

THURSDAY, JULY 19, 1787.

JOURNAL

Thursday July 19. 1787.

It was moved and seconded to reconsider the several clauses of the 9th resolution which respect the appointment, duration, and eligibility of the National Executive.

and unanimously agreed to reconsider immediately
[Ayes — 10; noes — 0.]¹

It was moved and seconded to agree to the following proposition,² namely,

“to be chosen by Electors appointed for that purpose by the Legislatures of the States, in the following proportion

One person from each State whose numbers, according to the ratio fixed in the resolution, shall not exceed 100,000 — *Two* from each of the others, whose numbers shall not exceed 300,000 — and *Three* from each of the rest.

On the question to agree to the following clause namely

“To be chosen by electors appointed for that purpose by the Legislatures of the States”

it passed in the affirmative. [Ayes—6; noes — 3; divided— 1.
Ayes — 8; noes — 2.]³

It was agreed to postpone the consideration of the remainder of the proposition.

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

“for the term of seven years”

¹ Vote 181, Detail of Ayes and Noes. Vote there given is Ayes, 9; noes, 1; but “No Caroa withdraw their negative.”

² Vote 187, Detail of Ayes and Noes (July 20) shows that this proposition was “Mr. Ellsworth’s”.

³ Votes 182 and 183, Detail of Ayes and Noes, showing question was divided.

Thursday

MADISON

July 19

which passed in the negative [Ayes — 3; noes — 5; divided — 2.]⁴

On the question to agree to the following clause namely
“for the term of six years”

it passed in the affirmative [Ayes — 9; noes — 1.]⁵

On the question to restore the words

“to be ineligible a second time”

it passed in the negative. [Ayes — 2; noes — 8].⁶

And then the House adjourned till to-morrow at 11 o’Clock 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
[181]	aye	aye	aye	aye	aye	aye	aye	aye	aye	no	aye	aye	aye	To reconsider all the clauses of the 9th resolution except the first.— No Caroa withdraw their negative.	9	1	
[182]	dd		aye	aye	aye	aye	aye	aye	aye	no	no	no	no	“To be chosen by electors appointed for that purpose”	6	3	1
[183]	aye	aye	aye	aye	aye	aye	aye	aye	aye	no	aye	no	aye	“by the Legislatures of the States”	8	2	
[184]	no	no	no	no	no	no	no	no	no	no	aye	aye	no	To restore the words “to be ineligible a second time”	2	8	
[185]	dd		no	no	aye	no	no	no	no	no	dd	aye	aye	for “seven years”	3	5	2
[186]	aye	aye	aye	aye	aye	aye	no	aye	aye	aye	aye	aye	aye	for “six years”	9	1	

MADISON

Thursday, July. 19. in Convention.

On reconsideration of the vote rendering the Executive re-eligible a 2d. time,

⁴ Vote 185, Detail of Ayes and Noes.

⁵ Vote 186, Detail of Ayes and Noes.

⁶ Vote 184, Detail of Ayes and Noes. The order of these votes in Detail of Ayes and Noes is confirmed by Madison.

Thursday

MADISON

July 19

Mr. Martin moved to reinstate the words "to be ineligible a 2d. time".

