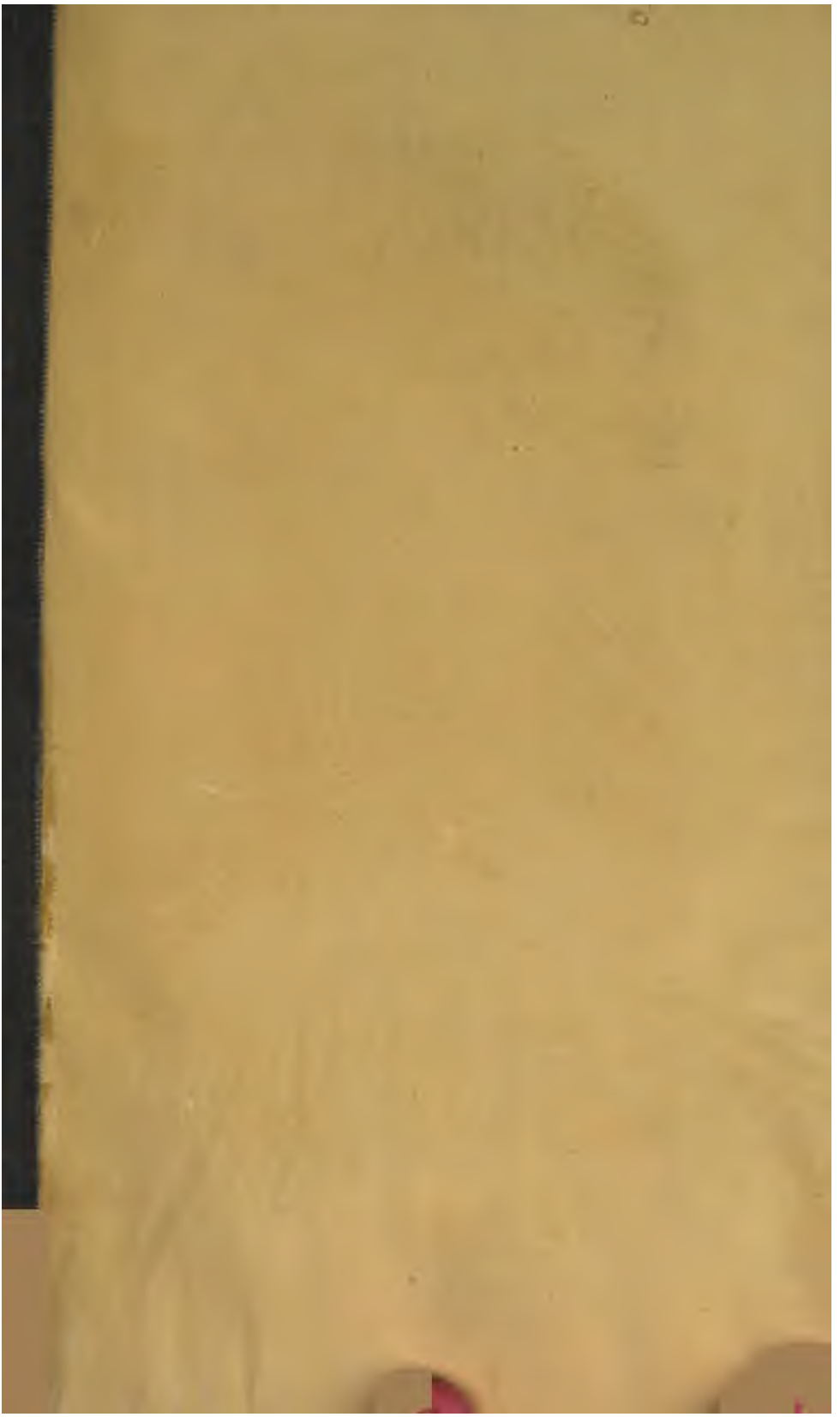

THE

MADISON PAPERS.

THE

MADISON PAPERS.

THE

PAPERS

OF

JAMES MADISON

PURCHASED BY ORDER OF CONGRESS;

BEING

HIS CORRESPONDENCE AND REPORTS OF DEBATES DURING THE CONGRESS OF THE CONFEDERATION

AND

HIS REPORTS OF DEBATES

IN THE

FEDERAL CONVENTION;

NOW PUBLISHED FROM THE ORIGINAL MANUSCRIPTS, DEPOSITED IN THE DEPARTMENT OF STATE, BY DIRECTION OF THE JOINT LIBRARY COMMITTEE OF CONGRESS, UNDER THE SUPERINTENDENCE

OF

HENRY D. GILPIN.

VOLUME III.

WASHINGTON:
LANGTREE & O'SULLIVAN.
1840.

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OF THE THIRD VOLUME.

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Motion to add various powers to the Legislature—Referred to the Committee of Detail.

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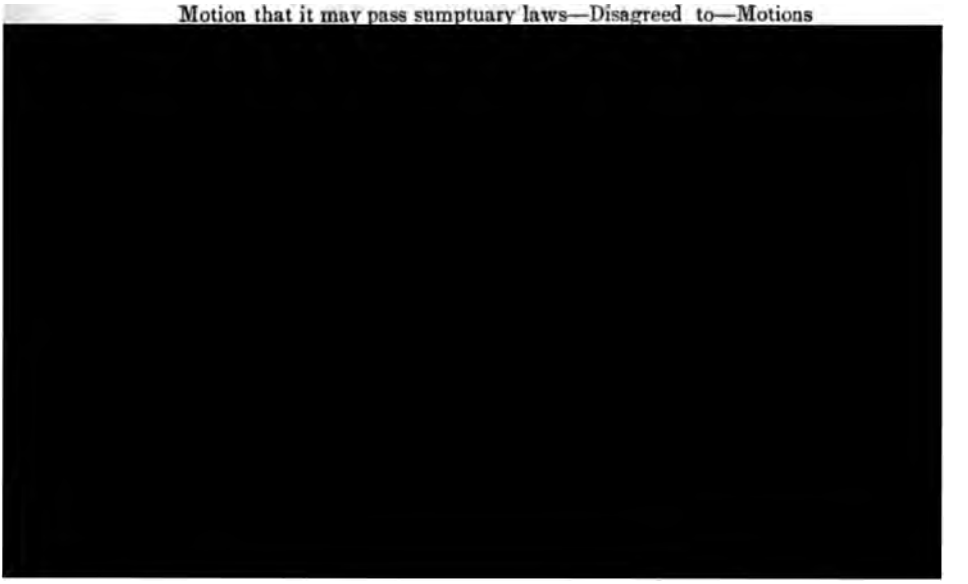
Article *seventh*, relative to the powers of the Legislature, resumed—Motion that it may make rules for the Army and Navy—Agreed to—Motion that the Army shall be limited in time of peace to a fixed number—Disagreed to—Motion that the subject of regulating the militia be referred to the Grand Committee—Agreed to.

MONDAY, August 20th 1365

Motion to add various powers to the Legislature—Referred to the Committee of Detail.

Article *seventh*, relative to the powers of Congress, resumed—Motion that it may pass sumptuary laws—Disagreed to—Motions



WEDNESDAY, August 22d . . 1390

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Article *seventh*, relative to the powers of Congress, resumed—Motion to refer the clauses relative to the importation and migration of slaves, and to a capitation tax, and navigation act, to a Grand Committee—Agreed to—Motion to prohibit attainders or ex post facto laws—Agreed to—Motion to require the Legislature to discharge the debts, and fulfil the engagements of the United States—Agreed to.

THURSDAY, August 23d 1402

Article *seventh*, relative to the powers of the Legislature, resumed—Motion requiring them to organize the militia, when in the service of the United States, reserving the training and appointment of officers to the States—Agreed to—Motion to prohibit foreign presents, offices, or titles, to any officer without consent of the Legislature—Agreed to.

Article *eighth*, relative to the supreme authority of acts of the Legislature and treaties—Agreed to.

Article *seventh*, relative to the powers of the Legislature, resumed—Motion to refer to a Committee, to consider the propriety of a power to them to negative State laws—Disagreed to.

Article *ninth*, relative to the powers of the Senate—Motion to require treaties to be ratified by law—Disagreed to.

FRIDAY, August 24th 1415

Report of the Grand Committee on the importation and migration of slaves, and a capitation tax, and navigation act.

Article *ninth*, relative to the powers of the Senate, resumed—Motion to strike out the power to decide controversies between the States—Agreed to.

Article *tenth*, relative to the Executive—Motion that the Executive be elected by the people—Disagreed to—By Electors chosen by the people of the States—Disagreed to—By joint ballot of the Legislature, and a majority of the members present—Agreed to—Motion that each State have one vote in electing the Executive—Disagreed to—Motion to require the President to give information to the Legislature—Agreed to—Motion to restrain appointing power by law—Disagreed to—Motion to except from the appointing power, offices otherwise provided for by the Constitution—Agreed to—Motion to authorize by law, appointments by State Legislatures and Executives—Disagreed to.

SATURDAY, August 25th 1424

Article *seventh*, relative to the powers of the Legislature, resumed —Motion that in discharging the debts of the United States, they shall be considered as valid under the Constitution as they were under the Confederation—Agreed to—Motion to postpone the prohibition for importing slaves to 1808—Agreed to—Motion to confine the clause to such States as permit the importation of slaves —Disagreed to—Motion that the tax on such importation shall not exceed ten dollars for each person—Agreed to—Motion that a capitation tax shall be in proportion to the census—Agreed to.

Article *tenth*, relative to the Executive, resumed—Motion to limit reprieves to the meeting of the Senate, and requiring their consent to pardons—Disagreed to—Motion to except cases of impeachment from the pardoning power—Agreed to—Motion that his pardons shall not be pleadable in bar—Disagreed to.

MONDAY, August 27th 1433

Article *tenth*, relative to the Executive, resumed—Motion to limit his command of the militia to their being in the service of the United States—Agreed to—Motion to require an oath from the Executive—Agreed to.

Article *eleventh*, relative to the Judiciary—Motion to confer equity powers on the courts—Agreed to—Motion that the judges may be removed by the Executive, on application of the Legislature—Disagreed to—Motion that the salaries of judges should not be increased while they are in office—Disagreed to—Motion to extend jurisdiction to cases in which the United States are a party, or arising under the Constitution, or treaties, or relating to lands granted by different States—Agreed to—Motion to extend the appellate jurisdiction to law and fact—Agreed to.

TUESDAY, August 28th 1440

Article *eleventh*, relative to the Judiciary—Motion to confine the appellate jurisdiction in certain cases to the Supreme Court—Agreed to—Motion that crimes not committed within any State be tried where the Legislature directs—Agreed to—Motion that the writ of Habeas Corpus shall not be suspended, unless required by invasion or rebellion—Agreed to.

Article *twelfth*, relative to the prohibitions on the power of the States—Motions to prohibit them absolutely from emitting bills of credit, legalizing any tender except gold or silver, or passing attainders or retrospective laws, or laying duties on imports—Agreed to—Motion to forbid them to lay embargoes—Disagreed to.

Article *thirteenth*, relative to the prohibitions on slaves, unless

authorized by the National Legislature--Motion to include in these duties on exports, and, if permitted, to be for the use of the United States—Agreed to.

Article *fourteenth*, relative to the rights of citizens of one State in another—Agreed to.

Article *fifteenth*, relative to the delivery of persons fleeing to other States—Motion to extend it to all cases of crime—Agreed to —Motion to extend it to fugitive slaves—Withdrawn.

WEDNESDAY, August 29th . . . 1448

Article *sixteenth*, relative to the effect of public records and documents of one State in another—Motion to refer it to a Committee to add a provision relative to bankruptcies and foreign judgments —Agreed to.

Article *seventh*, relative to the powers of the Legislature, resumed—Motion to require two thirds of each House on acts regulating foreign commerce—Disagreed to—Motion to strike out the provision requiring two thirds of each House on navigation acts—Agreed to.

Article *fifteenth*, relative to the delivery of persons fleeing to other States, resumed—Motion to extend it to slaves—Agreed to.

Article *seventeenth*, relative to the admission of new States—Motion to strike out the clause requiring their admission on the same terms with the original States—Agreed to.

THURSDAY, August 30th . . . 1460

Article *seventeenth*, relative to the admission of new States, resumed—Motion not to require any other assent than that of Congress to admit other States now existing—Disagreed to—Motion not to require any other assent than that of Congress, to admit States over which those now existing exercise no jurisdiction—Agreed to—Motion to allow the Legislature to form new States within the territory claimed by the existing States—Disagreed to —Motion to require assent of the State Legislatures to a junction of States—Agreed to—Motion to authorize the Legislature to make regulations regarding the territories, but not to affect the claims either of the United States, or the States—Agreed to—Motion to refer such claims to the Supreme Court—Disagreed to.

Article *eighteenth*, guaranteeing to the States a republican government, and protection against foreign invasion, and, on the application of the State Legislature, against domestic violence—Motion to strike out the clause requiring the application of the State Legislature—Disagreed to—Motion to authorize it on the application

of the State Executive—Agreed to—Motion to limit the Executive application to a recess of the Legislature—Disagreed to.

Article *nineteenth*, relative to amendments of the Constitution—Agreed to.

Article *twentieth*, relative to the oath to support the Constitution—Motion to forbid any religious test—Agreed to.

Article *twenty-first*, relative to the ratification of the Constitution—Motion to require it to be by all the States.

FRIDAY, August 31st 1470

Article *twenty-first*, relative to the number of States necessary for a ratification of the Constitution, resumed—Motion that the Constitution be confined to the States ratifying it—Agreed to—Motion not to require the ratification to be made by conventions—Disagreed to—Motion to require unanimous ratification of the States—Disagreed to—That of nine States—Agreed to.

Article *twenty-second*, relative to the mode of ratification—Motion not to require the approbation of the present Congress—Agreed to—Motion that the State Legislatures ought to call Conventions speedily—Disagreed to.

Article *twenty-third*, relative to the measures to be taken for carrying the Constitution into effect when ratified—Motion to strike out the clause requiring the Legislature to choose the Executive—Agreed to.

Article *seventh*, relative to the powers of the Legislature, resumed—Motion that no different duties or regulations, giving preference to the ports of any particular State, or requiring clearances, &c. between them, shall be made—Agreed to.

MONDAY, September 3d 1480

Article *sixteenth*, relative to the effect of public records and documents of one State in another, resumed—Motion to require the Legislature to provide the manner of authenticating them—Agreed to.

Article *seventh*, relative to the powers of the Legislature, resumed—Motion that they may establish a bankrupt law—Disagreed to.

Article *sixth*, relative to the elections, qualifications, and proceedings of the Legislature, resumed—Motion to amend the rule as to incapacity, by prescribing only that members shall not hold an office of emolument, and shall vacate their seats on appointment—Disagreed to—Motion to limit such incapacity to offices created, or whose emoluments were increased, during their term—Agreed to—Motion to render office and membership incompatible—Agreed to.

TUESDAY, September 4th . . . 1485

Article *seventh*, relative to the powers of the Legislature, resumed—Motion that they shall lay and collect taxes to pay debts and provide for the common defence and welfare—Agreed to—Regulate trade with the Indians—Agreed to.

Article *tenth*, relative to the Executive, resumed—Motion to appoint a Vice President, and he and the President to be chosen by Electors appointed in such manner as the State Legislatures may direct; if not chosen by a majority of the Electors to be balloted for by the Senate from the five highest—Postponed.

WEDNESDAY, September 5th . . . 1494

Article *seventh*, relative to the powers of the Legislature, resumed—Motion that they may grant letters of marque—Agreed to—Not make army appropriations for more than two years—Agreed to—Have exclusive jurisdiction in the district ceded for the seat of government, and for other purposes with the consent of the State Legislatures—Agreed to—Grant patents and copyrights—Agreed to.

Article *tenth*, relative to the Executive, resumed—Motion that in case of failure of the Electors to elect, the choice shall be by the Legislature—Disagreed to—Motion not to require a majority of the Electors but one third to choose a President—Disagreed to—Motion that the choice of the Senate be limited to the three highest—Disagreed to—To the thirteen highest—Disagreed to.

THURSDAY, September 6th . . . 1503

Article *tenth*, relative to the Executive, resumed—Motion to exclude members of the Legislature, and public officers from being Electors—Agreed to—Motions to extend the Executive term to seven and six years—Disagreed to—Motion to elect the Executive by Electors—Agreed to—Motion that the election be at the seat of Government—Disagreed to—On the same day throughout the Union—Agreed to—Motion to refer it to the Senate, two thirds being present, if not made by the Electors—Agreed to—Motion to refer it to the House of Representatives, two thirds of the States being present, and each State to have one vote—Agreed to.

FRIDAY, September 7th 1514

Article *tenth*, relative to the Executive, resumed—Motion to leave to the Legislature to declare the Executive officer in case of death, &c. of President and Vice President, until a new election—Agreed to—Motion that the President be a natural born citizen, and thirty-five years of age—Agreed to—Motion that the Vice President be President of the Senate—Agreed to—Motion to unite House of Representatives in the treaty power—Disagreed to—Motion to

give the Executive and Senate the appointing power—Agreed to—Motion to allow treaties of peace to be made by the Executive and a majority of the Senate—Agreed to—Motion to allow two thirds of the Senate to make treaties of peace without the Executive—Disagreed to—Motion to appoint an Executive Council—Disagreed to.

SATURDAY, September 8th . . . 1524

Article *tenth*, relative to the Executive, resumed—Motion to require treaties of peace to be consented to by two thirds of the Senate—Agreed to—Motion to require that in such cases two thirds of all the members be required—Disagreed to—Motion to extend impeachment to high crimes and misdemeanors—Agreed to—Motion to withdraw trial of impeachment from the Senate—Disagreed to.

Article *fourth*, relative to the House of Representatives, resumed—Motion that it must originate, but Senate may amend, money bills—Agreed to.

Article *tenth*, relative to the Executive, resumed—Motion that he may convene both or either House—Agreed to.

All the Articles as amended and agreed to, referred to a Committee of Revision.

MONDAY, September 10th . . . 1533

Article *nineteenth*, relative to amendments of the Constitution, resumed—Motion that Legislature may propose amendments, to be binding when assented to by three fourths of the States—Agreed to.

Article *twenty-first*, relative to the number of States necessary for a ratification of the Constitution—Motion to require the assent of the present Congress, before submitting it to the States for ratification—Disagreed to.

Article *twenty-second*, relative to the mode of ratifying the Constitution—Motion to require the assent of the present Congress—Disagreed to—Motion to submit the Constitution after it is acted on by the State Conventions, to a second Federal Convention—Postponed—Motion that an address to the States accompany the Constitution, when transmitted for ratification—Agreed to.

WEDNESDAY, September 12th . . . 1543

The Constitution as reported by the Committee of Revision, considered.

Article *first*, relative to the Legislative power—Motion to require two thirds instead of three fourths to overrule the negative of the President—Agreed to.

Motion to add a bill of rights—Disagreed to.

THURSDAY, September 13th . . . 1568

Motion for a Committee to report articles of association for encouraging, by the influence of the Convention, economy, frugality, and American manufactures—Agreed to.

Article *first*, relative to the Legislative power, resumed—Motion to permit the States to impose such duties on exports as are necessary to execute their inspection laws—Agreed to.

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FRIDAY, September 14th . . . 1571

Article *first*, relative to the Legislative powers, resumed—Motion to change the present proportion of members in the House of Representatives—Disagreed to—Motion that officers impeached be suspended till trial—Disagreed to—Motion to require the House of Representatives to publish all its proceedings—Disagreed to—Motion that Treasurer be appointed as other officers—Agreed to—Motion to provide for cutting canals and granting charters of incorporation, where the States may be incompetent—Disagreed to—To establish a university—Disagreed to—To provide for the preservation of the liberty of the press—Disagreed to—To publish the expenditures—Agreed to.

SATURDAY, September 15th . . 1582

Article *first*, relative to the Legislative powers, resumed—Motion to change the present proportion of members in the House of Representatives—Disagreed to—Motion that the inspection laws of the States may be revised by Congress—Agreed to—Motion that no State shall lay a duty on tonnage, without assent of Congress—Agreed to.

Article *second*, relative to the Executive—Motion that President shall receive no emolument from the States during his term—Agreed to—Motion to deprive the President of the power to pardon treason—Disagreed to—Motion that appointments to inferior offices may be vested by law—Agreed to.

Article *third*, relative to the Judiciary—Motion to provide for trial by jury in civil cases—Disagreed to.

Article *fifth*, relative to amendments of the Constitution—Motion to require Congress to call a Convention on an application of two thirds of the States—Agreed to.

Article *first*, relative to the Legislative power, resumed—Motion to guarantee to the States an equal representation in the Senate—Agreed to—Motion to forbid the passage of a navigation act before 1808, without two thirds of each House—Disagreed to.

Motion that the amendments of the States be submitted to a new Federal Convention—Disagreed to.

The Constitution, as amended agreed to.

MONDAY, September 17th . . . 1596

Article *first*, relative to the Legislative power, resumed—Motion to provide that thirty thousand instead of forty thousand, be the lowest ratio of representation—Agreed to.

Motion that the Constitution be signed as agreed to by all the States—Agreed to.

Motion that the Journals and papers be deposited with the President—Agreed to.

The Constitution signed as finally amended, and the Convention adjourned.

DEBATES

IN THE

FEDERAL CONVENTION OF 1787.

BY JAMES MADISON,

A MEMBER

DEBATES

IN THE

FEDERAL CONVENTION OF 1787.

Tuesday, August 7th, 1787.

In Convention,—The Report of the Committee of Detail being taken up,—

Mr. Pinckney moved that it be referred to a Committee of the Whole. This was strongly opposed by Mr. Gorham and several others, as likely to produce unnecessary delay; and was negatived,—Delaware, Maryland, and Virginia, only being in the affirmative.[292]

The preamble of the Report was agreed to, *nem. con.* So were Articles 1 and 2.

Article 3 being considered,—Col. Mason doubted the propriety of giving each branch a negative on the other "in all cases." There were some cases in which it was, he supposed, not intended to be given, as in the case of balloting for appointments.

Mr. G. Morris moved to insert "legislative acts," instead of "all cases." Mr. Williamson seconds him.

Mr. Sherman. This will restrain the operation of the clause too much. It will particularly exclude

a mutual negative in the case of ballots, which he hoped would take place.

Mr. GORHAM contended, that elections ought to be made by *joint ballot.* If separate ballots should be made for the President, and the two branches should be each attached to a favorite, great delay, contention and confusion may ensue. These inconveniences have been felt in Massachusetts, in the election of officers of little importance compared with the Executive of the United States. The only objection against a joint ballot is, that it may deprive the Senate of their due weight; but this ought not to prevail over the respect due to the public tranquillity and welfare.

Mr. WILSON was for a joint ballot in several cases at least; particularly in the choice of a President; and was therefore for the amendment. Disputes between the two Houses, during and concerning the vacancy of the Executive, might have dangerous consequences.

Col. MASON thought the amendment of Mr. GOUVERNEUR MORRIS extended too far. Treaties are in a subsequent part declared to be laws; they will therefore be subjected to a negative, although they are to be made, as proposed, by the Senate alone. He proposed that the mutual negative should be restrained to "cases requiring the distinct assent" of the two Houses. Mr. GOUVERNEUR MORRIS thought this but a repetition of the same thing; the mutual negative and distinct assent being equivalent expressions. Treaties he thought were not laws.

Mr. MADISON moved to strike out the words, "each of which shall in all cases have a negative on the other;" the idea being sufficiently expressed in the

preceding member of the Article, vesting "the legislative power" in "distinct bodies;" especially as the respective powers, and mode of exercising them, were fully delineated in a subsequent Article.

General PINCKNEY seconded the motion.

On the question for inserting, "legislative acts," as moved by Mr. GOUVERNEUR MORRIS, it passed in the negative, the votes being equally divided,—New Hampshire, Massachusetts, Connecticut, Pennsylvania, North Carolina, aye—5; Delaware, Maryland, Virginia, South Carolina, Georgia, no—5.

On the question for agreeing to Mr. MADISON's motion to strike out, &c.—New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, aye—7; Connecticut, Maryland, North Carolina, no—3.

Mr. MADISON wished to know the reasons of the Committee for fixing by the Constitution the time of meeting for the Legislature; and suggested, that it be required only that one meeting at least should be held every year, leaving the time to be fixed or varied by law.

Mr. GOUVERNEUR MORRIS moved to strike out the sentence. It was improper to tie down the Legislature to a particular time, or even to require a meeting every year. The public business might not require it. Mr. PINCKNEY concurred with Mr. MADISON.

Mr. GORHAM. If the time be not fixed by the Constitution, disputes will arise in the Legislature; and the States will be at a loss to adjust thereto the times of their elections. In the New England States, the annual time of meeting had been long fixed by their charters and constitutions, and no inconvenience had resulted. He thought it necessary

that there should be one meeting at least every year, as a check on the Executive department.

Mr. ELLSWORTH was against striking out the words. The Legislature will not know, till they are met, whether the public interest required their meeting or not. He could see no impropriety in fixing the day, as the Convention could judge of it as well as the Legislature. Mr. WILSON thought, on the whole, it would be best to fix the day.

Mr. KING could not think there would be a necessity for a meeting every year. A great vice in our system was that of legislating too much. The most numerous objects of legislation belong to the States. Those of the National Legislature were but few. The chief of them were commerce and revenue. When these should be once settled, alterations would be rarely necessary and easily made.

Mr. MADISON thought, if the time of meeting should be fixed by a law, it would be sufficiently fixed, and there would be no difficulty then, as had been suggested, on the part of the States in adjusting their elections to it. One consideration appeared to him to militate strongly against fixing a time by the Constitution. It might happen that the Legislature might be called together by the public exigencies and finish their session but a short time before the annual period. In this case it would be extremely inconvenient to re-assemble so quickly, and without the least necessity. He thought one annual meeting ought to be required; but did not wish to make two unavoidable.

Colonel MASON thought the objections against fixing the time insuperable; but that an annual meeting ought to be required as essential to the

preservation of the Constitution. The extent of the country will supply business. And if it should not, the Legislature, besides *legislative*, is to have *inquisitorial* powers, which cannot safely be long kept in a state of suspension.

Mr. SHERMAN was decided for fixing the time, as well as for frequent meetings of the legislative body. Disputes and difficulties will arise between the two Houses, and between both and the States, if the time be changeable. Frequent meetings of parliament were required at the Revolution in England, as an essential safeguard of liberty. So also are annual meetings in most of the American charters and constitutions. There will be business enough to require it. The western country, and the great extent and varying state of our affairs in general, will supply objects.

Mr. RANDOLPH was against fixing any day irrevocably; but as there was no provision made any where in the Constitution for regulating the periods of meeting, and some precise time must be fixed, until the Legislature shall make provision, he could not agree to strike out the words altogether. Instead of which he moved to add the words following: "unless a different day shall be appointed by law."

Mr. MADISON seconded the motion; and on the question,—Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—8; New Hampshire, Connecticut, no—2.

Mr. GOUVERNEUR MORRIS moved to strike out "December," and insert "May." It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned

during the winter, and of which intelligence would arrive in the spring.

Mr. MADISON seconded the motion. He preferred May to December, because the latter would require the travelling to and from the seat of government in the most inconvenient seasons of the year.

Mr. WILSON. The winter is the most convenient season for business.

Mr. ELLSWORTH. The summer will interfere too much with private business, that of almost all the probable members of the Legislature being more or less connected with agriculture.

Mr. RANDOLPH. The time is of no great moment now, as the Legislature can vary it. On looking into the Constitutions of the States, he found that the times of their elections, with which the elections of the National Representatives would no doubt be made to coincide, would suit better with December than May, and it was advisable to render our innovations as little incommodious as possible.

On the question for "May" instead of "December,"—South Carolina, Georgia, aye—2; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—8.

Mr. REED moved to insert after the word, "Senate," the words, "subject to the negative to be hereafter provided." His object was to give an absolute negative to the Executive. He considered this as so essential to the Constitution, to the preservation of liberty, and to the public welfare, that his duty compelled him to make the motion.

Mr. GOUVERNEUR MORRIS seconded him; and on the question,—

Delaware, aye—1; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—9.

Mr. RUTLEDGE. Although it is agreed on all hands that an annual meeting of the Legislature should be made necessary, yet that point seems not to be free from doubt as the clause stands. On this suggestion, "once at least in every year," were inserted, *nem. con.*

Article 3, with the foregoing alterations, was agreed to *nem. con.*, and is as follows: "The Legislative power shall be vested in a Congress to consist of two separate and distinct bodies of men, a House of Representatives and a Senate. The Legislature shall meet at least once in every year; and such meeting shall be on the first Monday in December, unless a different day shall be appointed by law. [293]

Article 4, Sect. 1, was taken up.

Mr. GOUVERNEUR MORRIS moved to strike out the last member of the section, beginning with the words, "qualifications of Electors," in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

Mr. FITZSIMONS seconded the motion.

Mr. WILLIAMSON was opposed to it.

Mr. WILSON. This part of the Report was well considered by the Committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications, for all the States. Unnecessary innovations, he thought, too, should be avoided. It would be very hard and disa-

greeable for the same persons, at the same time, to vote for representatives in the State Legislature, and to be excluded from a vote for those in the National Legislature.

Mr. Gouverneur Morris. Such a hardship would be neither great nor novel. The people are accustomed to it, and not dissatisfied with it, in several of the States. In some, the qualifications are different for the choice of the Governor and of the Representatives; in others, for different houses of the Legislature. Another objection against the clause, as it stands, is, that it makes the qualifications of the National Legislature depend on the will of the States, which he thought not proper.

Mr. Ellsworth thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State Constitutions. The people will not readily subscribe to the National Constitution, if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people.

Colonel Mason. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised? A power to alter the qualifications, would be a dangerous power in the hands of the Legislature.

Mr. Butler. There is no right of which the people are more jealous than that of suffrage. Abridgments of it tend to the same revolution as in

Holland, where they have at length thrown all power into the hands of the Senates, who fill up vacancies themselves, and form a rank aristocracy.

Mr. DICKINSON had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the country. He considered them as the best guardians of liberty; and the restriction of the right to them as a necessary defence against the dangerous influence of those multitudes without property and without principle, with which our country, like all others, will in time abound. As to the unpopularity of the innovation, it was, in his opinion, chimerical. The great mass of our citizens is composed at this time of freeholders, and will be pleased with it.

Mr. ELLSWORTH. How shall the freehold be defined? Ought not every man who pays a tax, to vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burthens, be not allowed a voice in the imposition of them? Taxation and representation ought to go together.

Mr. GOUVERNEUR MORRIS. He had long learned not to be the dupe of words. The sound of aristocracy, therefore, had no effect upon him. It was the thing, not the name, to which he was opposed; and one of his principal objections to the Constitution, as it is now before us, is, that it threatens the country with an aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich, who will be able to buy

them. We should not confine our attention to the present moment. The time is not distant when this country will abound with mechanics and manufacturers, who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier against aristocracy? He was as little duped by the association of the words, "taxation and representation." The man who does not give his vote freely, is not represented. It is the man who dictates the vote. Children do not vote. Why? Because they want prudence; because they have no will of their own. The ignorant and the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining "freeholders" to be insuperable. Still less that the restriction could be unpopular. Nine-tenths of the people are at present freeholders, and these will certainly be pleased with it. As to merchants &c., if they have wealth, and value the right, they can acquire it. If not, they don't deserve it.

Col. Mason. We all feel too strongly the remains of ancient prejudices, and view things too much through a British medium. A freehold is the qualification in England, and hence it is imagined to be the only proper one. The true idea, in his opinion, was, that every man having evidence of attachment to, and permanent common interest with, the society, ought to share in all its rights and privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? Does nothing besides property mark a permanent attachment?

Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in his own country, to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow citizens?

Mr. MADISON. The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which aristocracies have been built on the ruins of popular forms. Whether the constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in the States, where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject in its merits alone, the freeholders of the country would be the safest depositories of republican liberty. In future times, a great majority of the people will not only be without landed, but any other sort of property. These will either combine, under the influence of their common situation—in which case the rights of property and the public liberty will not be secure in their hands—or, what is more probable, they will become the tools of opulence and ambition; in which case, there will be equal danger on another side. The example of England has been misconceived (by Col. MASON.) A very small proportion of the Representatives are there chosen by freeholders. The greatest part are chosen by the cities and boroughs, in many of which the qualification of suffrage is as low as it is in any one

WEDNESDAY, AUGUST 8TH.

In Convention,—Article 4, sect. 1, being under consideration,—

Mr. MERCER expressed his dislike of the whole plan, and his opinion that it never could succeed.

Mr. GORHAM. He had never seen any inconvenience from allowing such as were not freeholders to vote, though it had long been tried. The elections in Philadelphia, New York, and Boston, where the merchants and mechanics vote, are at least as good as those made by freeholders only. The case in England was not accurately stated yesterday (by Mr. MADISON). The cities and large towns are not the seat of Crown influence and corruption. These prevail in the boroughs, and not on account of the right which those who are not freeholders have to vote, but of the smallness of the number who vote. The people have been long accustomed to this right in various parts of America, and will never allow it to be abridged. We must consult their rooted prejudices if we expect their concurrence in our propositions.

Mr. MERCER did not object so much to an election by the people at large, including such as were not freeholders, as to their being left to make their choice without any guidance. He hinted that candidates ought to be nominated by the State Legislatures.[294]

On the question for agreeing to Article 4, Sect. 1, it passed, *nem. con.*

Article 4, Sect. 2, was then taken up.

Colonel MASON was for opening a wide door for

emigrants; but did not choose to let foreigners and adventurers make laws for us and govern us. Citizenship for three years was not enough for ensuring that local knowledge which ought to be possessed by the representative. This was the principal ground of his objection to so short a term. It might also happen, that a rich foreign nation, for example Great Britain, might send over her tools, who might bribe their way into the Legislature for insidious purposes. He moved that "seven" years, instead of "three," be inserted.

Mr. GOUVERNEUR MORRIS seconded the motion; and on the question, all the States agreed to it, except Connecticut.

Mr. SHERMAN moved to strike out the word "resident" and insert "inhabitant," as less liable to misconstruction.

Mr. MADISON seconded the motion. Both were vague, but the latter least so in common acceptation, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virginia concerning the meaning of residence as a qualification of representatives, which were determined more according to the affection or dislike to the man in question than to any fixed interpretation of the word.

Mr. WILSON preferred "inhabitant."

Mr. GOUVERNEUR MORRIS was opposed to both, and for requiring nothing more than a freehold. He quoted great disputes in New York occasioned by these terms, which were decided by the arbitrary will of the majority. Such a regulation is not necessary. People rarely choose a non-resident. It is

improper, as in the first branch, *the people at large*, not the *States*, are represented.

Mr. RUTLEDGE urged and moved, that a residence of seven years should be required in the State wherein the member should be elected. An emigrant from New England to South Carolina or Georgia would know little of its affairs, and could not be supposed to acquire a thorough knowlegde in less time.

Mr. READ reminded him that we were now forming a *national government*, and such a regulation would correspond little with the idea that we were one people.

Mr. WILSON enforced the same consideration.

Mr. MADISON suggested the case of new States in the west, which could have, perhaps, no representation on that plan.

Mr. MERCER. Such a regulation would present a greater alienship than existed under the old federal system. It would interweave local prejudices and State distinctions, in the very Constitution which is meant to cure them. He mentioned instances of violent disputes raised in Maryland concerning the term "residence."

Mr. ELLSWORTH thought seven years of residence was by far too long a term: but that some fixed term of previous residence would be proper. He thought one year would be sufficient, but seemed to have no objection to three years.

Mr. DICKINSON proposed that it should read "inhabitant actually resident for —— years." This would render the meaning less indeterminate.

Mr. WILSON. If a short term should be inserted

in the blank, so strict an expression might be construed to exclude the members of the Legislature, who could not be said to be actual residents in their States, whilst at the seat of the General Government.

Mr. MERCER. It would certainly exclude men, who had once been inhabitants, and returning from residence elsewhere to resettle in their original State, although a want of the necessary knowledge could not in such cases be presumed.

Mr. MASON thought seven years too long, but would never agree to part with the principle. It is a valuable principle. He thought it a defect in the plan, that the Representatives would be too few to bring with them all the local knowledge necessary. If residence be not required, rich men of neighbouring States may employ with success the means of corruption in some particular district, and thereby get into the public councils after having failed in their own States. This is the practice in the boroughs of England.

On the question for postponing in order to consider Mr. DICKINSON's motion,—

Maryland, South Carolina, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, no—8.

On the question for inserting "inhabitant," in place of "resident,"—agreed to, *nem. con.*

Mr. ELLSWORTH and Col. MASON moved to insert "one year" for previous inhabitancy.

Mr. WILLIAMSON liked the Report as it stood. He thought resident a good enough term. He was

against requiring any period of previous residence. New residents, if elected, will be most zealous to conform to the will of their constituents, as their conduct will be watched with a more jealous eye.

Mr. BUTLER and Mr. RUTLEDGE moved "three years," instead of "one year," for previous inhabitancy.

On the question for "three years,"—

South Carolina, Georgia, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—9.

On the question for "one year,"—

New Jersey, North Carolina, South Carolina, Georgia, aye—4; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, no—6; Maryland, divided.

Article 4, Sect. 2, as amended in manner preceding, was agreed to, *nem. con.*[295]

Article 4, Sect. 3, was then taken up.

General PINCKNEY and Mr. PINCKNEY moved that the number of Representatives allotted to South Carolina be "six."

On the question,—

Delaware, North Carolina, South Carolina, Georgia, aye—4; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, no—7.

The third section of Article 4, was then agreed to.

Article 4, Sect. 4, was then taken up.

Mr. WILLIAMSON moved to strike out, "according to the provisions hereinafter made," and to insert

the words "according to the rule hereafter to be provided for direct taxation."—See Art. 7, Sect. 3.

On the question for agreeing to Mr. WILLIAMSON's amendment,—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; New Jersey, Delaware, no—2.

Mr. KING wished to know what influence the vote just passed was meant to have on the succeeding part of the Report, concerning the admission of slaves into the rule of representation. He could not reconcile his mind to the Article, if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, and he believed would be so to a great part of the people of America. He had not made a strenuous opposition to it heretofore, because he had hoped that this concession would have produced a readiness, which had not been manifested, to strengthen the General Government, and to mark a full confidence in it. The Report under consideration had, by the tenor of it, put an end to all those hopes. In two great points the hands of the Legislature were absolutely tied. The importation of slaves could not be prohibited. Exports could not be taxed. Is this reasonable? What are the great objects of the general system? First, defence against foreign invasion; secondly, against internal sedition. Shall all the States, then, be bound to defend each, and shall each be at liberty to introduce a weakness which will render defence more difficult? Shall one part of the United States be bound to defend an-

other part, and that other part be at liberty, not only to increase its own danger, but to withhold the compensation for the burden? If slaves are to be imported, shall not the exports produced by their labor supply a revenue the better to enable the General Government to defend their masters? There was so much inequality and unreasonableness in all this, that the people of the Northern States could never be reconciled to it. No candid man could undertake to justify it to them. He had hoped that some accommodation would have taken place on this subject; that at least a time would have been limited for the importation of slaves. He never could agree to let them be imported without limitation, and then be represented in the National Legislature. Indeed, he could so little persuade himself of the rectitude of such a practice, that he was not sure he could assent to it under any circumstances. At all events, either slaves should not be represented, or exports should be taxable.

Mr. SHERMAN regarded the slave trade as iniquitous; but the point of representation having been settled after much difficulty and deliberation, he did not think himself bound to make opposition; especially as the present Article, as amended, did not preclude any arrangement whatever on that point, in another place of the Report.

Mr. MADISON objected to one for every forty thousand inhabitants as a perpetual rule. The future increase of population, if the Union should be permanent, will render the number of Representatives excessive.

Mr. GORHAM. It is not to be supposed that the

Government will last so long as to produce this effect. Can it be supposed that this vast country, including the western territory, will, one hundred and fifty years hence, remain one nation?

Mr. ELLSWORTH. If the Government should continue so long, alterations may be made in the Constitution in the manner proposed in a subsequent article.

Mr. SHERMAN and Mr. MADISON moved to insert the words, "not exceeding," before the words, "one for every forty thousand;" which was agreed to, *nem. con.*

Mr. GOUVERNEUR MORRIS moved to insert "free" before the word "inhabitants." Much, he said, would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of Heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and the other States having slaves. Travel through the whole continent, and you behold the prospect continually varying with the appearance and disappearance of slavery. The moment you leave the Eastern States, and enter New York, the effects of the institution become visible. Passing through the Jerseys and entering Pennsylvania, every criterion of superior improvement witnesses the change. Proceed southwardly, and every step you take, through the great regions of slaves, presents a desert increasing with the increasing proportion of these wretched

beings. Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them citizens, and let them vote. Are they property? Why, then, is no other property included? The houses in this city (Philadelphia) are worth more than all the wretched slaves who cover the rice swamps of South Carolina. The admission of slaves into the representation, when fairly explained, comes to this, that the inhabitant of Georgia and South Carolina who goes to the coast of Africa, and, in defiance of the most sacred laws of humanity, tears away his fellow creatures from their dearest connections, and damns them to the most cruel bondage, shall have more votes in a government instituted for protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey, who views with a laudable horror so nefarious a practice. He would add, that domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of aristocracy. And what is the proposed compensation to the Northern States, for a sacrifice of every principle of right, of every impulse of humanity? They are to bind themselves to march their militia for the defence of the Southern States, for their defence against those very slaves of whom they complain. They must supply vessels and seamen, in case of foreign attack. The Legislature will have indefinite power to tax them by excises, and duties on imports; both of which will fall heavier on them than on the Southern inhabitants; for the Bohea tea used by a Northern

freeman will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag that covers his nakedness. On the other side, the Southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay, they are to be encouraged to it, by an assurance of having their votes in the National Government increased in proportion; and are, at the same time, to have their exports and their slaves exempt from all contributions for the public service. Let it not be said, that direct taxation is to be proportioned to representation. It is idle to suppose that the General Government can stretch its hand directly into the pockets of the people, scattered over so vast a country. They can only do it through the medium of exports, imports and excises. For what, then, are all the sacrifices to be made? He would sooner submit himself to a tax for paying for all the negroes in the United States, than saddle posterity with such a Constitution.

Mr. DAYTON seconded the motion. He did it, he said, that his sentiments on the subject might appear, whatever might be the fate of the amendment.

Mr. SHERMAN did not regard the admission of the negroes into the ratio of representation, as liable to such insuperable objections. It was the freemen of the Southern States who were, in fact, to be represented according to the taxes paid by them, and the negroes are only included in the estimate of the taxes. This was his idea of the matter.

Mr. PINCKNEY considered the fisheries, and the

Western frontier, as more burthensome to the United States than the slaves. He thought this could be demonstrated, if the occasion were a proper one.

Mr. WILSON thought the motion premature. An agreement to the clause would be no bar to the object of it.

On the question, on the motion to insert "free" before "inhabitants,"—New Jersey, aye—1; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.

On the suggestion of Mr. DICKINSON, the words, "provided that each State shall have one representative at least," were added, *nem. con.*

Article 4, Sect. 4, as amended, was agreed to, *nem. con.*[296]

Article 4, Sect. 5, was then taken up.

Mr. PINCKNEY moved to strike out Sect. 5, as giving no peculiar advantage to the House of Representatives, and as clogging the Government. If the Senate can be trusted with the many great powers proposed, it surely may be trusted with that of originating money bills.

Mr. GORHAM was against allowing the Senate to *originate*, but was for allowing it only to *amend*.

Mr. GOUVERNEUR MORRIS. It is particularly proper that the Senate should have the right of originating money bills. They will sit constantly, will consist of a smaller number, and will be able to prepare such bills with due correctness; and so as to prevent delay of business in the other House.

Col. MASON was unwilling to travel over this

ground again. To strike out the section, was to unhinge the compromise of which it made a part. The duration of the Senate made it improper. He does not object to that duration. On the contrary, he approved of it. But joined with the smallness of the number, it was an argument against adding this to the other great powers vested in that body. His idea of an aristocracy was, that it was the government of the few over the many. An aristocratic body, like the screw in mechanics, working its way by slow degrees, and holding fast whatever it gains, should ever be suspected of an encroaching tendency. The purse-strings should never be put into its hands.

Mr. MERCER considered the exclusive power of originating money bills as so great an advantage, that it rendered the equality of votes in the Senate ideal and of no consequence.

Mr. BUTLER was for adhering to the principle which had been settled.

Mr. WILSON was opposed to it on its merits, without regard to the compromise.

Mr. ELLSWORTH did not think the clause of any consequence; but as it was thought of consequence by some members from the larger States, he was willing it should stand.

Mr. MADISON was for striking it out; considering it as of no advantage to the large States, as fettering the Government, and as a source of injurious altercations between the two Houses.

On the question for striking out "Article 4, Sect. 5,"—New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, aye—7;

New Hampshire, Massachusetts, Connecticut, North Carolina, no—4.[207]

Adjourned.

THURSDAY, AUGUST 9TH.

In Convention,—Article 4, Sect. 6, was taken up.

Mr. RANDOLPH expressed his dissatisfation at the disagreement yesterday to Sect. 5, concerning money bills, as endangering the success of the plan, and extremely objectionable in itself; and gave notice that he should move for a reconsideration of the vote.

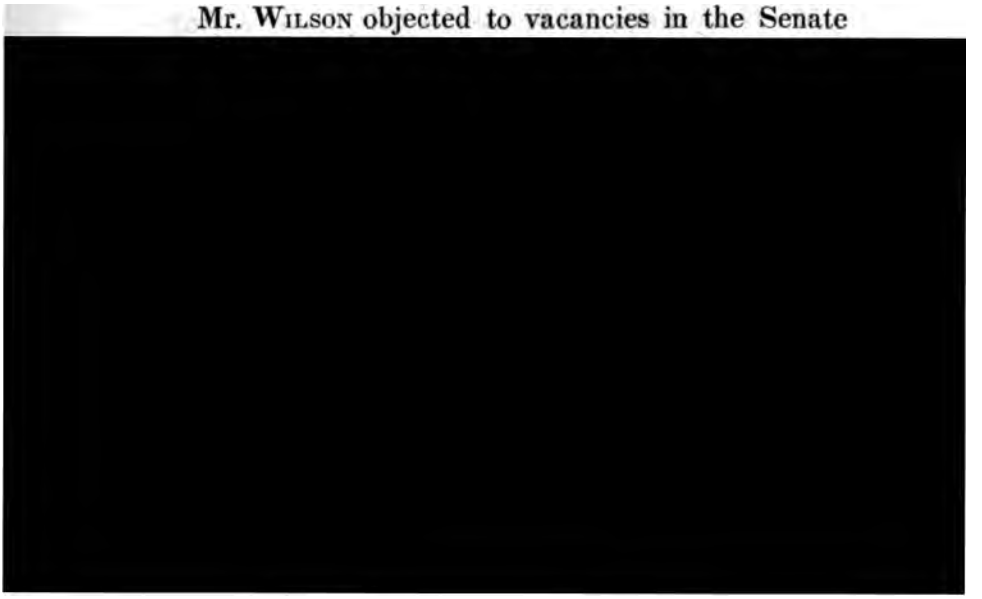
Mr. WILLIAMSON said he had formed a like intention.

Mr. WILSON gave notice that he should move to reconsider the vote requiring seven instead of three years of citizenship, as a qualification of candidates for the House of Representatives.

Article 4, Sections 6 and 7, were agreed to, *nem. con.*

Article 5, Sect. 1, was then taken up.

Mr. WILSON objected to vacancies in the Senate



prevent inconvenient chasms in the Senate. In some States the Legislatures meet but once a year. As the Senate will have more power and consist of a smaller number than the other House, vacancies there will be of more consequence. The Executives might be safely trusted, he thought, with the appointment for so short a time.

Mr. ELLSWORTH. It is only said that the Executive *may* supply vacancies. When the Legislative meeting happens to be near, the power will not be exerted. As there will be but two members from a State, vacancies may be of great moment.

Mr. WILLIAMSON. Senators may resign or not accept. This provision is therefore absolutely necessary.

On the question for striking out, "vacancies shall be supplied by the Executives,"—Pennsylvania, aye —1; New Hampshire, Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, no—8; Maryland, divided.

Mr. WILLIAMSON moved to insert, after "vacancies shall be supplied by the Executives," the words, "unless other provision shall be made by the Legislature" (of the State).

Mr. ELLSWORTH. He was willing to trust the Legislature, or the Executive of a State, but not to give the former a discretion to refer appointments for the Senate to whom they pleased.

On the question on Mr. Williamson's motion,—Maryland, North Carolina, South Carolina, Georgia, aye, 4; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, no—6.

Mr. MADISON, in order to prevent doubts whether

resignations could be made by Senators, or whether they could refuse to accept, moved to strike out the the words after "vacancies," and insert the words, "happening by refusals to accept, resignations, or otherwise, may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the Executive thereof until the next meeting of the Legislature."

Mr. GOUVERNEUR MORRIS. This is absolutely necessary; otherwise, as members chosen into the Senate are disqualified from being appointed to any office by Sect. 9, of this Article, it will be in the power of a Legislature, by appointing a man a Senator against his consent, to deprive the United States of his services.

The motion of Mr. MADISON was agreed to, *nem. con.*

Mr. RANDOLPH called for a division of the Section, so as to leave a distinct question on the last words, "each member shall have one vote." He wished this last sentence to be postponed until the reconsideration should have taken place on Article 4, Sect. 5, concerning money bills. If that section should not be re-instated, his plan would be to vary the representation in the Senate.

Mr. STRONG concurred in Mr. RANDOLPH'S ideas on this point.

Mr. READ did not consider the section as to money-bills of any advantage to the larger States, and had voted for striking it out as being viewed in the same light by the larger States. If it was considered by them as of any value, and as a condition of the equality of votes in the Senate, he had no objection to its being re-instated.

Mr. WILSON, Mr. ELLSWORTH, and Mr. MADISON, urged, that it was of no advantage to the larger States; and that it might be a dangerous source of contention between the two Houses. All the principal powers of the National Legislature had some relation to money.

Doctor FRANKLIN considered the two clauses, the originating of money bills, and the equality of votes in the Senate, as essentially connected by the compromise which had been agreed to.

Colonel MASON said this was not the time for discussing this point. When the originating of money bills shall be reconsidered, he thought it could be demonstrated, that it was of essential importance to restrain the right to the House of Representatives, the immediate choice of the people.

Mr. WILLIAMSON. The State of North Carolina had agreed to an equality in the Senate, merely in consideration that money bills should be confined to the other House: and he was surprised to see the smaller States forsaking the condition on which they had received their equality.

On the question on the first section, down to the last sentence,—New Hampshire, Connecticut, New Jersey, Delaware, Maryland, Virginia, Georgia, aye—7; Massachusetts, Pennsylvania,* North Carolina, no—3; South Carolina, divided.

Mr. RANDOLPH moved that the last sentence "each member shall have one vote," be postponed.

It was observed that this could not be necessary; as in case the sanction as to originating money bills

* In the printed Journal, Pennsylvania, aye.

should not be reinstated, and a revision of the Constitution should ensue, it would still be proper that the members should vote *per capita*. A postponement of the preceding sentence, allowing to each State two members, would have been more proper.

Mr. MASON did not mean to propose a change of this mode of voting *per capita*, in any event. But as there might be other modes proposed, he saw no impropriety in postponing the sentence. Each State may have two members, and yet may have unequal votes. He said that unless the exclusive right of originating money bills should be restored to the House of Representatives, he should—not from obstinacy, but duty and conscience–oppose throughout the equality of representation in the Senate.

Mr. GOUVERNEUR MORRIS. Such declarations were he supposed, addressed to the smaller States, in order to alarm them for their equality in the Senate, and induce them, against their judgments, to concur in restoring the section concerning money bills. He would declare in his turn, that as he saw no prospect of amending the Constitution of the Senate, and considered the section relating to money bills as intrinsically bad, he would adhere to the section establishing the equality, at all events.

Mr. WILSON. It seems to have been supposed by some that the section concerning money bills is desirable to the large States. The fact was, that two of those States (Pennsylvania and Virginia) had uniformly voted against it, without reference to any other part of the system.

Mr. RANDOLPH urged, as Col. MASON had done, that the sentence under consideration was connected

with that relating to money bills, and might possibly be affected by the result of the motion for reconsidering the latter. That the postponement was therefore not improper.

On the question for postponing, "each member shall have one vote,"—

Virginia, North Carolina, aye—2; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, no—8; New Hampshire, divided.

The words were then agreed to as part of the section.

Mr. RANDOLPH then gave notice that he should move to reconsider this whole Article 5, Sect. 1, as connected with the Article 4, Sect. 5, as to which he had already given such notice.

Article 5, Sect. 2, was then taken up.

Mr. GOUVERNEUR MORRIS moved to insert, after the words, "immediately after," the following: "they shall be assembled in consequence of;" which was agreed to, *nem. con.*, as was then the whole section.

Article 5, Sect. 3, was then taken up.

Mr. GOUVERNEUR MORRIS moved to insert fourteen instead of four years citizenship, as a qualification for Senators; urging the danger of admitting strangers into our public councils.

Mr. PINCKNEY seconded him.

Mr. ELLSWORTH was opposed to the motion, as discouraging meritorious aliens from emigrating to this country.

Mr. PINCKNEY. As the Senate is to have the power of making treaties and managing our foreign affairs, there is peculiar danger and impropriety in

opening its door to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject, who made it death for any stranger to intrude his voice into their legislative proceedings.

Col. MASON highly approved of the policy of the motion. Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate, to natives.

Mr. MADISON was not averse to some restrictions on this subject, but could never agree to the proposed amendment. He thought any restriction, however, in the *Constitution* unnecessary and improper;—unnecessary, because the National Legislature is to have the right of regulating naturalization, and can by virtue thereof fix different periods of residence, as conditions of enjoying different privileges of citizenship;—improper, because it will give a tincture of illiberality to the Constitution; because it will put it out of the power of the national Legislature, even by special acts of naturalization, to confer the full rank of citizens on meritorious strangers; and because it will discourage the most desirable class of people from emigrating to the United States. Should the proposed Constitution have the intended effect of giving stability and reputation to our Governments, great numbers of respectable Europeans, men who loved liberty, and wish to partake its blessings, will be ready to transfer their fortunes hither. All such would feel the mortification of being marked with suspicious incapacitations, though they should not covet the public honors. He was not apprehensive that any dangerous number

of strangers would be appointed by the State Legislatures, if they were left at liberty to do so: nor that foreign powers would make use of strangers, as instruments for their purposes. Their bribes would be expended on men whose circumstances would rather stifle, than excite jealousy and watchfulness in the public.

Mr. BUTLER was decidedly opposed to the admission of foreigners without a long residence in the country. They bring with them, not only attachments to other countries, but ideas of government so distinct from ours, that in every point of view they are dangerous. He acknowledged that if he himself had been called into public life within a short time after his coming to America, his foreign habits, opinions, and attachments, would have rendered him an improper agent in public affairs. He mentioned the great strictness observed in Great Britain on this subject.

Doctor FRANKLIN was not against a reasonable time, but should be very sorry to see any thing like illiberality inserted in the Constitution. The people in Europe are friendly to this country. Even in the country with which we have been lately at war, we have now, and had during the war, a great many friends, not only among the people at large, but in both Houses of Parliament. In every other country in Europe, all the people are our friends. We found in the course of the Revolution, that many strangers served us faithfully, and that many natives took part against their country. When foreigners after looking about for some other country in which they can obtain more happiness, give a preference to ours, it

is a proof of attachment which ought to excite our confidence and affection.

Mr. RANDOLPH did not know but it might be problematical whether emigrations to this country were on the whole useful or not: but he could never agree to the motion for disabling them, for fourteen years, to participate in the public honors. He reminded the Convention of the language held by our patriots during the Revolution, and the principles laid down in all our American Constitutions. Many foreigners may have fixed their fortunes among us, under the faith of these invitations. All persons under this description, with all others who would be affected by such a regulation, would enlist themselves under the banners of hostility to the proposed system. He would go as far as seven years, but no further.

Mr. WILSON said he rose with feelings which were perhaps peculiar; mentioning the circumstance of his not being a native, and the possibility, if the ideas of some gentlemen should be pursued, of his being incapacitated from holding a place under the very Constitution which he had shared in the trust of making. He remarked the illiberal complexion which the motion would give to the system, and the effect which a good system would have in inviting meritorious foreigners among us, and the discouragement and mortification they must feel from the degrading discrimination now proposed. He had himself experienced this mortification. On his removal into Maryland, he found himself, from defect of residence, under certain legal incapacities which never ceased to produce chagrin, though he assuredly did not desire, and would not have accepted, the

offices to which they related. To be appointed to a place may be matter of indifference. To be incapable of being appointed, is a circumstance grating and mortifying.

Mr. GOUVERNEUR MORRIS. The lesson we are taught is, that we should be governed as much by our reason, and as little by our feelings, as possible. What is the language of reason on this subject? That we should not be polite at the expense of prudence. There was a moderation in all things. It is said that some tribes of Indians carried their hospitality so far as to offer to strangers their wives and daughters. Was this a proper model for us? He would admit them to his house, he would invite them to his table, would provide for them comfortable lodgings, but would not carry the complaisance so far as to bed them with his wife. He would let them worship at the same altar, but did not choose to make priests of them. He ran over the privileges which emigrants would enjoy among us, though they should be deprived of that of being eligible to the great offices of government; observing that they exceeded the privileges allowed to foreigners in any part of the world; and that as every society, from a great nation down to a club, had the right of declaring the conditions on which new members should be admitted, there could be no room for complaint. As to those philosophical gentlemen, those citizens of the world, as they called themselves, he owned, he did not wish to see any of them in our public councils. He would not trust them. The men who can shake off their attachments to their own country, can never love any other. These attachments

are the wholesome prejudices which uphold all governments. Admit a Frenchman into your Senate, and he will study to increase the commerce of France: an Englishman and he will feel an equal bias in favor of that of England. It has been said, that the Legislatures will not choose foreigners, at least improper ones. There was no knowing what Legislatures would do. Some appointments made by them proved that every thing ought to be apprehended from the cabals practised on such occasions. He mentioned the case of a foreigner who left this State in disgrace, and worked himself into an appointment from another to Congress.

On the question, on the motion of Mr. GOUVERNEUR MORRIS, to insert fourteen in place of four years,—

New Hampshire, New Jersey, South Carolina, Georgia, aye—4; Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—7.

On the question for thirteen years, moved by Mr. GOUVERNEUR MORRIS, it was negatived, as above.

On ten years, moved by General PINCKNEY, the votes were the same.

Doctor FRANKLIN reminded the Convention, that it did not follow, from an omission to insert the restriction in the Constitution, that the persons in question would be actually chosen into the Legislature.

Mr. RUTLEDGE. Seven years of citizenship have been required for the House of Representatives. Surely a longer time is requisite for the Senate which will have more power.

Mr. WILLIAMSON. It is more necessary to guard

the Senate in this case, than the other House. Bribery and cabal can be more easily practised in the choice of the Senate which is to be made by the Legislatures composed of a few men, than of the House of Representatives who will be chosen by the people.

Mr. RANDOLPH will agree to nine years, with the expectation that it will be reduced to seven, if Mr. WILSON's motion to reconsider the vote fixing seven years for the House of Representatives should produce a reduction of that period.

On the question for nine years,—

New Hampshire, New Jersey, Delaware, Virginia, South Carolina, Georgia, aye—6; Massachusetts, Connecticut, Pennsylvania, Maryland, no—4; North Carolina, divided.

The term "resident" was struck out, and "inhabitant" inserted, *nem. con.*

Article 5, Sect. 3, as amended, was then agreed to, *nem. con.*[293]

Article 5, Sect. 4, was agreed to, *nem. con.*

Article 6, Sect. 1, was then taken up.

Mr. MADISON and Mr. GOUVERNEUR MORRIS moved to strike out, "each House," and to insert, "the House of Representatives;" the right of the Legislatures to regulate the times and places, &c., in the election of Senators, being involved in the right of appointing them; which was disagreed to.

A division of the question being called for, it was taken on the first part down to "but their provisions concerning," &c.

The first part was agreed to, *nem. con.*

Mr. PINCKNEY and Mr. RUTLEDGE moved to strike

out the remaining part, viz., "but their provisions concerning them may at any time be altered by the Legislature of the United States." The States, they contended, could and must be relied on in such cases.

Mr. GORHAM. It would be as improper to take this power from the National Legislature, as to restrain the British Parliament from regulating the circumstances of elections, leaving this business to the counties themselves.

Mr. MADISON. The necessity of a General Government supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people, and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner, of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot, or *viva voce;* should assemble at this place or that place; should be divided into districts, or all meet at one place; should all vote for all the Representatives, or all in a district vote for a number allotted to the district,—these and many other points would depend on the Legislatures, and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry, they would

take care so to mould their regulations as to favor the candidates they wished to succeed. Besides, the inequality of the representation in the Legislatures of particular States would produce a like inequality in their representation in the National Legislature, as it was presumable that the counties having the power in the former case, would secure it to themselves in the latter. What danger could there be in giving a controlling power to the National Legislature? Of whom was it to consist? First, of a Senate to be chosen by the State Legislatures. If the latter, therefore could be trusted, their representatives could not be dangerous. Secondly, of Representatives elected by the same people who elect the State Legislatures. Surely, then, if confidence is due to the latter, it must be due to the former. It seemed as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the representatives of the people in the General Legislature, as it would be to give to the latter a like power over the election of their representatives in the State Legislature.

Mr. KING. If this power be not given to the National Legislature, their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. Although this scheme of erecting the General Government on the authority of the State Legislatures has been fatal to the Federal establishment, it would seem as if many gentlemen still foster the dangerous idea.

Mr. GOUVERNEUR MORRIS observed, that the States

might make false returns, and then make no provisions for new elections.

Mr. SHERMAN did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

The motion of Mr. PINCKNEY and Mr. RUTLEDGE did not prevail.

The word "respectively" was inserted after the word "State."

On the motion of Mr. READ, the word "their" was struck out, and "regulations in such cases," inserted in place of "provisions concerning them,"—the clause then reading: "but regulations, in each of the foregoing cases, may, at any time, be made or altered by the Legislature of the United States." This was meant to give the national Legislature a power not only to alter the provisions of the States, but to make regulations, in case the States should fail or refuse altogether. Article 6, Sect. 1, as thus amended, was agreed to, *nem. con.*[300]

Adjourned.

meet without any particular qualifications of property; and if it should happen to consist of rich men they might fix such qualifications as may be too favorable to the rich; if of poor men, an opposite extreme might be run into. He was opposed to the establishment of an undue aristocratic influence in the Constitution, but he thought it essential that the members of the Legislature, the Executive, and the Judges, should be possessed of competent property to make them independent and respectable. It was prudent, when such great powers were to be trusted, to connect the tie of property with that of reputation in securing a faithful administration. The Legislature would have the fate of the nation put into their hands. The president would also have a very great influence on it. The Judges would not only have important causes between citizen and citizen, but also where foreigners are concerned. They will even be the umpires between the United States, and individual States; as well as between one State and another. Were he to fix the quantum of property which should be required, he should not think of less than one hundred thousand dollars for the President, half of that sum for each of the Judges, and in like proportion for the members of the National Legislature. He would, however, leave the sums blank. His motion was, that the President of the United States, the Judges, and members of the Legislature, should be required to swear that they were respectively possessed of a clear unincumbered estate, to the amount of ——— in the case of the President, &c., &c.

Mr. RUTLEDGE seconded the motion; observing,

that the Committee had reported no qualifications, because they could not agree on any among themselves, being embarrassed by the danger, on one side of displeasing the people, by making them high, and, on the other, of rendering them nugatory, by making them low.

Mr. ELLSWORTH. The different circumstances of different parts of the United States, and the probable difference between the present and future circumstances of the whole, render it improper to have either *uniform* or *fixed* qualifications. Make them so high as to be useful in the Southern States, and they will be inapplicable to the Eastern States. Suit them to the latter, and they will serve no purpose, in the former. In like manner, what may be accommodated to the existing state of things among us, may be very inconvenient in some future state of them. He thought for these reasons, that it was better to leave this matter to the Legislative discretion, than to attempt a provision for it in the Constitution.

Doctor FRANKLIN expressed his dislike to every thing that tended to debase the spirit of the common people. If honesty was often the companion of wealth, and if poverty was exposed to peculiar temptation, it was not less true that the possession of property increased the desire of more property. Some of the greatest rogues he was ever acquainted with were the richest rogues. We should remember the character which the Scripture requires in rulers, that they should be men hating covetousness. This Constitution will be much read and attended to in Europe; and if it should betray a great partiality to

the rich, will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this country.

The motion of Mr. PINCKNEY was rejected by so general a *no*, that the States were not called.

Mr. MADISON was opposed to the section, as vesting an improper and dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a republican government, and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy, as well by limiting the number capable of being elected, as the number authorized to elect. In all cases where the representatives of the people will have a personal interest distinct from that of their constituents, there was the same reason for being jealous of them, as there was for relying on them with full confidence, when they had a common interest. This was one of the former cases. It was as improper as to allow them to fix their own wages, or their own privileges. It was a power, also, which might be made subservient to the views of one faction against another. Qualifications founded on artificial distinctions may be devised by the stronger in order to keep out partizans of a weaker faction.

Mr. ELLSWORTH admitted that the power was not unexceptionable; but he could not view it as dangerous. Such a power with regard to the electors would be dangerous, because it would be much more liable to abuse.

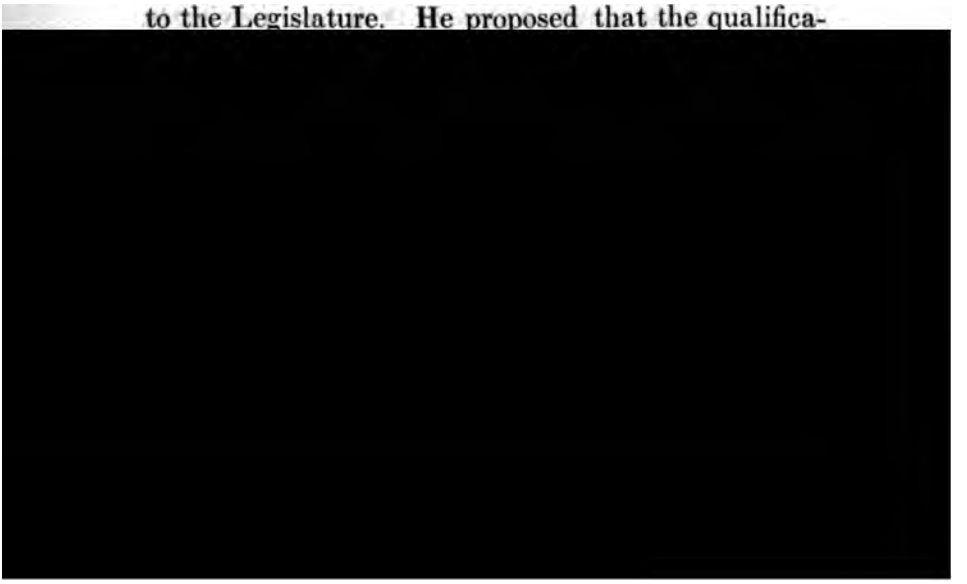
Mr. GOUVERNEUR MORRIS moved to strike out, "with regard to property," in order to leave the Legislature entirely at large.

Mr. WILLIAMSON. This would surely never be admitted. Should a majority of the Legislature be composed of any particular description of men, of lawyers for example, which is no improbable supposition, the future elections might be secured to their own body.

Mr. MADISON observed that the British Parliament possessed the power of regulating the qualifications, both of the electors and the elected; and the abuse they had made of it was a lesson worthy of our attention. They had made the changes, in both cases, subservient to their own views, or to the views of political or religious parties.

On the question on the motion to strike out, "with regard to property,"—Connecticut, New Jersey, Pennsylvania, Georgia, aye—4; New Hampshire, Massachusetts, Delaware,* Maryland, Virginia, North Carolina, South Carolina, no—7.

Mr. RUTLEDGE was opposed to leaving the power to the Legislature. He proposed that the qualifica-



—New Hampshire, Massachusetts, Georgia, aye—3; Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, no—7.[300]

On motion of Mr. WILSON to reconsider Article 4, Sect. 2, so as to restore "three," in place of "seven," years of citizenship, as a qualification for being elected into the House of Representatives,—Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—6; New Hampshire, Massachusetts, New Jersey, South Carolina, Georgia, no—5.

Monday next was then assigned for the reconsideration; all the States being aye, except Massachusetts and Georgia.

Article 6, Sect. 3, was then taken up.

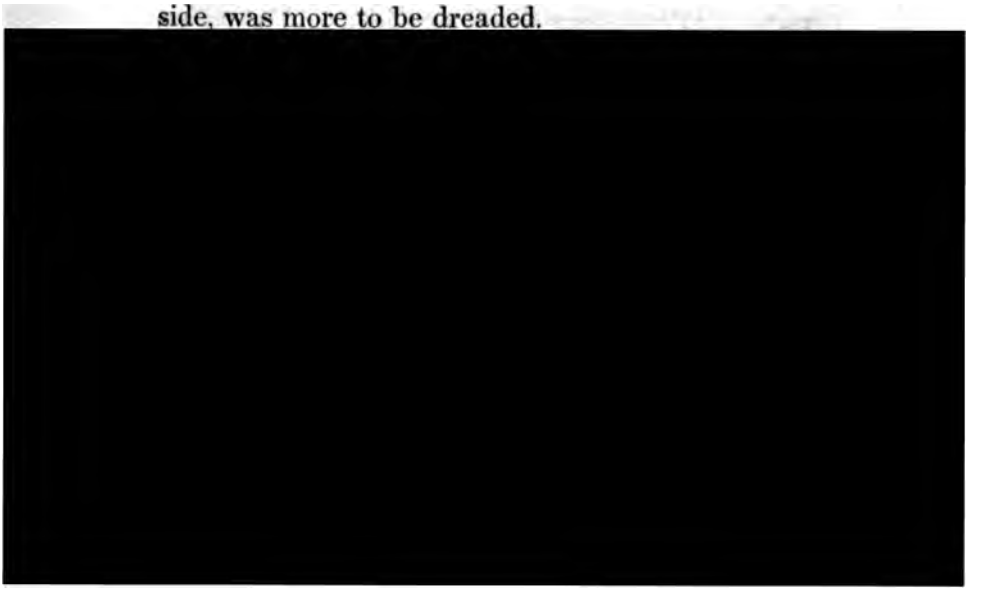
Mr. GORHAM contended that less than a majority in each House should be made a quorum; otherwise great delay might happen in business, and great inconvenience from the future increase of numbers.

Mr. MERCER was also for less than a majority. So great a number will put it in the power of a few, by seceding at a critical moment, to introduce convulsions, and endanger the Government. Examples of secession have already happened in some of the States. He was for leaving it to the Legislature to fix the quorum, as in Great Britain, where the requisite number is small and no inconvenience has been experienced.

Col. MASON. This is a valuable and necessary part of the plan. In this extended country, embracing so great a diversity of interests, it would be dangerous to the distant parts, to allow a small number of members of the two Houses to make

laws. The central States could always take care to be on the spot; and by meeting earlier than the distant ones, or wearying their patience, and outstaying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number; but he had also known good produced by an apprehension of it. He had known a paper emission prevented by that cause in Virginia. He thought the Constitution, as now moulded, was founded on sound principles, and was disposed to put into it extensive powers. At the same time, he wished to guard against abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it pleased, and the United States might be governed by a junto. A majority of the number which had been agreed on, was so few that he feared it would be made an objection against the plan.

Mr. KING admitted there might be some danger of giving an advantage to the central States; but was of opinion that the public inconvenience, on the other side, was more to be dreaded.



fatal. Besides other mischiefs, if a few can break up a quorum, they may seize a moment when a particular part of the continent may be in need of immediate aid, to extort, by threatening a secession, some unjust and selfish measure.

Mr. MERCER seconded the motion.

Mr. KING said he had just prepared a motion which, instead of fixing the numbers proposed by Mr. GOUVERNEUR MORRIS as quorums, made those the lowest numbers, leaving the Legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

Mr. MERCER agreed to substitute Mr. KING's motion in place of Mr. MORRIS's.

Mr. ELLSWORTH was opposed to it. It would be a pleasing ground of confidence to the people, that no law or burthen could be imposed on them by a few men. He reminded the movers that the Constitution proposed to give such a discretion, with regard to the number of Representatives, that a very inconvenient number was not to be apprehended. The inconvenience of secessions may be guarded against, by giving to each House an authority to require the attendance of absent members.

Mr. WILSON concurred in the sentiments of Mr. ELLSWORTH.

Mr. GERRY seemed to think that some further precautions, than merely fixing the quorum, might be necessary. He observed, that as seventeen would be a majority of a quorum of thirty-three, and eight of fourteen, questions might by possibility be carried in the House of Representatives by two large States, and

in the Senate by the same States with the aid of two small ones. He proposed that the number for a quorum in the House of Representatives, should not exceed fifty, nor be less than thirty-three; leaving the intermediate discretion to the Legislature.

Mr. KING. As the quorum could not be altered, without the concurrence of the President, by less than two-thirds of each House, he thought there could be no danger in trusting the Legislature.

Mr. CARROLL. This would be no security against the continuance of the quorums at thirty-three, and fourteen, when they ought to be increased.

On the question of Mr. KING's motion, that not less than thirty-three in the House of Representatives, nor less than fourteen in the Senate should constitute a quorum, which may be increased by a law, on additions to the members in either House,—

Massachusetts, Delaware, aye—2; New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—9.

Mr. RANDOLPH and Mr. MADISON moved to add to the end of Article 6, Sect. 3, "and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide." Agreed to by all except Pennsylvania, which was divided.

Article 6, Sect. 3, was agreed to as amended *nem. con.*[301]

Sections 4 and 5, of Article 6, were then agreed to, *nem. con.*

Mr. MADISON observed that the right of expulsion (Article 6, Sect. 6,) was too important to be exer-

cised by a bare majority of a quorum; and, in emergencies of faction, might be dangerously abused. He moved that, "with the concurrence of two-thirds," might be inserted between "may" and "expel."

Mr. RANDOLPH and Mr. MASON approved the idea.

Mr. GOUVERNEUR MORRIS. This power may be safely trusted to a majority. To require more may produce abuses on the side of the minority. A few men, from factious motives, may keep in a member who ought to be expelled.

Mr. CARROLL thought that the concurrence of two-thirds, at least, ought to be required.

On the question requiring two-thirds, in cases of expelling a member,—ten States were in the affirmative; Pennsylvania, divided.

Article 6, Sect. 6, as thus amended, was then agreed to, *nem. con.*[302]

Article 6, Sect. 7, was then taken up.

Mr. GOUVERNEUR MORRIS urged, that if the Yeas and Nays were proper at all, any individual ought to be authorized to call for them; and moved an amendment to that effect. The small States may otherwise be under a disadvantage, and find it difficult to get a concurrence of one-fifth.

Mr. RANDOLPH seconded the motion.

Mr. SHERMAN had rather strike out the Yeas and Nays altogether. They have never done any good, and have done much mischief. They are not proper, as the reasons governing the voter never appear along with them.

Mr. ELLSWORTH was of the same opinion.

Colonel MASON liked the section as it stood. It was a middle way between two extremes.

Mr. GORHAM was opposed to the motion for allowing a single member to call the Yeas and Nays, and recited the abuses of it in Massachusetts; first, in stuffing the Journals with them on frivolous occasions; secondly, in misleading the people, who never know the reasons determining the votes.

The motion for allowing a single member to call the Yeas and Nays, was disagreed to, *nem. con.*

Mr. CARROLL and Mr. RANDOLPH moved to strike out the words, "each House," and to insert the words, "the House of Representatives," in Sect. 7, Article 6; and to add to the section the words, "and any member of the Senate shall be at liberty to enter his dissent."

Mr. GOUVERNEUR MORRIS and Mr. WILSON observed, that if the minority were to have a right to enter their votes and reasons, the other side would have a right to complain if it were not extended to them: and to allow it to both, would fill the Journals, like the records of a court, with replications, rejoinders, &c.

On the question on Mr. CARROLL's motion, to allow a member to enter his dissent,—Maryland, Virginia, South Carolina, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, no—8.

Mr. GERRY moved to strike out the words, "when it shall be acting in its legislative capacity," in order to extend the provision to the Senate when exercising its peculiar authorities; and to insert, "except such parts thereof as in their judgment re-

quire secrecy," after the words "publish them."—(It was thought by others that provision should be made with respect to these, when that part came under consideration which proposed to vest those additional authorities in the Senate.)

On this question for striking out the words, "when acting in its legislative capacity,"—Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—7; Connecticut, New Jersey, Pennsylvania, no—3; New Hampshire, divided.

Adjourned.

SATURDAY, AUGUST 11TH.

In Convention,—Mr. MADISON and Mr. RUTLEDGE moved, "that each House shall keep a Journal of its proceedings, and shall publish the same from time to time; except such part of the proceedings of the Senate, when acting not in its legislative capacity, as may be judged by that House to require secrecy."

Mr. MERCER. This implies that other powers than legislative will be given to the Senate, which he hoped would not be given.

Mr. MADISON and Mr. RUTLEDGE's motion was disagreed to, by all the States except Virginia.

Mr. GERRY and Mr. SHERMAN moved to insert, after the words, "publish them," the following, "except such as relate to treaties and military operations." Their object was to give each House a discretion in such cases. On this question,—Massa-

chusetts, Connecticut, aye—2; New Hampshire, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, no—8.

Mr. ELLSWORTH. As the clause is objectionable in so many shapes, it may as well be struck out altogether. The Legislature will not fail to publish their proceedings from time to time. The people will call for it, if it should be improperly omitted.

Mr. WILSON thought the expunging of the clause would be very improper. The people have a right to know what their agents are doing or have done, and it should not be in the option of the Legislature to conceal their proceedings. Besides, as this is a clause in the existing Confederation, the not retaining it would furnish the adversaries of the reform with a pretext by which weak and suspicious minds may be easily misled.

Mr. MASON thought it would give a just alarm to the people, to make a conclave of their Legislature.

Mr. SHERMAN thought the Legislature might be trusted in this case, if in any.

On the question on the first part of the section, down to "*publish them*," inclusive,—it was agreed to, *nem. con.*

On the question on the words to follow, to wit, "except such parts thereof as may in their judgment require secrecy,"—Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, Georgia, aye—6; Pennsylvania, Delaware, Maryland, South Carolina, no—4; New Hampshire, divided.

The remaining part, as to Yeas and Nays, was agreed to, *nem. con.*

Article 6, Sect. 8, was then taken up.

Mr. KING remarked that the section authorized the two Houses to adjourn to a new place. He thought this inconvenient. The mutability of place had dishonored the Federal Government, and would require as strong a cure as we could devise. He thought a law at least should be made necessary to a removal of the seat of government.

