# TUESDAY, JULY 17, 1787.

## JOURNAL

Tuesday July 17. 1787.

It was moved and seconded to postpone the considn of the second clause of the Sixth resolution reported from the Committee of the whole House in order to take up the following

"To make laws binding on the People of the United States "in all cases which may concern the common interests of "the Union: but not to interfere with the government of the "individual States in any matters of internal police which "respect the government of such States only, and wherein "the general welfare of the United States is not concerned."

which passed in the negative [Ayes — 2; noes — 8.] [1]

It was moved and seconded to alter the second clause of the 6th resolution so as to read as follows, namely

"and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation

which passed in the affirmative [Ayes — 6; noes — 4.] [2]

[To agree to the second clause of the 6. resolution as amended. Ayes — 8; noes — 2.] [3]

On the question to agree to the following clause of the sixth resolution reported from the Committee of the whole House, namely,

"to negative all laws passed by the several States contra- "vening in the opinion of the national legislature, the articles

[1] Vote 160, Detail of Ayes and Noes, which notes that the motion was "offered by Mr. Sherman".

[2] Vote 161, Detail of Ayes and Noes, which notes that the amendment was "offered by Mr. Bedford".

[3] Vote 162, Detail of Ayes and Noes.

"of union, or any treaties subsisting under the authority of "the Union"

it passed in the negative [Ayes — 3; noes — 7.]

It was moved and seconded to agree to the following resolution namely.

Resolved that the legislative acts of the United States made by virtue and in pursuance of the articles of Union and all Treaties made and ratified under the authority of the United States shall be the supreme law of the respective States as far as those acts or Treaties shall relate to the said States, or their Citizens and Inhabitants — and that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding

which passed unanimously in the affirmative

On the question to agree to the first clause of the 9th resolution reported from the Committee of the whole House namely "That a national Executive be instituted to consist of a Single Person"

it passed unanimously in the affirmative [Ayes — 10; noes — 0.]

It was moved and seconded to strike the words

"national legislature" out of the second clause of the 9th resolution, reported from the Committee of the whole House and to insert the words

"the Citizens of the United States"

which passed in the negative [Ayes — 1; noes — 9.]

It was moved and seconded to alter the second clause of the 9th resolution reported from the Committee of the whole House so as to read

"To be chosen by Electors to be appointed by the several Legislatures of the individual States"

which passed in the negative [Ayes — 2; noes — 8.]

It was moved and seconded to agree to the following clause namely

"to be chosen by the national Legislature

which passed unan: in the affirmative. [Ayes — 10; noes — 0.]

It was moved and seconded to postpone the consideration of the following clause

for the term of seven years"

which was unanimously agreed to

On the question to agree to the following clause namely

"with power to carry into effect the national laws"

it passed unanimously in ye affirmative

On the question to agree to the following clause namely

"to appoint to offices in cases not otherwise provided for"

it passed unanimously in the affirmative

It was moved and seconded to strike out the following words namely

"to be ineligible a second time"

which passed in the affirmative [Ayes — 6; noes — 4.]

It was moved and seconded to strike out the words "seven years" and to insert the words "good behaviour."

which passed in the negative. [Ayes — 4; noes — 6.]

It was moved and seconded to strike out the words

"seven years"

which passed in the negative [Ayes — 4; noes — 6.][4]

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

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[4] Vote 170, Detail of Ayes and Noes. Immediately following this, the printed *Journal* (pp. 185–6) inserted from Detail of Ayes and Noes (Votes 171–173):—

"It was moved and seconded to reconsider the vote to strike out the words, 'to be ineligible a second time'."

"Passed unanimously (eight states) in the affirmative.

"It was moved and seconded to reconsider immediately.

"Passed in the affirmative. . . . [Ayes — 6; Noes — 2.]

"It was moved and seconded to reconsider the clause to-morrow.

"Passed unanimously in the affirmative."

This is probably an error. There is nothing in the Journal or Detail of Ayes and Noes which would assign these questions to July 17 rather than to July 18. Madison did not originally record any of these questions on July 17, but Madison does record two of them on July 18. That only eight states voted corresponds to the attendance on July 18 rather than July 17. The "to-morrow" on which the question was reconsidered was July 19. These questions, therefore, doubtless belong to the records of July 18.

