

TUESDAY, JULY 24, 1787.

JOURNAL

Tuesday July 24th 1787.

It was moved and seconded to strike the following words out of the resolution respecting the supreme Executive namely "by electors appointed for that purpose by the Legislatures of the States" and to insert the words

"by the national Legislature"

which passed in the affirmative. [Ayes — 7; noes — 4.]

It was moved and seconded to strike out the word "six" and to insert the word "fifteen."

It was moved and seconded to postpone the consideration of the resolution respecting the Executive

which passed in the negative [Ayes — 4; noes — 6; divided — 1.]

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

Resolved that the supreme Executive shall be chosen every years

by Electors to be taken by lot from the national Legislature; the Electors to proceed immediately to the choice of the Executive, and not to separate until it be made The question of Order being taken on the last Motion — it was determined that the motion is in order. [Ayes — 7; noes — 4.]¹

On the question to postpone the consideration of the resolution, it passed unanimously in the affirmative

The House then produced to ballot for the Committee of detail when the honorable Mr Rutledge, Mr Randolph, Mr Gorham, Mr Elsworth, and Mr Wilson were chosen —

¹ Vote 217, Detail of Ayes and Noes, which notes that the motion under consideration was "Mr. Wilson's".

Tuesday

JOURNAL

July 24

It was moved and seconded to discharge the Committee of the whole House from acting on the propositions submitted to the Convention by the honorable Mr C. Pinckney — and that the said propositions be referred to the Committee to whom the Proceedings of the Convention are referred

which passed unanim: in the affirmative

It was moved and seconded to take the like order on the propositions submitted to the Convention by the honorable Mr Paterson

which passed unan: in the affirmative

and the 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
[215]	aye	aye	no	aye	no	aye	no	aye	no	aye	aye	aye	aye	To strike out the words "by Electors &ca and to insert the words "by the national Legislature"	7	4	
[216]	no	no	aye	no	aye	dd	aye	aye	aye	no	no	no	no	To postpone the resolution respecting the Executive	4	6	1
[217]	aye	aye	no	aye	aye	aye	aye	aye	aye	no	no	no	no	whether Mr Wilson's motion respecting the election of the Executive be in order.	7	4	

[GERRY'S MOTION]²

That ye Legislatures of ye several States shall ballot in ye in ye following proportions for ye supreme Executive, & a Majority of votes shall determine the Election, but in case there shall not be a Majority, the four persons having ye

² This document in Gerry's handwriting on a scrap of paper is among the Secretary's papers in the Department of State. The names of the states and the numbers opposite them are on the back of the paper.

Tuesday

MADISON

July 24

highest votes shall be candidates for ye office, & out of these the first Branch shall elect two, & the second Branch shall determine which of ye two so elected shall be chief Magistrate

N	H	1	3	1	2	2	2	3	1	2	3	2	2	1		25
NH	Mass	RI	Con	NY	NJ	P	D	M	V	N	C	S	C	G		

[WILSON'S MOTION] ³

The Executive shall be chosen every years by Electors to be taken by lot from the national legislature — the electors to proceed immediately to the choice of the Executive and not to separate until it be made —

Suppose the whole to consist of 90 —

65
25
90

then put in 90 balls — of which as many as the proposed number of electors shall be gilded — those who draw these balls to be Electors

MADISON

Tuesday July 24. in Convention

The appointment of the Executive by Electors reconsidered.

Mr. Houston moved that he be appointed by the "Natl. Legislature. (instead of "Electors appointed by the State Legislatures" according to the last decision of the mode)⁴ He dwelt chiefly on the improbability, that capable men would undertake the service of Electors from the more distant States.

Mr. Spaight seconded the motion.

³ This document on a scrap of paper is among the Secretary's papers. The first paragraph is on one side of the paper, the rest on the other side. A line is drawn through the "65" and "25".

⁴ Revised from *Journal*.