Mr. MADISON viewed the subject in the same light, and joined with Mr. KING in a motion requiring a law.

Mr. GOUVERNEUR MORRIS proposed the additional alteration by inserting the words, "during the session, &c."

Mr. SPAIGHT. This will fix the seat of government at New York. The present Congress will convene them there in the first instance, and they will never be able to remove; especially if the President should be a Northern man.

Mr. GOUVERNEUR MORRIS. Such a distrust is inconsistent with all government.

Mr. MADISON supposed that a central place for the seat of government was so just, and would be so much insisted on by the House of Representatives, that though a law should be made requisite for the purpose, it could and would be obtained. The necessity of a central residence of the Government would be much greater under the new than old Government. The members of the new Government would be more numerous. They would be taken more from the interior parts of the States; they would not, like members of the present Congress, come so often from the distant States by water. As the powers and objects of the new Government

would be far greater than heretofore, more private individuals would have business calling them to the seat of it; and it was more necessary that the Government should be in that position from which it could contemplate with the most equal eye, and sympathize most equally with every part of the nation. These considerations, he supposed, would extort a removal, even if a law were made necessary. But in order to quiet suspicions, both within and without doors, it might not be amiss to authorize the two Houses, by a concurrent vote, to adjourn at their first meeting to the most proper place, and to require thereafter the sanction of a law to their removal.

The motion was accordingly moulded into the following form: "the Legislature shall at their first assembling determine on a place at which their future sessions shall be held; neither House shall afterwards, during the session of the House of Representatives, without the consent of the other, adjourn for more than three days; nor shall they adjourn to any other place than such as shall have been fixed by law."

Mr. GERRY thought it would be wrong to let the President check the will of the two Houses on this subject at all.

Mr. WILLIAMSON supported the ideas of Mr. SPAIGHT.

Mr. CARROLL was actuated by the same apprehensions.

Mr. MERCER. It will serve no purpose to require the two Houses at their first meeting to fix on a place. They will never agree.

After some further expressions from others deno-

ting an apprehension that the seat of government might be continued at an improper place, if a law should be made necessary to a removal, and after the motion above stated, with another for re-committing the section, had been negatived, the section was left in the shape in which it was reported, as to this point. The words, "during the session of the Legislature," were prefixed to the eighth section; and the last sentence, "but this regulation shall not extend to the Senate when it shall exercise the powers mentioned in the —— Article," struck out. The eighth section, as amended, was then agreed to.

Mr. RANDOLPH moved, according to notice, to reconsider Article 4, Sect. 5, concerning money bills, which had been struck out. He argued,—first, that he had not wished for this privilege, whilst a proportional representation in the Senate was in contemplation: but since an equality had been fixed in that House, the large States would require this compensation at least. Secondly, that it would make the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body, and will expect that the usual guards against its influence will be provided, according to the example of Great Britain. Thirdly, the privilege will give some advantage to the House of Representatives, if it extends to the originating only; but still more, if it restrains the Senate from amending. Fourthly, he called on the smaller States to concur in the measure, as the condition by which alone the compromise had entitled them to an equality in the Senate. He signified that he should propose, instead of the original section, a clause spe-

cifying that the bills in question should be for the purpose of revenue, in order to repel the objection against the extent of the words, "*raising money*," which might happen incidentally; and that the Senate should not so amend or alter as to increase or diminish the sum; in order to obviate the inconveniences urged against a restriction of the Senate to a simple affirmation or negative.

Mr. WILLIAMSON seconded the motion.

Mr. PINCKNEY was sorry to oppose the opportunity gentlemen asked to have the question again opened for discussion, but as he considered it a mere waste of time he could not bring himself to consent to it. He said that, notwithstanding what had been said as to the compromise, he always considered this section as making no part of it. The rule of representation in the first branch was the true condition of that in the second branch. Several others spoke for and against the reconsideration, but without going into the merits.

On the question, to reconsider,—

New Hampshire, Massachusetts, Connecticut, New Jersey,* Pennsylvania, Delaware, Virginia, North

MONDAY, AUGUST 13TH.

In Convention,—Article 4, Sect. 2, being reconsidered,—

Mr. WILSON and Mr. RANDOLPH moved to strike out "seven years," and insert "four years," as the requisite term of citizenship to qualify for the House of Representatives. Mr. WILSON said it was very proper the electors should govern themselves by this consideration; but unnecessary and improper that the Constitution should chain them down to it.

Mr. GERRY wished that in future the eligibility might be confined to natives. Foreign powers will intermeddle in our affairs, and spare no expense to influence them. Persons having foreign attachments will be sent among us and insinuated into our councils, in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services. He was not singular in these ideas. A great many of the most influential men in Massachusetts reasoned in the same manner.

Mr. WILLIAMSON moved to insert nine years instead of seven. He wished this country to acquire as fast as possible national habits. Wealthy emigrants do more harm by their luxurious examples, than good by the money they bring with them.

Colonel HAMILTON was in general against embarrassing the Government with minute restrictions. There was, on one side, the possible danger that had been suggested. On the other side, the advantage of encouraging foreigners was obvious and admitted. Persons in Europe of moderate fortunes will be fond

of coming here, where they will be on a level with the first citizens. He moved that the section be so altered as to require merely "citizenship and inhabitancy." The right of determining the rule of naturalization will then leave a discretion to the Legislature on this subject, which will answer every purpose.

Mr. MADISON seconded the motion. He wished to maintain the character of liberality which had been professed in all the Constitutions and publications of America. He wished to invite foreigners of merit and republican principles among us. America was indebted to emigration for her settlement and prosperity. That part of America which had encouraged them most, had advanced most rapidly in population, agriculture and the arts. There was a possible danger, he admitted, that men with foreign predilections might obtain appointments; but it was by no means probable that it would happen in any dangerous degree. For the same reason that they would be attached to their native country, our own people would prefer natives of this country to

the Atlantic; yet it was at least among the foremost in population and prosperity. He remarked that almost all the general officers of the Pennsylvania line of the late army were foreigners; and no complaint had ever been made against their fidelity or merit. Three of her Deputies to the Convention (Mr. R. MORRIS, Mr. FITZSIMONS, and himself) were also not natives. He had no objection to Colonel HAMILTON'S motion, and would withdraw the one made by himself.

Mr. BUTLER was strenuous against admitting foreigners into our public councils.

On the question on Colonel HAMILTON'S motion,—

Connecticut, Pennsylvania, Maryland, Virginia, aye—4; New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia, no—7.

On the question on Mr. WILLIAMSON'S motion, to insert "nine years," instead of "seven,"—

New Hampshire, South Carolina, Georgia, aye—3; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—8.

Mr. WILSON renewed the motion for four years instead of seven; and on the question,—

Connecticut, Maryland, Virginia, aye—3; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, no—8.

Mr. GOUVERNEUR MORRIS moved to add to the end of the section (Article 4, Sect. 2,) a proviso that the limitation of seven years should not affect the rights of any person now a citizen.

Mr. MERCER seconded the motion. It was necessary, he said, to prevent a disfranchisement of persons who had become citizens, under the faith and according to the laws and Constitution, from their actual level in all respects with natives.

Mr. RUTLEDGE. It might as well be said that all qualifications are disfranchisements, and that to require the age of twenty-five years was a disfranchisement. The policy of the precaution was as great with regard to foreigners now citizens, as to those who are to be naturalized in future.

Mr. SHERMAN. The United States have not invited foreigners, nor pledged their faith that they should enjoy equal privileges with native citizens. The individual States alone have done this. The former therefore are at liberty to make any discriminations they may judge requisite.

Mr. GORHAM. When foreigners are naturalized, it would seem as if they stand on an equal footing with natives. He doubted, then, the propriety of giving a retrospective force to the restriction.

Mr. MADISON animadverted on the peculiarity of the doctrine of Mr. SHERMAN. It was a subtilty by

be made worse than the other class? Are not the States the agents? Will they not be the members of it? Did they not appoint this Convention? Are not they to ratify its proceedings? Will not the new Constitution be their act? If the new Constitution, then, violates the faith pledged to any description of people, will not the makers of it, will not the States, be the violaters? To justify the doctrine, it must be said that the States can get rid of the obligation by revising the Constitution, though they could not do it by repealing the law under which foreigners held their privileges. He considered this a matter of real importance. It would expose us to the reproaches of all those who should be affected by it, reproaches which would soon be echoed from the other side of the Atlantic; and would unnecessarily enlist among the adversaries of the reform a very considerable body of citizens. We should moreover reduce every State to the dilemma of rejecting it, or of violating the faith pledged to a part of its citizens.

Mr. GOUVERNEUR MORRIS considered the case of persons under twenty-five years of age as very different from that of foreigners. No faith could be pleaded by the former in bar of the regulation. No assurance had ever been given that persons under that age should be in all cases on a level with those above it. But with regard to foreigners among us, the faith had been pledged that they should enjoy the privileges of citizens. If the restriction as to age had been confined to natives, and had left foreigners under twenty-five years of age eligible in

this case, the discrimination would have been an equal injustice on the other side.

Mr. PINCKNEY remarked that the laws of the States had varied much the terms of naturalization in different parts of America; and contended that the United States could not be bound to respect them on such an occasion as the present. It was a sort of recurrence to first principles.

Col. MASON was struck, not, like Mr. MADISON, with the *peculiarity*, but the *propriety*, of the doctrine of Mr. SHERMAN. The States have formed different qualifications themselves for enjoying different rights of citizenship. Greater caution would be necessary in the outset of the Government than afterwards. All the great objects would then be provided for. Every thing would be then set in motion. If persons among us attached to Great Britain should work themselves into our councils, a turn might be given to our affairs, and particularly to our commercial regulations, which might have pernicious consequences. The great houses of British merchants would spare no pains to insinuate the instruments of their views into the Government.

Mr. WILSON read the clause in the Constitution of Pennsylvania giving to foreigners, after two years' residence, all the rights whatsoever of citizens; combined it with the Article of Confederation making the citizens of one State citizens of all, inferred the obligation Pennsylvania was under to maintain the faith thus pledged to her citizens of foreign birth, and the just complaint which her failure would authorize. He observed, likewise, that the princes and states of Europe would avail themselves of such

breach of faith, to deter their subjects from emigrating to the United States.

Mr. MERCER enforced the same idea of a breach of faith.

Mr. BALDWIN could not enter into the force of the arguments against extending the disqualification to foreigners now citizens. The discrimination of the place of birth was not more objectionable than that of age, which all had concurred in the propriety of.

On the question on the proviso of Mr. GOUVERNEUR MORRIS in favor of foreigners now citizens,—Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, aye—5; New Hampshire, Massachusetts, Delaware, North Carolina, South Carolina, Georgia, no—6.

Mr. CARROLL moved to insert "five" years, instead of "seven" in Article 4, Sect. 2,—Connecticut, Maryland, Virginia, aye—3; New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia, no—7; Pennsylvania, divided.

The Section (Article 4, Sect. 2,) as formerly amended, was then agreed to, *nem. con.*

Mr. WILSON moved that, in Article 5, Sect. 3, nine years be reduced to seven; which was disagreed to, and the Article 5, Sect. 3, confirmed by the following vote,—New Hampshire, Massachusetts, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye—8; Connecticut, Pennsylvania, Maryland, no—3. [305]

Article 4, Sect. 5, being reconsidered,—

Mr. RANDOLPH moved that the clause be altered so as to read: "Bills for raising money for the *pur-*

pose of revenue, or for appropriating the same, shall originate in the House of Representatives; and shall not be so amended or altered by the Senate as to increase or diminish the sum to be raised, or change the mode of levying it, or the object of its appropriation." He would not repeat his reasons, but barely remind the members from the smaller States of the compromise by which the larger States were entitled to this privilege.

Colonel MASON. This amendment removes all the objections urged against the section, as it stood at first. By specifying *purposes of revenue*, it obviated the objection that the section extended to all bills under which money might incidentally arise. By authorizing amendments in the Senate, it got rid of the objections that the Senate could not correct errors of any sort, and that it would introduce into the House of Representatives the practice of tacking foreign matter to money bills. These objections being removed, the arguments in favor of the proposed restraint on the Senate ought to have their full force. First, the Senate did not represent the *people*, but the *States*, in their political character. It was improper therefore that it should tax the people. The reason was the same against their doing it, as it had been against Congress doing it. Secondly, nor was it in any respect necessary, in order to cure the evils of our republican system. He admitted that, notwithstanding the superiority of the republican form over every other, it had its evils. The chief ones were, the danger of the majority oppressing the minority, and the mischievous influence of demagogues. The general government

of itself will cure them. As the States will not concur at the same time in their unjust and oppressive plans, the General Government will be able to check and defeat them, whether they result from the wickedness of the majority, or from the misguidance of demagogues. Again the Senate is not, like the House of Representatives, chosen frequently, and obliged to return frequently among the people. They are to be chosen by the States for six years—will probably settle themselves at the seat of govèrnment—will pursue schemes for their own aggrandisement—will be able, by wearying out the House of Representatives, and taking advantage of their impatience at the close of a long session, to extort measures for that purpose. If they should be paid, as he expected would be yet determined and wished to be so, out of the national treasury, they will, particularly, extort an increase of their wages. A bare negative was a very different thing, from that of originating bills. The practice in England was in point. The House of Lords does not represent nor tax the people, because not elected by the people. If the Senate can originate, they will in the recess of the Legislative sessions, hatch their mischievous projects, for their own purposes, and have their money bills cut and dried (to use a common phrase) for the meeting of the House of Representatives. He compared the case to Poyning's law, and signified that the House of Representatives might be rendered by degrees, like the parliament of Paris, the mere depositary of the decrees of the Senate. As to the compromise, so much had passed on that subject that he would say nothing about it.

He did not mean, by what he had said, to oppose the permanency of the Senate. On the contrary he had no repugnance to an increase of it, nor to allowing it a negative, though the Senate was not, by its present constitution, entitled to it. But in all events, he would contend that the purse strings should be in the hands of the representatives of the people.

Mr. WILSON was himself directly opposed to the equality of votes granted to the Senate, by its present constitution. At the same time he wished not to multiply the vices of the system. He did not mean to enlarge on a subject which had been so much canvassed, but would remark, as an insuperable objection against the proposed restriction of money bills to the House of Representatives, that it would be a source of perpetual contentions, where there was no mediator to decide them. The President here could not, like the Executive Magistrate in England, interpose by a prorogation, or dissolution. This restriction had been found pregnant with altercation in every State where the constitution had established it. The House of Representatives

being thus reduced to the poor and disgraceful expedient of opposing, to the authority of a law, a protest on their Journals against its being drawn into precedent. If there was any thing like Poyning's law in the present case, it was in the attempt to vest the exclusive right of originating in the House of Representatives, and so far he was against it. He should be equally so if the right were to be exclusively vested in the Senate. With regard to the purse-strings, it was to be observed that the purse was to have two strings, one of which was in the hands of the House of Representatives, the other in those of the Senate. Both Houses must concur in untying, and of what importance could it be, which untied first, which last. He could not conceive it to be any objection to the Senate's preparing the bills, that they would have leisure for that purpose, and would be in the habits of business. War, commerce and revenue were the great objects of the General Government. All of them are connected with money. The restriction in favor of the House of Representatives would exclude the Senate from originating any important bills whatever.

Mr. GERRY considered this as a part of the plan that would be much scrutinized. Taxation and representation are strongly associated in the minds of the people; and they will not agree that any but their immediate representatives shall meddle with their purses. In short, the acceptance of the plan will inevitably fail, if the Senate be not restrained from originating money bills.

Mr. GOUVERNEUR MORRIS. All the arguments suppose the right to originate and to tax, to be exclu-

sively vested in the Senate. The effects commented on, may be produced by a negative only in the Senate. They can tire out the other House, and extort their concurrence in favorite measures, as well by withholding their negative, as by adhering to a bill introduced by themselves.

Mr. MADISON thought, if the substitute offered by Mr. RANDOLPH for the original section is to be adopted, it would be proper to allow the Senate at least so to amend as to *diminish* the sums to be raised. Why should they be restrained from checking the extravagance of the other House? One of the greatest evils incident to republican government was the spirit of contention and faction. The proposed substitute, which in some respects lessened the objections against the section, had a contrary effect with respect to this particular. It laid a foundation for new difficulties and disputes between the two Houses. The word *revenue* was ambiguous. In many acts, particularly in the regulation of trade, the object would be two-fold. The raising of revenue would be one of them. How could it be determined which was the primary or predominant one; or whether it was necessary that revenue should be the sole object, in exclusion even of other incidental effects? When the contest was first opened with Great Britain, their power to regulate trade was admitted,—their power to raise revenue rejected. An accurate investigation of the subject afterwards proved that no line could be drawn between the two cases. The words *amend or alter* form an equal source of doubt and altercation. When an obnoxious paragraph shall be sent down from the Senate

to the House of Representatives, it will be called an origination under the name of an amendment. The Senate may actually couch extraneous matter under that name. In these cases, the question will turn on the *degree* of connection between the matter and object of the bill, and the altercation or amendment offered to it. Can there be a more fruitful source of dispute, or a kind of dispute more difficult to be settled? His apprehensions on this point were not conjectural. Disputes had actually flowed from this source in Virginia, where the Senate can originate no bill. The words, "so as to *increase or diminish* the sum to be raised," were liable to the same objections. In levying indirect taxes, which it seemed to be understood were to form the principal revenue of the new Government, the sum to be raised, would be increased or diminished by a variety of collateral circumstances influencing the consumption, in general,—the consumption of foreign or of domestic articles,—of this or that particular species of articles, —and even by the mode of collection which may be closely connected with the productiveness of a tax. The friends of the section had argued its necessity from the permanency of the Senate. He could not see how this argument applied. The Senate was not more permanent now than in the form it bore in the original propositions of Mr. RANDOLPH, and at the time when no objection whatever was hinted against its originating money bills. Or if in consequence of a loss of the present question, a proportional vote in the Senate should be reinstated, as has been urged as the indemnification, the permanency of the Senate will remain the same. If the right to

originate be vested exclusively in the House of Representatives, either the Senate must yield, against its judgment, to that House,—in which case the utility of the check will be lost,—or the Senate will be inflexible, and the House of Representatives must adapt its money bill to the views of the Senate; in which case the exclusive right will be of no avail. As to the compromise of which so much had been said, he would make a single observation. There were five States which had opposed the equality of votes in the Senate, viz, Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina. As a compensation for the sacrifice extorted from them on this head, the exclusive origination of money bills in the other House had been tendered. Of the five States a majority, viz, Pennsylvania, Virginia, and South Carolina, have uniformly voted against the proposed compensation, on its own merits, as rendering the plan of government still more objectionable. Massachusetts has been divided. North Carolina alone has set a value on the compensation, and voted on that principle. What obligation, then, can the small States be under to concur, against

then, our guide. And has not experience verified the utility of restraining money bills to the immediate representatives of the people? Whence the effect may have proceeded, he could not say: whether from the respect with which this privilege inspired the other branches of government, to the House of Commons, or from the turn of thinking it gave to the people at large with regard to their rights; but the effect was visible and could not be doubted. Shall we oppose, to this long experience, the short experience of eleven years which we had ourselves on this subject. As to disputes, they could not be avoided any way. If both Houses should originate, each would have a different bill to which it would be attached, and for which it would contend. He observed that all the prejudices of the people would be offended by refusing this exclusive privilege to the House of Representatives, and these prejudices should never be disregarded by us when no essential purpose was to be served. When this plan goes forth, it will be attacked by the popular leaders. Aristocracy will be the watchword, the Shibboleth, among its adversaries. Eight States have inserted in their Constitutions the exclusive right of originating money bills in favor of the popular branch of the Legislature. Most of them, however, allowed the other branch to amend. This, he thought, would be proper for us to do.

Mr. RANDOLPH regarded this point as of such consequence, that, as he valued the peace of this country, he would press the adoption of it. We had numerous and monstrous difficulties to combat. Surely we ought not to increase them. When the people be-

hold in the Senate the countenance of an aristocracy, and in the President the form at least of a little monarch, will not their alarms be sufficiently raised without taking from their immediate representatives a right which has been so long appropriated to them? The Executive will have more influence over the the Senate, than over the House of Representatives. Allow the Senate to originate in this case, and that influence will be sure to mix itself in their deliberations and plans. The declaration of war, he conceived, ought not to be in the Senate, composed of twenty-six men only, but rather in the other House. In the other House ought to be placed the origination of the means of war. As to commercial regulations which may involve revenue, the difficulty may be avoided by restraining the definition to bills for the *mere* or *sole* purpose of raising revenue. The Senate will be more likely to be corrupt than the House of Representatives, and should therefore have less to do with money matters. His principal object, however, was to prevent popular objections against the plan, and to secure its adoption.

Mr. Rutledge. The friends of this motion are not consistent in their reasoning. They tell us that we ought to be guided by the long experience of Great Britain, and not our own experience of eleven years; and yet they themselves propose to depart from it. The *House of Commons* not only have the exclusive right of originating, but the *Lords* are not allowed to alter or amend a money bill. Will not the people say that this restriction is but a mere tub to the whale? They cannot but see that it is of no real consequence; and will be more likely

to be displeased with it as an attempt to bubble them than to impute it to a watchfulness over their rights. For his part, he would prefer giving the exclusive right to the Senate, if it was to be given exclusively at all. The Senate being more conversant in business, and having more leisure, will digest the bills much better, and as they are to have no effect, till examined and approved by the House of Representatives, there can be no possible danger. These clauses in the Constitutions of the States had been put in through a blind adherence to the British model. If the work was to be done over now, they would be omitted. The experiment in South Carolina, where the Senate cannot originate or amend money bills, has shown that it answers no good purpose; and produces the very bad one of continually dividing and heating the two Houses. Sometimes, indeed, if the matter of the amendment of the Senate is pleasing to the other House, they wink at the encroachment; if it be displeasing, then the Constitution is appealed to. Every session is distracted by altercations on this subject. The practice now becoming frequent is for the Senate not to make formal amendments, but to send down a schedule of the alterations which will procure the bill their assent.

Mr. CARROLL. The most ingenious men in Maryland are puzzled to define the case of money-bills, or explain the Constitution on that point; though it seemed to be worded with all possible plainness and precision. It is a source of continual difficulty and squabble between the two Houses.

Mr. MCHENRY mentioned an instance of extraor-

dinary subterfuge, to get rid of the apparent force of the Constitution.

On the question on the first part of the motion, as to the exclusive originating of money-bills in the House of Representatives,—

New Hampshire, Massachusetts, Virginia, (Mr. BLAIR and MADISON, no; Mr. RANDOLPH, Colonel MASON, and General WASHINGTON,* aye;) North Carolina, aye—4; Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, no—7.

On the question on originating by the House of Representatives, and *amending* by the Senate, as reported, Article 4, Sect. 5,—

New Hampshire, Massachusetts, Virginia,† North Carolina, aye—4; Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, no—7.

On the question on the last clause of Article 4, Sect. 5, viz., "No money shall be drawn from the public treasury, but in pursuance of *appropriations* that shall originate in the House of Representatives," it passed in the negative,—

Massachusetts, aye—1; New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.[306]

Adjourned.

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* He disapproved, and till now voted against, the exclusive privilege. He gave up his judgment, he said, because it was not of very material weight with him, and was made an essential point with others, who, if disappointed, might be less cordial in other points of real weight.

† In the printed Journal, Virginia, no.

TUESDAY, AUGUST 14TH.

In Convention,—Article 6, Sect. 9, was taken up.

Mr. PINCKNEY argued that the making the members ineligible to offices was *degrading* to them, and the more improper as their election into the Legislature implied that they had the confidence of the people; that it was *inconvenient*, because the Senate might be supposed to contain the fittest men. He hoped to see that body become a school of public ministers, a nursery of statesmen. That it was *impolitic*, because the Legislature would cease to be a magnet to the first talents and abilities. He moved to postpone the section, in order to take up the following proposition, viz., "the members of each House shall be incapable of holding any office under the United States, for which they, or any others for their benefit, receive any salary, fees, or emoluments of any kind; and the acceptance of such office shall vacate their seats respectively."

General MIFFLIN seconded the motion.

Colonel MASON ironically proposed to strike out the whole section, as a more effectual expedient for encouraging that exotic corruption which might not otherwise thrive so well in the American soil; for completing that aristocracy which was probably in the contemplation of some among us; and for inviting into the legislative service those generous and benevolent characters, who will do justice to each other's merit, by carving out offices and rewards for it. In the present state of American morals and manners, few friends, it may be thought, will be lost to

the plan, by the opportunity of giving premiums to a mercenary and depraved ambition.

Mr. MERCER. It is a first principle in political science, that whenever the rights of property are secured, an aristocracy will grow out of it. Elective governments also necessarily become aristocratic, because the rulers being few can and will draw emoluments for themselves from the many. The governments of America will become aristocracies. They are so already. The public measures are calculated for the benefit of the governors, not of the people. The people are dissatisfied, and complain. They change their rulers, and the public measures are changed, but it is only a change of one scheme of emolument to the rulers, for another. The people gain nothing by it, but an addition of instability and uncertainty to their other evils. Governments can only be maintained by *force* or *influence*. The Executive has not *force*—deprive him of *influence*, by rendering the members of the Legislature ineligible to Executive offices, and he becomes a mere phantom of authority. The aristocratic part will not even let him in for a share of the plunder. The Legislature must and will be composed of wealth and abilities, and the people will be governed by a junto. The Executive ought to have a Council, being members of both Houses. Without such an influence, the war will be between the aristocracy and the people. He wished it to be between the aristocracy and the Executive. Nothing else can protect the people against those speculating Legislatures, which are now plundering them throughout the United States.

Mr. GERRY read a resolution of the Legislature of Massachusetts, passed before the act of Congress recommending the Convention, in which her deputies were instructed not to depart from the rotation established in the fifth Article of the Confederation; nor to agree, in any case, to give to the members of Congress a capacity to hold offices under the government. This, he said, was repealed in consequence of the act of Congress, with which the State thought it proper to comply in an unqualified manner. The sense of the State, however, was still the same. He could not think with Mr. PINCKNEY, that the disqualification was degrading. Confidence is the road to tyranny. As to ministers and ambassadors, few of them were necessary. It is the opinion of a great many that they ought to be discontinued on our part, that none may be sent among us; and that source of influence shut up. If the Senate were to appoint ambassadors, as seemed to be intended, they will multiply embassies for their own sakes. He was not so fond of those productions, as to wish to establish nurseries for them. If they are once appointed, the House of Representatives will be obliged to provide salaries for them, whether they approve of the measures or not. If men will not serve in the Legislature without a prospect of such offices, our situation is deplorable indeed. If our best citizens are actuated by such mercenary views, we had better choose a single despot at once. It will be more easy to satisfy the rapacity of one than of many. According to the idea of one gentleman, (Mr. MERCER), our government, it seems, is to be a government of plunder. In that case, it certainly

would be prudent to have but one, rather than many to be employed in it. We cannot be too circumspect in the formation of this system. It will be examined on all sides, and with a very suspicious eye. The people, who have been so lately in arms against Great Britain for their liberties, will not easily give them up. He lamented the evils existing, at present, under our governments; but imputed them to the faults of those in office, not to the people. The misdeeds of the former will produce a critical attention to the opportunities afforded by the new system to like or greater abuses. As it now stands, it is as complete an aristocracy as ever was framed. If great powers should be given to the Senate, we shall be governed in reality by a junto, as has been apprehended. He remarked that it would be very differently constituted from Congress. In the first place, there will be but two Deputies from each State; in Congress there may be seven, and are generally five. In the second place, they are chosen for six years; those of Congress annually. In the third place, they are not subject to recall; those of Congress are. And finally, in Congress *nine* States are necessary for all great purposes; here eight *persons* will suffice. Is it to be presumed that the people will ever agree to such a system? He moved to render the members of the House of Representatives, as well as of the Senate, ineligible, not only during, but for one year after the expiration of, their terms. If it should be thought that this will injure the Legislature, by keeping out of it men of abilities, who are willing to serve in other offices, it may be required

as a qualification for other offices, that the candidate shall have served a certain time in the Legislature.

Mr. GOUVERNEUR MORRIS. Exclude the officers of the Army and Navy, and you form a band having a different interest from, and opposed to, the civil power. You stimulate them to despise and reproach those "talking Lords who dare not face the foe." Let this spirit be roused at the end of a war, before your troops shall have laid down their arms, and though the civil authority be "entrenched in parchment to the teeth," they will cut their way to it. He was against rendering the members of the Legislature ineligible to offices. He was for rendering them eligible again, after having vacated their seats by accepting office. Why should we not avail ourselves of their services if the people choose to give them their confidence? There can be little danger of corruption, either among the people, or the Legislatures, who are to be the electors. If they say, we see their merits—we honor the men—we choose to renew our confidence in them; have they not a right to give them a preference—and can they be properly abridged of it?

Mr. WILLIAMSON introduced his opposition to the motion, by referring to the question concerning "money bills." That clause, he said, was dead. Its ghost, he was afraid, would, notwithstanding, haunt us. It had been a matter of conscience with him, to insist on it, as long as there was hope of retaining it. He had swallowed the vote of rejection with reluctance. He could not digest it. All that was said, on the other side, was, that the restriction was

not *convenient*. We have now got a House of Lords which is to originate money bills. To avoid another *inconvenience*, we are to have a whole Legislature, at liberty to cut out offices for one another. He thought a self-denying ordinance for ourselves, would be more proper. Bad as the Constitution has been made by expunging the restriction on the Senate concerning money bills, he did not wish to make it worse, by expunging the present section. He had scarcely seen a single corrupt measure in the Legislature of North Carolina, which could not be traced up to office hunting.

Mr. SHERMAN. The Constitution should lay as few temptations as possible in the way of those in power. Men of abilities will increase as the country grows more populous, and as the means of education are more diffused.

Mr. PINCKNEY. No State has rendered the members of the Legislature ineligible to offices. In South Carolina the Judges are eligible into the Legislature. It cannot be supposed, then, that the motion will be offensive to the people. If the State Constitutions should be revised, he believed restrictions of this sort would be rather diminished than multipled.

Mr. WILSON could not approve of the section as it stood, and could not give up his judgment to any supposed objections that might arise among the people. He considered himself as acting and responsible for the welfare of millions, not immediately represented in this House. He had also asked himself the serious question, what he should say to his constituents, in case they should call upon him to

tell them, why he sacrificed his own judgment in a case where they authorized him to exercise it? Were he to own to them that he sacrificed it in order to flatter their prejudices, he should dread the retort —did you suppose the people of Pennsylvania had not good sense enough to receive a good government? Under this impression, he should certainly follow his own judgment, which disapproved of the section. He would remark, in addition to the objections urged against it, that as one branch of the Legislature was to be appointed by the Legislatures of the States, the other by the people of the States; as both are to be paid by the States, and to be appointable to State offices; nothing seemed to be wanting to prostrate the National Legislature, but to render its members ineligible to national offices, and by that means take away its power of attracting those talents which were necessary to give weight to the Government, and to render it useful to the people. He was far from thinking the ambition which aspired to offices of dignity and trust an ignoble or culpable one. He was sure it was not politic to regard it in that light, or to withhold from it the prospect of those rewards which might engage it in the career of public service. He observed that the State of Pennsylvania, which had gone as far as any State into the policy of fettering power, had not rendered the members of the Legislature ineligible to offices of government.

Mr. Ellsworth did not think the mere postponement of the reward would be any material discouragement of merit. Ambitious minds will serve two years, or seven years in the Legislature, for the

sake of qualifying themselves for other offices. This he thought a sufficient security for obtaining the services of the ablest men in the Legislature; although, whilst members, they should be ineligible to public offices. Besides, merit will be most encouraged, when most impartially rewarded. If rewards are to circulate only within the Legislature, merit out of it will be discouraged.

Mr. MERCER was extremely anxious on this point. What led to the appointment of this Convention? The corruption and mutability of the legislative councils of the States. If the plan does not remedy these, it will not recommend itself; and we shall not be able in our private capacities to support and enforce it: nor will the best part of our citizens exert themselves for the purpose. It is a great mistake to suppose that the paper we are to propose, will govern the United States. It is the men whom it will bring into the Government, and interest in maintaining it, that are to govern them. The paper will only mark out the mode and the form. Men are the substance and must do the business. All government must be by force or influence. It is not the King of France, but 200,000 janissaries of power, that govern that kingdom. There will be no such force here; influence, then, must be substituted; and he would ask, whether this could be done, if the members of the Legislature should be ineligible to offices of State; whether such a disqualification would not determine all the most influential men to stay at home, and prefer appointments within their respective States.

Mr. WILSON was by no means satisfied with the

answer given by Mr. ELLSWORTH to the argument as to the discouragement of merit. The members must either go a second time into the Legislature, and disqualify themselves; or say to their constituents, we served you before only from the mercenary view of qualifying ourselves for offices, and having answered this purpose, we do not choose to be again elected.

Mr. GOUVERNEUR MORRIS put the case of a war, and the citizen most capable of conducting it happening to be a member of the Legislature. What might have been the consequence of such a regulation at the commencement, or even in the course, of the late contest for our liberties?

On the question for postponing, in order to take up Mr. PINCKNEY's motion, it was lost,—New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, aye—5; Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, no—5; Georgia, divided

Mr. GOUVERNEUR MORRIS moved to insert, after "office," "except offices in the Army or Navy: but, in that case, their offices shall be vacated."

Mr. BROOM seconds him.

Mr. RANDOLPH had been, and should continue, uniformly opposed to the striking out of the clause, as opening a door for influence and corruption. No arguments had made any impression on him, but those which related to the case of war, and a coexisting incapacity of the fittest commanders to be employed. He admitted great weight in these, and would agree to the exception proposed by Mr. GOUVERNEUR MORRIS.

Mr. BUTLER and Mr. PINCKNEY urged a general

postponement of Article 6, Sect. 9, till it should be seen what powers would be vested in the Senate, when it would be more easy to judge of the expediency of allowing the officers of State to be chosen out of that body.

A general postponement was agreed to, *nem. con.*[307]

Article 6, Sect. 10, was then taken up,—"that members be paid by their respective States."

Mr. ELLSWORTH said, that in reflecting on this subject, he had been satisfied, that too much dependence on the States would be produced by this mode of payment. He moved to strike it out, and insert, "that they should be paid out of the treasury of the United States an allowance not exceeding ——— dollars per day, or the present value thereof."

Mr. GOUVERNEUR MORRIS remarked that if the members were to be paid by the States, it would throw an unequal burthen on the distant States, which would be unjust as the Legislature was to be a national assembly. He moved that the payment be out of the national treasury; leaving the quantum to the discretion of the National Legislature. There could be no reason to fear that they would overpay themselves.

Mr. BUTLER contended for payment by the States; particularly in the case of the Senate, who will be so long out of their respective States that they will lose sight of their constituents, unless dependent on them for their support.

Mr. LANGDON was against payment by the States. There would be some difficulty in fixing the sum; but it would be unjust to oblige the distant States

to bear the expense of their members, in travelling to and from the seat of government.

Mr. MADISON. If the House of Representatives is to be chosen *biennially*, and the Senate to be *constantly* dependent on the Legislatures, which are chosen *annually*, he could not see any chance for that stability in the General Government the want of which was a principal evil in the State Governments. His fear was, that the organization of the Government supposing the Senate to be really independent for six years, would not effect our purpose. It was nothing more than a combination of the peculiarities of two of the State Governments, which separately had been found insufficient. The Senate was formed on the model of that of Maryland. The revisionary check, on that of New York. What the effect of a union of these provisions might be, could not be foreseen. The enlargement of the sphere of the Government was, indeed a circumstance which he thought would be favorable, as he had on several occasions undertaken to show. He was, however, for fixing at least two extremes not to be exceeded by the National Legislature in the payment of themselves.

Mr. GERRY. There are difficulties on both sides. The observation of Mr. BUTLER has weight in it. On the other side, the State Legislatures may turn out the Senators by reducing their salaries. Such things have been practised.

Col. MASON. It has not yet been noticed, that the clause as it now stands makes the House of Representatives also dependent on the State Legislatures: so that both Houses will be made the instru-

ments of the politics of the States, whatever they may be.

Mr. BROOM could see no danger in trusting the General Legislature with the payment of themselves. The State Legislatures had this power, and no complaint had been made of it.

Mr. SHERMAN was not afraid that the Legislature would make their own wages too high, but too low; so that men ever so fit could not serve unless they were at the same time rich. He thought the best plan would be, to fix a moderate allowance to be paid out of the national treasury, and let the States make such additions as they might judge fit. He moved that five dollars per day be the sum, any further emoluments to be added by the States.

Mr. CARROLL had been much surprised at seeing this clause in the Report. The dependence of both Houses on the State Legislatures is complete; especially as the members of the former are eligible to State offices. The States can now say: If you do not comply with our wishes, we will starve you; if you do, we will reward you. The new Government in this form was nothing more than a second edition of Congress, in two volumes instead of one, and perhaps with very few amendments.

Mr. DICKINSON took it for granted that all were convinced of the necessity of making the General Government independent of the prejudices, passions, and improper views of the State Legislatures. The contrary of this was effected by the section as it stands. On the other hand, there were objections against taking a permanent standard, as wheat, which had been suggested on a former occasion;

as well as against leaving the matter to the pleasure of the National Legislature. He proposed that an act should be passed, every twelve years, by the National Legislature settling the quantum of their wages. If the General Government should be left dependent on the State Legislatures, it would be happy for us if we had never met in this room.

Mr. ELLSWORTH was not unwilling himself to trust the Legislature with authority to regulate their own wages, but well knew that an unlimited discretion for that purpose would produce strong, though perhaps not insuperable objections. He thought changes in the value of money provided for by his motion in the words, "or the present value thereof."

Mr. L. MARTIN. As the Senate is to represent the States, the members of it ought to be paid by the States.

Mr. CARROLL. The Senate was to represent and manage the affairs of the whole, and not to be the advocates of State interests. They ought then not to be dependent on, nor paid by the States.

On the question for paying the members of the legislature out of the national treasury,—New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, aye—9; Massachusetts, South Carolina, no—2.

Mr. ELLSWORTH moved that the pay be fixed at five dollars, or the present value thereof, per day, during their attendance, and for every thirty miles in travelling to and from Congress.

Mr. STRONG preferred four dollars, leaving the States at liberty to make additions.

On the question for fixing the pay at five dollars,

—Connecticut, Virginia, aye—2; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, no—9.

Mr. DICKINSON proposed that the wages of the members of both Houses should be required to be the same.

Mr. BROOM seconded him.

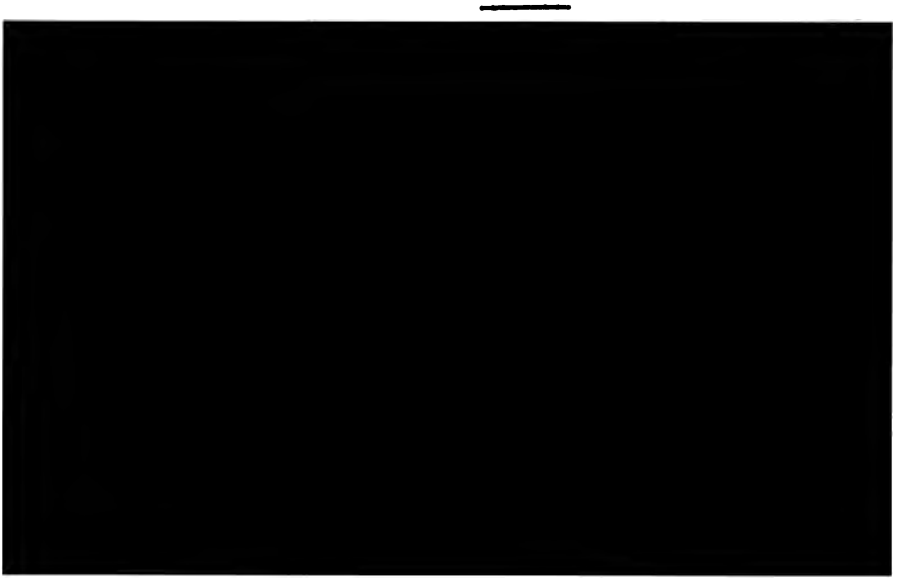
Mr. GORHAM. This would be unreasonable. The Senate will be detained longer from home, will be obliged to remove their families, and in time of war perhaps to sit constantly. Their allowance should certainly be higher. The members of the Senates in the States are allowed more than those of the other House.

Mr. DICKINSON withdrew his motion.

It was moved and agreed, to amend the section by adding, "to be ascertained by law."

The section (Article 6, Section 10,) as amended, was then agreed to, *nem. con.*[388]

Adjourned.



same, and for fixing the salaries of the officers of the Government, which shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other cases."

Colonel MASON seconds the motion. He was extremely earnest to take this power from the Senate, who he said could already sell the whole country by means of treaties.

Mr. GORHAM urged the amendment as of great importance. The Senate will first acquire the habit of preparing money-bills, and then the practice will grow into an exclusive right of preparing them.

Mr. GOUVERNEUR MORRIS opposed it, as unnecessary and inconvenient.

Mr. WILLIAMSON. Some think this restriction on the Senate essential to liberty; others think it of no importance. Why should not the former be indulged? He was for an efficient and stable government; but many would not strengthen the Senate, if not restricted in the case of money-bills. The friends of the Senate, would therefore, lose more than they would gain, by refusing to gratify the other side. He moved to postpone the subject, till the powers of the Senate should be gone over.

Mr. RUTLEDGE seconds the motion.

Mr. MERCER should hereafter be against returning to a reconsideration of this section. He contended (alluding to Mr. MASON's observations) that the Senate ought not to have the power of treaties. This power belonged to the Executive department; adding, that treaties would not be final, so as to alter the laws of the land, till ratified by legislative authority. This was the case of treaties in Great

Britain; particularly the late treaty of commerce with France.

Colonel MASON did not say that a treaty would repeal a law; but that the Senate, by means of treaties, might alienate territory, &c., without legislative sanction. The cessions of the British Islands in the West Indies, by treaty alone, were an example. If Spain should possess herself of Georgia, therefore, the Senate might by treaty dismember the Union. He wished the motion to be decided now, that the friends of it might know how to conduct themselves.

On the question for postponing Sect. 12, it passed in the affirmative,—

New Hampshire, Massachusetts, Virginia, North Carolina, South Carolina, Georgia, aye—6; Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, no—5.

Mr. MADISON moved the following amendment of Article 6, Sect. 13: "Every bill which shall have passed the two Houses shall, before it become a law, be severally presented to the President of the United States, and to the Judges of the Supreme Court, for the revision of each. If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it; but if, upon such revision, it shall appear improper to either, or both, to be passed into a law, it shall be returned, with the objections against it, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider the bill: but if, after such reconsideration, two-thirds of that House, when either the President, or

a majority of the judges shall object, or three-fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other House; by which it shall likewise be reconsidered, and, if approved by two-thirds, or three-fourths of the other House, as the case may be, it shall become a law."

Mr. WILSON seconds the motion.

Mr. PINCKNEY opposed the interference of the Judges in the legislative business: it will involve them in parties, and give a previous tincture to their opinions.

Mr. MERCER heartily approved the motion. It is an axiom that the Judiciary ought to be separate from the Legislative; but equally so that it ought to be independent of that department. The true policy of the axiom is, that legislative usurpation and oppression may be obviated. He disapproved of the doctrine, that the Judges, as expositors of the Constitution, should have authority to declare a law void. He thought laws ought to be well and cautiously made, and then to be uncontrollable.

Mr. GERRY. This motion comes to the same thing with what has been already negatived.

On the question on the motion of Mr. MADISON,—

Delaware, Maryland, Virginia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, North Carolina, South Carolina, Georgia, no—8.[309]

Mr. GOUVERNEUR MORRIS regretted that something like the proposed check could not be agreed to. He dwelt on the importance of public credit, and the difficulty of supporting it without some strong bar-

rier against the instability of legislative assemblies. He suggested the idea of requiring three-fourths of each House to *repeal* laws where the President should not concur. He had no great reliance on the revisionary power, as the Executive was now to be constituted (elected by Congress.) The Legislature will contrive to soften down the President. He recited the history of paper emissions, and the perseverance of the legislative assemblies in repeating them, with all the distressing effects of such measures before their eyes. Were the National Legislature formed, and a war was now to break out, this ruinous expedient would be again resorted to, if not guarded against. The requiring three-fourths to repeal would, though not a complete remedy, prevent the hasty passage of laws, and the frequency of those repeals which destroy faith in the public, and which are among our greatest calamities.

Mr. DICKINSON was strongly impressed with the remark of Mr. MERCER, as to the power of the Judges to set aside the law. He thought no such power ought to exist. He was, at the same time, at a loss what expedient to substitute. The Justiciary of Arragon, he observed, became by degrees the law-giver.

Mr. GOUVERNEUR MORRIS suggested the expedient of an absolute negative in the Executive. He could not agree that the Judiciary, which was part of the Executive, should be bound to say, that a direct violation of the Constitution was law. A control over the Legislature might have its inconveniences. But view the danger on the other side. The most

virtuous citizens will often, as members of a Legislative body, concur in measures which afterwards, in their private capacity, they will be ashamed of. Encroachments of the popular branch of the Government ought to be guarded against. The Ephori at Sparta became in the end absolute. The Report of the Council of Censors in Pennsylvania points out the many invasions of the Legislative department on the Executive, numerous as the latter* is, within the short term of seven years; and in a State where a strong party is opposed to the Constitution, and watching every occasion of turning the public resentments against it. If the Executive be overturned by the popular branch, as happened in England, the tyranny of one man will ensue. In Rome, where the aristocracy overturned the throne, the consequence was different. He enlarged on the tendency of the Legislative authority to usurp on the Executive, and wished the section to be postponed, in order to consider of some more effectual check than requiring two-thirds only to overrule the negative of the Executive.

Mr. SHERMAN. Can one man be trusted better than all the others, if they all agree? This was neither wise nor safe. He disapproved of judges meddling in politics and parties. We have gone far enough in forming the negative, as it now stands.

Mr. CARROLL. When the negative to be overruled by two-thirds only was agreed to, the *quorum* was not fixed. He remarked that as a majority was now to be the quorum, seventeen in the larger, and

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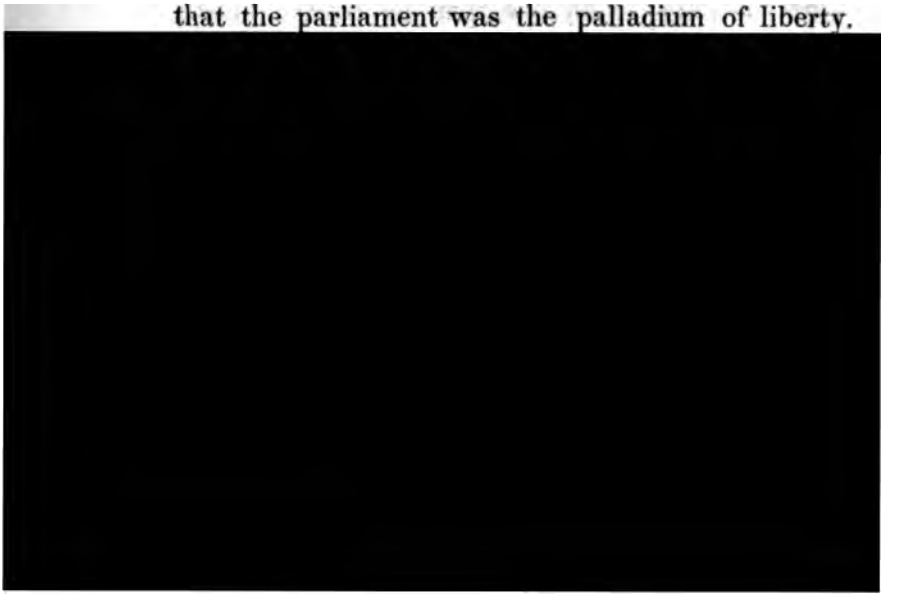
* The Executive consisted at that time of about twenty members.

eight in the smaller, house, might carry points. The advantage that might be taken of this seemed to call for greater impediments to improper laws. He thought the controlling power, however, of the Executive, could not be well decided, till it was seen how the formation of that department would be finally regulated. He wished the consideration of the matter to be postponed.

Mr. GORHAM saw no end to these difficulties and postponements. Some could not agree to the form of government, before the powers were defined. Others could not agree to the powers till it was seen how the government was to be formed. He thought a majority as large a quorum as was necessary. It was the quorum almost every where fixed in the United States.

Mr. WILSON, after viewing the subject with all the coolness and attention possible, was most apprehensive of a dissolution of the Government from the Legislature swallowing up all the other powers. He remarked, that the prejudices against the Executive resulted from a misapplication of the adage, that the parliament was the palladium of liberty.



sufficient self-defensive power, either to the Executive or Judiciary Department.

Mr. RUTLEDGE was strenuous against postponing; and complained much of the tediousness of the proceedings.

Mr. ELLSWORTH held the same language. We grow more and more sceptical as we proceed. If we do not decide soon, we shall be unable to come to any decision.

The question for postponement passed in the negative,—Delaware and Maryland only being in the affirmative.

Mr. WILLIAMSON moved to change, "two-thirds of each House," into "three-fourths," as requisite to overrule the dissent of the President. He saw no danger in this, and preferred giving the power to the President alone, to admitting the Judges into the business of legislation.

Mr. WILSON seconds the motion; referring to and repeating the ideas of Mr. CARROLL.

On this motion for three-fourths, instead of two-thirds; it passed in the affirmative,—Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, aye—6; New Hampshire, Massachusetts, New Jersey, Georgia, no—4; Pennsylvania, divided.

Mr. MADISON, observing that if the negative of the President was confined to *bills*, it would be evaded by acts under the form and name of Resolutions, votes, &c., proposed that "or resolve," should be added after "*bill*," in the beginning of section 13, with an exception as to votes of adjournment, &c. After a short and rather confused conversation on the subject, the question was put and rejected, the

votes being as follows,—Massachusetts, Delaware, North Carolina, aye—3; New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, no—8.

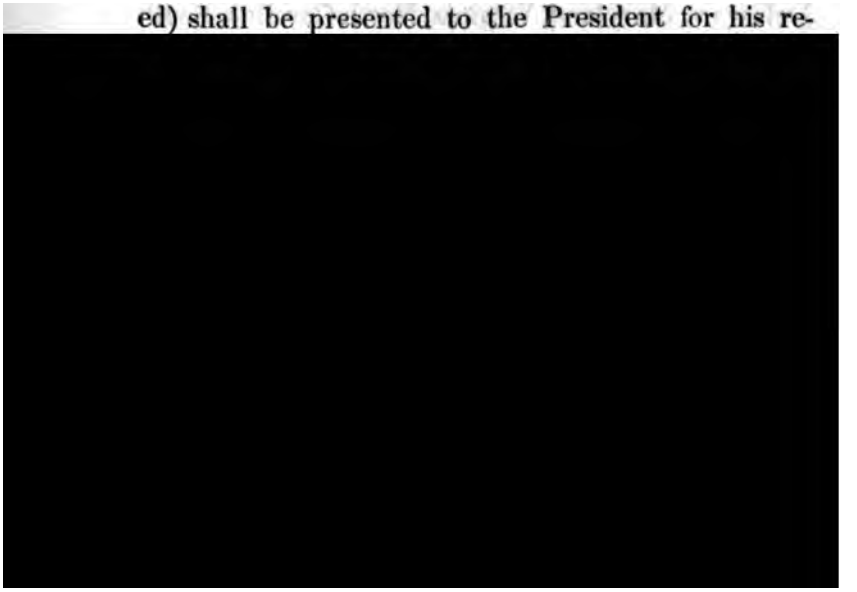
"Ten days (Sundays excepted)," instead of "*seven*," were allowed to the President for returning bills with his objections,—New Hampshire and Massachusetts only voting against it.

The thirteenth Section of Article 6, as amended was then agreed to.[316]

Adjourned.

THURSDAY, AUGUST 16TH.

In Convention,—Mr. RANDOLPH, having thrown into a new form the motion putting votes, resolutions, &c. on a footing with bills, renewed it as follows—"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment, and in the cases hereinafter mentioned) shall be presented to the President for his re-



sylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; New Jersey, no—1; Massachusetts, not present.

The amendment was made a fourteenth section of Article 6.

Article 7, Sect. 1, was then taken up.

Mr. L. MARTIN asked, what was meant by the Committee of Detail in the expression,—"*duties*," and "*imposts*." If the meaning were the same, the former was unnecessary; if different, the matter ought to be made clear.

Mr. WILSON. *Duties* are applicable to many objects to which the word *imposts* does not relate. The latter are appropriated to commerce, the former extend to a variety of objects, as stamp duties, &c.

Mr. CARROLL reminded the Convention of the great difference of interests among the States; and doubts the propriety, in that point of view, of letting a majority be a quorum.

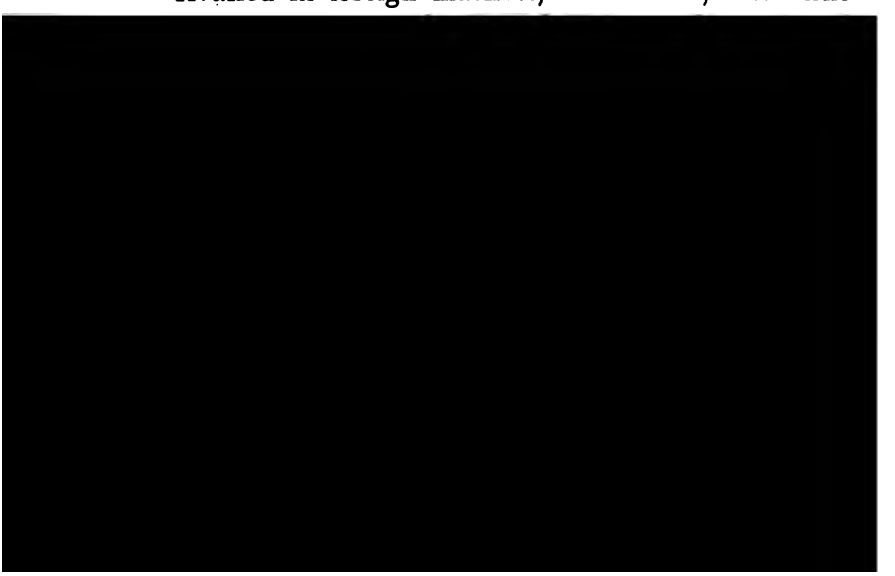
Mr. MASON urged the necessity of connecting with the powers of levying taxes, duties, &c., the prohibition in Article 6, Sect. 4, "that no tax should be laid on exports." He was unwilling to trust to its being done in a future article. He hoped the Northern States did not mean to deny the Southern this security. It would hereafter be as desirable to the former, when the latter should become the most populous. He professed his jealousy for the productions of the Southern, or, as he called them, the staple, States. He moved to insert the following amendment: "provided, that no tax, duty, or imposition, shall be laid by the Legislature of the United States on articles exported from any State."

Mr. SHERMAN had no objection to the proviso here, other than that it would derange the parts of the Report as made by the Committee, to take them in such an order.

Mr. RUTLEDGE. It being of no consequence in what order points are decided, he should vote for the clause as it stood, but on condition that the subsequent part relating to negroes should also be agreed to.

Mr. GOUVERNEUR MORRIS considered such a proviso as inadmissible any where. It was so radically objectionable, that it might cost the whole system the support of some members. He contended that it would not in some cases be equitable to tax imports without taxing exports; and that taxes on exports would be often the most easy and proper of the two.

Mr. MADISON. First, the power of laying taxes on exports is proper in itself; and as the States cannot with propriety exercise it separately, it ought to be vested in them collectively. Secondly, it might with particular advantage be exercised with regard to articles in which America was not rivalled in foreign markets, as tobacco, &c. The



filled New Hampshire, Connecticut, New Jersey, Delaware, and North Carolina with loud complaints, as it related to imports, and they would be equally authorized by taxes by the States on exports. Fourthly, the Southern States, being most in danger and most needing naval protection, could the less complain, if the burthen should be somewhat heaviest on them. And finally, we are not providing for the present moment only; and time will equalize the situation of the States in this matter. He was, for these reasons, against the motion.

Mr. WILLIAMSON considered the clause proposed against taxes on exports, as reasonable and necessary.

Mr. ELLSWORTH was against taxing exports; but thought the prohibition stood in the most proper place, and was against deranging the order reported by the Committee.

Mr. WILSON was decidedly against prohibiting general taxes on exports. He dwelt on the injustice and impolicy of leaving New Jersey, Connecticut, &c., any longer subject to the exactions of their commercial neighbours.

Mr. GERRY thought the Legislature could not be trusted with such a power. It might ruin the country. It might be exercised partially, raising one and depressing another part of it.

Mr. GOUVERNEUR MORRIS. However the Legislative power may be formed, it will, if disposed, be able to ruin the country. He considered the taxing of exports to be in many cases highly politic. Virginia has found her account in taxing tobacco. All countries having peculiar articles tax the exporta-

tion of them,—as France her wines and brandies. A tax here on lumber would fall on the West Indies, and punish their restrictions on our trade. The same is true of live stock, and in some degree of flour. In case of a dearth in the West Indies, we may extort what we please. Taxes on exports are a necessary source of revenue. For a long time the people of America will not have money to pay direct taxes. Seize and sell their effects, and you push them into revolts.

Mr. MERCER was strenuous against giving Congress power to tax exports. Such taxes are impolitic, as encouraging the raising of articles not meant for exportation. The States had now a right where their situation permitted, to tax both the imports and the exports of their uncommercial neighbours. It was enough for them to sacrifice one half of it. It had been said the Southern States had most need of naval protection. The reverse was the case. Were it not for promoting the carrying trade of the Northern States, the Southern States could let the trade go into foreign bottoms, where it would not need our protection. Virginia, by taxing her tobacco, had given an advantage to that of Maryland.

Mr. SHERMAN. To examine and compare the States in relation to imports and exports, will be opening a boundless field. He thought the matter had been adjusted, and that imports were to be subject, and exports not, to be taxed. He thought it wrong to tax exports, except it might be such articles as ought not to be exported. The complexity of the business in America would render an equal tax

on exports impracticable. The oppression of the uncommercial States was guarded against by the power to regulate trade between the States. As to compelling foreigners, that might be done by regulating trade in general. The Government would not be trusted with such a power. Objections are most likely to be excited by considerations relating to taxes and money. A power to tax exports would shipwreck the whole.

Mr. CARROLL was surprised that any objection should be made to an exception of exports from the power of taxation.

It was finally agreed, that the question concerning exports should lie over for the place in which the exception stood in the Report,—Maryland alone voting against it.[811]

Article 7, Section 1, clause first, was then agreed to,—Mr GERRY alone answering, no.

The clause for regulating commerce with foreign nations, &c., was agreed to, *nem. con.*

The several clauses,—for coining money—for regulating foreign coin—for fixing the standard of weights and measures,—were agreed to, *nem. con.*

On the clause, "To establish post offices,"—

Mr. GERRY moved to add, "and post-roads."

Mr. MERCER seconded; and on the question,—

Massachusetts, Delaware, Maryland, Virginia, South Carolina, Georgia, aye—6; New Hampshire, Connecticut, New Jersey, Pennsylvania, North Carolina, no—5.

Mr. GOUVERNEUR MORRIS moved to strike out, "and emit bills on the credit of the United States." If the United States had credit, such bills would

be unnecessary; if they had not, unjust and useless.

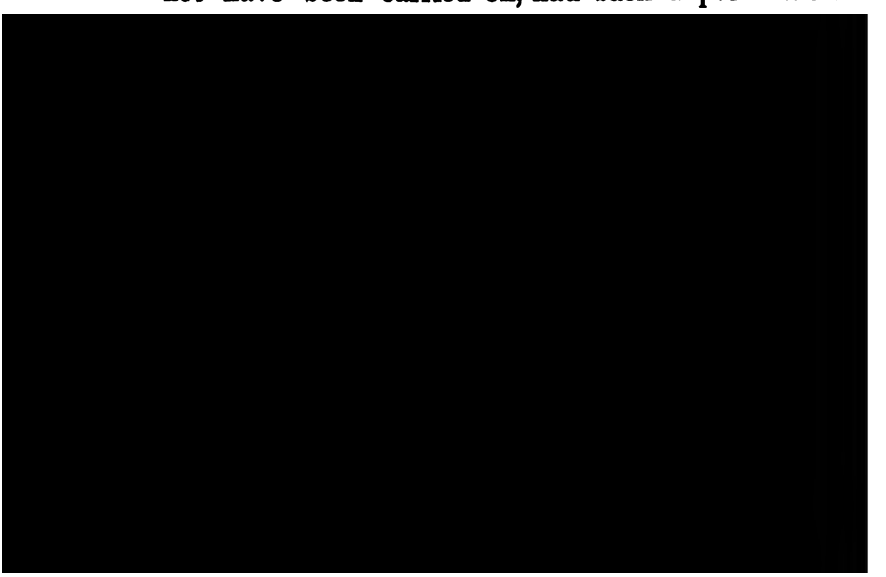
Mr. BUTLER seconds the motion.

Mr. MADISON. Will it not be sufficient to prohibit the making them a *tender?* This will remove the temptation to emit them with unjust views. And promissory notes, in that shape, may in some emergencies be best.

Mr. GOUVERNEUR MORRIS. Striking out the words will leave room still for notes of a *responsible* minister, which will do all the good without the mischief. The moneyed interest will oppose the plan of government, if paper emissions be not prohibited.

Mr. GORHAM was for striking out without inserting any prohibition. If the words stand, they may suggest and lead to the measure.

Mr. MASON had doubts on the subject. Congress, he thought, would not have the power, unless it were expressed. Though he had a mortal hatred to paper-money, yet as he could not foresee all emergencies, he was unwilling to tie the hands of the Legislature. He observed that the late war could not have been carried on, had such a prohibition



those who were friends to paper-money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of citizens.

Mr. ELLSWORTH thought this a favorable moment, to shut and bar the door against paper-money. The mischiefs of the various experiments which had been made were now fresh in the public mind, and had excited the disgust of all the respectable part of America. By withholding the power from the new Government, more friends of influence would be gained to it than by almost any thing else. Paper-money can in no case be necessary. Give the Government credit, and other resources will offer. The power may do harm, never good.

Mr. RANDOLPH, notwithstanding his antipathy to paper-money, could not agree to strike out the words, as he could not foresee all the occasions that might arise.

Mr. WILSON. It will have a most salutary influence on the credit of the United States, to remove the possibility of paper-money. This expedient can never succeed whilst its mischiefs are remembered. And as long as it can be resorted to, it will be a bar to other resources.

Mr. BUTLER remarked, that paper was a legal tender in no country in Europe. He was urgent for disarming the government of such a power.

Mr. MASON was still averse to tying the hands of the Legislature *altogether*. If there was no example in Europe, as just remarked, it might be observ-

ed, on the other side, that there was none in which the Government was restrained on this head.

Mr. READ thought the words, if not struck out, would be as alarming as the mark of the Beast in Revelation.

Mr. LANGDON had rather reject the whole plan, than retain the three words, "and emit bills."

On the motion for striking out,—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia,* North Carolina, South Carolina, Georgia, aye—9; New Jersey, Maryland, no—2.

The clause for borrowing money was agreed to, *nem. con.*[813]

Adjourned.

FRIDAY, AUGUST 17TH.

In Convention,—Article 7, Sect. 1, was resumed.

On the clause, "to appoint a Treasurer by ballot,"—

Mr. GORHAM moved to insert "joint" before ballot,

[redacted]

Mr. READ moved to strike out the clause, leaving the appointment of a Treasurer, as of other officers, to the Executive. The Legislature was an improper body for appointments. Those of the State Legislatures were a proof of it. The Executive being responsible, would make a good choice.

Mr. MERCER seconds the motion of Mr. READ.

On the motion for inserting the word "joint" before "ballot,"—New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—7; Connecticut, New Jersey, Maryland, no—3.

Col. MASON, in opposition to Mr. READ'S motion, desired it might be considered, to whom the money would belong; if to the people, the Legislature, representing the people, ought to appoint the keepers of it.

On striking out the clause, as amended, by inserting "joint,"—Pennsylvania, Delaware, Maryland, South Carolina, aye—4; New Hampshire, Massachusetts, Connecticut, Virginia, North Carolina, Georgia, no—6.[113]

The clause, "to constitute inferior tribunals," was agreed to. *nem. con.;* as also the clause, "to make rules as to captures on land and water."

The clause, "to declare the law and punishment of piracies and felonies, &c. &c." being considered—

Mr. MADISON moved to strike out, "and punishment, &c." after the words, "to declare the law."

Mr. MASON doubts the safety of it, considering the strict rule of construction in criminal cases. He doubted also the propriety of taking the power in all these cases, wholly from the States.

Mr. GOUVERNEUR MORRIS thought it would be necessary to extend the authority further, so as to provide for the punishment of counterfeiting in general. Bills of exchange, for example, might be forged in one State, and carried into another.

It was suggested by some other member, that *foreign* paper might be counterfeited by citizens; and that it might be politic to provide by national authority for the punishment of it.

Mr. RANDOLPH did not conceive that expunging "the punishment" would be a constructive exclusion of the power. He doubted only the efficacy of the word "declare."

Mr. WILSON was in favor of the motion. Strictness was not necessary in giving authority to enact penal laws, though necessary in enacting and expounding them.

On the question for striking out "and punishment," as moved by Mr. MADISON,—Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye—7; New Hampshire, Connecticut, Maryland, no—3.

Mr. GOUVERNEUR MORRIS moved to strike out "declare the law," and insert "punish," before "piracies;" and on the question,—New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, aye—7; Connecticut, Virginia, North Carolina, no—3.

Mr. MADISON and Mr. RANDOLPH moved to insert "define and," before "punish."

Mr. WILSON thought "felonies" sufficiently defined by common law.

Mr. DICKINSON concurred with Mr. WILSON.

Mr. MERCER was in favor of the amendment.

Mr. MADISON. Felony at common law is vague. It is also defective. One defect is supplied by Statute of Anne, as to running away with vessels, which at common law was a breach of trust only. Besides, no foreign law should be a standard, further than it is expressly adopted. If the laws of the States were to prevail on this subject, the citizens of different States would be subject to different punishments for the same offence at sea. There would be neither uniformity nor stability in the law. The proper remedy for all these difficulties was, to vest the power proposed by the term "define," in the National Legislature.

Mr. GOUVERNEUR MORRIS would prefer *designate* to *define*, the latter being, as he conceived, limited to the pre-existing meaning.

It was said by others to be applicable to the creating of offences also, and therefore suited the case both of felonies and piracies.

The motion of Mr. MADISON and Mr. RANDOLPH was agreed to.

Mr. ELLSWORTH enlarged the motion, so as to read, "to define and punish piracies and felonies committed on the high seas, counterfeiting the securities and current coin of the United States, and offences against the laws of nations;" which was agreed to, *nem. con.*

The clause, "to subdue a rebellion in any State, on the application of its Legislature," was next considered.

Mr. PINCKNEY moved to strike out, "on the application of its Legislature."

Mr. GOUVERNEUR MORRIS seconds.

Mr. L. MARTIN opposed it, as giving a dangerous and unnecessary power. The consent of the State ought to precede the introduction of any extraneous force whatever.

Mr. MERCER supported the opposition of Mr. MARTIN.

Mr. ELLSWORTH proposed to add, after "legislature," "or Executive."

Mr. GOUVERNEUR MORRIS. The Executive may possibly be at the head of the rebellion. The General Government should enforce obedience in all cases where it may be necessary.

Mr. ELLSWORTH. In many cases the General Government ought not to be able to interpose, unless called upon. He was willing to vary his motion, so as to read, "or without it, when the Legislature cannot meet."

Mr. GERRY was against letting loose the myrmidons of the United States on a State, without its own consent. The States will be the best judges in such cases. More blood would have been spilt in Massachusetts, in the late insurrection, if the general authority had intermeddled.

Mr. LANGDON was for striking out, as moved by Mr. PINCKNEY. The apprehension of the National force will have a salutary effect, in preventing insurrections.

Mr. RANDOLPH. If the National Legislature is to judge whether the State Legislature can or cannot meet, that amendment would make the clause as objectionable as the motion of Mr. PINCKNEY.

Mr. GOUVERNEUR MORRIS. We are acting a very

strange part. We first form a strong man to protect us, and at the same time wish to tie his hands behind him. The Legislature may surely be trusted with such a power to preserve the public tranquillity.

On the motion to add, "or without it [application] when the Legislature cannot meet," it was agreed to,—

New Hampshire, Connecticut, Virginia, South Carolina, Georgia, aye—5; Massachusetts, Delaware, Maryland, no—3; Pennsylvania, North Carolina, divided.

Mr. MADISON and Mr. DICKINSON moved to insert, as explanatory, after "State," "against the Government thereof." There might be a rebellion against the United States. The motion was agreed to, *nem. con.*

On the clause, as amended,—

New Hampshire, Connecticut, Virginia, Georgia, aye—4; Delaware, Maryland, North Carolina, South Carolina, no—4; Massachusetts,* Pennsylvania, absent. So it was lost.[814]

On the clause, "to make war,"—

Mr. PINCKNEY opposed the vesting this power in the Legislature. Its proceedings were too slow. It would meet but once a year. The House of Representatives would be too numerous for such deliberations. The Senate would be the best depository, being more acquainted with foreign affairs, and most capable of proper resolutions. If the States are equally represented in the Senate, so as to give no advantage to the large States, the power will, not-

* In the printed Journal, Massachusetts, no.

withstanding, be safe, as the small have their all at stake in such cases as well as the large States. It would be singular for one authority to make war, and another peace.

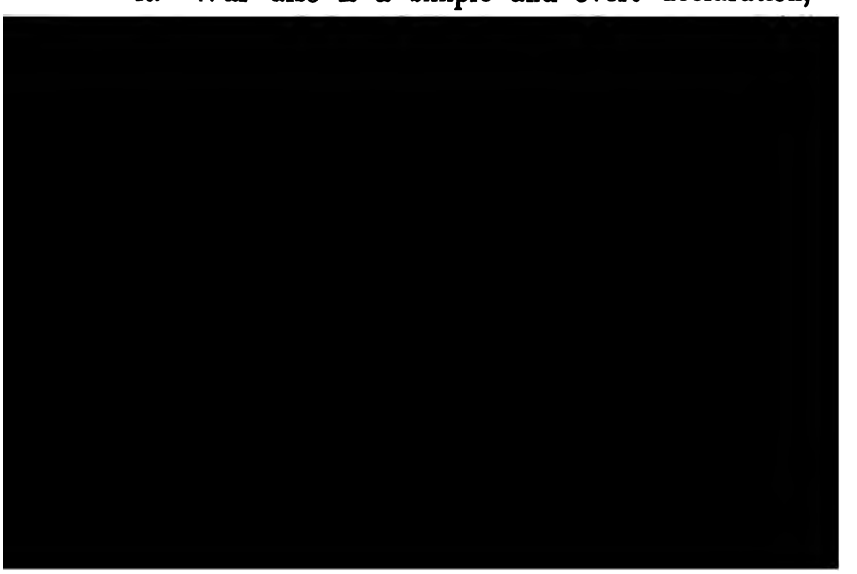
Mr. BUTLER. The objections against the Legislature lie in a great degree against the Senate. He was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the nation will support it.

Mr. MADISON and Mr. GERRY moved to insert "*declare*," striking out "*make*" war; leaving to the Executive the power to repel sudden attacks.

Mr. SHERMAN thought it stood very well. The Executive should be able to repel, and not to commence, war. "Make" is better than declare, the latter narrowing the power too much.

Mr. GERRY never expected to hear, in a republic, a motion to empower the Executive alone to declare war.

Mr. ELLSWORTH. There is a material difference between the cases of making *war* and making *peace*. It should be more easy to get out of war, than into it. War also is a simple and overt declaration,



Connecticut,* Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—8; New Hampshire, no—1; Massachusetts, absent.

Mr. PINCKNEY's motion to strike out the whole clause, was disagreed to, without call of States.

Mr. BUTLER moved to give the Legislature the power of peace, as they were to have that of war.

Mr. GERRY seconds him. Eight Senators may possibly exercise the power, if vested in that body; and fourteen, if all should be present; and may consequently give up part of the United States. The Senate are more liable to be corrupted by an enemy, than the whole Legislature.

On the motion for adding "and peace," after "war,"—it was unanimously negatived.[115]

Adjourned.

SATURDAY, AUGUST 18TH.

In Convention,—Mr. MADISON submitted, in order to be referred to the Committee of Detail, the following powers, as proper to be added to those of the General Legislature:

"To dispose of the unappropriated lands of the United States.

"To institute temporary governments for new States arising therein.

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* Connecticut voted in the negative; but on the remark by Mr. King, that "*make*" war might be understood to "conduct" it, which was an Executive function, Mr. Ellsworth gave up his objection, and the vote was changed to *aye*.

"To regulate affairs with the Indians, as well within as without the limits of the United States.

"To exercise exclusively legislative authority at the seat of the General Government, and over a district around the same not exceeding ———— square miles; the consent of the Legislature of the State or States, comprising the same, being first obtained.

"To grant charters of corporation in cases where the public good may require them, and the authority of a single State may be incompetent.

"To secure to literary authors their copy-rights for a limited time.

"To establish an university.

"To encourage by premiums and provisions the advancement of useful knowledge and discoveries.

"To authorize the Executive to procure, and hold for the use of the United States, landed property for the erection of forts, magazines, and other necessary buildings."

These propositions were referred to the Committee of Detail which had prepared the Report; and at the same time the following, which were moved by Mr. PINCKNEY—in both cases unanimously:

"To fix and permanently establish the seat of government of the United States, in which they shall possess the exclusive right of soil and jurisdiction.

"To establish seminaries for the promotion of literature and the arts and sciences.

"To grant charters of incorporation.

"To grant patents for useful inventions.

"To secure to authors exclusive rights for a certain time.

"To establish public institutions, rewards, and immunities for the promotion of agriculture, commerce, trades, and manufactures.

"That funds which shall be appropriated for the payment of public creditors, shall not during the time of such appropriation, be diverted or applied to any other purpose, and that the Committee prepare a clause or clauses for restraining the Legislature of the United States from establishing a perpetual revenue.

"To secure the payment of the public debt.

"To secure all creditors under the new Constitution from a violation of the public faith when pledged by the authority of the Legislature.

"To grant letters of marque and reprisal.

"To regulate stages on the post-roads."

Mr. MASON introduced the subject of regulating the militia. He thought such a power necessary to be given to the General Government. He hoped there would be no standing army in time of peace, unless it might be for a few garrisons. The militia ought, therefore, to be the more effectually prepared for the public defence. Thirteen States will never concur in any one system, if the disciplining of the militia be left in their hands. If they will not give up the power over the whole, they probably will over a part as a select militia. He moved, as an addition to the propositions just referred to the Committee of Detail, and to be referred in like manner, "a power to regulate the militia."

Mr. GERRY remarked, that some provision ought to be made in favor of public securities, and something inserted concerning letters of marque, which

he thought not included in the power of war. He proposed that these subjects should also go to a Committee.

Mr. RUTLEDGE moved to refer a clause, "that funds appropriated to public creditors should not be diverted to other purposes."

Mr. MASON was much attached to the principle, but was afraid such a fetter might be dangerous in time of war. He suggested the necessity of preventing the danger of perpetual revenue, which must of necessity subvert the liberty of any country. If it be objected to on the principle of Mr. RUTLEDGE's motion, that public credit may require perpetual provisions, that case might be excepted; it being declared that in other cases no taxes should be laid for a longer term than ——— years. He considered the caution observed in Great Britain on this point, as the palladium of public liberty.

Mr. RUTLEDGE's motion was referred. He then moved that a Grand Committee be appointed to consider the necessity and expediency of the United States assuming all the State debts. A regular settlement between the Union and the several States would never take place. The assumption would be just, as the State debts were contracted in the common defence. It was necessary, as the taxes on imports, the only sure source of revenue, were to be given up to the Union. It was politic, as by disburthening the people of the State debts, it would conciliate them to the plan.

Mr. KING and Mr. PINCKNEY seconded the motion.

Col. MASON interposed a motion, that the Commit-

tee prepare a clause for restraining perpetual revenue, which was agreed to, *nem. con.*

Mr. SHERMAN thought it would be better to authorize the Legislature to assume the State debts, than to say positively it should be done. He considered the measure as just, and that it would have a good effect to say something about the matter.

Mr. ELLSWORTH differed from Mr. SHERMAN. As far as the State debts ought in equity to be assumed, he conceived that they might and would be so.

Mr. PINCKNEY observed that a great part of the State debts were of such a nature that, although in point of policy and true equity they ought to be, yet would they not be, viewed in the light of Federal expenditures.

Mr. KING thought the matter of more consequence than Mr. ELLSWORTH seemed to do; and that it was well worthy of commitment. Besides the considerations of justice and policy which had been mentioned, it might be remarked, that the State creditors, an active and formidable party, would otherwise be opposed to a plan which transferred to the Union the best resources of the States, without transferring the State debts at the same time. The State creditors had generally been the strongest foes to the impost plan. The State debts probably were of greater amount, than the Federal. He would not say that it was practicable to consolidate the debts, but he thought it would be prudent to have the subject considered by a Committee.

On Mr. RUTLEDGE's motion, that a committee be appointed to consider of the assumption, &c., it was agreed to,—Massachusetts, Connecticut, Virginia,

North Carolina, South Carolina, Georgia, aye—6; New Hampshire, New Jersey, Delaware, Maryland, no—4; Pennsylvania, divided.

Mr. GERRY's motion to provide for public securities, for stages on post roads, and for letters of marque and reprisal, was committed, *nem. con.*

Mr. KING suggested that all unlocated lands of particular States ought to be given up, if State debts were to be assumed. Mr. WILLIAMSON concurred in the idea.[316]

A Grand Committee was appointed, consisting of Mr. LANGDON, Mr. KING, Mr. SHERMAN, Mr. LIVINGSTON, Mr. CLYMER, Mr. DICKINSON, Mr. MCHENRY, Mr. MASON, Mr. WILLIAMSON, Mr. C. C. PINCKNEY, and Mr. BALDWIN.

Mr. RUTLEDGE remarked on the length of the session, the probable impatience of the public, and the extreme anxiety of many members of the Convention to bring the business to an end; concluding with a motion that the Convention meet henceforward, precisely at ten o'clock, A. M.; and that, precisely at four o'clock, P. M., the President adjourn the House without motion for the purpose; and that no motion to adjourn sooner be allowed.

On this question,—New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye—9; Pennsylvania, Maryland, no—2.

Mr. ELLSWORTH observed that a Council had not yet been provided for the President. He conceived there ought to be one. His proposition was, that it should be composed of the President of the Senate, the Chief Justice, and the Ministers as they might

be established for the departments of foreign and domestic affairs, war, finance and marine; who should advise but not conclude the President.

