

SATURDAY, JULY 14, 1787.

JOURNAL

Saturday July 14. 1787.

It was moved and seconded to agree to the following proposition, namely.

That to secure the liberties of the States already confederated, the number of representatives in the first branch from the States which shall hereafter be established, shall never exceed the representatives from such of the thirteen United States as shall accede to this Confederation.

On the question to agree to the proposition

it passed in the negative [Ayes — 4; noes — 5; divided — 1.]

It was moved and seconded to reconsider the two propositions reported from the grand Committee, and agreed by the House to stand part of the report — entered on the Journal of the 6. instant

It was moved and seconded to postpone the second clause of the report from the grand Committee, entered on the Journals of the 6 instant, in order to take up the following. namely

That the second branch of the Legislature shall have Thirty six Members of which number

New Hampshire shall have	2.
Massachusetts	4
Rhode Island	1
Connecticut	3
New York	3
New Jersey	2
Pennsylvania	4
Delaware	1
Maryland	3
Virginia	5

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No Carolina	3
So Carolina	3
Georgia	2.

On the question to postpone, it passed in the negative.
 [Ayes—4; noes—6.]¹
 and then the House adjourned till Monday

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
[154]	aye	aye				no	dd	aye	aye	no	no	no	no	That the number of representatives in ye first branch from the States hereafter to be established shall not exceed the representatives from the States already confederated	4	5	1
[155]	no		no			no	aye	no	aye	aye	no	aye	no	To postpone the 2d clause of the report from the grand Committee of the 6. instant in order to take up the substitute offd by Mr Pinckney	4	6	

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Saturday. July 14. in Convention

Mr. L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2d. branch.

Mr. Gerry. wished before the question should be put, that the attention of the House might be turned to the dangers apprehended from Western States. He was for admitting them

¹ Vote 155, Detail of Ayes and Noes, which notes that this substitute was offered "by Mr. Pinkney".

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on liberal terms, but not for putting ourselves into their hands. They will if they acquire power like all men, abuse it. They will oppress commerce, and drain our wealth into the Western Country. To guard agst. these consequences, he thought it necessary to limit the number of new States to be admitted into the Union, in such a manner, that they should never be able to outnumber the Atlantic States.² He accordingly moved "that in order to secure the (liberties of the) States already confederated, the (number of) Representatives in the 1st. branch (of the States which shall hereafter be established) shall never exceed in number, the Representatives from such of the States (as shall accede to this confederation.)"³

Mr. King. seconded the motion.

Mr. Sherman, thought there was no probability that the number of future States would exceed that of the Existing States. If the event should ever happen, it was too remote to be taken into consideration at this time. Besides We are providing for our posterity, for our children & our grand Children, who would be as likely to be citizens of new Western States, as of the old States. On this consideration alone, we ought to make no such discrimination as was proposed by the motion.

Mr. Gerry. If some of our children should remove, others will stay behind, and he thought it incumbent on us to provide for their interests. There was a rage for emigration from the Eastern States to the Western Country and he did not wish those remaining behind to be at the mercy of the Emigrants. Besides foreigners are resorting to that Country, and it is uncertain what turn things may take there. — On the question for agreeing to the Motion of Mr. Gerry, (it passed in the negative.)

Mas. ay. Cont. ay. N. J. no Pa. divd. Del: ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 5; divided — 1.]

Mr. Rutlidge proposed to reconsider the (two propositions touching the originating of) money bills (in the first) & the equality of votes in the second branch.

² See Appendix A, CCCXXXII.

³ Revised from *Journal*.

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Mr. Sherman was for the question on the whole at once. It was he said a conciliatory plan, it had been considered in all its parts, a great deal of time had been spent on it, and if any part should now be altered, it would be necessary to go over the whole ground again.

Mr. L. Martin urged the question on the whole. He did not like many parts of it. He did not like having two branches, nor the inequality of votes in the 1st. branch. He was willing however to make trial of the plan, rather than do nothing.⁴

Mr. Wilson traced the progress of the Report through its several stages, remarking yt when on the question concerning an equality of votes, the House was divided, our Constituents had they voted as their representatives did, would have stood as $\frac{2}{3}$ agst. the equality, and $\frac{1}{3}$ only in favor of it. This fact would ere long be known, and it will appear that this fundamental point has been carried by $\frac{1}{3}$ agst. $\frac{2}{3}$. What hopes will our Constituents entertain when they find that the essential principles of justice have been violated in the outset of the Governmt. As to the privilege of originating money bills, it was not considered by any as of much moment, and by many as improper in itself. He hoped both clauses wd. be reconsidered. The equality of votes was a point of such critical importance, that every opportunity ought to be allowed, for discussing and collecting the mind of the Convention on it.