Tuesday

MADISON

July 24

Mr. Gerry opposed it. He thought there was no ground to apprehend the danger urged by Mr. Houston. The election of the Executive Magistrate will be considered as of vast importance and will create great earnestness. The best men, the Governours of the States will not hold it derogatory from their character to be the electors. If the motion should be agreed to, it will be necessary to make the Executive ineligible a 2d. time, in order to render him independent of the Legislature; which was an idea extremely repugnant to his way of thinking.

Mr. Strong supposed that there would be no necessity, if the Executive should be appointed by the Legislature, to make him ineligible a 2d. time; as new elections of the Legislature will have intervened; and he will not depend for his 2d. appointment on the same sett of men as his first was recd. from. It had been suggested that *gratitude* for his past appointment wd. produce the same effect as dependence for his future appointment. He thought very differently. Besides this objection would lie agst. the Electors who would be objects of gratitude as well as the Legislature. It was of great importance not to make the Govt. too complex which would be the case if a new sett of men like the Electors should be introduced into it. He thought also that the first characters in the States would not feel sufficient motives to undertake the office of Electors.

Mr. Williamson was for going back to the original ground; to elect the Executive for 7 years and render him ineligible a 2d. time. The proposed Electors would certainly not be men of the 1st. nor even of the 2d. grade in the States. These would all prefer a seat either in the Senate or the other branch of the Legislature. He did not like the Unity in the Executive. He had wished the Executive power to be lodged in three men taken from three districts into which the States should be divided. As the Executive is to have a kind of veto on the laws, and there is an essential difference of interests between the N. & S. States, particularly in the carrying trade, the power will be dangerous, if the Executive is to be taken from part of the Union, to the part from which he is

Tuesday

MADISON

July 24

not taken. The case is different here from what it is in England; where there is a sameness of interest throughout the Kingdom. Another objection agst. a single Magistrate is that he will be an elective King, and will feel the spirit of one. He will spare no pains to keep himself in for life, and will then lay a train for the succession of his children. It was pretty certain he thought that we should at some time or other have a King; but he wished no precaution to be omitted that might postpone the event as long as possible. — Ineligibility a 2d. time appeared to him to be the best precaution. With this precaution he had no objection to a longer term than 7 years. He would go as far as 10 or 12 years.

Mr. Gerry moved that the Legislatures of the States should vote by ballot for the Executive in the same proportions as it had been proposed they should chuse electors; and that in case a majority of the votes should (not) center on the same person, the 1st. branch of the Natl. Legislature should chuse two out of the 4 candidates having most votes, and out of these two, the 2d. branch should chuse the Executive.⁵

Mr. King seconded the motion — and on the Question to postpone in order to take it into consideration, The *noes* were so predominant that the States were not counted.

Question on Mr. Houston's motion that the Executive be appd. by Nal. Legislature

N. H. ay. Mas. ay. Ct. no. N. J. ay. Pa. no. Del. ay. Md. no. Va. no. N. C. ay. S. C. ay. Geo. ay. [Ayes — 7; noes — 4.]

Mr. L. Martin & Mr. Gerry moved to reinstate the ineligibility of the Executive a 2d. time.⁶

Mr. Elseworth. With many this appears a natural consequence of his being elected by the Legislature. It was not the case with him. The Executive he thought should be reelected if his conduct proved him worthy of it. And he will be more likely to render him(self) worthy of it if he be rewardable with it. The most eminent characters also will be more willing to accept the trust under this condition, than if they foresee a necessary degradation at a fixt period.

⁵ See above, Journal, "Gerry's Motion".

⁶ See Appendix A, CXCI.

Tuesday

MADISON

July 24

Mr. Gerry. That the Executive shd. be independent of the Legislature is a clear point. The longer the duration of his appointment the more will his dependence be diminished — It will be better then for him to continue 10, 15, or even 20 — years and be ineligible afterwards.

Mr. King was for making him re-eligible. This is too great an advantage to be given up for the small effect it will have on his dependence, if impeachments are to lie. He considered these as rendering the tenure during pleasure.

Mr. L. Martin, suspending his motion as to the ineligibility, moved “that the appointmt. of the Executive shall continue for Eleven years.

Mr Gerry suggested fifteen years.