Mr. PINCKNEY wished the proposition to lie over, as notice had been given for a like purpose by Mr. GOUVERNEUR MORRIS, who was not then on the floor. His own idea was, that the President should be authorized to call for advice, or not, as he might choose. Give him an able Council, and it will thwart him; a weak one, and he will shelter himself under their sanction.

Mr. GERRY was against letting the heads of the Departments, particularly of finance, have any thing to do in business connected with legislation. He mentioned the Chief Justice also, as particularly exceptionable. These men will also be so taken up with other matters, as to neglect their own proper duties.

Mr. DICKINSON urged that the great appointments should be made by the Legislature, in which case they might properly be consulted by the Executive, but not if made by the Executive himself.[317]

This subject by general consent lay over; and the House proceeded to the clause, "to raise armies."

Mr. GORHAM moved to add, "and support," after "raise." Agreed to, *nem. con.;* and then the clause was agreed to, *nem. con.*, as amended.

Mr. GERRY took notice that there was no check here against standing armies in time of peace. The existing Congress is so constructed that it cannot of itself maintain an army. This would not be the case under the new system. The people were jealous on this head, and great opposition to the plan

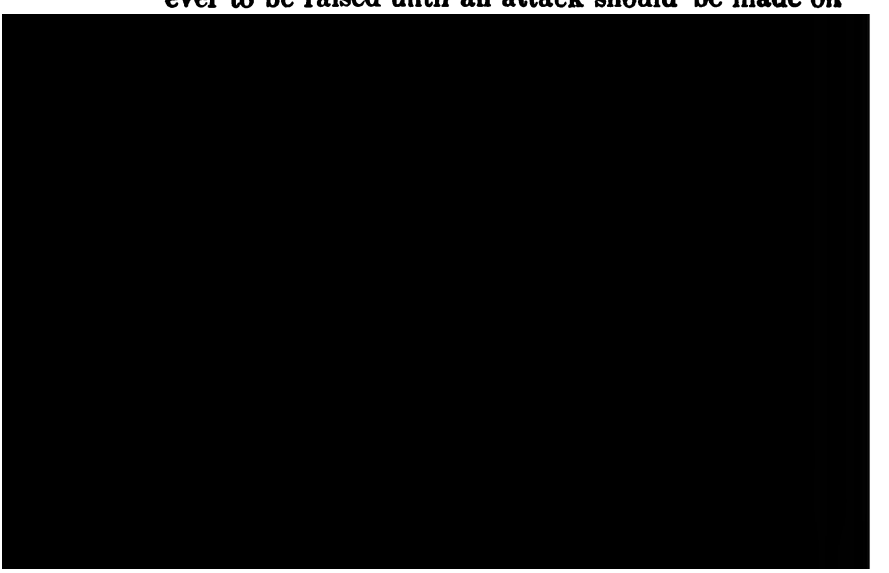
would spring from such an omission. He suspected that preparations of force were now making against it. [He seemed to allude to the activity of the Governor of New York at this crisis in disciplining the militia of that State.] He thought an army dangerous in time of peace, and could never consent to a power to keep up an indefinite number. He proposed that there should not be kept up in time of peace more than ——— thousand troops. His idea was, that the blank should be filled with two or three thousand.

Instead of "to build and equip fleets," "to provide and maintain a Navy," was agreed to, *nem. con.*, as a more convenient definition of the power.

A clause, "to make rules for the government and regulation of the land and naval forces," was added from the existing Articles of Confederation.

Mr. L. MARTIN and Mr. GERRY now regularly moved, "provided that in time of peace the army shall not consist of more than ——— thousand men."

General PINCKNEY asked, whether no troops were ever to be raised until an attack should be made on



sort may, for ought we know, become unavoidable. He should object to no restrictions consistent with these ideas.

The motion of Mr. MARTIN and Mr. GERRY was disagreed to, *nem. con.*[318]

Mr. MASON moved, as an additional power, "to make laws for the regulation and discipline of the militia of the several States, reserving to the States the appointment of the officers." He considered uniformity as necessary in the regulation of the militia, throughout the Union.

General PINCKNEY mentioned a case, during the war, in which a dissimilarity in the militia of different States had produced the most serious mischiefs. Uniformity was essential. The States would never keep up a proper discipline of the militia.

Mr. ELLSWORTH was for going as far, in submitting the militia to the General Government, as might be necessary; but thought the motion of Mr. MASON went too far. He moved, "that the militia should have the same arms and exercise, and be under rules established by the General Government when in actual service of the United States; and when States neglect to provide regulations for militia, it should be regulated and established by the Legislature of the United States." The whole authority over the militia ought by no means to be taken away from the States, whose consequence would pine away to nothing after such a sacrifice of power. He thought the general authority could not sufficiently pervade the Union for such a purpose, nor could it accommodate itself to the local genius of the people.

It must be vain to ask the States to give the militia out of their hands.

Mr. SHERMAN seconds the motion.

Mr. DICKINSON. We are come now to a most important matter—that of the sword. His opinion was, that the States never would, nor ought to, give up all authority over the militia. He proposed to restrain the general power to one-fourth part at a time, which by rotation would discipline the whole militia.

Mr. BUTLER urged the necessity of submitting the whole militia to the general authority, which had the care of the general defence.

Mr. MASON had suggested the idea of a select militia. He was led to think that would be, in fact, as much as the General Government could advantageously be charged with. He was afraid of creating insuperable objections to the plan. He withdrew his original motion, and moved a power "to make laws for regulating and disciplining the militia, not exceeding one-tenth part in any one year, and reserving the appointment of officers to the States."

General PINCKNEY renewed Mr. MASON's original motion. For a part to be under the General and a part under the State Governments, would be an incurable evil. He saw no room for such distrust of the General Government.

Mr. LANGDON seconds General PINCKNEY's renewal. He saw no more reason to be afraid of the General Government, than of the State Governments. He was more apprehensive of the confusion of the different authorities on this subject, than of either.

Mr. MADISON thought the regulation of the militia

naturally appertaining to the authority charged with the public defence. It did not seem, in its nature, to be divisible between two distinct authorities. If the States would trust the General Government with a power over the public treasure, they would, from the same consideration of necessity, grant it the direction of the public force. Those who had a full view of the public situation, would, from a sense of the danger, guard against it. The States would not be separately impressed with the general situation, nor have the due confidence in the concurrent exertions of each other.

Mr. ELLSWORTH considered the idea of a select militia as impracticable; and if it were not, it would be followed by a ruinous declension of the great body of the militia. The States would never submit to the same militia laws. Three or four shillings as a penalty will enforce obedience better in New England, than forty lashes in some other places.

Mr. PINCKNEY thought the power such an one as could not be abused, and that the States would see the necessity of surrendering it. He had, however, but a scanty faith in militia. There must be also a real military force. This alone can effectually answer the purpose. The United States had been making an experiment without it, and we see the consequence in their rapid approaches toward anarchy.*

Mr. SHERMAN took notice that the States might want their militia for defence against invasions and

* This had reference to the disorders, particularly, that had occurred in Massachusetts, which had called for the interposition of the Federal troops.

insurrections, and for enforcing obedience to their laws. They will not give up this point. In giving up that of taxation, they retain a concurrent power of raising money for their own use.

Mr. GERRY thought this the last point remaining to be surrendered. If it be agreed to by the Convention, the plan will have as black a mark as was set on Cain. He had no such confidence in the General Government as some gentlemen possessed, and believed it would be found that the States have not.

Col. MASON thought there was great weight in the remarks of Mr. SHERMAN, and moved an exception to his motion, "of such part of the militia as might be required by the States for their own use."

Mr. READ doubted the propriety of leaving the appointment of the militia officers to the States. In some States, they are elected by the Legislatures; in others, by the people themselves. He thought at least an appointment by the State Executives ought to be insisted on.

On the question for committing to the Grand Committee last appointed, the latter motion of Col.

MONDAY, AUGUST 20TH.

In Convention,—Mr. PINCKNEY submitted to the House, in order to be referred to the Committee of Detail, the following propositions:

"Each House shall be the judge of its own privileges, and shall have authority to punish by imprisonment every person violating the same, or who, in the place where the Legislature may be sitting and during the time of its session, shall threaten any of its members for any thing said or done in the House; or who shall assault any of them therefor; or who shall assault or arrest any witness or other person ordered to attend either of the Houses, in his way going or returning; or who shall rescue any person arrested by their order.

"Each branch of the Legislature, as well as the Supreme Executive, shall have authority to require the opinions of the Supreme Judicial Court upon important questions of law, and upon solemn occasions.

The privileges and benefit of the writ of Habeas Corpus shall be enjoyed in this Government, in the most expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding —— months.

"The liberty of the press shall be inviolably preserved.

"No troops shall be kept up in time of peace, but by consent of the Legislature.

"The military shall always be subordinate to the

civil power; and no grants of money shall be made by the Legislature for supporting military land forces, for more than one year at a time.

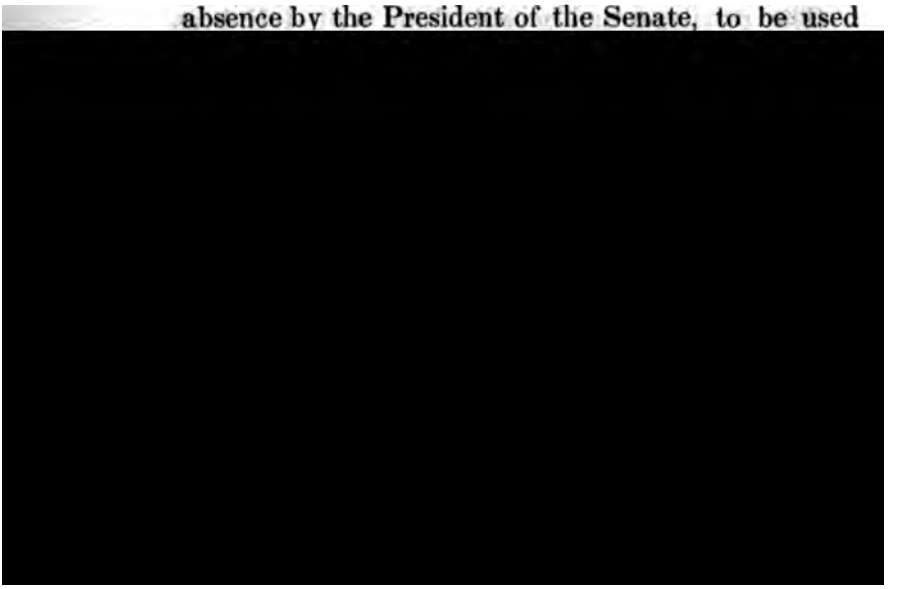
"No soldier shall be quartered in any house, in time of peace, without consent of the owner.

"No person holding the office of President of the United States, a Judge of their Supreme Court, Secretary for the department of Foreign affairs, of Finance, of Marine, of War, or of ——— shall be capable of holding at the same time any other office of trust or emolument, under the United States, or an individual State.

"No religious test or qualification shall ever be annexed to any oath of office, under the authority of the United States.

"The United States shall be forever considered as one body corporate and politic in law, and entitled to all the rights, privileges and immunities, which to bodies corporate do or ought to appertain.

"The Legislature of the United States shall have the power of making the Great Seal, which shall be kept by the President of the United States, or in his absence by the President of the Senate, to be used



of Detail, without debate or consideration of them by the House.

Mr. GOUVERNEUR MORRIS, seconded by Mr. PINCKNEY, submitted the following propositions, which were, in like manner, referred to the Committee of Detail:

"To assist the President in conducting the public affairs, there shall be a Council of State composed of the following officers:

"1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the United States, as may in his opinion be necessary to the due administration of justice; and such as may promote useful learning and inculcate sound morality throughout the Union. He shall be President of the Council, in the absence of the President.

"2. The Secretary of Domestic affairs, who shall be appointed by the President, and hold his office during pleasure. It shall be his duty to attend to matters of general police, the state of agriculture and manufactures, the opening of roads and navigations, and the facilitating communications through the United States; and he shall from time to time recommend such measures and establishments as may tend to promote those objects.

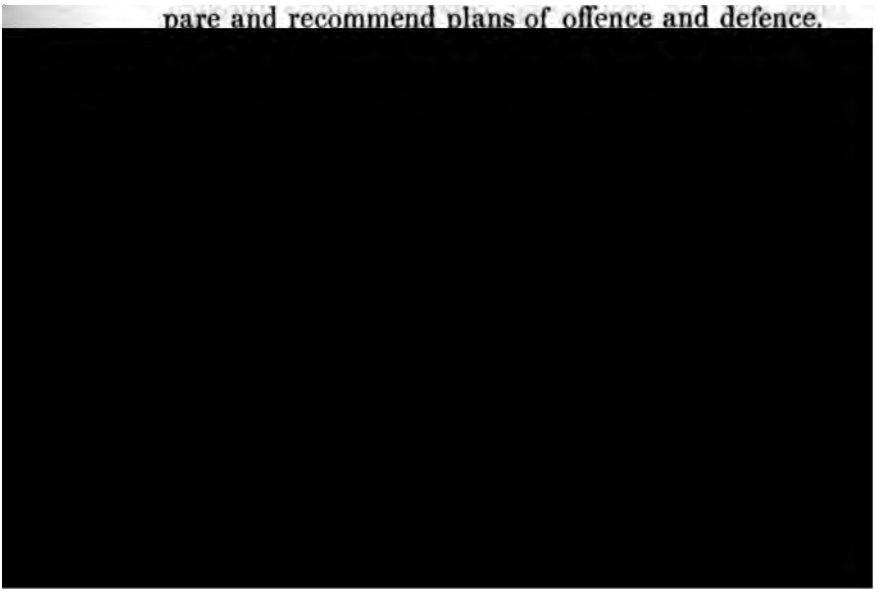
"3 The Secretary of Commerce and Finance, who shall also be appointed by the President during pleasure. It shall be his duty to superintend all matters relating to the public finances, to prepare and report plans of revenue and for the regulation of expenditures, and also to recommend such things

as may, in his judgment, promote the commercial interests of the United States.

"4. The Secretary of Foreign Affairs, who shall also be appointed by the President during pleasure. It shall be his duty to correspond with all foreign ministers, prepare plans of treaties, and consider such as may be transmitted from abroad; and generally to attend to the interests of the United States in their connections with foreign powers.

"5. The Secretary of War, who shall also be appointed by the President during pleasure. It shall be his duty to superintend every thing relating to the War department, such as the raising and equipping of troops, the care of military stores, public fortifications, arsenals and the like; also in time of war to prepare and recommend plans of offence and defence.

"6. The Secretary of the Marine, who shall also be appointed during pleasure. It shall be his duty to superintend every thing relating to the Marine department, the public ships, dock-yards, naval stores and arsenals; also in the time of war to prepare and recommend plans of offence and defence.



form to such opinions, or not, as he may think proper; and every officer above mentioned shall be responsible for his opinion, on the affairs relating to his particular department.

"Each of the officers above mentioned shall be liable to impeachment and removal from office, for neglect of duty, malversation or corruption."

Mr. GERRY moved, "that the Committee be instructed to report proper qualifications for the President, and a mode of trying the Supreme Judges in cases of impeachment."

The clause, "to call forth the aid of the militia, &c.," was postponed till report should be made as to the power over the militia, referred yesterday to the Grand Committee of eleven.

Mr. MASON moved to enable Congress "to enact sumptuary laws." No government can be maintained unless the manners be made consonant to it. Such a discretionary power may do good, and can do no harm. A proper regulation of exercises and of trade, may do a great deal; but it is best to have an express provision. It was objected to sumptuary laws, that they were contrary to nature. This was a vulgar error. The love of distinction, it is true, is natural; but the object of sumptuary laws is not to extinguish this principle, but to give it a proper direction.

Mr. ELLSWORTH. The best remedy is to enforce taxes and debts. As far as the regulation of eating and drinking can be reasonable, it is provided for in the power of taxation.

Mr. GOUVERNEUR MORRIS argued that sumptuary laws tended to create a landed nobility, by fixing in

the great landholders, and their posterity, their present possessions.

Mr. GERRY. The law of necessity is the best sumptuary law.

On the motion of Mr. MASON as to "sumptuary laws,"—

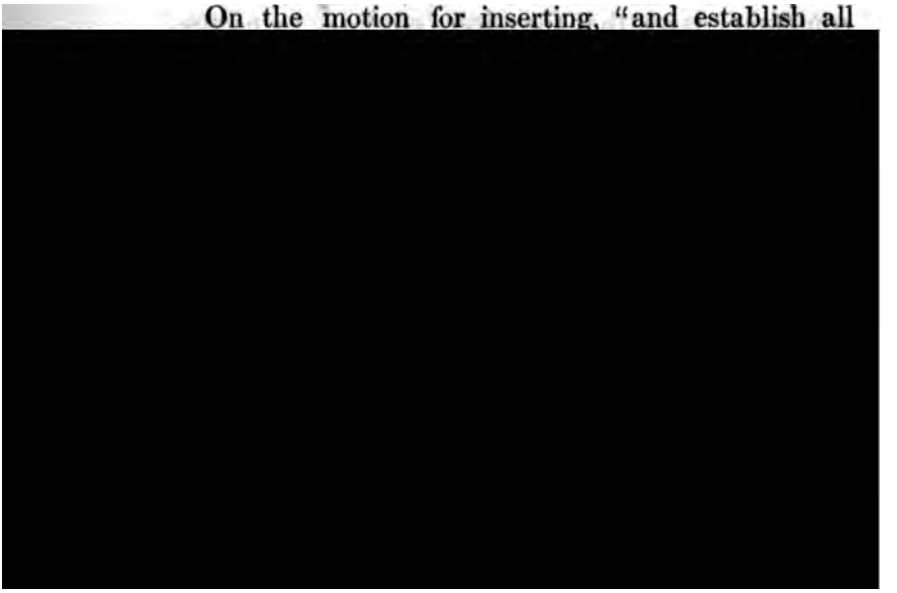
Delaware, Maryland, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, no—8.

On the clause, "and to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested, by this Constitution, in the Government of the United States, or any department or officer thereof,"—

Mr. MADISON and Mr. PINCKNEY moved to insert, between "laws" and "necessary," "and establish all offices;" it appearing to them liable to cavil, that the latter was not included in the former.

Mr. GOUVERNEUR MORRIS, Mr. WILSON, Mr. RUTLEDGE, and Mr. ELLSWORTH, urged that the amendment could not be necessary.

On the motion for inserting, "and establish all



It did not appear to go as far as the statute of Edward III. He did not see why more latitude might not be left to the Legislature. It would be as safe as in the hands of State Legislatures; and it was inconvenient to bar a discretion which experience might enlighten, and which might be applied to good purposes as well as be abused.

Mr. MASON was for pursuing the statute of Edward III.

Mr. GOUVERNEUR MORRIS was for giving to the Union an exclusive right to declare what should be treason. In case of a contest between the United States and a particular State, the people of the latter must, under the disjunctive terms of the clause, be traitors to one or other authority.

Mr. RANDOLPH thought the clause defective in adopting the words, "in adhering," only. The British statute adds, "giving them aid and comfort," which had a more extensive meaning.

Mr. ELLSWORTH considered the definition as the same in fact with that of the statute.

Mr. GOUVERNEUR MORRIS. "Adhering" does not go so far as "giving aid and comfort," or, the latter words may be restrictive of "adhering." In either case the statute is not pursued.

Mr. WILSON held "giving aid and comfort" to be explanatory, not operative words; and that it was better to omit them.

Mr. DICKINSON thought the addition of "giving aid and comfort" unnecessary and improper; being too vague and extending too far. He wished to know what was meant by the "testimony of two witnesses;" whether they were to be witnesses to the

same overt act, or to different overt acts. He thought also, that proof of an overt act ought to be expressed as essential in the case.

Doctor JOHNSON considered "giving aid and comfort" as explanatory of "adhering," and that something should be inserted in the definition concerning overt acts. He contended that treason could not be both against the United States, and individual States; being an offence against the sovereignty, which can be but one in the same community.

Mr. MADISON remarked that "and," before "in adhering," should be changed into "or;" otherwise both offences, viz. of "levying war," and of "adhering to the enemy," might be necessary to constitute treason. He added, that, as the definition here was of treason against *the United States*, it would seem that the individual States would be left in possession of a concurrent power, so far as to define and punish treason particularly against themselves, which might involve double punishment.[320]

It was moved that the whole clause be recommitted, which was lost, the votes being equally divided,—

the United States, as here defined; and against a particular State, according to its laws.

Mr. ELLSWORTH. There can be no danger to the general authority from this; as the laws of the United States are to be paramount.

Doctor JOHNSON was still of opinion there could be no treason against a particular State. It could not, even at present, as the Confederation now stands; the sovereignty being in the Union; much less can it be under the proposed system.

Col. MASON. The United States will have a qualified sovereignty only. The individual States will retain a part of the sovereignty. An act may be treason against a particular State, which is not so against the United States. He cited the rebellion of Bacon in Virginia, as an illustration of the doctrine.

Doctor JOHNSON. That case would amount to treason against the sovereign, the supreme sovereign, the United States.

Mr. KING observed, that the controversy relating to treason, might be of less magnitude than was supposed; as the Legislature might punish capitally under other names than treason.

Mr. GOUVERNEUR MORRIS and Mr. RANDOLPH wished to substitute the words of the British statute, and moved to postpone Article 7, Section 2, in order to consider the following substitute: "Whereas it is essential to the preservation of liberty to define precisely and exclusively what shall constitute the crime of treason, it is therefore ordained, declared and established, that if a man do levy war against the United States, within their territories, or be adherent to the

enemies of the United States within the said territories, giving them aid and comfort within their territories or elsewhere, and thereof be provably attainted of open deed, by the people of his condition, he shall be adjudged guilty of treason."

On this question,—

New Jersey, Virginia, aye—2; Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, no—8.

It was then moved to strike out "against the United States" after "treason," so as to define treason generally; and on this question,—

Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, aye—8; Virginia, North Carolina, no—2.

It was then moved to insert, after "two witnesses," the words, "to the same overt act."

Doctor FRANKLIN wished this amendment to take place. Prosecutions for treason were generally virulent; and perjury too easily made use of against innocence.

Mr. WILSON. Much may be said on both sides. Treason may sometimes be practised in such a man-

Mr. BROOM seconds the motion.

Mr. WILSON. In cases of a general nature, treason can only be against the United States; and in such they should have the sole right to declare the punishment; yet in many cases it may be otherwise. The subject was, however, intricate, and he distrusted his present judgment on it.

Mr. KING. This amendment results from the vote defining treason generally, by striking out, "against the United States," which excludes any treason against particular States. These may, however, punish offences, as high misdemeanours.

On the question for inserting the word "sole," it passed in the negative,—New Hampshire, Massachusetts, Pennsylvania, Delaware, South Carolina, aye—5; Connecticut, New Jersey, Maryland, Virginia, North Carolina, Georgia, no—6.

Mr. WILSON. The clause is ambiguous now. "Sole" ought either to have been inserted, or "against the United States," to be re-instated.

Mr. KING. No line can be drawn between levying war and adhering to the enemy against the United States, and against an individual State. Treason against the latter must be so against the former.

Mr. SHERMAN. Resistance against the laws of the United States, as distinguished from resistance against the laws of a particular State, forms the line.

Mr. ELLSWORTH. The United States are sovereign on one side of the line, dividing the jurisdictions—the States on the other. Each ought to have power to defend their respective sovereignties.

Mr. DICKINSON. War or insurrection against a

member of the Union must be so against the whole body; but the Constitution should be made clear on this point.

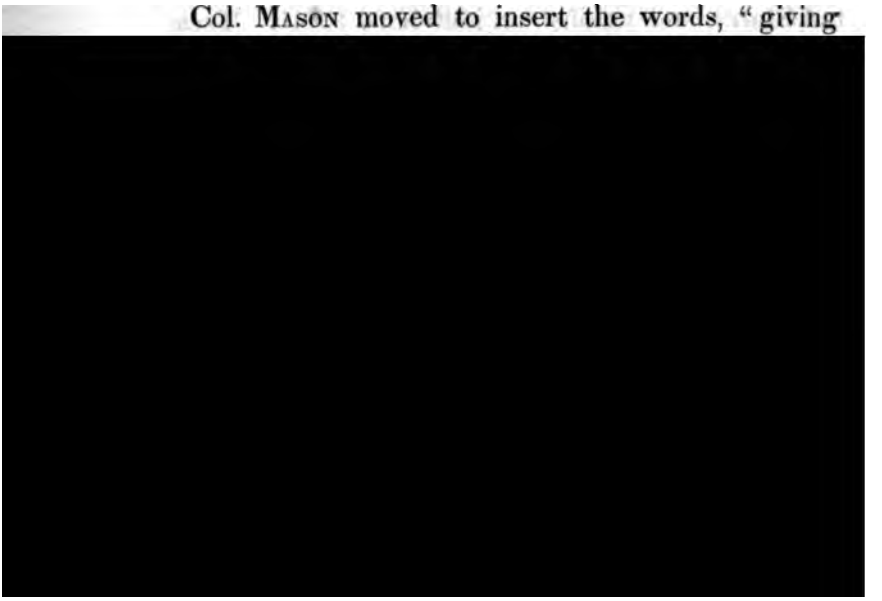
The clause was reconsidered, *nem. con.;* and then Mr. WILSON and Mr. ELLSWORTH moved to reinstate, "against the United States," after "treason;" on which question,—Connecticut, New Jersey, Maryland, Virginia, North Carolina, Georgia, aye—6; New Hampshire, Massachusetts, Pennsylvania, Delaware, South Carolina, no—5.

Mr. MADISON was not satisfied with the footing on which the clause now stood. As treason against the United States involves treason against particular States, and *vice versa*, the same act may be twice tried, and punished by the different authorities.

Mr. GOUVERNEUR MORRIS viewed the matter in the same light.

It was moved and seconded to amend the sentence to read: "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies;" which was agreed to.

Col. MASON moved to insert the words, "giving



ryland, Virginia, aye—7; Massachusetts, South Carolina, Georgia, no—3; North Carolina, divided.

Article 7, Sect. 2, as amended, was then agreed to, *nem. con.*[221]

Article 7, Sect. 3, was taken up. The words, "white and others," were struck out, *nem. con.*, as superfluous.

Mr. ELLSWORTH moved to require the first census to be taken within "three," instead of "six," years, from the first meeting of the Legislature; and on the question,—New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—9; South Carolina, Georgia, no—2.

Mr. KING asked, what was the precise meaning of *direct* taxation? No one answered.

Mr. GERRY moved to add to Article 7, Sect. 3, the following clause: "That from the first meeting of the Legislature of the United States until a census shall be taken, all moneys for supplying the public treasury by direct taxation shall be raised from the several States according to the number of their Representatives respectively in the first branch."

Mr. LANGDON. This would bear unreasonably hard on New Hampshire, and he must be against it.

Mr. CARROLL opposed it. The number of Representatives did not admit of a proportion exact enough for a rule of taxation.

Before any question, the House

Adjourned.

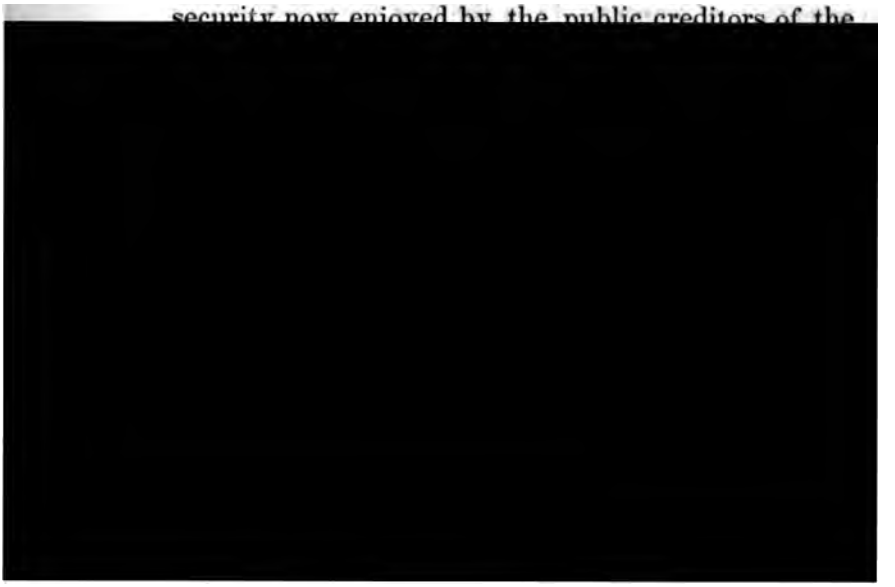
TUESDAY, AUGUST 21ST.

In Convention,—Governor LIVINGSTON, from the Committee of eleven to whom were referred the propositions respecting the debts of the several States, and also the militia, entered on the eighteenth inst., delivered the following report:

"The Legislature of the United States shall have power to fulfil the engagements which have been entered into by Congress, and to discharge, as well the debts of the United States, as the debts incurred by the several States, during the late war, for the common defence and general welfare.

"To make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by the United States."

Mr. GERRY considered giving the power only, without adopting the obligation, as destroying the security now enjoyed by the public creditors of the



Mr. SHERMAN. It means neither more nor less than the Confederation, as it relates to this subject.

Mr. ELLSWORTH moved that the Report delivered in by Governor LIVINGSTON should lie on the table; which was agreed to, *nem. con.*

Article 7, Section 3, was then resumed.

Mr. DICKINSON moved to postpone this, in order to reconsider Article 4, Section 4, and to *limit* the number of Representatives to be allowed to the large States. Unless this were done, the small States would be reduced to entire insignificance, and encouragement given to the importation of slaves.

Mr. SHERMAN would agree to such a re-consideration; but did not see the necessity of postponing the section before the House. Mr. DICKINSON withdrew his motion.

Article 7, Section 3, was then agreed to,—ten ayes; Delaware alone, no.

Mr. SHERMAN moved to add to Section 3, the following clause: "and all accounts of supplies furnished, services performed, and moneys advanced, by the several States to the United States, or by the United States to the several States, shall be adjusted by the same rule."

Mr. GOUVERNEUR MORRIS seconds the motion.

Mr. GORHAM thought it wrong to insert this in the Constitution. The Legislature will no doubt do what is right. The present Congress have such a power, and are now exercising it.

Mr. SHERMAN. Unless some rule be expressly given, none will exist under the new system.

Mr. ELLSWORTH. Though the contracts of Congress will be binding, there will be no rule for exe-

cuting them on the States; and one ought to be provided.

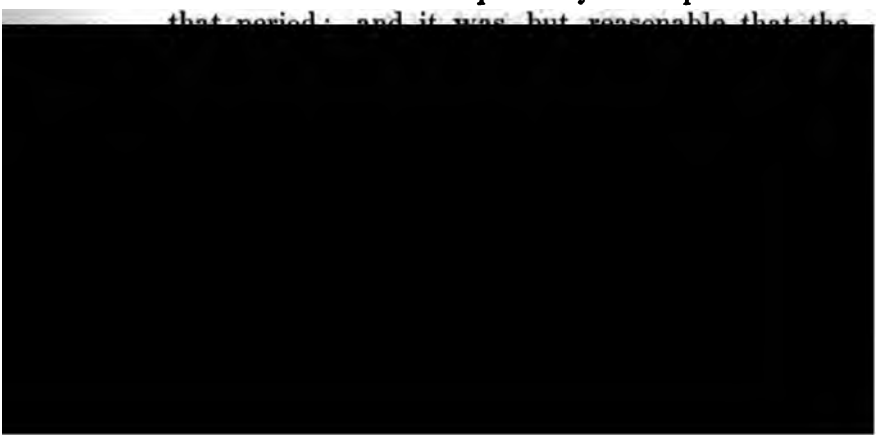
Mr. SHERMAN withdrew his motion, to make way for one of Mr. WILLIAMSON, to add to Section 3,— "By this rule the several quotas of the States shall be determined, in settling the expenses of the late war."

Mr. CARROLL brought into view the difficulty that might arise on this subject, from the establishment of the Constitution as intended, without the *unanimous* consent of the States.

Mr. WILLIAMSON's motion was postponed, *nem. con.*

Article 6, Section 12, which had been postponed on the fifteenth of August, was now called for by Colonel MASON, who wished to know how the proposed amendment, as to money bills, would be decided, before he agreed to any further points.

Mr. GERRY's motion of yesterday, "that previous to a census direct taxation be proportioned on the States according to the number of Representatives," was taken up. He observed, that the principal acts of Government would probably take place within



could be applied, and so forth. He proposed to amend the motion by adding the words, "subject to a final liquidation by the foregoing rule, when a census shall have been taken."

Mr. MADISON. The last appointment of Congress, on which the number of Representatives was founded, was conjectural and meant only as a temporary rule, till a census should be established.

Mr. READ. The requisitions of Congress had been accommodated to the impoverishment produced by the war; and to other local and temporary circumstances.

Mr. WILLIAMSON opposed Mr. GERRY's motion.

Mr. LANGDON was not here when New Hampshire was allowed three members. It was more than her share; he did not wish for them.

Mr. BUTLER contended warmly for Mr. GERRY's motion, as founded in reason and equity.

Mr. ELLSWORTH's proviso to Mr. GERRY's motion was agreed to, *nem. con.*

Mr. KING thought the power of taxation given to the Legislature rendered the motion of Mr. GERRY altogether unnecessary.

On Mr. GERRY's motion, as amended,—

Massachusetts, South Carolina, aye—2; New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, no—8; North Carolina, divided.

On a question, "Shall Article 6, Sect. 12, with the amendment to it, proposed and entered on the fifteenth inst., as called for by Colonel MASON, be now taken up?" it passed in the negative,—

New Hampshire, Connecticut, Virginia, Maryland,

North Carolina, aye—5; Massachusetts, New Jersey, Pennsylvania, Delaware, South Carolina, Georgia, no—6.

Mr. L. MARTIN. The power of taxation is most likely to be criticised by the public. Direct taxation should not be used but in cases of absolute necessity; and then the States will be the best judges of the mode. He therefore moved the following addition to Article 7, Sect. 3: "and whenever the Legislature of the United States shall find it necessary that revenue should be raised by direct taxation, having apportioned the same according to the above rule on the several States, requisitions shall be made of the respective States to pay into the Continental Treasury their respective quotas, within a time in the said requisitions specified; and in case of any of the States failing to comply with such requisitions, then, and then only, to devise and pass acts directing the mode, and authorizing the collection of the same."

Mr. MCHENRY seconded the motion; there was no debate, and on the question,—

New Jersey, aye—1; New Hampshire, Connecticut, Pennsylvania, Delaware, Virginia, North Caro-

currence of two-thirds, or three-fourths of the Legislature, in such cases.

Mr. ELLSWORTH. It is best as it stands. The power of regulating trade between the states will protect them against each other. Should this not be the case, the attempts of one to tax the produce of another, passing through its hands, will force a direct exportation and defeat themselves. There are solid reasons against Congress taxing exports. First, it will discourage industry, as taxes on imports discourage luxury. Secondly, the produce of different States is such as to prevent uniformity in such taxes. There are indeed but a few articles that could be taxed at all; as tobacco, rice and indigo; and a tax on these alone would be partial and unjust. Thirdly, the taxing of exports would engender incurable jealousies.

Mr. WILLIAMSON. Though North Carolina has been taxed by Virginia by a duty on twelve thousand hogsheads of her tobacco through Virginia, yet he would never agree to this power. Should it take place, it would destroy the last hope of the adoption of the plan.

Mr. GOUVERNEUR MORRIS. These local considerations ought not to impede the general interest. There is great weight in the argument, that the exporting States will tax the produce of their uncommercial neighbours. The power of regulating the trade between Pennsylvania and New Jersey will never prevent the former from taxing the latter. Nor will such a tax force a direct exportation from New Jersey. The advantages possessed by a large trading city outweigh the disadvantage of a mod-

erate duty; and will retain the trade in that channel. If no tax can be laid on exports, an embargo cannot be laid, though in time of war such a measure may be of critical importance. Tobacco, lumber and live stock, are three objects belonging to different States of which great advantage might be made by a power to tax exports. To these may be added ginseng and masts for ships, by which a tax might be thrown on other nations. The idea of supplying the West Indies with lumber from Nova Scotia, is one of the many follies of Lord Sheffield's pamphlet. The state of the country, also, will change, and render duties on exports, as skins, beaver and other peculiar raw materials, politic in the view of encouraging American manufactures.

Mr. BUTLER was strenuously opposed to a power over exports, as unjust and alarming to the staple States.

Mr. LANGDON suggested a prohibition on the States from taxing the produce of other States exported from their harbours.

Mr. DICKINSON. The power of taxing exports may be inconvenient at present; but it must be of dangerous consequence to prohibit it with respect to all articles, and for ever. He thought it would be better to except particular articles from the power.

Mr. SHERMAN. It is best to prohibit the National Legislature in all cases. The States will never give up all power over trade. An enumeration of particular articles would be difficult, invidious, and improper

Mr. MADISON. As we ought to be governed by national and permanent views, it is a sufficient argu-

ment for giving the power over exports, that a tax, though it may not be expedient at present, may be so hereafter. A proper regulation of exports may, and probably will, be necessary hereafter, and for the same purposes as the regulation of imports, viz, for revenue, domestic manufactures, and procuring equitable regulations from other nations. An embargo may be of absolute necessity, and can alone be effectuated by the general authority. The regulation of trade between State and State cannot effect more than indirectly to hinder a State from taxing its own exports, by authorizing its citizens to carry their commodities freely into a neighbouring State, which might decline taxing exports, in order to draw into its channel the trade of its neighbours. As to the fear of disproportionate burthens on the more exporting States, it might be remarked that it was agreed, on all hands, that the revenue would principally be drawn from trade, and as only a given revenue would be needed, it was not material whether all should be drawn wholly from imports, or half from those and half from exports. The imports and exports must be pretty nearly equal in every State, and, relatively, the same among the different States.

Mr. ELLSWORTH did not conceive an embargo by the Congress interdicted by this section.

Mr. MCHENRY conceived that power to be included in the power of war.

Mr. WILSON. Pennsylvania exports the produce of Maryland, New Jersey, Delaware, and will by and by, when the river Delaware is opened, export for New York. In favoring the general power over exports, therefore, he opposed the particular interest

of his State. He remarked that the power had been attacked by reasoning which could only have held good, in case the General Government had been *compelled*, instead of *authorized*, to lay duties on exports. To deny this power is to take from the common Government half the regulation of trade. It was his opinion, that a power over exports might be more effectual, than that over imports, in obtaining beneficial treaties of commerce.

Mr. GERRY was strenuously opposed to the power over exports. It might be made use of to compel the States to comply with the will of the General Government, and to grant it any new powers which might be demanded. We have given it more power already than we know how will be exercised. It will enable the General Government to oppress the States, as much as Ireland is oppressed by Great Britain.

Mr. FITZSIMONS would be against a tax on exports to be laid immediately; but was for giving a power of laying the tax when a proper time may call for it. This would certainly be the case when America should become a manufacturing country. He illus-

ginia.] If we compare the States in this point of view, the eight Northern States have an interest different from the five Southern States; and have, in one branch of the Legislature, thirty-six votes, against twenty-nine, and in the other in the proportion of eight against five. The Southern States had therefore ground for their suspicions. The case of exports was not the same with that of imports. The latter were the same throughout the States; the former very different. As to tobacco, other nations do raise it, and are capable of raising it, as well as Virginia, &c. The impolicy of taxing that article had been demonstrated by the experiment of Virginia.

Mr. CLYMER remarked, that every State might reason with regard to its particular productions in the same manner as the Southern States. The Middle States may apprehend an oppression of their wheat, flour, provisions, &c.; and with more reason, as these articles were exposed to a competition in foreign markets not incident to tobacco, rice, &c. They may apprehend also combinations against them, between the Eastern and Southern States, as much as the latter can apprehend them between the Eastern and middle. He moved, as a qualification of the power of taxing exports, that it should be restrained to regulations of trade, by inserting, after the word "duty," Article 7, Section 4, the words, "for the purpose of revenue."

On the question on Mr. CLYMER's motion,—

New Jersey, Pennsylvania, Delaware, aye—3; New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—8.

Mr. MADISON, in order to require two-thirds of each House to tax exports, as a lesser evil than a total prohibition, moved to insert the words, "unless by consent of two-thirds of the Legislature."

Mr. WILSON seconds; and on this question, it passed in the negative,—

New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, aye—5; Connecticut, Maryland, Virginia, (Colonel MASON, Mr. RANDOLPH, Mr. BLAIR, no; General WASHINGTON, Mr. MADISON, aye) North Carolina, South Carolina, Georgia, no—6.

On the question on Article 7, Section 4, as far as to "no tax shall be laid on exports," it passed in the affirmative,—

Massachusetts, Connecticut, Maryland, Virginia, (General WASHINGTON and Mr. MADISON, no) North Carolina, South Carolina, Georgia, aye—7; New Hampshire, New Jersey, Pennsylvania, Delaware, no—4.[888]

Mr. L. MARTIN proposed to vary Article 7, Section 4, so as to allow a prohibition or tax on the importation of slaves. In the first place, as five slaves are to be counted as three freemen in the apportionment

slaves could be encouraged by this section. He was not apprehensive of insurrections, and would readily exempt the other States from the obligation to protect the Southern against them. Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is, whether the Southern States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of slaves, which will increase the commodities of which they will become the carriers.

Mr. ELLSWORTH was for leaving the clause as it stands. Let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves. What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old Confederation had not meddled with this point; and he did not see any greater necessity for bringing it within the policy of the new one.

Mr. PINCKNEY. South Carolina can never receive the plan if it prohibits the slave-trade. In every proposed extension of the powers of Congress, that State has expressly and watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, South Carolina may perhaps, by degrees, do of herself what is wished, as Virginia and Maryland already have done.

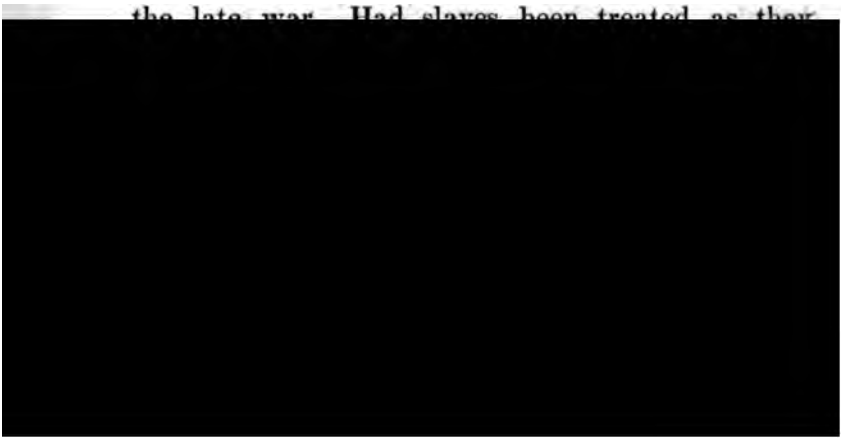
Adjourned.

WEDNESDAY, AUGUST 22D.

In Convention,—Article 7, Section 4, was resumed.

Mr. SHERMAN was for leaving the clause as it stands. He disapproved of the slave trade; yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees complete it. He urged on the Convention the necessity of despatching its business.

Col. MASON. This infernal traffic originated in the avarice of British merchants. The British Government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone, but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as their



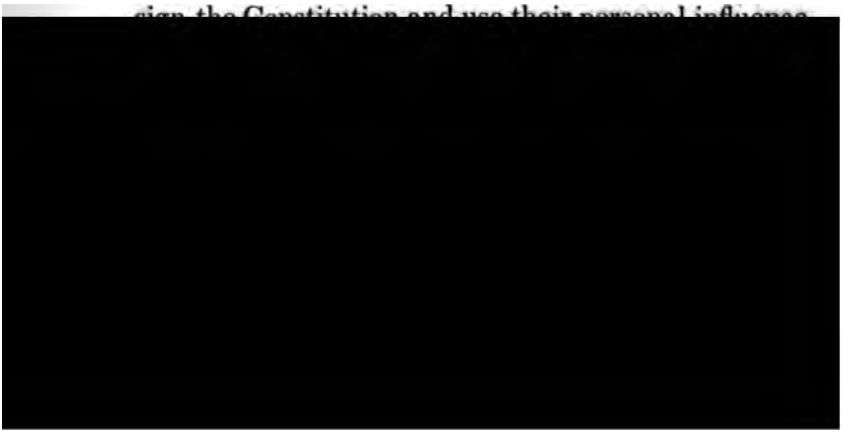
Carolina had done the same in substance. All this would be in vain, if South Carolina and Georgia be at liberty to import. The Western people are already calling out for slaves for their new lands; and will fill that country with slaves, if they can be got through South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. He lamented that some of our Eastern brethren had, from a lust of gain, embarked in this nefarious traffic. As to the States being in possession of the right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the General Government should have power to prevent the increase of slavery.

Mr. ELLSWORTH, as he had never owned a slave, could not judge of the effects of slavery on character. He said, however, that if it was to be considered in a moral light, we ought to go further and free those already in the country. As slaves also multiply so fast in Virginia and Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no further than is urged, we shall be unjust towards

South Carolina and Georgia. Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Slavery, in time, will not be a speck in our country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

Mr. PINCKNEY. If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece, Rome and other ancient States; the sanction given by France, England, Holland and other modern states. In all ages one half of mankind have been slaves. If the Southern States were let alone, they will probably of themselves stop importations. He would himself, as a citizen of South Carolina, vote for it. An attempt to take away the right, as proposed, will produce serious objections to the Constitution, which he wished to see adopted.

General PINCKNEY declared it to be his firm opinion that if himself and all his colleagues were to



be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; the more consumption also; and the more of this, the more revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports; but should consider a rejection of the clause as an exclusion of South Carolina from the Union.

Mr. BALDWIN had conceived national objects alone to be before the Convention; not such as, like the present, were of a local nature. Georgia was decided on this point. That State has always hitherto supposed a General Government to be the pursuit of the central states, who wished to have a vortex for every thing; that her distance would preclude her, from equal advantage; and that she could not prudently purchase it by yielding national powers. From this it might be understood, in what light she would view an attempt to abridge one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of ———; which he said was a respectable class of people, who carried their ethics beyond the mere *equality of men*, extending their humanity to the claims of the whole animal creation.

Mr. WILSON observed that if South Carolina and Georgia were themselves disposed to get rid of the importation of slaves in a short time, as had been suggested, they would never refuse to unite because the importation might be prohibited. As the section now stands, all articles imported are to be taxed.

Slaves alone are exempt. This is in fact a bounty on that article.

Mr. GERRY thought we had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it.

Mr. DICKINSON considered it as inadmissible, on every principle of honor and safety, that the importation of slaves should be authorized to the States by the Constitution. The true question was, whether the national happiness would be promoted or impeded by the importation; and this question ought to be left to the National Government, not to the States particularly interested. If England and France permit slavery, slaves are, at the same time, excluded from both those kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the Southern States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the General Government.

Mr. WILLIAMSON stated the law of North Carolina on the subject, to-wit, that it did not directly prohibit the importation of slaves. It imposed a duty of £5 on each slave imported from Africa; £10 on each from elsewhere; and £50 on each from a State licensing manumission. He thought the Southern States could not be members of the Union, if the clause should be rejected; and that it was wrong to force any thing down not absolutely necessary, and which any State must disagree to.

Mr. KING thought the subject should be considered in a political light only. If two States will not

agree to the Constitution, as stated on one side, he could affirm with equal belief, on the other, that great and equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty, whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northern and Middle States.

Mr. LANGDON was strenuous for giving the power to the General Government. He could not, with a good conscience, leave it with the States, who could then go on with the traffic, without being restrained by the opinions here given, that they will themselves cease to import slaves.

General PINCKNEY thought himself bound to declare candidly, that he did not think South Carolina would stop her importations of slaves, in any short time; but only stop them occasionally as she now does. He moved to commit the clause, that slaves might be made liable to an equal tax with other imports; which he thought right, and which would remove one difficulty that had been started.

Mr. RUTLEDGE. If the Convention thinks that North Carolina, South Carolina, and Georgia, will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools, as to give up so important an interest. He was strenuous against striking out the section, and seconded the motion of General PINCKNEY for a commitment.

Mr. GOUVERNEUR MORRIS wished the whole subject to be committed, including the clauses relating to taxes on exports and to a navigation act. These

things may form a bargain among the Northern and Southern States.

Mr. BUTLER declared that he never would agree to the power of taxing exports.

Mr. SHERMAN said it was better to let the Southern States import slaves, than to part with them, if they made that a *sine qua non*. He was opposed to a tax on slaves imported, as making the matter worse, because it implied they were *property*. He acknowledged that if the power of prohibiting the importation should be given to the General Government, that it would be exercised. He thought it would be its duty to exercise the power.

Mr. READ was for the commitment, provided the clause concerning taxes on exports should also be committed.

Mr. SHERMAN observed that that clause had been agreed to, and therefore could not be committed.

Mr. RANDOLPH was for committing, in order that some middle ground might, if possible, be found. He could never agree to the clause as it stands. He would sooner risk the Constitution. He dwelt on the dilemma to which the Convention was exposed. By agreeing to the clause, it would revolt the Quakers, the Methodists, and many others in the States having no slaves. On the other hand, two States might be lost to the Union. Let us then, he said, try the chance of a commitment.

On the question for committing the remaining part of Sections 4 and 5, of Article 7,—Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—7; New Hampshire, Pennsylvania, Delaware, no—3; Massachusetts absent.

Mr. PINCKNEY and Mr. LANGDON moved to commit Section 6, as to a navigation act by two-thirds of each House.

Mr. GORHAM did not see the propriety of it. Is it meant to require a greater proportion of votes? He desired it to be remembered, that the Eastern States had no motive to union but a commercial one. They were able to protect themselves. They were not afraid of external danger, and did not need the aid of the Southern States.

Mr. WILSON wished for a commitment, in order to reduce the proportion of votes required.

Mr. ELLSWORTH was for taking the plan as it is. This widening of opinions had a threatening aspect. If we do not agree on this middle and moderate ground, he was afraid we should lose two States, with such others as may be disposed to stand aloof; should fly into a variety of shapes and directions, and most probably into several confederations,—and not without bloodshed.

On the question for committing Section 6, as to a navigation act, to a member from each State,—New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; Connecticut, New Jersey, no—2.

The Committee appointed were, Messrs. LANGDON, KING, JOHNSON, LIVINGSTON, CLYMER, DICKINSON, L. MARTIN, MADISON, WILLIAMSON, C. C. PINCKNEY, and BALDWIN.

To this Committee were referred also the two clauses abovementioned of the fourth and fifth Sections of Article 7.[324]

Mr. RUTLEDGE from the Committee to whom were

referred, on the eighteenth and twentieth instant, the propositions of Mr. MADISON and Mr. PINCKNEY, made the report following:

"The Committee report, that, in their opinion, the following additions should be made to the report now before the Convention, namely:

"At the end of the first clause of the first section of the seventh article, add, 'for payment of the debts and necessary expenses of the United States; provided, that no law for raising any branch of revenue, except what may be specially appropriated for the payment of interest on debts or loans, shall continue in force for more than ——— years.'

"At the end of the second clause, second section, seventh article, add, 'and with Indians, within the limits of any State, not subject to the laws thereof.'

"At the end of the sixteenth clause, of the second section, seventh article, add, 'and to provide, as may become necessary, from time to time, for the well managing and securing the common property and general interests and welfare of the United States in such manner as shall not interfere with the government of individual States, in matters which respect only their internal police, or for which their individual authority may be competent.'

"At the end of the first section, tenth article, add, 'he shall be of the age of thirty-five years, and a citizen of the United States, and shall have been an inhabitant thereof for twenty-one years.'

"After the second section, of the tenth article, insert the following as a third section: 'The President of the United States shall have a Privy Council, which shall consist of the President of the Senate,

the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the principal officer in the respective departments of foreign affairs, domestic affairs, war, marine, and finance, as such departments of office shall from time to time be established; whose duty it shall be, to advise him in matters respecting the execution of his office, which he shall think proper to lay before them: but their advice shall not conclude him, nor affect his responsibility for the measures which he shall adopt.'

"At the end of the second section of the eleventh article, add, 'the Judges of the Supreme Court shall be triable by the Senate, on impeachment by the House of Representatives.'

"Between the fourth and fifth lines of the third section of the eleventh article, after the word 'controversies,' insert, 'between the United States and an individual State, or the United States and an individual person.'"

A motion to rescind the order of the House, respecting the hours of meeting and adjourning, was negatived,—Massachusetts, Pennsylvania, Delaware, Maryland, aye—4; New Hampshire, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, no—7.

Mr. GERRY and Mr. MCHENRY moved to insert, after the second Section, Article 7, the clause following, to wit: "The Legislature shall pass no bill of attainder, nor any *ex post facto* law."*

Mr. GERRY urged the necessity of this prohibition,

* The proceedings on this motion, involving the two questions on attainders and ex post facto laws, are not so fully stated in the printed Journal.

which he said was greater in the National than the State Legislature; because the number of members in the former being fewer, they were on that account the more to be feared.

Mr. GOUVERNEUR MORRIS thought the precaution as to *ex post facto* laws unnecessary; but essential as to bills of attainder.

Mr. ELLSWORTH contended that there was no lawyer, no civilian, who would not say, that *ex post facto* laws were void of themselves. It cannot, then, be necessary to prohibit them.

Mr. WILSON was against inserting any thing in the Constitution, as to *ex post facto* laws. It will bring reflections on the Constitution, and proclaim that we are ignorant of the first principles of legislation, or are constituting a government that will be so.

The question being divided, the first part of the motion relating to bills of attainder was agreed to, *nem. con.*

On the second part relating to *ex post facto* laws,—

Mr. CARROLL remarked, that experience overruled all other calculations. It had proved that, in

has been violated, it has done good there, and may do good here, because the Judges can take hold of it.

Doctor JOHNSON thought the clause unnecessary, and implying an improper suspicion of the National Legislature.

Mr. RUTLEDGE was in favor of the clause.

On the question for inserting the prohibition of *ex post facto* laws,—

New Hampshire, Massachusetts, Delaware, Maryland, Virginia, South Carolina, Georgia, aye—7; Connecticut, New Jersey, Pennsylvania, no—3; North Carolina, divided.[335]

The Report of the Committee of five made by Mr. RUTLEDGE, was taken up, and then postponed, that each member might furnish himself with a copy.

The Report of the Committee of eleven, delivered in and entered on the Journal of the twenty-first instant, was then taken up; and the first clause, containing the words, "The Legislature of the United States *shall have power* to fulfil the engagements which have been entered into by Congress," being under consideration,—[336]

Mr. ELLSWORTH argued that they were unnecessary. The United States heretofore entered into engagements by Congress, who were their agents. They will hereafter be bound to fulfil them by their new agents.

Mr. RANDOLPH thought such a provision necessary: for though the United States will be bound, the new Government will have no authority in the case, unless it be given to them.

Mr. MADISON thought it necessary to give the authority, in order to prevent misconstruction. He mentioned the attempt made by the debtors to British subjects, to show that contracts under the old Government were dissolved by the Revolution, which destroyed the political identity of the society.

Mr. GERRY thought it essential that some explicit provision should be made on this subject; so that no pretext might remain for getting rid of the public engagements.

Mr. GOUVERNEUR MORRIS moved, by way of amendment, to substitute, "The Legislature *shall* discharge the debts, and fulfil the engagements of the United States."

It was moved to vary the amendment, by striking out "discharge the debts," and to insert "liquidate the claims;" which being negatived, the amendment moved by Mr. GOUVERNEUR MORRIS was agreed to, —all the States being in the affirmative.[127]

It was moved and seconded, to strike the following words out of the second clause of the Report: "and the authority of training the militia according

[redacted]

tion, to wit: "To make laws for organizing, arming and disciplining the militia, and for governing such parts of them as may be employed in the service of the United States; reserving to the States, respectively, the appointment of the officers, and authority of training the militia according to the discipline prescribed,"—

Mr. SHERMAN moved to strike out the last member, "and authority of training," &c. He thought it unnecessary. The States will have this authority of course, if not given up.

Mr. ELLSWORTH doubted the propriety of striking out the sentence. The reason assigned applies as well to the other reservation of the appointment to offices. He remarked at the same time, that the term discipline was of vast extent, and might be so expounded as to include all power on the subject.

Mr. KING, by way of explanation, said that by *organizing*, the Committee meant, proportioning the officers and men—by *arming*, specifying the kind, size and calibre of arms—and by *disciplining*, prescribing the manual exercise, evolutions, &c.

Mr. SHERMAN withdrew his motion.

Mr. GERRY. This power in the United States, as explained, is making the States drill-sergeants. He had as lief let the citizens of Massachusetts be disarmed, as to take the command from the States, and subject them to the General Legislature. It would be regarded as a system of despotism.

Mr. MADISON observed, that "*arming*," as explained, did not extend to furnishing arms; nor the term "*disciplining*," to penalties, and courts martial for enforcing them.

Mr. KING added to his former explanation, that *arming* meant not only to provide for uniformity of arms, but included the authority to regulate the modes of furnishing, either by the militia themselves, the State Governments, or the National Treasury; that *laws* for disciplining must involve penalties, and every thing necessary for enforcing penalties.

Mr. DAYTON moved to postpone the paragraph, in order to take up the following proposition: "To establish an uniform and general system of discipline for the militia of these States, and to make laws for organizing, arming, disciplining and governing *such part of them as may be employed in the service of the United States;* reserving to the States, respectively, the appointment of the officers, and all authority over the militia not herein given to the General Government."

On the question to postpone, in favor of this proposition, it passed in the negative,—New Jersey, Maryland, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, no—8.

Mr. ELLSWORTH and Mr. SHERMAN moved to post-

jealousy expressed by some gentlemen. The General and State Governments were not enemies to each other, but different institutions for the good of the people of America. As one of the people, he could say, the National Government is mine, the State Government is mine. In transferring power from one to the other, I only take out of my left hand what it cannot so well use, and put it into my right hand where it can be better used.

Mr. GERRY thought it was rather taking out of the right hand, and putting it into the left. Will any man say that liberty will be as safe in the hands of eighty or an hundred men taken from the whole continent, as in the hands of two or three hundred taken from a single State?

Mr. DAYTON was against so absolute a uniformity. In some States there ought to be a greater proportion of cavalry than in others. In some places rifles would be most proper, in others muskets, &c.

General PINCKNEY preferred the clause reported by the Committee, extending the meaning of it to the case of fines, &c

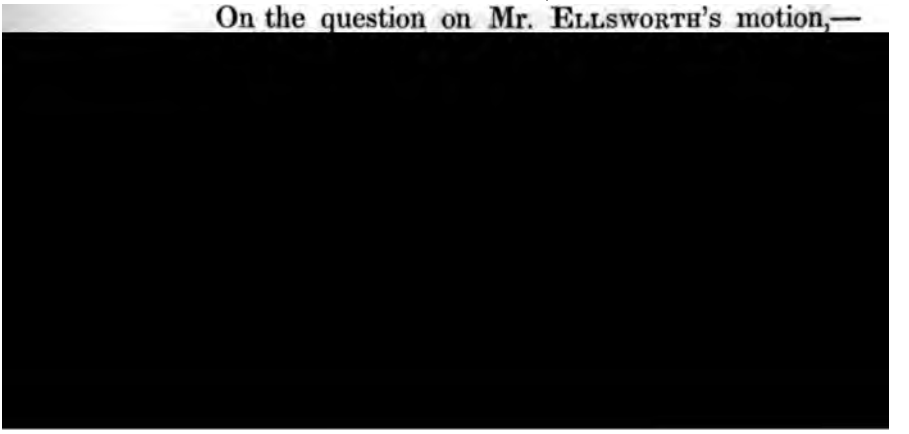
Mr. MADISON. The primary object is to secure an effectual discipline of the militia. This will no more be done, if left to the States separately, than the requisitions have been hitherto paid by them. The States neglect their militia now, and the more they are consolidated into one nation, the less each will rely on its own interior provisions for its safety, and the less prepare its militia for that purpose; in like manner as the militia of a State would have been still more neglected than it has been, if each county had been independently charged with the care of its

militia. The discipline of the militia is evidently a *national* concern, and ought to be provided for in the *national* Constitution.

Mr. L. MARTIN was confident that the States would never give up the power over the militia; and that, if they were to do so, the militia would be less attended to by the General than by the State Governments.

Mr. RANDOLPH asked, what danger there could be, that the militia could be brought into the field, and made to commit suicide on themselves. This is a power that cannot, from its nature, be abused; unless, indeed, the whole mass should be corrupted. He was for trammelling the General Government whenever there was danger, but here there could be none. He urged this as an essential point; observing that the militia were every where neglected by the State Legislatures, the members of which courted popularity too much to enforce a proper discipline. Leaving the appointment of officers to the States protects the people against every apprehension that could produce murmur.

On the question on Mr. ELLSWORTH's motion,—



South Carolina, Georgia, aye—9; Connecticut, Maryland, no—2.

Mr. MADISON moved to amend the next part of the clause so as to read, "reserving to the States, respectively, the appointment of the officers, *under the rank of general officers.*"

Mr. SHERMAN considered this as absolutely inadmissible. He said that if the people should be so far asleep as to allow the most influential officers of the militia to be appointed by the General Government, every man of discernment would rouse them by sounding the alarm to them.

Mr. GERRY. Let us at once destroy the State Governments, have an Executive for life or hereditary, and a proper Senate; and then there would be some consistency in giving full powers to the General Government: but as the States are not to be abolished, he wondered at the attempts that were made to give powers inconsistent with their existence. He warned the Convention against pushing the experiment too far. Some people will support a plan of vigorous government at every risk. Others, of a more democratic cast, will oppose it with equal determination; and a civil war may be produced by the conflict.

Mr. MADISON. As the greatest danger is that of disunion of the States, it is necessary to guard against it by sufficient powers to the common government; and as the greatest danger to liberty is from large standing armies, it is best to prevent them by an effectual provision for a good militia.

On the question to agree to Mr. MADISON's motion,—New Hampshire, South Carolina, Geor-

gia,* aye—3; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—8.

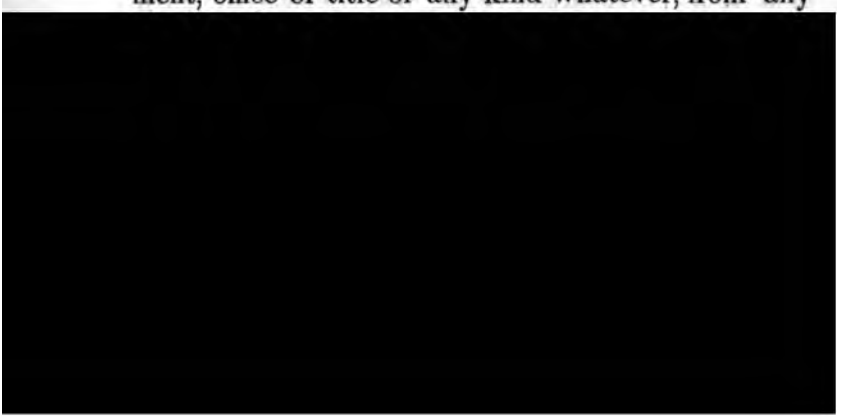
On the question to agree to the "reserving to the States the appointment of the officers"—it was agreed to, *nem. con.*

On the question on the clause, "and the authority of training the militia according to the discipline prescribed by the United States,"—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, North Carolina, aye—7; Delaware, Virginia, South Carolina, Georgia, no—4.

On the question to agree to Article 7, Section 7, as reported, it passed, *nem. con.*[338]

Mr. PINCKNEY urged the necessity of preserving foreign ministers, and other officers of the United States, independent of external influence; and moved to insert after Article 7, Section 7, the clause following: "No person holding any office of trust or profit under the United States shall, without the consent of the Legislature, accept of any present, emolument, office or title of any kind whatever, from any



thereby in their decisions, any thing in the Constitutions or laws of the several States to the contrary notwithstanding;" which was agreed to, *nem. con.*

Article 9, being next for consideration,—

Mr. GOUVERNEUR MORRIS argued against the appointment of officers by the Senate. He considered the body as too numerous for that purpose; as subject to cabal; and as devoid of responsibility. If Judges were to be tried by the Senate, according to a late Report of a Committee, it was particularly wrong to let the Senate have the filling of vacancies which its own decrees were to create.

Mr. WILSON was of the same opinion, and for like reasons.

Article 9, being waved, and Article 7, Section 1, being resumed,—

Mr. GOUVERNEUR MORRIS moved to strike the following words out of the eighteenth clause, "enforce treaties," as being superfluous, since treaties were to be "laws,"—which was agreed to, *nem. con.*

Mr. GOUVERNEUR MORRIS moved to alter the first part of the eighteenth clause, so as to read, "to provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions,"—which was agreed to, *nem. con.*

On the question then to agree to the eighteenth clause of Article 7, Sect. 1, as amended, it passed in the affirmative, *nem. con.*

Mr. CHARLES PINCKNEY moved to add, as an additional power, to be vested in the Legislature of the United States, "to negative all laws passed by the several States interfering, in the opinion of the Legislature, with the general interests and harmony of

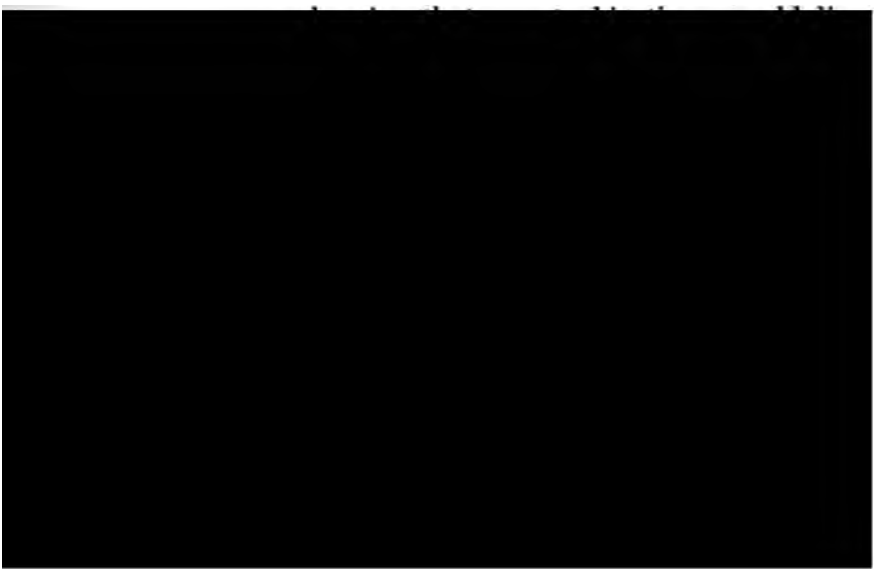
the Union; provided that two-thirds of the members of each House assent to the same." This principle, he observed, had formerly been agreed to. He considered the precaution as essentially necessary. The objection drawn from the predominance of the large States had been removed by the equality established in the Senate.

Mr. BROOM seconded the proposition.

Mr. SHERMAN thought it unnecessary; the laws of the General Government being supreme and paramount to the State laws, according to the plan as it now stands.

Mr. MADISON proposed that it should be committed. He had been from the beginning a friend to the principle; but thought the modification might be made better.

Mr. MASON wished to know how the power was to be exercised. Are all laws whatever to be brought up? Is no road nor bridge to be established without the sanction of the General Legislature? Is this to sit constantly in order to receive and revise the State laws? He did not mean, by these remarks, to condemn the expedient; but he



of Judges is not of itself sufficient. Something further is requisite. It will be better to prevent the passage of an improper law, than to declare it void when passed.

Mr. RUTLEDGE. If nothing else, this alone would damn, and ought to damn, the Constitution. Will any State ever agree to be bound hand and foot in this manner? It is worse than making mere corporations of them, whose by-laws would not be subject to this shackle.

Mr. ELLSWORTH observed, that the power contended for would require, either that all laws of the State Legislatures should, previously to their taking effect, be transmitted to the General Legislature, or be repealable by the latter; or that the State Executives should be appointed by the General Government, and have a control over the State laws. If the last was meditated, let it be declared.

Mr. PINCKNEY declared, that he thought the State Executives ought to be so appointed, with such a control; and that it would be so provided if another Convention should take place.

Mr. GOUVERNEUR MORRIS did not see the utility or practicability of the proposition of Mr. PINCKNEY, but wished it to be referred to the consideration of a Committee.

Mr. LANGDON was in favor of the proposition. He considered it as resolvable into the question, whether the extent of the National Constitution was to be judged of by the General or the State Governments.

On the question for commitment, it passed in the negative,—

New Hampshire, Pennsylvania, Delaware, Mary-

land, Virginia, aye—5; Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, no—6.

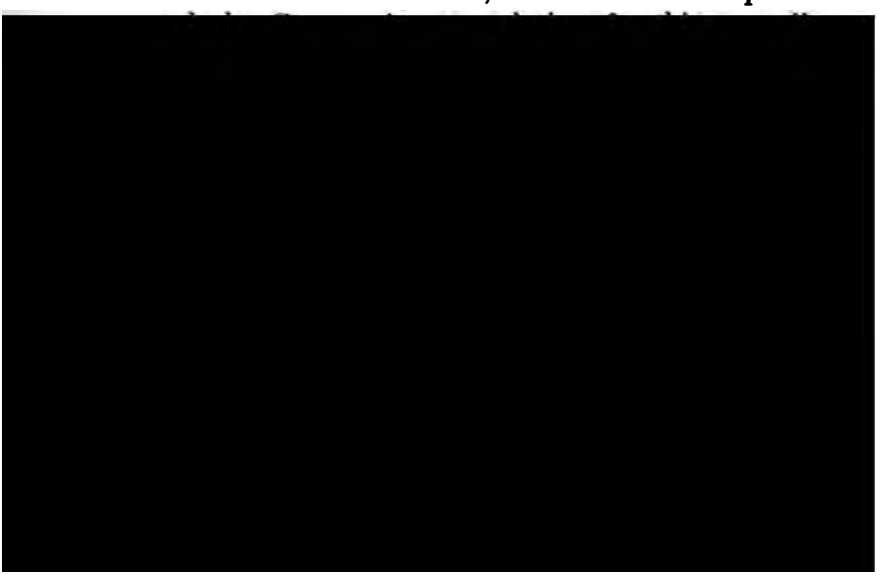
Mr. PINCKNEY then withdrew his proposition.[mm]

The first clause of Article 7, Sect. 1, being so amended as to read, "The Legislature *shall* fulfil the engagements and discharge the debts of the United States; and shall have the power to lay and collect taxes, duties, imposts, and excises," was agreed to.

Mr. BUTLER expressed his dissatisfaction, lest it should compel payment, as well to the blood-suckers who had speculated on the distresses of others, as to those who had fought and bled for their country. He would be ready, he said, to-morrow, to vote for a discrimination between those classes of people; and gave notice that he would move for a re-consideration.

Article 9, Sect. 1, being resumed, to wit: "The Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court"—

Mr. MADISON observed, that the Senate represent-



quiring a legal *ratification* of treaties of alliance, for the purposes of war, &c. &c. &c.

Mr. GORHAM. Many other disadvantages must be experienced, if treaties of peace and all negotiations are to be previously ratified; and if not previously, the ministers would be at a loss how to proceed. What would be the case in Great Britain, if the King were to proceed in this manner? American ministers must go abroad not instructed by the same authority (as will be the case with other ministers) which is to ratify their proceedings.

Mr. GOUVERNEUR MORRIS. As to treaties of alliance, they will oblige foreign powers to send their ministers here, the very thing we should wish for. Such treaties could not be otherwise made, if his amendment should succeed. In general he was not solicitous to multiply and facilitate treaties. He wished none to be made with Great Britain, till she should be at war. Then a good bargain might be made with her. So with other foreign powers. The more difficulty in making treaties, the more value will be set on them.

Mr. WILSON. In the most important treaties, the King of Great Britain, being obliged to resort to Parliament for the execution of them, is under the same fetters as the amendment of Mr. MORRIS's will impose on the Senate. It was refused yesterday to permit even the Legislature to lay duties on exports. Under the clause without the amendment, the Senate alone can make a treaty requiring all the rice of South Carolina to be sent to some one particular port.

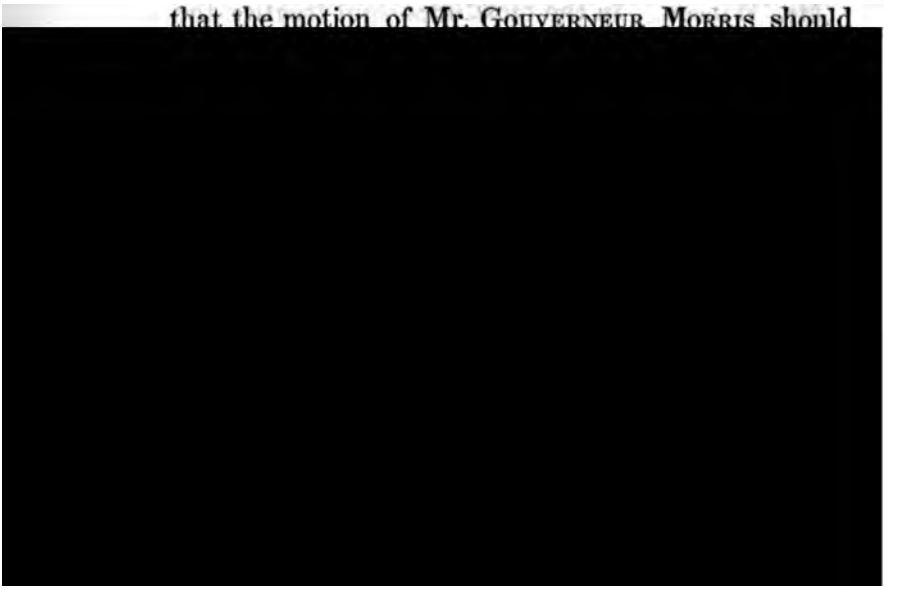
Mr. DICKINSON concurred in the amendment, as

most safe and proper, though he was sensible it was unfavorable to the little States, which would otherwise have an *equal* share in making treaties.

Doctor JOHNSON thought there was something of solecism in saying, that the acts of a minister with plenipotentiary powers from one body should depend for ratification on another body. The example of the King of Great Britain was not parallel. Full and complete power was vested in him. If the Parliament should fail to provide the necessary means of execution, the treaty would be violated.

Mr. GORHAM, in answer to Mr. GOUVERNEUR MORRIS, said, that negotiations on the spot were not to be desired by us; especially if the whole Legislature is to have any thing to do with treaties. It will be generally influenced by two or three men, who will be corrupted by the ambassadors here. In such a government as ours, it is necessary to guard against the Government itself being seduced.

Mr. RANDOLPH, observing that almost every speaker had made objections to the clause as it stood, moved, in order to a further consideration of the subject, that the motion of Mr. GOUVERNEUR MORRIS should



The several clauses of Article 9, Sect. 1, were then separately postponed, after inserting, "and other public ministers," next after "ambassadors."

Mr. MADISON hinted for consideration whether a distinction might not be made between different sorts of treaties; allowing the President and Senate to make treaties eventual, and of alliance for limited terms, and requiring the concurrence of the whole Legislature in other treaties.[220]

The first Section of Article 9, was finally referred, *nem. con.*, to the Committee of five, and the House then

Adjourned.

FRIDAY, AUGUST 24TH.

In Convention,—Governor LIVINGSTON, from the Committee of eleven, to whom were referred the two remaining clauses of the fourth Section, and the fifth and sixth Sections, of the seventh Article, delivered in the following Report:

"Strike out so much of the fourth Section as was referred to the Committee, and insert, 'The migration or importation of such persons as the several States, now existing, shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation, at a rate not exceeding the average of the duties laid on imports.'

"The fifth Section to remain as in the Report.

"The sixth Section to be stricken out."

Mr. BUTLER, according to notice, moved that the first clause of Article 7, Sect. 1, as to the discharge of debts, be reconsidered to-morrow. He dwelt on the division of opinion concerning the domestic debts, and the different pretensions of the different classes of holders.

General PINCKNEY seconded him.

Mr. RANDOLPH wished for a reconsideration, in order to better the expression, and to provide for the case of the State debts as is done by Congress.

On the question for reconsidering,—

Massachusetts, Connecticut, New Jersey, Delaware, Virginia, South Carolina, Georgia, aye—7; New Hampshire, Maryland, no—2; Pennsylvania, North Carolina, absent.

And tomorrow assigned for the reconsideration.

The second and third Sections of Article 9, being taken up,—

Mr. RUTLEDGE said, this provision for deciding controversies between the States was necessary under the Confederation, but will be rendered unnecessary by the National Judiciary now to be established; and moved to strike it out.

posed in the clause would be more satisfactory than to refer such cases to the Judiciary.

On the question for postponing the second and third sections, it passed in the negative,—

New Hampshire, North Carolina, Georgia, aye—3; Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, South Carolina, no—7; Pennsylvania, absent.

Mr. WILSON urged the striking out, the Judiciary being a better provision.

On question for striking out the second and third Sections of Article 9,—

New Hampshire, Connecticut, New Jersey, Delaware, Maryland, Virginia, South Carolina, aye—8; North Carolina, Georgia, no—2; Pennsylvania, absent.[381]

Article 10, Sect. 1. "The Executive power of the United States shall be vested in a single person. His style shall be "The President of the United States of America," and his title shall be "His Excellency." He shall be elected by ballot by the Legislature. He shall hold his office during the term of seven years; but shall not be elected a second time."

On the question for vesting the power in a *single person*,—it was agreed to, *nem. con.* So also on the *style* and *title*.

Mr. RUTLEDGE moved to insert, "joint," before the word "ballot," as the most convenient mode of electing.

Mr. SHERMAN objected to it, as depriving the *States*, represented in the *Senate*, of the negative intended them in that House.

Mr. GORHAM said it was wrong to be considering, at every turn, whom the Senate would represent. The public good was the true object to be kept in view. Great delay and confusion would ensue, if the two Houses should vote separately, each having a negative on the choice of the other.

Mr. DAYTON. It might be well for those not to consider how the Senate was constituted, whose interest it was to keep it out of sight. If the amendment should be agreed to, a joint ballot would in fact give the appointment to one House. He could never agree to the clause with such an amendment. There could be no doubt of the two Houses separately concurring in the same person for President. The importance and necessity of the case would ensure a concurrence.

Mr. CARROLL moved to strike out, "by the Legislature," and insert "by the people." Mr. WILSON seconded him; and on the question,—

Pennsylvania, Delaware, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—9.

by a joint ballot in this case to the other branch of the Legislature.

Mr. LANGDON. This general officer ought to be elected by the joint and general voice. In New Hampshire the mode of separate votes by the two Houses was productive of great difficulties. The negative of the Senate would hurt the feelings of the man elected by the votes of the other branch. He was for inserting "joint," though unfavorable to New Hampshire as a small State.

