Wherever there is danger of attack there ought to be given a constitutional power of defence. But he contended that the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from (the effects of) their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: it lay between the Northern & Southern. and if any defensive power were necessary, it ought to be mutually given to these two interests.<sup>8</sup> He was so strongly impressed with this important truth that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was that instead of proportioning the votes of the States in both branches, to their respective numbers of inhabitants computing the slaves in the ratio of 5 to 3. they should be represented in one branch according to the number of free inhabitants only; and in the other according to the whole no. counting the slaves as (if) free. By this

<sup>8</sup> Crossed out "as a security agst. the encroachments of each other."

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arrangement the Southern Scale would have the advantage in one House, and the Northern in the other. He had been restrained from proposing this expedient by two considerations; one was his unwillingness to urge any diversity of interests on an occasion when it is but too apt to arise of itself — the other was the inequality of powers that must be vested in the two branches, and which wd. destroy the equilibrium of interests.

Mr. Elseworth assured the House that whatever might be thought of the Representatives of Connecticut the State was entirely federal in her disposition. (He appealed to her great exertions during the War, in supplying both men & money. The muster rolls would show she had more troops in the field than Virga. If she had been delinquent, it had been from inability, and not more so than other States.)<sup>9</sup>

Mr. Sherman. Mr. M.(adison) had animadverted on the delinquency of the States, when his object required him to prove that the Constitution of Congs. was faulty. Congs. is not to blame for the faults of the States. Their measures have been right, and the only thing wanting has been, a further power in Congs. to render them effectual.

Mr. Davy was much embarrassed and wished for explanations. The Report of the Committee allowing the Legislatures to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will according to this rule be ninety members in the outset, and the number will increase as new States are added. It was impossible that so numerous a body could possess the activity and other qualities required in it. Were he to vote on the comparative merits of the report as it stood, and the amendment, he should be constrained to prefer the latter. The appointment of the Senate by electors chosen by the people for that purpose was he conceived liable to an insuperable difficulty. The larger Counties or districts thrown into a general district, would certainly prevail over the smaller Counties or districts, and merit in the latter would be excluded altogether. The report therefore seemed to be right in referring the appoint-

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<sup>9</sup> Taken from Yates.

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ment to the Legislatures, whose agency in the general System did not appear to him objectionable as it did to some others. The fact was that the local prejudices & interests which could not be denied to exist, would find their way into the national Councils whether the Representatives should be chosen by the Legislatures or by the people themselves. On the other hand, if a proportional representation was attended with insuperable difficulties, the making the Senate the Representative of the States, looked like bringing us back to Congs. again, and shutting out all the advantages expected from it. Under this view of the subject he could not vote for any plan for the Senate yet proposed. He thought that in general there were extremes on both sides. We were partly federal, partly national in our Union. And he did not see why the Govt. might (not) in some respects operate on the States, in others on the people.

Mr Wilson admitted the question concerning the number of Senators, to be embarrassing. If the smallest States be allowed one, and the others in proportion, the Senate will certainly be too numerous. He looked forward to the time when the smallest States will contain 100,000 souls at least. Let there be then one Senator in each for every 100,000 souls, and let the States not having that no. of inhabitants be allowed one. He was willing himself to submit to this temporary concession to the small States: and threw out the idea as a ground of compromise.

Docr. Franklin The diversity of opinions turns on two points. If a proportional representation takes place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say their money will be in danger. When a broad table is to be made, and the edges (of planks do not fit) the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accomodating proposition. He had prepared one which he would read, that it might lie on the table for consideration. The proposition was in the words following"<sup>10</sup>

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<sup>10</sup> Franklin's draft of this proposal is given below,

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“That the Legislatures of the several States shall choose & send an equal number of Delegates, namely who are to compose the 2d. branch of the General Legislature —

That in all cases or questions wherein the Sovereignty of individual States may be affected, or whereby their authority over their own Citizens may be diminished, or the authority of the General Government within the several States augmented, each State shall have equal suffrage.

That in the appointment of all Civil Officers of ye. Genl. Govt. in the election of whom the 2d. branch may by the Constitution have part, each State shall have equal suffrage.

