

FRIDAY, AUGUST 31, 1787.

JOURNAL

Friday August 31. 1787.

It was moved and seconded to insert the words "between the said States" after the word "constitution" in the 20 [21]¹ article

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

It was moved and seconded to postpone the consideration of the 20 [21]¹ article to take up the reports of Committees which have not been acted on

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

[To postpone the 21 to take up the 22 articles Ayes — 5; noes — 6.]²

It was moved and seconded to strike the words "conventions of" out of the 21st article

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

It was moved and seconded to fill up the blank in the 21st article with the word "Thirteen"

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

It was moved and seconded to fill up the blank in the 21st article with the word "Ten"

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

It was moved and seconded to fill up the blank in the 21st article as follows.

"any seven or more States entitled to 33 Members at least
"in the House of representatives according to the allotment
"made in the 3rd sect. 4th article.

¹ Error due to misnumbering of printed Report of Committee of Detail. See August 6, note 5.

² Vote 420, Detail of Ayes and Noes, in which the summary of the vote is obviously incorrect.

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It was moved and seconded to fill up the blank in the 21st article with the word "nine"

which passed in the affirmative [Ayes — 8; noes — 3.]

On the question to agree to the 21st article as amended.

it passed in the affirmative [Ayes — 10; noes — 1.]

It was moved and seconded to strike the words "for their approbation" out of the 22nd article

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

It was moved and seconded to agree to the following amendment to the 22nd article

"This Constitution shall be laid before the United States
"in Congress assembled — and it is the opinion of this Con-
"vention that it should afterwards be submitted to a Conven-
"tion chosen in each State in order to receive the ratification
"of such Convention: to which end the several Legislatures
"ought to provide for the calling Conventions within their
"respective States as speedily as circumstances will permit."

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

It was moved and seconded to postpone the consideration of the 22nd article

which passed in the negative. [Ayes — 3; noes — 8.]

On the question to agree to the 22nd article as amended.

it passed in the affirmative [Ayes — 10; noes — 1.]

It was moved and seconded to fill up the blank in the 23rd article with the word "Nine"

which passed in the affirmative

It was moved and seconded to agree to the 23rd article as far as the words

"assigned by Congress" inclusive

which passed in the affirmative

It was moved and seconded to postpone the remainder of the 23rd article

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

It was moved and seconded to strike the words

"choose the President of the United States and" out of the 23rd article

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

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On the question to agree to the 23rd article as amended.

it passed in the affirmative

It was moved and seconded to take up the report of the Committee of eleven entered on the journal of the 28th instant

On the question to agree to the following clause of the report, to be inserted after the 4th section of the 7th article,

“nor shall any regulation of commerce or revenue give preference to the ports of One State over those of another”

it passed in the affirmative

On the question to agree to the following clause of the report

“or oblige Vessels bound to or from any State to enter clear or pay duties in another”

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

It was moved and seconded to strike out the word “tonnage”

which passed in the affirmative.

On the question to agree to the following clause of the report

“and all duties, imposts, and excises, laid by the Legislature, shall be uniform throughout the United States”

it passed in the affirmative

It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on to a Committee of a Member from each State

which passed in the affirmative

and a Committee was appointed by ballot of The honorable Mr Gilman, Mr King, Mr Sherman, Mr Brearley, Mr G. Morris, Mr Dickinson, Mr Carrol, Mr Madison, Mr Williamson, Mr Butler and Mr Baldwin.

The House adjourned.⁴

³ Vote 432, Detail of Ayes and Noes. *Journal* (p. 318) mistakenly ascribes this vote to the second question following.

⁴ *Journal* (p. 319) inserts here Vote 433, Detail of Ayes and Noes; but this probably belongs in *Records* of September 1.