Mr. WILSON remarked, that as the President of the Senate was to be the President of the United States, that body, in cases of vacancy, might have an interest in throwing dilatory obstacles in the way, if its separate concurrence should be required.

Mr. MADISON. If the amendment be agreed to, the rule of voting will give to the largest State, compared with the smallest, an influence as four to one only, although the population is as ten to one. This surely cannot be unreasonable, as the President is to act for the *people*, not for the *States*. The President of the *Senate* also is to be occasionally President of the United States, and by his negative alone can make three-fourths of the other branch necessary to the passage of a law. This is another advantage enjoyed by the Senate.

On the question for inserting "joint," it passed in the affirmative,—

New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, aye—7; Connecticut, New Jersey, Maryland, Georgia, no—4.

Mr. DAYTON then moved to insert, after the word

"Legislature," the words, "each State having one vote."

Mr. BREARLY seconded him; and on the question, it passed in the negative,—Connecticut, New Jersey, Delaware, Maryland, Georgia, aye—5; New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, no—6.

Mr. PINCKNEY moved to insert, after the word "Legislature," the words, "to which election a majority of the votes of the members present shall be required."

And on this question, it passed in the affirmative,—New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—10; New Jersey, no—1.

Mr. READ moved, that, "in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting vote," which was disagreed to by a general negative.

Mr. GOUVERNEUR MORRIS opposed the election of the President by the Legislature. He dwelt on the

[redacted]

tive rights; and then he can go into that body after the expiration of his Executive office, and enjoy there the fruits of his policy. To these considerations he added, that rivals would be continually intriguing to oust the President from his place. To guard against all these evils, he moved that the President "shall be chosen by Electors to be chosen by the people of the several States."

Mr. CARROLL seconded him; and on the question, it passed in the negative,—Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, aye—5; New Hampshire, Massachusetts, Maryland, North Carolina, South Carolina, Georgia, no—6.

Mr. DAYTON moved to postpone the consideration of the two last clauses of Article 10, Sect. 1, which was disagreed to without a count of the States.

Mr. BROOM moved to refer the two clauses to a committee, of a member from each State; and on the question, it failed, the States being equally divided,—

New Jersey, Pennsylvania, Delaware, Maryland, Virginia, aye—5; New Hampshire, Massachusetts, North Carolina, South Carolina, Georgia, no—5; Connecticut, divided.

On the question taken on the first part of Mr. GOUVERNEUR MORRIS' motion, to wit: "shall be chosen by electors," as an abstract question, it failed, the States being equally divided,—

New Jersey, Pennsylvania, Delaware, Virginia, aye—4; New Hampshire, North Carolina, South Carolina, Georgia, no—4; Connecticut, Maryland, divided; Massachusetts, absent.

The consideration of the remaining clauses of Ar-

ticle 10, Sect. 1, was then postponed till to-morrow, at the instance of the Deputies of New Jersey.[888]

Article 10, Sect. 2, being taken up, the word "information" was transferred, and inserted after "Legislature."

On motion of Mr. GOUVERNEUR MORRIS, "he may," was struck out, and "and" inserted before "recommend," in the second clause of Article 10, Sect. 2, in order to make it the *duty* of the President to recommend, and thence prevent umbrage or cavil at his doing it.

Mr. SHERMAN objected to the sentence, "and shall appoint officers in all cases not otherwise provided for in this Constitution." He admitted it to be proper that many officers in the Executive department should be so appointed; but contended that many ought not,—as general officers in the army, in time of peace, &c. Herein lay the corruption in Great Britain. If the Executive can model the army, he may set up an absolute government; taking advantage of the close of a war, and an army commanded by his creatures. James II. was not obeyed by his officers, because they had been appointed by his

[redacted]

nia, Delaware, Maryland, Virginia, South Carolina, Georgia, no—9; North Carolina, absent.

Mr. DICKINSON moved to strike out the words, "and shall appoint to offices in all cases not otherwise provided for by this Constitution;" and insert, "and shall appoint to all offices established by this Constitution, except in cases herein otherwise provided for; and to all offices which may hereafter be created by law."

Mr. RANDOLPH observed, that the power of appointments was a formidable one both in the Executive and Legislative hands; and suggested whether the Legislature should not be left at liberty to refer appointments, in some cases, to some State authority.

Mr. DICKINSON'S motion passed in the affirmative,—

Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Georgia, aye—6; New Hampshire, Massachusetts, Delaware, South Carolina, no—4; North Carolina, absent.

Mr. DICKINSON then moved to annex to his last amendment, "except where by law the appointment shall be vested in the Legislatures or Executives of the several States."

Mr. RANDOLPH seconded the motion.

Mr. WILSON. If this be agreed to, it will soon be a standing instruction to the State Legislatures to pass no law creating offices, unless the appointment be referred to them

Mr. SHERMAN objected to "Legislatures," in the motion, which was struck out by consent of the movers.

Mr. GOUVERNEUR MORRIS. This would be putting

it in the power of the States to say, "you shall be viceroys, but we will be viceroys over you."

The motion was negatived without a count of the States.

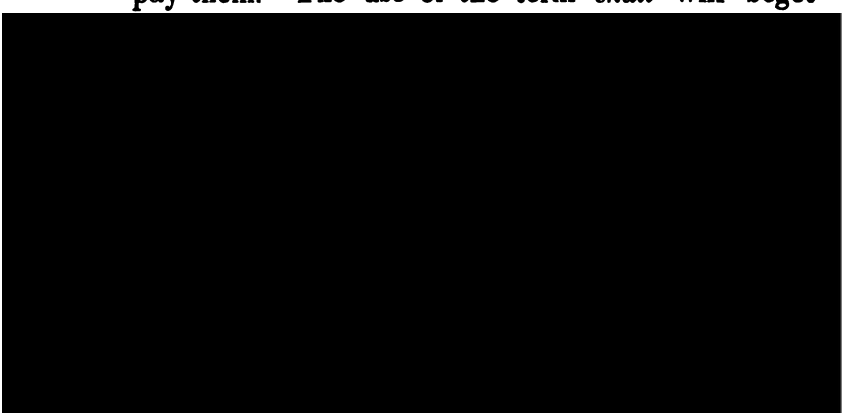
Ordered unanimously, that the order respecting the adjournment at four o'clock be repealed, and that in future the House assemble at ten o'clock, and adjourn at three.

Adjourned.

SATURDAY, AUGUST 25TH.

In Convention,—The first clause of Article 7, Sect. 1, being reconsidered,—

Colonel MASON objected to the term "*shall*" fulfil the engagements and discharge the debts, &c., as too strong. It may be impossible to comply with it. The creditors should be kept in the same plight. They will in one respect be necessarily and properly in a better. The Government will be more able to pay them. The use of the term *shall* will beget



not to be blamable. The interest they received, even in paper, is equal to their purchase money. What he particularly wished was, to leave the door open for buying up the securities, which he thought would be precluded by the term "shall," as requiring *nominal payment*, and which was not inconsistent with his ideas of public faith. He was afraid, also, the word "*shall*" might extend to all the old continental paper.

Mr. LANGDON wished to do no more, than leave the creditors *in statu quo*.

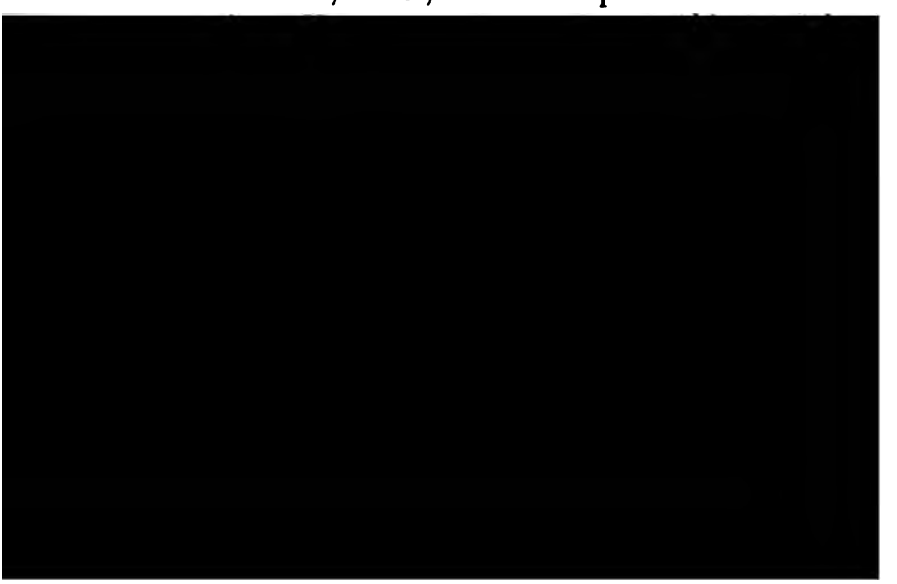
Mr. GERRY said, that, for himself, he had no interest in the question, being not possessed of more of the securities than would, by the interest, pay his taxes. He would observe, however, that as the public had received the value of the literal amount, they ought to pay that value to somebody. The frauds on *the soldiers* ought to have been foreseen. These poor and ignorant people, could not but part with their securities. There are other creditors, who will part with any thing, rather than be cheated of the capital of their advances. The interest of the States, he observed, was different on this point; some having more, others less, than their proportion of the paper. Hence the idea of a scale for reducing its value had arisen. If the public faith would admit, of which he was not clear, he would not object to a revision of the debt, so far as to compel restitution to the ignorant and distressed, who have been defrauded. As to stock-jobbers, he saw no reason for the censures thrown on them. They keep up the value of the paper. Without them there would be no market.

Mr. BUTLER said he meant neither to increase nor diminish the security of the creditors.

Mr. RANDOLPH moved to postpone the clause, in favor of the following: "All debts contracted, and engagements entered into, by or under the authority of Congress, shall be as valid against the United States under this Constitution, as under the Confederation."

Doctor JOHNSON. The debts are debts of the United States, of the great body of America. Changing the Government cannot change the obligation of the United States, which devolves of course on the new Government. Nothing was, in his opinion, necessary to be said. If any thing, it should be a mere declaration, as moved by Mr. RANDOLPH.

Mr. GOUVERNEUR MORRIS said, he never had become a public creditor, that he might urge with more propriety the compliance with public faith. He had always done so, and always would, and preferred the term "*shall*," as the most explicit. As to *buying up* the debt, the term "*shall*" was not inconsistent with it, if provision be first made for paying the interest; if not, such an expedient was a mere



the clause for laying taxes, duties, &c., an express provision for the object of the old debts, &c.; and moved to add to the first clause of Article 7, Sect. 1: "for the payment of said debts, and for the defraying the expenses that shall be incurred for the common defence and general welfare."

The proposition, as being unnecessary, was disagreed to,—Connecticut alone being in the affirmative.

The Report of the Committee of eleven (see Friday, the twenty-fourth), being taken up,—

General PINCKNEY moved to strike out the words, "the year eighteen hundred," as the year limiting the importation of slaves; and to insert the words, "the year eighteen hundred and eight."

Mr. GORHAM seconded the motion.

Mr. MADISON. Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonourable to the American character, than to say nothing about it in the Constitution.

On the motion, which passed in the affirmative,—New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, aye —7; New Jersey, Pennsylvania, Delaware, Virginia, no—4.

Mr. GOUVERNEUR MORRIS was for making the clause read at once, "the importation of slaves into North Carolina, South Carolina, and Georgia, shall not be be prohibited, &c." This he said, would be most fair, and would avoid the ambiguity by which, under the power with regard to naturalization, the liberty reserved to the States might be defeated.

He wished it to be known, also, that this part of the Constitution was a compliance with those States. If the change of language, however, should be objected to, by the members from those States, he should not urge it.

Colonel MASON was not against using the term "slaves," but against naming North Carolina, South Carolina, and Georgia, lest it should give offence to the people of those States.

Mr. SHERMAN liked a description better than the terms proposed, which had been declined by the old Congress, and were not pleasing to some people.

Mr. CLYMER concurred with Mr. SHERMAN.

Mr. WILLIAMSON said, that both in opinion and practice he was against slavery; but thought it more in favor of humanity, from a view of all circumstances, to let in South Carolina and Georgia on those terms, than to exclude them from the Union.

Mr. GOUVERNEUR MORRIS withdrew his motion.

Mr. DICKINSON wished the clause to be confined to the States which had not themselves prohibited the importation of slaves; and for that purpose moved

tion of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808,"—

New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, aye—7; New Jersey, Pennsylvania, Delaware, Virginia, no—4.

Mr. BALDWIN, in order to restrain and more explicitly define, "the average duty," moved to strike out of the second part the words, "average of the duties laid on imports," and insert "common impost on articles not enumerated;" which was agreed to, *nem. con.*

Mr. SHERMAN was against this second part, as acknowledging men to be property, by taxing them as such under the character of slaves.

Mr. KING and Mr. LANGDON considered this as the price of the first part.

General PINCKNEY admitted that it was so.

Colonel MASON. Not to tax, will be equivalent to a bounty on, the importation of slaves.

Mr. GORHAM thought that Mr. SHERMAN should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

Mr. GOUVERNEUR MORRIS remarked, that, as the clause now stands, it implies that the Legislature may tax freemen imported.

Mr. SHERMAN, in answer to Mr. GORHAM, observed, that the smallness of the duty showed revenue to be the object, not the discouragement of the importation.

Mr. MADISON thought it wrong to admit in the

Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not, like merchandize consumed, &c.

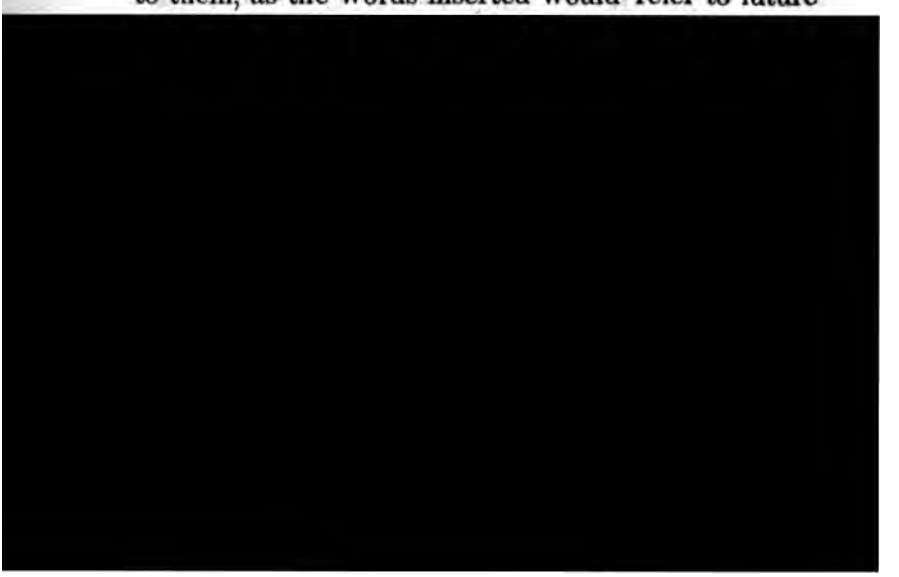
Colonel MASON, in answer to Mr. GOUVERNEUR MORRIS. The provision, as it stands, was necessary for the case of convicts, in order to prevent the introduction of them.

It was finally agreed, *nem. con.*, to make the clause read: "but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person;" and then the second part, as amended, was agreed to.

Article 7, Sect. 5, was agreed to, *nem. con.*, as reported.[334]

Article 7, Sect. 6, in the Report was postponed.

On motion of Mr. MADISON, seconded by Mr. GOUVERNEUR MORRIS, Article 8 was reconsidered; and after the words, "all treaties made," were inserted, *nem. con.*, the words, "or which shall be made." This insertion was meant to obviate all doubt concerning the force of treaties pre-existing, by making the words, "all treaties made," to refer to them, as the words inserted would refer to future



"The Legislature of the United States shall not oblige vessels belonging to citizens thereof, or to foreigners, to enter or pay duties or imposts in any other State than in that to which they may be bound, or to clear out in any other than the State in which their cargoes may be laden on board; nor shall any privilege or immunity be granted to any vessel on entering or clearing out, or paying duties or imposts in one State in preference to another."

Mr. GORHAM thought such a precaution unnecessary; and that the revenue might be defeated, if vessels could run up long rivers, through the jurisdiction of different States, without being required to enter, with the opportunity of landing and selling their cargoes by the way.

Mr. MCHENRY and Gen. PINCKNEY made the following propositions:

"Should it be judged expedient by the Legislature of the United States, that one or more ports for collecting duties or imposts, other than those ports of entrance and clearance already established by the respective States, should be established, the Legislature of the United States shall signify the same to the Executives of the respective States, ascertaining the number of such ports judged necessary, to be laid by the said Executives before the Legislatures of the States at their next session; and the Legislature of the United States shall not have the power of fixing or establishing the particular ports for collecting duties or imposts in any State, except the Legislature of such State shall neglect to fix and establish the same during their first session to be

held after such notification by the Legislature of the United States to the Executive of such State.

"All duties, imposts and excises, prohibitions or restraints, laid or made by the Legislature of the United States, shall be uniform and equal throughout the United States."

These several propositions were referred, *nem. con.*, to a committee composed of a member from each State. The Committee, appointed by ballot, were, Mr. LANGDON, Mr. GORHAM, Mr. SHERMAN, Mr. DAYTON, Mr. FITZSIMONS, Mr. READ, Mr. CARROLL, Mr. MASON, Mr. WILLIAMSON, Mr. BUTLER, Mr. FEW.

On the question now taken on Mr. DICKINSON'S motion of yesterday, allowing appointments to offices to be referred by the General Legislature to "the Executives of the several States," as a further amendment to Article 10, Sect. 2, the votes were,—Connecticut, Virginia, Georgia, aye—3; New Hampshire, Massachusetts, Pennsylvania, Delaware, North Carolina, South Carolina, no—6; Maryland, divided.[335]

In amendment of the same section, the words, "other public Ministers," were inserted after "ambassadors."

Mr. GOUVERNEUR MORRIS moved to strike out of the section, "and may correspond with the supreme Executives of the several States," as unnecessary, and implying that he could not corresoond with others.

Mr. BROOM seconded him.

On the question,—New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye—9; Maryland, no—1.

The clause, "Shall receive ambassadors and other public Ministers," was agreed to, *nem. con.*

Mr. SHERMAN moved to amend the "power to grant reprieves and pardons," so as to read, "to grant reprieves until the ensuing session of the Senate, and pardons with consent of the Senate."

On the question,—Connecticut, aye—1; New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—8.[336]

The words, "except in cases of impeachment," were inserted, *nem. con.*, after "pardons."

On the question to agree to, "but his pardon shall not be pleadable in bar," it passed in the negative,—New Hampshire, Maryland, North Carolina, South Carolina, aye—4; Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, Georgia, no—6.

Adjourned.

MONDAY, AUGUST 27TH.

In Convention,—Article 10, Section 2, being resumed,—

Mr. L. MARTIN moved to insert the words, "after conviction," after the words, "reprieves and pardons."

Mr. WILSON objected, that pardon before conviction might be necessary, in order to obtain the testimony of accomplices. He stated the case of forgeries, in which this might particularly happen.

Mr. L. MARTIN withdrew his motion.

Mr. SHERMAN moved to amend the clause giving

the Executive the command of the militia, so as to read: "and of the militia of the several States, *when called into the actual service of the United States;*" and on the question,—

New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, Georgia, aye—6; Delaware, South Carolina, no—2; Massachusetts, New Jersey, North Carolina, absent.

The clause for removing the President, on impeachment by the House of Representatives, and conviction in the Supreme Court, of treason, bribery, or corruption, was postponed, *nem. con.* at the instance of Mr. GOUVERNEUR MORRIS; who thought the tribunal an improper one, particularly, if the first Judge was to be of the Privy Council.

Mr. GOUVERNEUR MORRIS objected also to the President of the Senate being provisional successor to the President, and suggested a designation of the Chief Justice.

Mr. MADISON adds, as a ground of objection, that the Senate might retard the appointment of a President, in order to carry points whilst the revisionary power was in the President of their own body; but

tent of the term "disability," and who is to be the judge of it?

The postponement was agreed to, *nem. con.*

Col. MASON and Mr. MADISON moved to add to the oath to be taken by the Supreme Executive, "and will, to the best of my judgment and power, preserve, protect, and defend, the Constitution of the United States."

Mr. WILSON thought the general provision for oaths of office, in a subsequent place, rendered the amendment unnecessary.

On the question,—

New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, aye—7; Delaware, no—1; Massachusetts, New Jersey, North Carolina, absent.

Article 11, being next taken up,—

Doctor JOHNSON suggested that the judicial power ought to extend to equity as well as law; and moved to insert the words, "both in law and equity," after the words, "United States," in the first line of the first section.

Mr. READ objected to vesting these powers in the same court.

On the question,—

New Hampshire, Connecticut, Pennsylvania, Virginia, South Carolina, Georgia, aye—6; Delaware, Maryland, no—2; Massachusetts, New Jersey, North Carolina, absent.

On the question to agree to Article 11, Sect. 1, as amended, the States were the same as on the preceding question.

Mr. DICKINSON moved, as an amendment to Article

11, Sect. 2, after the words, "good behaviour," the words, "provided that they may be removed by the Executive on the application by the Senate and House of Representatives."

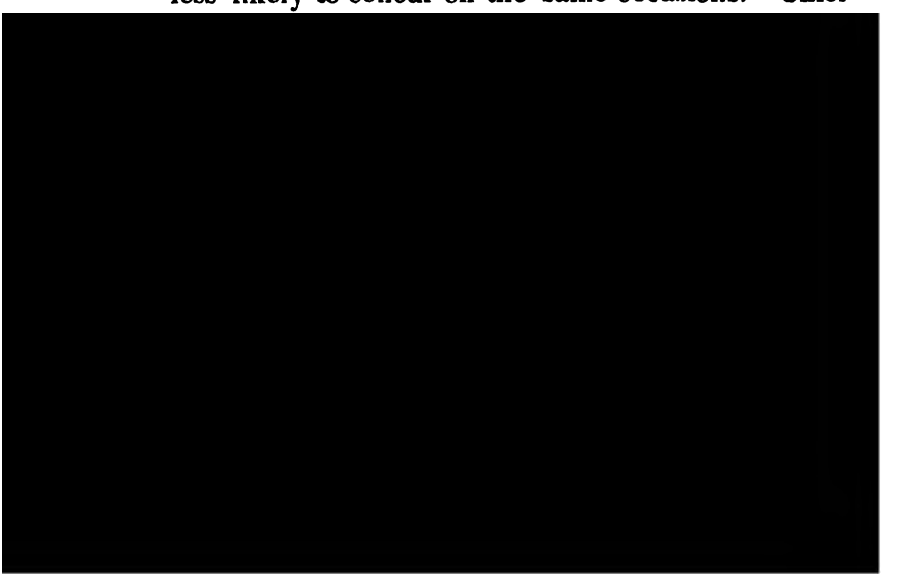
Mr. GERRY seconded the motion.

Mr. GOUVERNEUR MORRIS thought it a contradiction in terms, to say that the Judges should hold their offices during good behaviour, and yet be removeable without a trial. Besides, it was fundamentally wrong to subject judges to so arbitrary an authority.

Mr. SHERMAN saw no contradiction or impropriety, if this were made a part of the constitutional regulation of the Judiciary establishment. He observed that a like provision was contained in the British statutes.

Mr. RUTLEDGE. If the Supreme Court is to judge between the United States and particular States, this alone is an insuperable objection to the motion.

Mr. WILSON considered such a provision in the British Government as less dangerous than here; the House of Lords and House of Commons being less likely to concur on the same occasions. Chief



gislature, composed of different branches, constructed on such different principles, would improperly unite for the purpose of displacing a Judge.

On the question for agreeing to Mr. Dickinson's motion, it was negatived,—Connecticut, aye; all the other States present, no.

On the question on Article 11, Section 2, as reported,—Delaware and Maryland only, no.

Mr. MADISON and Mr. McHENRY moved to re-instate the words, "increased or," before the word "diminished," in Article 11, Section 2.

Mr. GOUVERNEUR MORRIS opposed it, for reasons urged by him on a former occasion.

Colonel MASON contended strenuously for the motion. There was no weight, he said, in the argument drawn from changes in the value of the metals, because this might be provided for by an increase of salaries, so made as not to affect persons in office; —and this was the only argument on which much stress seemed to have been laid.

General PINCKNEY. The importance of the Judiciary will require men of the first talents: large salaries will therefore be necessary, larger than the United States can afford in the first instance. He was not satisfied with the expedient mentioned by Col. MASON. He did not think it would have a good effect, or a good appearance, for new Judges to come in with higher salaries than the old ones.

Mr. GOUVERNEUR MORRIS said the expedient might be evaded, and therefore amounted to nothing. Judges might resign, and then be re-appointed to increased salaries.

On the question,—

Virginia, aye—1; New Hampshire, Connecticut, Pennsylvania, Delaware, South Carolina, no—5; Maryland, divided; Massachusetts, New Jersey, North Carolina, Georgia, absent.

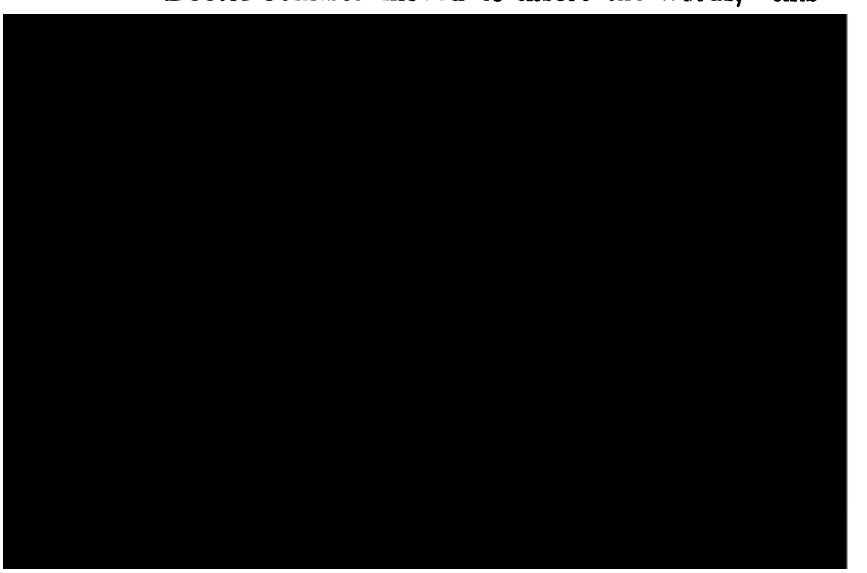
Mr. RANDOLPH and Mr. MADISON then moved to add the following words to Article 11, Section 2: "nor increased by any act of the Legislature which shall operate before the expiration of three years after the passing thereof."

On the question,—Maryland, Virginia, aye—2; New Hampshire, Connecticut, Pennsylvania, Delaware, South Carolina, no—5; Massachusetts, New Jersey, North Carolina, Georgia, absent.[337]

Article 11, Section 3, being taken up, the following clause was postponed, viz: "to the trial of impeachments of officers of the United States;" by which the jurisdiction of the Supreme Court was extended to such cases.

Mr. MADISON and Mr. GOUVERNEUR MORRIS moved to insert, after the word "controversies," the words, "to which the United States shall be a party;" which was agreed to, *nem. con.*

Doctor JOHNSON moved to insert the words, "this



risdiction given was constructively limited to cases of a judiciary nature.

On motion of Mr. RUTLEDGE, the words "passed by the Legislature," were struck out; and after the words, "United States," were inserted, *nem. con.*, the words, "and treaties made or which shall be made under their authority," conformably to a preceding amendment in another place.

The clause, "in cases of impeachment," was postponed.

Mr. GOUVERNEUR MORRIS wished to know what was meant by the words: "In all the cases beforementioned it [jurisdiction] shall be appellate, with such exceptions, &c."—whether it extended to matters of fact as well as law—and to cases of common law, as well as civil law.

Mr. WILSON. The Committee, he believed, meant facts as well as law, and common as well as civil law. The jurisdiction of the Federal court of appeals had, he said, been so construed.

Mr. DICKINSON moved to add, after the word "appellate," the words, "both as to law and fact;" which was agreed to, *nem. con.*

Mr. MADISON and Mr. GOUVERNEUR MORRIS moved to strike out the beginning of the third section, "The jurisdiction of the Supreme Court," and to insert the words, "the Judicial power," which was agreed to, *nem. con.*

The following motion was disagreed to, to wit, to insert, "In all the other cases beforementioned, the judicial power shall be exercised in such manner as the Legislature shall direct."

Delaware, Virginia, aye—2; New Hampshire,

Connecticut, Pennsylvania, Maryland, South Carolina, Georgia, no—6.

On a question for striking out the last sentence of the third Section, "The Legislature may assign, &c." it passed, *nem. con.*

Mr. SHERMAN moved to insert, after the words, "between citizens of different States," the words, "between citizens of the same State claiming lands under grants of different States,"—according to the provision in the 9th Article of the Confederation; which was agreed to, *nem. con.*[288]

Adjourned.

TUESDAY, AUGUST 28TH.

In Convention,—Mr. SHERMAN, from the Committee to whom were referred several propositions on the twenty-fifth instant, made the following report; which was ordered to lie on the table:

"That there be inserted, after the fourth clause of the 7th Section: 'Nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another, or oblige vessels

On the question,—New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye —9; Maryland, no—1; New Jersey, absent.

Section 4 was so amended, *nem. con.*, as to read: "The trial of all crimes (except in cases of impeachment) shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, then the trial shall be at such place or places as the Legislature may direct." The object of this amendment was, to provide for trial by jury of offences committed out of any State.

Mr. PINCKNEY, urging the propriety of securing the benefit of the Habeas Corpus in the most ample manner, moved, that it should not be suspended but on the most urgent occasions, and then only for a limited time not exceeding twelve months.

Mr. RUTLEDGE was for declaring the Habeas Corpus inviolate. He did not conceive that a suspension could ever be necessary, at the same time, through all the States.

Mr. GOUVERNEUR MORRIS moved, that, "The privilege of the writ of Habeas Corpus shall not be suspended, unless where, in cases of rebellion or invasion, the public safety may require it."

Mr. WILSON doubted whether in any case a suspension could be necessary, as the discretion now exists with Judges, in most important cases, to keep in gaol or admit to bail.

The first part of Mr. GOUVERNEUR MORRIS's motion, to the word "unless," was agreed to, *nem. con.* On the remaining part,—New Hampshire, Massa-

chusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, aye—7; North Carolina, South Carolina, Georgia, no—3.

The fifth Section of Article 11, was agreed to, *nem. con.**

Article 12 being then taken up,—

Mr. WILSON and Mr. SHERMAN moved to insert, after the words, "coin money," the words, "nor emit bills of credit, nor make any thing but gold and silver coin a tender in payment of debts;" making these prohibitions absolute, instead of making the measures allowable, as in the thirteenth Article, *with the consent of the Legislature of the United States.*

Mr. GORHAM thought the purpose would be as well secured by the provision of Article 13, which makes the consent of the General Legislature necessary; and that in that mode no opposition would be excited; whereas an absolute prohibition of paper-money would rouse the most desperate opposition from its partisans.

Mr. SHERMAN thought this a favorable crisis for crushing paper-money. If the consent of the Legis-

Carolina, Georgia, aye—8; Virginia, no—1; Maryland, divided.

The remaining part of Mr. WILSON's and SHERMAN's motion was agreed to, *nem. con.*

Mr. KING moved to add, in the words used in the ordinance of Congress establishing new States, a prohibition on the States to interfere in private contracts.

Mr. GOUVERNEUR MORRIS. This would be going too far. There are a thousand laws relating to bringing actions, limitations of actions, &c., which affect contracts. The judicial power of the United States will be a protection in cases within their jurisdiction; and within the State itself a majority must rule, whatever may be the mischief done among themselves.

Mr. SHERMAN. Why then prohibit bills of credit?

Mr. WILSON was in favor of Mr. KING's motion.

Mr. MADISON admitted that inconveniences might arise from such a prohibition; but thought on the whole it would be overbalanced by the the utility of it. He conceived, however, that a negative on the State laws could alone secure the effect. Evasions might and would be devised by the ingenuity of the Legislatures.

Col. MASON. This is carrying the restraint too far. Cases will happen that cannot be foreseen, where some kind of interference will be proper and essential. He mentioned the case of limiting the period for bringing actions on open account—that of bonds after a certain lapse of time—asking, whether it was proper to tie the hands of the States from making provision in such cases.

Mr. WILSON. The answer to these objections is, that retrospective *interferences* only are to be prohibited.

Mr. MADISON. Is not that already done by the prohibition of *ex post facto* laws, which will oblige the Judges to declare such interferences null and void.[340]

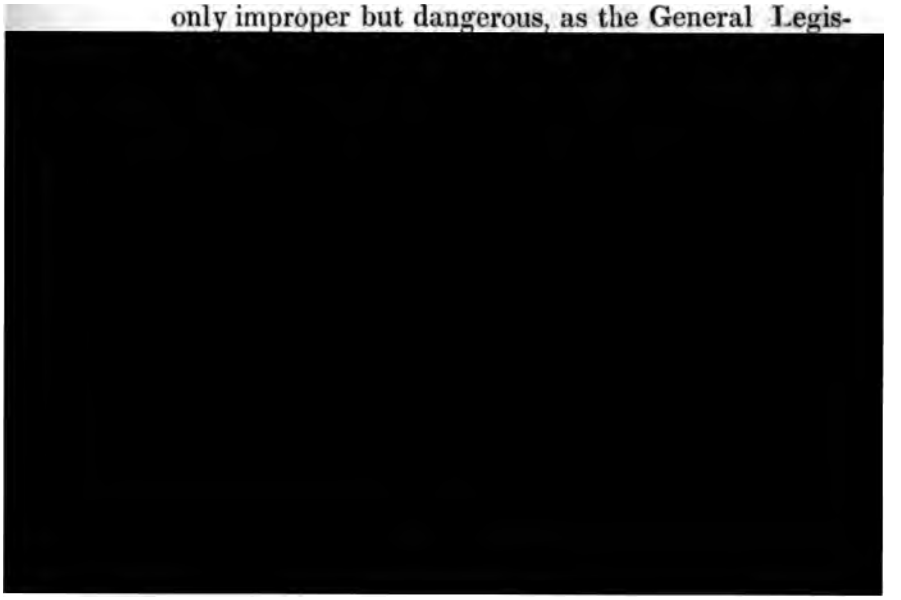
Mr. RUTLEDGE moved, instead of Mr. KING's motion, to insert, "nor pass bills of attainder, nor retrospective* laws."

On which motion,—New Hampshire, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, aye—7; Connecticut, Maryland, Virginia, no—3.

Mr. MADISON moved to insert, after the word "reprisal," (Article 12,) the words, "nor lay embargoes." He urged that such acts by the States would be unnecessary, impolitic, and unjust.

Mr. SHERMAN thought the States ought to retain this power, in order to prevent suffering and injury to their poor.

Col. MASON thought the amendment would be not only improper but dangerous, as the General Legis-



tween State and State, already vested in the General Legislature, being sufficient.

On the question,—

Massachusetts, Delaware, South Carolina, aye—3; New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, no—8.

Mr. MADISON moved, that the words, "nor lay imposts or duties on imports," be transferred from Article 13, where the consent of the General Legislature may license the act, into Article 12, which will make the prohibition on the States absolute. He observed, that as the States interested in this power, by which they could tax the imports of their neighbours passing through their markets, were a majority, they could give the consent of the Legislature to the injury of New Jersey, North Carolina, &c.

Mr. WILLIAMSON seconded the motion.

Mr. SHERMAN thought the power might safely be left to the Legislature of the United States.

Col. MASON observed, that particular States might wish to encourage, by impost duties, certain manufactures, for which they enjoyed natural advantages, as Virginia, the manufacture of hemp, &c."

Mr. MADISON. The encouragement of manufactures in that mode requires duties, not only on imports directly from foreign countries, but from the other States in the Union, which would revive all the mischiefs experienced from the want of a general Government over commerce.

On the question,—

New Hampshire, New Jersey, Delaware, North

Carolina, aye—4; Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, no—7.

Article 12, as amended, was then agreed to, *nem. con*:

Article 13, was then taken up.

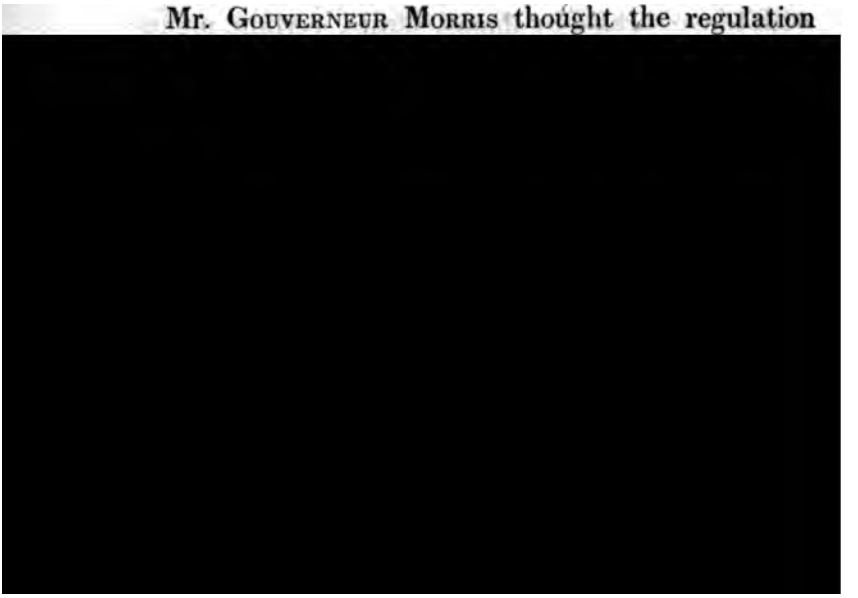
Mr. KING moved to insert, after the word "imports," the words, "or exports;" so as to prohibit the States from taxing either; and on this question, it passed in the affirmative,—

New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, aye—6; Connecticut, Maryland, Virginia, South Carolina, Georgia, no—5.

Mr. SHERMAN moved to add, after the word "exports," the words, "nor with such consent, but for the use of the United States;" so as to carry the proceeds of all State duties on imports or exports, into the common treasury.

Mr. MADISON liked the motion, as preventing all State imposts; but lamented the complexity we were giving to the commercial system.

Mr. GOUVERNEUR MORRIS thought the regulation



other States, it is a proof that they are not fit to compose one nation.

Mr. KING was afraid that the regulation moved by Mr. SHERMAN would too much interfere with the policy of States respecting their manufactures, which may be necessary. Revenue, he reminded the House, was the object of the General Legislature.

On Mr. SHERMAN's motion,—

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye—9; Massachusetts, Maryland, no—2.

Article 13, was then agreed to, as amended.

Article 14, was then taken up.

General PINCKNEY was not satisfied with it. He seemed to wish some provision should be included in favor of property in slaves.

On the question on Article 14,—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—9; South Carolina, no—1; Georgia, divided.

Article 15, being then taken up, the words, "high misdemeanour," were struck out, and the words, "other crime," inserted, in order to comprehend all proper cases; it being doubtful whether "high misdemeanour" had not a technical meaning too limited.

Mr. BUTLER and Mr. PINCKNEY moved to require "fugitive slaves and servants to be delivered up like criminals."

Mr. WILSON. This would oblige the Executive of the State to do it, at the public expense.

Mr. SHERMAN saw no more propriety in the public

seizing and surrendering a slave or servant, than a horse.

Mr. BUTLER withdrew his proposition, in order that some particular provision might be made, apart from this article.

Article 15, as amended, was then agreed to, *nem. con.*

Adjourned.

WEDNESDAY, AUGUST 29TH.

In Convention,—Article 16, being taken up,—

Mr. WILLIAMSON moved to substitute, in place of it, the words of the Articles of Confederation on the same subject. He did not understand precisely the meaning of the article.[341]

Mr. WILSON and Doctor JOHNSON supposed the meaning to be, that judgments in one State should be the ground of actions in other States; and that acts of the Legislatures should be included, for the sake of acts of insolvency, &c.

Mr. PINCKNEY moved to commit Article 16, with

that this might be safely done, and was justified by the nature of the Union.

Mr. RANDOLPH said there was no instance of one nation executing judgments of the courts of another nation. He moved the following proposition:

"Whenever the act of any State, whether legislative, executive, or judiciary, shall be attested and exemplified under the seal thereof, such attestation and exemplification shall be deemed in other States as full proof of the existence of that act; and its operation shall be binding in every other State, in all cases to which it may relate, and which are within the cognizance and jurisdiction of the State wherein the said act was done."

On the question for committing Article 16, with Mr. PINCKNEY's motion.

Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; New Hampshire, Massachusetts, no—2.

The motion of Mr. RANDOLPH was also committed, *nem. con.*

Mr. GOUVERNEUR MORRIS moved to commit also the following proposition on the same subject:

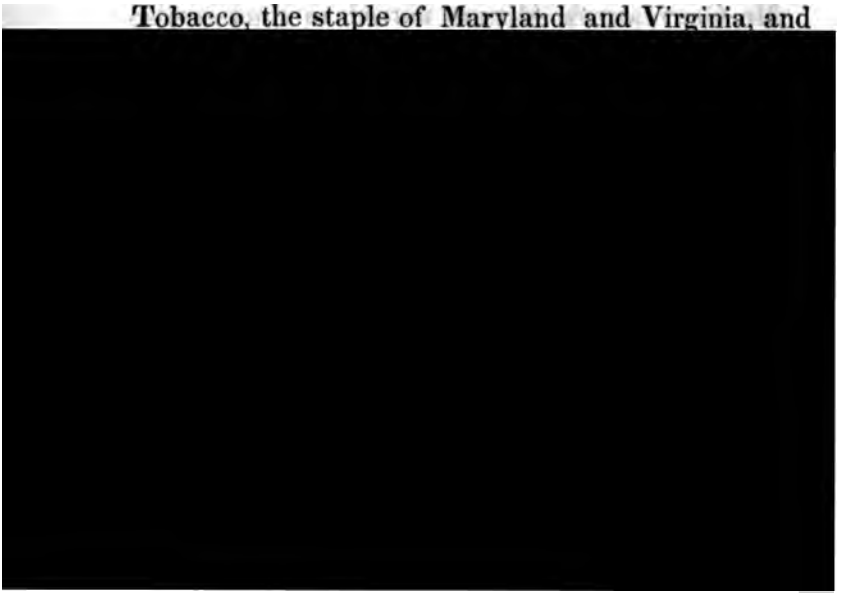
"Full faith ought to be given in each State to the public acts, records, and judicial proceedings, of every other State; and the Legislature shall, by general laws, determine the proof and effect of such acts, records, and proceedings;" and it was committed, *nem. con.*

The Committee appointed for these references were, Mr. RUTLEDGE, Mr. RANDOLPH, Mr. GORHAM, Mr. WILSON, and Mr. JOHNSON.[39]

Mr. DICKINSON mentioned to the House, that on examining Blackstone's Commentaries, he found that the term "*ex post facto*" related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases; and that some further provision for this purpose would be requisite.

Article 7, Section 6, by the Committee of eleven reported to be struck out (see the twenty-fourth inst.) being now taken up,—

Mr. PINCKNEY moved to postpone the Report, in favor of the following proposition: "That no act of the Legislature for the purpose of regulating the commerce of the United States with foreign powers, among the several States, shall be passed without the assent of two-thirds of the members of each House." He remarked that there were five distinct commercial interests. 1. The fisheries and West India trade, which belonged to the New England States. 2. The interest of New York lay in a free trade. 3. Wheat and flour the staples of the two Middle States (New Jersey and Pennsylvania). 4. Tobacco, the staple of Maryland and Virginia, and



General PINCKNEY said it was the true interest of the Southern States to have no regulation of commerce; but considering the loss brought on the commerce of the Eastern States by the Revolution, their liberal conduct towards the views* of South Carolina, and the interest the weak Southern States had in being united with the strong Eastern States, he thought it proper that no fetters should be imposed on the power of making commercial regulations, and that his constituents, though prejudiced against the Eastern States, would be reconciled to this liberality. He had, himself, he said, prejudices against the Eastern States before he came here, but would acknowledge that he had found them as liberal and candid as any men whatever.

Mr. CLYMER. The diversity of commercial interests, of necessity, creates difficulties which ought not to be increased by unnecessary restrictions. The Northern and Middle States will be ruined, if not enabled to defend themselves against foreign regulations.

Mr. SHERMAN, alluding to Mr. PINCKNEY'S enumeration of particular interests, as requiring a security against abuse of the power, observed, that the diversity was of itself a security; adding, that to require more than a majority to decide a question was always embarrassing, as had been experienced in cases requiring the votes of nine States in Congress.

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* He meant the permission to import slaves. An understanding on the two subjects of *navigation* and *slavery*, had taken place between those parts of the Union, which explains the vote on the motion depending, as well as the language of General Pinckney and others.

Mr. PINCKNEY replied, that his enumeration meant the five minute interests. It still left the two great divisions, of Northern and Southern interests.

Mr. GOUVERNEUR MORRIS opposed the object of the motion, as highly injurious. Preferences to American ships will multiply them, till they can carry the Southern produce cheaper than it is now carried. A navy was essential to security, particularly of the Southern States; and can only be had by a navigation act encouraging American bottoms and seamen. In those points of view, then, alone, it is the interest of the Southern States that navigation acts should be facilitated. Shipping, he said, was the worst and most precarious kind of property, and stood in need of public patronage.

Mr. WILLIAMSON was in favor of making two-thirds, instead of a majority, requisite, as more satisfactory to the Southern people. No useful measure, he believed, had been lost in Congress for want of nine votes. As to the weakness of the Southern States, he was not alarmed on that account. The sickliness of their climate for invaders would prevent their being made an object. He acknowledged

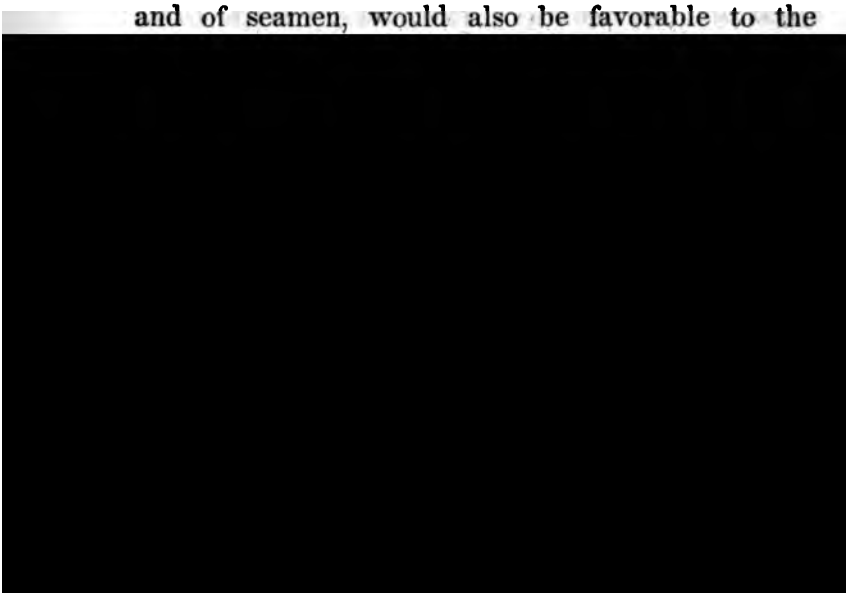
Mr. BUTLER differed from those who considered the rejection of the motion as no concession on the part of the Southern States. He considered the interest of these and of the Eastern States to be as different as the interests of Russia and Turkey. Being, notwithstanding, desirous of conciliating the affections of the Eastern States, he should vote against requiring two-thirds instead of a majority.

Col. MASON. If the Government is to be lasting it must be founded in the confidence and affections of the people; and must be so constructed as to obtain these. The *majority* will be governed by their interests. The Southern States are the *minority* in both Houses. Is it to be expected that they will deliver themselves bound, hand and foot, to the Eastern States, and enable them to exclaim, in the words of Cromwell, on a certain occasion—"the Lord hath delivered them into our hands?"

Mr. WILSON took notice of the several objections, and remarked, that if every peculiar interest was to be secured, *unanimity* ought to be required. The majority, he said, would be no more governed by interest than the minority. It was surely better to let the latter be bound hand and foot, than the former. Great inconveniences had, he contended, been experienced in Congress from the Article of Confederation requiring nine votes in certain cases.

Mr. MADISON went into a pretty full view of the subject. He observed that the disadvantage to the Southern States from a navigation act lay chiefly in a temporary rise of freight, attended, however, with an increase of Southern as well as Northern shipping—with the emigration of Northern seamen and

merchants to the Southern States—and with a removal of the existing and injurious retaliations among the States on each other. The power of foreign nations to obstruct our retaliating measures on them, by a corrupt influence, would also be less, if a majority should be made competent, than if two-thirds of each House should be required to legislative acts in this case. An abuse of the power would be qualified with all these good effects. But he thought an abuse was rendered improbable by the provision of two branches—by the independence of the Senate—by the negative of the Executive—by the interest of Connecticut and New Jersey, which were agricultural, not commercial States—by the interior interest, which was also agricultural in the most commercial States—and by the accession of Western States, which would be altogether agricultural. He added, that the Southern States would derive an essential advantage, in the general security afforded by the increase of our maritime strength. He stated the vulnerable situation of them all, and of Virginia in particular. The increase of the coasting trade, and of seamen, would also be favorable to the



foundation for a great empire, we ought to take a permanent view of the subject, and not look at the present moment only. He reminded the House of the necessity of securing the West India trade to this country. That was the great object, and a navigation act was necessary for obtaining it.

Mr. RANDOLPH said that there were features so odious in the Constitution, as it now stands, that he doubted whether he should be able to agree to it. A rejection of the motion would complete the deformity of the system. He took notice of the argument in favor of giving the power over trade to a majority, drawn from the opportunity foreign powers would have of obstructing retaliatory measures, if two-thirds were made requisite. He did not think there was weight in that consideration. The difference between a majority and two-thirds, did not afford room for such an opportunity. Foreign influence would also be more likely to be exerted on the President, who could require three-fourths by his negative. He did not mean, however, to enter into the merits. What he had in view was merely to pave the way for a declaration, which he might be hereafter obliged to make; if an accumulation of obnoxious ingredients should take place, that he could not give his assent to the plan.

Mr. GORHAM. If the Government is to be so fettered as to be unable to relieve the Eastern States, what motive can they have to join in it, and thereby tie their own hands from measures which they could otherwise take for themselves? The Eastern States were not led to strengthen the Union by fear for their own safety. He deprecated the consequences

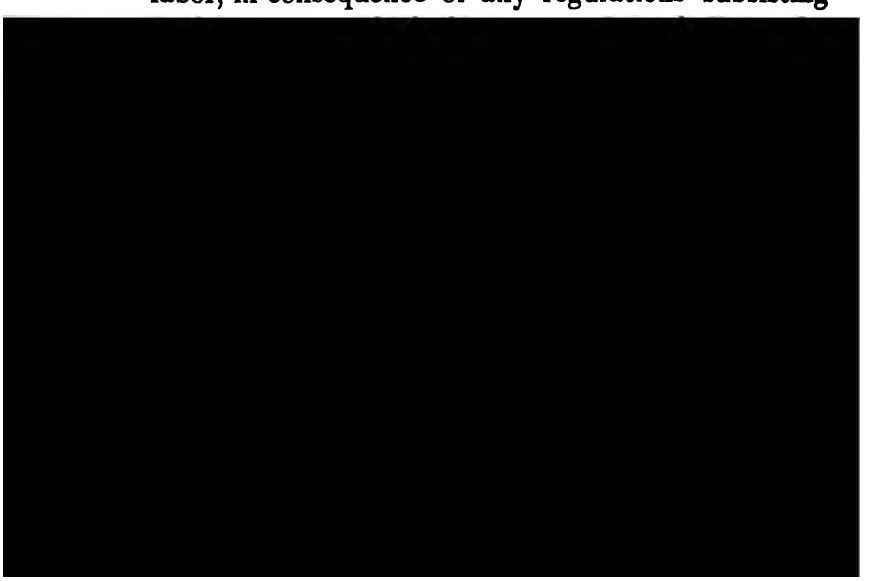
of disunion; but if it should take place, it was the Southern part of the Continent that had most reason to dread them. He urged the improbability of a combination against the interest of the Southern States, the different situations of the Northern and Middle States being a security against it. It was, moreover, certain, that foreign ships would never be altogether excluded, especially those of nations in treaty with us.

On the question to postpone, in order to take up Mr. PINCKNEY'S motion,—

Maryland, Virginia, North Carolina, Georgia, aye —4; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, South Carolina, no—7.

The Report of the Committee for striking out Section 6, requiring two-thirds of each House to pass a navigation act, was then agreed to, *nem. con.*

Mr. BUTLER moved to insert after Article 15, "If any person bound to service or labor in any of the United States, shall escape into another State, he or she shall not be discharged from such service or labor, in consequence of any regulations subsisting



then subsisting." He did not wish to bind down the Legislature to admit Western States on the terms here stated.

Mr. MADISON opposed the motion; insisting that the Western States neither would, nor ought to submit to a union which degraded them from an equal rank with the other States.

Col. MASON. If it were possible by just means to prevent emigrations to the Western country, it might be good policy. But go the people will, as they find it for their interest; and the best policy is to treat them with that equality which will make them friends not enemies.

Mr. GOUVERNEUR MORRIS did not mean to discourage the growth of the Western country. He knew that to be impossible. He did not wish, however, to throw the power into their hands.

Mr. SHERMAN was against the motion, and for fixing an equality of privileges by the Constitution.

Mr. LANGDON was in favor of the motion. He did not know but circumstances might arise, which would render it inconvenient to admit new States on terms of equality.

Mr. WILLIAMSON was for leaving the Legislature free. The existing *small* States enjoy an equality now, and for *that* reason are admitted to it in the Senate. This reason is not applicable to new Western States.

On Mr. GOUVERNEUR MORRIS's motion, for striking out,—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina,

South Carolina, Georgia, aye—9; Maryland, Virginia, no—2.

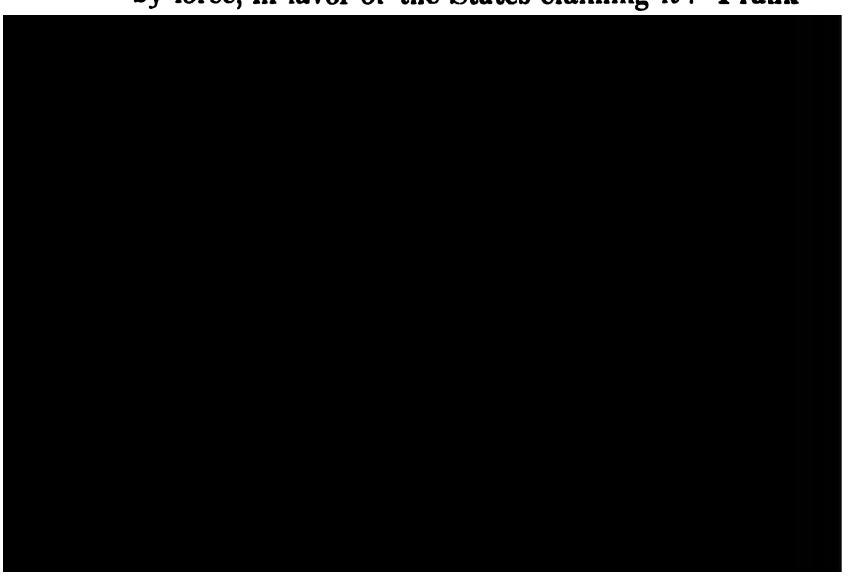
Mr. L. MARTIN and Mr. GOUVERNEUR MORRIS moved to strike out of Article 17, "but to such admission the consent of two-thirds of the members present shall be necessary." Before any question was taken on this motion,—[344]

Mr. GOUVERNEUR MORRIS moved the following proposition, as a substitute for the seventeenth Article:

"New States may be admitted by the Legislature into the Union; but no new States shall be erected within the limits of any of the present States, without the consent of the Legislature of such State, as well as of the General Legislature."

The first part, to "Union," inclusive, was agreed to, *nem. con.*

Mr. L. MARTIN opposed the latter part. Nothing, he said, would so alarm the limited States, as to make the consent of the large States, claiming the Western lands, necessary to the establishment of new States within their limits. It is proposed to guarantee the States. Shall Vermont be reduced by force, in favor of the States claiming it? Frank-



cessary. The Union cannot dismember a State without its consent.

Mr. LANGDON thought there was great weight in the argument of Mr. LUTHER MARTIN; and that the proposition substituted by Mr. GOUVERNEUR MORRIS would excite a dangerous opposition to the plan.

Mr. GOUVERNEUR MORRIS thought, on the contrary, that the small States would be pleased with the regulation, as it holds up the idea of dismembering the large States.

Mr. BUTLER. If new States were to be erected without the consent of the dismembered States, nothing but confusion would ensue. Whenever taxes should press on the people, demagogues would set up their schemes of new States.

Doctor JOHNSON agreed in general with the ideas of Mr. SHERMAN; but was afraid that, as the clause stood, Vermont would be subjected to New York, contrary to the faith pledged by Congress. He was of opinion that Vermont ought to be compelled to come into the Union.

Mr. LANGDON said his objections were connected with the case of Vermont. If they are not taken in, and remain exempt from taxes, it would prove of great injury to New Hampshire and the other neighbouring States.

Mr. DICKINSON hoped the article would not be agreed to. He dwelt on the impropriety of requiring the small States to secure the large ones in their extensive claims of territory.

Mr. WILSON. When the *majority* of a State wish to divide they can do so. The aim of those in opposition to the article, he perceived, was that the

General Government should abet the *minority*, and by that means divide a State against its own consent.

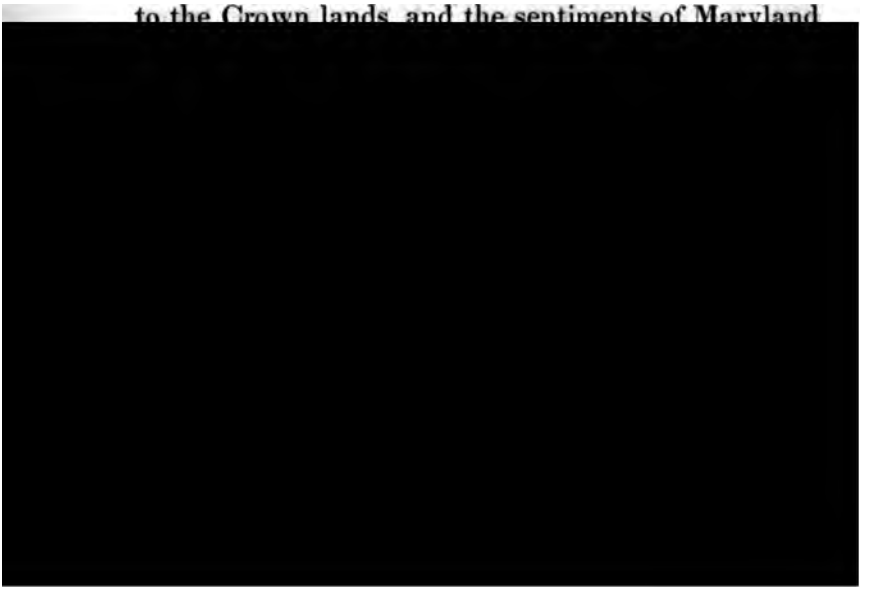
Mr. GOUVERNEUR MORRIS. If the forced division of the States is the objêct of the new system, and is to be pointed against one or two States, he expected the gentlemen from these would pretty quickly leave us.

Adjourned.

THURSDAY, AUGUST 30TH.

In Convention,—Article 17, being resumed, for a question on it, as amended by Mr. GOUVERNEUR MORRIS's substitute,—

Mr. CARROLL moved to strike out so much of the Article as requires the consent of the State to its being divided. He was aware that the object of this pre-requisite might be to prevent domestic disturbances; but such was our situation with regard to the Crown lands and the sentiments of Maryland



might be agreed to unanimously. But should this point be disregarded, he believed that all risks would be run by a considerable minority, sooner than give their concurrence.

Mr. L. MARTIN seconded the motion for a commitment.

Mr. RUTLEDGE. Is it to be supposed that the States are to be cut up without their own consent? The case of Vermont will probably be particularly provided for. There could be no room to fear that Virginia or North Carolina would call on the United States to maintain their government over the mountains.

Mr. WILLIAMSON said that North Carolina was well disposed to give up her western lands; but attempts at compulsion were not the policy of the United States. He was for doing nothing in the Constitution, in the present case; and for leaving the whole matter *in statu quo*.

Mr. WILSON was against the commitment. Unanimity was of great importance, but not to be purchased by the majority's yielding to the minority. He should have no objection to leaving the case of the new States as heretofore. He knew nothing that would give greater or juster alarm than the doctrine, that a political society is to be torn asunder without its own consent.

On Mr. CARROLL's motion for commitment,—

New Jersey, Delaware, Maryland, aye—3; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no—8.

Mr. SHERMAN moved to postpone the substitute for

Article 17, agreed to yesterday, in order to take up the following amendment:

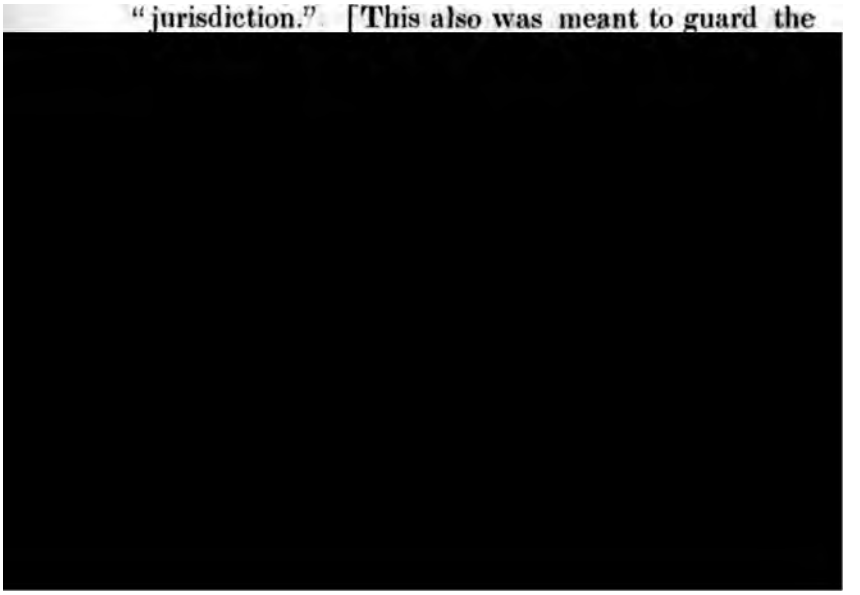
"The Legislature shall have power to admit other States into the Union; and new States to be formed by the division or junction of States now in the Union, with the consent of the Legislature of such States." [The first part was meant for the case of Vermont, to secure its admission.]

On the question, it passed in the negative,—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, South Carolina, aye—5; New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, no—6.

Doctor JOHNSON moved to insert the words, "hereafter formed, or," after the words, "shall be," in the substitute for Article 17, [the more clearly to save Vermont, as being already formed into a State, from a dependence on the consent of New York for her admission.] The motion was agreed to,—Delaware and Maryland only, dissenting.

Mr. GOUVERNEUR MORRIS moved to strike out the word "limits," in the substitute, and insert the word "jurisdiction." [This also was meant to guard the



forcing and guaranteeing the people of Virginia beyond the mountains, the Western people of North Carolina and Georgia, and the people of Maine, to continue under the States now governing them, without the consent of those States to their separation. Even if they should become the *majority*, the majority of *counties*, as in Virginia, may still hold fast the dominion over them. Again the majority may place the seat of government entirely among themselves, and for their own convenience; and still keep the injured parts of the States in subjection, under the guarantee of the General government against domestic violence. He wished Mr. WILSON had thought a little sooner of the value of *political* bodies. In the beginning, when the rights of the small States were in question, they were phantoms, ideal beings. Now when the great States were to be affected, political societies were of a sacred nature. He repeated and enlarged on the unreasonableness of requiring the small States to guarantee the Western claims of the large ones. It was said yesterday, by Mr. GOUVERNEUR MORRIS, that if the large States were to be split to pieces without their consent, their Representatives here would take their leave. If the small States are to be required to guarantee them in this manner, it will be found that the Representatives of other States will, with equal firmness, take their leave of the Constitution on the table.

It was moved by Mr. L. MARTIN to postpone the substituted article, in order to take up the following: "The Legislature of the United States shall have power to erect new States within, as well as without

the territory claimed by the several States, or either of them; and admit the same into the Union: provided that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late treaty of peace;" which passed in the negative,—New Jersey, Delaware, and Maryland, only, aye.

On the question to agree to Mr. GOUVERNEUR MORRIS's substituted article, as amended, in the words following: "New States may be admitted by the Legislature into the Union; but no new State shall be hereafter formed or erected within the jurisdiction of any of the present States, without the consent of the Legislature of such State, as well as of the general Legislature,—New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—8; New Jersey, Delaware, Maryland, no—3.

Mr. DICKINSON moved to add the following clause to the last:

"Nor shall any State be formed by the junction of two or more States, or parts thereof, without the consent of th Legislature of such States, as well

Mr. WILSON was against the motion. There was nothing in the Constitution affecting, one way or the other, the claims of the United States; and it was best to insert nothing, leaving every thing on that litigated subject *in statu quo*.

Mr. MADISON considered the claim of the United States as in fact favored by the jurisdiction of the Judicial power of the United States over controversies to which they should be parties. He thought it best, on the whole, to be silent on the subject. He did not view the proviso of Mr. CARROLL as dangerous; but to make it neutral and fair, it ought to go further, and declare that the claims of particular States also should not be affected.

Mr. SHERMAN thought the proviso harmless, especially with the addition suggested by Mr. MADISON in favor of the claims of particular States.

Mr. BALDWIN did not wish any undue advantage to be given to Georgia. He thought the proviso proper with the addition proposed. It should be remembered that if Georgia has gained much by the cession in the treaty of peace, she was in danger during the war of a *Uti possedetis*.

Mr. RUTLEDGE thought it wrong to insert a proviso, where there was nothing which it could restrain, or on which it could operate.

Mr. CARROLL withdrew his motion and moved the following:

"Nothing in this Constitution shall be construed to alter the claims of the United States, or of the individual States, to the Western territory; but all such claims shall be examined into, and decided upon, by the Supreme Court of the United States."

Mr. GOUVERNEUR MORRIS moved to postpone this, in order to take up the following:

"The Legislature shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States; and nothing in this Constitution contained, shall be so construed as to prejudice any claims, either of the United States or of any particular State." The postponement agreed to, *nem. con.*

Mr. L. MARTIN moved to amend the proposition of Mr. GOUVERNEUR MORRIS, by adding: "But all such claims may be examined into, and decided upon, by the Supreme Court of the United States."

Mr. GOUVERNEUR MORRIS. This is unnecessary, as all suits to which the United States are parties are already to be decided by the Supreme Court.

Mr. L. MARTIN. It is proper, in order to remove all doubts on this point.

On the question on Mr. L. MARTIN'S amendatory motion,—

New Jersey, Maryland, aye—2; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, no—6. States not further called,

United States, that they should in all cases suppress domestic violence, which may proceed from the State Legislature itself, or from disputes between the two branches where such exist.

Mr. DAYTON mentioned the conduct of Rhode Island, as showing the necessity of giving latitude to the power of the United States on this subject.

On the question,—

New Jersey, Pennsylvania, Delaware, aye—3; New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—8.

On a question for striking out "domestic violence," and inserting "insurrections," it passed in the negative,—

New Jersey, Virginia, North Carolina, South Carolina, Georgia, aye—5; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, no—6.

Mr. DICKINSON moved to insert the words, "or Executive," after the words, "application of its Legislature." The occasion itself, he remarked, might hinder the Legislature from meeting.

On this question,—

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, aye—8; Massachusetts, Virginia, no—2; Maryland, divided.

Mr. L. MARTIN moved to subjoin to the last amendment the words, "in the recess of the Legislature." On which question, Maryland only, aye.

On the question on the last clause, as amended,—

New Hampshire, Massachusetts, Connecticut, New

Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—9; Delaware, Maryland, no—2.[346]

Article 19, was then taken up.

Mr. GOUVERNEUR MORRIS suggested, that the Legislature should be left at liberty to call a Convention whenever they pleased.

The Article was agreed to, *nem. con.*

Article 20 was then taken up. The words "or affirmation," were added, after "oath."

Mr. PINCKNEY moved to add to the Article: "but no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States."

Mr. SHERMAN thought it unnecessary, the prevailing liberality being a sufficient security against such tests.

Mr. GOUVERNEUR MORRIS and General PINCKNEY approved the motion.

The motion was agreed to, *nem. con.*, and then the whole article,—North Carolina only, no; and Maryland, divided.

Article 21, being then taken up: "The ratifica-

Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no—8.

Mr. GOUVERNEUR MORRIS thought the blank ought to be filled in a two-fold way, so as to provide for the event of the ratifying States being contiguous, which would render a smaller number sufficient; and the event of their being dispersed, which would require a greater number for the introduction of the Government.

Mr. SHERMAN observed that the States being now confederated by articles which require unanimity in changes, he thought the ratification, in this case, of ten States at least ought to be made necessary.

Mr. RANDOLPH was for filling the blank with "nine," that being a respectable majority of the whole, and being a number made familiar by the constitution of the existing Congress.

Mr. WILSON mentioned "eight," as preferable.

Mr. DICKINSON asked, whether the concurrence of Congress is to be essential to the establishment of the system—whether the refusing States in the Confederacy could be deserted—and whether Congress could concur in contravening the system under which they acted?

Mr. MADISON remarked, that if the blank should be filled with "seven," "eight," or "nine," the Constitution as it stands might be put in force over the whole body of the people, though less than a majority of them should ratify it.

Mr. WILSON. As the Constitution stands, the States only which ratify can be bound. We must, he said, in this case, go to the original powers of

society. The house on fire must be extinguished, without a scrupulous regard to ordinary rights.

Mr. BUTLER was in favor of "nine." He revolted at the idea that one or two States should restrain the rest from consulting their safety.

Mr. CARROLL moved to fill the blank with, "the thirteen;" unanimity being necessary to dissolve the existing Confederacy, which had been unanimously established.

Mr. KING thought this amendment necessary; otherwise, as the Constitution now stands, it will operate on the whole, though ratified by a part only.

Adjourned.

FRIDAY, AUGUST 31ST.

In Convention,—Mr. KING moved to add, to the end of Article 21, the words, "between the said States;" so as to confine the operation of the Government to the States ratifying it.

On the question, nine States voted in the affirmative; Maryland, no; Delaware, absent.

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 third Section of Article 4." This, he said, would require the concurrence of a majority of both the States and the 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. CARROLL moved to postpone the consideration of Article 21, in order to take up the Reports of Committees not yet acted on. On this question the States were equally divided,—New Hampshire, Pennsylvania, Delaware, Maryland, Georgia, aye—5; Massachusetts, New Jersey, Virginia, North Carolina, South Carolina, no—5; Connecticut, divided.

Mr. GOUVERNEUR MORRIS moved to strike out, "conventions of the," after "ratifications;" leaving the States to pursue their own modes of ratification.

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

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

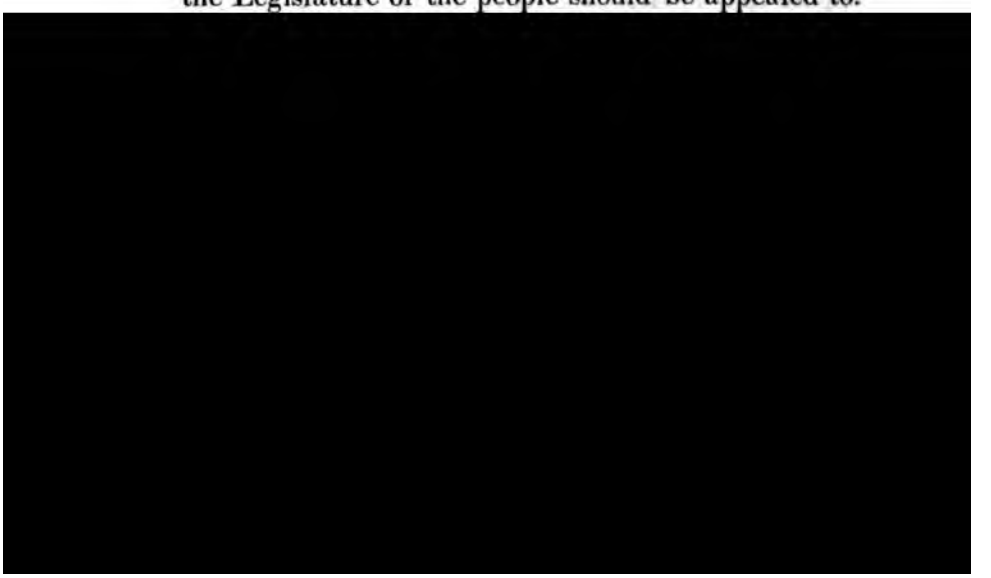
Mr. MADISON considered it best to require Conventions; among other reasons for this, that the powers given to the General Government being taken from the State Governments, the Legislatures would be more disinclined than Conventions composed in part at least of other men; and if disinclined, they could

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 government in Maryland were under oath to support the mode of alteration prescribed by the Constitution.

Mr. GORHAM urged the expediency of "Conventions;" also Mr. PINCKNEY, 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 and to first principles; in which the Government might be on one side, and 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.



Connecticut, Pennsylvania, Delaware, Maryland, Virginia, aye—5; New Hampshire, Massachusetts, New Jersey, North Carolina, South Carolina, Georgia, no—6.

On Mr. GOUVERNEUR MORRIS's motion, to strike out "Conventions of the," it was negatived,—

Connecticut, Pennsylvania, Maryland, Georgia, aye—4; New Hampshire, Massachusetts, New Jersey, Delaware, Virginia, South Carolina, no—6.

On the question for filling the blank in Article 21, with "thirteen," moved by Mr. CARROLL and Mr. L. MARTIN,—all the States were no, except Maryland.

Mr. SHERMAN and 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.

Mr. CLYMER was also in favor of it.

Colonel MASON was for preserving ideas familiar to the people. Nine States had been required in all great cases under the Confederation, and that number was on that account preferable.

On the question for "ten,"—

Connecticut, New Jersey, Maryland, Georgia, aye—4; New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, no—7.

On the question for "nine,"—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Georgia, aye—8; Virginia, North Carolina, South Carolina, no—3.

Article 21, as amended, was then agreed to by all

the States, Maryland excepted, and Mr. JENIFER being, aye.[347]

Article 22, was then taken up, to wit; "This Constitution shall be laid before the United States in Congress 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. GOUVERNEUR MORRIS and Mr. PINCKNEY moved to strike out the words, "for their approbation."

On this question,—

New Hampshire, Connecticut, New Jersey,* Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, aye—8; Massachusetts, Maryland, Georgia, no—3.

Mr. GOUVERNEUR MORRIS and Mr. PINCKNEY then moved, to amend the Article so as to read:

"This Constitution shall be laid before the United States 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 or-

[redacted]

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, and those interested in the State Governments, will intrigue, and turn the popular current against it.

Mr. L. MARTIN believed Mr. MORRIS to be right, that after a while the people would be against it; but for a different reason from that alleged. He believed they would not ratify it, unless hurried into it by surprise.

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.

On the question on Mr. GOUVERNEUR MORRIS's and Mr PINCKNEY's motion,—

New Hampshire, Massachusetts, Pennsylvania, Delaware, aye—4; Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—7.

Mr. GERRY moved to postpone Article 22.

Colonel MASON seconded 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. GOUVERNEUR MORRIS was ready for a postponement. He had long wished for another Con-

vention, 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 may be judged proper.

On the question for postponing,—

New Jersey, Maryland, North Carolina, aye—3; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, no—8.

On the question on Article 22, ten States, aye; Maryland, no.

Article 23, being taken up, as far as the words, "assigned 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."—

Massachusetts, Delaware, Virginia, North Caro-

Carolina,* Georgia, aye—9; New Hampshire, no—1; Maryland, divided.

Article 23, 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 the twenty-eighth of August.)

On the question to agree to the following clause, to be inserted after Article 7, Sect. 4: "nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another," —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 would be inconvenient; as in the river Delaware, if a vessel cannot be required to make entry below the jurisdiction of Pennsylvania.

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

Mr. GORHAM and Mr. LANGDON contended, that the Government would be so fettered by this clause, as to defeat the good purpose of the plan. They mentioned the situation of the trade of Massachusetts and New Hampshire, the case of Sandy Hook, which is in the State of New Jersey, but where precautions against smuggling into New York ought to be established by the General Government.

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* In the printed Journal, South Carolina, no.

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

Mr. CARROLL 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.

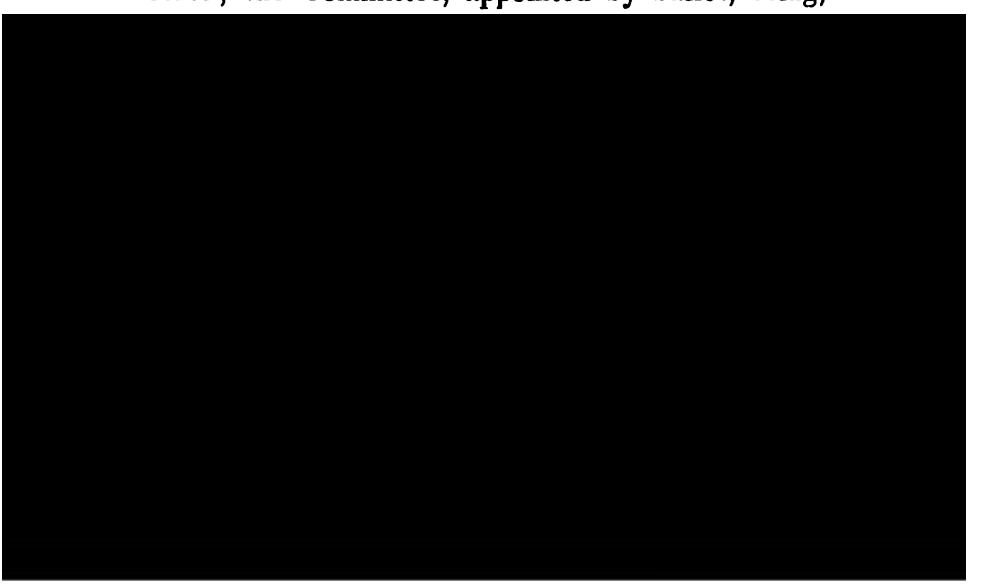
On the question for agreeing to it,—

Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, aye—8; New Hampshire, South Carolina, no—2.