That in fixing the salaries of such officers, and in all allowances for public services, and generally in all appropriations & dispositions of money to be drawn out of the General Treasury; and in all laws for supplying that Treasury, the Delegates of the several States shall have suffrage in proportion to the Sums which their respective States do actually contribute to the treasury (“Where a ship had many owners this was the rule of deciding on her expedition. He had been one of the ministers from this Country to France during the joint war and wd. have been very glad if allowed a vote in distributing the money to carry it on.)<sup>11</sup>

Mr. King observed that the simple question was whether each State should have an equal vote in the 2d. branch; that it must be apparent to those gentlemen who liked neither the motion for this equality, nor the report as it stood, that the report was as susceptible of melioration as the motion; that a reform would be nugatory & nominal only if we should make another Congress of the proposed Senate: that if the adherence to an equality of votes was fixed & unalterable, there could not be less obstinacy on the other side, & that we were in fact cut insunder already, and it was in vain to shut our eyes against it: that he was however filled with astonishment that if we were convinced that every *man* in America was secured in all his rights, we should be ready to sacrifice this substantial good to the phantom of *State* sovereignty: that his feelings

<sup>11</sup> Taken from Yates.

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were more harrowed & his fears more agitated for his Country than he could express, that he conceived this to be the last opportunity of providing for its liberty & happiness: that he could not therefore but repeat his amazement that when a just Govern. founded on a fair representation of the *people* of America was within our reach, we should renounce the blessing, from an attachment to the ideal freedom & importance of *States*: that should this wonderful illusion continue to prevail, his mind was prepared for every event, rather than sit down under a Govt. founded in a vicious principle of representation and which must be as shortlived as it would be unjust. He might prevail on himself to accede to some such expedient as had been hinted by Mr. Wilson: but he never could listen to an equality of votes as proposed in the motion.

Mr. Dayton. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect however eloquently spoken. It should have been shewn that the evils we have experienced have proceeded from the equality now objected to: and that the seeds of dissolution for the State Governments are not sown in the Genl. Government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never would be recd. by the people.

(Mr. Martin wd. never confederate if it could not be done on just principles)<sup>12</sup>

Mr (Madison) would acquiesce in the concession hinted by Mr. Wilson, on condition that a due independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the States. The Senate therefore is only another edition of Congs. (He knew the faults of that Body & had used a bold language agst. it. Still he wd. preserve the State rights, as carefully as the trials by jury.)<sup>13</sup>

Mr. Bedford, contended that there was no middle way between a perfect consolidation and a mere confederacy of the States. The first is out of the question, and in the latter

<sup>12</sup> Taken from Yates.

<sup>13</sup> Crossed out: "with very few amendments. Make it properly and state which" with further illegible words. What was substituted was taken from Yates.

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they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large States evidently seeking to aggrandize themselves at the expense of the small? They think no doubt that they have right on their side, but interest had blinded their eyes. Look at Georgia. Though a small State at present, she is actuated by the prospect of soon being a great one. S. Carolina is actuated both by present interest & future prospects. She hopes too to see the other States cut down to her own dimensions. N. Carolina has the same motives of present & future interest. Virga. follows. Maryd. is not on that side of the Question. Pena. has a direct and future interest. Massts. has a decided and palpable interest in the part she takes. Can it be expected that the small States will act from pure disinterestedness. Look at G. Britain. Is the Representation there less unequal? But we shall be told again that that is the rotten part of the Constitution. Have not the boroughs however held fast their constitutional rights? and are we to act with greater purity than the rest of mankind. An exact proportion in the Representation is not preserved in any one of the States. Will it be said that an inequality of power will not result from an inequality of votes. Give the opportunity, and ambition will not fail to abuse it. The whole history of mankind proves it. The three large States have a common interest to bind them together in commerce. But whether a combination as we suppose, or a competition as others suppose, shall take place among them, in either case, the smaller States must be ruined. We must like Solon make such a Governmt. as the people will approve. Will the smaller States ever agree to the proposed degradation of them. It is not true that the people will not agree to enlarge the powers of the present Congs. The Language of the people has been that Congs. ought to have the power of collecting an impost,