Mr. Gouverneur Morris. It is necessary to take into one view all that relates to the establishment of the Executive; on the due formation of which must depend the efficacy & utility of the Union among the present and future States. It has been a maxim in political Science that Republican Government is not adapted to a large extent of Country, because the energy of the Executive Magistracy can not reach the extreme parts of it. Our Country is an extensive one. We must either then renounce the blessings of the Union, or provide an Executive with sufficient vigor to pervade every part of it. This subject was of so much importance that he hoped to be indulged in an extensive view of it. One great object of the Executive is to controul the Legislature. The Legislature will continually seek to aggrandize & perpetuate themselves; and will seize those critical moments produced by war, invasion or convulsion for that purpose. It is necessary then that the Executive Magistrate should be the guardian of the people, even of the lower classes, agst. Legislative tyranny, against the Great & the wealthy who in the course of things will necessarily compose — the Legislative body. Wealth tends to corrupt the mind & to nourish its love of power, and to stimulate it to oppression. History proves this to be the spirit of the opulent. The check provided in the 2d. branch was not meant as a check on Legislative usurpations of power, but on the abuse of lawful powers, on the propensity in the 1st. branch to legislate too much to run into projects of paper money & similar expedients. It is no check on Legislative tyranny. On the contrary it may favor it, and if the 1st. branch can be seduced may find the means of success. The Executive therefore ought to be so constituted as to be the great protector of the Mass of the people. — It is the duty of the Executive to appoint the officers & to command the forces of the Republic: to appoint 1. ministerial officers for the administration of public affairs. 2. Officers for the dispensation of Justice — Who will be the best Judges whether these appointments be well made? The people at

Thursday

MADISON

July 19

large, who will know, will see, will feel the effects of them — Again who can judge so well of the discharge of military duties for the protection & security of the people, as the people themselves who are to be protected & secured? He finds too that the Executive is not to be re-eligible. What effect will this have? 1. it will destroy the great incitement to merit public esteem by taking away the hope of being rewarded with a reappointment. It may give a dangerous turn to one of the strongest passions in the human breast. The love of fame is the great spring to noble & illustrious actions. Shut the Civil road to Glory & he may be compelled to seek it by the sword. 2. It will tempt him to make the most of the Short space of time allotted him, to accumulate wealth and provide for his friends. 3. It will produce violations of the very constitution it is meant to secure. In moments of pressing danger the tried abilities and established character of a favorite Magistrate will prevail over respect for the forms of the Constitution. The Executive is also to be impeachable. This is a dangerous part of the plan. It will hold him in such dependence that he will be no check on the Legislature, will not be a firm guardian of the people and of the public interest. He will be the tool of a faction, of some leading demagogue in the Legislature. These then are the faults of the Executive establishment as now proposed. Can no better establishmt. be devised? If he is to be the Guardian of the people let him be appointed by the people? If he is to be a check on the Legislature let him not be impeachable. Let him be of short duration, that he may with propriety be re-eligible.— It has been said that the candidates for this office will not be known to the people. If they be known to the Legislature, they must have such a notoriety and eminence of Character, that they cannot possibly be unknown to the people at large. It cannot be possible that a man shall have sufficiently distinguished himself to merit this high trust without having his character proclaimed by fame throughout the Empire. As to the danger from an unimpeachable magistrate he could not regard it as formidable. There must be certain great officers of State; a minister of finance, of war, of foreign affairs &c.

Thursday

MADISON

July 19

These he presumes will exercise their functions in subordination to the Executive, and will be amenable by impeachment to the public Justice. Without these ministers the Executive can do nothing of consequence. He suggested a biennial election of the Executive at the time of electing the 1st. branch, and the Executive to hold over, so as to prevent any interregnum in the Administration. An election by the people at large throughout so great an extent of country could not be influenced, by those little combinations and those momentary lies which often decide popular elections within a narrow sphere. It will probably, be objected that the election will be influenced by the members of the Legislature; particularly of the 1st. branch, and that it will be nearly the same thing with an election by the Legislature itself. It could not be denied that such an influence would exist. But it might be answered that as the Legislature or the candidates for it would be divided, the enmity of one part would counteract the friendship of another; that if the administration of the Executive were good, it would be unpopular to oppose his re-election, if bad it ought to be opposed & a reappointmt. prevented; and lastly that in every view this indirect dependence on the favor of the Legislature could not be so mischievous as a direct dependence for his appointment. He saw no alternative for making the Executive independent of the Legislature but either to give him his office for life, or make him eligible by the people. — Again, it might be objected that two years would be too short a duration. But he believes that as long as he should behave himself well, he would be continued in his place. The extent of the Country would secure his re-election agst the factions & discontents of particular States. It deserved consideration also that such an ingredient in the plan would render it extremely palatable to the people. These were the general ideas which occurred to him on the subject, and which led him to wish & move that the (whole constitution of the Executive) might undergo reconsideration.