The word "tonnage," was struck out, *nem. con.*, as comprehended in "duties."

On the question on the clause of the Report, "and all duties, imposts and excises, laid by the Legislature, shall be uniform throughout the United States," 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,



SATURDAY, SEPTEMBER 1ST.

In Convention,—Mr. BREARLY, from the Committee of eleven to which were referred yesterday the postponed part of the Constitution, and parts of Reports not acted upon, made the following partial report:

"That in lieu of Article 6, Sect. 9, the words following be inserted, viz: 'The members of each House shall be ineligible to any civil office under the authority of the United States, during the time for which they shall respectively be elected; and no person holding an office under the United States shall be a member of either House during his continuance in office.'"

Mr. RUTLEDGE, from the Committee to whom were referred sundry propositions, (see twenty-ninth of August) together with Article 16, reported that the following additions be made to the Report, viz:

"After the word 'States,' in the last line on the margin of the third page (see the printed Report,) add, 'to establish uniform laws on the subject of bankruptcies.'

"And insert the following as Article 16, viz: 'Full faith and credit ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect which judgments obtained in one State, shall have in another.'"

After receiving these Reports, the House

Adjourned.

MONDAY, SEPTEMBER 3D.

In Convention,—Mr. GOUVERNEUR MORRIS moved to amend the Report concerning the respect to be paid to acts, records, &c. of one State in other States (see the first of September) by striking out, "judgments obtained in one State shall have in another;" and to insert the word "thereof," after the word "effect."

Col. MASON favored the motion, particularly if the "effect" was to be restrained to judgments and judicial proceedings.

Mr. WILSON remarked, that if the Legislature were not allowed to *declare the effect*, the provision would amount to nothing more than what now takes place among all independent nations.

Doctor JOHNSON thought the amendment, as worded, would authorize the General Legislature to declare the effect of Legislative acts of one State in another State.

Mr. RANDOLPH considered it as strengthening the general objection against the plan, that its defin-

On motion of Mr. MADISON, the words, "ought to," were struck out, and "shall" inserted; and "shall," between "Legislature" and "by general laws," struck out, and "may" inserted, *nem. con.*

On the question to agree to the Report as amended, viz: "Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State, and the Legislature may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof,"—it was agreed to without a count of the States.[350]

The clause in the Report, "To establish uniform laws on the subject of bankruptcies," being taken up,—

Mr. SHERMAN observed, that bankruptcies were in some cases punishable with death, by the laws of England; and he did not choose to grant a power by which that might be done here.

Mr. GOUVERNEUR MORRIS said, this was an extensive and delicate subject. He would agree to it because he saw no danger of abuse of the power by the Legislature of the United States.

On the question to agree to the clause, Connecticut alone was in the negative.

Mr. PINCKNEY moved to postpone the Report of the Committee of eleven (see the first of September) in order to take up the following:

"The members of each House shall be incapable of holding any office under the United States for which they, or any other for their benefit, receive any salary, fees or emoluments of any kind; and

the acceptance of such office shall vacate their seats respectively."

He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honourable offices of Government, as resembling the policy of the Romans, in making the temple of Virtue the road to the temple of Fame.

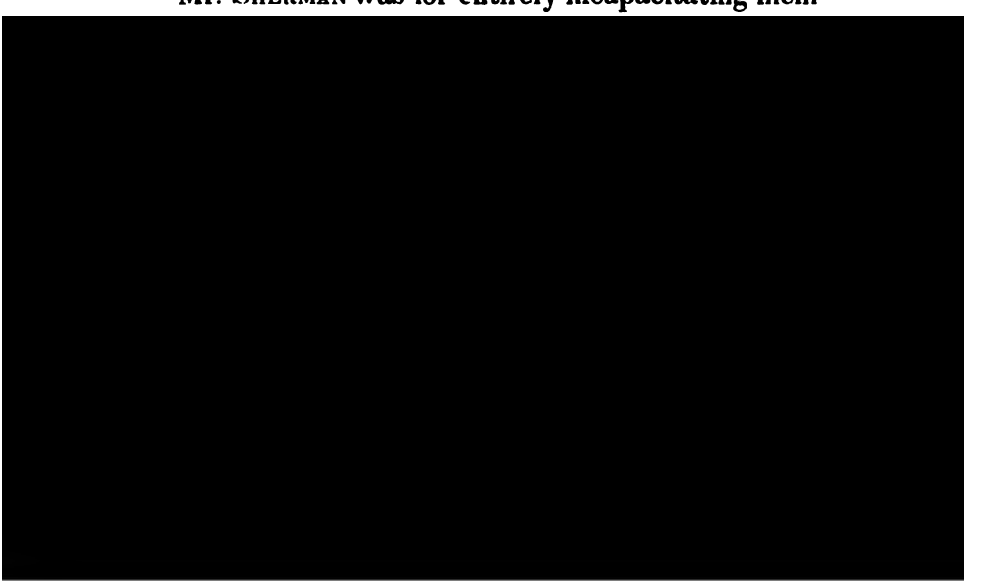
On this question,—

Pennsylvania, North Carolina, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, South Carolina, Georgia, no—8.

Mr. KING moved to insert the word "created," before the word "during," in the Report of the Committee. This, he said, would exclude the members of the first legislature under the Constitution, as most of the offices would then be created.

Mr. WILLIAMSON seconded the motion. He did not see why members of the Legislature should be ineligible to *vacancies* happening during the term of their election.

Mr. SHERMAN was for entirely incapacitating mem-



Mr. GOUVERNEUR MORRIS contended that the eligibility of members to office would lessen the influence of the Executive. If they cannot be appointed themselves, the Executive will appoint their relations and friends, retaining the service and votes of the members for his purposes in the Legislature. Whereas the appointment of the members deprives him of such an advantage.

Mr. GERRY thought the eligibility of members would have the effect of opening batteries against good officers, in order to drive them out and make way for members of the Legislature.

Mr. GORHAM was in favor of the amendment. Without it, we go further than has been done in any of the States, or indeed any other country. The experience of the State Governments, where there was no such ineligibility, proved that it was not necessary; on the contrary, that the eligibility was among the inducements for fit men to enter into the Legislative service.

Mr. RANDOLPH was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.

Mr. BALDWIN remarked that the example of the States was not applicable. The Legislatures there are so numerous, that an exclusion of their members would not leave proper men for offices. The case would be otherwise in the General Government.

Colonel MASON. Instead of excluding merit, the ineligibility will keep out corruption, by excluding office-hunters.

Mr. WILSON considered the exclusion of members of the Legislature as increasing the influence of the

Executive, as observed by Mr. GOUVERNEUR MORRIS; at the same time that it would diminish the general energy of the Government. He said that the legal disqualification for office would be odious to those who did not wish for office, but did not wish either to be marked by so degrading a distinction.

Mr. PINCKNEY. The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the report of the Committee, or even the amendment be agreed to, the great offices, even those of the Judiciary department, which are to continue for life, must be filled, while those most capable of filling them will be under a disqualification.

On the question on Mr. KING's motion,—

New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, aye—5; Connecticut, New Jersey, Maryland, South Carolina, Georgia, no—5.

The amendment being thus lost, by the equal division of the States, Mr. WILLIAMSON moved to insert the words "created, or the emoluments whereof shall have been increased," before the word "during,"

The Report, as amended and agreed to, is as follows:—

"The members of each House shall be ineligible to any civil office under the authority of the United States, created, or the emoluments whereof shall have been increased, during the time for which they shall respectively be elected. And no person holding any office under the United States shall be a member of either House during his continuance in office."[351]

Adjourned.

TUESDAY, SEPTEMBER 4TH.

In Convention,—Mr. BREARLY, from the Committee of eleven, made a further partial Report as follows:

"The Committee of eleven, to whom sundry resolutions, &c., were referred on the thirty-first of August, report, that in their opinion the following additions and alterations should be made to the Report before the Convention, viz:*

"1. The first clause of Article 7, Section 1, to read as follows: 'The Legislature shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States.'

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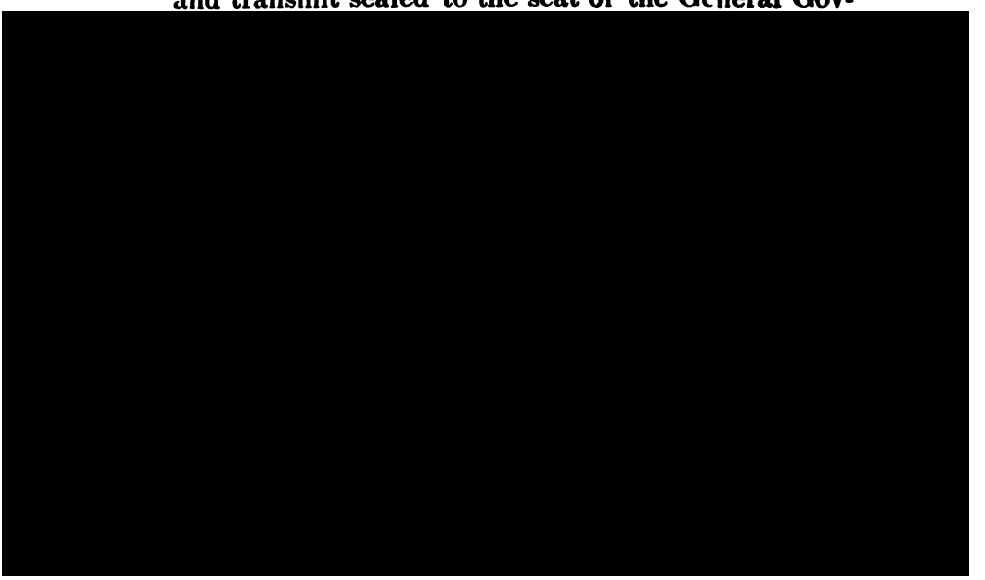
* This is an exact copy. The variations in that in the printed Journal, are occasioned by its incorporation of subsequent amendments. This remark is applicable to other cases.

"2. At the end of the second clause of Article 7, Section 1, add, 'and with the Indian tribes.'

"3. In the place of the 9th Article, Section 1, to be inserted: 'The Senate of the United States shall have power to try all impeachments; but no person shall be convicted without the concurrence of two-thirds of the members present.'

"4. After the word 'Excellency,' in Section 1, Article 10, to be inserted: 'He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected in the following manner, viz: Each State shall appoint, in such manner as its Legislature may direct, a number of Electors equal to the whole number of Senators and members of the House of Representatives to which the State may be entitled in the Legislature. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the General Gov-



from the five highest on the list, the Senate shall choose by ballot the President; and in every case after the choice of the President, the person having the greatest number of votes shall be Vice-President; but if there should remain two or more who have equal votes, the Senate shall choose from them the Vice-President. The Legislature may determine the time of choosing and assembling the Electors, and the manner of certifying and transmitting their votes.'

"5. Section 2. 'No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; nor shall any person be elected to that office, who shall be under the age of thirty-five years, and who has not been, in the whole, at least fourteen years a resident within the United States.'

"6. Section 3. 'The Vice President shall be *ex officio* President of the Senate; except when they sit to try the impeachment of the President; in which case the Chief Justice shall preside, and excepting also when he shall exercise the powers and duties of President; in which case, and in case of his absence, the Senate shall choose a president *pro tempore*. The Vice President, when acting as President of the Senate, shall not have a vote unless the House be equally divided.'

"7. Section 4. 'The President, by and with the advice and consent of the Senate, shall have power to make treaties; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, and other public ministers,

Judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise herein provided for. But no treaty shall be made without the consent of two-thirds of the members present.'

"8. After the words, 'into the service of the United States,' in Section 2, Article 10, add 'and may require the opinion in writing of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices.'

"9. The latter part of Section 2, Article 10, to read as follows: 'He shall be removed from his office on impeachment by the House of Representatives, and conviction by the Senate, for treason or bribery; and in case of his removal as aforesaid, death, absence, resignation or inability to discharge the powers or duties of his office, the Vice President shall exercise those powers and duties, until another President be chosen, or until the inability of the President be removed.'"

The first clause of the Report was agreed to, *nem. con.*

The second clause was also agreed to, *nem. con.*

The third clause was postponed, in order to decide previously on the mode of electing the President.

The fourth clause was accordingly taken up.

Mr. GORHAM disapproved of making the next highest after the President the Vice President, without referring the decision to the Senate in case the next highest should have less than a majority of votes. As the regulation stands, a very obscure

man with very few votes may arrive at that appointment.

Mr. SHERMAN said the object of this clause of the Report of the Committee was to get rid of the ineligibility which was attached to the mode of election by the Legislature, and to render the Executive independent of the Legislature. As the choice of the President was to be made out of the five highest, obscure characters were sufficiently guarded against in that case; and he had no objection to requiring the Vice President to be chosen in like manner, where the choice was not decided by a majority in the first instance.

Mr. MADISON was apprehensive that by requiring both the President and Vice President to be chosen out of the five highest candidates, the attention of the electors would be turned too much to making candidates, instead of giving their votes in order to a definitive choice. Should this turn be given to the business, the election would in fact be consigned to the Senate altogether. It would have the effect, at the same time, he observed, of giving the nomination of the candidates to the largest States.

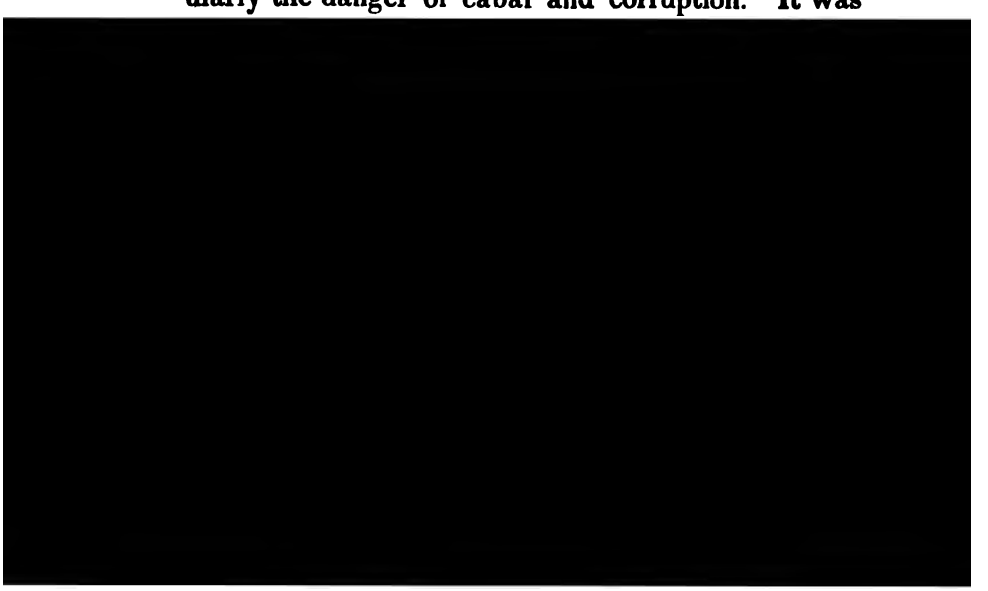
Mr. GOUVERNEUR MORRIS concurred in, and enforced the remarks of Mr. MADISON.

Mr. RANDOLPH and Mr. PINCKNEY wished for a particular explanation, and discussion, of the reasons for changing the mode of electing the Executive.

Mr. GOUVERNEUR MORRIS said, he would give the reasons of the Committee, and his own. The first was the danger of intrigue and faction, if the appointment should be made by the Legislature. The next was the inconvenience of an ineligibility re-

quired by that mode, in order to lessen its evils. The third was the difficulty of establishing a court of impeachments, other than the Senate, which would not be so proper for the trial, nor the other branch, for the impeachment of the President, if appointed by the Legislature. In the fourth place, nobody had appeared to be satisfied with an appointment by the Legislature. In the fifth place, many were anxious even for an immediate choice by the people. And finally, the sixth reason was the indispensable necessity of making the Executive independent of the Legislature. As the electors would vote at the same time, throughout the United States, and at so great a distance from each other, the great evil of cabal was avoided. It would be impossible, also, to corrupt them. A conclusive reason for making the Senate, instead of the Supreme Court, the judge of impeachments, was, that the latter was to try the President, after the trial of the impeachment.

Col. MASON confessed that the plan of the Committee had removed some capital objections, particularly the danger of cabal and corruption. It was



will be strangers to the several candidates, and of course unable to decide on their comparative merits. Thirdly, it makes the Executive re-eligible, which will endanger the public liberty. Fourthly, it makes the same body of men which will, in fact, elect the President, his judges in case of an impeachment.

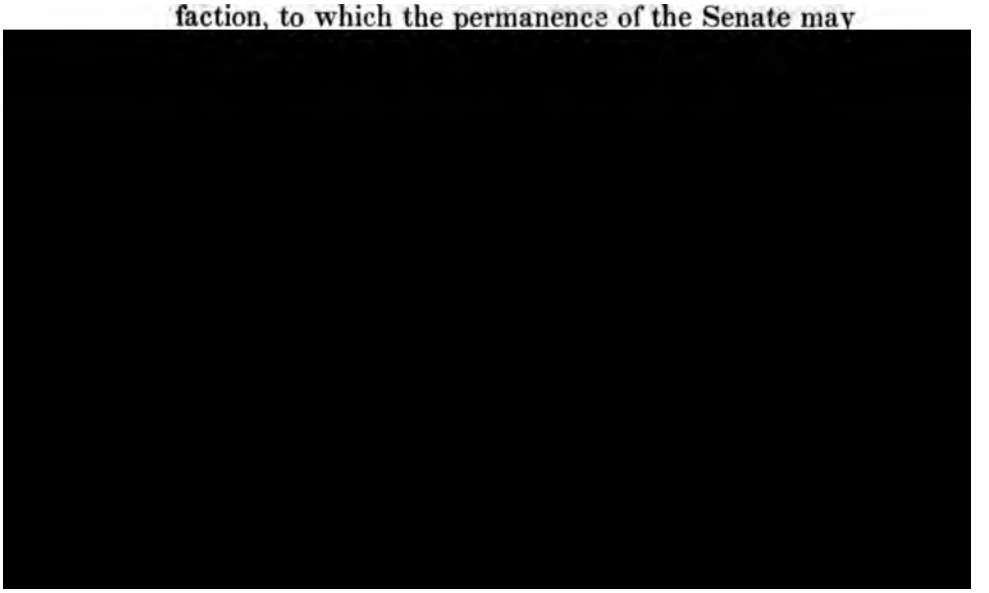
Mr. WILLIAMSON had great doubts whether the advantage of re-eligibility, would balance the objection to such a dependence of the President on the Senate for his re-appointment. He thought, at least, the Senate ought to be restrained to the *two* highest on the list.

Mr. GOUVERNEUR MORRIS said, the principal advantage aimed at was, that of taking away the opportunity for cabal. The President may be made, if thought necessary, ineligible, on this as well as on any other mode of election. Other inconveniences may be no less redressed on this plan than any other.

Mr. BALDWIN thought the plan not so objectionable, when well considered, as at first view. The increasing intercourse among the people of the States would render important characters less and less unknown; and the Senate would consequently be less and less likely to have the eventual appointment thrown into their hands.

Mr. WILSON. This subject has greatly divided the House, and will also divide the people out of doors. It is in truth the most difficult of all on which we have had to decide. He had never made up an opinion on it entirely to his own satisfaction. He thought the plan, on the whole, a valuable improve-

ment on the former. It gets rid of one great evil, that of cabal and corruption; and continental characters will multiply as we more and more coalesce, so as to enable the Electors in every part of the Union to know and judge of them. It clears the way also for a discussion of the question of re-eligibility, on its own merits, which the former mode of election seemed to forbid. He thought it might be better, however, to refer the eventual appointment to the Legislature than to the Senate, and to confine it to a smaller number than five of the candidates. The eventual election by the Legislature would not open cabal anew, as it would be restrained to certain designated objects of choice; and as these must have had the previous sanction of a number of the States; and if the election be made as it ought, as soon as the votes of the Electors are opened, and it is known that no one has a majority of the whole, there can be little danger of corruption. Another reason for preferring the Legislature to the Senate in this business was, that the House of Representatives will be so often changed as to be free from the influence, and faction, to which the permanence of the Senate may



Mr. GOUVERNEUR MORRIS said the *Senate* was preferred because fewer could then say to the President, you owe your appointment to us. He thought the President would not depend so much on the Senate for his re-appointment, as on his general good conduct.

The further consideration of the Report was postponed, that each member might take a copy of the remainder of it.

The following motion was referred to the Committee of Eleven, to wit, to prepare and report a plan for defraying the expenses of the Convention.[352]

*Mr. PINCKNEY moved a clause declaring, that each House should be judge of the privileges of its own members.

Mr. GOUVERNEUR MORRIS seconded the motion.

Mr. RANDOLPH and Mr. MADISON expressed doubts as to the propriety of giving such a power, and wished for a postponement.

Mr. GOUVERNEUR MORRIS thought it so plain a case, that no postponement could be necessary.

Mr. WILSON thought the power involved, and the express insertion of it needless. It might beget doubts as to the power of other public bodies, as courts, &c. Every court is the judge of its own privileges.

Mr. MADISON distinguished between the power of judging of privileges previously and duly established, and the effect of the motion, which would give a discretion to each House as to the extent of its own privileges. He suggested that it would be better to

* This motion is not contained in the printed Journal.

make provision for ascertaining by *law* the privileges of each House, than to allow each House to decide for itself. He suggested also the necessity of considering what privileges ought to be allowed to the Executive.

Adjourned.

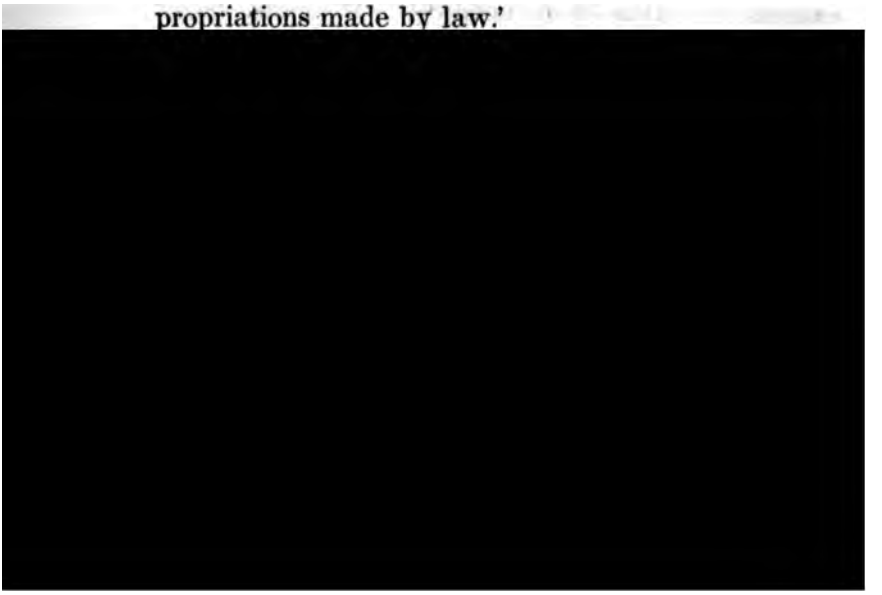
WEDNESDAY, SEPTEMBER 5TH.

In Convention,—Mr. BREARLY, from the Committee of Eleven, made a further Report, as follows:

"1. To add to the clause, 'to declare war,' the words, 'and grant letters of marque and reprisal.'

"2. To add to the clause, 'to raise and support armies,' the words, 'but no appropriation of money to that use shall be for a longer term than two years.'

"3. Instead of Sect. 12, Article 6, say: 'All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate: no money shall be drawn from the Treasury, but in consequence of appropriations made by law.'



useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries.'"

This report being taken up, the first clause was agreed to, *nem. con.*

To the second clause Mr. GERRY objected, that it admitted of appropriations to an army for two years, instead of one; for which he could not conceive a reason; that it implied there was to be a standing army, which he inveighed against, as dangerous to liberty—as unncessary even for so great an extent of country as this—and if necessary, some restriction on the number and duration ought to be provided. Nor was this a proper time for such an innovation. The people would not bear it.

Mr. SHERMAN remarked, that the appropriations were permitted only, not required to be for two years. As the Legislature is to be biennally elected, it would be inconvenient to require appropriations to be for one year, as there might be no session within the time necessary to renew them. He should himself, he said, like a reasonable restriction on the number and continuance of an army in time of peace.

The second clause was then agreed to, *nem. con.*

The third clause Mr. GOUVERNEUR MORRIS moved to postpone. It had been agreed to in the Committee on the ground of compromise; and he should feel himself at liberty to dissent from it, if on the whole he should not be satisfied with certain other parts to be settled.

Mr. PINCKNEY seconded the motion.

Mr. SHERMAN was for giving immediate ease to those who looked on this clause as of great moment,

and for trusting to their concurrence in other proper measures.

On the question for postponing,—

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, aye—9; Massachusetts, Virginia, no—2.

So much of the fourth clause as related to the seat of government was agreed to, *nem. con.*

On the residue, to wit, "to exercise like authority over all places purchased for forts, &c."

Mr. GERRY contended that this power might be made use of to enslave any particular State by buying up its territory, and that the strong holds proposed would be a means of awing the State into an undue obedience to the General Government.

Mr. KING thought, himself, the provision unnecessary, the power being already involved; but would move to insert, after the word "purchased," the words, "by the consent of the Legislature of the State." This would certainly make the power safe.

Mr. GOUVERNEUR MORRIS seconded the motion, which was agreed to, *nem con.*; as was then the res-

"Ordered, that the Secretary make out and transmit to the Treasury office of the United States, an account for the said services and for the incidental expenses of this Convention."

The resolution and order were separately agreed to, *nem. con.*

Mr. GERRY gave notice that he should move to reconsider Articles 19, 20, 21, 22.

Mr. WILLIAMSON gave like notice as to the Article fixing the number of Representatives, which he thought too small. He wished, also, to allow Rhode Island more than one, as due to her probable number of people, and as proper to stifle any pretext arising from her absence on the occasion.

The report made yesterday as to the appointment of the Executive being then taken up,—

Mr. PINCKNEY renewed his opposition to the mode; arguing, first, that the electors will not have sufficient knowledge of the fittest men and will be swayed by an attachment to the eminent men of their respective States. Hence, secondly, the dispersion of the votes would leave the appointment with the Senate, and as the President's re-appointment will thus depend on the Senate, he will be the mere creature of that body. Thirdly, he will combine with the Senate against the House of Representatives. Fourthly, this change in the mode of election was meant to get rid of the ineligibity of the President a second time, whereby he will become fixed for life under the auspices of the Senate.

Mr. GERRY did not object to this plan of constituting the Executive in itself, but should be governed

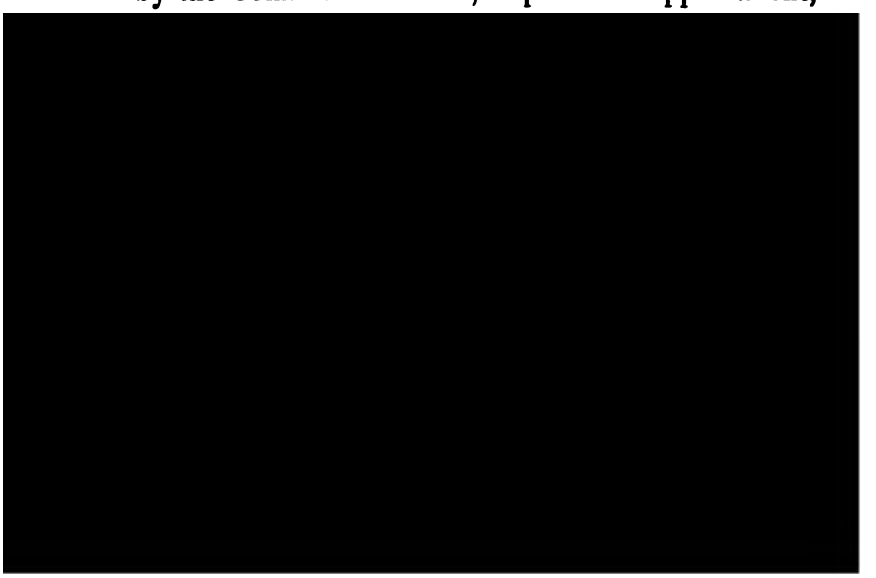
in his final vote by the powers that may be given to the President.

Mr. RUTLEDGE was much opposed to the plan reported by the Committee. It would throw the whole power into the Senate. He was also against a re-eligibility. He moved to postpone the Report under consideration, and take up the original plan of appointment by the Legislature, to wit: "He shall be elected by joint ballot by the Legislature, to which election a majority of the votes of the members present shall be required. He shall hold his office during the term of seven years; but shall not be elected a second time."

On this motion to postpone,—

North Carolina, South Carolina, aye—2; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, no—8; New Hampshire, divided.

Colonel MASON admitted that there were objections to an appointment by the Legislature, as originally planned. He had not yet made up his mind, but would state his objections to the mode proposed by the Committee. First, it puts the appointment,



Senate of the eventual election. He accordingly moved to strike out the words, "if such number be a majority of that of the Electors."

Mr. WILLIAMSON seconded the motion. He could not agree to the clause without some such modification. He preferred making the highest, though not having a majority of the votes, President, to a reference of the matter to the Senate. Referring the appointment to the Senate lays a certain foundation for corruption and aristocracy.

Mr. GOUVERNEUR MORRIS thought the point of less consequence than it was supposed on both sides. It is probable that a majority of the votes will fall on the same man; as each Elector is to give two votes, more than one-fourth will give a majority. Besides, as one vote is to be given to a man out of the State, and as this vote will not be thrown away, half the votes will fall on characters eminent and generally known. Again, if the President shall have given satisfaction, the votes will turn on him of course; and a majority of them will re-appoint him, without resort to the Senate. If he should be disliked, all disliking him would take care to unite their votes, so as to ensure his being supplanted.

Colonel MASON. Those who think there is no danger of there not being a majority for the same person in the first instance, ought to give up the point to those who think otherwise.

Mr. SHERMAN reminded the opponents of the new mode proposed, that if the small States had the advantage in the Senate's deciding among the five highest candidates, the large States would have in fact the nomination of these candidates.

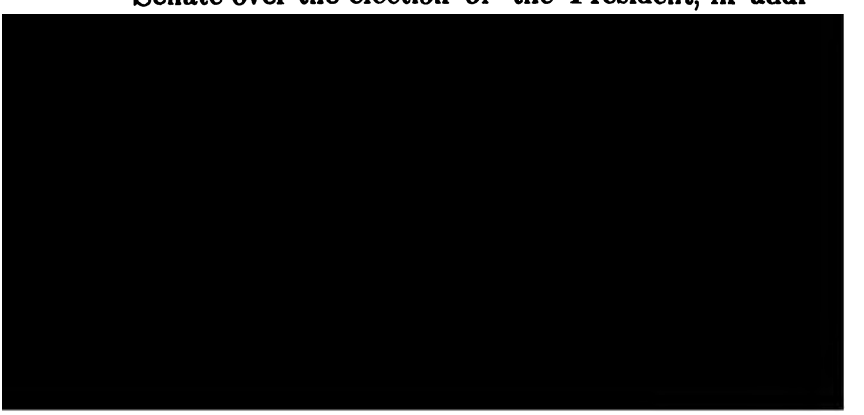
On the motion of Colonel MASON,—

Maryland,* North Carolina, aye; the other nine States, no.

Mr. WILSON moved to strike out "Senate," and insert the word "Legislature."

Mr. MADISON considered it a primary object, to render an eventual resort to any part of the Legislature improbable. He was apprehensive that the proposed alteration would turn the attention of the large States too much to the appointment of candidates, instead of aiming at an effectual appointment of the officer; as the large States would predominate in the Legislature, which would have the final choice out of the candidates. Whereas, if the Senate, in which the small States predominate, should have the final choice, the concerted effort of the large States would be to make the appointment in the first instance conclusive.

Mr. RANDOLPH. We have, in some revolutions of this plan, made a bold stroke for monarchy. We are now doing the same for an aristocracy. He dwelt on the tendency of such an influence in the Senate over the election of the President, in addi-



Pennsylvania, Virginia, South Carolina, aye—3; Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, Georgia, no—7; New Hampshire, divided.

Mr. MADISON and Mr. WILLIAMSON moved to strike out the word "majority," and insert "one-third;" so that the eventual power might not be exercised if less than a majority, but not less than one-third, of the Electors should vote for the same person.

Mr. GERRY objected, that this would put it in the power of three or four States to put in whom they pleased.

Mr. WILLIAMSON. There are seven States which do not contain one-third of the people. If the Senate are to appoint, less than one-sixth of the people will have the power.

On the question,—

Virginia, North Carolina, aye; the other nine States, no.

Mr. GERRY suggested, that the eventual election should be made by six Senators and seven Representatives, chosen by joint ballot of both Houses.

Mr. KING observed, that the influence of the small States in the Senate was somewhat balanced by the influence of the large States in bringing forward the candidates,* and also by the concurrence of the small

* This explains the compromise alluded to by Mr. Gouverneur Morris. Col. Mason, Mr. Gerry, and other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high mounted Government, endeavoured to avail themselves, by making that privilege the price of arrangements in the Constitution favorable to the small States, and to the elevation of the Government.

States in the Committee in the clause vesting the exclusive origination of money bills in the House of Representatives.

Col. MASON moved to strike out the word "five," and insert the word "three," as the highest candidates for the Senate to choose out of.

Mr. GERRY seconded the motion.

Mr. SHERMAN would sooner give up the plan. He would prefer seven or thirteen.

On the question moved by Col. MASON and Mr. GERRY,—Virginia, North Carolina, aye; nine States, no.

Mr. SPAIGHT and Mr. RUTLEDGE moved to strike out "five," and insert "thirteen;" to which all the States disagreed, except North Carolina and South Carolina.

Mr. MADISON and Mr. WILLIAMSON moved to insert, after "Electors," the words, "who shall have balloted;" so that the non-voting Electors, not being counted, might not increase the number necessary as a majority of the whole to decide the choice without the agency of the Senate.

On this question,—Pennsylvania, Maryland, Vir-

Maryland, South Carolina, Georgia, aye—9; Virginia, North Carolina, no—2.

Col. MASON. As the mode of appointment is now regulated, he could not forbear expressing his opinion that it is utterly inadmissible. He would prefer the Government of Prussia to one which will put all power into the hands of seven or eight men, and fix an aristocracy worse than absolute monarchy.

The words, "and of their giving their votes," being inserted, on motion for that purpose, after the words, "The Legislature may determine the time of choosing and assembling the Electors,"—

The House adjourned.

THURSDAY, SEPTEMBER 6TH.

In Convention,—Mr. KING and Mr. GERRY moved to insert in the fourth clause of the Report (see the 4th of Sept., page 1486), after the words, "may be entitled in the Legislature," the words following: "But no person shall be appointed an Elector who is a member of the Legislature of the United States, or who holds any office of profit or trust under the United States;" which passed, *nem. con.*

Mr. GERRY proposed, as the President was to be elected by the Senate out of the five highest candidates, that if he should not at the end of his term be re-elected by a majority of the Electors, and no other candidate should have a majority, the eventual election should be made by the Legislature. This, he said, would relieve the President from his par-

ticular dependence on the Senate, for his continuance in office.

Mr. KING liked the idea, as calculated to satisfy particular members, and promote unanimity; and as likely to operate but seldom.

Mr. READ opposed it; remarking, that if individual members were to be indulged, alterations would be necessary to satisfy most of them.

Mr. WILLIAMSON espoused it, as a reasonable precaution against the undue influence of the Senate.

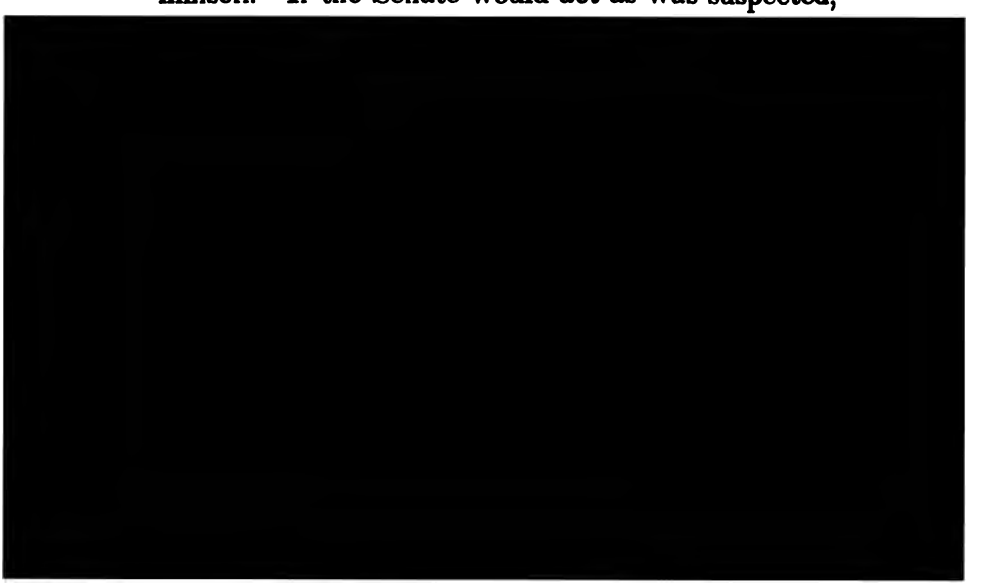
Mr. SHERMAN liked the arrangement as it stood, though he should not be averse to some amendments. He thought, he said, that if the Legislature were to have the eventual appointment, instead of the Senate, it ought to vote in the case by States,—in favor of the small States, as the large States would have so great an advantage in nominating the candidates.

Mr. GOUVERNEUR MORRIS thought favorably of Mr. GERRY'S proposition. It would free the President from being tempted, in naming to offices, to conform to the will of the Senate, and thereby virtually give the appointments to office to the Senate.

partment. They are to make treaties; and they are to try all impeachments. In allowing them thus to make the Executive and Judiciary appointments, to be the court of impeachments, and to make treaties which are to be laws of the land, the Legislative, Executive and Judiciary powers are all blended in one branch of the Government. The power of making treaties involves the case of subsidies, and here, as an additional evil, foreign influence is to be dreaded. According to the plan as it now stands, the President will not be the man of the people, as he ought to be; but the minion of the Senate. He cannot even appoint a tide-waiter without the Senate. He had always thought the Senate too numerous a body for making appointments to office. The Senate will, moreover, in all probability, be in constant session. They will have high salaries. And with all those powers, and the President in their interest, they will depress the other branch of the Legislature, and aggrandize themselves in proportion. Add to all this, that the Senate, sitting in conclave, can by holding up to their respective States various and improbable candidates, contrive so to scatter their votes, as to bring the appointment of the President ultimately before themselves. Upon the whole, he thought the new mode of appointing the President, with some amendments, a valuable improvement; but he could never agree to purchase it at the price of the ensuing parts of the Report, nor befriend a system of which they make a part.

Mr. GOUVERNEUR MORRIS expressed his wonder at the observations of Mr. WILSON, so far as they preferred the plan in the printed Report, to the new

modification of it before the House; and entered into a comparative view of the two, with an eye to the nature of Mr. WILSON's objections to the last. By the first, the Senate, he observed, had a voice in appointing the President out of all the citizens of the United States; by this they were limited to five candidates, previously nominated to them, with a probability of being barred altogether by the successful ballot of the Electors. Here surely was no increase of power. They are now to appoint Judges, nominated to them by the President. Before, they had the appointment without any agency whatever of the President. Here again was surely no additional power. If they are to make treaties, as the plan now stands, the power was the same in the printed plan. If they are to try impeachments, the Judges must have been triable by them before. Wherein, then, lay the dangerous tendency of the innovations to establish an aristocracy in the Senate? As to the appointment of officers, the weight of sentiment in the House was opposed to the exercise of it by the President alone; though it was not the case with himself. If the Senate would act as was suspected,



Mr. CLYMER said, that the aristocratic part, to which he could never accede, was that, in the printed plan, which gave the Senate the power of appointing to offices.

Mr. HAMILTON said, that he had been restrained from entering into the discussions, by his dislike of the scheme of government in general; but as he meant to support the plan to be recommended, as better than nothing, he wished in this place to offer a few remarks. He liked the new modification, on the whole, better than that in the printed Report. In this, the President was a monster, elected for seven years, and ineligible afterwards; having great powers in appointments to office; and continually tempted, by this constitutional disqualification, to abuse them in order to subvert the Government. Although he should be made re-eligible, still, if appointed by the Legislature, he would be tempted to make use of corrupt influence to be continued in office. It seemed peculiarly desirable, therefore, that some other mode of election should be devised. Considering the different views of different States, and the different districts, Northern, Middle, and Southern, he concurred with those who thought that the votes would not be concentered, and that the appointment would consequently, in the present mode, devolve on the Senate. The nomination to offices will give great weight to the President. Here, then, is a mutual connexion and influence, that will perpetuate the President, and aggrandize both him and the Senate. What is to be the remedy? He saw none better than to let the highest number of ballots, whether a majority or not, appoint the Presi-

dent. What was the objection to this? Merely that too small a number might appoint. But as the plan stands, the Senate may take the candidate having the smallest number of votes, and make him President.

Mr. SPAIGHT and Mr. WILLIAMSON moved to insert "seven," instead of "four" years, for the term of the President.*

On this motion,—

New Hampshire, Virginia, North Carolina, aye—3; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, no—8.

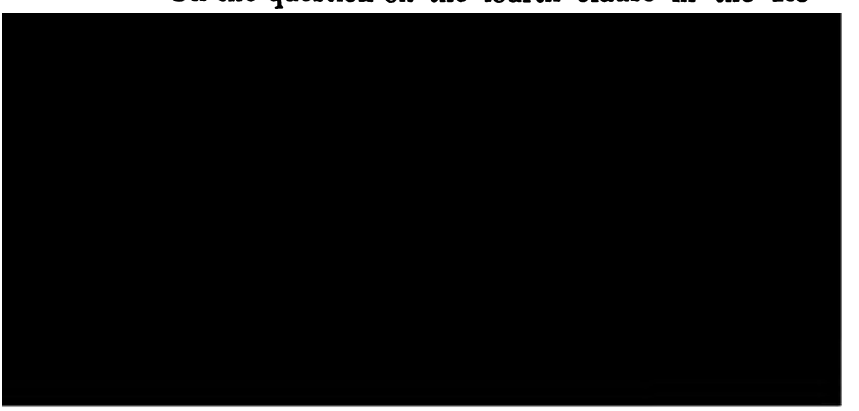
Mr. SPAIGHT and Mr. WILLIAMSON then moved to insert "six," instead of "four."

On which motion,—

North Carolina, South Carolina, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, no—9.

On the term "four," all the States were aye, except North Carolina, no.

On the question on the fourth clause in the Re-



It was moved that the Electors meet at the seat of the General Government; which passed in the negative,—North Carolina only being, aye.

It was then moved to insert the words, "under the seal of the State," after the word "transmit," in the fourth clause of the Report; which was disagreed to; as was another motion to insert the words, "and who shall have given their votes," after the word "appointed," in the fourth clause of the Report, as added yesterday on motion of Mr. DICKINSON.

On several motions, the words, "in presence of the Senate and House of Representatives," were inserted after the word "counted;" and the word "immediately," before the word "choose;" and the words, "of the electors," after the word "votes."

Mr. SPAIGHT said, if the election by Electors is to be crammed down, he would prefer their meeting altogether, and deciding finally without any reference to the Senate; and moved, "that the Electors meet at the seat of the General Government."

Mr. WILLIAMSON seconded the motion; on which all the States were in the negative, except North Carolina.

On motion, the words, "But the election shall be on the same day throughout the United States," were added, after the words, "transmitting their votes."

New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—8; Massachusetts, New Jersey, Delaware, no—3.

On the question on the sentence in the fourth

clause, "if such number be a majority of that of the Electors appointed,"—

New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, South Carolina, Georgia, aye—8; Pennsylvania, Virginia, North Carolina, no—3.

On a question on the clause referring the eventual appointment of the President to the Senate,—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, aye—7; North Carolina, no. Here the call ceased.

Mr. MADISON made a motion requiring two-thirds at least of the Senate to be present at the choice of a President.

Mr. PINCKNEY seconded the motion.

Mr. GORHAM thought it a wrong principle to require more than a majority in any case. In the present, it might prevent for a long time any choice of a President.

On the question moved by Mr. MADISON and Mr. PINCKNEY,—

New Hampshire, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—6; Connecti-

"The House of Representatives shall immediately choose by ballot one of them for President, the members from each State having one vote."

Col. MASON liked the latter mode best, as lessening the aristocratic influence of the Senate.

On the motion of Mr. SHERMAN,—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—10; Delaware, no—1.

Mr. GOUVERNEUR MORRIS suggested the idea of providing that, in all cases, the President in office should not be one of the five candidates; but be only re-eligible in case a majority of the Electors should vote for him. [This was another expedient for rendering the President independent of the Legislative body for his continuance in office.]

Mr. MADISON remarked, that as a majority of members would make a quorum in the House of Representatives, it would follow from the amendment of Mr. SHERMAN, giving the election to a majority of States, that the President might be elected by two States only, Virginia and Pennsylvania, which have eighteen members, if these States alone should be present.

On a motion, that the eventual election of President, in case of an equality of the votes of the Electors, be referred to the House of Representatives,—

New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—7; New Jersey, Delaware, Maryland, no—3.

Mr. KING moved to add to the amendment of Mr. SHERMAN, "But a quorum for this purpose shall con-

sist of a member or members from two-thirds of the States, and also of a majority of the whole number of the House of Representatives."

Col. MASON liked it, as obviating the remark of Mr. MADISON.

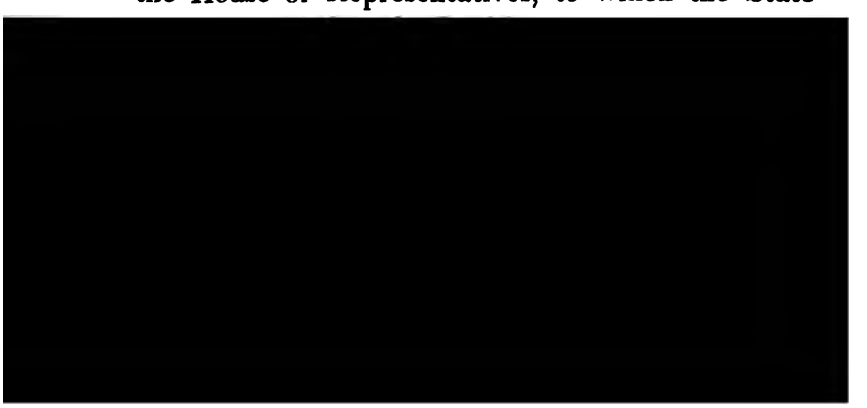
The motion, as far as "States," inclusive, was agreed to. On the residue, to wit, "and also of a majority of the whole number of the House of Representatives," it passed in the negative,—

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, aye—5; New Hampshire, New Jersey, Delaware, Maryland, South Carolina, Georgia, no—6.[354]

The Report relating to the appointment of the Executive stands, as amended, as follows:

"He shall hold his office during the term of four years; and, together with the Vice President, chosen for the same term, be elected in the following manner:

"Each State shall appoint, in such manner as its Legislature may direct, a number of electors equal to the whole number of Senators and members of the House of Representatives, to which the State



votes for each; which list they shall sign and certify, and transmit sealed to the seat of the General Government, directed to the President of the Senate.

"The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

"The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; the representation from each State having one vote. But if no person have a majority, then from the five highest on the list the House of Representatives shall, in like manner, choose by ballot the President. In the choice of a President by the House of Representatives, a quorum shall consist of a member or members from two-thirds of the States, [* and the concurrence of a majority of all the States shall be necessary to such choice.] And in every case after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them the Vice President.

"The Legislature may determine the time of choosing the electors, and of their giving their votes;

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* This clause was not inserted on this day, but on the seventh of September. See Page 1516.

and the manner of certifying and transmitting their votes; but the election shall be on the same day throughout the United States."

Adjourned.

FRIDAY, SEPTEMBER 7TH.

In Convention,—The mode of constituting the Executive being resumed,—

Mr. RANDOLPH moved to insert, in the first section of the Report made yesterday, the following:

"The Legislature may declare by law what officer of the United States shall act as President, in case of the death, resignation or disability of the President and Vice President; and such officer shall act accordingly, until the time of electing a President shall arrive."

Mr. MADISON observed that this, as worded, would prevent a supply of the vacancy by an intermediate election of the President, and moved to substitute, "until such disability be removed, or a President shall be elected."*

Mr. GOUVERNEUR MORRIS seconded the motion; which was agreed to.

On the motion of Mr. RANDOLPH, as amended, it passed in the affirmative,—

New Jersey, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, aye—6; Massachusetts, Connecticut, Delaware, North Carolina, no—4; New Hampshire divided.

Mr. GERRY moved, "that in the election of President by the House of Representatives, no State shall vote by less than three members; and where that number may not be allotted to a State, it shall be made up by its Senators; and a concurrence of a majority of all the States shall be necessary to make such choice." Without some such provision, five individuals might possibly be competent to an election, these being a majority of two-thirds of the existing number of States; and two-thirds being a quorum for this business.

Mr. MADISON seconded the motion.

Mr. READ observed, that the States having but one member only in the House of Representatives would be in danger of having no vote at all in the election: the sickness or absence either of the Representative, or one of the Senators, would have that effect.

Mr. MADISON replied, that if one member of the House of Representatives should be left capable of voting for the State, the States having one Representative only would still be subject to that danger. He thought it an evil, that so small a number, at any rate, should be authorized to elect. Corruption would be greatly facilitated by it. The mode itself was liable to this further weighty objection, that the representatives of a *minority* of the people might

reverse the choice of a *majority* of the *States* and of the *people*. He wished some cure for this inconvenience might yet be provided.

Mr. GERRY withdrew the first part of his motion; and on the question on the second part, viz: "and a concurrence of a majority of all the States shall be necessary to make such choice," to follow the words, "a member or members from two-thirds of the States," it was agreed to, *nem. con.*[355]

The second Section (see the 4th of Sept., page 1487,) requiring that the President should be a natural born citizen, &c., and have been resident for fourteen years, and be thirty-five years of age, was agreed to, *nem. con.*

The third Section, "The Vice-President shall be *ex-officio* President of the Senate," being then considered,

Mr. GERRY opposed this regulation. We might as well put the President himself at the head of the the Legislature. The close intimacy that must subsist between the President and Vice-President makes it absolutely improper. He was against having any Vice-President.

[redacted]

might happen in the Senate, which would be but seldom.

Mr. RANDOLPH concurred in the opposition to the clause.

Mr. WILLIAMSON observed, that such an officer as Vice-President was not wanted. He was introduced merely for the sake of a valuable mode of election, which required two to be chosen at the same time.

Colonel MASON thought the office of Vice-President an encroachment on the rights of the Senate; and that it mixed too much the Legislative and the Executive, which, as well as the Judiciary department, ought to be kept as separate as possible. He took occasion to express his dislike of any reference whatever, of the power to make appointments, to either branch of the Legislature. On the other hand, he was averse to vest so dangerous a power in the President alone. As a method for avoiding both, he suggested that a Privy Council, of six members, to the President, should be established; to be chosen for six years by the Senate, two out of the Eastern, two out of the Middle, and two out of the Southern quarters of the Union; and to go out in rotation, two every second year; the concurrence of the Senate to be required only in the appointment of ambassadors, and in making treaties, which are more of a legislative nature. This would prevent the constant sitting of the Senate, which he thought dangerous; as well as keep the departments separate and distinct. It would also save the expense of constant sessions of the Senate. He had, he said, always considered the Senate as too unwieldy and expensive for appointing

officers, especially the smallest, such as tide-waiters, &c., He had not reduced his idea to writing, but it could be easily done, if it should be found acceptable.

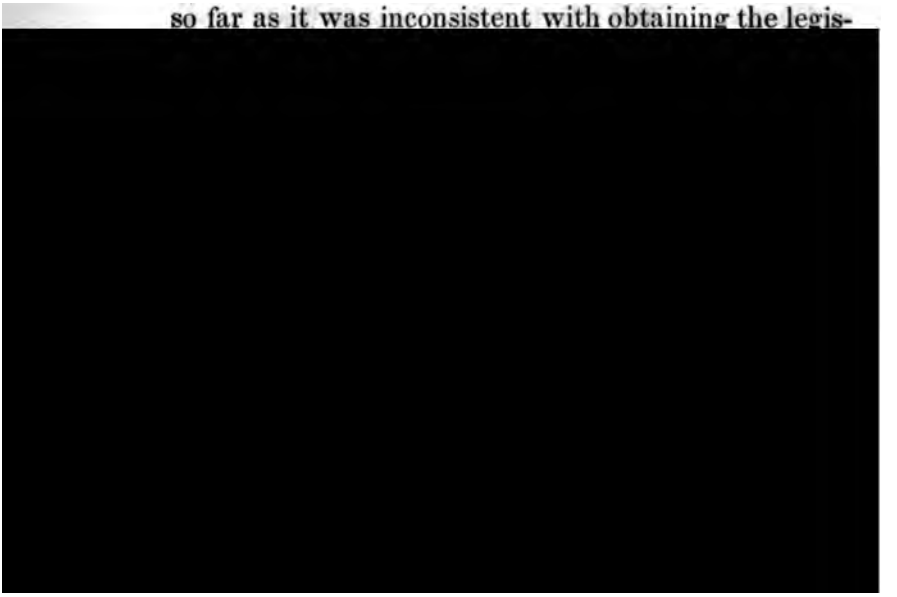
On the question, shall the Vice-President be *ex officio* President of the Senate?—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, aye—8; New Jersey, Maryland, no—2; North Carolina, absent.

The other parts of the same Section were then agreed to.

The fourth section, to wit: "The President, by and with the advice and consent of the Senate, shall have power to make treaties," &c., was then taken up.

Mr. WILSON moved to add, after the word "Senate," the words, "and House of Representatives." As treaties, he said, are to have the operation of laws, they ought to have the sanction of laws also. The circumstance of secrecy in the business of treaties formed the only objection; but this, he thought, so far as it was inconsistent with obtaining the legis-



Pennsylvania, aye—1; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.

The first sentence, as to making treaties, was then agreed to, *nem. con.*

On the clause, "He shall nominate, &c.—appoint ambassadors," &c.,—

Mr. WILSON objected to the mode of appointing, as blending a branch of the Legislature with the Executive. Good laws are of no effect, without a good Executive; and there can be no good Executive, without a responsible appointment of officers to execute. Responsibility is in a manner destroyed by such an agency of the Senate. He would prefer the Council proposed by Colonel MASON; provided its advice should not be made obligatory on the President.

Mr. PINCKNEY was against joining the Senate in these appointments, except in the instances of ambassadors, who he thought ought not to be appointed by the President.

Mr. GOUVERNEUR MORRIS said, that as the President was to nominate, there would be responsibility; and as the Senate was to concur, there would be security. As Congress now make appointments, there is no responsibility.

Mr. GERRY. The idea of responsibility in the nomination to offices is chimerical. The President cannot know all characters, and can therefore always plead ignorance.

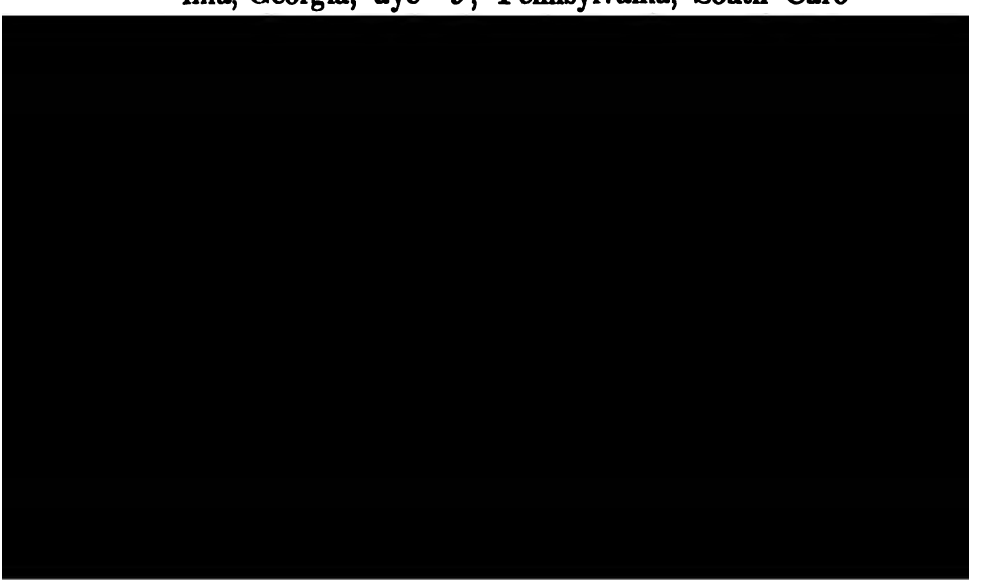
Mr. KING. As the idea of a Council, proposed by Col. MASON, has been supported by Mr. WILSON, he

would remark, that most of the inconveniences charged on the Senate are incident to a Council of advice. He differed from those who thought the Senate would sit constantly. He did not suppose it was meant that all the minute officers were to be appointed by the Senate, or any other original source, but by the higher officers of the departments to which they belong. He was of opinion, also, that the people would be alarmed at an unnecessary creation of new corps, which must increase the expense as well as influence of the Government.

On the question on these words in the clause, viz. "He shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, and other public ministers and consuls, and Judges of the Supreme Court," it was agreed to, *nem. con.*, the insertion of "and consuls" having first taken place.

On the question on the following words: "and all other officers of the United States,"—

New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, aye—9; Pennsylvania, South Caro-



ent,"—being considered, and the last clause being before the House,—

Mr. WILSON thought it objectionable to require the concurrence of two-thirds, which puts it into the power of a minority to control the will of a majority.

Mr. KING concurred in the objection; remarking that as the Executive was here joined in the business, there was a check which did not exist in Congress, where the concurrence of two-thirds was required.

Mr. MADISON moved to insert, after the word "treaty," the words "except treaties of peace;" allowing these to be made with less difficulty than other treaties. It was agreed to, *nem. con.*

Mr. MADISON then moved to authorize a concurrence of two-thirds of the Senate to make treaties of peace, without the concurrence of the President. The President, he said, would necessarily derive so much power and importance from a state of war, that he might be tempted, if authorized, to impede a treaty of peace.

Mr. BUTLER seconded the motion.

Mr. GORHAM thought the security unnecessary, as the means of carrying on the war would not be in the hands of the President, but of the Legislature.

Mr. GOUVERNEUR MORRIS thought the power of the President in this case harmless; and that no peace ought to be made without the concurrence of the President, who was the general guardian of the national interests.

Mr. BUTLER was strenuous for the motion, as a necessary security against ambitious and corrupt Presidents. He mentioned the late perfidious policy

of the Stadtholder in Holland; and the artifices of the Duke of Marlborough to prolong the war of which he had the management.

Mr. GERRY was of opinion that in treaties of peace a greater rather than a less proportion of votes was necessary, than in other treaties. In treaties of peace the dearest interests will be at stake, as the fisheries, territories, &c. In treaties of peace also, there is more danger to the extremities of the continent, of being sacrificed, than on any other occasion.

Mr. WILLIAMSON thought that treaties of peace should be guarded at least by requiring the same concurrence as in other treaties.

On the motion of Mr. MADISON and Mr. BUTLER,—Maryland, South Carolina, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, no—8.

On the part of the clause concerning treaties, amended by the exception as to treaties of peace,—New Hampshire, Massachusetts, Connecticut, Delaware, Maryland, Virginia, North Carolina, South

the President, we were about to try an experiment on which the most despotic government had never ventured. The Grand Seignior himself had his Divan. He moved to postpone the consideration of the clause in order to take up the following:

"That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State for the President of the United States; to consist of six members, two of which from the Eastern, two from the Middle, and two from the Southern States; with a rotation and duration of office similar to those of the Senate; such Council to be appointed by the Legislature or by the Senate."

Doctor FRANKLIN seconded the motion. We seemed, he said, too much to fear cabals in appointments by a number, and to have too much confidence in those of single persons. Experience shewed that caprice, the intrigues of favorites and mistresses, were nevertheless the means most prevalent in monarchies. Among instances of abuse in such modes of appointment, he mentioned the many bad Governors appointed in Great Britain for the Colonies. He thought a Council would not only be a check on a bad President, but be a relief to a good one.

Mr. GOUVERNEUR MORRIS. The question of a Council was considered in the Committee, where it was judged that the President, by persuading his Council to concur in his wrong measures, would acquire their protection for them.

Mr. WILSON approved of a Council, in preference to making the Senate a party to appointments.

Mr. DICKINSON was for a Council. It would be a singular thing, if the measures of the Executive were not to undergo some previous discussion before the President.

Mr. MADISON was in favor of the instruction to the Committee proposed by Col. MASON.

The motion of Col. MASON was negatived,—

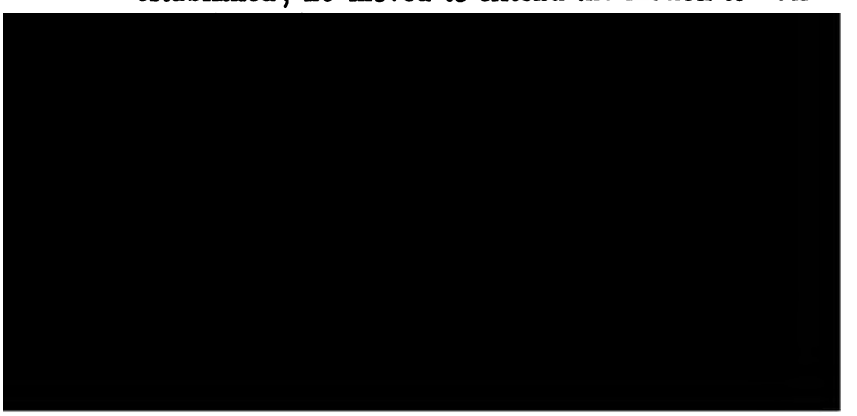
Maryland, South Carolina, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, no—8.

On the question for authorizing the President to call for the opinions of the Heads of Departments, in writing, it passed in the affirmative, New Hampshire only being, no.*

The clause was then unanimously agreed to.

Mr. WILLIAMSON and Mr. SPAIGHT moved, "that no treaty of peace affecting territorial rights should be made without the concurrence of two-thirds of the members of the Senate present."

Mr. KING. It will be necessary to look out for securities for some other rights, if this principle be established; he moved to extend the motion to "all



Mr. KING moved to strike out the exception of treaties of peace, from the general clause requiring two-thirds of the Senate for making treaties.

Mr. WILSON wished the requisition of two-thirds to be struck out altogether. If the majority cannot be trusted, it was a proof, as observed by Mr. GORHAM, that we were not fit for one society.

A reconsideration of the whole clause was agreed to.

Mr. GOUVERNEUR MORRIS was against striking out the exception of treaties of peace. If two-thirds of the Senate should be required for peace, the Legislature will be unwilling to make war for that reason, on account of the fisheries, or the Mississippi, the two great objects of the Union. Besides, if a majority of the Senate be for peace, and are not allowed to make it, they will be apt to effect their purpose in the more disagreeable mode of negativing the supplies for the war.

Mr. WILLIAMSON remarked, that treaties are to be made in the branch of the Government where there may be a majority of the States, without a majority of the people. Eight men may be a majority of a quorum, and should not have the power to decide the conditions of peace. There would be no danger, that the exposed States, as South Carolina or Georgia, would urge an improper war for the Western territory.

Mr. WILSON. If two-thirds are necessary to make peace, the minority may perpetuate war, against the sense of the majority.

Mr. GERRY enlarged on the danger of putting the essential rights of the Union in the hands of so small

a number as a majority of the Senate, representing perhaps, not one-fifth of the people. The Senate will be corrupted by foreign influence.

Mr. SHERMAN was against leaving the rights established by the treaty of peace, to the Senate; and moved to annex a proviso, that no such rights should be ceded without the sanction of the Legislature.

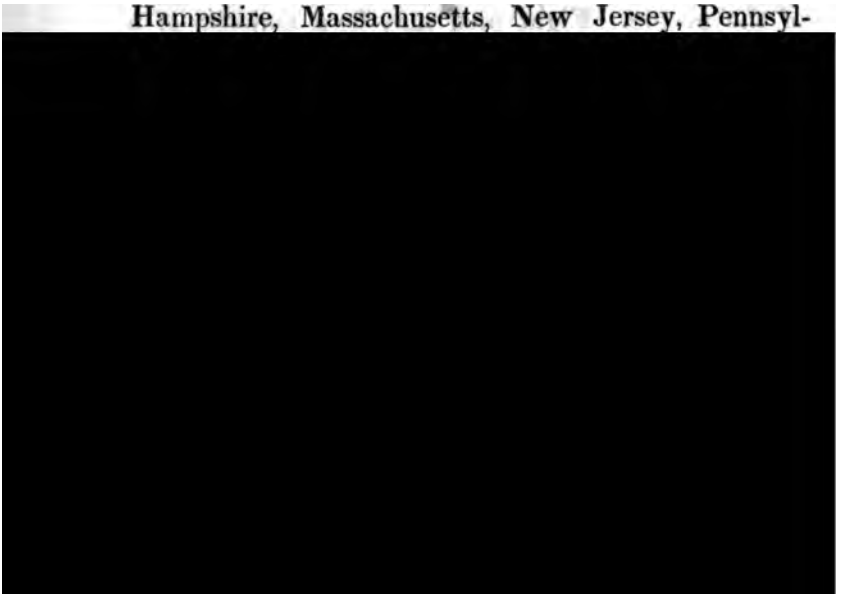
Mr. GOUVERNEUR MORRIS seconded the ideas of Mr. SHERMAN.

Mr. MADISON observed that it had been too easy, in the present Congress, to make treaties, although nine States were required for the purpose.

On the question for striking out, "except treaties of peace,"—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—8; New Jersey, Delaware, Maryland, no—3.

Mr. WILSON and Mr. DAYTON moved to strike out the clause, requiring two-thirds of the Senate, for making treaties; on which, Delaware, aye—1; New Hampshire, Massachusetts, New Jersey, Pennsyl-



North Carolina, South Carolina, Georgia, aye—3; New Hampshire, Massachusetts, (Mr. GERRY, aye,) Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, no—8.

Mr. SHERMAN moved that "no treaty shall be made without a majority of the whole number of the Senate."

Mr. GERRY seconded him.

Mr. WILLIAMSON. This will be less security than two-thirds, as now required.

Mr. SHERMAN. It will be less embarrassing.

On the question, it passed in the negative,—

Massachusetts, Connecticut, Delaware, South Carolina, Georgia, aye—5; New Hampshire, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, no—6.

Mr. MADISON moved that a quorum of the Senate consist of two-thirds of all the members.

Mr. GOUVERNEUR MORRIS. This will put it in the power of one man to break up a quorum.

Mr. MADISON. This may happen to any quorum.

On the question, it passed in the negative,—

Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—5; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, no—6.[357]

Mr. WILLIAMSON and Mr. GERRY, moved "that no treaty should be made without previous notice to the members, and a reasonable time for their attending."

On the question,—all the States, no; except North Carolina, South Carolina, and Georgia, aye.

On a question on the clause of the Report of the

Committee of eleven, relating to treaties by two-thirds of the Senate—all the States were, aye; except Pennsylvania, New Jersey, and Georgia, no.[338]

Mr. GERRY moved, that "no officer shall be appointed but to offices created by the Constitution or by law." This was rejected as unnecessary,—

Massachusetts, Connecticut, New Jersey, North Carolina, Georgia, aye—5; New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, no—6.

The clause referring to the Senate the trial of impeachments against the President, for treason and bribery, was taken up.

Colonel MASON. Why is the provision restrained to treason and bribery only? Treason, as defined in the Constitution, will not reach many great and dangerous offences. Hastings is not guilty of treason. Attempts to subvert the Constitution may not be treason, as above defined. As bills of attainder, which have saved the British constitution, are forbidden, it is the more necessary to extend the power of impeachments. He moved to add, after "bribery," "or maladministration." Mr. GERRY seconded him.

[redacted]

ryland, Virginia, North Carolina, South Carolina,* Georgia, aye—8; New Jersey, Pennsylvania, Delaware, no—3.

Mr. MADISON objected to a trial of the President by the Senate, especially as he was to be impeached by the other branch of the Legislature; and for any act which might be called a misdemeanour. The President under these circumstances was made improperly dependent. He would prefer the Supreme Court for the trial of impeachments; or, rather, a tribunal of which that should form a part.

Mr. GOUVERNEUR MORRIS thought no other tribunal than the Senate could be trusted. The Supreme Court were too few in number, and might be warped or corrupted. He was against a dependence of the Executive on the Legislature, considering the Legislative tyranny the great danger to be apprehended; but there could be no danger that the Senate would say untruly, on their oaths, that the President was guilty of crimes or facts, especially as in four years he can be turned out.

Mr. PINCKNEY disapproved of making the Senate the court of impeachments, as rendering the President too dependent on the Legislature. If he opposes a favorite law, the two Houses will combine against him, and under the influence of heat and faction throw him out of office.

Mr. WILLIAMSON thought there was more danger of too much lenity, than of too much rigor, towards the President, considering the number of cases in which the Senate was associated with the President.

* In the printed Journal, South Carolina, no.

Mr. SHERMAN regarded the Supreme Court as improper to try the President, because the Judges would be appointed by him.

On motion by Mr. MADISON, to strike out the words, "by the Senate," after the word "conviction,"—

Pennsylvania, Virginia, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, no—9.

In the amendment of Col. MASON just agreed to, the word "State," after the words, "misdemeanours against," was struck out; and the words, "United States," unanimously inserted, in order to remove ambiguity.

On the question to agree to the clause, as amended,—New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—10; Pennsylvania, no—1.

On motion, the following: "The Vice President, and other civil officers of the United States, shall be removed from office on impeachment and conviction, as aforesaid," was added to the clause on the subject

Senate;" and insert the words used in the Constitution of Massachusetts on the same subject, viz: "but the Senate may propose or concur with amendments, as in other bills;" which was agreed to, *nem. con.*

On the question on the first part of the clause, "all bills for raising revenue shall originate in the House of Representatives,"*—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye—9; Delaware, Maryland, no—2.

Mr. GOUVERNEUR MORRIS moved to add to the third clause of the Report made on the fourth of September, the words, "and every member shall be on oath;" which being agreed to, and a question taken on the clause, so amended, viz: "The Senate of the United States shall have power to try all impeachments; but no person shall be convicted without the concurrence of two-thirds of the members present; and every member shall be on oath,"—

New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, aye—9; Pennsylvania, Virginia, no—2.

Mr. GERRY repeated his motion above made, on this day, in the form following: "The Legislature shall have the sole right of establishing offices not heretofore provided for;" which was again negatived,—

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* This was a conciliatory vote, the effect of the compromise formerly alluded to. See note, page 1501.

Massachusetts, Connecticut and Georgia, only, being aye.

Mr. McHENRY observed, that the President had not yet been any where authorized to convene the Senate, and moved to amend Article 10, Section 2, by striking out the words, "He may convene them [the Legislature] on extraordinary occasions;" and inserting, "He may convene both, or either of the Houses, on extraordinary occasions." This he added would also provide for the case of the Senate being in session, at the time of convening the Legislature.

Mr. WILSON said, he should vote against the motion, because it implied that the Senate might be in sesssion when the Legislature was not, which he thought improper.

On the question,—New Hampshire, Connecticut, New Jersey, Delaware, Maryland, North Carolina, Georgia, aye—7; Massachusetts, Pennsylvania, Virginia, South Carolina, no—4.

A committee was then appointed by ballot, to revise the style of, and arrange, the articles which had been agreed to by the House. The Committee consisted of Mr. JOHNSON, Mr. HAMILTON, Mr. GOUV-

himself a friend to a vigorous government, but would declare, at the same time, he held it essential that the popular branch of it should be on a broad foundation. He was seriously of opinion, that the House of Representatives was on so narrow a scale, as to be really dangerous, and to warrant a jealousy in the people, for their liberties. He remarked, that the connection between the President and Senate would tend to perpetuate him, by corrupt influence. It was the more necessary on this account that a numerous representation in the other branch of the Legislature should be established.

On the motion of Mr. WILLIAMSON to reconsider, it was negatived,*—

Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—5; New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina, Georgia, no—6.

Adjourned.

MONDAY SEPTEMBER 10TH.

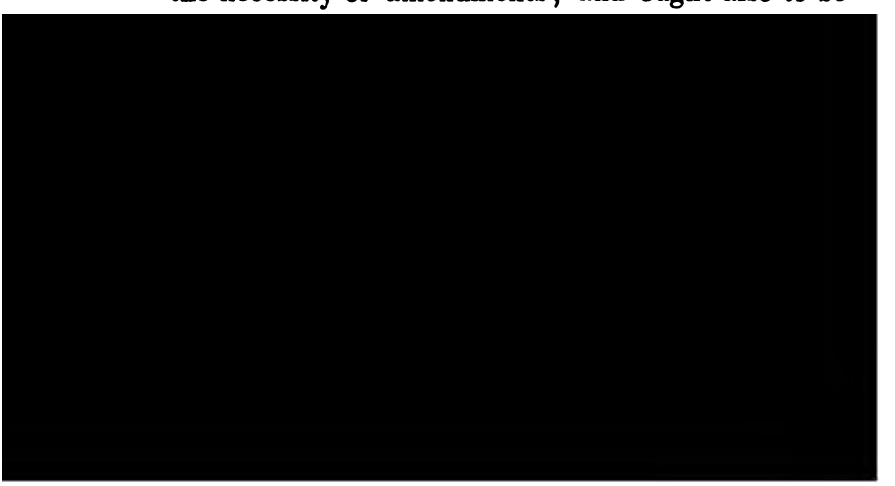
In Convention,—Mr. GERRY moved to reconsider Article 19, viz: "On the application of the Legislatures of two-thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the United States shall call a Convention for that purpose," (see the sixth of August,—page 1241.)

This Constitution, he said, is to be paramount to

* This motion and vote are entered on the printed Journal of the ensuing morning.

the State Constitutions. It follows, hence, from this article, that two-thirds of the States may obtain a Convention, a majority of which can bind the Union to innovations that may subvert the State Constitutions altogether. He asked whether this was a situation proper to be run into.

Mr. HAMILTON seconded the motion; but, he said, with a different view from Mr. GERRY. He did not object to the consequences stated by Mr. GERRY. There was no greater evil in subjecting the people of the United States to the major voice, than the people of a particular State. It had been wished by many, and was much to have been desired, that an easier mode of introducing amendments had been provided by the Articles of the Confederation. It was equally desirable now, that an easy mode should be established for supplying defects which will probably appear in the new system. The mode proposed was not adequate. The State Legislatures will not apply for alterations; but with a view to increase their own powers. The National Legislature will be the first to perceive, and will be most sensible to, the necessity of amendments; and ought also to be



Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; New Jersey, no—1; New Hampshire, divided.

Mr. SHERMAN moved to add to the article: "or the Legislature may propose amendments to the several States for their approbation; but no amendments shall be binding until consented to by the several States."

Mr. GERRY seconded the motion.

Mr. WILSON moved to insert, "two-thirds of," before the words, "several States;" on which amendment to the motion of Mr. SHERMAN,—

New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, aye—5; Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, no—6.

Mr. WILSON then moved to insert, "three-fourths of," before "the several States;" which was agreed to, *nem. con.*

Mr. MADISON moved to postpone the consideration of the amended proposition, in order to take up the following:

"The Legislature of the United States, whenever two-thirds of both houses shall deem necessary, or on the application of two-thirds of the Legislatures of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three-fourths, at least, of the Legislatures of the several States, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the Legislature of the United States."

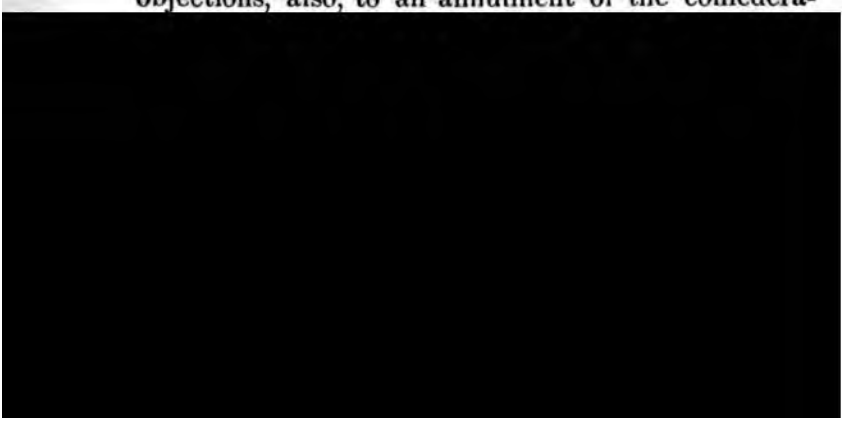
Mr. HAMILTON seconded the motion.

Mr. RUTLEDGE said he never could agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property, and prejudiced against it. In order to obviate this objection, these words were added to the proposition :* "provided that no amendments, which may be made prior to the year 1808 shall in any manner affect the fourth and fifth sections of the seventh article." The postponement being agreed to,—

On the question on the proposition of Mr. MADISON and Mr. HAMILTON, as amended,—

Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—9; Delaware, no—1;—New Hampshire, divided.[359]

Mr. GERRY moved to reconsider Articles 21 and 22; from the latter of which "for the approbation of Congress," had been struck out. He objected to proceeding to change the Government without the approbation of Congress, as being improper, and giving just umbrage to that body. He repeated his objections, also, to an annulment of the confedera-



isting one. He would propose, as a better modification of the two Articles (21 and 22) that the plan should be sent to Congress, in order that the same, if approved by them, may be communicated to the State Legislatures, to the end that they may refer it to State conventions; each Legislature declaring, that, if the convention of the State should think the plan ought to take effect among nine ratifying States, the same should take effect accordingly.

Mr. GORHAM. Some States will say that nine States shall be sufficient to establish the plan; others will require unanimity for the purpose, and the different and conditional ratifications will defeat the plan altogether.

Mr. HAMILTON. No convention convinced of the necessity of the plan will refuse to give it effect, on the adoption by nine States. He thought this mode less exceptionable than the one proposed in the article: while it would attain the same end.

Mr. FITZSIMONS remarked, that the words, "for their approbation," had been struck out in order to save Congress from the necessity of an act inconsistent with the Articles of Confederation under which they held their authority.