DETAIL OF AYES AND NOES

| | New Hampshire | Massachusetts | Rhode Island | Connecticut | New York | New Jersey | Pennsylvania | Delaware | Maryland | Virginia | No Carolina | So Carolina | Georgia | Questions | ayes | noes | divided |
|-------|---------------|---------------|--------------|-------------|----------|------------|--------------|----------|----------|----------|-------------|-------------|---------|---|------|------|---------|
| [418] | aye | aye | | aye | | aye | aye | aye | no | aye | aye | aye | aye | To add the words "between the said States" to ye 21 article | 9 | 1 | |
| [419] | aye | no | | dd | | no | aye | aye | aye | no | no | no | no | To postpone the 20 article to take up reports of Committees | 5 | 5 | |
| [420] | no | no | | aye | | no | aye | aye | aye | no | no | no | no | To postpone the 21 to take up the 22 articles | 5 | 5 | |
| [421] | no | no | | aye | | no | aye | no | aye | no | no | no | no | To strike out the words "the Conventions of" | 4 | 6 | |
| [422] | no | no | | no | | no | no | no | aye | no | no | no | no | To fill up the blank with "thirteen 21 article 13. | | | |
| [423] | no | no | | aye | | aye | no | no | aye | no | no | no | no | to fill up "Ten | 4 | 7 | |
| [424] | aye | aye | | aye | | aye | aye | aye | aye | no | no | no | no | To fill up the blank in the 21 article wh "nine" | 8 | 3 | |
| [425] | aye | aye | | aye | | aye | aye | aye | no | aye | aye | aye | aye | To agree to the 21 article as amended | 10 | 1 | |
| [426] | aye | no | | aye | | no | aye | aye | no | aye | aye | aye | no | To strike out "for their approbation" 22 article | 7 | 4 | |
| [427] | aye | aye | | no | | no | aye | aye | no | no | no | no | no | To agree to the amendmt offered to ye 22 article | 4 | 7 | |
| [428] | no | no | | no | | aye | no | no | aye | no | aye | no | no | To postpone the 22 article. | 3 | 8 | |
| [429] | aye | aye | | aye | | aye | aye | aye | no | aye | aye | aye | aye | To agree to ye 22 article as amended | 10 | 1 | |
| [430] | no | aye | | no | | no | no | aye | no | aye | aye | no | no | To postpone the latter clause of ye 23 article | 4 | 7 | |
| [431] | no | aye | | aye | | aye | aye | dd | aye | aye | aye | no | aye | To strike out the words choose the Presid of the U. S. and" | | | |
| [432] | no | | | aye | | aye | aye | aye | aye | aye | aye | no | aye | To agree to the 2nd clause of the report Committee of eleven. | 8 | 2 | |

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Friday August 31st. 1787. In Convention.

Mr. King moved to add to the end of art: XXI the words "between the said States" so as to confine the operation of the Govt. to the States ratifying it.

On the question

N. H. ay. Mas. ay. Ct. ay. N— J— ay. Pa. ay. Md. no. Virga. ay. N. C. ay. (S. C. ay.)⁶ Geo. ay. [Ayes — 9; noes — 1.]

Mr. Madison proposed to fill the blank in the article with "Any seven or more States entitled to thirty three members at least in the House of Representatives according to the allotment made in the 3 Sect: of art: 4." This he said would require the concurrence of a majority of both the States and people.

Mr. Sherman doubted the propriety of authorizing less than all the States to execute the Constitution, considering the nature of the existing Confederation. Perhaps all the States may concur, and on that supposition it is needless to hold out a breach of faith.

Mr. Clymer and Mr. Carrol moved to postpone the consideration of Art: XXI in order to take up the Reports of Committees not yet acted on— On this question, (the States were equally divided.) N. H. ay. Mas. no. Ct. divid. N. J— no. Pa. ay— Del— ay. Md. ay. Va. no. N. C no. S. C. no. G. ay. [Ayes — 5; noes — 5; divided — 1.]

Mr Govr. Morris⁶ moved to strike out "Conventions of the" after "ratifications". leaving the States to pursue their own modes of ratification.

Mr. Carrol mentioned the mode of altering the Constitution of Maryland pointed out therein, and that no other mode could be pursued in that State.

⁶ Taken from *Journal*.

⁶ A line preceding was crossed out: "A motion was then made & rejected, for postponing art. XXI, in order to take up art. XXII." Copied from *Journal*, but Madison afterwards found that he had the same record a little farther on.

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Mr. King thought that striking out "Conventions", as the requisite mode was equivalent to giving up the business altogether. Conventions alone, which will avoid all the obstacles from the complicated formation of the Legislatures, will succeed, and if not positively required by the plan, its enemies will oppose that mode.

Mr. Govr. Morris said he meant to facilitate the adoption of the plan, by leaving the modes approved by the several State Constitutions to be followed.

Mr. Madison considered it best to require Conventions; Among other reasons, for this, that the powers given to the Genl. Govt. being taken from the State Govts the Legislatures would be more disinclined than conventions composed in part at least of other men; and if disinclined, they could devise modes apparently promoting, but really, thwarting the ratification. The difficulty in Maryland was no greater than in other States, where no mode of change was pointed out by the Constitution, and all officers were under oath to support it. The people were in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased. It was a principle in the Bills of rights, that first principles might be resorted to.

Mr. McHenry said that the officers of Govt. in Maryland were under oath to support the mode of alteration prescribed by the Constitution.

Mr Ghorum urged the expediency of "Conventions" also Mr. Pinkney, for reasons, formerly urged on a discussion of this question.