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and of coercing the States when it may be necessary. On The first point they have been explicit & in a manner, unanimous in their declarations. And must they not agree to this & similar measures if they ever mean to discharge their engagements. The little States are willing to observe their engagements, but will meet the large ones on no ground but that of the Confederation. We have been told (with a dictatorial air)<sup>14</sup> that this is the last moment for a fair trial in favor of a good Governmt. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the confederation. If they do the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice. He did not mean by this to intimidate or alarm. It was a natural consequence; (which ought to be avoided by Enlarging the federal powers not annihilating the federal system. This is what the people expect. All agree in the necessity of a more efficient Govt. and why not make such an one; as they desire.)<sup>15</sup>

Mr. Elseworth,. Under a National Govt. he should participate in the National Security, (as remarked by (Mr. King))<sup>15</sup> but that was all. What he wanted was domestic happiness. The Natl. Govt. could not descend to the local objects on which this depended. It could only embrace objects of a general nature. He turned his eyes therefore for the preservation of his rights<sup>16</sup> to the State Govts. From these alone he could derive the greatest happiness he expects in this life. (His happiness depends on their existence, as much as a new-born infant on its mother for nourishment).<sup>15</sup> If this reasoning was not satisfactory, he had nothing to add that could be so.

Mr. King was for preserving the States in a subordinate degree, and as far as they could be necessary for the purposes stated by Mr. Elsewth. He did not think a full answer had been given to those who apprehended a dangerous encroach-

<sup>14</sup> Probably but not certainly a later revision.

<sup>15</sup> Taken from Yates.

<sup>16</sup> Crossed out "happiness".

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ment on their jurisdictions. Expedients might be devised as he conceived that would give them all the security the nature of things would admit of. In the establishment of Societies the Constitution was to the Legislature what the laws were to individuals. As the fundamental rights of individuals are secured by express provisions in the State Constitutions; why may not a like security be provided for the Rights of States in the National Constitution. The articles of Union between Engl. & Scotland furnish an example of such a provision in favor of sundry rights of Scotland. When that Union was in agitation, the same language of apprehension which has been heard from the smaller States, was in the mouths of the Scotch patriots. The articles however have not been violated and the Scotch have found an increase of prosperity & happiness. He was aware that this will be called a mere *paper security*. He thought it a sufficient answer to say that if fundamental articles of compact, are no sufficient defence against physical power, neither will there be any safety agst. it if there be no compact. He could not sit down, without taking some notice of the language of the honorable gentleman from Delaware (Mr Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who with a vehemence unprecedented in that House, had declared himself ready to turn his hopes from our common Country, and court the protection of some foreign hand — This too was the language of the Honbl member, himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. (The gentleman cd. only excuse it to himself on the score of passion. For himself whatever might be his distress, he wd. never court relief from a foreign power.)<sup>17</sup>

Adjourned<sup>18</sup><sup>17</sup> Taken from Yates.<sup>18</sup> See further, Appendix A, L-LII.

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SATURDAY, JUNE 30th, 1787.

Met pursuant to adjournment. Present 11 states.

Judge Brearsley moved that the president be directed to write to the executive of New-Hampshire, requesting the attendance of its delegates.

Negatived — 2 ayes — 5 noes — one state divided.

The discussion of yesterday resumed.

Mr. Wilson. The question now before us is of so much consequence, that I cannot give it a silent vote — Gentlemen have said, that if this amendment is not agreed to, a separation to the north of Pennsylvania may be the consequence. — This neither staggers me in my sentiments or my duty. If a minority should refuse their assent to the new plan of a general government, and if they will have their own will, and without it, separate the union, let it be done; but we shall stand supported by stronger and better principles. The opposition to this plan is as 22 is to 90, in the general scale — not quite a fourth part of the union — Shall three fourths of the union surrender their rights for the support of that artificial being, called state interest? If we must join issue I am willing. I cannot consent that one fourth shall controul the power of three fourths.