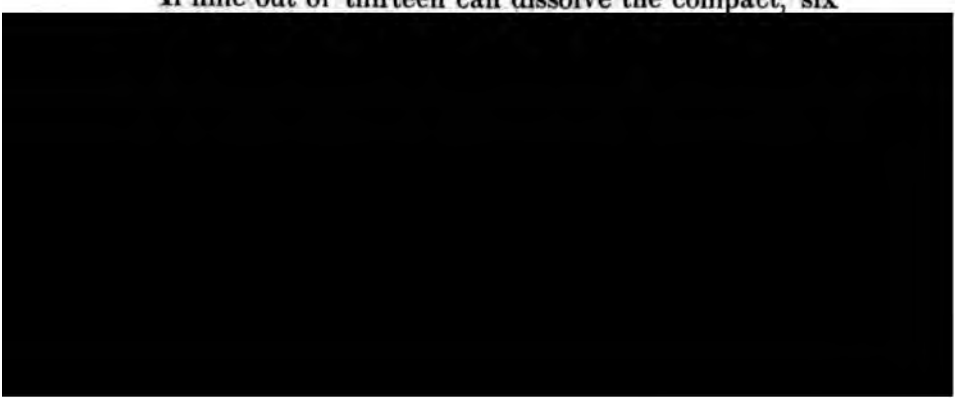
Mr. RANDOLPH declared, if no change should be made in this part of the plan, he should be obliged to dissent from the whole of it. He had from the beginning, he said, been convinced that radical changes in the system of the Union were necessary. Under this conviction he had brought forward a set of republican propositions, as the basis and outline of a reform. These republican propositions had, however, much to his regret, been widely, and, in his

opinion, irreconcileably, departed from. In this state of things, it was his idea, and he accordingly meant to propose, that the State conventions should be at liberty to offer amendments to the plan; and that these should be submitted to a second General Convention, with full power to settle the Constitution finally. He did not expect to succeed in this proposition, but the discharge of his duty in making the attempt would give quiet to his own mind.

Mr. WILSON was against a reconsideration for any of the purposes which had been mentioned.

Mr. KING thought it would be more respectful to Congress, to submit the plan generally to them; than in such a form as expressly and necessarily to require their approbation or disapprobation. The assent of nine States he considered as sufficient; and that it was more proper to make this a part of the Constitution itself, than to provide for it by a supplemental or distinct recommendation.

Mr. GERRY urged the indecency and pernicious tendency of dissolving, in so slight a manner, the solemn obligations of the Articles of Confederation. If nine out of thirteen can dissolve the compact, six



On the question for reconsidering the two articles, 21 and 22,—

Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, aye—7; Massachusetts, Pennsylvania, South Carolina, no—3; New Hampshire, divided.

Mr. HAMILTON then moved to postpone Article 21, in order to take up the following, containing the ideas he had above expressed, viz:

"Resolved, that the foregoing plan of a Constitution be transmitted to the United States in Congress assembled, in order that if the same shall be agreed to by them, it may be communicated to the Legislatures of the several States, to the end that they may provide for its final ratification, by referring the same to the consideration of a Convention of Deputies in each State, to be chosen by the people thereof; and that it be recommended to the said Legislatures, in their respective acts for organizing such Convention, to declare, that if the said Convention shall approve of the said Constitution, such approbation shall be binding and conclusive upon the State; and further, that if the said Convention shall be of opinion that the same, upon the assent of any nine States thereto, ought to take effect between the States so assenting, such opinion shall thereupon be also binding upon such a State, and the said Constitution shall take effect between the States assenting thereto."

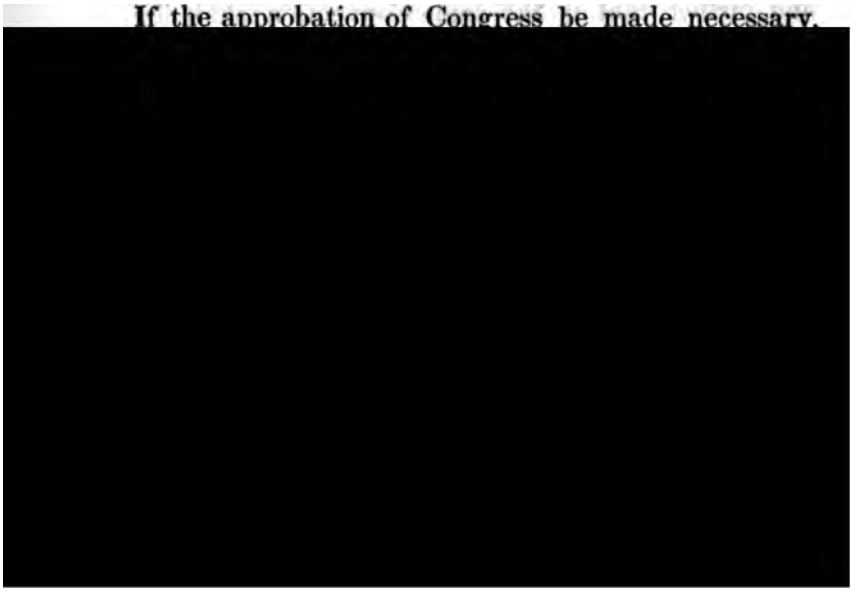
Mr. GERRY seconded the motion.

Mr. WILSON. This motion being seconded, it is necessary now to speak freely. He expressed in strong terms his disapprobation of the expedient

proposed, particularly the suspending the plan of the Convention, on the approbation of Congress. He declared it to be worse than folly, to rely on the concurrence of the Rhode Island members of Congress in the plan. Maryland had voted, on this floor, for requiring the unanimous assent of the thirteen States to the proposed change in the Federal system. New. York has not been represented for a long time past in the Convention. Many individual deputies from other States, have spoken much against the plan. Under these circumstances, can it be safe to make the assent of Congress necessary? After spending four or five months in the laborious and arduous task of forming a Government for our country, we are ourselves, at the close, throwing insuperable obstacles in the way of its success.

Mr. CLYMER thought that the mode proposed by Mr. HAMILTON would fetter and embarrass Congress as much as the original one, since it equally involved a breach of the Articles of Confederation.

Mr. KING concurred with Mr. CLYMER. If Congress can accede to one mode, they can to the other. If the approbation of Congress be made necessary,



Connecticut, aye—1; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.

A question being then taken on the Article 21, it was agreed to unanimously.

Colonel HAMILTON withdrew the remainder of the motion to postpone Article 22; observing that his purpose was defeated by the vote just given.

Mr. WILLIAMSON and Mr. GERRY moved to reinstate the words, "for the approbation of Congress," in Article 22; which was disagreed to, *nem. con.*[300]

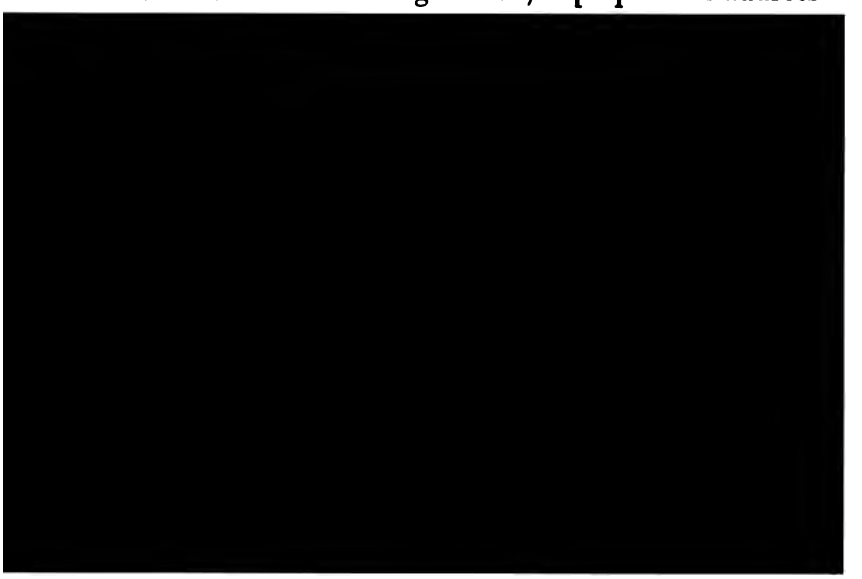
Mr. RANDOLPH took this opportunity to state his objections to the system. They turned on the Senate's being made the court of impeachment for trying the Executive—on the necessity of three-fourths instead of two-thirds of each House to overrule the negative of the President—on the smallness of the number of the Representative branch—on the want of limitation to a standing army—on the general clause concerning necessary and proper laws—on the want of some particular restraint on navigation acts—on the power to lay duties on exports—on the authority of the General Legislature to interpose on the application of the *Executives* of the States—on the want of a more definite boundary between the General and State Legislatures—and between the General and State Judiciaries—on the unqualified power of the President to pardon treasons—on the want of some limit to the power of the Legislature in regulating their own compensations. With these difficulties in his mind, what course, he asked, was he to pursue? Was he to promote the establish-

ment of a plan, which he verily believed would end in tyranny? He was unwilling, he said, to impede the wishes and judgment of the Convention, but he must keep himself free, in case he should be honored with a seat in the Convention of his State, to act according to the dictates of his judgment. The only mode in which his embarrassment could be removed was that of submitting the plan to Congress, to go from them to the State Legislatures, and from these to State Conventions, having power to adopt, reject, or amend; the process to close with another General Convention, with full power to adopt or reject the alterations proposed by the State Conventions, and to establish finally the Government. He accordingly proposed a resolution to this effect.[361]

Doctor FRANKLIN seconded the motion.

Colonel MASON urged, and obtained that the motion should lie on the table for a day or two, to see what steps might be taken with regard to the parts of the system objected to by Mr. RANDOLPH.

Mr. PINCKNEY moved, "that it be an instruction to the Committee for revising the style and arrangement of the articles agreed on, to prepare an address



TUESDAY, SEPTEMBER 11TH.

In Convention,—The Report of the Committee of style and arrangement not being made, and being waited for,

The House adjourned.

WEDNESDAY, SEPTEMBER 12TH.

In Convention,—Doct. JOHNSON, from the Committee of style, &c., reported a digest of the plan, of which printed copies were ordered to be furnished to the members. He also reported a letter to accompany the plan to Congress.

REPORT.*

We the people of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain an establish this Constitution for the United States of America:

ARTICLE I.

Sect. 1. All Legislative powers herein granted shall be vested in a Congress of the United States,

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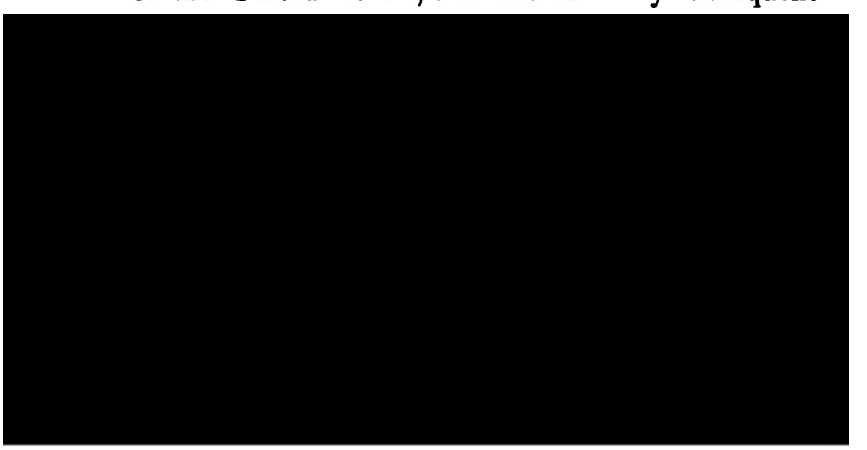
* This is a literal copy of the printed Report. The copy in the printed Journals contains some of the alterations subsequently made in the House.

which shall consist of a Senate and House of Representatives.

Sect. 2. The House of Representatives shall be composed of members chosen every second year, by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to servitude for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent



Carolina, five; South Carolina, five; and Georgia, three.

When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and they shall have the sole power of impeachment.

Sect. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided [by lot*], as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

* The words, "by lot," were not in the Report as printed; but were inserted in manuscript as a typographical error, departing from the text of the Report referred to the Committee of style and arrangement.[362]

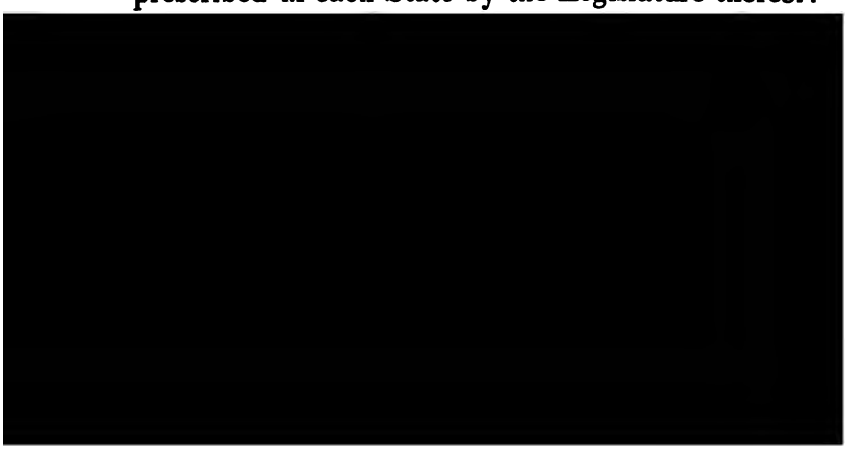
The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sect. 4. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof:



journ from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

Each House may determine the rules of its proceedings; punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the Yeas and Nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Sect. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

and no person holding any office under the United States shall be a member of either House during his continuance in office.

Sect. 7. The enacting style of the laws shall be, "Be it enacted by the Senators and Representatives in Congress assembled."

All bills for raising revenue shall originate in the House of Representatives: but the Senate may propose or concur with amendments, as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House; by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by

currence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by three-fourths* of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Sect. 8. The Congress may by joint ballot appoint a Treasurer. They shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, among the several States, and with the Indian tribes.

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

To promote the progress of science and useful arts, by securing for limited times to authors and invent-

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* In the entry of this Report in the printed Journal "two-thirds" are substituted for "three-fourths." This change was made after the Report was received.[364]

ors the exclusive right to their respective writings and discoveries.

To constitute tribunals inferior to the Supreme Court.

To define and punish piracies and felonies committed on the high seas, and [punish]* offences against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

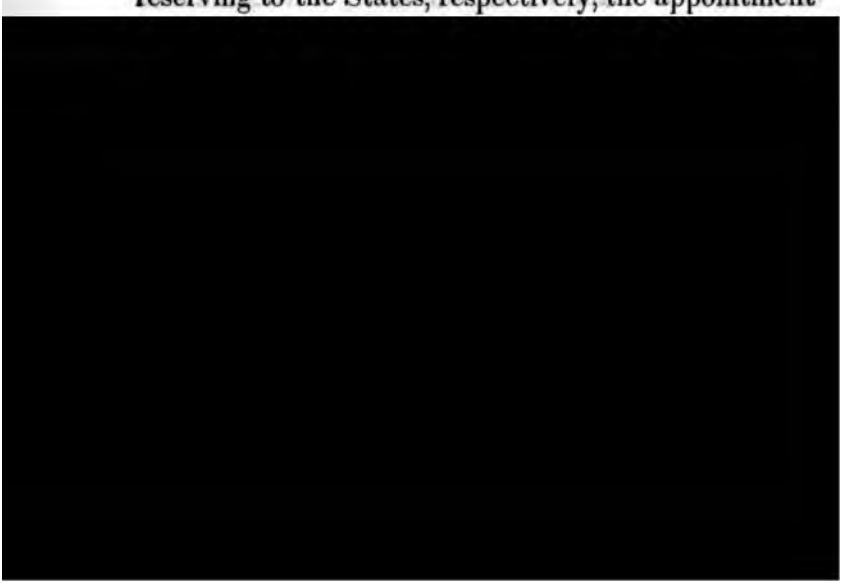
To raise and support armies: but no appropriations of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States, respectively, the appointment



like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. And—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of Habeas Corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder shall be passed, nor any *ex post facto* law.

No capitation tax shall be laid, unless in proportion to the census herein before directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument,

office, or title, of any kind whatever. from any king, prince, or foreign State.

SEC. 10. No State shall coin money, or emit bills of credit, or make any thing but gold or silver coin a tender in payment of debts, or pass any bill of attainder, or *ex post facto* laws, or laws altering or impairing the obligation of contracts; or grant letters of marque and reprisal, or enter into any treaty, alliance or confederation, or grant any title of nobility.

No State shall, without the consent of Congress, lay imposts or duties on imports or exports; or with such consent, but to the use of the Treasury of the United States; or keep troops or ships of war in time of peace; or enter into any agreement or compact with another State, or with any foreign power; or engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of delay until the Congress can be consulted.

ARTICLE II.

Congress: but no Senator or Representative shall be appointed an Elector, nor any person holding an office of trust or profit under the United States.

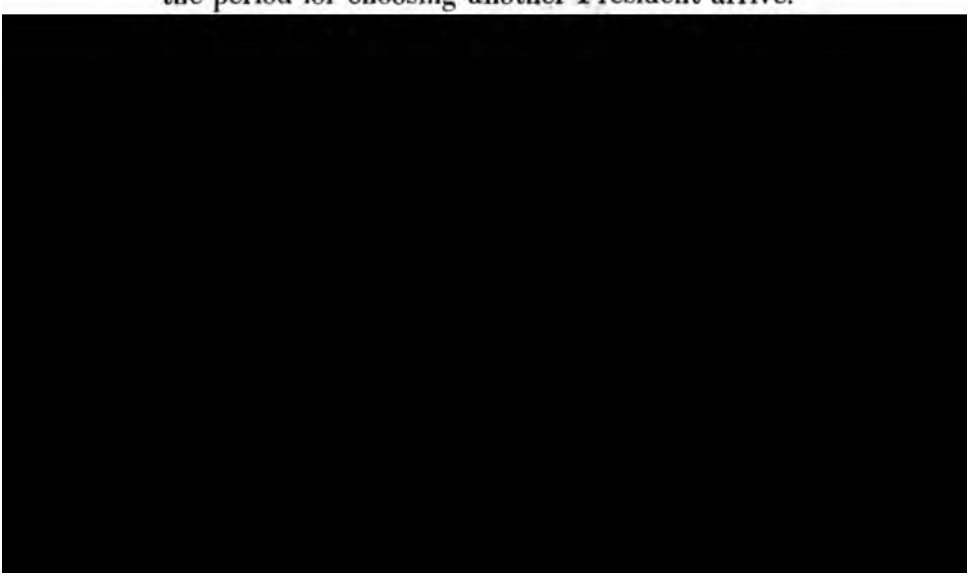
The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the General Government, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, and not *per capita*, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President by the Representatives, the person having the greatest number of votes of the Electors shall be the Vice President. But if there should remain two or more who have

equal votes, the Senate shall choose from them, by ballot, the Vice President.

The Congress may determine the time of choosing the Electors, and the time in which they shall give their votes; but the election shall be on the same day throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President; declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or the period for choosing another President arrive.



power, preserve, protect and defend the Constitution of the United States."

Sect. 2. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the Executive departments, upon any subject relating to the duties of their respective offices. And he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Sect. 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think

proper: he shall receive ambassadors and other public ministers: he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sect. 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III.

Sect. 1. The Judicial power of the United States, both in law and equity, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behaviour; and shall at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sect. 2. The Judicial power shall extend to all cases, both in law and equity, arising under this Con-

and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Sect. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted.

ARTICLE IV.

Sect. 1. Full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings of every other State. And the Congress

may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sect. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, and removed to the State having jurisdiction of the crime.

No person legally held to service or labor in one State, escaping into another, shall, in consequence of regulations subsisting therein, be discharged from such service or labor; but shall be delivered up, on claim of the party to whom such service or labor may be due.

Sect. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States; without the consent of the legislatures of the States concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Sect. 4. The United States shall guarantee to every State in this Union a republican form of gov-

ernment; and shall protect each of them against invasion; and, on application of the Legislature or Executive, against domestic violence.

Article V.

The Congress, whenever two-thirds of both Houses shall deem necessary, or on the application of two-thirds of the Legislatures of the several States, shall propose amendments to this Constitution; which shall be valid to all intents and purposes, as part thereof, when the same shall have been ratified by three-fourths at least of the Legislatures of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the ——— and ——— sections of the ——— article.

Article VI.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives beforementioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

LETTER.

"We have now the honor to submit to the consideration of the United States, in Congress assembled, that Constitution which has appeared to us the most advisable.

"The friends of our country have long seen and desired, that the power of making war, peace, and treaties; that of levying money, and regulating

must give up a share of liberty, to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved. And on the present occasion this difficulty was increased by a difference among the several States, as to their situation, extent, habits, and particular interests.

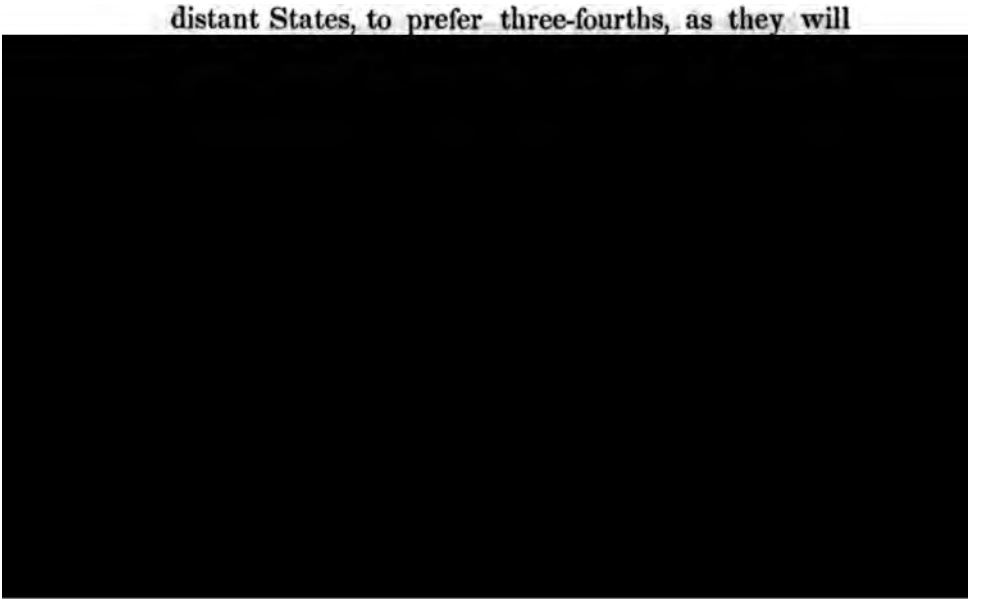
"In all our deliberations on this subject, we kept steadily in our view that which appeared to us the greatest interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid in points of inferior magnitude, than might have been otherwise expected. And thus the Constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every State is not, perhaps, to be expected. But each will doubtless consider, that had her interest alone been consulted, the consequences might have been particularly disagreeable and injurious to others. That it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all; and secure her freedom and happiness, is our most ardent wish."

Mr. WILLIAMSON moved to reconsider the clause requiring three-fourths of each House to overrule the negative of the President, in order to strike out three-fourths and insert two-thirds. He had, he remarked, himself proposed three-fourths instead of two-thirds; but he had since been convinced that the latter proportion was the best. The former puts too much in the power of the President.

Mr. SHERMAN was of the same opinion; adding that the States would not like to see so small a minority, and the President, prevailing over the general voice. In making laws, regard should be had to the sense of the people, who are to be bound by them; and it was more probable that a single man should mistake or betray this sense, than the Legislature.

Mr. GOUVERNEUR MORRIS. Considering the difference between the two proportions numerically, it amounts, in one House, to two members only; and in the others, to not more than five; according to the numbers of which the Legislature is at first to be composed. It is the interest, moreover, of the distant States, to prefer three-fourths, as they will



Mr. GERRY. It is necessary to consider the danger on the other side also. Two-thirds will be a considerable, perhaps, a proper, security. Three-fourths puts too much in the power of a few men. The primary object of the revisionary check of the President is, not to protect the general interest, but to defend his own department. If three-fourths be required, a few Senators, having hopes from the nomination of the President to offices, will combine with him and impede proper laws. Making the the Vice-President Speaker increases the danger.

Mr. WILLIAMSON was less afraid of too few than of too many laws. He was, most of all, afraid that the repeal of bad laws might be rendered too difficult by requiring three-fourths to overcome the dissent of the President.

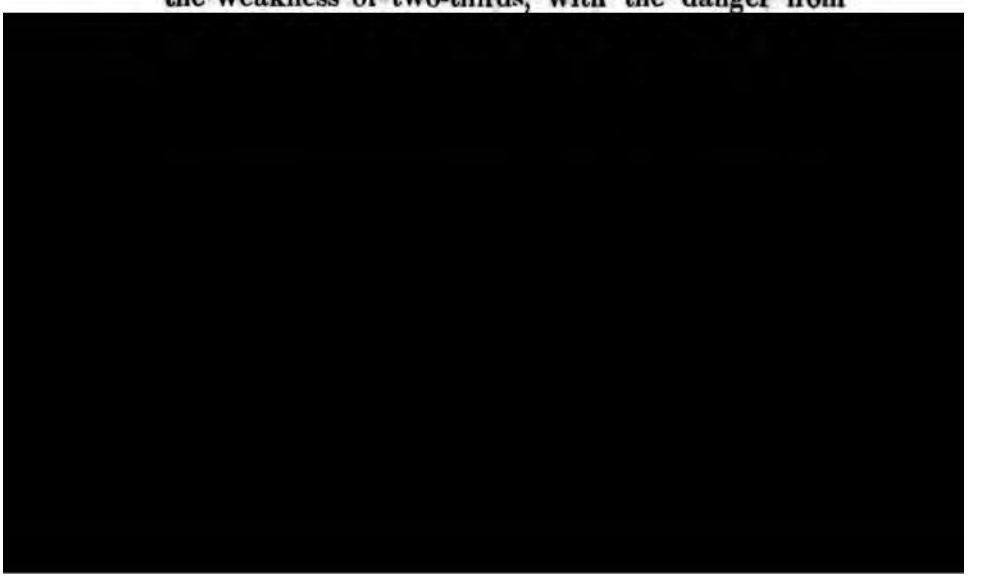
Colonel MASON had always considered this as one of the most exceptionable parts of the system. As to the numerical argument of Mr. GOUVERNEUR MORRIS, little arithmetic was necessary to understand that three-fourths was more than two-thirds, whatever the numbers of the Legislature might be. The example of New York depended on the real merits of the laws. The gentlemen citing it had no doubt given their own opinions. But perhaps there were others of opposite opinions, who could equally paint the abuses on the other side. His leading view was, to guard against too great an impediment to the repeal of laws.

Mr. GOUVERNEUR MORRIS dwelt on the danger to the public interest from the instability of laws, as the most to be guarded against. On the other side, there could be little danger. If one man in office

will not consent where he ought, every fourth year another can be substituted. This term was not too long for fair experiments. Many good laws are not tried long enough to prove their merit. This is often the case with new laws opposed to old habits. The inspection laws of Virginia and Maryland, to which all are now so much attached, were unpopular at first.

Mr. PINCKNEY was warmly in opposition to three-fourths, as putting a dangerous power in the hands of a few Senators headed by the President.

Mr. MADISON. When three-fourths was agreed to, the President was to be elected by the Legislature, and for seven years. He is now to be elected by the people, and for four years. The object of the revisionary power is two-fold,—first, to defend the Executive rights; secondly, to prevent popular or factious injustice. It was an important principle in this and in the State Constitutions, to check legislative injustice and encroachments. The experience of the States had demonstrated that their checks are insufficient. We must compare the danger from the weakness of two-thirds, with the danger from



HENRY, no,) North Carolina, South Carolina, Georgia, aye—6; Masachusetts, Pennsylvania, Delaware, Virginia, (General WASHINGTON, Mr. BLAIR, Mr. MADISON, no; Colonel MASON, Mr. RANDOLPH, aye,) no—4; New Hampshire, divided.

Mr. WILLIAMSON observed to the House, that no provision was yet made for juries in civil cases, and suggested the necessity of it.

Mr. GORHAM. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.

Mr. GERRY urged the necessity of juries to guard against corrupt judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by juries.

Colonel MASON perceived the difficulty mentioned by Mr. GORHAM. The jury cases cannot be specified. A general principle laid down, on this and some other points, would be sufficient. He wished the plan had been prefaced with a Bill of Rights, and would second a motion if made for the purpose. It would give great quiet to the people; and with the aid of the State Declarations, a bill might be prepared in a few hours.

Mr. GERRY concurred in the idea, and moved for a Committee to prepare a Bill of Rights.

Colonel MASON seconded the motion.

Mr. SHERMAN was for securing the rights of the people where requisite. The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient. There are many cases

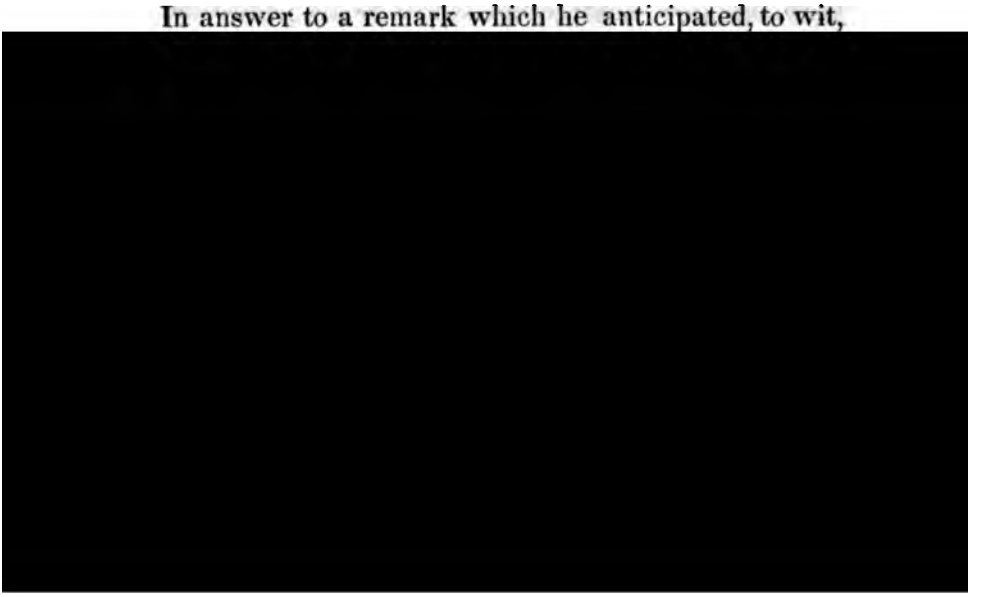
where juries are proper, which cannot be discriminated. The Legislature may be safely trusted.

Colonel MASON. The laws of the United States are to be paramount to State Bills of Rights.

On the question for a Committee to prepare a Bill of Rights,—

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, aye—5; Maryland, Virginia, North Carolina, South Carolina, Georgia, no—5; Massachusetts, absent.[365]

The clause relating to exports being reconsidered, at the instance of Colonel MASON,—who urged that the restrictions on the States would prevent the incidental duties necessary for the inspection and safe keeping of their produce, and be ruinous to the staple States, as he called the five Southern States,—he moved as follows: "provided, nothing herein contained shall be construed to restrain any State from laying duties upon exports for the sole purpose of defraying the charges of inspecting, packing, storing and indemnifying the losses in keeping the commodities in the care of public officers, before exportation." In answer to a remark which he anticipated, to wit,



was the right in the General Government to regulate trade between State and State.

Mr. GOUVERNEUR MORRIS saw no objection to the motion. He did not consider the dollar per hogshead laid on tobacco in Virginia, as a duty on exportation, as no draw-back would be allowed on tobacco taken out of the warehouse for internal consumption.

Mr. DAYTON was afraid the proviso would enable Pennsylvania to tax New Jersey under the idea of inspection duties of which Pennsylvania would judge.

Mr. GORHAM and Mr. LANGDON thought there would be no security, if the proviso should be agreed to, for the States exporting through other States, against these oppressions of the latter. How was redress to be obtained, in case duties should be laid beyond the purpose expressed?

Mr. MADISON. There will be the same security as in other cases. The jurisdiction of the Supreme Court must be the source of redress. So far only had provision been made by the plan against injurious acts of the States. His own opinion was, that this was was insufficient. A negative on the State laws alone could meet all the shapes which these could assume. But this had been overruled.

Mr. FITZSIMONS. Incidental duties on tobacco and flour never have been, and never can be, considered as duties on exports.

Mr. DICKINSON. Nothing will save the States in the situation of New Hampshire, New Jersey, Delaware, &c., from being oppressed by their neighbours, but requiring the assent of Congress to inspection

duties. He moved that this assent should accordingly be required.

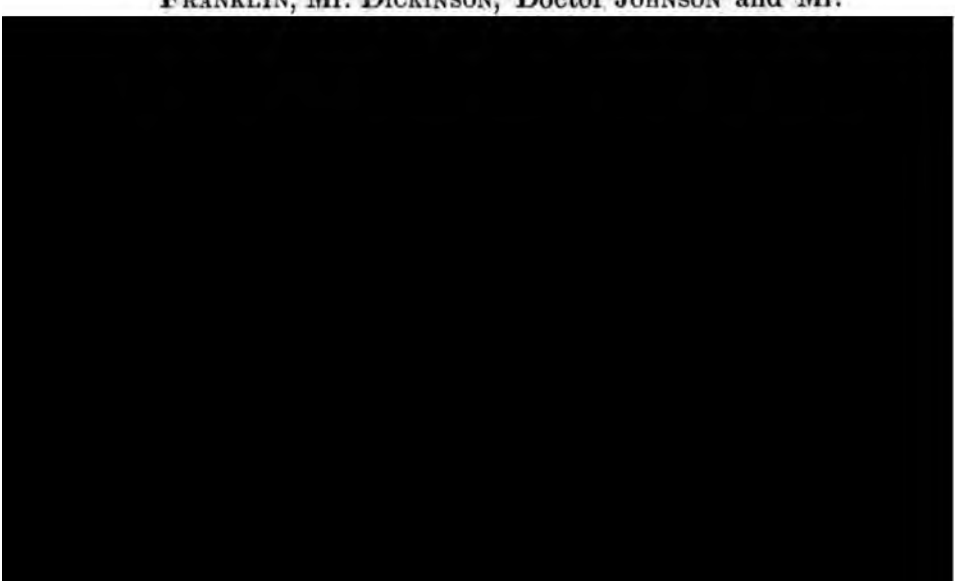
Mr. BUTLER seconded the motion.

Adjourned.

THURSDAY, SEPTEMBER 13TH.

In Convention,—Col. MASON. He had moved without success for a power to make sumptuary regulations. He had not yet lost sight of his object. After descanting on the extravagance of our manners, the excessive consumption of foreign superfluities, and the necessity of restricting it, as well with economical as republican views, he moved that a committee be appointed to report articles of association for encouraging, by the advice, the influence, and the example, of the members of the Convention, economy, frugality, and American manufactures.

Doctor JOHNSON seconded the motion; which was, without debate, agreed to, *nem. con.*; and a committee appointed, consisting of Colonel MASON, Doctor FRANKLIN, Mr. DICKINSON, Doctor JOHNSON and Mr.



such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers: but all such regulations shall, in case of abuse, be subject to the revision and control of Congress."

There was no debate, and on the question,—

New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, Georgia, aye—7; Pennsylvania, Delaware, South Carolina, no—3.

The report from the committee of style and arrangement was taken up, in order to be compared with the articles of the plan, as agreed to by the House, and referred to the committee, and to receive the final corrections and sanction of the Convention.

Article 1, Section 2. On motion of Mr. RANDOLPH, the word "servitude" was struck out, and "service" unanimously* inserted, the former being thought to express the condition of slaves, and the latter the obligations of free persons.

Mr. DICKINSON and Mr. WILSON moved to strike out, "and direct taxes," from Article 1, Section 2, as improperly placed in a clause relating merely to the constitution of the House of Representatives.

Mr. GOUVERNEUR MORRIS. The insertion here was in consequence of what had passed on this point; in order to exclude the appearance of counting the negroes in the *representation*. The including of them may now be referred to the object of direct taxes, and incidentally only to that of representation.

* See page 372 of the printed Journal.

On the motion to strike out, "and direct taxes," from this place,—

New Jersey, Delaware, Maryland, aye—3; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no—8.

Article 1, Section 7—"if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him," &c.

Mr. MADISON moved to insert, between "after," and "it," in Article 1, Section 7, the words, "the day on which," in order to prevent a question whether the day on which the bill be presented ought to be counted, or not, as one of the ten days.

Mr. RANDOLPH seconded the motion.

Mr. GOUVERNEUR MORRIS. The amendment is unnecessary. The law knows no fractions of days.

A number of members being very impatient, and calling for the question,—

Pennsylvania, Maryland, Virginia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, South Carolina, Georgia, no—8.

Doctor JOHNSON made a further report from the Committee of Style, &c., of the following resolutions to be substituted for Articles 22 and 23:[368]

"Resolved, that the preceding Constitution be laid before the United States in Congress assembled; and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates chosen in each State by the people thereof, under the recommendation of its Legislature, for

their assent and ratification; and that each convention assenting to and ratifying the same, should give notice thereof to the United States in Congress assembled."

"Resolved, that it is the opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which Electors should be appointed by the States which shall have ratified the same; and a day on which the Electors should assemble to vote for the President; and the time and place for commencing proceedings under this Constitution: That after such publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled: That the Senators and Representatives should convene at the time and place assigned: that the Senators should appoint a President for the sole purpose of receiving, opening and counting the votes for President, and that after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution."[369]

Adjourned.

FRIDAY, SEPTEMBER 14TH.

In Convention,—The Report of the Committee of style and arrangement being resumed,—

Mr. WILLIAMSON moved to reconsider, in order to increase the number of Representatives fixed for the first Legislature. His purpose was to make an addition of one-half generally to the number allotted to the respective States; and to allow two to the smallest States.

On this motion,—Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—5; New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina, Georgia, no—6.

Article 1, Section 3, the words "by lot,"* were struck out, *nem. con.*, on motion of Mr. MADISON, that some rule might prevail in the rotation that would prevent both the members from the same State, from going out at the same time.

"*Ex officio*," struck out of the same section, as superfluous, *nem. con.;* and, "or affirmation," after "oath," inserted,—also unanimously.

Mr. RUTLEDGE and Mr. GOUVERNEUR MORRIS moved, "that persons impeached be suspended from their offices, until they be tried and acquitted."

Mr. MADISON. The President is made too dependent already on the Legislature by the power of one branch to try him in consequence of an impeachment by the other. This intermediate suspension will put him in the power of one branch only. They can at any moment, in order to make way for the functions of another who will be more favorable to their views, vote a temporary removal of the existing magistrate.

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* "By lot," had been reinstated from the Report of the Committee of five made on the sixth of August, as a correction of the printed Report by the Committee of style, &c. See pages 1229, and 1545.

Mr. KING concurred in the opposition to the amendment.

On the question to agree to it,—

Connecticut, South Carolina, Georgia, aye—3; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no—8.

Article 1, Section 4, "except as to the places of choosing Senators," was added, *nem. con.* to the end of the first clause, in order to exempt the seats of government in the States from the power of Congress.

Article 1, Section 5. "Each House shall keep a journal of its proceedings, and from time to time, publish the same, excepting such parts as may in their judgment require secrecy."

Col. MASON and Mr. GERRY moved to insert, after the word "parts," the words, "of the proceedings of the Senate," so as to require publication of all the proceedings of the House of Representatives.

It was intimated, on the other side, that cases might arise where secrecy might be necessary in both Houses. Measures preparatory to a declaration of war, in which the House of Representatives was to concur, were instanced.

On the question, it passed in the negative,—

Pennsylvania, Maryland, North Carolina, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Virginia, Georgia, no—7; South Carolina, divided.

Mr. BALDWIN observed, that the clause, Article 1, Section 6, declaring that no member of Congress, "during the time for which he was elected, shall be

appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time," would not extend to offices *created by the Constitution;* and the salaries of which would be created, *not increased*, by Congress at their first session. The members of the first Congress consequently might evade the disqualification in this instance. He was neither seconded nor opposed, nor did any thing further pass on the subject.

Article 1, Sect. 8. The Congress "may by joint ballot appoint a Treasurer,"—

Mr. RUTLEDGE moved to strike out this power, and let the Treasurer be appointed in the same manner with other officers.

Mr. GORHAM and Mr. KING said that the motion, if agreed to, would have a mischievous tendency. The people are accustomed and attached to that mode of appointing Treasurers, and the innovation will multiply objections to the system.

Mr. GOUVERNEUR MORRIS remarked, that if the Treasurer be not appointed by the Legislature, he will be more narrowly watched, and more readily

On the motion to strike out,—

New Hampshire, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, aye—8; Massachusetts, Pennsylvania, Virginia, no—3.

Article 1, Sect. 8,—the words "but all such duties, imposts and excises, shall be uniform throughout the United States," were unanimously annexed to the power of taxation.

On the clause, "to define and punish piracies and felonies on the high seas, and punish offences against the law of nations,"—

Mr. GOUVERNEUR MORRIS moved to strike out "punish," before the words, "offences against the law of nations," so as to let these be *definable*, as well as punishable, by virtue of the preceding member of the sentence.

Mr. WILSON hoped the alteration would by no means be made. To pretend to *define* the law of nations, which depended on the authority of all the civilized nations of the world, would have a look of arrogance, that would make us ridiculous.

Mr. GOUVERNEUR MORRIS. The word *define* is proper when applied to *offences* in this case; the law of nations being often too vague and deficient to be a rule.

On the question to strike out the word "punish," it passed in the affirmative,—

New Hampshire, Connecticut, New Jersey, Delaware, North Carolina, South Carolina, aye—6; Massachusetts, Pennsylvania, Maryland, Virginia, Georgia, no—5.

Doctor FRANKLIN* moved to add, after the words, "post roads," Article 1, Sect. 8, a power "to provide for cutting canals where deemed necessary."

Mr. WILSON seconded the motion.

Mr. SHERMAN objected. The expense in such cases will fall on the United States, and the benefit accrue to the places where the canals may be cut.

Mr. WILSON. Instead of being an expense to the United States, they may be made a source of revenue.

Mr. MADISON suggested an enlargement of the motion, into a power "to grant charters of incorporation where the interest of the United States might require, and the legislative provisions of individual States may be incompetent." His primary object was, however, to secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones as far as possible ought to follow.

Mr. RANDOLPH seconded the proposition

Mr. KING thought the power unnecessary.

Mr. WILSON. It is necessary to prevent *a State* from obstructing the *general* welfare.

Mr. KING. The States will be prejudiced and divided into parties by it. In Philadelphia and New York, it will be referred to the establishment of a bank, which has been a subject of contention in those cities. In other places it will be referred to mercantile monopolies.

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* This motion by Doctor FRANKLIN not stated in the printed Journal, as are some other motions.

Mr. WILSON mentioned the importance of facilitating by canals the communication with the Western settlements. As to banks, he did not think with Mr. KING, that the power in that point of view would excite the prejudices and parties apprehended. As to mercantile monopolies, they are already included in the power to regulate trade.

Col. MASON was for limiting the power to the single case of canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution, as supposed by Mr. WILSON.

The motion being so modified as to admit a distinct question specifying and limited to the case of canals,—

Pennsylvania, Virginia, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, no—8.

The other part fell of course, as including the power rejected.

Mr. MADISON and Mr. PINCKNEY then moved to insert, in the list of powers vested in Congress, a power "to establish an University, in which no preferences or distinctions should be allowed on account of religion."

Mr. WILSON supported the motion.

Mr. GOUVERNEUR MORRIS. It is not necessary. The exclusive power at the seat of government, will reach the object.

On the question,—

Pennsylvania, Virginia, North Carolina, South Carolina, aye—4; New Hampshire, Massachusetts,

New Jersey, Delaware, Maryland, Georgia, no—6; Connecticut, divided, (Doctor JOHNSON aye; Mr. SHERMAN, no.)

Colonel MASON, being sensible that an absolute prohibition of standing armies in time of peace might be unsafe, and wishing at the same time to insert something pointing out and guarding against the danger of them, moved to preface the clause (Article 1, Sect. 8), "to provide for organizing, arming and disciplining the militia," &c., with the words, "and that the liberties of the people may be better secured against the danger of standing armies in time of peace."

Mr. RANDOLPH seconded the motion.

Mr. MADISON was in favor of it. It did not restrain Congress from establishing a military force in time of peace, if found necessary; and as armies in time of peace are allowed on all hands to be an evil, it is well to discountenance them by the Constitution, as far as will consist with the essential power of the Government on that head.

Mr. GOUVERNEUR MORRIS opposed the motion, as setting a dishonorable mark of distinction on the military class of citizens.

Mr. PINCKNEY and Mr. BEDFORD concurred in the opposition.

On the question,—

Virginia, Georgia, aye—2; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, no—9.

Colonel MASON moved to strike out from the clause (Article 1, Sect. 9,) "no bill of attainder, nor any

ex post facto law, shall be passed," the words, "nor any *ex post facto* law." He thought it not sufficiently clear that the prohibition meant by this phrase was limited to cases of a criminal nature; and no Legislature ever did or can altogether avoid them in civil cases.

Mr. GERRY seconded the motion; but with a view to extend the prohibition to "civil cases," which he thought ought to be done.

On the question, all the States were, no.

Mr. PINCKNEY and Mr. GERRY moved to insert a declaration, "that the liberty of the press should be inviolably observed."

Mr. SHERMAN. It is unnecessary. The power of Congress does not extend to the press.

On the question, it passed in the negative,—

Massachusetts, Maryland, Virginia, South Carolina, aye—4; New Hampshire,* Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, no—7.

Article 1, Section 9. "No capitation tax shall be laid, unless," &c.

Mr. READ moved to insert, after "capitation," the words, "or other direct tax." He was afraid that some liberty might otherwise be taken to saddle the States with a readjustment, by this rule, of past requisitions of Congress; and that his amendment, by giving another cast to the meaning, would take away the pretext.

Mr. WILLIAMSON seconded the motion, which was agreed to.

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* In the printed Journal, New Hampshire, aye.

On motion of Col. MASON, the words "or enumeration," were inserted after, as explanatory of "census,"—Connecticut and South Carolina, only, no.

At the end of the clause, "no tax or duty shall be laid on articles exported from any State," was added the following amendment, conformably to a vote on the 31st of August, (p. 1477,) viz: "no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another: nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another."

Col. MASON moved a clause requiring, "that an account of the public expenditures should be annually published."

Mr. GERRY seconded the motion.

Mr. GOUVERNEUR MORRIS urged that this would be impossible, in many cases.

Mr. KING remarked, that the term expenditures went to every minute shilling. This would be impracticable. Congress might indeed make a monthly publication, but it would be in such general statements as would afford no satisfactory information.

Mr. MADISON proposed to strike out "annually" from the motion, and insert "from time to time," which would enjoin the duty of frequent publications, and leave enough to the discretion of the Legislature. Require too much and the difficulty will beget a habit of doing nothing. The articles of Confederation require half-yearly publications on this subject. A punctual compliance being often impossible, the practice has ceased altogether.

Mr. WILSON seconded and supported the motion.

Many operations of finance cannot be properly published at certain times.

Mr. PINCKNEY was in favor of the motion.

Mr. FITZSIMONS. It is absolutely impossible to publish expenditures in the full extent of the term.

Mr. SHERMAN thought "from time to time," the best rule to be given. "Annually" was struck out, and those words inserted, *nem. con.*

The motion of Col. MASON, so amended, was then agreed to, *nem. con.*, and added after "appropriations by law," as follows: "and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

The first clause of Article 1, Sect. 10, was altered so as to read, "no State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility."

Mr. GERRY entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts; alleging that Congress ought to be laid under the like prohibitions. He made a motion to that effect. He was not seconded.

Adjourned.

SATURDAY, SEPTEMBER 15TH.

In Convention,—Mr. CARROLL reminded the House that no address to the people had yet been prepared. He considered it of great importance that such an one should accompany the Constitution. The people had been accustomed to such, on great occasions, and would expect it on this. He moved that a committee be appointed for the special purpose of preparing an address.

Mr. RUTLEDGE objected, on account of the delay it would produce, and the impropriety of addressing the people before it was known whether Congress would approve and support the plan. Congress, if an address be thought proper, can prepare as good a one. The members of the Convention can, also, explain the reasons of what has been done to their respective constituents.

Mr. SHERMAN concurred in the opinion that an address was both unnecessary and improper.

On the motion of Mr. CARROLL,—

Pennsylvania, Delaware, Maryland, Virginia, aye —4; New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina,* Georgia, no—6; North Carolina,* absent.

Mr. LANGDON. Some gentlemen have been very uneasy that no increase of the number of Representatives has been admitted. It has in particular been thought, that one more ought to be allowed to North Carolina. He was of opinion that an additional one was due both to that State, and to Rhode Island; and moved to reconsider for that purpose.

* In the printed Journal, North Carolina, no; South Carolina, omitted.

Mr. SHERMAN. When the Committee of eleven reported the appointments, five Representatives were thought the proper share of North Carolina. Subsequent information, however, seemed to entitle that State to another.

On the motion to reconsider,—

New Hampshire, Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—8; Massachusetts, New Jersey, no—2; Pennsylvania, divided.

Mr. LANGDON moved to add one member to each of the representations of North Carolina and Rhode Island.

Mr. KING was against any change whatever, as opening the door for delays. There had been no official proof that the numbers of North Carolina are greater than before estimated, and he never could sign the Constitution, if Rhode Island is to be allowed two members, that is, one-fourth of the number allowed to Massachusetts, which will be known to be unjust.

Mr. PINCKNEY urged the propriety of increasing the number of Representatives allowed to North Carolina.

Mr. BEDFORD contended for an increase in favor of Rhode Island, and of Delaware also.

On the question for allowing two Representatives to Rhode Island, it passed in the negative,—

New Hampshire, Delaware, Maryland, North Carolina, Georgia, aye—5; Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, South Carolina, no—6.

On the question for allowing six to North Carolina, it passed in the negative,—

Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—5; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, no—6.

Article 1, Sect. 10, (the second paragraph) "No State shall, without the consent of Congress, lay imposts or duties on imports or exports; nor with such consent, but to the use of the Treasury of the United States."

In consequence of the proviso moved by Colonel MASON, and agreed to on the 13th of Sept., (Page 1568.) this part of the Section was laid aside in favor of the following substitute, viz: "No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

[redacted]

sideration, viz: "nor keep troops nor ships of war in time of peace, nor enter into any agreement or compact with another State, nor with any foreign power, nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of delay, until Congress can be consulted,"—

Mr. McHENRY and Mr. CARROLL moved, that "no State shall be restrained from laying duties of tonnage for the purpose of clearing harbours and erecting light-houses."

Colonel MASON, in support of this, explained and urged the situation of the Chesapeake, which peculiarly required expenses of this sort.

Mr. GOUVERNEUR MORRIS. The States are not restrained from laying tonnage, as the Constitution now stands. The exception proposed will imply the contrary, and will put the States in a worse condition than the gentleman (Col. MASON) wishes.

Mr. MADISON. Whether the States are now restrained from laying tonnage duties, depends on the extent of the power "to regulate commerce." These terms are vague, but seem to exclude this power of the States. They may certainly be restrained by treaty. He observed that there were other objects for tonnage duties, as the support of seamen, &c. He was more and more convinced that the regulation of commerce was in its nature indivisible, and ought to be wholly under one authority.

Mr. SHERMAN. The power of the United States to regulate trade being supreme, can control interferences of the State regulations, when such inter-

ferences happen; so that there is no danger to be apprehended from a concurrent jurisdiction.

Mr. LANGDON insisted that the regulation of tonnage was an essential part of the regulation of trade, and that the States ought to have nothing to do with it.

On motion, "that no State shall lay any duty on tonnage without the consent of Congress,"—

New Hampshire, Massachusetts, New Jersey, Delaware, Maryland, South Carolina, aye—6; Pennsylvania, Virginia, North Carolina, Georgia, no—4; Connecticut, divided.

The remainder of the paragraph was then remoulded and passed, as follows, viz: "No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

Article 2, Sect. 1, (the sixth paragraph) the words, "or the period for choosing another President arrive," were changed into, "or a President shall be

[redacted]

aye—7; Connecticut, New Jersey, Delaware, North Carolina, no—4.

Article 2, Sect. 2. "He shall have power to grant reprieves and pardons for offences against the United States," &c.

Mr. RANDOLPH moved to except "cases of treason." The prerogative of pardon in these cases was too great a trust. The President may himself be guilty. The traitors may be his own instruments.

Col. MASON supported the motion.

Mr. GOUVERNEUR MORRIS had rather there should be no pardon for treason, than let the power devolve on the Legislature.

Mr. WILSON. Pardon is necessary for cases of treason, and is best placed in the hands of the Executive. If he be himself a party to the guilt, he can be impeached and prosecuted.

Mr. KING thought it would be inconsistent with the constitutional separation of the Executive and Legislative powers, to let the prerogative be exercised by the latter. A legislative body is utterly unfit for the purpose. They are governed too much by the passions of the moment. In Massachusetts, one assembly would have hung all the insurgents in that State: the next was equally disposed to pardon them all. He suggested the expedient of requiring the concurrence of the Senate in acts of pardon.

Mr. MADISON admitted the force of objections to the Legislature, but the pardon of treasons was so peculiarly improper for the President, that he should acquiesce in the transfer of it to the former, rather than leave it altogether in the hands of the latter.

He would prefer to either, an association of the Senate, as a council of advice, with the President.

Mr. RANDOLPH could not admit the Senate into a share of the power. The great danger to liberty lay in a combination between the President and that body.

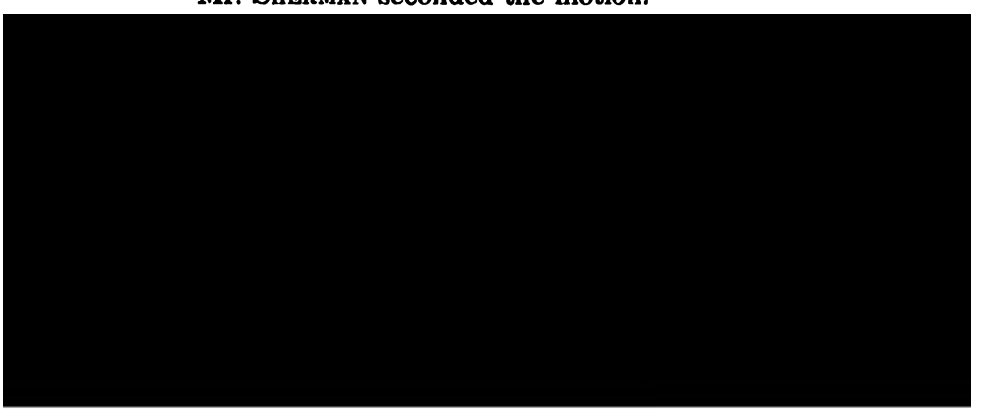
Col. MASON. The Senate has already too much power. There can be no danger of too much lenity in legislative pardons, as the Senate must concur; and the President moreover can require two-thirds of both Houses.

On the motion of Mr. RANDOLPH,—

Virginia, Georgia, aye—2; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, no—8; Connecticut, divided.

Article 2, Section 2, (the second paragraph). To the end of this Mr. GOUVERNEUR MORRIS moved to annex, "but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments."

Mr. SHERMAN seconded the motion.



The motion being lost, by an equal division of votes, it was urged that it be put a second time, some such provision being too necessary to be omitted; and on a second question, it was agreed to, *nem. con.*

Article 2, Sect. 1. The words, "and not *per capita*," were struck out, as superfluous; and the words, "by the Representatives," also, as improper, the choice of President being in another mode, as well as eventually by the House of Representatives.

Article 2, Sect. 2. After the words, "officers of the United States whose appointments are not otherwise provided for," were added the words, "and which shall be established by law."

Article 3, Sect. 2, (the third paragraph.) Mr. PINCKNEY and Mr. GERRY moved to annex to the end, "and a trial by jury shall be preserved as usual in civil cases."

Mr. GORHAM. The constitution of juries is different in different States, and the trial itself is *usual* in different cases, in different States.

Mr. KING urged the same objections.

General PINCKNEY also. He thought such a clause in the Constitution would be pregnant with embarrassments.

The motion was disagreed to, *nem. con.*

Article 4, Sect. 2, (the third paragraph,) the term "legally" was struck out; and the words, "under the laws thereof," inserted after the word "State," in compliance with the wish of some who thought the term *legal* equivocal, and favoring the idea that slavery was legal in a moral view.

Article 4, Sect. 3. "New States may be admitted by the Congress into this Union: but no new State

shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

Mr. GERRY moved to insert, after, "or parts of States," the words, "or a State and part of a State;" which was disagreed to by a large majority; it appearing to be supposed that the case was comprehended in the words of the clause as reported by the Committee.

Article 4, Sect. 4. After the word "Executive," were inserted the words, "when the Legislature cannot be convened."

Article 5. "The Congress, whenever two-thirds of both Houses shall deem necessary, or on the application of two-thirds of the Legislatures of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three-fourths at least of the Legislatures of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of rat-

as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate.

Colonel MASON thought the plan of amending the Constitution exceptionable and dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second ultimately, on Congress, no amendments of the proper kind, would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case.

Mr. GOUVERNEUR MORRIS and Mr. GERRY moved to amend the Article, so as to require a Convention on application of two-thirds of the States.

Mr. MADISON did not see why Congress would not be as much bound to propose amendments applied for by two-thirds of the States, as to call a Convention on the like application. He saw no objection, however, against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum, &c. which in constitutional regulations ought to be as much as possible avoided.

The motion of GOUVERNEUR MORRIS and Mr. GERRY was agreed to, *nem. con.*

Mr. SHERMAN moved to strike out of Article 5, after "legislatures," the words, "of three-fourths," and so after the word "Conventions," leaving future Conventions to act in this matter like the present Convention, according to circumstances.

On this motion,—

Massachusetts, Connecticut, New Jersey, aye—3; Pennsylvania, Delaware, Maryland, Virginia, North

Carolina, South Carolina, Georgia, no—7; New Hampshire, divided.

Mr. GERRY moved to strike out the words, "or by Conventions in three-fourths thereof." On which motion,—

Connecticut, aye—1; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.

Mr. SHERMAN moved, according to his idea above expressed, to annex to the end of the Article a further proviso "that no State shall, without its consent, be affected in its internal police, or deprived of its equal suffrage in the Senate."

Mr. MADISON. Begin with these special provisos, and every State will insist on them, for their boundaries, exports, &c.

On the motion of Mr. SHERMAN,—

Connecticut, New Jersey, Delaware, aye—3; New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—8.

Mr. SHERMAN then moved to strike out Article 5 altogether.

Mr. BREARLY seconded the motion; on which,—

Connecticut, New Jersey, aye—2; New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—8; Delaware, divided.

Mr. GOUVERNEUR MORRIS moved to annex a further proviso, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

This motion, being dictated by the circulating

murmurs of the small States, was agreed to without debate, no one opposing it, or, on the question, saying, no.

Colonel MASON, expressing his discontent at the power given to Congress, by a bare majority to pass navigation acts, which he said would not only enhance the freight, a consequence he did not so much regard, but would enable a few rich merchants in Philadelphia, New York and Boston, to monopolize the staples of the Southern States, and reduce their value perhaps fifty per cent., moved a further proviso, "that no law in the nature of a navigation act be passed before the year 1808, without the consent of two-thirds of each branch of the Legislature. On which motion,—

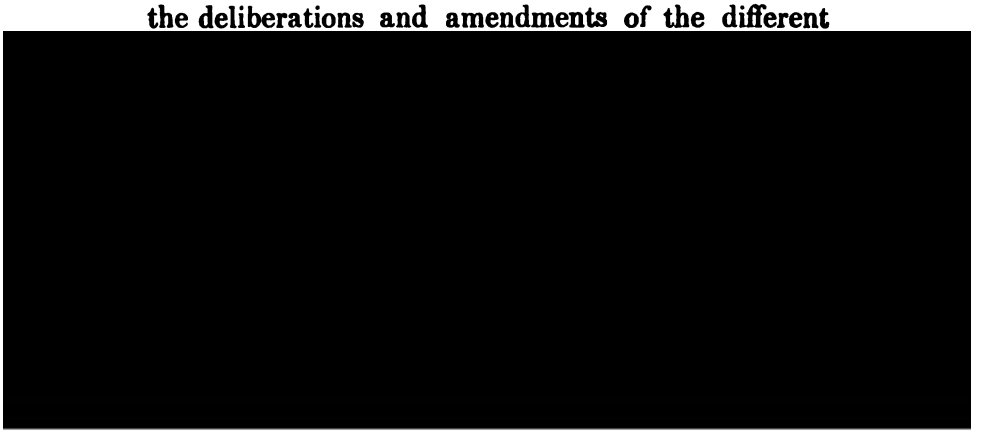
Maryland, Virginia, Georgia, aye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, South Carolina, no—7; North Carolina, absent.

Mr. RANDOLPH, animadverting on the indefinite and dangerous power given by the Constitution to Congress, expressing the pain he felt at differing from the body of the Convention on the close of the great and awful subject of their labors, and anxiously wishing for some accommodating expedient which would relieve him from his embarrassments, made a motion importing, "that amendments to the plan might be offered by the State conventions, which should be submitted to, and finally decided on by, another general convention." Should this proposition be disregarded, it would, he said, be impossible for him to put his name to the instrument. Whether he should oppose it afterwards, he would not then

decide; but he would not deprive himself of the freedom to do so in his own State, if that course should be prescribed by his final judgment.

Col. MASON seconded and followed Mr. RANDOLPH in animadversions on the dangerous power and structure of the Government, concluding that it would end either in monarchy, or a tyrannical aristocracy; which, he was in doubt, but one or other, he was sure. This Constitution had been formed without the knowledge or idea of the people. A second convention will know more of the sense of the people, and be able to provide a system more consonant to it. It was improper to say to the people, take this or nothing. As the Constitution now stands, he could neither give it his support or vote in Virginia; and he could not sign here what he could not support there. With the expedient of another Convention, as proposed, he could sign.

Mr. PINCKNEY. These declarations from members so respectable, at the close of this important scene, give a peculiar solemnity to the present moment. He descanted on the consequences of calling forth the deliberations and amendments of the different



the power of a majority, only, of Congress, over commerce. But apprehending the danger of a general confusion, and an ultimate decision by the sword, he should give the plan his support.

Mr. GERRY stated the objections which determined him to withhold his name from the Constitution: 1, the duration and re-eligibility of the Senate; 2, the power of the House of Representatives to conceal their Journals; 3, the power of Congress over the places of election; 4, the unlimited power of Congress over their own compensation; 5, that Massachusetts has not a due share of representatives allotted to her; 6, that three-fifths of the blacks are to be represented, as if they were freemen; 7, that under the power over commerce, monopolies may be established; 8, the Vice President being made head of the Senate. He could, however, he said, get over all these, if the rights of the citizens were not rendered insecure—first, by the general power of the Legislature to make what laws they may please to call "necessary and proper;" secondly, to raise armies and money without limit; thirdly, to establish a tribunal without juries, which will be a Star Chamber as to civil cases. Under such a view of the Constitution, the best that could be done, he conceived, was to provide for a second general Convention.[389]

On the question, on the proposition of Mr. RANDOLPH, all the States answered, no.

On the question to agree to the Constitution, as amended, all the States, aye.

The Constitution was then ordered to be engrossed, and the House

Adjourned.

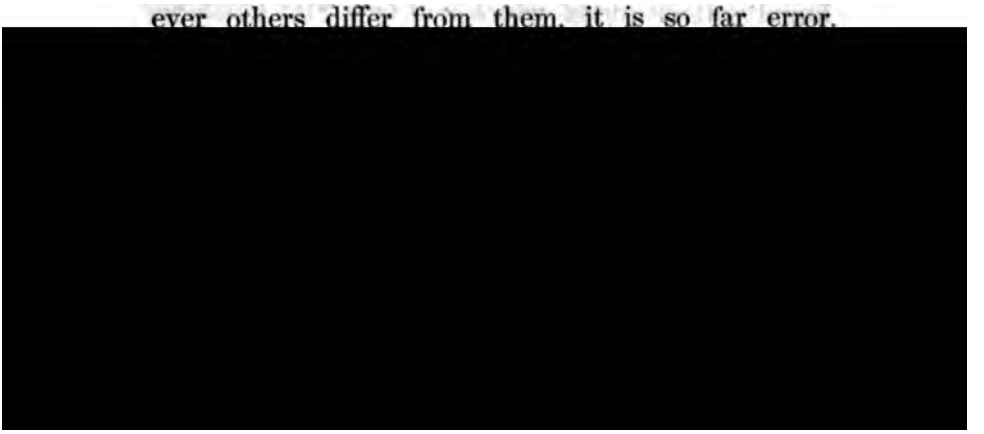
MONDAY, SEPTEMBER 17TH.

In Convention,—The engrossed Constitution being read,—

Doctor FRANKLIN rose with a speech in his hand, which he had reduced to writing for his own convenience, and which Mr. WILSON read in the words following:—

"Mr. PRESIDENT:

"I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them. For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that, the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men, indeed, as well as most sects in religion, think themselves in possession of all truth, and that wherever others differ from them, it is so far error.



that is always in the right—*il n'y a que moi qui a toujours raison.*'

"In these sentiments, sir, I agree to this Constitution, with all its faults, if they are such; because I think a General Government necessary for us, and there is no form of government, but what may be a blessing to the people if well administered; and believe further, that this is likely to be well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other. I doubt, too, whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded, like those of the builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, sir, to this Constitution, because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If

every one of us, in returning to our constituents, were to report the objections he has had to it, and endeavour to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign nations as well as among ourselves, from our real or apparent unanimity. Much of the strength and efficiency of any government, in procuring and securing happiness to the people, depends on opinion—on the general opinion of the goodness of the government, as well as of the wisdom and integrity of its governors. I hope, therefore, that for our own sakes, as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress and confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts and endeavours to the means of having it well administered.

"On the whole, sir, I cannot help expressing a wish that every member of the Convention, who may still have objections to it, would with me, on

members, and put into the hands of Doctor FRANKLIN, that it might have the better chance of success.

Mr. GORHAM said, if it was not too late, he could wish, for the purpose of lessening objections to the Constitution, that the clause, declaring that "the number of Representatives shall not exceed one for every forty thousand," which had produced so much discussion, might be yet reconsidered, in order to strike out "forty thousand," and insert "thirty thousand." This would not, he remarked, establish that as an absolute rule, but only give Congress a greater latitude, which could not be thought unreasonable.

Mr. KING and Mr. CARROLL seconded and supported the ideas of Mr. GORHAM.

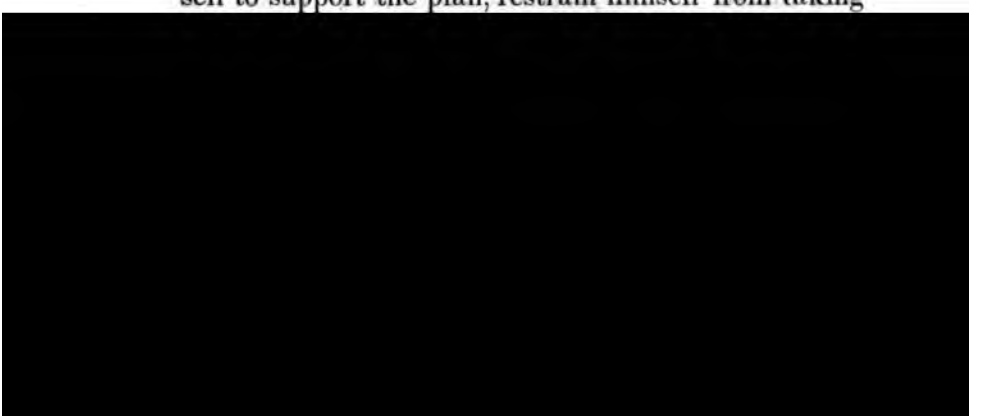
When the President rose, for the purpose of putting the question, he said, that although his situation had hitherto restrained him from offering his sentiments on questions depending in the House, and, it might be thought, ought now to impose silence on him, yet he could not forbear expressing his wish that the alteration proposed might take place. It was much to be desired that the objections to the plan recommended might be made as few as possible. The smallness of the proportion of Representatives had been considered, by many members of the Convention an insufficient security for the rights and interests of the people. He acknowledged that it had always appeared to himself among the exceptionable parts of the plan; and late as the present moment was for admitting amendments, he thought

this of so much consequence, that it would give him much satisfaction to see it adopted.*

No opposition was made to the proposition of Mr. GORHAM, and it was agreed to unanimously.

On the question to agree to the Constitution, enrolled, in order to be signed, it was agreed to, all the *States* answering, aye.

Mr. RANDOLPH then rose, and with an allusion to the observations of Doctor FRANKLIN, apologized for his refusing to sign the Constitution, notwithstanding the vast majority and venerable names that would give sanction to its wisdom and its worth. He said, however, that he did not mean by this refusal to decide that he should oppose the Constitution without doors. He meant only to keep himself free to be governed by his duty, as it should be prescribed by his future judgment. He refused to sign, because he thought the object of the Convention would be frustrated by the alternative which it presented to the people. Nine States will fail to ratify the plan, and confusion must ensue. With such a view of the subject he ought not, he could not, by pledging himself to support the plan, restrain himself from taking



moment this plan goes forth, all other considerations will be laid aside, and the great question will be, shall there be a National Government, or not? and this must take place, or a general anarchy will be the alternative. He remarked that the signing, in the form proposed, related only to the fact that *the States* present were unanimous.

Mr. WILLIAMSON suggested that the signing should be confined to the letter accompanying the Constitution to Congress, which might perhaps do nearly as well, and would be found satisfactory to some members* who disliked the Constitution. For himself he did not think a better plan was to be expected, and had no scruples against putting his name to it.

Mr. HAMILTON expressed his anxiety that every member should sign. A few characters of consequence, by opposing, or even refusing to sign the Constitution, might do infinite mischief, by kindling the latent sparks that lurk under an enthusiasm in favor of the Convention which may soon subside. No man's ideas were more remote from the plan than his own were known to be; but is it possible to deliberate between anarchy and convulsion on one side, and the chance of good to be expected from the plan on the other?

Mr. BLOUNT said, he had declared that he would not sign so as to pledge himself in support of the plan, but he was relieved by the form proposed, and would, without committing himself, attest the fact

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* He alluded to Mr. Blount for one.

that the plan was the unanimous act of the States in Convention.

Doctor FRANKLIN expressed his fears, from what Mr. RANDOLPH had said, that he thought himself alluded to in the remarks offered this morning to the House. He declared, that, when drawing up that paper, he did not know that any particular member would refuse to sign his name to the instrument, and hoped to be so understood. He possessed a high sense of obligation to Mr. RANDOLPH for having brought forward the plan in the first instance, and for the assistance he had given in its progress; and hoped that he would yet lay aside his objections, and, by concurring with his brethren, prevent the great mischief which the refusal of his name might produce.

Mr. RANDOLPH could not but regard the signing in the proposed form, as the same with signing the Constitution. The change of form, therefore, could make no difference with him. He repeated, that, in refusing to sign the Constitution, he took a step which might be the most awful of his life; but it was dictated by his conscience, and it was not possible for him to hesitate—much less, to change. He

was depending, he had treated it with all the freedom he thought it deserved. He now felt himself bound, as he was disposed, to treat it with the respect due to the act of the Convention. He hoped he should not violate that respect in declaring, on this occasion, his fears that a civil war may result from the present crisis of the United States. In Massachusetts, particularly, he saw the danger of this calamitous event. In that State there are two parties, one devoted to Democracy, the worst, he thought, of all political evils; the other as violent in the opposite extreme. From the collision of these in opposing and resisting the Constitution, confusion was greatly to be feared. He had thought it necessary, for this and other reasons, that the plan should have been proposed in a more mediating shape, in order to abate the heat and opposition of parties. As it had been passed by the Convention, he was persuaded it would have a contrary effect. He could not, therefore, by signing the Constitution, pledge himself to abide by it at all events. The proposed form made no difference with him. But if it were not otherwise apparent, the refusals to sign should never be known from him. Alluding to the remarks of Doctor FRANKLIN, he could not, he said, but view them as levelled at himself and the other gentlemen who meant not to sign.

General PINKCKNEY. We are not likely to gain many converts by the ambiguity of the proposed form of signing. He thought it best to be candid, and let the form speak the substance. If the meaning of the signers be left in doubt, his purpose would not be answered. He should sign the constitution with

a view to support it with all his influence, and wished to pledge himself accordingly.

Doctor FRANKLIN. It is too soon to pledge ourselves, before Congress and our constituents shall have approved the plan.

Mr. INGERSOLL did not consider the signing, either as a mere attestation of the fact, or as pledging the signers to support the Constitution at all events; but as a recommendation of what, all things considered, was the most eligible.

On the motion of Doctor FRANKLIN,—

New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, aye—10; South Carolina, divided.*

Mr. KING suggested that the Journals of the Convention should be either destroyed, or deposited in the custody of the President. He thought, if suffered to be made public, a bad use would be made of them by those who would wish to prevent the adoption of the Constitution.

Mr. WILSON preferred the second expedient. He had at one time liked the first best; but as false sug-

Carolina, South Carolina, Georgia, aye—10; Maryland,* no—1.

The President having asked, what the Convention meant should be done with the Journals, &c. whether copies were to be allowed to the members, if applied for, it was resolved, *nem. con.* "that he retain the Journal and other papers, subject to the order of Congress, if ever formed under the Constitution."

The members then proceeded to sign the Constitution, as finally amended, as follows:

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I.

Sect. 1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sect. 2. The House of Representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

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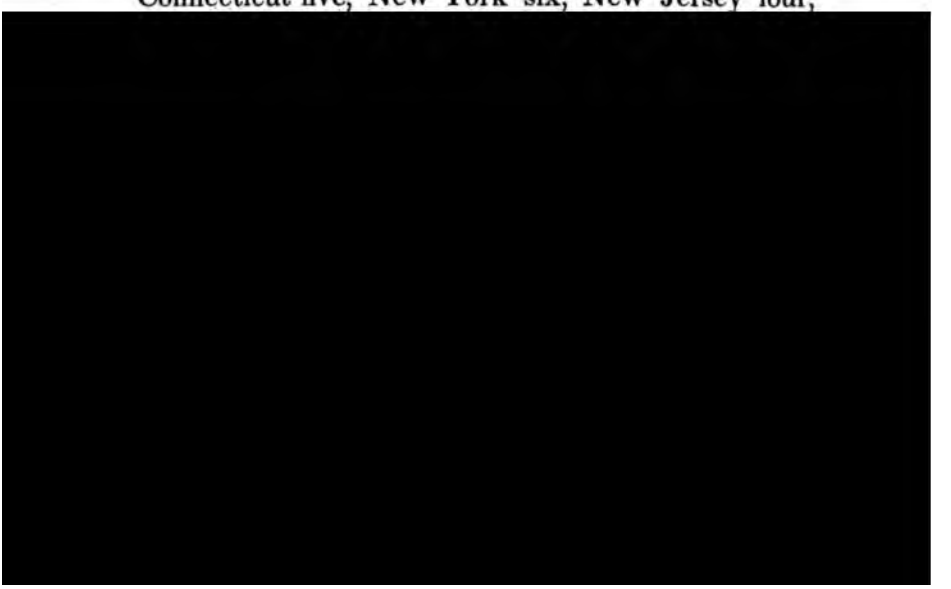
* This negative of Maryland was occasioned by the language of the instructions to the Deputies of that State, which required them to report to the State the *proceedings* of the Convention.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts, eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four,



composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted with-

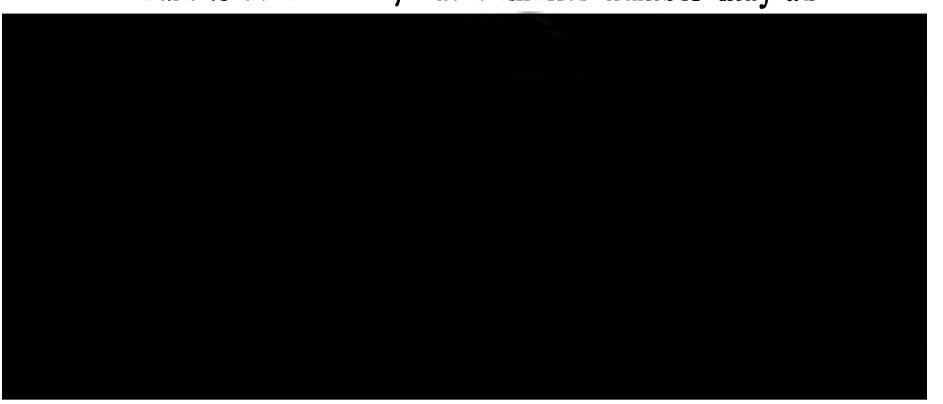
out the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Sect. 4. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sect. 5. Each House shall be the judge of the elections, returns, and qualifications, of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may ad-



ing such parts as may in their judgment, require secresy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the Journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Sect. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

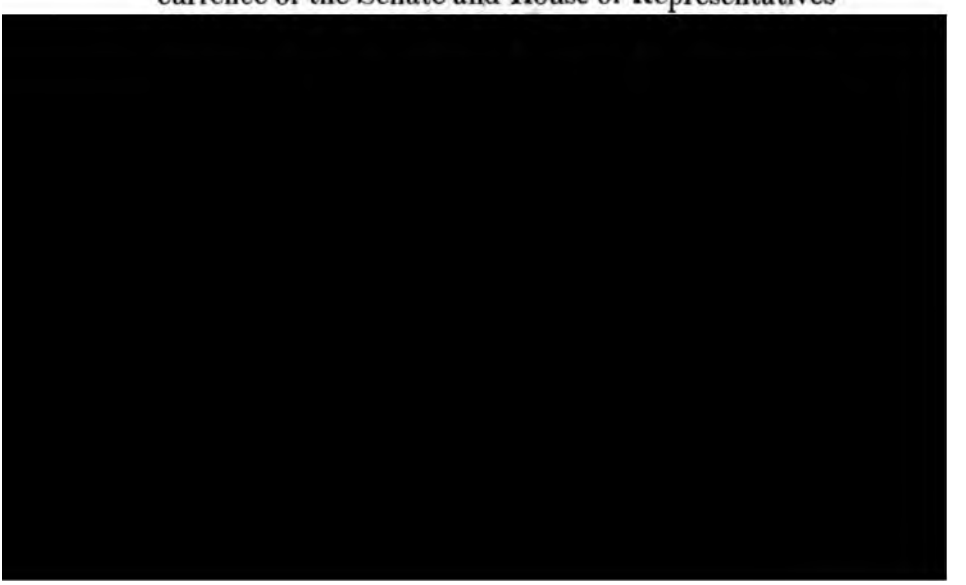
No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

Sect. 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it be-

come a law, be presented to the President of the United States. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives



* To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the Supreme Court:

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* That "To lay and collect taxes, duties, imposts, and excises," ought not to be a separate clause from "to pay the debts," &c.; see in the printed Journal of the Convention, the report of the Committee of Eleven, September 4th—also copy of the draft of the Constitution as it stood Sept. 12th, printed by the Convention for the use of the members, now in the Department of State—also copy of the Constitution, as agreed to and signed, printed in sheets at the close of the Convention. The proviso "but all duties, imposts, and excises, shall be uniform," &c., by its immediate reference, suggests the same view of the text. [371]

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States—reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

To exercise exclusive legislation in all cases whatsoever, over such district, (not exceeding ten miles square,) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings:—and,

To make all laws which shall be necessary and

proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Sect. 9. The migration or importation of such persons as any of the States, now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder, or ex post facto law, shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to or from one State, be obliged to enter, clear, or pay duties in another.