Mr. L. Martin insisted on a reference to the State Legislatures. He urged the danger of commotions from a resort to the people & to first principles in which the Governments might be on one side & the people on the other. He was apprehensive of no such consequences however in Maryland, whether the Legislature or the people should be appealed to. Both of them would be generally against the Constitution. He repeated also the peculiarity in the Maryland Constitution.

Mr. King observed that the Constitution of Massachusetts

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was made unalterable till the year 1790, yet this was no difficulty with him. The State must have contemplated a recurrence to first principles before they sent deputies to this Convention.

Mr. Sherman moved to postpone art. XXI. & to take up art: XXII on which question,

N. H. no. Mas. no. Ct. ay— N. J. no— P. ay— Del— ay— Md ay. Va. ay. (N. C. no)⁷ S. C. no— Geo— no— [Ayes — 5; noes — 6.]

On Mr Govr. Morris's motion to strike out "Conventions of the," (it was negatived.)

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

On filling the blank (in Art: XXI) with "thirteen" moved by Mr. Carrol, & L. Martin

N. H. no. Mas. no. Ct. no. — All no— except Maryland.

Mr. Sherman & Mr. Dayton moved to fill the blank with "ten"

Mr. Wilson supported the motion of Mr. Madison, requiring a majority both of the people and of States.⁸

Mr Clymer was also in favor of it.

Col: Mason was for preserving ideas familiar to the people. Nine States had been required in all great cases under the Confederation & that number was on that account preferable

On the question for "ten"

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

On question for "nine"

N— H. ay. Mas. ay. Ct. ay— N— J. ay. Pa. ay— Del. ay. Md. ay— Va. no. N. C. no. S. C. no. Geo— ay, [Ayes—8; noes—3.]

Art: XXI. (as amended) was then agreed to by all the States, Maryland excepted, & Mr. Jenifer being, ay—⁹

⁷ Taken from *Journal*.

⁸ Crossed out "to fill the blank with any seven or more States containing a majority".

⁹ See further Appendix A, XLI, LXIX, LXXVI, LXXXI, CXXXIX, CLVIII (101-106), CLXXXIX, CXCII, CXCIX, CCV, CCXXX.

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Art. XXII taken up, to wit, "This Constitution shall be laid before the U— S. in Congs. assembled for their approbation; and it is the opinion of this Convention that it should be afterwards submitted to a Convention chosen, (in each State) under the recommendation of its Legislature, in order to receive the ratification of such Convention"

Mr. Govr. Morris & Mr. Pinkney moved to strike out the words "for their approbation"¹⁰ On this question

N. H. ay. Mas. no. Ct. ay. N— J. ay.* Pa. ay. Del. ay. Md. no Va. ay. N. C— ay. S. C— ay. Geo. no. [Ayes — 8; noes — 3.]

Mr Govr. Morris & Mr. Pinkney then moved to amend the art: so as to read

"This Constitution shall be laid before the U. S. in Congress assembled; and it is the opinion of this Convention that it should afterwards be submitted to a Convention chosen in each State, in order to receive the ratification of such Convention: to which end the several Legislatures ought to provide for the calling Conventions within their respective States as speedily as circumstances will permit". — Mr. Govr. Morris said his object was to impress in stronger terms the necessity of calling Conventions in order to prevent enemies to the plan, from giving it the go by. When it first appears, with the sanction of this Convention, the people will be favorable to it. By degrees the State officers, & those interested in the State Govts will intrigue & turn the popular current against it.¹¹

Mr. L— Martin believed Mr. Morris to be right, that after a while the people would be agst. it. but for a different reason from that alledged. He believed they would not ratify it unless hurried into it by surprize.

Mr. Gerry enlarged on the idea of Mr. L. Martin in which he concurred, represented the system as full of vices, and dwelt on the impropriety of destroying the existing Confederation, without the unanimous Consent of the parties to it:

* (In the printed Journal N— Jersey— no.)

¹⁰ See Appendix A, CLVIII (103).

¹¹ See Appendix A, CXCII.

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Question on Mr Govr. Morris's and Mr. Pinckney's motion

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

Mr. Gerry moved to postpone art: XXII.

Col: Mason 2ded. the motion, declaring that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet decided brought to a decision, before being compelled to give a final opinion on this article. Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention.

Mr. Govr Morris was ready for a postponement. He had long wished for another Convention, that will have the firmness to provide a vigorous Government, which we are afraid to do.

Mr. Randolph stated his idea to be, in case the final form of the Constitution should not permit him to accede to it, that the State Conventions should be at liberty to propose amendments to be submitted to another General Convention which may reject or incorporate them, as shall be judged proper.