Mr. Randolph urged the motion of Mr. L. Martin for restoring the words making the Executive ineligible a 2d. time. If he ought to be independent, he should not be left under a

Thursday

MADISON

July 19

temptation to court a re-appointment. If he should be re-appointable by the Legislature, he will be no check on it. His revisionary power will be of no avail. He had always thought & contended as he still did that the danger apprehended by the little States was chimerical, but those who thought otherwise ought to be peculiarly anxious for the motion. If the Executive be appointed, as has been determined, by the Legislature, he will probably be appointed either by joint ballot of both houses, or be nominated by the 1st. and appointed by the 2d. branch. In either case the large States will preponderate. If he is to court the same influence for his re-appointment, will he (not) make his revisionary power. and all the other functions of his administration subservient to the views of the large States. Besides — is there not great reason to apprehend that in case he should be re-eligible, a false complaisance in the Legislature might lead them to continue an unfit man in office in preference to a fit one. It has been said that a constitutional bar to reappointment will inspire unconstitutional endeavours to perpetuate himself. It may be answered that his endeavours can have no effect unless the people be corrupt to such a degree as to render all precautions hopeless: to which may be added that this argument supposes him to be more powerful & dangerous, than other arguments which have been used, admit, and consequently calls for stronger fetters on his authority. He thought an election by the Legislature with an incapacity to be elected a second time would be more acceptable to the people than the plan suggested by Mr. Govr. Morris.⁷

Mr. King. did not like the ineligibility. He thought there was great force in the remark of Mr. Sherman, that he who has proved himself to be most fit for an Office, ought not to be excluded by the constitution from holding it. He would therefore prefer any other reasonable plan that could be substituted. He was much disposed to think that in such cases the people at large would chuse wisely. There was indeed some difficulty arising from the improbability of a general

⁷ See further Appendix A, CCXII.

Thursday

MADISON

July 19

concurrence of the people in favor of any one man. On the whole he was of opinion that an appointment by electors chosen by the people for the purpose, would be liable to fewest objections.

Mr. Patterson's ideas nearly coincided he said with those of Mr. King. He proposed that the Executive should be appointed by Electors to be chosen by the States in a ratio that would allow one elector to the smallest and three to the largest States.

Mr. Wilson. It seems to be the unanimous sense that the Executive should not be appointed by the Legislature, unless he be rendered in-eligible a 2d. time: he perceived with pleasure that the idea was gaining ground, of an election mediately or immediately by the people.

Mr. (Madison) If it be a fundamental principle of free Govt. that the Legislative, Executive & Judiciary powers should be *separately* exercised; it is equally so that they be *independently* exercised. There is the same & perhaps greater reason why the Executive shd. be independent of the Legislature, than why the Judiciary should: A coalition of the two former powers would be more immediately & certainly dangerous to public liberty. It is essential then that the appointment of the Executive should either be drawn from some source, or held by some tenure, that will give him a free agency with regard to the Legislature. This could not be if he was to be appointable from time to time by the Legislature. It was not clear that an appointment in the 1st. instance (even) with an ineligibility afterwards would not establish an improper connection between the two departments. Certain it was that the appointment would be attended with intrigues and contentions that ought not to be unnecessarily admitted. He was disposed for these reasons to refer the appointment to some other Source. The people at large was in his opinion the fittest in itself.⁸ It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for

⁸ Crossed out: "It was the source from which the Legislature He was persuaded".

Thursday

MADISON

July 19

some Citizen whose merits had rendered him an object of general attention & esteem. There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than⁹ the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections.