Mr. King twenty years. This is the medium life of princes.*

Mr. Davie Eight years

Mr. Wilson. The difficulties & perplexities into which the House is thrown proceed from the election by the Legislature which he was sorry had been reinstated. The inconveniency of this mode was such that he would agree to almost any length of time in order to get rid of the dependence which must result from it. He was persuaded that the longest term would not be equivalent to a proper mode of election, unless indeed it should be during good behaviour. It seemed to be supposed that at a certain advance of life, a continuance in office would cease to be agreeable to to the officer, as well as desirable to the public. Experience had shewn in a variety of instances that both a capacity & inclination for public service existed — in very advanced stages. He mentioned the instance of a Doge of Venice who was elected after he was 80 years of age. The popes have generally been elected at very advanced periods, and yet in no case had a more steady or a better concerted policy been pursued than in the Court of Rome. If the Executive should come into office at 35. years of age, which he presumes may happen & his continuance should be fixt at 15 years. at the age of 50. in the very prime of life, and with all the aid of experience, he must be

* (This might possibly be meant as a caricature of the previous motions in order to defeat the object of them.)

Tuesday

MADISON

July 24

cast aside like a useless hulk. What an irreparable loss would the British Jurisprudence have sustained, had the age of 50. been fixt there as the ultimate limit of capacity or readiness to serve the public. The great luminary (Ld. Mansfield) held his seat for thirty years after his arrival at that age. Notwithstanding what had been done he could not but hope that a better mode of election would yet be adopted; and one that would be more agreeable to the general sense of the House. That time might be given for further deliberation he wd. move that the present question be postponed till to-morrow.

Mr Broom seconded the motion to postpone.

Mr. Gerry. We seem to be entirely at a loss on this head. He would suggest whether it would not be advisable to refer the clause relating to the Executive to the Committee of detail to be appointed. Perhaps they will be able to hit on something that may unite the various opinions which have been thrown out.

Mr. Wilson. As the great difficulty seems to spring from the mode of election, he wd. suggest a mode which had not been mentioned. It was that the Executive be elected for 6 years by a small number, not more than 15 of the Natl Legislature, to be drawn from it, not by ballot, but by lot and who should retire immediately and make the election (without separating).⁷ By this mode intrigue would be avoided in the first instance, and the dependence would be diminished. This was not he said a digested idea and might be liable to strong objections.

Mr. Govr. Morris. Of all possible modes of appointment that by the Legislature is the worst. If the Legislature is to appoint, and to impeach or to influence the impeachment, the Executive will be the mere creature of it. He had been opposed to the impeachment, but was now convinced that impeachments must be provided for, if the appt. was to be of any duration. No man wd. say, that an Executive known to be in the pay of an Enemy, should not be removable in

⁷ Taken from *Journal*.

Tuesday

MADISON

July 24

some way or other. He had been charged heretofore (by Col. Mason) with inconsistency in pleading for confidence in the Legislature on some occasions, & urging a distrust on others. The charge was not well founded. The Legislature is worthy of unbounded confidence in some respects, and liable to equal distrust in others. When their interest coincides precisely with that of their Constituents, as happens in many of their Acts, no abuse of trust is to be apprehended. When a strong personal interest happens to be opposed to the general interest, the Legislature can not be too much distrusted. In all public bodies there are two parties. The Executive will necessarily be more connected with one than with the other. There will be a personal interest therefore in one of the parties to oppose as well as in the other to support him. Much had been said of the intrigues that will be practiced by the Executive to get into office. Nothing had been said on the other side of the intrigues to get him out of office. Some leader of party will always covet his seat, will perplex his administration, will cabal with the Legislature, till he succeeds in supplanting him. This was the way in which the King of England was got out, he meant the real King, the Minister. This was the way in which Pitt (Ld. Chatham) forced himself into place. Fox was for pushing the matter still farther. If he had carried his India bill, which he was very near doing, he would have made the Minister, the King in form almost as well as in substance. Our President will be the British Minister, yet we are about to make him appointable by the Legislature. Something had been said of the danger of Monarchy — If a good government should not now be formed, if a good organization of the Executive should not be provided, he doubted whether we should not have something worse than a limited Monarchy. In order to get rid of the dependence of the Executive on the Legislature, the expedient of making him ineligible a 2d. time had been devised. This was as much as to say we shd. give him the benefit of experience, and then deprive ourselves of the use of it. But make him ineligible a 2d. time-and prolong his duration even to 15-years, will he by any wonderful interposition of providence at that period