If the motion is adopted, seven states will controul the whole, and the lesser seven compose 24 out of 90. One third must controul two thirds — 24 overrule 66. For whom do we form a constitution, for men, or for *imaginary beings* called states, a mere metaphysical distinction? Will a regard to *state* rights justify the sacrifice of the rights of *men*? If we proceed on any other foundation than the last, our building will neither be solid nor lasting. *Weight and numbers* is the only true principle — every other is local, confined or imaginary. Much has been said of the danger of the three larger states combining together to give rise to monarchy, or an aristocracy. Let the probability of this combination be explained, and it will be found that a rivalry rather than a

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confederacy will exist among them. Is there a single point in which this interest coincides? Supposing that the executive should be selected from one of the larger states, can the other two be gratified? Will not this be a source of jealousy amongst them, and will they not separately court the interest of the *smaller states*, to counteract the views of a favorite rival? How can an aristocracy arise from this combination more than amongst the smaller states? On the contrary, the present claims of the smaller states lead directly to the establishment of an aristocracy, which is the government of the few over the many, and the Connecticut proposal, removes only a small part of the objection. There are only two kinds of bad governments — the one which does *too much*, and therefore oppressive, and the other which does *too little*, and therefore weak. — Congress partakes of the latter, and the motion will leave us in the same situation and as much fettered as ever we were. The people see its weakness, and would be mortified in seeing our inability to correct it.

The gentleman from Georgia has his doubts how to vote on this question, and wishes some qualification of it to be made, — I admit there ought to be some difference as to the numbers in the second branch; and perhaps there are other distinctions which could, with propriety, be introduced — such for example as the qualifications of the elected, &c. However, if there are leading principles in the system which we adopt, much may be done in the detail. We all aim at giving the general government more energy. The state governments are necessary and valuable — No liberty can be obtained without them. On this question depends the essential rights of the general government and of the people.

Judge Elsworth. I have the greatest respect for the gentleman who spoke last. I respect his abilities, although I differ from him on many points — He asserts that the general government must depend on the equal suffrage of the people. But will not this put it in the power of few states to controul the rest? It is a novel thing in politics that the few controul the many. In the British government, the few, as a guard, have an equal share in the government. The

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house of lords, although few in number, and sitting in their own right, have an equal share in their legislature. They cannot give away the property of the community, but they can prevent the commons from being too lavish in their gifts. Where is or was a confederation ever formed, where equality of voices was not a fundamental principle? Mankind are apt to go from one extreme to another, and because we have found defects in the confederation, must we therefore pull down the whole fabric, foundation and all, in order to erect a new building totally different from it, without retaining any of its materials? What are its defects? It is said equality of votes has embarrassed us; but how? Would the real evils of our situation have been cured, had not this been the case? Would the proposed amendment in the Virginia plan, as to representation, have relieved us? I fancy not. Rhode-Island has been often quoted as a small state, and by its refusal once defeated the grant of the impost. Whether she was right in so doing is not the question; but was it a federal requisition? And if it was not, she did not, in this instance, defeat a federal measure.

If the larger states seek security, they have it fully in the first branch of the general government. But can we turn the tables and say that the lesser states are equally secure? In *commercial regulations* they will unite. If policy should require free ports, they would be found at Boston, Philadelphia and Alexandria. In the disposition of *lucrative offices* they would unite. But I ask no surrender of any of the rights of the great states, nor do I plead *duress* in the makers of the old confederation, nor suppose they soothed the danger, in order to resume their rights when the danger was over. No; small states must possess the power of self-defence or be ruined. Will any one say there is no diversity of interests in the states? And if there is, should not those interests be guarded and secured? But if there is none, then the large states have nothing to apprehend from an equality of rights. And let it be remembered, that these remarks are not the result of partial or local views. The state I represent is respectable, and in importance holds a middle rank.

Mr. Madison. Notwithstanding the admirable and close

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reasoning of the gentleman who spoke last, I am not yet convinced that my former remarks are not well founded. I apprehend he is mistaken as to the fact on which he builds one of his arguments. He supposes that equality of votes is the principle on which all confederacies are formed — that of Lycia, so justly applauded by the celebrated Montesquieu, was different. He also appeals to our good faith for the observance of the confederacy. We know we have found one inadequate to the purposes for which it was made — Why then adhere to a system which is proved to be so remarkably defective? I have impeached a number of states for the infraction of the confederation, and I have not even spared my own state, nor can I justly spare his. Did not Connecticut refuse her compliance to a federal requisition? Has she paid, for the two last years, any money into the continental treasury? And does this look like government, or the observance of a solemn compact? Experience shows that the confederation is radically defective, and we must in a new national government, guard against those defects. Although the large states in the first branch have a weight proportionate to their population, yet as the smaller states have an equal vote in the second branch, they will be able to controul and leave the larger without any essential benefit. As peculiar powers are intended to be granted to the second branch, such as the negating state laws, &c. unless the larger states have a proportionate weight in the representation, they cannot be more secure.