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 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [160] | | no | | aye | | no | no | no | aye | no | no | no | no | To postpone the 2 clause of ye 6th resolution, to take up a motion offered by Mr Sherman | 2 | 8 | |
| [161] | | aye | | no | | aye | aye | aye | aye | no | aye | no | no | To agree to the amendment offered to the 6th resolution by Mr Bedford | 6 | 4 | |
| [Beginning sixth loose sheet] | | | | | | | | | | | | | | | | | |
| [162] | | aye | | aye | | aye | aye | aye | aye | aye | aye | no | no | To agree to the second clause of the 6. resolution as amended. | 8 | 2 | |
| [163] | | aye | | no | | no | no | no | no | aye | no | no | no | To agree to the last clause of the 6 resolution as reported from the Committee of the whole House. | 3 | 7 | |
| [164] | | aye | | aye | | aye | aye | aye | aye | aye | aye | aye | aye | The National Executive to consist of a Single Person | | | |
| [165] | | no | | no | | no | aye | no | no | no | no | no | no | That the National Executive be chosen by the Citizens of the United States. | unanimous 10 | 9 | |
| [166] | | no | | no | | no | no | aye | aye | no | no | no | no | That the national Executive be chosen by Electors to be appointed by the individual Legislatures | 1 | 8 | |
| [167] | | aye | | aye | | aye | aye | aye | aye | aye | aye | aye | aye | That the national Executive be chosen by the Legislature of the United States | 2 | 8 | |
| [168] | | aye | | aye | | aye | aye | no | aye | no | no | no | aye | To strike out the words "to be ineligible a second time" | 10 | | |
| [169] | | no | | no | | aye | aye | aye | no | aye | no | no | no | To strike out the words "seven years" and insert the words "good behaviour" | 6 | 4 | |
| [170] | | aye | | no | | no | aye | aye | no | no | aye | no | no | To strike out the words "seven years" | 4 | 6 | |

## MADISON

Tuesday July 17. in Convention

Mr. Governr. Morris moved to reconsider the whole Resolution agreed to yesterday concerning the constitution of the 2 branches of the Legislature. His object was to bring the House to a consideration in the abstract of the powers necessary to be vested in the general Government. It had been said, Let us know how the Govt. is to be modelled, and then we can determine what powers can be properly given to it. He thought the most eligible course was, first to determine on the necessary powers, and then so to modify the Governt. as that it might be justly & properly enabled to administer them. He feared if we proceded to a consideration of the powers, whilst the vote of yesterday including an equality of the States in the 2d. branch, remained in force, a reference to it, either mental or expressed, would mix itself with the merits of every question concerning the powers. — this motion was not seconded. (It was probably approved by several members, who either despaired of success, or were apprehensive that the attempt would inflame the jealousies of the smaller States.)

The 6th. Resoln. in the Report of the Come. of the whole relating to the powers, which had been postponed in order to consider the 7 & 8th. relating to the Constitution of the, Natl. Legislature, was now resumed —

Mr. Sherman observed that it would be difficult to draw the line between the powers of the Genl. Legislatures, and those to be left with the States; that he did not like the definition contained in the Resolution, and proposed in place of the words "of individual legislation" line 4 inclusive, to insert "to make laws binding on the people of the ⟨United⟩ States in all cases ⟨which may concern the common interests of the Union⟩; but not to interfere with ⟨the Government of the individual States in any matters of internal police which respect the Govt. of such States only, and wherein the General⟩ welfare of the U. States is not concerned." [5]

[5] Revised from *Journal.*

Mr. Wilson 2ded. the amendment as better expressing the general principle.

Mr Govr Morris opposed it. The internal police, as it would be called & understood by the States ought to be infringed in many cases, as in the case of paper money & other tricks by which Citizens of other States may be affected.

Mr. Sherman, in explanation of his ideas read an enumeration of powers, including the power of levying taxes on trade, but not the power of *direct taxation.*

Mr. Govr. Morris remarked the omission, and inferred that for the deficencies of taxes on consumption, it must have been the meaning of Mr. Sherman, that the Genl. Govt. should recur to quotas & requisitions, which are subversive of the idea of Govt.