Mr. L. Martin denies that there were $\frac{2}{3}$ agst. the equality of votes. The States that please to call themselves large, are the weekest in the Union. Look at Masts. Look at Virga. Are they efficient States? He was for letting a separation take place if they desired it. He had rather there should be two Confederacies, than one founded on any other principle than an equality of votes in the 2d branch at least.

Mr Wilson was not surprised that those who say that a minority does more than the majority should say that that minority is stronger than the majority. He supposed the next assertion will be that they are richer also, though he hardly

⁴ See Appendix A, CXCII.

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expected it would be persisted in when the States shall be called on for taxes & troops —

Mr. Gerry also animadverted on Mr. L. Martins remarks on the weakness of Masts. He favored the reconsideration with a view not of destroying the equality of votes; but of providing that the States should vote per capita. which he said would prevent the delays & inconveniences that had been experienced in Congs. and would give a national aspect & Spirit to the management of business. He did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner stone of the accomodation. If any member of the Convention had the exclusive privilege of making propositions, would any one say that it would give him no advantage over other members. The Report was not altogether to his mind. But he would agree to it as it stood rather than throw it out altogether.

The reconsideration being tacitly agreed to

Mr. Pinkney moved that instead of an equality of votes the States should be represented in the 2d branch as follows: N. H. by. 2. members. Mas 4. R. I. 1. Cont. 3. N. Y. 3. N. J. 2. Pa. 4. Del 1. Md. 3. Virga. 5. N. C. 3. S. C. 3. Geo. 2. making in the whole 36.⁵

Mr. Wilson seconds the motion

Mr. Dayton. The smaller States can never give up their equality. For himself he would in no event yield that security for their rights.

Mr. Sherman urged the equality of votes not so much as a security for the small States; as for the State Govts. which could not be preserved unless they were represented & had a negative in the Genl. Government. He had no objection to the members in the 2d b. voting per capita, as had been suggested by (Mr. Gerry)

Mr — (Madison) concurred in the motion (of Mr. Pinkney) as a reasonable compromise.

Mr. Gerry said he should like the motion, but could see no hope of success. An accomodation must take place, and

⁵ See Appendix A, CLVIII (7), CCXXXVIII.

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it was apparent from what had been seen that it could not do so on the ground of the motion. He was utterly against a partial confederacy, leaving other States to accede or not accede; as had been intimated.

Mr. King said it was always with regret that he differed from his colleagues, but it was his duty to differ from (Mr Gerry) on this occasion. He considered the proposed Government as substantially and formally, a General and National Government over the people of America. There never will be a case in which it will act as a federal Government on the States and not on the individual Citizens. And is it not a clear principle that in a free Govt. those who are to be the objects of a Govt. ought to influence the operations of it? What reason can be assigned why the same rule of representation sh. not prevail in the 2d. branch as in the 1st.? He could conceive none. On the contrary, every view of the subject that presented itself, seemed to require it. Two objections had been raised agst. it, drawn 1. from the terms of the existing compact. 2. from a supposed danger to the smaller States. — As to the first objection he thought it inapplicable. According to the existing confederation, the rule by which the public burdens is to be apportioned is *fixed*, and must be pursued. In the proposed Governmt. it cannot be fixed, because indirect taxation is to be substituted. The Legislature therefore will have full discretion to impose taxes in such modes & proportions as they may judge expedient. As to the 2d. objection, he thought it of as little weight. The Genl. Governmt. can never wish to intrude on the State Governmts. There could be no temptation. None had been pointed out. In order to prevent the interference of measures which seemed most likely to happen, he would have no objection to throwing all the State debts into the federal debt, making one aggregate debt of about 70,000,000, of dollars, and leaving it to be discharged by the Genl. Govt. — According to the idea of securing the State Govts. there ought to be three distinct legislative branches. The 2d. was admitted to be necessary, and was actually meant, to check the 1st. branch, to give more wisdom, system, & stability to the Govt. and ought

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clearly as it was to operate on the people to be proportioned to them. For the third purpose of securing the States, there ought then to be a 3d. branch, representing the States as such and guarding by equal votes their rights & dignities. He would not pretend to be as thoroughly acquainted with his immediate Constituents as his colleagues, but it was his firm belief that Masts. would never be prevailed on to yield to an equality of votes. In N. York (he was sorry to be obliged to say any thing relative to that State in the absence of its representatives, but the occasion required it), in N. York he had seen that the most powerful argument used by the considerate opponents to the grant of the Impost to Congress, was pointed agst. the vicious constitution of Congs. with regard to representation & suffrage. He was sure that no Govt. could last that was not founded on just principles. He preferred the doing of nothing, to an allowance of an equal vote to all the States. It would be better he thought to submit to a little more confusion & convulsion, than to submit to such an evil. It was difficult to say what the views of different Gentlemen might be. Perhaps there might be some who thought no Governmt. co-extensive with the U. States could be established with a hope of its answering the purpose. Perhaps there might be other fixed opinions incompatible with the object we were pursuing. If there were, he thought it but candid that Gentlemen would speak out that we might understand one another.