On the question for postponing

N. H. no. Mas. no. Ct no. N. J— ay— Pa. no. Del. no.
Md ay— Va. no. N. C. ay. S— C. no. Geo. no. [Ayes — 3;
noes — 8.]

On the question on Art: XXII

N. H. (ay.)¹² Mas. ay. Ct. ay. N. J. ay. Pa. ay— Del.
ay. Md. no. Va ay. N— C. ay. S— C. ay. Geo. ay. [Ayes— 10;
noes — 1.]

Art: XXIII being taken up.¹³ as far the words "assigned

¹² Apparently Madison left a blank after "N. H." and later inserted an affirmative vote according to *Journal*.

¹³ Article XXIII. "To introduce this government, it is the opinion of this Convention, that each assenting Convention should notify its assent and ratification to the United States in Congress assembled; that Congress, after receiving the assent and ratification of the Conventions of States, should appoint and publish a day, as early as may be, and appoint a place for commencing proceedings under this Constitution; that after such publication, the Legislatures of the several States should

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by Congress" inclusive, was agreed to nem: con: the blank having been first filled with the word "nine" as of course.

On a motion for postponing the residue of the clause, concerning the choice of the President &c,

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

Mr. Govr. Morris then moved to strike out the words "choose the President of the U. S. and" — this point, of choosing the President not being yet finally determined, & on this question

N— H— no. Mas. ay. Ct. ay. N. J. ay. Pa. ay. Del. ay. Md. divd. Va. ay. N— C. ay— S. C. ay—* Geo. ay [Ayes—9; noes — 1; divided — 1.]

Art: XXIII as amended was then agreed to nem: con:

The report of the grand Committee of eleven made by Mr. Sherman was then taken up (see Aug: 28).

On the question to agree to the following clause, to be inserted after sect— 4. art: VII. "nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another".¹⁴ Agreed to nem: con:

On the clause "or oblige vessels bound to or from any State to enter clear or pay duties in another"

Mr. Madison thought the restriction wd. be inconvenient, as in the River Delaware, if a vessel cannot be required to make entry below the jurisdiction of Pennsylvania.

Mr. Fitzimmons admitted that it might be inconvenient, but thought it would be a greater inconveniency to require vessels bound to Philada. to enter below the jurisdiction of the State.

Mr. Gorham & Mr. Langdon, contended that the Govt would be so fettered by this clause, as to defeat the good pur-

* (In the printed Journal— S. C. — no.)

elect members of the Senate, and direct the election of members of the House of Representatives; and that the members of the Legislature should meet at the time and place assigned by Congress, and should, as soon as may be, after their meeting, choose the President of the United States, and proceed to execute this Constitution."

¹⁴ See August 25, note 13.

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pose of the plan. They mentioned the situation of the trade of Mas. & N. Hampshire, the case of Sandy Hook which is in the State of N. Jersey, but where precautions agst smuggling into N. York, ought to be established by the Genl. Government.

Mr. McHenry said the clause would not shreen a vessel from being obliged to take an officer on board as a security for due entry &c—.

Mr Carrol was anxious that the clause should be agreed to. He assured the House, that this was a tender point in Maryland.

Mr Jenifer urged the necessity of the clause in the same point of view

On the question for agreeing to it

N. H. no. Ct ay. N. J. ay. Pa. ay. Del. ay. Md ay. Va. ay. N— C— ay. S— C. no. Geo. ay, [Ayes — 8; noes — 2.]¹⁵

The word “tonnage” was struck out, nem: con: as comprehended in “duties”

On question On the clause of the Report “and all duties, imposts & excises, laid by the Legislature shall be uniform throughout the U. S.” It was agreed to nem: con: *

On motion of Mr. Sherman it was agreed to refer such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State; the Committee appointed by ballot, being— Mr Gilman, Mr. King. Mr Sherman. Mr. Brearley, Mr. Govr. Morris, Mr. Dickinson, Mr. Carrol, Mr. Madison, Mr. Williamson, Mr. Butler & Mr. Baldwin.

(The House adjourned)

* (In printed Journal N H. and S. C. entered as in the negative.)¹⁶

¹⁵ McHenry includes Massachusetts in the negative.

¹⁶ An error of *Journal*. See above note 3.

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McHENRY

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McHENRY

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Filled up the blank in the XXI article with 9: 8 States affirm: 3 Neg. Maryland moved to fill it up with 13 but stood alone on the question. G. W. was for 7.

Struck out *for their approbation* in the 22 Article. filled up the blank in the 23 article with 9, and amended the last clause by striking out *choose the president of the U. S. and.*

The system being thus far agreed to the restrictory propositions from Maryland were taken up — and carried — against them N. Hamp. Massachus.¹⁷ and S. Carolina.

Referred to a grand committee all the sections of the system under postponement and a report of a committee of 5 with several motions.

Adjourned.

¹⁷ Massachusetts's vote was not recorded by the Journal or Madison.