Mr. Sherman acknowledged that his enumeration did not include direct taxation. Some provision he supposed must be made for supplying the deficiency of other taxation, but he had not formed any.[6]

On Question on Mr. Sherman's motion,[7] ⟨it passed in the negative⟩

Mas. no. Cont. ay. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8.]

Mr. Bedford moved that the ⟨2d. member of Resolution 6.⟩ be so altered as to read "⟨and moreover⟩ to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent," ⟨or in which the harmony of the U. States may be interrupted by the exercise of individual Legislation".⟩ [8]

Mr. Govr. Morris 2ds. ⟨the motion.⟩

Mr. Randolph. This is a formidable idea indeed. It involves the power of violating all the laws and constitutions of the States, and of intermeddling with their police. The last member of the sentence is ⟨also⟩ superfluous, being included in the first.

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[6] See Appendix A, CXXIII.

[7] Madison originally recorded but struck out that the question was "for postponing in order to take on" Sherman's motion.

[8] Revised from *Journal.*

Mr. Bedford. It is not more extensive or formidable than the clause as it stands: *no State* being *separately* competent to legislate for the *general interest* of the Union.

On question for agreeing to Mr. Bedford's motion. ⟨it passed in the affirmative.⟩

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

On the sentence as amended, ⟨it passed in the affirmative.⟩

Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 8; noes — 2.]

⟨The next. —⟩ "To negative all laws passed by the several States ⟨contravening in the opinion of the Nat: Legislature the articles of Union, or any treaties subsisting under the authority of ye Union"⟩ [9]

Mr. Govr. Morris opposed this power as likely to be terrible to the States, and not necessary, if sufficient Legislative authority should be given to the Genl. Government.

Mr. Sherman thought it unnecessary, as the Courts of the States would not consider as valid any law contravening the Authority of the Union, and which the legislature would wish to be negatived.

Mr. L. Martin considered the power as improper & inadmissable. Shall all the laws of the States be sent up to the Genl. Legislature before they shall be permitted to operate?

Mr. ⟨Madison,⟩ considered the negative on the laws of the States as essential to the efficacy & security of the Genl. Govt. The necessity of a general Govt. proceeds from the propensity of the States to pursue their particular interests in opposition to the general interest. This propensity will continue to disturb the system, unless effectually controuled. Nothing short of a negative, on their laws will controul it. They can pass laws which will accomplish their injurious objects before they can be repealed by the Genl Legislre. or be set aside by the National Tribunals. Confidence can ⟨not⟩ be put in the State Tribunals as guardians of the National authority and interests. In all the States these are more or less

[9] Revised from *Journal.*

dependt. on the Legislatures. In Georgia[10] they are appointed annually by the Legislature. In R. Island the Judges who refused to execute an unconstitutional law were displaced, and others substituted, by the Legislature who would be willing instruments of the wicked & arbitrary plans of their masters. A power of negativing the improper laws of the States is at once the most mild & certain means of preserving the harmony of the system. Its utility is sufficiently displayed in the British System. Nothing could maintain the harmony & subordination of the various parts of the empire, but the prerogative by which the Crown, stifles in the birth every Act of every part tending to discord or encroachment. It is true the prerogative is sometines misapplied thro' ignorance or a partiality to one particular part of ye. empire: but we have not the same reason to fear such misapplications in our System. As to the sending all laws up to the Natl. Legisl: that might be rendered unnecessary by some emanation of the power into the States, so far at least, as to give a temporary effect to laws of immediate necessity.

Mr. Govr. Morris was more & more opposed to the negative. The proposal of it would disgust all the States. A law that ought to be negatived will be set aside in the Judiciary departmt. and if that security should fail; may be repealed by a Nationl. law.

Mr. Sherman. Such a power involves a wrong principle, to wit, that a law of a State contrary to the articles of the Union, would if not negatived, be valid & operative.

Mr. Pinkney urged the necessity of the Negative.

On the question for agreeing to the power of negativing laws of States &c." ⟨it passed in the negative.⟩

Mas. ay. Ct. no. N. J. no. Pa. no. Del. no. Md. no. Va. ay. N. C. ay. S. C. no. Geo. no. [Ayes — 3; noes — 7.][11]

⟨Mr. Luther Martin moved the following resolution "that the Legislative acts of the U. S. made by virtue & in pursuance of the articles of Union, and all treaties made & ratified under the authority of the U. S. shall be the supreme law of

[10] "Rh. Isd. &" twice struck out.