Mr. Strong. The Convention had been much divided in opinion. In order to avoid the consequences of it, an accomodation had been proposed. A Committee had been appointed; and though some of the members of it were averse to an equality of votes, a Report has been made in favor of it. It is agreed on all hands that Congress are nearly at an end. If no Accommodation takes place, the Union itself must soon be dissolved. It has been suggested that if (we) can not come to any general agreement the principal States may form & recommend a scheme of Government. But will the small States in that case ever accede it. Is it probable that the large States themselves will under such circumstances embrace

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and ratify it. He thought the small States had made a considerable concession in the article of money bills, and that (they) might naturally expect some concessions on the other side. From this view of the matter he was compelled to give his vote for the Report taken all together.

Mr (Madison) expressed his apprehensions that if the proper foundation of Governmt was destroyed, by substituting an equality in place of a proportional Representation, no (proper) superstructure would be raised.⁶ If the small States really wish for a Government armed with the powers necessary to secure their liberties, and to enforce obedience on the larger members as well as on themselves he could not help thinking them extremely mistaken in their means. He reminded them of the consequences of laying the existing confederation on improper principles. All the principal parties to its compilation, joined immediately in mutilating & fettering the Governmt. in such a manner that it has disappointed every hope placed on it. He appealed to the doctrine & arguments used by themselves on (a former occasion.) It had been (very properly observed by (Mr. Patterson) that Representation was an expedient by which the meeting of the people themselves was rendered unnecessary; and that the representatives ought therefore to bear a proportion to the votes which their constituents if convened, would respectively have. Was not this remark as applicable to one branch of the Representation as to the other? But it had been said that the Governmt. would (in its operation) be partly federal, partly national; that altho' in the latter respect the Representatives of the people ought to be in proportion to the people: yet in the former it ought to be according to the number of States. If there was any (solidity)⁷ in this distinction he was ready to abide by it, if there was none it ought to be abandoned. In all cases where the Genl. Governmt. is to act on the people, let the people be represented and the votes be proportional. In all cases where the Governmt. is to act on the States as such, in like manner as Congs. now act

⁶ Crossed out "that would either fulfill the public wishes, or a credit to the Convention".

⁷ Crossed out "force or ability".

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on them, let the States be represented & the votes be equal. This was the true ground of compromise if there was any ground at all. But he denied that there was any ground. He called for a single instance in which the Genl. Govt. was not to operate on the people individually. The practicability of making laws, with coercive sanctions, for the States as political bodies, had been exploded on all hands. He observed that the people of the large States would in some way or other secure to themselves a weight proportioned to the importance, accruing from their superior numbers. If they could not effect it by a proportional representation in the Govt. they would probably accede to no Govt. which did not in great measure depend for its efficacy on their voluntary cooperation; in which case they would indirectly secure their object. The existing confederacy proved that where the acts of the Genl. Govt. were to be executed by the particular Govts the latter had a weight in proportion to their importancē. No one would say that either in Congs. or out of Congs. Delaware had equal weight with Pensylva. If the latter was to supply ten times as much money as the former, and no compulsion could be used, it was of ten times more importance, that she should furnish voluntarily the supply.* In the Dutch Confederacy the votes of the Provinces were equal. But Holland, which supplies about half the money, governed the whole republic. He enumerated the objections agst an equality of votes in the 2d. branch, notwithstanding the proportional representation in the first. 1. the minority could negative the will of the majority of the people. 2. they could extort measures by making them a condition of their assent to other necessary measures. 3. they could obtrude measures on the majority by virtue of the peculiar powers which would be vested in the Senate. 4. the evil instead of being cured by time, would increase with every new State that should be admitted, as they must all be admitted on the principle of equality. 5. the perpetuity it would give to the (preponderance of the) Northn. agst. the Southn. Scale was a serious consideration. It

* See Appendix A, CLVIII (38).

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seemed now to be pretty well understood that the real difference of interests lay, not between the large & small but between the N. & Southn. States. The institution of slavery & its consequences formed the line of discrimination. There were 5 States on the South, 8 on the Northn. side of this line. Should a proportl. representation take place it was true, the N. side would still outnumber the other: but not in the same degree, at this time; and every day would tend towards an equilibrium.