Mr. Gerry. If the Executive is to be elected by the Legislature he certainly ought not to be re-eligible. This would make him absolutely dependent. He was agst. a popular election. The people are uninformed, and would be misled by a few designing men. He urged the expediency of an appointment of the Executive by Electors to be chosen by the State Executives. The people of the States will then choose the 1st. branch: The legislatures of the States the 2nd. branch of the National Legislature, and the Executives of the States, the National Executive — This he thought would form a strong attacht. in the States to the National System. The popular mode of electing the chief Magistrate would certainly be the worst of all. If he should be so elected & should do his duty, he will be turned out for it like Govr Bowdoin in Massts & President Sullivan in N. Hamshire.

On the question on Mr Govr. Morris motion to reconsider generally the Constitution of the Executive —

Mas. ay. Ct. ay. N. J. ay. & all the others ay.

Mr. Elseworth moved to strike out the appointmt. by the Natl. Legislature, and insert “to be chosen by electors appointed by the Legislatures of the States in the following ratio; towit—one for each State not exceeding 200,000¹⁰ inhabts. two for each above yt. number & not exceeding 300,000. and, three for each State exceeding 300,000. — Mr. Broome zded. the motion

Mr Rutledge was opposed to all the modes except the appointmt. by the Natl. Legislature. He will be sufficiently independent, if he be not re-eligible

⁹ Crossed out “Eastern &”.

¹⁰ Journal gives this 100,000.

Thursday

MADISON

July 19

Mr. Gerry preferred the motion of Mr. Elsworth to an appointmt. by the Natl. Legislature, or by the people; tho' not to an appt. by the State Executives. He moved that the electors proposed by Mr. E. should be 25 in number, and allotted in the following proportion. to N. H. 1. to Mas. 3. to R. I. 1. to Cont. 2-to N. Y. 2-N. J. 2. Pa. 3. Del. 1. Md. 2. Va. 3. N. C. 2. S. C. 2. Geo. 1.

The question as moved by Mr. Elsworth being divided, on the 1st. part shall ye. Natl. Executive be appointed by Electors?

Mas-divd. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. ay- N. C. no. S. C. no. Geo. no. [Ayes—6; noes—3; divided—1.]

On 2d. part shall the Electors be chosen by State Legislatures?

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

The part relating to the ratio in which the States sd. chuse electors was postponed nem. con.

Mr. L. Martin moved that the Executive be ineligible a 2d. time.

Mr. Williamson zds. the motion. He had no great confidence in the Electors to be chosen for the special purpose. They would not be the most respectable citizens; but persons not occupied in the high offices of Govt. They would be liable to undue influence, which might the more readily be practiced as some of them will probably be in appointment 6 or 8 months before the object of it comes on.

Mr. Elsworth supposed any persons might be appointed Electors, excepting solely, members of the Natl. Legislature.

On the question shall he be ineligible a 2d. time?

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

On the question shall the Executive continue for 7 years? (It passed in the negative) Mas. divd. Cont. ay.* N—J. no.* Pa. no. Del. no. Md. no. Va. no. N. C. divd. S. C. ay. Geo. ay. [Ayes—3; noes—5; divided—2.]

* (In the printed Journal Cont. no. N. Jersey ay)

Thursday

MADISON

July 19

Mr. King was afraid we shd. shorten the term too much.

Mr. Govr Morris was for a short term, in order to avoid impeachts. which wd. be otherwise necessary.

Mr. Butler was agst. a frequency of the elections. Geo & S. C. were too distant to send electors often.

Mr. Elseworth was for 6 years. If the elections be too frequent, the Executive will not be firm eno'. There must be duties which will make him unpopular for the moment. There will be *outs* as well as *ins*. His administration therefore will be attacked and misrepresented.

Mr. Williamson was for 6 years. The expence will be considerable & ought not to be unnecessarily repeated. If the Elections are too frequent, the best men will not undertake the service and those of an inferior character will be liable to be corrupted.

On question for 6 years?

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

Adjourned