Judge Elsworth. My state has always been strictly federal, and I can with confidence appeal to your excellency (the president) for the truth of it, during the war. The muster-rolls will show that she had more troops in the field than even the state of Virginia. We strained every nerve to raise them; and we neither spared money or exertions to complete our quotas. This extraordinary exertion has greatly distressed and impoverished us, and it has accumulated our state debts — We feel the effects of it even to this day. But we defy any gentleman to shew that we ever refused a federal requisition. We are constantly exerting ourselves to draw money from the

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pockets of our citizens, as fast as it comes in; and it is the ardent wish of the state to strengthen the federal government. If she has proved delinquent through inability only, it is not more than others have been, without the same excuse.

Mr. Sherman. I acknowledge there have been failures in complying with the federal requisition. Many states have been defective, and the object of our convention is to amend these defects.

Col. Davie. I have great objection to the Virginia plan as to the manner the second branch is to be formed. It is impracticable. The number may, in time, amount to two or three hundred. This body is too large for the purposes for which we intend to constitute it. I shall vote for the amendment. Some intend a compromise. — This has been hinted by a member from Pennsylvania, but it still has its difficulties. The members will have their local prejudices. The preservation of the state societies must be the object of the general government. It has been asserted that we were *one* in war, and *one* in peace. Such we were as states; but every treaty must be the law of the land as it affects individuals. The formation of the second branch, as it is intended by the motion, is also objectionable. We are going the same round with the old confederation — No plan yet presents sufficient checks to a tumultuary assembly, and there is none therefore which yet satisfies me.

Mr. Wilson. On the present motion it was not proper to propose another plan. I think the second branch ought not to be numerous. I will propose an expedient — Let there be one member for every 100,000 souls, and the smallest states not less than one member each. This would give about twenty-six members. I make this proposal not because I belong to a large state, but in order to pull down a rotten house, and lay a foundation for a new building. To give *additional* weight to an old building is to hasten its ruin.

Governor Franklin. The smaller states, by this motion, would have the power of giving away the money of the greater states. There ought to be some difference between the first and second branches. Many expedients have been proposed,

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and I am sorry to remark, without effect. A joiner, when he wants to fit two boards, takes off with his plane the uneven parts from each side, and thus they fit. Let us do the same — we are all met to do something.

I shall propose an expedient: Let the senate be elected by the states equally — in all acts of sovereignty and authority, let the votes be equally taken — the same in the appointment of all officers, and salaries; but in passing of laws, each state shall have a right of suffrage in proportion to the sums they respectively contribute. Amongst merchants, where a ship has many owners, her destination is determined in that proportion. I have been one of the ministers to France from this country during the war, and we should have been very glad, if they would have permitted us a vote in the distribution of the money to carry on the war.

Mr. Martin. Mr. Wilson's motion or plan would amount to nearly the same kind of inequality.

Mr. King. The Connecticut motion contains all the vices of the old confederation. It supposes an imaginary evil — the slavery of state governments. And should this convention adopt the motion, our business here is at an end.

Capt. Dayton. Declamation has been substituted for argument. Have gentlemen shewn, or must we believe it, because it is said, that one of the evils of the old confederation was unequal representation? We, as distinct societies, entered into the compact. Will you now undermine the thirteen pillars that support it?

Mr. Martin. If we cannot confederate on just principles, I will never confederate in any other manner.

Mr. Madison.<sup>19</sup> I will not answer for supporting chimerical objects — but has experience evinced any good in the old confederation? I know it never can answer, and I have therefore made use of bold language against it. I do assert, that a national senate, elected and paid by the people, will have no more efficiency than congress; for the states will usurp the general government. I mean, however to preserve the state

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<sup>19</sup> For Genet's interpretation of this speech see Appendix A, CCCX.

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rights with the same care, as I would trials by jury; and I am willing to go as far as my honorable colleague.