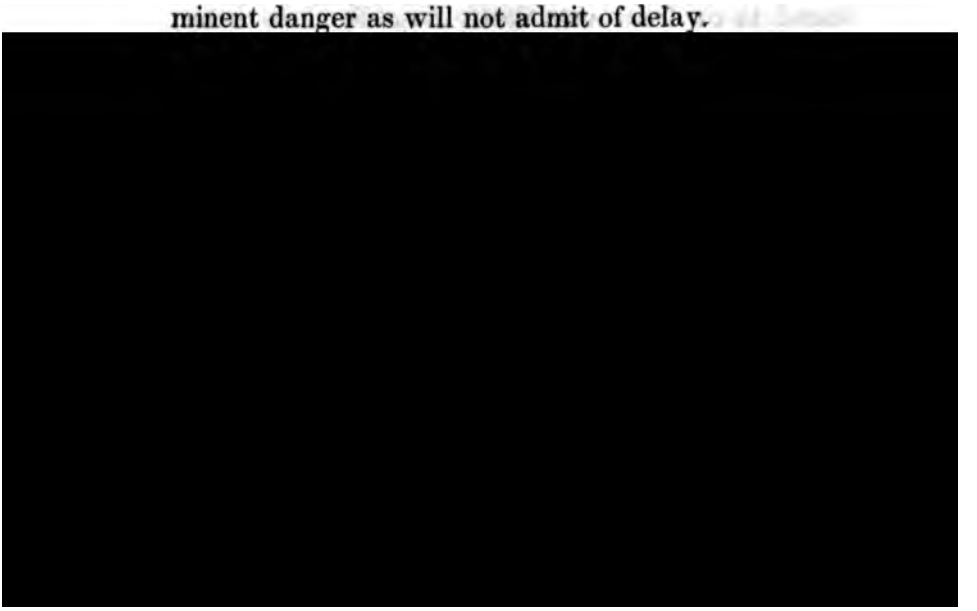
No money shall be drawn from the Treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument,

office, or title of any kind whatever, from any king, prince, or foreign State.

Sect. 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States, and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power; or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.



equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding any office of trust or profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors,

shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President, neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend, the Constitution of the United States."

Sect. 2. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

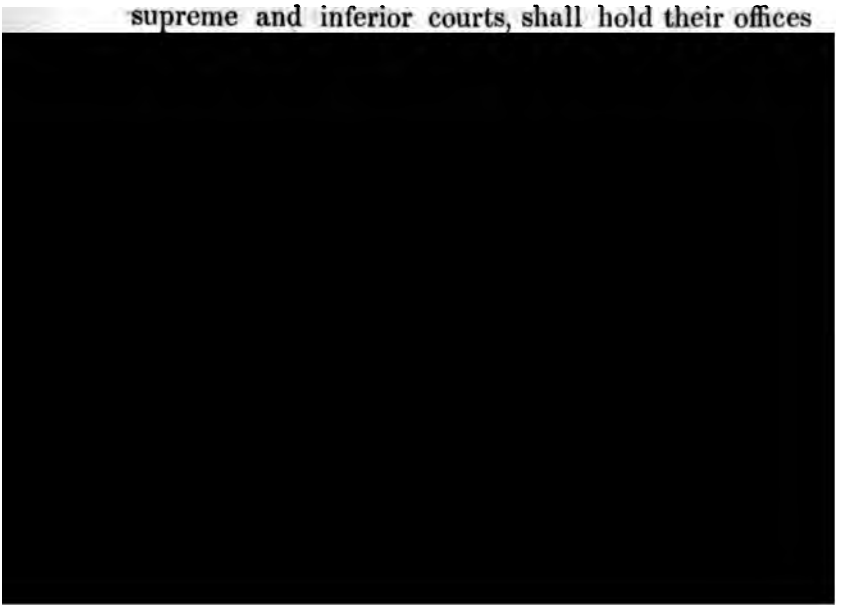
Sect. 3. He shall, from time to time, give to the

Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

Sect. 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III.

Sect. 1. The Judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices



time jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State, claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Sect. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

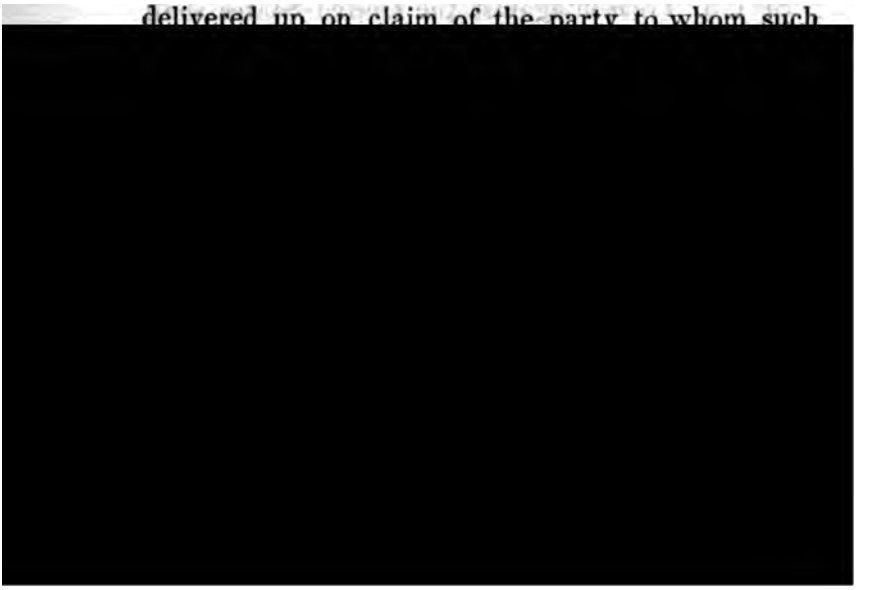
Article IV.

Sect. 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

Sect. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such



territory or other property belonging to the United States: and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Sect. 4. The United States, shall guarantee to every State in this Union, a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature or of the Executive, (when the Legislature cannot be convened,) against domestic violence.

Article V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided, that no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall

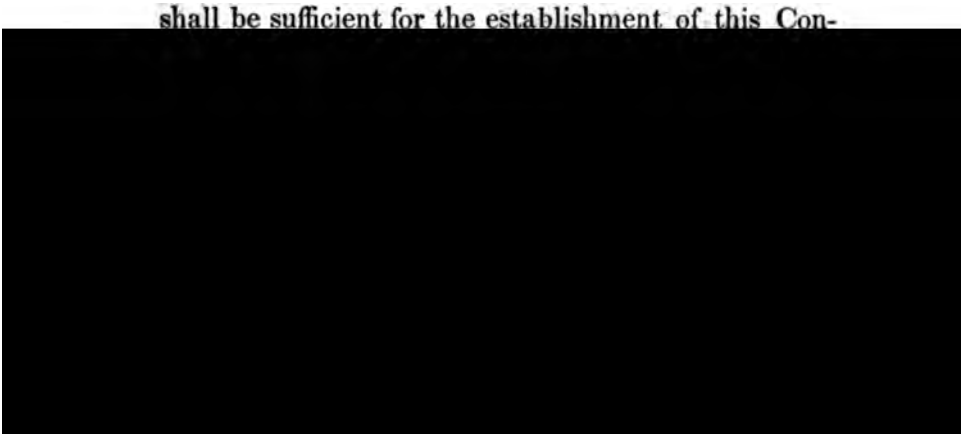
be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby; any thing in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives beforementioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath, or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Con-



New Hampshire.
JOHN LANGDON,
NICHOLAS GILMAN.

Massachusetts.
NATHANIEL GORHAM,
RUFUS KING.

Connecticut.
WILLIAM SAMUEL JOHNSON,
ROGER SHERMAN.

New York.
ALEXANDER HAMILTON.

New Jersey.
WILLIAM LIVINGSTON,
DAVID BREARLY,
WILLIAM PATTERSON,
JONATHAN DAYTON.

Pennsylvania.
BENJAMIN FRANKLIN,
THOMAS MIFFLIN,
ROBERT MORRIS,
GEORGE CLYMER,
THOMAS FITZSIMONS.
JARED INGERSOLL,
JAMES WILSON,
GOUVERNEUR MORRIS.

Delaware.
GEORGE READ,
GUNNING BEDFORD, Jr.,
JOHN DICKINSON,
RICHARD BASSETT,
JACOB BROOME.

Maryland.
JAMES MCHENRY,
DANIEL of St. THOMAS JENIFER,
DANIEL CARROLL.

Virginia.
JOHN BLAIR,
JAMES MADISON, Jr.

North Carolina.
WILLIAM BLOUNT,
RICHARD DOBBS SPAIGHT,
HUGH WILLIAMSON.

South Carolina.
JOHN RUTLEDGE,
CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

Georgia.
WILLIAM FEW.
ABRAHAM BALDWIN.

Attest:
WILLIAM JACKSON, *Secretary.*

The Constitution being signed by all the members, except Mr. RANDOLPH, Mr. MASON and Mr. GERRY, who declined giving it the sanction of their names, the Convention dissolved itself by an adjournment sine die.[372]

Whilst the last members were signing, Doctor FRANKLIN, looking towards the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art, a rising, from a setting, sun. I have, said he, often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting: but now at length, I have the happiness to know, that it is a rising, and not a setting sun.

APPENDIX

TO THE

DEBATES IN THE FEDERAL CONVENTION.

APPENDIX

TO THE

DEBATES IN THE FEDERAL CONVENTION.

NO. 1.

See Page 727.

LETTER FROM JAMES M. VARNUM, OF RHODE ISLAND, TO THE PRESIDENT OF THE CONVENTION, ENCLOSING THE SUBJOINED COMMUNICATION, FROM CERTAIN CITIZENS OF RHODE ISLAND, TO THE FEDERAL CONVENTION.

NOTE.—The following letter from Rhode Island to the Convention, was intended to have been delivered by General VARNUM, who had, however, left Philadelphia before its arrival. On his return to Rhode Island, he wrote the letter enclosing it.

NEWPORT, JUNE 18TH, 1787.

SIR,

THE enclosed address, of which I presume your Excellency has received a duplicate, was returned to me, from New York, after my arrival in this State. I flattered myself that our Legislature, which convened on Monday last, would have receded from the resolution therein referred to, and have complied with the recommendation of Congress in sending delegates to the Federal Convention. The upper House, or Governor and Council, embraced the measure; but it was negatived in the House of Assembly by a large majority, notwithstanding that the greatest exertions were made to support it.

Being disappointed in their expectations, the minority in the administration, and all the worthy citizens of this State whose minds are well informed, regretting the peculiarities of their situation, place their fullest confidence in the wisdom and moderation of the National Council, and indulge the warmest hopes of being favorably considered in their deliberations. From these deliberations they anticipate a political system which must finally be adopted, and from which will result the safety, the honor and the happiness of the United States.

Permit me, Sir, to observe, that the measures of our present Legislature do not exhibit the real character of the State. They are equally reprobated and abhorred by gentlemen of the learned professions, by the whole mercantile body, and by most of the respectable farmers and mechanics. The majority of the administration is composed of a licentious number of men, destitute of education, and many of them void of principle. From anarchy and confusion they derive their temporary consequence; and this they endeavour to pro-

long by debauching the minds of the common people, whose attention is wholly directed to the abolition of debts, public and private. With these are associated the disaffected of every description, particularly those who were unfriendly during the war. Their paper-money system, founded in oppression and fraud, they are determined to support at every hazard; and rather than relinquish their favorite pursuit, they trample upon the most sacred obligations. As a proof of this they refused to comply with a requisition of Congress for repealing all laws repugnant to the treaty of peace with Great Britain; and urged as their principal reason, that it would be calling in question the propriety of their former measures.

These may be attributed partly to the extreme freedom of our Constitution, and partly to the want of energy in the Federal Union; and it is greatly to be apprehended that they cannot speedily be removed, but by uncommon and very serious exertions. It is fortunate, however, that the wealth and resources of this State are chiefly in possession of the well affected, and that they are entirely devoted to the public good.

I have the honor of being, Sir,
with the greatest veneration and esteem,
your Excellency's very obedient and
most humble servant,*

His Excellency, Gen. WASHINGTON.

LETTER FROM CERTAIN CITIZENS OF RHODE ISLAND TO THE FEDERAL CONVENTION, ENCLOSED IN THE PRECEDING.

PROVIDENCE, MAY 11TH, 1787.

GENTLEMEN,

Since the Legislature of this State have finally declined sending Delegates to meet you in Convention for the purposes mentioned

It is the general opinion here, and, we believe, of the well informed throughout this State, that full power for the regulation of the commerce of the United States, both foreign and domestic, ought to be vested in the national council. And that effectual arrangements should also be made for giving operation to the present powers of Congress in their requisitions for national purposes.

As the object of this letter is chiefly to prevent any impression unfavorable to the commercial interest of the State, from taking place in our sister States, from the circumstance of our being unrepresented in the present National Convention, we shall not presume to enter into any detail of the objects we hope your deliberations will embrace, and provide for; being convinced they will be such as have a tendency to strengthen the union, promote the commerce, increase the power, and establish the credit of the United States.

The result of your deliberations, tending to these desirable purposes, we still hope may finally be approved and adopted by this State, for which we pledge our influence and best exertions.

[* This will be delivered you by the Hon. JAMES M. VARNUM, Esq. who will communicate (with your permission) in person, more particularly our sentiments on the subject matter of our address.]

In behalf of the merchants, tradesmen, &c. we have the honor, &c. &c. (signed)

JOHN BROWN,
JOSEPH NIGHTINGALE,
LEVI HALL,
PHILIP ALLEN,
PAUL ALLEN,
JABEZ BOWEN,
NICHOLAS BROWN,
JOHN JINKES,
WELCOME ARNOLD,
WILLIAM RUSSELL,
JEREMIAH OLNEY,
WILLIAM BARTON,
THOMAS LLOYD HALSEY,
Committee.

The Honorable the Chairman of the
General Convention, Philadelphia.

NO. 2.

See Page 735.

NOTE OF MR. MADISON TO THE PLAN OF CHARLES PINCKNEY, MAY 29, 1787

The length of the document laid before the Convention, and other circumstances, having prevented the taking of a copy at the time, that

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* This paragraph was in the letter enclosed by General VARNUM, but not in the duplicate alluded to by his letter.

which is inserted in the Debates was taken from the paper furnished to the Secretary of State, and contained in the Journal of the Convention, published in 1819; which, it being taken for granted, that it was a true copy, was not then examined. The coincidence in several instances between that and the Constitution as adopted, having attracted the notice of others, was at length suggested to mine. On comparing the paper with the Constitution in its final form, or in some of its stages, and with the propositions and speeches of Mr. PINCKNEY in the Convention, it was apparent that considerable error had crept into the paper, occasioned possibly by the loss of the document laid before the Convention, (neither that nor the Resolution offered by Mr. PATTERSON, being among the preserved papers), and by a consequent resort for a copy to the rough draught, in which erasures and interlineations, following what passed in the Convention, might be confounded, in part at least, with the original text, and after a lapse of more than thirty years, confounded also in the memory of the author.

There is in the paper a similarity in some cases, and an identity in others, with details, expressions and definitions, the results of critical discussions and modification in the Convention, that could not have been anticipated.

Examples may be noticed in Article VIII. of the paper; which is remarkable also for the circumstance, that whilst it specifies the functions of the President, no provision is contained in the paper for the election of such an officer, nor indeed for the appointment of any Executive magistracy, notwithstanding the evident purpose of the author to provide an *entire* plan of a Federal Government.

Again, in several instances where the paper corresponds with the Constitution, it is at variance with the ideas of Mr. PINCKNEY, as decidedly expressed in his propositions, and in his arguments, the former in the Journal of the Convention, the latter in the Report of its Debates. Thus, in Article VIII. of the paper, provision is made for removing the President by impeachment, when it appears that in the Convention, on the twentieth of July, he was opposed to any impeachibility of the executive magistrate. In Article III., it is required that all money bills shall originate in the first branch of the Legislature; which he strenuously opposed on the eighth of August, and again, on the eleventh of August. In Article V., members of each House are made ineligible to, as well as incapable of holding any office under the Union, &c. as was the case at one stage of the Constitution, a disqualification highly disapproved and opposed by him on the fourteenth of August.

A still more conclusive evidence of error in the paper is seen in

Article III., which provides, as the Constitution does, that the first branch of the Legislature shall be chosen by the people of the several States; whilst it appears, that on the sixth of June, according to previous notice too, a few days only after the draft was laid before the Convention, its author opposed that mode of choice, urging and proposing, in place of it, an election by the Legislatures of the several States.

The remarks here made, though not material in themselves, were due to the authenticity and accuracy aimed at in this record of the proceedings of a public body so much an object, sometimes, of curious research, as at all times of profound interest.*

NO. 3.

PROJECT COMMUNICATED BY MR. E. RANDOLPH, JULY 10th, AS AN ACCOMMODATING PROPOSITION TO SMALL STATES.

See Page 1110.

I. Resolved, that in the second branch each State have one vote in the following cases:

1. In granting exclusive rights to ports.
2. In subjecting vessels or seamen of the United States to tonnage duties, or other impositions.
3. In regulating the navigation of rivers.
4. In regulating the rights to be enjoyed by citizens of one State in the other States.
5. In questions arising in the guarantee of territory.
6. In declaring war, or taking measures for subduing a rebellion.
7. In regulating corn.
8. In establishing and regulating the post office.
9. In the admission of new States into the Union.

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* Striking discrepancies will be found on a comparison of his plan, as furnished to Mr. ADAMS, and the view given of that which was laid before the Convention, in a pamphlet published by Francis Childs, at New York, shortly after the close of the Convention. The title of the pamphlet is: "Observations on the plan of government submitted to the Federal Convention on the twenty-eighth of May, 1789, by CHARLES PINCKNEY, &c." A copy is preserved among the "Select Tracts," in the Library of the Historical Society of New York. But what conclusively proves that the choice of the House of Representatives by the people could not have been the choice in the lost paper, is a letter from Mr. PINCKNEY to JAMES MADISON, of the twenty-eighth of March, 1789, now on his files, in which he emphatically adheres to a choice by the State Legislatures. The following is an extract: "Are you not, to use a full expression, abundantly convinced that the theoretical nonsense of an election of the members of Congress by the people, in the first instance, is clearly and practically wrong—that it will in the end be the means of bringing our councils into contempt—and that the Legislatures [of the States] are the only proper judges of who ought to be elected?"

10. In establishing rules for the government of the militia.

11. In raising a regular army.

12. In the appointment of the Executive.

13. In fixing the seat of government.

That in all other cases the right of suffrage be proportioned according to an equitable rule of representation.

II. That for the determination of certain important questions in the second branch, a greater number of votes than a mere majority be requisite.

III. That the people of each State ought to retain the perfect right of adopting from time to time such forms of republican government as to them may seem best, and of making all laws not contrary to the Articles of Union; subject to the supremacy of the General Government in those instances only in which that supremacy shall be expressly declared by the Articles of the Union.

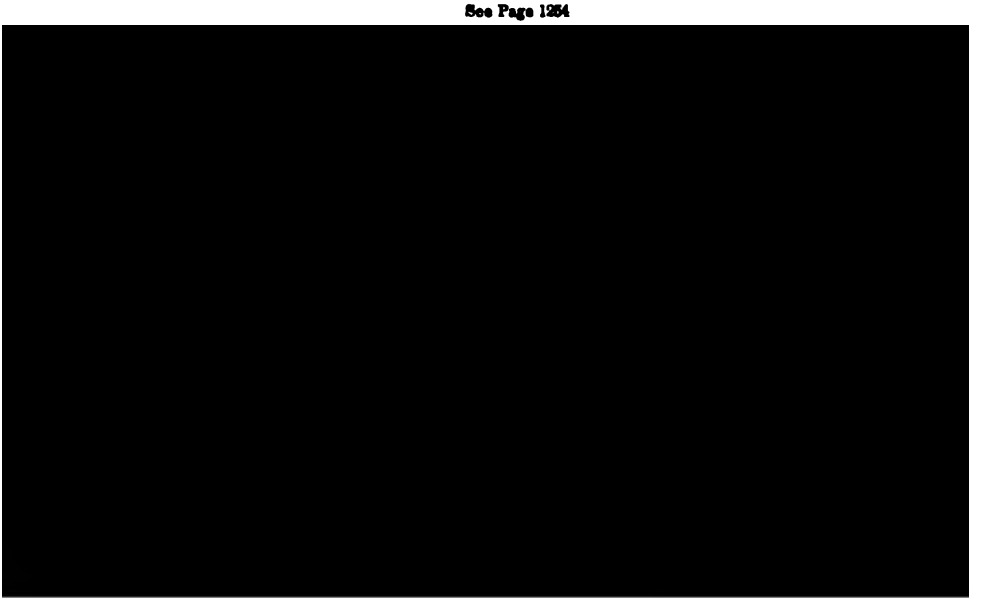
IV. That although every negative given to the law of a particular State shall prevent its operation, any State may appeal to the National Judiciary against a negative; and that such negative, if adjudged to be contrary to the powers granted by the Articles of the Union, shall be void.

V. That any individual conceiving himself injured or oppressed by the partiality or injustice of a law of any particular State, may resort to the National Judiciary; who may adjudge such law to be void, if found contrary to the principles of equity and justice.

NO. 4.

NOTE TO SPEECH OF MR. MADISON OF AUGUST 7, 1787, ON THE RIGHT OF POPULAR SUFFRAGE.

See Page 1254



tional modifications, favouring the influence of property in the Government. But the United States have not reached the stage of society in which conflicting feelings of the class with, and the class without, property, have the operation natural to them in countries fully peopled. The most difficult of all political arrangements is that of so adjusting the claims of the two classes as to give security to each, and to promote the welfare of all. The federal principle, which enlarges the sphere of power without departing from the elective basis of it, and controls in various ways the propensity in small republics to rash measures, and the facility of forming and executing them, will be found the best expedient yet tried for solving the problem.

SECOND NOTE TO SPEECH OF MR. MADISON OF AUGUST 7th. 1787, FOUND AMONG HIS PAPERS.

These observations (see Debates in the Convention of 1787, August 7th) do not convey the speaker's more full and matured view of the subject, which is subjoined. He felt too much at the time the example of Virginia.

The right of suffrage is a fundamental article in republican constitutions. The regulation of it is, at the same time, a task of peculiar delicacy. Allow the right exclusively to property, and the rights of persons may be oppressed. The feudal polity alone sufficiently proves it. Extend it equally to all, and the rights of property, or the claims of justice, may be overruled by a majority without property, or interested in measures of injustice. Of this abundant proof is afforded by other popular governments; and is not without examples in our own, particularly in the laws impairing the obligation of contracts.

In civilized communities, property as well as personal rights is an essential object of the laws, which encourage industry by securing the enjoyment of its fruits,—that industry from which property results, and that enjoyment which consists, not merely in its immediate use, but in its posthumous destination to objects of choice and of kindred or affection.

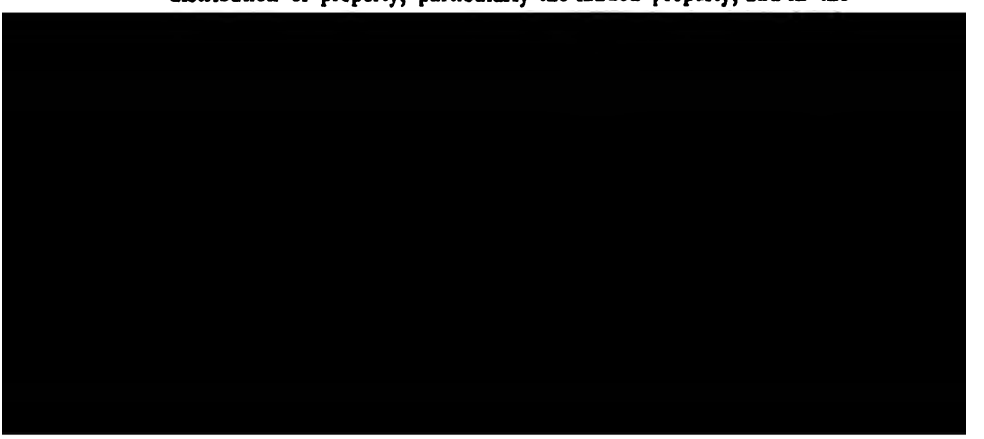
In a just and a free government, therefore, the rights both of property and of persons ought to be effectually guarded. Will the former be so in case of a universal and equal suffrage? Will the latter be so in case of a suffrage confined to the holders of property?

As the holders of property have at stake all the other rights common to those without property, they may be the more restrained from infringing, as well as the less tempted to infringe, the rights of the latter. It is nevertheless certain that there are various ways in which the rich may oppress the poor; in which property may oppress liberty;

and that the world is filled with examples. It is necessary that the poor should have a defence against the danger.

On the other hand, the danger to the holders of property cannot be disguised, if they be undefended against a majority without property. Bodies of men are not less swayed by interest than individuals, and are less controlled by the dread of reproach and the other motives felt by individuals. Hence the liability of the rights of property, and of the impartiality of laws affecting it, to be violated by Legislative majorities having an interest, real or supposed, in the injustice—hence agrarian laws, and other levelling schemes—hence the cancelling or evading of debts, and other violations of contracts. We must not shut our eyes to the nature of man, nor to the light of experience. Who would rely on a fair decision from three individuals if two had an interest in the case opposed to the rights of the third? Make the number as great as you please, the impartiality will not be increased, nor any further security against injustice be obtained, than what may result from the greater difficulty of uniting the wills of a greater number. In all governments there is a power which is capable of oppressive exercise. In monarchies and aristocracies oppression proceeds from a want of sympathy and responsibility in the government towards the people. In popular governments the danger lies in an undue sympathy among individuals composing a majority, and a want of responsibility in the majority to the minority. The characteristic excellence of the political system of the United States arises from a distribution and organization of its powers, which, at the same time that they secure the dependence of the Government on the will of the nation, provide better guards than are found in any other popular government against interested combinations of a majority against the rights of a minority.

The United States have a precious advantage, also, in the actual distribution of property, particularly the landed property, and in the



suffrage, vesting complete power over property in hands without a share in it—not to speak of a danger in the meantime from a dependence of an increasing number on the wealth of a few? In other countries this dependence results, in some from the relations between landlords and tenants, in others both from that source and from the relations between wealthy capitalists and indigent laborers. In the United States the occurrence must happen from the last source; from the connection between the great capitalists in manufactures and commerce, and the numbers employed by them. Nor will accumulations of capital for a certain time be precluded by our laws of descent and of distribution; such being the enterprise inspired by free institutions, that great wealth in the hands of individuals and associations may not be unfrequent. But it may be observed, that the opportunities may be diminished, and the permanency defeated, by the equalizing tendency of our laws.

No free country has ever been without parties, which are a natural offspring of freedom. An obvious and permanent division of every people is into the owners of the soil and the other inhabitants. In a certain sense the country may be said to belong to the former. If each landholder has an exclusive property in his share, the body of landholders have an exclusive property in the whole. As the soil becomes subdivided, and actually cultivated by the owners, this view of the subject derives force from the principle of natural law which vests in individuals an exclusive right to the portions of ground with which they have incorporated their labor and improvements. Whatever may be the rights of others, derived from their birth in the country, from their interest in the highways and other tracts left open for common use, as well as in the national edifices and monuments; from their share in the public defence, and from their concurrent support of the Government, it would seem unreasonable to extend the right so far as to give them, when become the majority, a power of legislation over the landed property without the consent of the proprietors. Some shield against the invasion of their rights would not be out of place in a just and provident system of government. The principle of such an arrangement has prevailed in all governments where peculiar privileges or interests, held by a part, were to be secured against violation; and in the various associations where pecuniary or other property forms the stake. In the former case a defensive right has been allowed; and if the arrangement be wrong, it is not in the defence, but in the kind of privilege to be defended. In the latter case the shares of suffrage allotted to individuals have been, with acknowledged justice, apportioned more or less to their respective interests in the common stock.

These reflections suggest the expediency of such a modification of government as would give security to the part of the society having most at stake, and being most exposed to danger. These modifications present themselves.

1. *Confining* the right of suffrage to freeholders, and to such as hold an equivalent property, convertible of course into freeholds. The objection to this regulation is obvious. It violates the vital principle of free government, that those who are to be bound by laws ought to have a voice in making them. And the violation would be more strikingly unjust as the law makers become the minority. The regulation would be as unpropitious, also, as it would be unjust. It would engage the numerical and physical force in a constant struggle against the public authority, unless kept down by a standing army fatal to all parties.

2. Confining the right of suffrage for one branch to the holders of property, and for the other branch to those without property. This arrangement, which would give a mutual defence, where there might be mutual danger of encroachment, has an aspect of equality and fairness. But it would not be in fact either equal or fair, because the rights to be defended would be unequal, being on one side those of property as well as of persons, and on the other those of persons only. The temptation, also, to encroach, though in a certain degree mutual, would be felt more strongly on one side than on the other. It would be more likely to beget an abuse of the Legislative negative, in extorting concessions at the expense of property, than the reverse. The division of the state into two classes, with distinct and independent organs of power, and without any intermingled agency whatever, might lead to contests and antipathies not dissimilar to those between the Patricians and Plebeians at Rome.

3. Confining the right of electing one branch of the Legislature to

New York, and has been abandoned,—whether from experienced evils, or party calculations, may possibly be a question. It is still on trial in North Carolina,—with what practical indications, is not known. It is certain that the trial, to be satisfactory, ought to be continued for no inconsiderable period; until in fact the non-freeholders should be the majority.

4. Should experience or public opinion require an equal and universal suffrage for each branch of the government, such as prevails generally in the United States, a resource favorable to the right of the landed and other property, when its possessors become the minority, may be found in an enlargement of the election districts for one branch of the Legislature, and a prolongation of its period of service. Large districts are manifestly favorable to the election of persons of general respectability, and of probable attachment to the rights of property, over competitors depending on the personal solicitation practicable on a contracted theatre. And although an ambitious candidate, of personal distinction, might occasionally recommend himself to popular choice by espousing a popular though unjust object, it might rarely happen to many districts at the same time. The tendency of a longer period of service would be to render the body more stable in its policy, and more capable of stemming popular currents taking a wrong direction, till reason and justice could regain their ascendancy.

5. Should even such a modification as the last be deemed inadmissible, and universal suffrage, and very short periods of election, within contracted spheres, be required for each branch of the Government, the security for the holders of property, when the minority, can only be derived from the ordinary influence possessed by property, and the superior information incident to its holders; from the popular sense of justice, enlightened and enlarged by a diffusive education; and from the difficulty of combining and effectuating unjust purposes throughout an extensive country,—a difficulty essentially distinguishing the United States, and even most of the individual States, from the small communities where a mistaken interest, or contagious passion could readily unite a majority of the whole under a factious leader, in trampling on the rights of the minor party.

Under every view of the subject, it seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them. And if the only alternative be between an equal and universal right of suffrage for each branch of the government, and a confinement of the *entire* right to a part of the citizens, it is better that those having the greater interest at stake, namely that of property and persons both, should be deprived of half their share in the gov-

ernment, than, that those having the lesser interest, that of personal rights only, should be deprived of the whole.

THIRD NOTE ON THE SAME SUBJECT, DURING THE VIRGINIA CONVENTION FOR AMENDING THE CONSTITUTION OF THE STATE, 1829—30.

The right of suffrage being of vital importance, and approving an extension of it to housekeepers and heads of families, I will suggest a few considerations which govern my judgment on the subject.

Were the Constitution on hand to be adapted to the present circumstances of our country, without taking into view the changes which time is rapidly producing, an unlimited extension of the right would probably vary little the character of our public councils or measures. But as we are to prepare a system of government for a period which it is hoped will be a long one, we must look to the prospective changes in the condition and composition of the society on which it is to act.

It is a law of nature, now well understood, that the earth under a civilized cultivation is capable of yielding subsistence for a large surplus of consumers, beyond those having an immediate interest in the soil; a surplus which must increase with the increasing improvements in agriculture, and the labor-saving arts applied to it. And it is a lot of humanity, that of this surplus a large proportion is necessarily reduced, by a competition for employment, to wages which afford them the bare necessaries of life. The proportion being without property, or the hope of acquiring it, cannot be expected to sympathize sufficiently with its rights, to be safe depositories of power over them.

What is to be done with this unfavored class of the community? If it be, on one hand, unsafe to admit them to a full share of political power, it must be recollected, on the other, that it cannot be expedient to rest a republican government on a portion of society having a nu-

[redacted]

form the safest basis of free government. To the security for such a government, afforded by these combined numbers, may be further added the political and moral influence emanating from the actual possession of authority, and a just and beneficial exercise of it.

It would be happy if a state of society could be found or framed, in which an equal voice in making the laws might be allowed to every individual bound to obey them. But this is a theory, which, like most theories, confessedly requires limitations and modifications. And the only question to be decided, in this as in other cases, turns on the particular degree of departure, in practice, required by the essence and object of the theory itself.

It must not be supposed that a crowded state of population, of which we have no example, and which we know only by the image reflected from examples elsewhere, is too remote to claim attention.

The ratio of increase in the United States shows that the present

12	millions	will, in	25 years,	be 24	millions.
24	"	"	50 years,	48	"
48	"	"	75 years,	96	"
96	"	"	100 years,	192	"

There may be a gradual decrease of the rate of increase; but it will be small as long as the agriculture shall yield its abundance. Great Britain has doubled her population in the last 50 years; notwithstanding its amount in proportion to its territory at the commencement of that period; and Ireland is a much stronger proof of the effect of an increasing product of food in multiplying the consumers.

How far this view of the subject will be affected by the republican laws of descent and distribution, in equalizing the property of the citizens, and in reducing to the minimum mutual surpluses for mutual supplies, cannot be inferred from any direct and adequate experiment. One result would seem to be a deficiency of the capital for the expensive establishments which facilitate labor and cheapen its products, on one hand; and on the other, of the capacity to purchase the costly and ornamental articles consumed by the wealthy alone, who must cease to be idlers and become laborers. Another, the increased mass of laborers added to the production of necessaries, by the withdrawal, for this object, of a part of those now employed in producing luxuries, and the addition to the laborers from the class of present consumers of luxuries. To the effect of these changes, intellectual, moral, and social, the institutions and laws of the country must be adapted, and it will require for the task all the wisdom of the wisest patriots.

Supposing the estimate of the growing population of the United States to be nearly correct, and the extent of their territory to be eight or nine hundred millions of acres, and one-fourth of it to consist of

inarable surface, there will, in a century or little more, be nearly as crowded a population in the United States as in Great Britain or France, and if the present constitution of [of Virginia], with all its flaws, has lasted more than half a century, it is not an unreasonable hope that an amended one will last more than a century.

If these observations be just, every mind will be able to develope and apply them.

NO. 5.

COPY OF A PAPER COMMUNICATED TO JAMES MADISON BY COL. HAMILTON, ABOUT THE CLOSE OF THE CONVENTION IN PHILADELPHIA, 1787, WHICH, HE SAID, DELINEATED THE CONSTITUTION WHICH HE WOULD HAVE WISHED TO BE PROPOSED BY THE CONVENTION. HE HAD STATED THE PRINCIPLES OF IT IN THE COURSE OF THE DELIBERATIONS.

NOTE.—The caption, as well as the copy of the following paper, is in the hand-writing of Mr. MADISON, and the whole manuscript, and the paper on which it is written, corresponds with the Debates in the Convention with which it was preserved. The document was placed in Mr. MADISON's hands for preservation by Colonel HAMILTON, who regarded it as a permanent evidence of his opinion on the subject. But as he did not express his intention, at the time, that the original should be kept, Mr. MADISON returned it, informing him that he had retained a copy. It appears, however, from a communication of the Reverend Doctor Mason to Doctor EUSTIS, [see letter of Doctor EUSTIS to J. MADISON, 28th April, 1819,] that the original remained among the papers left by Colonel HAMILTON.

In a letter to Mr. Pickering, dated Sept. 16th, 1803, (see Pitkin's History, Vol. 2, p. 259—60) Colonel HAMILTON was under the erroneous impression that this paper limited the duration of the Presidential term to three years. This instance of the fallibility of Colonel HAMILTON's memory, as well as his erroneous distribution of the numbers of the "Federalist," among the different writers for that work, it has been the lot of Mr. MADISON to rectify; and it became incumbent, in the present instance, from the contents of the plan having been seen by others (previously as well as subsequently to the publication of Colonel HAMILTON's letter) that it, also, should be published.

The people of the United States of America do ordain and establish

ARTICLE 2.

Sec. 1. The Assembly shall consist of persons to be called Representatives, who shall be chosen, except in the first instance, by the free male citizens and inhabitants of the several States comprehended in the Union, all of whom, of the age of twenty-one years and upwards, shall be entitled to an equal vote.

Sec. 2. But the first Assembly shall be chosen in the manner prescribed in the last Article, and shall consist of one hundred members; of whom New Hampshire shall have five; Massachusetts, thirteen; Rhode Island, two; Connecticut, seven; New York, nine; New Jersey, six; Pennsylvania, twelve; Delaware, two; Maryland, eight; Virginia, sixteen; North Carolina, eight; South Carolina, eight; Georgia, four.

Sec. 3. The Legislature shall provide for the future elections of Representatives, apportioning them in each State, from time to time, as nearly as may be to the number of persons described in the fourth Section of the seventh Article, so as that the whole number of Representatives shall never be less than one hundred, nor more than —— hundred. There shall be a census taken for this purpose within three years after the first meeting of the Legislature, and within every successive period of ten years. The term for which Representatives shall be elected shall be determined by the Legislature, but shall not exceed three years. There shall be a general election at least once in three years, and the time of service of all the members in each assembly shall begin, (except in filling vacancies) on the same day, and shall always end on the same day.

Sec. 4. Forty members shall make a House sufficient to proceed to business, but their number may be increased by the Legislature, yet so as never to exceed a majority of the whole number of Representatives.

Sec. 5. The Assembly shall choose its President and other officers; shall judge of the qualifications and elections of its own members; punish them for improper conduct in their capacity of Representatives, not extending to life or limb; and shall exclusively possess the power of impeachment, except in the case of the President of the United States; but no impeachment of a member of the Senate shall be by less than two-thirds of the Representatives present.

Sec. 6. Representatives may vote by proxy; but no Representative present shall be proxy for more than one who is absent.*

Sec. 7. Bills for raising revenue, and bills for appropriating monies for the support of fleets and armies, and for paying the salaries of the

* Quere,—to provide for distant States?

officers of Government, shall originate in the assembly; but may be altered and amended by the Senate.

Sec. 8. The acceptance of an office under the United States by a Representative shall vacate his seat in the Assembly.

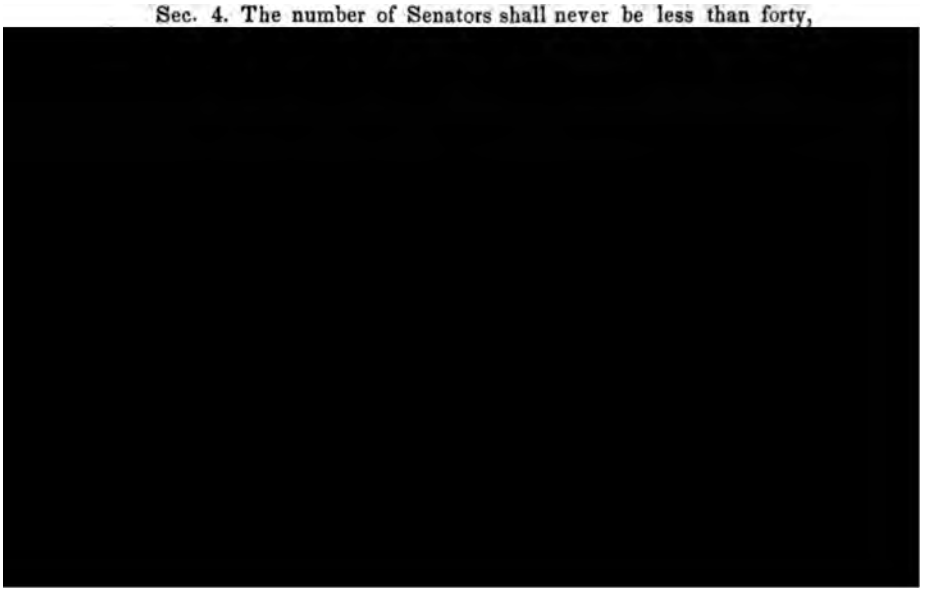
Article 3.

Sec. 1. The Senate shall consist of persons to be chosen, except in the first instance, by Electors elected for that purpose by the citizens and inhabitants of the several States, comprehended in the Union, who shall have, in their own right, or in the right of their wives, an estate in land for not less than life, or a term of years whereof, at the time of giving their votes, there shall be at least fourteen years unexpired.

Sec. 2. But the first Senate shall be chosen in the manner prescribed in the last Article; and shall consist of forty members, to be called Senators; of whom New Hampshire shall have ——; Massachusetts, ——; Rhode Island, ——; Connecticut, ——; New York, ——; New Jersey, ——; Pennsylvania, ——; Delaware, ——; Maryland, ——; Virginia, ——; North Carolina, ——; South Carolina, ——; Georgia, ——.

Sec. 3. The Legislature shall provide for the future elections of Senators, for which purpose the States, respectively, which have more than one Senator, shall be divided into convenient districts, to which the Senators shall be apportioned. A State having but one Senator, shall be itself a district. On the death, resignation, or removal from office, of a Senator, his place shall be supplied by a new election in the district from which he came. Upon each election there shall be not less than six, nor more than twelve, electors chosen in a district.

Sec. 4. The number of Senators shall never be less than forty,



Sec. 6. The Senators shall hold their places during good behaviour, removable only by conviction, on impeachment, for some crime or misdemeanor. They shall continue to exercise their offices, when impeached, until a conviction shall take place. Sixteen Senators attending in person shall be sufficient to make a House to transact business; but the Legislature may increase this number, yet so as never to exceed a majority of the whole number of Senators. The Senators may vote by proxy, but no Senator who is present shall be proxy for more than two who are absent.

Sec. 7. The Senate shall choose its President and other officers; shall judge of the qualifications and elections of its members; and shall punish them for improper conduct in their capacity of Senators; but such punishment shall not extend to life or limb, nor to expulsion. In the absence of their President they may choose a temporary President. The President shall only have a casting vote when the House is equally divided.

Sec. 8. The Senate shall exclusively possess the power of declaring war. No treaty shall be made without their advice and consent; which shall also be necessary to the appointment of all officers except such for which a different provision is made in this Constitution.

Article 4.

Sec. 1. The President of the United States of America, (except in the first instance), shall be elected in the manner following: The Judges of the Supreme Court shall, within sixty days after a vacancy shall happen, cause public notice to be given, in each State, of such vacancy; appointing therein three several days for the several purposes following—to wit, a day for commencing the election of Electors for the purposes hereinafter specified, to be called the First Electors, which day shall not be less than forty, nor more than sixty days, after the day of the publication of the notice in each State; another day for the meeting of the Electors, not less [than] forty, nor more than ninety, days from the day for commencing their election; another day for the meeting of Electors to be chosen by the First Electors, for the purpose hereinafter specified, and to be called the Second Electors, which day shall be not less than forty, nor more than sixty, days after the day for the meeting of the First Electors.

Sec. 2. After notice of a vacancy shall have been given, there shall be chosen in each State, a number of persons, as the First Electors in the preceding section mentioned, equal to the whole number of the Representatives and Senators of such State in the Legislature of the United States; which Electors shall be chosen by the citizens of such State having an estate of inheritance, or for three lives, in

land, or a clear personal estate of the value of one thousand Spanish milled dollars of the present standard.

Sec. 3. These First Electors shall meet, in their respective States, at the time appointed, at one place; and shall proceed to vote by ballot for a President; who shall not be one of their own number, unless the Legislature upon experiment should hereafter direct otherwise. They shall cause two lists to be made of the name or names of the person or persons voted for, which they, or the major part of them, shall sign and certify. They shall then proceed each to nominate, openly, in the presence of the others, two persons as for Second Electors; and out of the persons who shall have the four highest numbers of nominations, they shall afterwards by ballot, by plurality of votes, choose two who shall be the Second Electors, to each of whom shall be delivered one of the lists before mentioned. These Second Electors shall not be any of the persons voted for as President. A copy of the same list, signed and certified in like manner, shall be transmitted by the First Electors to the seat of the government of the United States, under a sealed cover directed to the President of the Assembly; which, after the meeting of the Second Electors, shall be opened for the inspection of the two Houses of the Legislature.

Sec. 4. The Second Electors shall meet precisely on the day appointed, and not on another day, at one place. The Chief Justice of the Supreme Court; or if there be no Chief Justice, the Judge senior in office in such Court; or, if there be no one Judge senior in office, some other Judge of that Court, by the choice of the rest of the Judges, or of a majority of them, shall attend at the same place, and shall preside at the meeting, but shall have no vote. Two-thirds of the whole number of the Electors shall constitute a sufficient meeting for the execution of their trust. At this meeting the lists delivered to the respective Electors shall be produced and inspected, and if there

Sec. 5. If it should happen that the Chief Justice or some other Judge of the Supreme Court should not attend in due time, the Second Electors shall proceed to the execution of their trust without him.

Sec. 6. If the Judges should neglect to cause the notice required by the first section of this article to be given within the time therein limited, they may nevertheless cause it to be afterwards given; but their neglect, if wilful, is hereby declared to be an offence for which they may be impeached, and if convicted they shall be punished as in other cases of conviction on impeachment.

Sec. 7. The Legislature shall, by permanent laws, provide such further regulations as may be necessary for the more orderly election of the President, not contravening the provisions herein contained.

Sec. 8. The President, before he shall enter upon the execution of his office, shall take an oath, or affirmation, faithfully to execute the same, and to the utmost of his judgment and power to protect the rights of the people, and preserve the Constitution inviolate. This oath, or affirmation, shall be administered by the President of the Senate for the time being, in the presence of both Houses of the Legislature.

Sec. 9. The Senate and the Assembly shall always convene in session on the day appointed for the meeting of the Second Electors, and shall continue sitting till the President take the oath, or affirmation, of office. He shall hold his place during good behaviour,* removable only by conviction upon impeachment for some crime or misdemeanor.

Sec. 10. The President, at the beginning of every meeting of the Legislature, as soon as they shall be ready to proceed to business, shall convene them together at the place where the Senate shall sit, and shall communicate to them all such matters as may be necessary for their information, or as may require their consideration. He may by message, during the session, communicate all other matters which may appear to him proper. He may, whenever in his opinion the public business shall require it, convene the Senate and Assembly, or either of them, and may prorogue them for a time, not exceeding forty days at one prorogation; and if they should disagree about their adjournment, he may adjourn them to such time as he shall think proper. He shall have a right to negative all bills, resolutions, or acts, of the two Houses of the Legislature about to be passed into laws. He shall take care that the laws be faithfully executed. He shall be the Commander-in-chief of the army and navy of the United States, and of the militia within the several States, and shall have the direc-

*See Editorial note at the beginning of this plan.

tion of war when commenced; but he shall not take the actual command, in the field, of an army, without the consent of the Senate and Assembly. All treaties, conventions and agreements with foreign nations shall be made by him, by and with the advice and consent of the Senate. He shall have the appointment of the principal or chief officers of each of the Departments of War, Naval Affairs, Finance and Foreign Affairs; and shall have the nomination, and by and with the consent of the Senate, the appointment of all other officers to be appointed under the authority of the United States, except such for whom different provision is made by this Constitution; and provided that this shall not be construed to prevent the Legislature from appointing, by name in their laws, persons to special and particular trusts created in such laws; nor shall be construed to prevent principals in offices merely ministerial from constituting deputies. In the recess of the Senate he may fill vacancies in offices, by appointments to continue in force until the end of the next session of the Senate. And he shall commission all officers. He shall have power to pardon all offences, except treason; for which he may grant reprieves, until the opinion of the Senate and Assembly can be had; and with their concurrence may pardon the same.

Sec. 11. He shall receive a fixed compensation for his services, to be paid to him at stated times, and not to be increased nor diminished during his continuance in office.

Sect. 12. If he depart out of the United States without the consent of the Senate and Assembly, he shall thereby abdicate his office.

Sec. 13. He may be impeached for any crime or misdemeanor by the two Houses of the Legislature, two-thirds of each House concurring; and if convicted shall be removed from office. He may be afterwards tried and punished in the ordinary course of law. His impeachment shall operate as a suspension from office until the determi-

behaviour, removable only by conviction on impeachment for some crime or misdemeanor. Each Judge shall have a competent salary, to be paid to him at stated times, and not to be diminished during his continuance in office.

The Supreme Court shall have original jurisdiction in all causes in which the United States shall be a party; in all controversies between the United States and a particular State, or between two or more States, except such as relate to a claim of territory between the United States and one or more States, which shall be determined in the mode prescribed in the sixth article, in all cases affecting foreign ministers, consuls and agents; and an appellate jurisdiction, both as to law and fact, in all cases which shall concern the citizens of foreign nations; in all questions between the citizens of different States; and in all others in which the fundamental rights of this Constitution are involved, subject to such exceptions as are herein contained, and to such regulations, as the Legislature shall provide.

The Judges of all courts which may be constituted by the Legislature shall also hold their places during good behaviour, removable only by conviction, on impeachment, for some crime or misdemeanor; and shall have competent salaries, to be paid at stated times, and not to be diminished during their continuance in office; but nothing herein contained shall be construed to prevent the Legislature from abolishing such courts themselves.

All crimes, except upon impeachment, shall be tried by a jury of twelve men; and if they shall have been committed within any State, shall be tried within such State; and all civil causes arising under this Constitution, of the like kind with those which have been heretofore triable by jury in the respective States, shall in like manner be tried by jury; unless in special cases the Legislature shall think proper to make different provision; to which provision the concurrence of two-thirds of both Houses shall be necessary.

Sec. 2. Impeachments of the President and Vice President of the United States, members of the Senate, the Governors and Presidents of the several States, the principal or chief officers of the Departments enumerated in the tenth section of the fourth article, Ambassadors, and other like public ministers, the Judges of the Supreme Court, Generals, and Admirals of the navy, shall be tried by a court to consist of the Judges of the Supreme Court, and the Chief Justice, or first or Senior Judge of the Superior Court of law in each State, of whom twelve shall constitute a court. A majority of the Judges present may convict. All other persons shall be tried, on impeachment, by a court to consist of the Judges of the Supreme Court, and six Senators drawn by lot; a majority of whom may convict.

Impeachments shall clearly specify the particular offence for which the party accused is to be tried, and judgment on conviction, upon the trial thereof, shall be, either removal from office singly, or removal from office and disqualification for holding any future office or place of trust; but no judgment on impeachment shall prevent prosecution and punishment in the ordinary course of law; provided, that no judge concerned in such conviction shall sit as judge on the second trial. The Legislature may remove the disabilities incurred by conviction on impeachment.

ARTICLE 6.

Controversies about the right of territory between the United States and particular States shall be determined by a court to be constituted in manner following. The State or States claiming in opposition to the United States, as parties, shall nominate a number of persons, equal to double the number of the Judges of the Supreme Court for the time being, of whom none shall be citizens by birth of the States which are parties, nor inhabitants thereof when nominated, and of whom not more than two shall have their actual residence in one State. Out of the persons so nominated the Senate shall elect one-half, who, together with the Judges of the Supreme Court, shall form the court. Two-thirds of the whole number may hear and determine the controversy, by plurality of voices. The States concerned may, at their option, claim a decision by the Supreme Court only. All the members of the court hereby instituted shall, prior to the hearing of the cause, take an oath, impartially and according to the best of their judgments and consciences, to hear and determine the controversy.

ARTICLE 7.

Sec. 2. The enacting style of all laws shall be: "Be it enacted by the people of the United States of America."

Sec. 3. No bill of attainder shall be passed, nor any *ex post facto* law; nor shall any title of nobility be granted by the United States, or by either of them; nor shall any person holding an office or place of trust under the United States, without the permission of the Legislature, accept any present, emolument, office, or title, from a foreign prince or state. Nor shall any religious sect, or denomination, or religious test for any office or place, be ever established by law.

Sec. 4. Taxes on lands, houses and other real estate, and capitation taxes, shall be proportioned, in each State, by the whole number of free persons, except Indians not taxed, and by three-fifths of all other persons.

Sec. 5. The two Houses of the Legislature may, by joint ballot, appoint a Treasurer of the United States. Neither House, in the session of both Houses, without the consent of the other, shall adjourn for more than three days at a time. The Senators and Representatives, in attending, going to, and coming from, the session of their respective Houses, shall be privileged from arrest, except for crimes, and breaches of the peace. The place of meeting shall always be at the seat of government, which shall be fixed by law.

Sec. 6. The laws of the United States, and the treaties which have been made under the Articles of the Confederation, and which shall be made under this Constitution, shall be the supreme law of the land, and shall be so construed by the courts of the several States.

Sec. 7. The Legislature shall convene at least once in each year; which, unless otherwise provided for by law, shall be on the first Monday in December.

Sec. 8. The members of the two Houses of the Legislature shall receive a reasonable compensation for their services, to be paid out of the Treasury of the United States, and ascertained by law. The law for making such provision shall be passed with the concurrence of the first Assembly, and shall extend to succeeding Assemblies; and no succeeding Assembly shall concur in an alteration of such provision so as to increase its own compensation; but there shall be always a law in existence for making such provision.

Article 8.

Sec. 1. The Governor or President of each State shall be appointed under the authority of the United States, and shall have a right to negative all laws about to be passed in the State of which he shall be Governor or President, subject to such qualifications and reg-

ulations, as the Legislature of the United States shall prescribe. He shall in other respects have the same powers only which the Constitution of the State does or shall allow to its Governor or President, except as to the appointment of officers of the militia.

Sec. 2. Each Governor or President of a State shall hold his office until a successor be actually appointed, unless he die or resign, or be removed from office by conviction on impeachment. There shall be no appointment of such Governor or President in the recess of the Senate.

The Governors and Presidents of the several States, at the time of the ratification of this Constitution, shall continue in office in the same manner and with the same powers as if they had been appointed pursuant to the first section of this article.

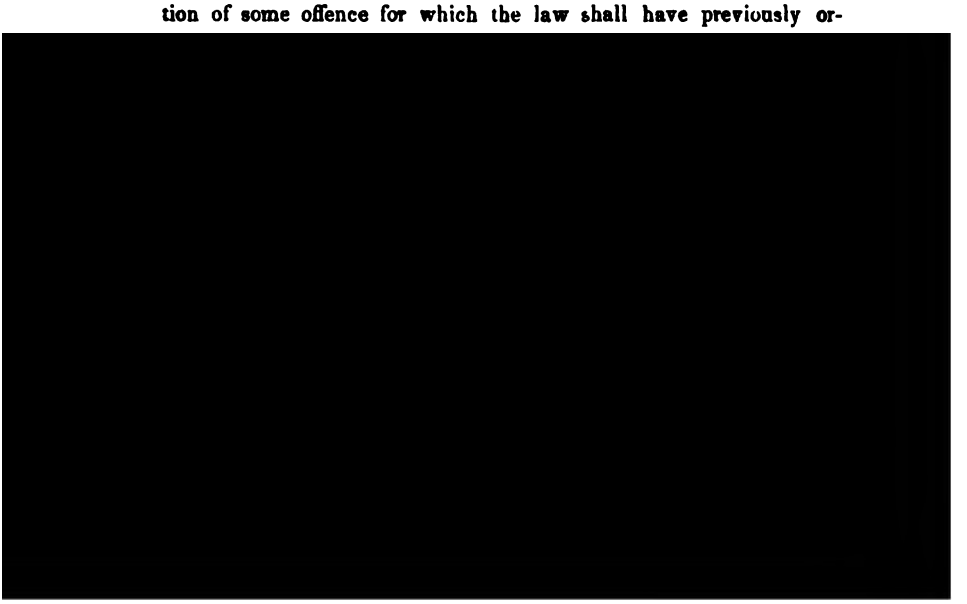
The officers of the militia in the several States may be appointed under the authority of the United States; the Legislature whereof may authorize the Governors or Presidents of States to make such appointments, with such restrictions as they shall think proper.

ARTICLE 9.

Sec. 1. No person shall be eligible to the office of President of the United States unless he be now a citizen of one of the States, or hereafter be born a citizen of the United States.

Sec. 2. No person shall be eligible as a Senator or Representative, unless at the time of his election he be a citizen and inhabitant of the State in which he is chosen; provided, that he shall not be deemed to be disqualified by a temporary absence from the State.

Sec. 3. No person entitled by this Constitution to elect, or to be elected, President of the United States, or a Senator or Representative in the Legislature thereof, shall be disqualified but by the conviction of some offence for which the law shall have previously or-



m another, shall be delivered up, on the application of the State from which they fled.

Sec. 7. No new State shall be erected within the limits of another, or by the junction of two or more States, without the concurrent consent of the Legislatures of the United States, and of the States concerned. The Legislature of the United States may admit new States into the Union.

Sec. 8. The United States are hereby declared to be bound to guarantee to each State a republican form of government; and to protect each State as well against domestic violence, as foreign invasion.

Sect. 9. All treaties, contracts and engagements of the United States of America, under the Articles of Confederation and perpetual union, shall have equal validity under this Constitution.

Sec. 10. No State shall enter into a treaty, alliance or contract with another, or with a foreign power without the consent of the United States.

Sec. 11. The members of the Legislature of the United States and of each State, and all officers, Executive and Judicial, of the one and of the other, shall take an oath, or affirmation, to support the Constitution of the United States.

Sec. 12. This Constitution may receive such alterations and amendments as may be proposed by the Legislature of the United States, with the concurrence of two-thirds of the members of both Houses; and ratified by the Legislatures of, or by Conventions of Deputies chosen by the people in, two-thirds of the States composing the Union.

Article 10.

This Constitution shall be submitted to the consideration of Conventions in the several States, the members whereof shall be chosen by the people of such States, respectively, under the direction of their respective Legislatures. Each Convention which shall ratify the same, shall appoint the first Representatives and Senators from such State according to the rule prescribed in the —— section of the —— article. The Representatives so appointed shall continue in office for one year only. Each Convention so ratifying shall give notice thereof to the Congress of the United States, transmitting at the same time a list of the Representatives and Senators chosen. When the Constitution shall have been duly ratified, Congress shall give notice of a day and place for the meeting of the Senators and

Representatives from the several States; and when these, or a majority of them, shall have assembled according to such notice, they shall by joint ballot, by plurality of votes, elect a President of the United States; and the Constitution thus organized shall be carried into effect.

REFERENCES.

REFERENCES.

NOTE 1, PAGE 32.

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Secret Journals of Congress, (Domestic Affairs,) 21st July, 1775, vol. 1, page 286; 12th July, 1776, vol. 1, page 294; 20th August, 1776, vol. 1, page 307; 9th to 14th October, 1777, vol. 1, page 323 to 326.

Franklin's Works, (Sparks' edition,) vol. 5, page 93.

NOTE 2, PAGE 39.

Public Journals of Congress, 5th September, 1774, vol. 1, page 7; 7th October, 1777, vol. 2, page 279; 15th November, 1777, vol. 2, page 331; 1st March, 1781, vol. 3, page 587.

Secret Journals of Congress, (Domestic Affairs,) 21st July, 1775, vol. 1, page 286; 12th July, 1776, vol. 1, page 297; 20th August, 1776, vol. 1, page 309.

Franklin's Works, (Sparks' edition,) vol. 5, page 93.

See Debates below, page 995.

NOTE 3, PAGE 55.

See Correspondence below, pages 99, 102, 106.

Journal of House of Delegates of Virginia, 10th December, 1779, page 84.

Public Journals of Congress, 14th September, 1779, vol. 3, page 359; 29th October, 1779, vol. 3, page 383; 30th October, 1779, vol. 3, page 384; 6th September, 1780, vol. 3, page 516; 10th October, 1780, vol. 3, page 535.

The motion of Mr. Madison as to previous purchasers is not in the printed journals, but will be found in the Archives of the Department of State, No. 36, liber 6.

Washington's Writings, 3d April, 1780, vol. 7, page 11; 4th October, 1780, vol. 7, page 223; 11th October, 1780, vol. 7, page 245.

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There is in the Archives of the Department of State, No. 11, a MS. Journal of "Proceedings of the Committee appointed by Congress to repair to headquarters in 1780."

NOTE 4, PAGE 58.

Public Journals of Congress, 23d September, 1780, vol. 3, page 522.
Washington's Writings, 6th October, 1780, vol. 7, pages 234, 552.

NOTE 5, PAGE 58.

Public Journals of Congress, 20th January, 1779, vol. 3, page 187; 15th April, 1779, vol. 3, page 251; 20th April, 1779, vol. 3, page 259; 30th April, 1779, vol. 3, page 265; 3d May, 1779, vol. 3, page 266; 8th June, 1779, vol. 3, page 302; 13th October, 1779, vol. 3, page 375.

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North American Review, vol. 30, page 457, and vol. 33, page 469.

Pennsylvania Gazette, 5th December, 1778.

Franklin's Works, (Sparks' edition,) vol. 8, pages, 57, 229, 250, 257, 308, 310, 444.

NOTE 6, PAGE 60.

Public Journals of Congress, 23d June, 1777, vol. 2, page 176; 30th June, 1777, vol. 2, page 182; 22d May, 1779, vol. 3, page 285; 29th May, 1779, vol. 3, page 295; 1st June, 1779, vol. 3, page 296; 16th June, 1779, vol. 3, page 308; 8th September, 1779, vol. 3, page 363; 24th September, 1779, vol. 3, page 365;

Life and Correspondence of John Jay, vol. 1, pages 100, 108 120; vol. 2, page 63, 79.

Life and Correspondence of Gouverneur Morris, vol. 1, page 294.

NOTE 8, PAGE 68.

See Correspondence below, page 74.

Secret Journals of Congress, (Foreign Affairs,) 17th October, 1780, vol. 2, page 316.

Diplomatic Correspondence, (First Series,) 23d August, 1780, vol. 5, page 321.

Journal of House of Delegates of Virginia, 2d January, 1781, page 80.

NOTE 9, PAGE 81.

No copy of this letter has been found among the private correspondence of General Washington in the Archives of the Department of State, nor any reference to it in the original letters from Mr. Jones to him, there preserved.

NOTE 10, PAGE 104.

Public Journals of Congress, 21st and 22d June, 1780, vol. 3, pages 470, 471; 26th May, 1781, vol. 3, page 624; 31st December, 1781, vol. 3, page 706.

Diplomatic Correspondence, (First Series,) vol. 11, pages 364 to 384, 396, 462; vol. 12, page 76.

Life of Hamilton, vol 1, pages 247, 301, 353, 366.

NOTE 11, PAGE 107.

See Correspondence above, pages 55, 99, 102.

Public Journals of Congress, 1st March, 1781, vol. 3, page 582; 16th October, 1781, vol. 3, page 676.

See the proceedings and report of the Committee in the Archives of the Department of State, No. 1, liber 32; No. 20, liber 2; and No. 30.

NOTE 12, PAGE 114.

This pamphlet and map are not to be now found in the Public Library at Philadelphia.

NOTE 13, PAGE 121.

Diplomatic Correspondence, (First Series,) 15th October, 1781, vol. 8, page 314.

NOTE 14, PAGE 121.

Public Journals of Congress, 19th September, 1780, vol. 3, page 520; 7th August, 1781, vol. 3, page 655; 20th August, 1781, vol. 3, page 658; 1st March, 1782, vol. 3, page 729; 3d April, 1782, vol. 4, page 3; 17th April, 1782, vol. 4, page 11.

Washington's Writings, 1st January, 1782, vol. 8, page 220.

The documents relative to the controversy about the New Hampshire Grants,

and the admission of Vermont, are published in Slade's Vermont State Papers, page 10 to 195.

Other particulars are contained in Sparks' Life of Ethan Allen, printed in the first volume of the Library of American Biography.

NOTE 15, PAGE 124.

Washington's Writings, vol. 8, page 547.

Public Journals of Congress, 1st May, 1782, vol. 4, page 20.

NOTE 16, PAGE 129.

Washington's Writings, vol. 8, pages 293, 536.

Public Journals of Congress, 13th May, 1782, vol. 4, page 29.

Secret Journals of Congress, (Foreign Affairs,) 7th May, 1782, vol. 3, page 103.

Pennsylvania Packet, 25th May, 1782.

Philadelphia Freeman's Journal, 31st July, 1782.

NOTE 17, PAGE 129.

Diplomatic Correspondence, (First Series,) 10th May, 1782, vol. 8, page 345.

NOTE 18, PAGE 130.

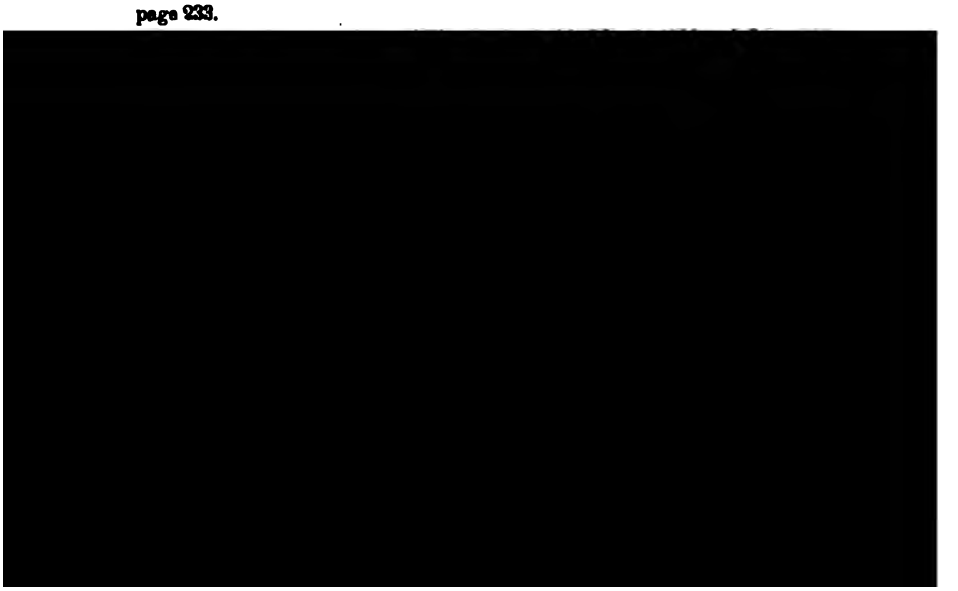
Diplomatic Correspondence, (First Series,) 6th February, 1782, vol. 8, page 10; 9th May, 1782, vol. 8, page 105.

NOTE 19, PAGE 130.

Public Journals of Congress, 2d May, 1782, vol. 4, page 25; 6th May, 1782, vol. 4, page 26.

NOTE 20, PAGE 131.

Secret Journals of Congress, (Domestic Affairs,) 24th May, 1782, vol. 1, page 233.



NOTE 23, PAGE 133.

Diplomatic Correspondence, (First Series,) 26th March, 1782, vol. 3, pages 320, 325, 328.

Franklin's Works, (Sparks' edition,) vol. 9, pages 186, 189.

NOTE 24, PAGE 133

Secret Journals of Congress, (Domestic Affairs,) 24th May, 1782, vol. 1, page 231.

NOTE 25, PAGE 134.

Public Journals of Congress, 11th February, 1782, vol. 3, page 717; 29th May, 1782, vol. 4, page 35.

NOTE 26, PAGE 137.

Public Journals of Congress, 4th December, 1781, vol. 3, page 696.

Diplomatic Correspondence, (First Series,) 10th March, 1782, vol. 6, page 275.

NOTE 27, PAGE 139.

Washington's Writings, vol. 8, page 298.

See MS. letters of General Washington in the Archives of the Department of State, vol. 6, pages 248, 249.

NOTE 28, PAGE 141.

Pennsylvania Packet, 11th June, 1782.

The share Mr. Madison had in this letter, and the subject to which it relates, seem to make it proper to rescue it from the files of a newspaper. It is as follows:

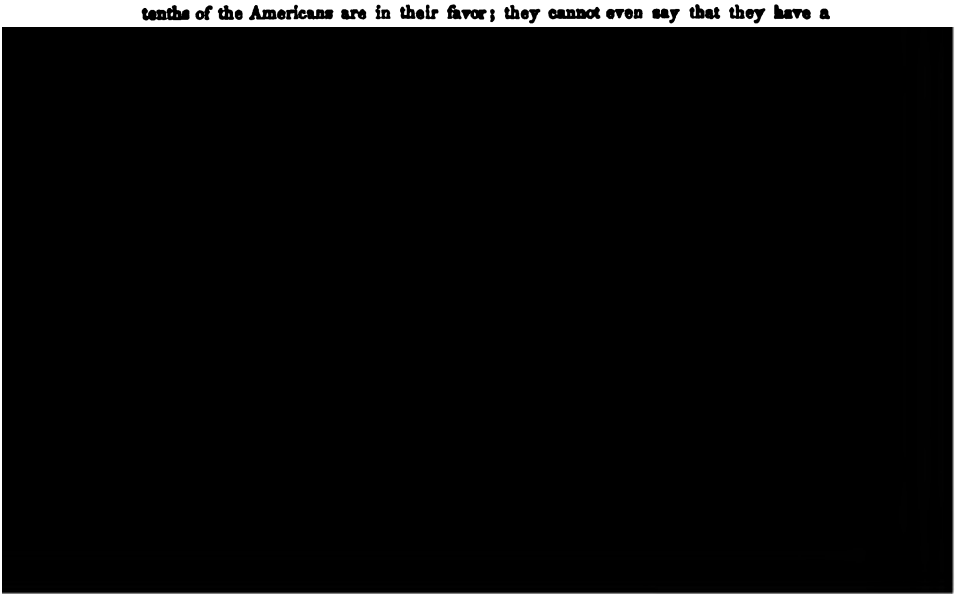
"The following extract of a letter, written from Philadelphia by a gentleman in office, to one of the principal officers of the State of New Jersey, cannot fail to be acceptable to the public. We are authorized to vouch for the authenticity of the facts contained in it.

PHILADELPHIA, *June*, 9*th*, 1782.

"We have received no intelligence from the French islands which can remove or lessen our anxiety with respect to the actions between the fleet of our ally and that of our enemy. I am, however, inclined to believe, that the broken accounts published by the latter are true, but we shall learn from the French accounts only the entire damage sustained by the British fleet. There are a few among us, who, arguing from the reiterated and bold impositions of the English, and from some contradictions remarked in their accounts, still doubt the reality of the victory ascribed to them; for my own part, it appears so natural for thirty-seven ships of the line to beat thirty, and the British publications are so circumstantial, that I can no longer doubt that Sir G. Rodney has gained a victory, but it is a victory which can yield him only bitter fruits, and which bestows on the conduct and courage of the unsuccessful admiral, the glory of

having resisted for twelve hours a force one-fifth superior to his own. Instead of multiplying conjectures on the consequences of this event, I shall content myself with informing you that the French fleet, according to all reports, has joined fifteen French and Spanish ships of the line which awaited it at Hispaniola; so that even the victory of the English has not been able to frustrate this junction, which they were resolved to spare no efforts to prevent; and we may consider this disappointment to them as an important point gained on the other side.

"But the consideration most proper to console us for this event (if anything can console us for the misfortune of a faithful and generous ally) is, that it has afforded us an occasion of displaying a national character, a good faith, a constancy and firmness worthy of a people who are free, and determined to perish sooner than cease to be so. Sir Guy Carleton was presenting himself, with the olive branch in his hand, at the very moment when this disagreeable intelligence arrived; perhaps he had formed so bad an opinion of us as to suppose that this was a favorable crisis for detaching us from our allies. He has announced his plan; he has endeavored to send his secretary, Mr. Morgan, to Congress; and he has perhaps thought us so base, and so ignorant of what is our duty or honor, and our interest prescribed to us, as to be ensnared by the hope of an approaching peace; but, although he has scarcely been a month on this continent, he must already have begun to know the Americans. Four years have elapsed since the date of the happy alliance which unites us with France; we had every year received new benefits from this nation without being able to make any other return than barren acknowledgements; and like one friend who is constantly obliged by another without having it in his power to render reciprocal services, we waited with impatience an opportunity of demontrating that our professions of attachment and gratitude were engraven on our hearts, and were not to be affected by the vicissitudes incident to a long war. This opportunity has happened; the enemy themselves have presented it to us; and I cannot express to you the joy with which I have seen Maryland, Pennsylvania and Virginia, with emulation and with unanimity, declare their fixed resolution to reject with disdain every offer of a separate peace, and every proposition which would throw the slightest stain on our national character or the alliance. I have just read, with the same pleasure, the resolutions passed by the Assembly of New Jersey; they breathe a true patriotism. The enemy can no longer say that nine-tenths of the Americans are in their favor; they cannot even say that they have a



agent sent to Versailles; that concessions had been tendered, the best adapted to seduce a power influenced either by avarice, by ambition, or a sense of weakness; but the agent refused to treat at the same time of the independence of the United States. Our allies answered simply that THIS INDEPENDENCE FORMED THE BASIS OF THEIR SYSTEM; and the negotiation went no farther. The conduct of the French has been so uniform, and so upright through the course of this war, that this answer excited no surprise in us; nevertheless, it is not to be denied, that a power who proceeded with a less firm step in the path of justice and wisdom, might easily have suffered itself to be led away by the dazzling offers which were made.

"This was the proper conduct, both on our part and that of France, to do honor to the two nations. It is happy for their mutual glory that, without any communication, without any concert, and without any consultations, they have both, from the same innate rectitude, adopted the same resolutions against separate negotiations. What was the object of these propositions, secretly and separately made to the two parties? If Great Britain had been actuated by good faith, she ought to have apprised France that she meant to treat with us, and to acknowledge to us that she was endeavoring to treat with France; but she hoped, by sowing seeds of jealousy and distrust, to divide us; she flattered herself that the two allies, or at least one of them, might listen to her propositions; that the other would conceive suspicions therefrom; that discontent would succeed, and that a rupture would eventually take place which would terminate in our subjugation. Her project has miscarried, the artifice is detected; and whilst it displays the insidious policy which still directs her councils, serves to evince the mutual fidelity and attachment of the allies, and the necessity of an unlimited confidence and constant communication of every thing which relates to our mutual interests.

"I am now more proud of the title of American than I have ever been. The enemy have without intermission represented us as a timid and dastardly people, without faith and without honor; they are now undeceived at their own expense. But there is one point in which our national honor has too long suffered. We have sufficient firmness to abandon our houses and our habitations to an incendiary foe; we have seen without terror our houses and our farms in flames; we have seen our effects, our horses and our cattle swept away, and our sentiments have remained unshaken. We have received with contempt overtures of peace which would have covered us with shame; we have suffered all the calamities and wants which afflict exiled citizens, obliged to seek an asylum at a great distance from their own country. Our wives have shown the same firmness of soul, and sometimes their firmness and patriotism have invigorated our own. We have shed our blood in the glorious cause in which we are engaged; and we are ready to shed the last drop in its defence. Nothing is above our courage except only (with shame I speak it) except the courage to TAX ourselves."

Refer also to the letter from Vergennes to Luzerne, 23d March, 1782, Washington's Writings, vol. 8, page 294.

NOTE 29, PAGE 143.

Public Journals of Congress, 21st June, 1782, vol. 4, page 39.

NOTE 30, PAGE 147.

Public Journals of Congress, 24th June, 1782, vol. 4, page 40; 26th June, 1782, vol. 4, page 41.

A full account of the origin and nature of this claim may be seen in Trumbull's History of Connecticut, vol. 2, page 468 to 480.

NOTE 31, PAGE 151.

Washington's Writings, vol. 8, pages 312, 316, 537, 539.

NOTE 32, PAGE 152.

Public Journals of Congress, 15th July, 1782, vol. 4. page 47.

NOTE 33, PAGE 152.

Public Journals of Congress, 17th June, 1782, vol. 4, page 38.

NOTE 34, PAGE 154.

Diplomatic Correspondence, (First Series,) 19th April, 1782, vol. 6, page 330; 30th May, 1782, vol. 6, page 354.

NOTE 35, PAGE 157.

Washington's Writings, vol. 8, pages 157, 540.

NOTE 36, PAGE 160.

Public Journals of Congress, 6th September, 1780, vol. 3, page 516; 31st July, 1782, vol. 4, page 55; 13th September, 1783, vol. 4, page 265; 1st March, 1784, vol. 4, page 341.

See also "Public Good, being an examination into the claim of Virginia to the vacant Western Territory," in Paine's Political Writings, vol. 1.

NOTE 37, PAGE 167.

Public Journals of Congress, 5th September, 1782, vol. 4, page 68; 6th September, 1782, vol. 4, page 69; 25th September, 1782, vol. 4, page 82.

NOTE 38, PAGE 169.

NOTE 40, PAGE 182.

Diplomatic Correspondence, (First Series,) 18th August, 1782, vol. 6, page 371.

In the original letter of Mr. Adams, now in the Archives of the Department of State, immediately after the copy of this commission, is the following paragraph:

"The words *quorumcunque Statuum quorum interesse poterit*, include the United States according to them, but not according to the King who uses them; so that there is still room to evade. How much nobler and more politic was Mr. Fox's idea, to insert *the ministers of the United States of America* expressly!"

NOTE 41, PAGE 186.

Public Journals of Congress, 15th October, 1782, vol. 4, page 88; 17th October, 1782, vol. 4, page 90; 7th November, 1782, vol. 4, page 103.

Washington's Writings, vol. 8, pages 263, 302, 310, 336, 351, 353, 362; vol. 9, pages 169, 196, 221.

Diplomatic Correspondence, (First Series,) vol. 3, page 489; vol. 11, pages 105 to 108; vol. 12, page 286.