[11] See Appendix A, CXXXVII.

the respective States, as far as those acts or treaties shall relate to the said States, or their Citizens and inhabitants — & that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding" which was agreed to nem: con:.⟩ [12]

9th. Resol: "that Natl. Executive consist of a single person." Agd. to nem. con.

"To be chosen by the National Legisl:"

Mr. Governr. Morris was pointedly agst. his being so chosen. He will be the mere creature of the Legisl: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country. That difficulties attend this mode, he admits. But they have been found superable in N. Y. &. in Cont. and would he believed be found so, in the case of an Executive for the U. States. If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction: it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment. ⟨He moved to strike out "National Legislature" & insert "citizens of U. S"⟩

Mr. Sherman thought that the sense of the Nation would be better expressed by the Legislature, than by the people at large. The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the Legislre. A majority of voices may be made necessary to constitute an election.

Mr. Wilson. two arguments have been urged agst. an

[12] Taken from *Journal.* Madison had originally recorded only the substance. For Martin's explanation of this resolution, see Appendix A, CLXXXIX, CXCII, also CXXXVII, CLXIII, CCLXXII, CCCLXXXVIII, CCCXCI. See further, above June 8, note 3, and below August 23.

election of the Executive Magistrate by the people. 1 the example of Poland where an Election of the supreme Magistrate is attended with the most dangerous commotions. The cases he observed were totally dissimilar. The Polish nobles have resources & dependents which enable them to appear in force, and to threaten the Republic as well as each other. In the next place the electors all assemble in one place: which would not be the case with us. The 2d. argt. is that a *majority* of the people would never concur. It might be answered that the concurrence of a majority of people is not a necessary principle of election, nor required as such in any of the States. But allowing the objection all its force, it may be obviated by the expedient used in Masts. where the Legislature by majority of voices, decide in case a majority of people do not concur in favor of one of the candidates. This would restrain the choice to a good nomination at least, and prevent in a great degree intrigue & cabal. A particular objection with him agst. an absolute election by the Legislre. was that the Exec: in that case would be too dependent to stand the mediator between the intrigues & sinister views of the Representatives and the general liberties & interests of the people.

Mr. Pinkney did not expect this question would again have been brought forward; An Election by the people being liable to the most obvious & striking objections. They will be led by a few active & designing men. The most populous States by combining in favor of the same individual will be able to carry their points. The Natl. Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of a fit man to carry them properly into execution.

Mr. Govr. Morris. It is said that in case of an election by the people the populous States will combine & elect whom they please. Just the reverse. The people of such States cannot combine. If their be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men. This might happen in a small district. It can never happen throughout the continent. In the election of a Govr. of N. York, it some-

times is the case in particular spots, that the activity & intrigues of little partizans are successful, but the general voice of the State is never influenced by such artifices. It is said the multitude will be uninformed. It is true they would be uninformed of what passed in the Legislative Conclave, if the election were to be made there; but they will not be uninformed of those great & illustrious characters which have merited their esteem & confidence. If the Executive be chosen by the Natl. Legislature, he will not be independent on it; and if not independent, usurpation & tyranny on the part of the Legislature will be the consequence. This was the case in England in the last Century. It has been the case in Holland, where their Senates have engrossed all power. It has been the case every where. He was surprised that an election by the people at large should ever have been likened to the polish election of the first Magistrate. An election by the Legislature will bear a real likeness to the election by the Diet of Poland. The great must be the electors in both cases, and the corruption & cabal wch are known to characterize the one would soon find their way into the other. Appointments made by numerous bodies, are always worse than those made by single responsible individuals, or by the people at large.

Col. Mason. It is curious to remark the different language held at different times. At one moment we are told that the Legislature is entitled to thorough confidence, and to indefinite power. At another, that it will be governed by intrigue & corruption, and cannot be trusted at all. But not to dwell on this inconsistency he would observe that a Government which is to last ought at least to be practicable. Would this be the case if the proposed election should be left to the people at large. He conceived it would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates. ——

Mr Wilson. could not see the contrariety stated (by Col. Mason) The Legislre. might deserve confidence in some

respects, and distrust in others. In acts which were to affect them & yr. Constituents precisely alike confidence was due. In others jealousy was warranted. The appointment to great offices, when the Legislre might feel many motives, not common to the public confidence was surely misplaced. This branch of business it was notorious, was most corruptly managed of any that had been committed to legislative bodies.