Mr. Bedford. That all the states at present are equally sovereign and independent, has been asserted from every quarter of this house. Our deliberations here are a confirmation of the position; and I may add to it, that each of them act from interested, and many from ambitious motives. Look at the votes which have been given on the floor of this house, and it will be found that their numbers, wealth and local views, have actuated their determinations; and that the larger states proceed as if our eyes were already perfectly blinded. Impartiality, with them, is already out of the question — the reported plan is their political creed, and they support it, right or wrong. Even the diminutive state of Georgia has an eye to her future wealth and greatness — South Carolina, puffed up with the possession of her wealth and negroes, and North Carolina, are all, from different views, united with the great states. And these latter, although it is said they can never, from interested views, form a coalition, we find closely united in one scheme of interest and ambition, notwithstanding they endeavor to amuse us with the purity of their principles and the rectitude of their intentions, in asserting that the general government must be drawn from an equal representation of the people. Pretences to support ambition are never wanting. Their cry is, where is the danger? and they insist that altho' the powers of the general government will be increased, yet it will be for the good of the whole; and although the three great states form nearly a majority of the people of America, they never will hurt or injure the lesser states. *I do not, gentlemen, trust you.* If you possess the power, the abuse of it could not be checked; and what then would prevent you from exercising it to our destruction? You gravely alledge that there is no danger of combination, and triumphantly ask, how could combinations be effected? "The larger states," you say, "all differ in productions and commerce; and experience shows that instead of combinations, they would be rivals, and counteract the views of one another." This, I repeat, is language calculated only to amuse us. Yes, sir, the larger states will

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be rivals, but not against each other — they will be rivals against the *rest of the states*. But it is urged that such a government would suit the people, and that its principles are equitable and just. How often has this argument been refuted, when applied to a *federal* government. The small states never can agree to the Virginia plan; and why then is it still urged? But it is said that it is not expected that the state governments will approve the proposed system, and that this house must directly carry it to THE PEOPLE for their approbation! Is it come to this, then, that *the sword* must decide this controversy, and that the horrors of war must be added to the rest of our misfortunes? But what have the people already said? “We find the confederation defective — go, and give additional powers to the confederation — give to it the imposts, regulation of trade, power to collect the taxes, and the means to discharge our foreign and domestic debts.” Can we not then, as their delegates, agree upon these points? As their ambassadors, can we not clearly grant those powers? Why then, when we are met, must entire, distinct, and new grounds be taken, and a government, of which the people had no idea, be instituted? And are we to be told, if we wont agree to it, it is the last moment of our deliberations? I say, it is indeed the last moment, if we do agree to this assumption of power. The states will never again be entrapped into a measure like this. The people will say the *small* states would confederate, and grant further powers to congress; but you, the *large* states, would not. Then the fault will be yours, and all the nations of the earth will justify us. But what is to become of our public debts if we dissolve the union? Where is your plighted faith? Will you crush the smaller states, or must they be left unmolested? Sooner than be ruined, there are *foreign powers who will take us by the hand*. I say not this to threaten or intimidate, but that we should reflect seriously before we act. If we once leave this floor, and solemnly renounce your new project, what will be the consequence? You will annihilate your federal government, and ruin must stare you in the face. Let us then do what is in our power — *amend and enlarge the confederation, but not alter the federal*

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*system.* The people expect this, and no more. We all agree in the necessity of a more efficient government — and cannot this be done? Although my state is small, I know and respect its rights, as much, at least, as those who have the honor to represent any of the larger states.

Judge Elsworth I am asked by my honorable friend from Massachusetts, whether by entering into a national government, I will not equally participate in national security? I confess I should; but I want domestic happiness, as well as general security. A general government will never grant me this, as it cannot know my wants or relieve my distress. My state is only as one out of thirteen. Can they, the general government, gratify my wishes? My happiness depends as much on the existence of my state government, as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to give.

Mr. King. I am in sentiment with those who wish the preservation of state governments; but the general government may be so constituted as to effect it. Let the constitution we are about forming be considered as a *commission* under which the general government shall act, and as such it will be the guardian of the state rights. The rights of Scotland are secure from all danger and encroachments, although in the parliament she has a small representation. May not this be done in our general government? Since I am up, I am concerned for what fell from the gentleman from Delaware — “*Take a foreign power by the hand*”! I am sorry he mentioned it, and I hope he is able to excuse it to himself on the score of passion. Whatever may be my distress, I never will court a foreign power to assist in relieving myself from it.

Adjourned till Monday next.

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Question how shall the senate be formed, on the plan of an equal vote among the States or on that of a Representation of the people.