Tuesday

MADISON

July 24

cease to be a man? No he will be unwilling to quit his exaltation, the road to his object thro' the Constitution will be shut; he will be in possession of the sword, a civil war will ensue, and the Commander of the victorious army on which ever side, will be the despot of America. This consideration renders him particularly anxious that the Executive should be properly constituted. The vice here would not, as in some other parts of the system be curable— It is (the) most difficult of all rightly to balance the Executive. Make him too weak: The Legislature will usurp his powers: Make him too strong. He will usurp on the Legislature. He preferred a short period, a re-eligibility, but a different mode of election. A long period would prevent an adoption of the plan: it ought to do so. He shd. himself be afraid to trust it. He was not prepared to decide on Mr. Wilson's mode of election just hinted by him. He thought it deserved consideration. It would be better that chance shd. decide than intrigue.

(On A question to postpone the consideration of the Resolution on the subject of the Executive)⁸

N. H. no. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. divd. Md. ay. Va. ay. N. C. no. S. C. no. Geo. no. [Ayes — 4; noes — 6; divided — 1.]

Mr. Wilson (then) moved⁹ that the Executive be chosen every _____ years by _____ Electors to be taken by lot from the Natl Legislature who shall proceed immediately to the choice of the Executive (and not separate until it be made)¹⁰

Mr. Carro' zds. the motion

Mr Gerry. this is committing too much to chance. If the lot should fall on a sett of unworthy men, an unworthy Executive must be saddled on the Country. He thought it had been demonstrated that no possible mode of electing by the Legislature could be a good one.

Mr. King — The lot might fall on a majority from the same State which wd. ensure the election of a man from that State.

⁸ Madison originally confused Wilson's motion to postpone with his suggestion of choosing electors by lot. Later he struck this out and substituted from *Journal* the wording of the text.

⁹ See above, *Journal*, "Wilson's Motion".

¹⁰ Taken from *Journal*.

Tuesday

MADISON

July 24

We ought to be governed by reason, not by chance. As no body seemed to be satisfied, he wished the matter to be postponed

Mr. Wilson did not move this as the best mode. His opinion remained unshaken that we ought to resort to the people for the election. He seconded the postponement.

Mr. Govr. Morris observed that the chances were almost infinite agst. a majority of electors from the same State.

⟨On a question whether the last motion was in order, it was determined in the affirmative; 7. ays. 4 noes.⟩¹¹

On the question of postponemnt. it was agreed to nem. con.

Mr Carrol took occasion to observe that he considered the clause declaring that direct taxation on the States should be in proportion to representation, previous to the obtaining an actual census, as very objectionable, and that he reserved to himself the right of opposing it, if the Report of the Committee of detail should leave it in the plan.

Mr. Govr. Morris hoped the Committee would strike out the whole of the clause proportioning direct taxation to representation. He had only meant it as a* bridge to assist us over a certain gulph; having passed the gulph the bridge may be removed. He thought the principle laid down with so much strictness, liable to strong objections

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

Mr. Rutledge, Mr Randolph, Mr. Ghorum, Mr. Elseworth, Mr. Wilson —¹²

⟨On motion to discharge the Come. of the whole from the propositions submitted to the Convention by Mr. C. Pinkney as the basis of a constitution, and to refer them to the Committee of detail just appointed. it was agd. to nem. con.

A like motion then made & agreed to nem: con: with respect to the propositions of Mr Patterson

Adjourned.⟩¹¹

*The object was to lessen the eagerness on one side, & the opposition on the other, to the share of Representation claimed by the S. ⟨Sothern⟩ States on account of the Negroes.

¹¹ Taken from *Journal*.

¹² See Appendix A, CCXCIII.