Mr. Williamson, conceived that there was the same difference between an election in this case, by the people and by the legislature, as between an appt. by lot, and by choice. There are at present distinguished characters, who are known perhaps to almost every man. This will not always be the case. The people will be sure to vote for some man in their own State, and the largest State will be sure to succede. This will not be Virga. however. Her slaves will have no suffrage. As the Salary of the Executive will be fixed, and he will not be eligible a 2d. time, there will not be such a dependence on the Legislature as has been imagined.

Question on an election by the people instead of the Legislature; ⟨which passed in the negative.⟩

Mas. no. Cont. no. N. J. no. Pa. ay. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 1; noes — 9.]

Mr. L. Martin moved that the Executive be chosen by Electors appointed by the ⟨several⟩ Legislature⟨s of the individual States.⟩ [13]

Mr. Broome 2ds. On the Question, ⟨it passed in the negative.⟩

Mas. no. Cont. no. N. J. no. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no. [Ayes — 2; noes — 8.]

On the question on the words "to be chosen by the Nationl. Legislature" ⟨it passed unanimously in the affirmative.⟩ [14]

"For the term of seven years" — postponed nem. con. on motion of Mr. Houston & Gov. Morris.

"to carry into execution the nationl. laws" — agreed to nem. con.

[13] Madison originally recorded this motion, that the electors were to be appointed by the "Natl Legislature." It was revised from *Journal.*

[14] Madison originally recorded the vote in detail — ten states, each "ay".

"to appoint to offices in cases not otherwise provided for". — agreed to nem. con.

"to be ineligible a second time" — Mr. Houston moved to strike out this clause.

Mr. Sherman 2ds. the motion.

Mr. Govr. Morris espoused the motion. The ineligibility proposed by the clause as it stood tended to destroy the great motive to good behavior, the hope of being rewarded by a re-appointment. It was saying to him, make hay while the sun shines.

On the question for striking out as moved by Mr. Houston, ⟨it passed in the affirmative.⟩

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

"For the term of 7 years" resumed

Mr. Broom was for a shorter term since the Executive Magistrate was now to be re-eligible. Had he remained ineligible a 2d. time, he should have preferred a longer term.

Docr. McClurg moved * to strike out 7 years, and insert "during good behavior". By striking out the words declaring him not re-eligible, he was put into a situation that would keep him dependent for ever on the Legislature; and he conceived the independence of the Executive to be equally essential with that of the Judiciary department.

Mr. Govr. Morris 2ded. the motion. He expressed great pleasure in hearing it. This was the way to get a good Government. His fear that so valuable an ingredient would not be attained had led him to take the part he had done. He was indifferent how the Executive should be chosen, provided he held his place by this tenure.

Mr. Broome highly approved the motion. It obviated all his difficulties.

Mr. Sherman considered such a tenure as by no means safe or admissible. As the Executive Magistrate is now re-eligible, he will be on good behavior as far as will be necessary.

* ⟨The probable object of this motion was merely to enforce the argument against the re-eligibility of the Executive Magistrate, by holding out a tenure during good behaviour as the alternative for keeping him independent of the Legislature.⟩

If he behaves well he will be continued; if otherwise, displaced on a succeeding election.

Mr. Madison. * If it be essential to the preservation of liberty that the Legisl: Execut: & Judiciary powers be separate, it is essential to a maintenance of the separation, that they should be independent of each other. The Executive could not be independent of the Legislure, if dependent on the pleasure of that branch for a re-appointment. Why was it determined that the Judges should not hold their places by such a tenure? Because they might be tempted to cultivate the Legislature, by an undue complaisance, and thus render the Legislature the virtual expositor, as well the maker of the laws. In like manner a dependence of the Executive on the Legislature, would render it the Executor as well as the maker of laws; & then according to the observation of Montesquieu, tyrannical laws may be made that they may be executed in a tyrannical manner. There was an analogy between the Executive & Judiciary departments in several respects. The latter executed the laws in certain cases as the former did in others. The former expounded & applied them for certain purposes, as the latter did for others. The difference between them seemed to consist chiefly in two circumstances—1. the collective interest & security were much more in the power belonging to the Executive than to the Judiciary department. 2. in the administration of the former much greater latitude is left to opinion and discretion than in the administration of the latter. But if the 2d. consideration proves that it will be more difficult to establish a rule sufficiently precise for trying the Execut: than the Judges, & forms an objection to the same tenure of office, both considerations prove that it might be more dangerous to suffer a Union between the Executive & Legisl: powers, than between the Judiciary & Legislative