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Wilson — The vote for the representation in the first Br. according to Numbers was opposed by abt. 22 out of 90 taking that number to represent the whole people of the US. The motion for an equality of Votes among the States will authorise a minority to controul the majority — Seven of the States united make but  $\frac{2}{3}$ th of the whole — this minority will govern or controul  $\frac{2}{3}$ ths — this wd. prove a fundamental Defect in the constitution

The Gentm. from Cont. (Elswth) says if the Senate is founded on the principles of a Representation of Numbers, we shall introduce a Monarchy or an Aristocracy — the three or four larger states will combine for Monarchy — if not this, yet for an aristocracy — 4 States will Govn. 9 States — But the Danger of a combination is not greater nor so great in the large States as in the small — The 7. States are only  $\frac{2}{3}$ , if they govern as is proposed An aristocracy govern because 24. govern or control 66 — <sup>20</sup>

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Wilson.<sup>21a</sup> Did not expect this Question at this Stage of the Business.

Member of Connecticut said, not more than one State to Eastward would accede.

*Sense of Duty.*

This as to Contribn.<sup>21a</sup> 22 out of 90 — not  $\frac{1}{4}$  —

Artificial Systems of States —

Easy to correct it.<sup>21a</sup> The voice of the Minority will vote away the Property of the Majority —

A Solecism.

7 States can control the 6.

States imaginary Beings abstracted from Men —

No other Foundation will be solid —

The 3 large States combined. Wt. He wants the Principles of the Comb. — they will be Rivals.

<sup>20</sup> [Endorsed:] June 30 | Numbs & choice of Senator | Wilson.

<sup>21</sup> From *American Historical Review*, IX, 336-338.

<sup>21a</sup> In margin, opposite words following.

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Their Interests are different.

24 out of 90 carry more of an Aristocracy.

Why wish for an Union of the lesser States —<sup>21a</sup> 2 Kinds of bad Govt. — 1. That Govt. which does not do enough — and 2. that which does too much — Be as we were before we met.

Yes — but then the 2 Systems oppose each other.<sup>21a</sup> The System of Virginia and the System of Jersey agree as to the Powers —

Govt. by the States necessary. There can be no Difficulty as to this Point.

Mr. Elsworth.<sup>21a</sup> Objn. A Minority will govern a Majority. You put it in the Power of a few to prevent the Oppression of the many.

Political Societies are to govern —

In the Br. Constn. the few has a Check upon the many; and one upon both —

The House must be demolished — but it only wants a Shingle —

If Congress had voted by a Majority, all Evils would have been cured —

Rhode-Island — The Power not in Congress.

Are not the large States safe now —

Suppose the large States should agree that 4 free Ports should be established.

Suppose lucrative Offices —

*Self-Preservation.*

*No Unity of Interests —*

Mr. Maddison.<sup>21a</sup> The Confedn. inadequate to its Purposes.

Resoln. of Cont. refusing to comply with a federal Reqn.

*Lycia.* Germanick Body.<sup>21a</sup> Reported Violations in every State.

The Rule of Confdn. obtained by the Necessity of the Times —

The large States will not be secure by the lower Branch.

2d. Branch may possess a Negative over the Laws of the State-Legs.

Mr. Elsworth.<sup>21a</sup> Cont. has furnished more thn. her Quota as to Men —

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Mr. Sherman.<sup>21a</sup> Mr. Wilson asks, why the Interests of the lesser States cannot be as safe in the Hands of the larger States as in their own —

Mr. Davie — <sup>21a</sup> The Resoln. as reported by the Comee. is impracticable — is too large —

The 2d. Branch being executive must sit constantly.

Mr. Wilson — <sup>21a</sup> Not necessary to sit constantly —

Each State should have one Senator — 1 Member in the second for every 100,000 People; and 1 for the smallest State.

This a Compromise on the Part of the large States.

He will not insist upon small Matters — if the great Principles can be established —

Govt. placed upon a false Basis.

Doctr. Franklin.<sup>21a</sup> The lesser States afraid of their Liberties; the larger States afraid of their Money.

Treaty between France and the U. S. the latter had no Disposition over the Treasury of the former.

Mr. King.<sup>21a</sup> Equality is the Vice of the present System.