Mr. Wilson would add a few words only. If equality in the 2d. branch was an error that time would correct, he should be less anxious to exclude it being sensible that perfection was unattainable in any plan: but being a fundamental and a perpetual error, it ought by all means to be avoided. A vice in the Representation, like an error in the first concoction, must be followed by disease, convulsions, and finally death itself. The justice of the general principle of proportional representation has not in argument at least been yet contradicted. But it is said that a departure from it so far as to give the States an equal vote in one branch of the Legislature is essential to their preservation. He had considered this position maturely, but could not see its application. That the States ought to be preserved he admitted. But does it follow that an equality of votes is necessary for the purpose? Is there any reason to suppose that if their preservation should depend more on the large than on the small States, the security of the States agst. the Genl. Government would be diminished? Are the large States less attached to their existence, more likely to commit suicide, than the small? An equal vote then is not necessary as far as he can conceive: and is liable, among other objections to this insuperable one: The great fault of the existing Confederacy is its inactivity. It has never been a complaint agst. Congs. that they governed overmuch. The complaint has been that they have governed too little. To remedy this defect we were sent here. Shall we effect the cure by establishing an equality of votes, as is proposed? no; this very equality carries us directly to Congress: to the system which it is our duty to rectify. The small States cannot indeed act, by virtue of this equality, but they may controul

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the Govt. as they have done in Congs. This very measure is here prosecuted by a minority of the people of America. Is then the object of the Convention likely to be accomplished in this way? Will not our Constituents say? we sent you to form an efficient Govt and you have given us one more complex indeed, but having all the weakness of the former Govern. He was anxious for uniting all the States under one Govern. He knew there were some respectable men who preferred three confederacies, united by offensive & defensive alliances. Many things may be plausibly said, some things may be justly said, in favor of such a project. He could not however concur in it himself; but he thought nothing so pernicious as bad first principles.

Mr. Elseworth asked two questions one of Mr. Wilson, whether he had ever seen a good measure fail in Congs. for want of a majority of States in its favor? He had himself never known such an instance: the other of Mr. (Madison) whether a negative lodged with a majority of the States even the smallest, could be more dangerous than the qualified negative proposed to be lodged in a single Executive Magistrate, who must be taken from some one State?

Mr. Sherman, signified that his expectation was that the Genl. Legislature would in some cases act on the *federal principle*, of requiring quotas. But he thought it ought to be empowered to carry their own plans into execution, if the States should fail to supply their respective quotas.

On the question for agreeing to Mr Pinkney's motion for allowing N. H. 2. Mas. 4. &c — (it passed in the negative)

Mas. no. Mr. King ay. Mr. Ghorum absent. Cont. no. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. ay Geo. no. [Ayes — 4; noes — 6.]

Adjourned,

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Memorandum

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About twelve days since the convention appointed a Grand Comtee. consisting of Gerry, Elsworth, Yates, Patterson, Franklin, Bedford, Martin, Mason, Davie, Rutledge & Baldwin to adjust the Representation in the two Brs. of the Legislature of the US — They reported yt. every 40,000 Inhab. taken agreeably to the Resolution of Cong. of ye. 18 Ap. 1783 shd. send one member to the first Br of the Legislatr. yt. this Br. shd. originate exclusively money Bills, & also originate ye. appropriations of money — and that in ye Senate or upper Br. each state shd. have one vote & no more — the Representation as to the first Br. was twice recommitted altho not to the same committee, finally it was agreed yt. Taxation of the direct sort & Representation shd. be in direct proportion with each other — that the first Br. shd. consist of 65 memb: viz. N H. 3: M. 8: R I. 1: C. 5: NY. 6: N J. 4: P. 8: D. 1: M. 6: V. 10: NC. 5: SC. 5: G. 3: and that the origination of money Bills and the Appropriations of money shd. belong in the first instance to yt. Br. but yt. in the Senate or 2d. Br. each State shd. have an equal Vote — in this situation of the Report it was moved by S. Car. that in the formation of the 2d. Br. instead of an equality of Votes among the States, that N H shd. have 2: M. 4: R I. 1: C. 3. N Y 3. N J. 2. P 4. D 1. M 3. V 5. N C. 3. S C. 3 G 2. Total 36 — on the question to agree to this apportionment, instead of the equality (Mr. Gorham being absent) Mass. Con. N Jer. Del. N Car & Georg. No — Penn. Mar. Virg. & S Car. Ay — This Question was taken and to my mortification by the Vote of Mass lost on the 14th. July — ⁹

⁹ [Endorsed:] 15 July | Senate. shall the States be | Equal in the number of Senators, | inequality lost by vote | of Mass —