* ⟨The view here taken of the subject was meant to aid in parrying the animadversions likely to fall on the motion of Dr. McClurg, for whom J. M. had a particular regard.[15] The Docr. though possessing talents of the highest order, was modest & unaccustomed to exert them in public debate.⟩

[15] Crossed out "and whose appointment to the Convention he had actively promoted."

powers. He conceived it to be absolutely necessary to a well constituted Republic that the two first shd. be kept distinct & independent of each other. Whether the plan proposed by the motion was a proper one was another question, as it depended on the practicability of instituting a tribunal for impeachmts. as certain & as adequate in the one case as in the other. On the other hand, respect for the mover entitled his proposition to a fair hearing & discussion, until a less objectionable expedient should be applied for guarding agst. a dangerous union of the Legislative & Executive departments.

Col. Mason. This motion was made some time ago, & negatived by a very large majority. He trusted that it wd. be again negatived. It wd. be impossible to define the misbehaviour in such a manner as to subject it to a proper trial; and perhaps still more impossible to compel so high an offender holding his office by such a tenure to submit to a trial. He considered an Executive during good behavior as a softer name only for an Executive for life. And that the next would be an easy step to hereditary Monarchy. If the motion should finally succeed, he might himself live to see such a Revolution. If he did not it was probable his children or grandchildren would. He trusted there were few men in that House who wished for it. No state he was sure had so far revolted from Republican principles as to have the least bias in its favor.

Mr. Madison, was not apprehensive of being thought to favor any step towards monarchy. The real object with him was to prevent its introduction. Experience had proved a tendency in our governments to throw all power into the Legislative vortex. The Executives of the States are in general little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable. The preservation of Republican Govt. therefore required some expedient for the purpose, but required evidently at the same time that in devising it, the genuine principles of that form should be kept in view.

Mr. Govr. Morris was as little a friend to monarchy as any gentleman. He concurred in the opinion that the way to

keep out monarchial Govt. was to establish such a Repub. Govt. as wd. make the people happy and prevent a desire of change.

Docr. McClurg was not so much afraid of the shadow of monarchy as to be unwilling to approach it; nor so wedded to Republican Govt. as not to be sensible of the tyrannies that had been & may be exercised under that form. It was an essential object with him to make the Executive independent of the Legislature; and the only mode left for effecting it, after the vote destroying his ineligibility a second time, was to appoint him during good behavior.

On the question for inserting "during good behavior" in place of 7 years (⟨with a⟩ re-eligibility) ⟨it passed in the negative.⟩ [16]

Mas. no. Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no.* [Ayes — 4; noes — 6.]

On the motion "to strike out seven years" ⟨it passed in the negative.⟩

Mas. ay. Ct. no. N. J. no. Pa. ay. Del. ay. Md. no. Va. no. N. C. ay. S. C. no. Geo. no.†

⟨It was now unanimously agreed that the vote which had struck out the words "to be ineligible a second time" should be reconsidered tomorrow.⟩[17]

Adjd.[18]

* – This vote is not to be considered as any certain index of opinion, as a number in the affirmative probably had it chiefly in view to alarm those attached to a dependence of the Executive on the Legislature, & thereby facilitate some final arrangement of a contrary tendency. ⟨The avowed friends of an Excutive, "during good behaviour" were not more than three or four nor is it certain they would finally have adhered to such a tenure. An independence of the three great departments of of each other, as far as possible, and the responsibility of all to the will of the community seemed to be generally admitted as the true basis of a well constructed government.⟩

† There was no debate on this motion the apparent object of many in the affirmative was to secure the reeligibility by shortening the term, and of many in the negative to embarrass the plan of referring the appointment & dependence of the Eexcutive to the Legislature.

[16] See Appendix A, CCLXX, CCXCV.

[17] Taken from *Journal* which is in error, see above note 4.

[18] See further Appendix A, LXIV.