Captn. Dayton.<sup>21a</sup>

Mr. Maddison.<sup>21a</sup> The Amt. is Congress in a new Form; servile to the States.

No Disposn. in Cl. Rep. or Corporations to swallow up the Rest.

Mr. Bedford — <sup>21a</sup> Purity of Principle —

Mr. King.<sup>21a</sup> Magna Charta of England. Certain constl. Principles to be observed.

This a Consolidn.<sup>21a</sup> Union of England and Scotland.

The King Bribed.<sup>21a</sup> Power in the Magy. to prevent a Violation of fundamental Principles.

*France — Ireland.*<sup>21a</sup> Govt. a *progressive Force.*

[Notes, probably for a speech not delivered.] <sup>22</sup>

## 1. The Equality of the States — Sovereignty and Equality

<sup>21a</sup> In margin, opposite words following.

<sup>22</sup> It is impossible to assign these notes satisfactorily. They are all one document, and internal evidence points to some parts of the debate of June 30.

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are convertible Terms. Pennsylv. a distinct political Being. —

2. As under the existing Articles of the Confedn. A Contract solemnly entered into.

3. The Danger to the lesser States.

4. The Impracticability of the present System.

5. Its Expence —

It must be admitted, that before a Treaty can be binding, each State must consent.

Objns. —

The larger States contribute most — and therefore Representn. ought to be in Proportn.

1. Ansr. They have more to protect. A rich State and a poor State in same Relation as a rich Individual and a poor one.

2. For the Sake of preserving the Liberty of the others — Compromise — Their System.

3. Wealth will have its Influence.

Objn. Mr. Wilson — The Minority will vote away the Property of the Majority.

Ansr. This secured by the first Branch —

The Majority will vote away the Liberties of the Minority — Wt. is Wealth when put in Competition with Freedom —

Madn. Coercion never can be used agt. a large State.<sup>22a</sup> The lesser States will destroy the larger — Lamb and Lyon —

Objn. Mr. Maddison — The Confedn. inadequate to its Purposes. Repeated Violations in every State — Each Violation renders the Confedn. a Nullity —

1 No. The same Power to rescind as to make. It would be in the Power of one Party always to abrogate a Compact.

Objn. Mr. Maddison — The Confedn. obtained by the Necessity of the Times.

Is the Plea of Compulsion set up. Look at the Confedn. unanimously assented to — Mr. Wilson given up — Not complained of — We come here under that Confedn.

Objn. Mr. King — Equality is the Vice of the present System. How does it appear —

<sup>22a</sup> In margin, opposite words following.

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Objectn. — Mr. King — The great Charter of England — Certain constitutional Principles to be observed — Power in the Magy. to prevent a Violation of fundamental Principles — Union of England and Scotland.

1. A Union or Consolidation — this a Confederacy.
2. It was to be sure agreed to — Bribery made use of —
3. A King.
4. The Vicinity of France —

The last Time of Meeting —

### FRANKLIN <sup>23</sup>

#### PROPOSAL for Consideration.

That the Legislatures of the several States shall choose and send an equal Number of Delegates, namely \_\_\_\_\_, who are to compose the second Branch of the general Legislature.

That in all Cases or Questions wherein the Sovereignitys of the Individual States may be affected, or whereby their Authority over their own Citizens may be diminished, or the Authority of the General Government within the several States augmented, each State shall have *equal* Suffrage.

That in the Appointment of all civil Officers of the *General Government*, in the Election of whom the Second Branch may by the Constitution have part, each State shall have *equal* Suffrage

That in fixing the Salaries of such Officers, & in all Allowances for public Services; & generally in all Appropriations and Dispositions of Money to be drawn out of the General Treasury, and in all Laws for supplying the Treasury, the Delegates of the several States shall have Suffrage *in proportion to the Sums their respective States do actually contributed to that Treasury, from their Taxes or internal Excises.*

That in Case general Duties should be laid by Impost on Goods imported, a liberal Estimation shall be made of the

<sup>23</sup> From the Franklin Papers, Vol. VIII, p. 1799.

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Amount <sup>24</sup> of such Impost paid in the Price of the Commodities by those States that import but little, and a proportionate Addition shall be allowed of Suffrage to such States, —— and an equal Diminution of the Suffrage of the States importing

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\* Crossed out "Consumption".