Remembrancer, vol. 14, pages 144, 155; vol. 15, pages 127, 191. See Correspondence below, page 469.

NOTE 42, PAGE 196.

Washington's Writings, vol. 8, page 541.

Public Journals of Congress, 8th November, 1782, vol. 4, page 103.

See Correspondence below, pages 471, 475.

NOTE 43, PAGE 205.

See Correspondence below, pages 473, 479.

NOTE 44, PAGE 209.

See Debates below, page 226; and Correspondence, page 483.

NOTE 45, PAGE 212.

Secret Journals of Congress, (Domestic Affairs,) 27th November, 1782, vol. 1, page 245.

Journal of Assembly of New Jersey, 1782, page 10. Journal of Council of New Jersey, 1782, page 7.

The instructions of the Legislature of New Jersey, after undergoing much discussion and alteration, were passed on the 1st November, 1782, in the following form:

"To the Honorable Elias Boudinot, John Witherspoon, Abraham Clark, Jonathan Elmer, and Silas Condict, Esquires, delegates representing this State in the Congress of the United States.

"GENTLEMEN:

"Application having been made to the Legislature for instructions on the important subject of dispute subsisting between the States of New York, New Hampshire, and the people on the New Hampshire Grants, styling themselves the State of Vermont, which is under the consideration of Congress, they are of opinion, (as far as they have documents to direct their enquiry,) that as the competency of Congress was deemed full and complete at the passing of the resolutions of the seventh and twentieth of August, 1781, (each of those States having made an absolute reference of the dispute to their final arbitratement,) those acts may be supposed to be founded on strict justice and propriety, nine States having agreed to the measure, and that great regard ought to be had to every determination of Congress, where no new light is thrown upon the subject, or weighty matters occur to justify a reversion of such their decision; and more especially, as it appears that the people on the New Hampshire Grants have, by an act of their Legislature, on the twenty-second of February last, in every instance complied with the preliminaries stated as conditional to such guarantee.

"The Legislature, taking up this matter upon general principles, are further of opinion, that Congress, considered as the sovereign guardians of the United States, ought at all times to prefer the general safety of the common cause to the particular separate interest of any individual State, and when circumstances may render such a measure expedient, it ought certainly to be adopted.

"The Legislature know of no disposition in Congress to attempt to reduce the said people to allegiance by force, but should that be the case, they will not consent to the sending any military force into the said territory to subdue the inhabitants to the obedience and subjection of the State or States that claim their allegiance.

"They disclaim every idea of imbruing their hands in the blood of their fellow citizens, or entering into a civil war among themselves, at all times, but more especially at so critical a period as the present, conceiving such a step to be highly impolitic and dangerous.

"You are, therefore, instructed to govern yourselves in the discussion of this business by the aforesaid opinions, as far as they may apply thereto."

NOTE 46, PAGE 215.

NOTE 48, PAGE 224.

Public Journals of Congress, 6th December, 1782, vol. 4, page 114; 12th December, 1782, vol. 4, page 118; 18th December, 1782, vol. 4, page 120; 20th December, 1782, vol. 4, page 123; 31st December, 1782, vol. 4, page 127; 2d January, 1783, vol. 4, page 128; 14th January, 1783, vol. 4, page 142.

Secret Journals of Congress, (Domestic Affairs,) 3d January, 1783, vol. 1, page 246.

Diplomatic Correspondence, (First Series,) 4th January, 1783, vol. 11, page 291.

The Providence Gazette, 2d November, 1782; the Boston Gazette, 10th November, 1782.

See Debates below, pages 246, 496.

NOTE 49, PAGE 243.

Diplomatic Correspondence, (First Series,) 12th October, 1782, vol. 4, page 25; 18th September, 1782, vol. 8, page 125; 13th October, 1782, vol. 8, page 128; vol. 8, pages 163, 208; 4th January, 1783, vol. 8, page 215; 10th July, 1783, vol. 7, page 67; 22d July, 1783, vol. 4, page 138.

Life of John Jay, vol. 1, pages 145, 490.

North American Review, vol. 30, No. 66, page 17; vol. 33, No. 73, page 475

See Debates below, page 416; Correspondence below, pages 492, 531.

NOTE 50, PAGE 266.

Secret Journals of Congress, (Domestic Affairs,) 17th January, 1783, vol. 1, page 253.

NOTE 51, PAGE 267.

The first of these letters is dated "23d September, 1782;" Diplomatic Correspondence, (First Series,) 23d September, 1782, vol. 6, page 416; 8th October, 1782, vol. 6, page 432.

Public Journals of Congress, 23d January, 1783, vol. 4, page 144.

Secret Journals of Congress, (Foreign Affairs,) 23d January, 1783, vol. 3, page 289; See Debates below, pages 268, 301.

NOTE 52, PAGE 275.

Public Journals of Congress, 24th January, 1783, vol. 4, page 151; 20th February, 1783, vol. 4, page 165.

See Correspondence below, page 511.

Public Journals of Congress, 30th January, 1783, vol. 4, page 153.

Diplomatic Correspondence (First Series,) 24th January, 1783, vol. 12, page 325.

NOTE 53, PAGE 280.

Public Journals of Congress, 25th January, 1783, vol. 4, page 152.

NOTE 54, PAGE 332.

Public Journals of Congress, 6th February, 1783, vol. 4, page 157; 12th to 17th February, 1783, vol. 4, page 160 to 164; 25th February, 1783, vol. 4, page 166; 10th March, 1783, vol. 4, page 173; See Debates below, pages 337, 338.

NOTE 55, PAGE 372.

See Debates below, page 425, and Correspondence below, page 513, and references there made.

There is in the Archives of the Department of State, No. 137, a collection of the letters and reports of Mr. Morris, from 1781 to 1784, in four large folio volumes.

NOTE 56, PAGE 383.

See Correspondence below, page 515—518.

Diplomatic Correspondence, (First Series,) 4th December, 1782, vol. 4, page 46; vol. 6, page 464; 12th December, 1782, vol. 8, page 214; 14th December, 1782, vol. 10, page 117; 24th December, 1782, vol. 2, page 484; 30th December, 1782, vol. 11, page 146.

Franklin's Works, (Sparks' Edition,) vol. 9, pages 435, 457.

See Debates below, 26th March, 1783, page 412.

Life of Gouverneur Morris, vol. 1, pages 244, 248.

NOTE 57, PAGE 388.

See Diplomatic Correspondence, (First Series,) 17th March, 1783, vol. 12, page 339.

NOTE 58, PAGE 404.

See Correspondence below, pages 519, 520, 557.

Public Journals of Congress, 25th January, 1783, vol. 4, page 152; 25th February, 1783, vol. 4, page 166; 22nd March, 1783, vol. 4, page 178; 29th April, 1783, vol. 4, page 206.

Diplomatic Correspondence, (First Series,) 15th October, 1782, vol. 12, page

Diplomatic Correspondence, (First Series,) 5th February, 1783, vol. 10, page 28.

Secret Journal of Congress, (Foreign Affairs,) 24th March, 1783, vol. 3, page 320.

NOTE 60, PAGE 416.

See Debates above, page 243.

Secret Journals of Congress, (Foreign Affairs,) 6th to 15th June, 1781, vol. 2, page 424 to 426; 24th September to 4th October, 1782, vol. 3, page 219 to 250; 3d January, 1783, vol. 3, page 269; vol. 3, page 338.

Diplomatic Correspondence, (First Series,) vol. 4, page 55 to 59; page 84; page 137; page 163; page 339; vol. 6, pages 445, 467; vol. 7, pages 63, 67; vol. 10, pages 75, 98, 106, 115, 119, 130, 138; vol. 11, pages 155, 309.

Franklin's Works, (Sparks' Edition,) vol. 9, page 452.

NOTE 61, PAGE 419.

Compare Public Journals of Congress, 20th March, 1783, vol. 4, page 175, and 18th April, 1783, vol. 4, page 190.

NOTE 62, PAGE 426.

Public Journals of Congress, 29th March, 1783, vol. 4, page 181.

See Debates above, page 372; and Correspondence below, page 513.

NOTE 63, PAGE 426.

See Debates above, page 234.

In the Archives of the Department of State, No. 64, being a volume containing the official letters of the Governors of Rhode Island addressed to Congress, this letter and the Resolutions of the Legislature will be found.

NOTE 64, PAGE 428.

Public Journals of Congress, 24th March, 1783, vol. 4, page 179.

Diplomatic Correspondence, (First Series,) vol. 11, page 318.

Almon's Remembrancer, vol. 15, pages 365, 366.

NOTE 65, page 430.

See below, page 707.

Journals of the Legislature of Massachusetts, 13th February, 1783.

Journals of the Legislature of New York, 8th, 10th and 11th March, 1783.

Journals of the Legislature of New Hampshire, 1st March, 1783.

NOTE 66, PAGE 432.

See below Debates, pages 434 and 435; Correspondence, page 523.

NOTE 67, PAGE 433.

Washington's Writings, 30th March, 1783, vol. 8, page 409.

Life of Greene, vol. 2, page 391.

See Correspondence below, page 523.

NOTE 68, PAGE 434.

See Debates above, pages 419 and 432.

NOTE 69, PAGE 428.

Public Journals of Congress, 11th April, 1783, vol. 4, page 186.

Diplomatic Correspondence, (First Series,) 10th April, 1783, vol. 11, page 333; 12th April, 1783, vol. 11, page 334.

NOTE 70, PAGE 440.

See Correspondence below, page 521.

Diplomatic Correspondence, (First Series,) 27th December, 1782, vol. 8, page 402; 21st April, 1783, vol. 11, page 335; 1st May, 1783, vol. 8, page 426.

Secret Journals of Congress, (Foreign Affairs,) 21st May, 1783, vol. 3, page 344.

NOTE 71, PAGE 443.

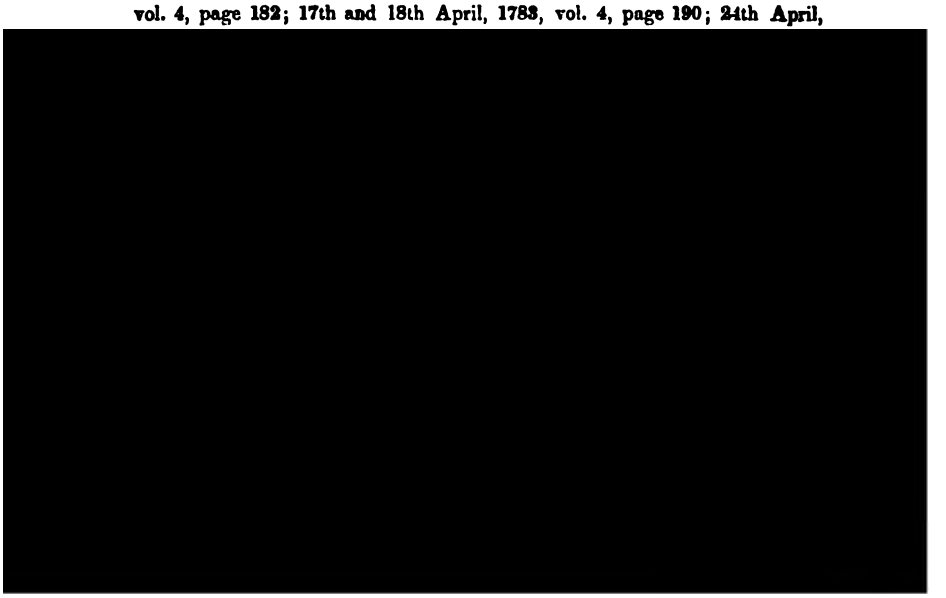
Secret Journals of Congress, (Foreign Affairs,) 15th April, 1783, vol. 3, page 327.

NOTE 72, PAGE 444.

Public Journals of Congress, 16th April, 1783, vol. 4, page 188.

NOTE 73, PAGE 447.

The following references will exhibit the principal proceedings of the Congress of the Confederation on the subjects of a General Revenue and Cessions of public land: Public Journals of Congress, 6th September, 1780, vol. 3, page 516; 1st February, 1781, vol. 3, page 571; 3d February, 1781, vol. 3, page 572; 7th February, 1781, vol. 3, page 574; 1st March, 1781, vol. 3, page 582; 15th March, 1781, vol. 3, page 594; 22d March, 1781, vol. 3, page 600; 16th July, 1781, vol. 3, page 646; 4th October, 1781, vol. 3, page 674; 20th February, 1782, vol. 3, page 721; 1st July, 1782, vol. 4, page 43; 16th December, 1782, vol. 4, page 119; 24th December, 1782, vol. 4, page 126; 30th January, 1783, vol. 4, page 154; 6th February, 1783, vol. 4, page 157; 20th and 21st March, 1783, vol. 4, page 174; 28th March, 1783, vol. 4, page 180; 1st April, 1783, vol. 4, page 182; 17th and 18th April, 1783, vol. 4, page 190; 24th April,



NOTE 76, PAGE 449.

Secret Journals of Congress, (Foreign Affairs,) 5th May, 1783, vol. 3, page 342.

NOTE 77, PAGE 449.

This resolution does not appear on the Public Journals of Congress till 7th August, 1783, vol. 4, page 251.

NOTE 78, PAGE 450.

See Public Journals of Congress, 7th May, 1783, vol. 4, page 220.

NOTE 79, PAGE 450.

See Debates below, page 456.

Public Journals of Congress, 8th May, 1783, vol. 4, page 220.

Washington's Writings, 6th May, 1783, vol. 8, page 480; Appendix, No. IX.

Diplomatic Correspondence, (First Series,) 14th April, 1783, vol. 11, page 335; 27th January, 1780, vol. 7, page 199; 18th February, 1780, vol. 9, page 21.

There is in the Archives of the Department of State, No. 50, a volume of correspondence of Oliver Pollock, containing that with the Committee on Foreign Affairs, in reference to the policy of Spain.

NOTE 80, PAGE 451.

See Debates below, 30th May, 1783, page 457.

NOTE 81, PAGE 451.

See Debates below, page 457.

NOTE 82, PAGE 454.

See Debates below, 30th May, page 456.

Public Journals of Congress, 9th August, 1783, vol. 4, page 252.

NOTE 83, PAGE 454.

Secret Journals of Congress, (Foreign Affairs,) 21st and 22d May, 1783, vol. 3, page 344 to 354.

NOTE 84, PAGE 456.

Public Journals of Congress, 26th May, 1783, vol. 4, page 224.

Washington's Writings, 7th June, 1783, vol. 8, page 488.

See Correspondence below, page 547.

NOTE 85, PAGE 457.

Secret Journals of Congress, (Foreign Affairs,) 30th May, 1783, vol. 3, pages 355, 361.

Public Journals of Congress, 30th May, 1783, vol. 4, page 224.

NOTE 86, PAGE 458.

Public Journals of Congress, 4th June, 1783, vol. 4, page 226; 4th July, 1783, vol. 4, page 235.

Diplomatic Correspondence, (First Series,) 18th July, 1783, vol. 12, page 380.

NOTE 87, PAGE 458.

These instructions are printed in the Public Journals of Congress, 20th June, 1783, vol. 4, page 231.

NOTE 88, PAGE 460.

Secret Journals of Congress, (Foreign Affairs,) 12th June, 1783, vol. 3, page 366.

NOTE 89, PAGE 460.

See Debates below, pages 463, 465; Correspondence below, pages 543, 551.

NOTE 90, PAGE 461.

Public Journals of Congress, 17th June, 1783, vol. 4, page 228.

NOTE 91, PAGE 465.

Public Journals of Congress, 20th June, 1783, vol. 4, page 230.
See Debates above, page 447, and references there.

NOTE 92, PAGE 467.

See Debates above, page 463; and Correspondence below, pages 543, 551.
Public Journals of Congress, 21st June, 1783, vol. 4, page 231; 1st July, 1783, vol. 4, page 232; 28th July, 1783, vol. 4, page 240; 28th August, 1783, vol. 4, page 257.
Diplomatic Correspondence, (Second Series,) vol. 1, page 9 to 46.
Washington's Writings, 24th June, 1783, vol. 8, page 454.
There is in the Archives of the Department of State, No. 38, a volume containing the letters and papers on this subject.

NOTE 93, PAGE 471.

Public Journals of Congress, 1st March, 1781, vol. 3, page 562.
See Debates above, page 447, and references there.

NOTE 94, PAGE 472.

See Debates above, page 185.
The trial of the murderers of Huddy is in the Archives of the Department

NOTE 99, PAGE 486.

See Debates above, 4th December, 1782, page 216.

NOTE 100, PAGE 491.

See Debates above, 16th and 23d December, 1782, pages 231, 235.
Public Journals of Congress, vol. 4, page 198.
Life of Greene, vol. 2, page 344.
Public Journals of Congress, 23d December, 1782, vol. 4, page 124.

NOTE 101, PAGE 495.

See Debates above, page 238.
Public Journals of Congress, vol. 4, page 126.
Washington's Writings, vol. 8, pages 372, 403.

NOTE 102, page 496.

See Debates above, pages 246, 259.
Washington's Writings, vol. 8, page 369.
Public Journals of Congress, 1st January, 1783, vol. 4, page 128.

NOTE 103, PAGE 500.

See Debates above, page 282.

NOTE 104, PAGE 506.

See Debates above, page 287.

NOTE 105, PAGE 512.

See Debates above, pages 270, 349.

NOTE 106, PAGE 513.

Public Journals of Congress, 26th February, 1783, vol. 4, page 168.
Diplomatic Correspondence, (First Series,) 24th January, 1783, vol. 12, page 325; 26th February, 1783, vol. 12, page 327; 27th February, 1783, vol. 12, page 327; 8th March, 1783, vol. 12, page 336; 14th March, 1783, vol. 12, page 337.
Life of John Jay, vol. 2, pages 124, 134.
See Debates above, pages 370, 371; and Correspondence below, page 523.

NOTE 107, PAGE 517.

Diplomatic Correspondence, (First Series,) vol. 4, page 46 to 60; vol. 6, page 464; vol. 7, page 3; vol. 8, page 214; vol. 10, page 117.
Life of John Jay, vol. 2, page 109.

NOTE 108, PAGE 519.

See Debates above, pages 384, 404.

NOTE 109, PAGE 522.

Diplomatic Correspondence, (First Series,) 24th March, 1783, vol. 11, page 318 to 322. See Debates above, page 449.

Note 110, PAGE 534.

Washington's Writings, 30th March, 1783, vol. 8, page 409.
See Debates above, page 433.

Note 111, PAGE 524.

Diplomatic Correspondence, (First Series,) 6th April, 1783, vol. 11, page 325; vol. 10, page 121 to 129. Also vol. 4, page 72; vol. 7, page 8.
Franklin's Works, (Sparks' Edition,) vol. 9, page 473.
See Debates above, page 437.

Note 112, PAGE 526.

See Public Journals of Congress, 20th March, 1783, vol. 4, page 174; 18th April, 1783, vol. 4, page 190.

Note 113, PAGE 528.

See Debates above, page 432.
Public Journals of Congress, 18th April, 1783, vol. 4, page 190; 27th July, 1786, vol. 4, page 669.

Note 114, PAGE 530.

Diplomatic Correspondence, (First Series,) vol. 9, page 153; vol. 10, page 33.
Washington's Writings, vol. 8, pages 427, 428.

Note 115, PAGE 532.

See Debates above, page 243, and references in note 49.
Secret Journals of Congress, (Foreign Affairs,) 1st May, 1783, vol. 3, page 240.
American Quarterly Review, vol 2, page 272.
Diplomatic Correspondence, (First Series,) vol. 7, page 14; vol. 11, page 337.

Note 116, PAGE 533.

See Correspondence below, 10th June, 1783, page 541.

Note 117, PAGE 542.

Secret Journals of Congress, (Foreign Affairs,) 12th July, 1781, vol. 2, page

Note 121, PAGE 564.

Diplomatic Correspondence, (First Series,) 25th April, 1783, vol. 8, page 490.

Note 122, PAGE 566.

Diplomatic Correspondence, (First Series,) 17th June, 1783, vol. 2, page 496.

Note 123, PAGE 568.

Observations on the Commerce of the American States by Lord Sheffield, London, 1783.

Public Journals of Congress, 28th August, 1783, vol. 4, page 287.

Note 124, PAGE 574.

Public Journals of Congress, 13th September, 1783, vol. 4, page 265.

Diplomatic Correspondence, (First Series,) vol. 10, page 198.

Note 125, PAGE 574.

See Correspondence above, page 572.

Note 126, PAGE 579.

Public Journals of Congress, vol. 4, page 283 to 293.

Note 127, PAGE 587.

See Correspondence below, page 617.

Public Journals of Congress, 9th March, 1787, vol. 4, page 725.

Washington's Writings, vol. 9, pages 207, 235, 249.

Bradford's History of Massachusetts, vol. 2, page 300; Minot's History of the Insurrection in Massachusetts.

Note 128, PAGE 587.

Public Journals of Congress, 21st February, 1787, vol. 4, page 728.

Note 129, PAGE 590.

See Correspondence below, page 619.

Note 130, PAGE 594.

See Debates below, pages 599, 606, and Correspondence, page 624.

Note 131, PAGE 597.

Public Journals of Congress, 21st March, 1787, vol. 4, page 730; 13th April, 1787, vol. 4, page 735.

Note 132, PAGE 602.

See Correspondence below, page 629.

Diplomatic Correspondence, (Second Series,) vol. 6, pages 207 to 228.

Note 133, PAGE 604.

Public Journals of Congress, 3d May, 1787, vol. 4, page 741.

Secret Journals of Congress, (Foreign Affairs,) 3d May, 1787, vol. 4, page 343.

Note 134, PAGE 607.

See Correspondence below, page 609.
Secret Journals of Congress, (Foreign Affairs,) vol. 4, page 339.

Note 135, PAGE 608.

See Correspondence below, page 641.

Note 136, PAGE 614.

Public Journals of Congress, 31st August, 1786, vol. 4, page 669.

Note 137, PAGE 619.

Secret Journals of Congress, (Foreign Affairs,) 13th October, 1786, vol. 4, page 185.
Diplomatic Correspondence, (Second Series,) vol. 5, page 23.
Life of John Jay, vol. 2, page 191.
Secret Journals of Congress, (Domestic Affairs,) 21st October, 1786, vol. 1, page 268.
Public Journals of Congress, 19th February, 1787, vol. 4, page 722.
See Correspondence below, page 625.

Note 138, PAGE 620.

Public Journals of Congress, 21st February, 1787, vol. 4, page 723.

Note 139, PAGE 622.

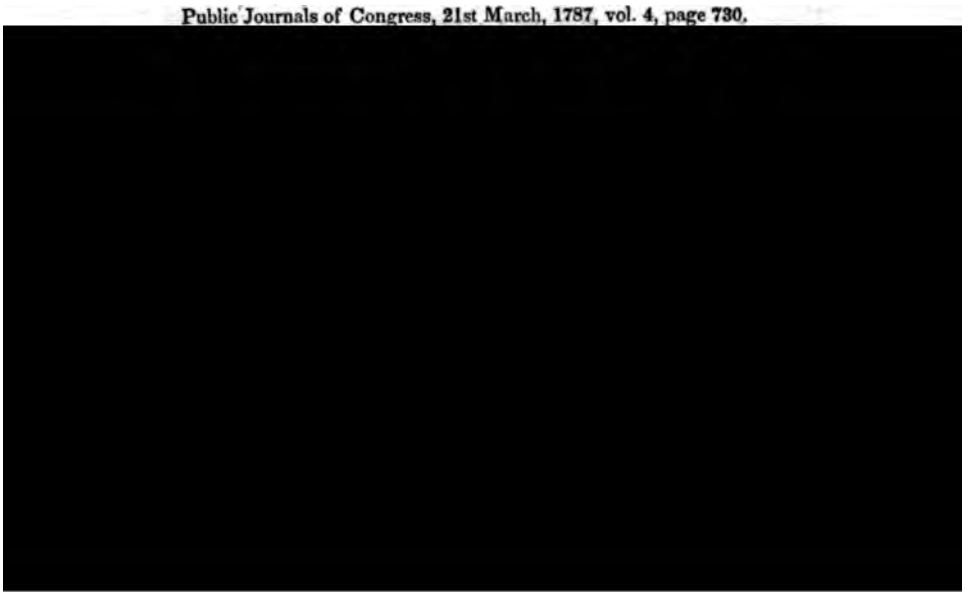
Public Journals of Congress, 9th March, 1787, vol. 4, page 725.
Secret Journals of Congress, 29th August, 1786, vol. 4. page 110.

Note 140, PAGE 627.

Diplomatic Correspondence, (Second Series,) 20th February, 1787, vol. 6, page 489.
Bradford's History of Massachusetts, vol. 2, page 306.
Jefferson's Works, vol. 2, page 87.

Note 141, PAGE 628.

Public Journals of Congress, 21st March, 1787, vol. 4, page 730.



Note 145, PAGE 642.

Public Journals of Congress, 13th October, 1786, vol. 4, page 711.
Secret Journals of Congress, 20th April, 1787, vol. 4, page 388.
Diplomatic Correspondence, (Second Series,) vol. 6, page 238.
Jefferson's Works, vol. 2, page 162.
Life of Richard Henry Lee, vol. 2, page 71.
American Museum, vol. 2, No. 4, page 395.

Note 146, PAGE 646.

Public Journals of Congress, 28th September, 1787, vol. 4, page 776.
Washington's Writings, 10th October, 1787, vol. 9, page 267.
Life of Richard Henry Lee, vol. 2, page 74.

Note 147, PAGE 648.

American Museum, October, 1787, vol. 2, No. 4, page 362 to 368.

Note 148, PAGE 652.

The Objections of Col. Mason, and Mr. Madison's Remarks on them, will be found in the Appendix to Washington's Writings, No. 6, vol. 9, page 544.

Secret Journals of Congress, (Foreign Affairs,) 1st August, 1787, vol. 4, page 381; 24th September, 1787, vol. 4, page 394; 2d October, 1787, vol. 4, page 392; 5th October, 1787, vol. 4, page 399.

Jefferson's Works, vol. 2, page 272.

Diplomatic Correspondence, (Second Series,) 6th August, 1787, vol. 3, pages 274, 275; 24th October, 1787, vol. 3, page 288; 16th October, 1787, vol. 5, page 315.

Note 149, PAGE 653.

Washington's Writings, 22d October, 1787, vol. 9, page 273.

Secret Journals of Congress, (Foreign Affairs,) 28th September, 1786, vol. 4, page 121.

American Museum, vol. 2, No. 5, page 503.

Note 150, PAGE 656.

Diplomatic Correspondence, (Second Series,) vol. 3, page 303; vol. 5, page 347; vol. 7, page 188.

Jefferson's Works, vol. 2, pages 238, 245, 255, 304, 331.

Note 151, PAGE 658.

American Museum, vol. 2, No. 6, page 577.

Note 152, PAGE 661.

Washington's Writings, 7th December, 1787, vol. 9, page 285.
Life of Richard Henry Lee, vol. 2, page 78.
Public Journals of Congress, vol. 4, Appendix, page 47.
American Museum, vol. 2, No. 6, pages 526, 556, 558.
Oswald's Independent Gazeteer, 24th November, 1787.
Pennsylvania Packet, 7th December, 1787.

Note 153, Page 665.

The Letter of Governor Randolph will be found in Elliot's Debates on the Constitution, vol. 1, page 518.

American Museum, vol. 3, page 62.

Washington's Writings, 8th January, 1788, vol. 9, page 296.

Public Journals of Congress, vol. 4, Appendix, page 47.

Life of Richard Henry Lee, vol. 2, page 130.

Note 154, Page 668.

Life of Elbridge Gerry, vol. 2, page 70.

Elliot's Debates on the Constitution, vol. 2, pages 35, 69, 73.

Note 155, Page 669.

Washington's Writings, vol. 9, pages 310, 329, 333.

Note 156, Page 670.

Washington's Writings, vol. 9, page 334.

Note 157, Page 672.

Jefferson's Works, vol. 2, page 319.

Note 158, Page 675.

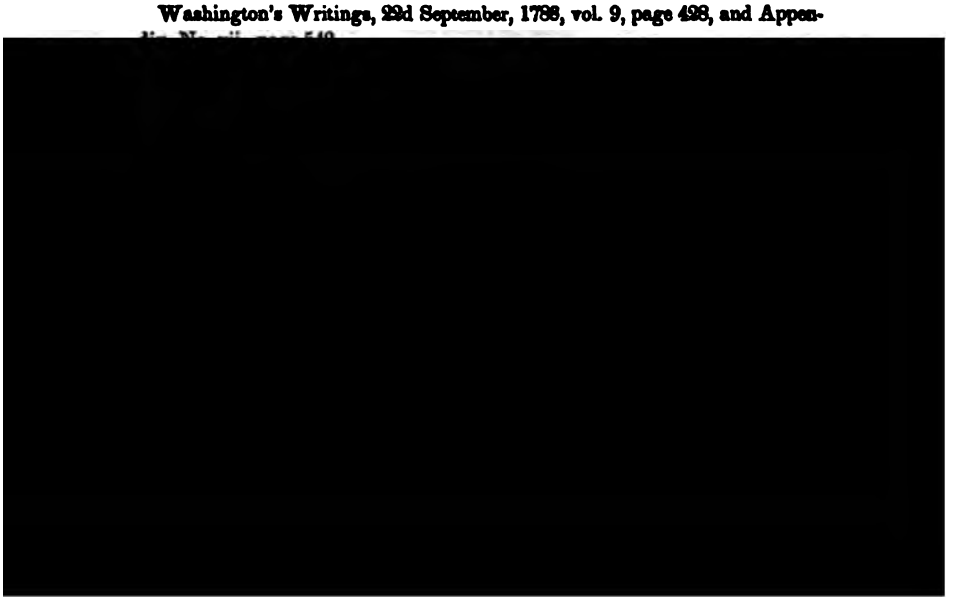
The Circular Letter of Governor Clinton will be found in Elliot's Debates, vol. 2, page 387.

Washington's Writings, vol. 9, page 419.

Note 159, Page 676.

Public Journals of Congress, 8th October, 1787, vol. 4, page 787; 2d July, 1788, vol. 4, page 827; 14th July, 1788, vol. 4, page 834; 28th July, 1788, vol. 4, page 839; 30th July to 6th August, 1788, vol. 4, page 840 to 846; 13th August, 1788, vol. 4, page 848; 26th August, 1788, vol. 4, page 856; 2d September, 1788, vol. 4, page 860; 4th September, 1788, vol. 4, page 863; 12th and 13th September, 1788, vol. 4, page 865.

Washington's Writings, 29d September, 1788, vol. 9, page 428, and Appen-



Life of William Livingston, page 99, and Appendix.
Pitkin's History of the United States, vol. 1, page 142, 429.

Note 163, Page 687.

American Archives, (Fourth Series,) vol. 1, page 893.
Mr. Madison has omitted to notice here the Congress which met at New York in October, 1765.
Massachusetts State Papers, vol. 1, page 35.
Franklin's Works, (Sparks' edition,) vol. 7, page 296.
Political Writings of John Dickinson, vol. 1, page 91.
Marshal's History of the Colonies, ch. 13.
Pitkin's History of the United States, vol. 1, page 178.

Note 164, Page 688.

Franklin's Works, (Sparks' edition,) vol. 5, page 91.
Secret Journals of Congress, (Domestic Affairs,) 21st July, 1775, vol. 1, page 283.

Note 165, Page 688.

Secret Journals of Congress, (Domestic Affairs,) 12th July, 1776, vol. 1, page 290.

Note 166, Page 689.

Secret Journals of Congress, (Domestic Affairs,) vol. 1, page 290 to 367.

Note 167, Page 689.

Secret Journals of Congress, (Domestic Affairs,) vol. 1, page 448.
Public Journals of Congress, vol. 3, page 586.
See Correspondence above, page 81.

Note 168, Page 694.

Secret Journals of Congress, 20th August, 1776, to 15th November, 1777, vol. 1, page 304 to 349; 17th November, 1777, vol. 1, page 362; 22d June to 25th June, 1778, vol. 1, page 368 to 386; vol. 1, page 421 to 446.
Public Journals of Congress, 10th July, 1778, vol. 2, page 619.
Story's Commentaries on the Constitution, vol. 1, pages 214, 228.

Note 169, Page 696.

For the proceedings of the Legislature of Virginia, 30th November, 1785; 1st December, 1785; 21st January, 1786; see Elliot's Debates, vol. 1, pages 147, 150. The last resolution, as there given, varies somewhat from that quoted by Mr. Madison.
Journal of the Senate of Maryland, November, 1784, page 42.
Journal of the House of Delegates of Maryland, November, 1784, pages 103, 105, 107, 113, 121, 125; November, 1785, pages 7, 10, 11 and 20.
Washington's Writings, 18th January, 1784, vol. 9, page 11.
Life of John Jay, 16th March, 1786, vol. 1, page 242.
Marshal's Life of Washington, vol. 5, page 90.
Story's Commentaries on the Constitution, vol. 1, page 252.

NOTE 170, PAGE 703.

Laws of the United States, (edition of 1815,) vol. 1, page 55.

Elliot's Debates, vol. 1, page 150.

Journal of the Senate of New York, 5th May, 1786, page 103.

Minutes of the Assembly of Pennsylvania, 21st March, 1786, page 227.

Journal of the Assembly of New Jersey, 20th March, 1786, page 72; 9th November, 1786, page 28; 20th November, 1786, page 62; 24th November, 1786, page 36.

NOTE 171, PAGE 706.

Public Journals of Congress, 15th February, 1786, vol. 4, page 618.

Journal of the Federal Convention, page 36.

See Correspondence above, page 628.

Journals of the Senate of Virginia, 23d November and 4th December, 1786.

Journals of the House of Delegates of Virginia, 9th November and 4th December, 1786.

NOTE 172, PAGE 707.

"A Dissertation on the Political Union and Constitution of the Thirteen United States of North America, Philadelphia, 1783." This pamphlet was republished in a volume of Political Essays by Pelatiah Webster, Philadelphia, 1791.

NOTE 173, PAGE 707.

See Debates above, page 429, and references at note 65.

Journal of the Senate of New York, 19th July, 1782, page 87; 20th July, 1782.

NOTE 174, PAGE 708.

There is a letter of this date to Mr. Madison, though not on the subject here referred to, in the Life of Richard Henry Lee, vol. 2, page 51. Mr. Lee was elected President of Congress on the 30th November, 1784.

Mr. Webster's proposal was contained in a pamphlet published in the winter of 1784-'5, entitled "Sketches of American Policy." Life of Noah Webster, p.

The letter of Mr. Madison to General Washington, of 16th April 1787, has not been inserted by the former in this work. It will be found in Washington's Writings, vol. 9, page 516, Appendix No. iii.

Note 177, Page 715.

See Debates below, 8th June, 1787, page 821; 19th June, 1787, page 888; 17th July, 1787, page 1117; 23d August, 1787, page 1409.

Journal of the Federal Convention, 31st May, 1787, page 87; 8th June, 1787, page 107; 19th June, 1787, page 136; 17th July, 1787, page 183; 23d August, 1787, page 281.

North American Review, vol. 25, pages 264, 265, 266.

Note 178, Page 715.

See Correspondence above, page 630; Debates below, page 729.

Note 179, Page 723.

Journal of the Federal Convention, page 33.

Laws of Delaware, 3d February, 1787, vol. 1, page 892.

Note 180, Page 749.

See Yates' Minutes, 30th May, 1787; Elliot, vol. 1, page 441.

Note 181, Page 753.

It is stated in Yates' Minutes that the State of New Jersey was not represented in the Convention till this day. No vote of that State appears previously on the Journal.

Note 182, Page 757.

See Debates below, 2d June, 1787, page 779; 21st June, 1787, page 925; 7th August, 1787, page 1255; 8th August, 1787, page 1256.

Jefferson's Works, vol. 2, page 273.

Note 183, Page 759.

See Debates below, 2d June, 1787, page 778; 7th June, 1787, page 818.

Note 184, Page 764.

See Debates below, 4th June, 1787, page 781; 13th June, 1787, page 860; 15th June, 1787, page 865; 16th June, 1787, page 875; 24th August, 1787, page 1417.

Jefferson's Works, vol. 4, pages 160, 161.

The Federalist, No. 70.

Debates in the Convention of North Carolina, 26th July, 1788, Elliot, vol. 4, page 121.

Note 185, Page 767.

See Debates below, 13th June, 1787, page 860; 19th July, 1787, page 1151; 24th July, 1787, page 1189; 26th July, 1787, page 1210; 6th August, 1787, page 1236; 4th September, 1787, page 1486; 6th September, 1787, page 1508.

The Federalist, No. 71.

Story's Commentaries on the Constitution, vol. 3, page 291.

Note 186, Page 770.

See Debates below, 13th June, 1787, page 860; 19th July, 1787, page 1149; 24th July, 1787, page 1188; 6th August, 1787, page 1236; 24th August, 1787, page 1417; 4th September, 1787, page 1486; 6th September, 1787, page 1505.

Debates in the Convention of Virginia, 18th June, 1788, Elliot, vol. 3, page 448 to 454.

Debates in the Convention of North Carolina, 26th July, 1788, Elliot, vol. 4, page 122.

Debates in the Convention of Pennsylvania, 11th December, 1787, Elliot, vol. 2, page 473.

Note 187, Page 776.

See Debates below, 13th June, 1787, page 860; 6th August, 1787, page 1237.

The Federalist, No. 73.

Note 188, Page 779.

See Debates below, 13th June, 1787, page 860; 18th July, 1787, page 1137; 26th July, 1787, page 1224; 6th August, 1787, page 1237; 4th September, 1787, page 1488; 8th September, 1787, page 1528; 12th September, 1787, page 1556.

The Federalist, No. 65.

Debates in the Convention of North Carolina, 24th July, 1788, Elliot, vol. 4, page 60; 25th July, 1788, Elliot, vol. 4, page 70; 28th July, 1788, Elliot, vol. 4, page 129.

Note 189, Page 783.

See Debates above, page 763, and references at note 184.

Note 190, Page 790.

See Debates below, 6th June, 1787, page 809; 13th June, 1787, page 860; 21st July, 1787, page 1161; 6th August, 1787, page 1231; 15th August, 1787, page 1332; 12th September, 1787, page 1548.

The Federalist, No. 51; No. 73.

Debates in the Convention of Pennsylvania, 1st December, 1787, Elliot, vol. 2, page 419; 4th December, 1787, Elliot, vol. 4, page 429.

23d July, 1787, page 1177; 26th July, 1787, page 1225; 6th August, 1787, page 1941; 31st August 1787, page 1470; 10th September, 1787, page 1539; 16th September, 1787, page 1593.

The Federalist, No. 43.

Note 194, Page 800.

See Debates below, 18th July, 1787, page 1136.

The Federalist, No. 81.

Note 195, Page 809.

See Debates above, page 757, and references at note 182.

Note 196, Page 812.

See Debates above, page 790, and references at note 190.

Note 197, Page 821.

See Debates above, page 759, and references at note 183.

Note 198, Page 828.

See Introduction above, page 715, and references at note 177.

Note 199, Page 830.

See Debates above, page 770, and references at note 186.

North Carolina voted in the negative. Journal of the Federal Convention, 9th June, 1787, page 110.

Note 200, Page 843.

See Debates above, page 757, and references at note 182.

Note 201, Page 843.

See Debates above, page 759, and references at note 183.

Note 202, Page 845.

See Debates below, 13th June, 1787, page 861; 26th July, 1787, page 1225; 6th August, 1787, page 1241; 30th August, 1787, page 1468; 10th September, 1787, page 1533; 12th September, 1787, page 1559; 15th September, 1787, page 1590.

Debates in the Convention of Massachusetts, 30th January, 1788, Elliot, vol. 2, page 129; 1st February, 1788, Elliot, vol. 2, page 148; 5th February, 1788, Elliot, vol. 2, page 162.

Debates in the Convention of Virginia, 4th June, 1788, Elliot, vol. 3, page 56; 5th June, 1788, Elliot, vol. 3, page 76; 6th June, 1788, Elliot, vol. 3, pages 110, 114; 10th June, 1788, Elliot, vol. 3, page 199; 25th June, 1788, Elliot, vol. 3, pages 568, 573, 583, 585.

Debates in the Convention of North Carolina, 29th July, 1788, Elliot, vol. 4, page 182.

Note 203, Page 846.

See Debates below, 23d July, 1787, page 1176; 26th July, 1787, page 1226; 6th August, 1787, page 1241; 30th August, 1787, page 1468.

Debates in the Convention of Connecticut, 9th January, 1788, Elliot, vol. 2, page 203.

Debates in the Convention of New York, 7th July, 1788, Elliot, vol. 2, page 383.

Debates in the Convention of North Carolina, 30th July, 1788, Elliot, vol. 4, page 199.

Debates in Congress, 6th May, 1789, Elliot, vol. 4, page 327.

Note 204, Page 846.

See Debates above, page 797, and references at note 193.

Journal of the Federal Convention, page 114.

Note 205, Page 848.

See Debates below, 13th June, 1787, page 858; 21st June, 1787, page 928; 26th July, 1787, page 1220; 6th August, 1787, page 1227.

Debates in the Convention of Massachusetts, 14th January, 1788, Elliot, vol. 2, page 36; 15th January, 1788, Elliot, vol. 2, page 37 to 50.

Debates in the Convention of New York, 21st June, 1788, Elliot, vol. 2, page 240.

Debates in the Convention of Pennsylvania, 4th December, 1787, Elliot, vol. 2, page 433; 11th December, 1787, Elliot, vol 2, page 491.

Debates in the Convention of Virginia, 4th June, 1788, Elliot, vol. 3, page 47.

Debates in the Convention of North Carolina, 24th July, 1788, Elliot, vol. 4, page 57.

The Federalist, No. 52, No. 53.

Note 206, Page 851.

See Debates below, 22d June, 1787, page 931; 23d June, 1787, page 939; 26th June, 1787, page 969; 26th July, 1787, pages 1220, 1221; 6th August, 1787, pages 1227, 1230, 1231; 8th August, 1787, page 1256; 10th August, 1787, page 282; 13th August, 1787, page 1299; 14th August, 1787, page 1317; 1st September, 1787, page 1479; 3d September, 1787, page 1481.

Debates in the Convention of Massachusetts, 17th January, 1788, Elliot, vol. 2, page 69; 21st January 1788, Elliot, vol. 2, page 76.

Debates in the Convention of New York, 24th June, 1788, Elliot, vol. 2, page 278; 25th June, 1787, Elliot, vol. 2, page 297.

Debates in the Convention of North Carolina, 25th July, 1788, Elliot, vol. 4, page 65.

North American Review, vol. 25, pages 263, 265, 266.

Note 208, Page 855.

See Debates below, 13th June, 1787, page 860; 15th June, 1787, page 865; 18th June, 1787, page 892; 18th July, 1787, page 1137; 26th July, 1787, page 1224; 6th August, 1787, page 1238; 27th August, 1787, page 1435; 28th August, 1787, page 1440.

Debates in the Convention of Massachusetts, 30th January, 1788, Elliot, vol. 2, page 126.

Debates in the Convention of Virginia, 18th June, 1788, Elliot, vol. 3, page 472; 20th June, 1788, Elliot, vol. 3, page 484; 21st June, 1788, Elliot, vol. 3, page 511; 23d June, 1788, Elliot, vol. 3, page 523.

Debates in the Convention of North Carolina, 28th July, 1788, Elliot, vol. 4, page 148; 29th July, 1788, Elliot, vol. 4, page 163.

Debates in the Convention of Pennsylvania, 7th December, 1787, Elliot, vol. 2, page 452; 11th December, 1787, Elliot, vol. 2, page 476.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 414.

Objections of George Mason to the Federal Constitution, Elliot, vol. 1, page 534.

Report of James Madison to the Legislature of Virginia, 7th January, 1800, Elliot, vol. 4, pages 575, 590.

The Federalist, No. 80 to No. 83.

Story's Commentaries on the Constitution, vol. 3, page 499 to 651.

Note 209, Page 858.

In the Journal of the Federal Convention, page 121, the vote of Pennsylvania is given in the negative.

The remarks of Mr. Butler on this motion, as reported in Yates' Minutes, are somewhat different, Elliot, vol. 1, page 456.

See Debates below, 5th July, 1787, page 1024; 6th July, 1787, page 1040; 16th July, 1787, page 1108; 26th July, 1787, page 1223; 6th August, 1787; page 1229; 8th August, 1787, page 1266; 9th August, 1787, pages 1268, 1270; 11th August, 1787, page 1297; 13th August, 1787, page 1305; 14th August, 1787, page 1321; 15th August, 1787, page 1331; 5th September, 1787, pages 1494, 1495; 8th September, 1787, page 1530.

Debates in the Convention of Virginia, 14th June, 1788, Elliot, vol. 3, page 352.

Objections of George Mason, one of the Delegates from Virginia, Elliot, vol. 1, page 533.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 410.

Note 210, Page 861.

These resolutions will be found in the Journal of the Federal Convention, 19th June, 1787, page 134. There are verbal differences in the first, fourth, seventh, eighth, ninth, tenth, eleventh, thirteenth, fifteenth, and nineteenth resolutions.

Note 211, Page 867.

Journal of Federal Convention, 15th June, 1787, page 123.

In the copy here given the two following resolutions, stated in the Journal to have been offered by Mr. Patterson with the rest, are entirely omitted:

"Resolved, That the Legislative, Executive, and Judiciary powers, within the several States, ought to be bound by oath to support the Articles of Union.

"Resolved, That provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual State, respecting territory."

Note 212, Page 875.

Stated in Yates' Minutes to be Gen. Charles C. Pinckney, Elliot, vol. 1, page 461.

Note 213, Page 878.

These speeches of Mr. Lansing, Mr. Patterson, Mr. Wilson, and Mr. Randolph, are very fully reported in Yates' Minutes of this day's debate. See Elliot, vol. 1, page 457 to 462.

See also Mr. Martin's statement in regard to the debate on Mr. Patterson's resolutions in his Address to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 388.

Note 214, Page 892.

See Appendix No. 5, page 16, for "Copy of a paper communicated to James Madison by Col. Hamilton, about the close of the Convention in Philadelphia, 1787, which, he said, delineated the Constitution which he would have wished to be proposed by the Convention."

Yates' Minutes, 18th June, 1787, Elliot, vol. 1, page 462.

Debates in the Convention of Virginia, 7th June, 1788, Elliot, vol. 3, page 144.

Note 217, Page 904.

A few remarks of Mr. Dickinson on this motion, which are omitted by Mr. Madison, are given in Yates' Minutes, Elliot, vol. 1, page 469.

Note 218, Page 906.

Yates' Minutes, Elliot, vol 1, page 470.

Debates in the Convention of Massachusetts, 21st January, 1788, Elliot, vol. 2, page 78.

Note 219, Page 908.

See Debates in the Convention of New York, 23d June, 1788, Elliot, vol. 2, page 266; 24th June, 1788, Elliot, vol. 2, page 292.

The Federalist, No. 17, page 87.

Note 220, Page 912.

Letter from Mr. Yates and Mr. Lansing to the Governor of New York, containing their reasons for not subscribing the Federal Constitution, Elliot, vol. 1, page 516.

Note 221, Page 915.

Yates' Minutes, 20th June, 1787, Elliot, vol. 1, page 472.

Debates in the Convention of Virginia, 11th June, 1788, Elliot, vol. 3, page 262.

Note 222, Page 916.

Yates' Minutes, 20th June, 1787, Elliot, vol. 1, page 473.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787, Elliot, vol. 1, page 388.

Note 223, Page 918.

Yates' Minutes, 20th June, 1787, Elliot, vol. 1, page 473.

Note 224, Page 920.

Yates' Minutes, 20th June, 1788, Elliot, vol. 1, page 474.

Debates in the Convention of Pennsylvania, 26th November, 1787, Elliot, vol. 2, page 397; 1st December, 1787, Elliot, vol. 2, pages 417, 418.

Note 225, Page 923.

Debates in the Convention of Pennsylvania, 29th October, 1787, Elliot, vol. 2, pages 411, 412.

Note 226, Page 925.

See Debates below, page 978.

Debates in the Convention of Virginia, 7th June, 1788, Elliot, vol. 3, page 146.

The Federalist, No. 45, No. 46.

Judge Baldwin's Views of the Constitution, pages 6, 20.

Note 227, Page 928.

See Debates above, page 757, and references at note 182.

Note 228, Page 931.

See Debates above, page 848, and references at note 205.

Note 229, Page 935.

The remarks of Mr. Hamilton and Mr. Ellsworth are given rather more fully in Yates' Minutes; and there are some observations of Mr. Wilson on this motion, which are not noticed by Mr. Madison, Elliot, vol. 1, page 478.

Note 230, Page 935.

Moved by Mr. Mason, Yates' Minutes, 22d June, 1787, Elliot, vol. 1, page 478.

Note 231, Page 936.

See Debates above, page 851, and references at note 206.

Note 232, Page 937.

See Debates above, page 851, and references at note 206.

Note 233, Page 938.

The debate on this motion is more fully reported in Yates' Minutes, 22d June, 1787, Elliot, vol. 1, page 479.

See Debates above, at page 851, and references at note 206.

See also Debates below, page 939 to 945.

Note 234, Page 939.

See Debates above, page 851, and references at note 206.

Note 235, Page 939.

Mr. Mason's remarks on this motion are omitted. See Yates' Minutes, 23d June, 1787, Elliot, vol. 1, page 481.

[redacted]

Note 240, Page 960.

Mr. Madison's remarks on this motion are omitted. See Yates' Minutes, 26th June, 1787, Elliot, vol. 1, page 488.

Note 241, Page 962.

These remarks of General Pinckney are reported more fully, and somewhat differently, in Yates' Minutes, 26th June, 1787, Elliot, vol. 1, page 489.

Note 242, Page 965.

See the report of this debate in Yates' Minutes, Elliot, vol. 1, page 489 to 491.

Note 243, Page 969.

See Debates above, page 853, and references at note 207.

Note 244, Page 971.

See Debates above, 12th June, 1787, page 853; 13th June, 1787, page 859, 26th July, 1787, page 1221.

See also references at note 206.

Note 245, Page 973.

In the Journal of the Federal Convention this vote is thus given: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, aye—6.

Massachusetts, New York, New Jersey, South Carolina, Georgia, no—5.

Note 246, Page 978.

See Debates above, 12th June, 1787, page 854; 13th June, 1787, page 859; 26th July, 1787, page 1221.

See references at note 206, page 851.

The propositions of Dr. Franklin, given below, in the Debates of the 30th June, 1787, page 1009, are stated in his works to have been offered on this day, the 26th June.

Franklin's Works, (Sparks' Edition,) vol. 5, page 142.

Note 247, Page 977.

This speech of Mr. Martin is reported more fully in Yates' Minutes, 27th and 28th June, 1787, Elliot, vol. 1, page 493 to 497.

Note 248, Page 983.

See Debates above, page 925, and the references at note 226.

Note 249, Page 983.

An explanatory remark of Mr. Martin, in reply, will be found in Yates' Minutes, Elliot, vol. 1, page 498.

Note 250, Page 984.

Some remarks of Mr. Madison in reply to Mr. Sherman, not here given will be found in Yates' Minutes, Elliot, vol. 1, page 498.

Note 251, Page 986.

Franklin's Works, (Sparks' Edition,) vol. 5, page 153.

Note by Dr. Franklin: "The Convention, except three or four persons, thought prayers unnecessary."

Note 252, Page 992.

See Debates above, page 925, and the references at note 226.

Story's Commentaries on the Constitution, vol. 2, page 175.

Note 253, Page 995.

This speech is very fully reported in Yates' Minutes, Elliot, vol. 1, page 500.

Note 254, Page 998.

The remarks of Mr. Madison, at some length, on this resolution, and here omitted, will be found in Yates' Minutes, Elliot, vol. 1, page 503.

Note 255, Page 1000.

The law of New Hampshire, appointing Delegates, passed on the 27th June; Messrs. Langdon, Pickering, Gillman, and West, were chosen; on the 23d July, Messrs. Langdon and Gillman took their seats; Messrs. Pickering and West never attended.

Journal of the Federal Convention, pages 17, 196.

Note 256, Page 1004.

These speeches of Mr. Wilson and Mr. Ellsworth are very fully reported in Yates' Minutes, Elliot, vol. 1, pages 504, 506.

Note 257, Page 1014.

The propositions of Dr. Franklin, offered in the course of this debate, are given in his works, with remarks different from those here reported; they are also stated to have been offered on the 26th June. Franklin's Works, (Sparks' Edition,) vol. 5, page 142.

This speech of Mr. Bedford is reported somewhat more fully in Yates' Minutes, Elliot, vol. 1, page 508.

States.	*No. of Whites.*		*No. of Blacks.*
New Hampshire	82,000	102,000	
Massachusetts Bay,	352,000		
Rhode Island,	58,000		
Connecticut,	202,000		
New York,	238,000		
New Jersey,	138,000	145,000	
Pennsylvania,	341,000		
Delaware,	37,000		
Maryland,	174,000		80,000
Virginia,	300,000		300,000
North Carolina,	181,000		
South Carolina,	93,000		
Georgia,	27,000		

The following quotas of taxation are extracted from the printed Journals of the Old Congress, September 27th, 1785.

	Quota of Tax.	*Delegates.*
Virginia,	512,974	16
Massachusetts Bay,	448,864	14
Pennsylvania,	410,378	12¾
Maryland,	283,034	8¾
Connecticut,	254,182	8
New York,	256,480	8
North Carolina,	218,012	6¾
South Carolina,	192,306	6
New Jersey,	166,716	5
New Hampshire,	105,416	3¼
Rhode Island,	646,36	2
Delaware,	448,86	1¼
Georgia,	320,00	1
	3,000,000	90

Note 261, Page 1045.

See Debates above, page 858, and references at note 209.

Note 262, Page 1051.

See Debates above, 11th June, 1787, page 843; 19th June, 1787, page 902; 25th June, 1787, page 955; 28th June, 1787, page 983; 29th June, 1787, page 991; 5th July, 1787, page 1024.

See Debates below, 14th July, 1787, page 1098; 16th July, 1787, page 1109; 9th August, 1787, page 1271.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787, Elliot, vol. 1, page 386.

Note 263, Page 1059.

New York—no; in the Journal of the Federal Convention, 10th July, 1787, page 166.

Note 264, Page 1060.

New York—no; in the Journal of the Federal Convention, 10th July, 1787, page 166.

Note 265, Page 1063.

See Debates below, 16th July, 1787, page 1107; 20th July, 1787, page 1152; 26th July, 1787, page 1222; 6th August, 1787, page 1227; 20th August, 1787, page 1377; 21st August, 1787, page 1380.

Debates in the Convention of Massachusetts, 17th January, 1788; Elliot, vol. 2, page 68.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788; Elliot, vol. 1, page 398.

Debates in the Convention of New York, 23d June, 1788; Elliot, vol. 2, page 267.

The Federalist, No. 55, page 312.

Note 266, Page 1063.

This resolution is somewhat different, as given in the Journal of the Federal Convention, 10th July, 1787, page 167.

Note 267, Page 1066.

This resolution is somewhat different, as given in the Journal of the Federal Convention, 11th July, 1787, page 168.

Note 268, Page 1067.

See Debates above, 11th June, 1787, page 842; 13th June, 1787, page 859; 5th July, 1787, page 1024; 9th July, 1787, page 1052; 10th July, 1787, page 1063; 11th July, 1787, page 1066.

See Debates below, 13th July, 1787, page 1090; 16th July, 1787, page 1108;

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787, Elliot, vol. 1, pages 386, 405.

Objections of George Mason to the Federal Constitution, Elliot, vol. 1, page 538.

Letter of Messrs. Yates and Lansing to the Legislature of New York, Elliot, vol. 1, page 517.

The Federalist, No. 36, No. 54, No. 55, and No. 58.

Address of the Minority of the Convention of Pennsylvania to their Constituents, American Museum, vol. 2, pages 547, 551.

Letter of Richard Henry Lee, 16th October, 1787, Elliot, vol. 1, page 545.

Debates in Congress, 14th August, 1789, Gales and Seaton, (First Series,) vol. 1, page 749; 21st August, 1789, vol. 1, page 802.

Jefferson's Works, vol. 4, page 466.

Story's Commentaries on the Constitution, vol. 2, page 147.

Note 269, Page 1095.

There are some verbal variations between the resolution as given here, and that in the Journal of the Convention, page 177.

Note 270, Page 1109.

See Debates above, pages 1051 and 1067, and references at notes 262 and 268.

Note 271, Page 1109.

See Debates above, 29th May, 1787, page 732; 31st May, 1789, page 760; 13th June, 1787, page 859.

See Debates below, 17th July, 1787, page 1114; 6th August, 1787, page 1232.

Note 272, Page 1116.

See Debates above, page 828, and references at note 198.

Note 273, Page 1119.

See Debates above, page 828, and references at note 198.

See Debates below, 23d August, 1787, page 1309.

Note 274, Page 1124.

See Debates above, page 770, and references at note 186.

See Debates below, 24th July, 1787, page 1188; 24th August, 1787, page 1420.

Note 275, Page 1130.

See Debates above, page 767, and references at note 185.

Note 276, Page 1130.

See Debates above, page 790, and references at note 190.

Note 277, Page 1135.

See Debates above, page 793, and references at note 192.

Note 278, Page 1141.

See Debates below, 26th July, 1787, page 1225; 6th August, 1787, page 1241; 30th August, 1787, page 1466; 12th September, 1787, page 1558; 16th September, 1787, page 1590.

Debates in the Convention of Virginia, 7th June, 1788, Elliot, vol. 3, page 144.

The Federalist, No. 21, No. 43.

Note 279, Page 1149.

There are some verbal variations between the resolution, as given here, and that in the Journal of the Convention, page 190.

Note 280, Page 1152.

See Debates above, page 767, and references at note 185.

Note 281, Page 1153.

See Debates above, 13th June, 1787, page 860, page 779, and references at note 188.

Note 282, Page 1171.

See Debates above, page 790, and references at note 190; page 812, and note 196.

Note 283, Page 1171.

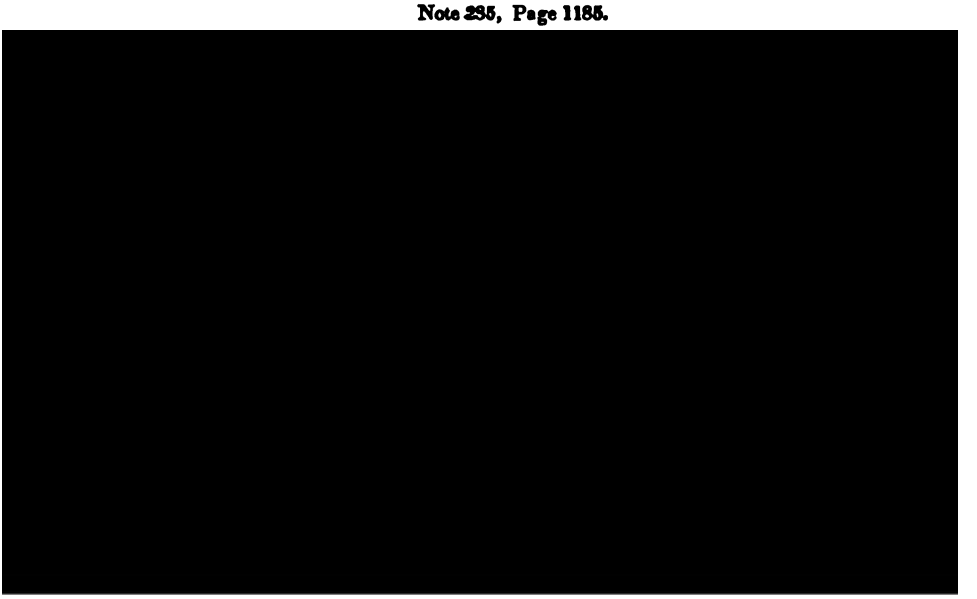
See Debates above, page 793, and references at note 192.

Note 284, Page 1175.

See Debates, 1st June, 1787, page 765; 13th June, 1787, page 860; 17th July, 1787, page 1124; 18th July, 1787, page 1130; 21st July, 1787, page 1171; 29th July, 1787, page 1224; 6th August, 1787, pages 1234, 1237; 4th September, 1787, page 1487; 7th September, 1787, page 1520; 12th September, 1787, page 1555.

The Federalist, No. 76, No. 77.

Note 285, Page 1185.



Debates in the Convention of New Hampshire, Elliot, vol. 2, page 207.

Debates in the Convention of Massachusetts, 18th January, 1788, Elliot, vol. 2, page 66; 25th January, 1788, Elliot, vol. 2, page 121.

Debates in the Convention of Virginia, 15th June, 1788, Elliot, vol. 3, page 417; 17th June, 1788, Elliot, vol. 3, page 442.

Debates in the Convention of North Carolina, 26th July, 1788, Elliot, vol. 4, page 118.

Debates in the Convention of South Carolina, 16th January, 1788, Elliot, vol. 4, pages 265, 269, 277, 285.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, page 462.

Debates in Congress, 13th May, 1789, Gales and Seaton, (First Series,) vol. 1, page 352.

Objections of George Mason to the Federal Constitution, Elliot, vol. 1, page 535.

The Federalist, No. 7, page 36, No. 25, No. 42, No. 44, page 253.

Note 288, Page 1211.

Journal of the Federal Convention, 26th July, 1787, page 204. There are some slight verbal differences.

Note 289, Page 1218.

See Debates below, page 1225.

Note 290, Page 1225.

Journal of the Federal Convention, 30th July, 1787, page 207. The dates when each resolution was finally passed are there given.

Note 291, Page 1242.

Journal of the Federal Convention, 6th August, 1787, page 215. There are a few verbal differences. The original draught, from which each is taken, was printed, and is among the papers relating to the Convention, which were deposited by General Washington in the Department of State, on the 19th March, 1796.

Note 292, Page 1243.

The proceedings on this motion are more fully stated in the Journal of the Federal Convention, 7th August, 1787, page 220.

Note 293, Page 1249.

The Federalist, No. 52.

Note 294, Page 1256.

See Debates above, 31st May, 1787, page 753; 21st June, 1787, page 925.
Debates in the Convention of Virginia, 4th June, 1788, Elliot, vol 3, page 41.
The Federalist, No. 52.

Note 295, Page 1260.

See Debates above, page 851, and references at note 206.

Note 296, Page 1266.

See Debates above, page 1087, and references at note 268.

Note 297, Page 1268.

See Debates above, page 858, and references at note 209.

Note 298, Page 1279.

See Debates above, 12th June, 1787, page 854; 25th June, 1787, page 960.
See Debates below, 13th August, 1787, page 1305.
The Federalist, No. 62.

Note 299, Page 1282.

See Debates above, 6th August, 1787, page 1229.
See Debates below, 12th September, 1787, page 1546.
Debates in the Convention of Massachusetts, 16th January, 1788, Elliot, vol. 2, page 50; 17th January, 1787, Elliot, vol. 2, page 57; 21st January, 1787, Elliot, vol. 2, page 73.
Debates in the Convention of Virginia, 4th June, 1788, Elliot, vol. 3, page 43; 5th June, 1788, Elliot, vol. 3, page 86; 9th June, 1788, Elliot, vol. 3, page 183; 14th June, 1788, Elliot, vol. 3, page 344.
Debates in the Convention of North Carolina, 35th July, 1788, Elliot, vol. 4, page 75.
Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, pages 402, 411, 418, 425, 433, 447, 454.
Letter of Elbridge Gerry to the Legislature of Massachusetts, 18th October, 1787, Elliot, vol. 1, page 531.
Address of the Minority of the Convention of Pennsylvania, American Museum, vol. 2, page 545.

Note 300, Page 1287.

See Debates above, pages 851, 1256, 1279, and references at notes 206, 294, 298.

[redacted]

Note 304, Page 1297.

See Debates below, 12th September, 1787, page 1547.

Debates in the Convention of Virginia, 14th June, 1788, Elliot, vol. 3, page 345.

Note 305, Page 1305.

See Debates above, pages 851, 1279, and references to notes 206, 298.

Note 306, Page 1316.

See Debates above, page 858, and references at note 209.

Note 307, Page 1326.

See Debates above, page 851, and references at note 206.

Note 308, Page 1330.

See Debates above, page 851, and references at note 206.

Note 309, Page 1333.

See Debates above, pages 790, 812, and references at notes 190, 196.

Note 310, Page 1338.

See Debates above, page 790, and references at note 190.

Note 311, Page 1343.

See Debates above, page 1187, and references at note 287.

Note 312, Page 1346.

See Debates above, 6th August, 1787, page 1232.

See Debates below, 12th September, 1787, page 1549.

Debates in the Convention of North Carolina, 26th July, 1788, Elliot, vol. 4, page 109.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, page 461.

The Federalist, No. 41, page 231.

Note 313, Page 1347.

See Debates above, 6th August, 1787, page 1232.

See Debates below, 12th September, 1787, page 1549; 14th September, 1787, page 1574.

Note 314, Page 1351.

See Debates above, page 1141, and references at note 278.

Also Debates above, 6th August, 1787, pages 1232, 1241; Debates below 23d August, 1787, page 1409; 30th August, 1787, page 1466; 12th September, 1787, pages 1550, 1559.

Debates in the Convention of Pennsylvania, 11th December, 1787, Elliot, vol. 2, page 482.

Debates in the Convention of Virginia, 5th June, 1788, Elliot, vol. 3, page 79; 6th June, 1788, Elliot, vol. 3, page 111; 7th June, 1788, Elliot, vol. 3, page

130; 12th June, 1788, Elliot, vol. 3, page 263; 14th June, 1788, Elliot, vol 3, page 381.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 415.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, page 446.

The Federalist, No. 29, No. 43.

Note 315, Page 1353.

See Debates above, 18th June, 1787, page 891; 6th August, 1787, page 1233.

See Debates below, 5th September, 1787, page 1494; 12th September, 1787, page 1550.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, pages 434, 461.

Public Journals of Congress, 1st March, 1781, vol. 3, page 588.

The Federalist, No. 23, No. 41.

Report on the Virginia Resolutions, Elliot, vol. 4, page 584.

Note 316, Page 1358.

See Debates below, 21st August 1787, page 1378; 22d August, 1787, page 1396, 1401; 23d August, 1787, page 1412; 25th August, 1787, page 1424; 12th September, 1787, pages 1549, 1559.

The Federalist, No. 43, No. 84.

Note 317, Page 1359.

See Debates above, 29th May, 1787, page 733; 6th June, 1787, page 809.

See Debates below, 20th August, 1787, page 1367; 22d August, 1787, page 1398; 4th September, 1787, page 1488; 7th September, 1787, page 1522.

Debates in the Convention of Pennsylvania, 4th December, 1787, Elliot, vol. 2, page 474.

Debates in the Convention of North Carolina, 28th July, 1788, Elliot, vol. 4, page 124.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 534.

The Federalist, No. 70, No. 74.

[redacted]

Debates in the Convention of North Carolina, 26th July, 1788, Elliot, vol. 4, page 113.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, pages 414, 421, 423, 427, 434, 443, 445, 456.

The Federalist, No. 24 to No. 29, No. 41.

Note 319, Page 1364.

See Debates above, 6th August, 1787, page 1233.

See Debates below, 21st August, 1787, page 1378; 23d August, 1787, page 1403; 12th September, 1787, page 1550; 14th September, 1787, page 1578.

Debates in the Convention of Virginia, 5th June, 1788, Elliot, vol. 3, page 78; 6th June, 1788, Elliot, vol. 3, page 111; 14th June, 1788, Elliot, vol. 3, pages 354, 363; 16th June, 1788, Elliot, vol. 3, pages 381, 406; 24th June, 1788, Elliot, vol. 3, page 544.

Amendments to the Constitution, proposed by the States; Supplement to the Journal of the Federal Convention, pages 423, 427, 445.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 415.

The Federalist, No. 29.

Message of the President, 6th November, 1812; American State Papers, (Gales and Seaton's edition,) Military Affairs, vol. 1, page 319.

Note 320, Page 1372.

The proceedings are given more minutely in the Journal of the Federal Convention, 20th August, 1787, page 268.

Note 321, Page 1377.

See Debates above, 6th August, 1787, page 1233; below, 12th September, 1787, page 1557.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 534.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787, Elliot, vol. 1, page 430.

Note 322, Page 1382.

New Hampshire—aye, not stated in the Journal of the Federal Convention, 21st August, 1787, page 275.

Note 323, Page 1388.

See Debates above, page 1187, and references at note 287.

Note 324, Page 1397.

See Debates above, page 1187, and references at note 287.

See Debates above, 6th August, 1787, page 1234.

See Debates below, 24th August, 1787, page 1415; 25th August, 1787, page 1430; 29th August, 1787, page 1450.

Debates in the Convention of South Carolina, 17th January, 1788, Elliot, vol. 4, page 288.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 355.

Note 325, Page 1401.

Debates in the Convention of Virginia, 17th June, 1788, Elliot, vol. 3, page 425.

Amendments to the Federal Convention proposed by the States; Supplement to the Journal of the Federal Convention, page 430.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 535.

The Federalist, No. 44, No. 84.

Note 326, Page 1401.

See Debates above, page 1358, and references at note 316.

Note 327, Page 1402.

See Debates above, page 1358, and references at note 316.

Note 328, Page 1403.

See Debates above, page 1364, and references at note 319.

Note 329, Page 1412.

See Debates above, pages 828, 1309, and references at note 198.

Note 330, Page 1415.

See Debates above, 6th August, 1787, page 1234.

See Debates below, 4th September, 1787, page 1487; 7th September, 1787, page 1520; 8th September, 1787, page 1525; 12th September, 1787, page 1555.

Debates in the Convention of Virginia, 18th June, 1788, Elliot, vol. 3, page 456.

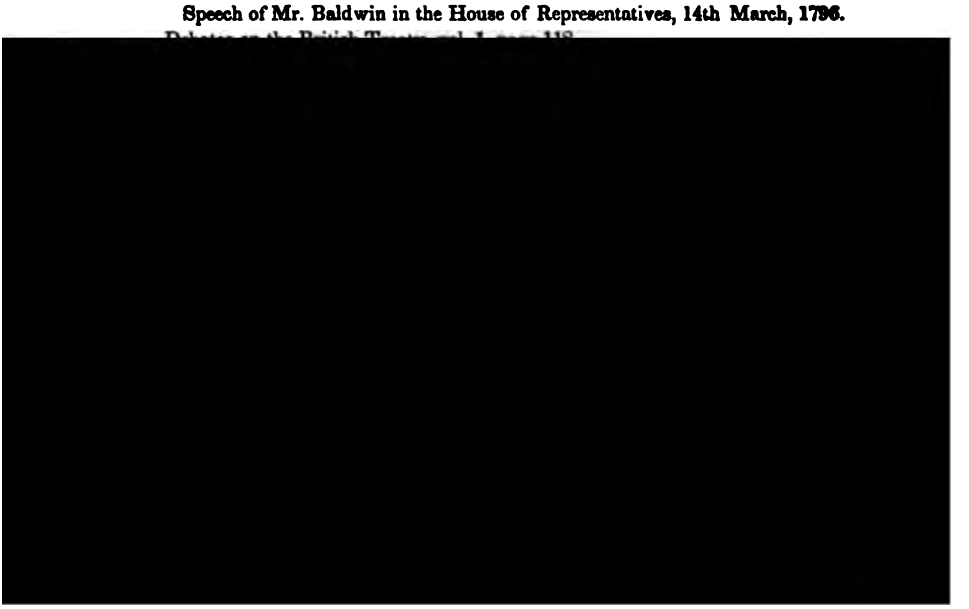
Debates in the Convention of North Carolina, 28th July, 1788, Elliot, vol. 4, page 231.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, page 445.

The Federalist, No. 64, No. 69, No. 75.

Speeches of Mr. Madison in the House of Representatives, 10th March and 6th April, 1796. Debates on the British Treaty, vol. 1, pages 69, 375.

Speech of Mr. Baldwin in the House of Representatives, 14th March, 1796.



Note 332, Page 1422.

See Debates above, page 770, and references at note 186.

Note 333, Page 1426.

See Debates above, page 1358, and references at note 316.

Note 334, Page 1430.

See Debates above, page 1187, and reference at note 287.

Note 335, Page 1432.

See Debates above, page 1424, where the resolution is stated to have been negatived without a count. In the Journal of the Federal Convention, page 290, it is also stated in that manner.

Note 336, Page 1433.

The resolution is not given in the Journal of the Federal Convention.

Note 337, Page 1438.

See Debates above, 5th June, 1787, page 794; 18th July, 1787, page 1135; below, 12th September, 1787, page 1556.

Debates in the Convention of Pennsylvania, 10th December, 1787, Elliot, vol. 2, page 454; 11th December, 1787, Elliot, vol. 2, pages 475, 490, 497.

The Federalist, No. 79.

Note 338, Page 1440.

The amendments proposed to this section are more minutely given in the Journal of the Federal Convention, 27th August, 1787, page 296.

See Debates above, page 855, and references at note 206.

Note 339, Page 1442.

See Debates above, 6th August, 1787, page 1239; below, 12th September, 1787, page 1552.

Debates in the Convention of Virginia, 6th June, 1788, Elliot, vol. 3, page 99; 17th June, 1788, Elliot, vol. 3, page 433.

Debates in the Convention of North Carolina, 29th June, 1788, Elliot, vol. 4, page 187.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787; Elliot, vol. 1, page 422.

Letter of Mr. Madison to Mr. Ingersoll, 22d February, 1831, Elliot, vol. 4, page 641.

The Federalist, No. 44.

Note 340, Page 1444.

See Debates below, 12th September, 1787, page 1553; 14th September, 1787, page 1581.

See references above, at note 339.

Note 341, Page 1448.

See Debates above, 6th August, 1787, page 1240.

Journal of Congress, 1st March, 1781, vol. 3, page 587.

Note 342, Page 1449.

See Debates below, 1st September, 1787, page 1479; 3d September, 1787, page 1480.

The Federalist, No. 42.

Note 343, Page 1456.

See Debates above, 28th August, 1787, page 1447; 12th September, 1787, page 1553; 13th September, 1787, page 1559.

Debates in the Convention of North Carolina, 29th July, 1788, Elliot, vol. 4, page 182.

Debates in the Convention of South Carolina, 17th January, 1788, Elliot, vol. 4, page 277.

Note 344, Page 1458.

The Journal of the Federal Convention, 29th August, 1787, page 307, says:

"On the question being taken it passed in the affirmative; New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, aye—9.

"Maryland, Virginia, no—2."

See Debates below, page 1466, and references at note 345.

Note 345, Page 1466.

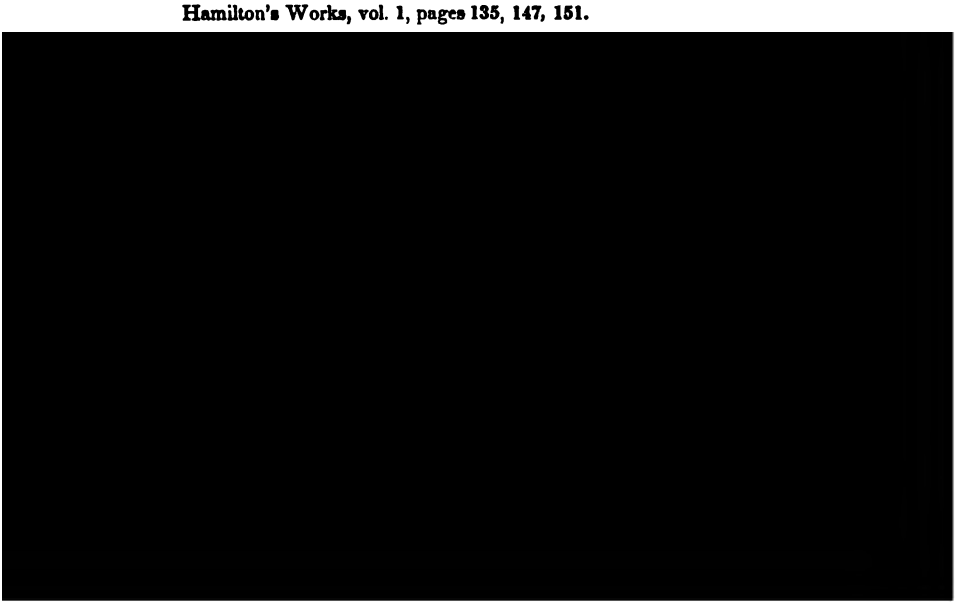
South Carolina and Georgia—no, in the Journal of the Federal Convention, 30th August, 1787, page 311.

See Debates above, 6th August, 1787, page 1240; below, 12th September, 1787, page 1553; 16th September, 1787, page 1559.

Debates in the Convention of Virginia, 23d June, 1787, Elliot, vol. 3, page 530.

The Federalist, No. 43.

Hamilton's Works, vol. 1, pages 135, 147, 151.



Debates in the Convention of Virginia, 17th June, 1787, Elliot, vol. 3, page 442.

Address of Luther Martin to the Legislature of Maryland, 27th January, 1787, Elliot, vol. 1, page 421.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 535.

The Federalist, No. 44.

Note 349, Page 1479.

After Article 7, Section 1, Clause 8, of the Constitution, as reported on the 6th August, 1787, above page 1232.

See Debates above, 29th August, 1787, page 1448; below, 3d September, 1787, page 1481.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, page 436.

The Federalist, No. 42.

Note 350, Page 1481.

See Debates above, page 1449, and references at note 342.

Note 351, Page 1485.

See Debates above, page 851, and references at note 206.

Note 352, Page 1493.

See Debates above, page 770, and references at note 186.

Note 353, Page 1496.

See Debates above, 18th August, 1787, page 1354; below, 12th September, 1787, page 1550.

Debates in the Convention of Virginia, 6th June, 1788, Elliot, vol. 3, page 110; 9th June, 1788, Elliot, vol. 3, page 169; 16th June, 1788, Elliot, vol. 3, page 393.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, pages 423, 434, 446.

The Federalist, No. 43.

Note 354, Page 1512.

In the Journal of the Federal Convention, 6th September, 1787, page 332, the yeas and nays, not given by Mr. Madison on several of these motions, are inserted; but the various amendments are less distinctly stated in the Journal.

Note 355, Page 1516.

See Debates above, page 770, and references at note 186.

Note 356, Page 1520.

See Debates above, page 1175, and references at note 284.

Note 357, Page 1527.

Journal of the Federal Convention, 8th September, 1787, page 343.

Note 358, Page 1528.

See Debates above, page 1415, and references at note 330.

Note 359, Page 1536.

See Debates above, page 845, and references at note 202.

Note 360, Page 1541.

See Debates above, page 797, and references at note 193.

Note 361, Page 1542.

See "A letter of Edmund Randolph, Esq., on the Federal Constitution, addressed to the Speaker of the House of Delegates of Virginia, Richmond, 10th October, 1787," in Elliot, vol. 1, page 518.

Note 362, Page 1545.

Article 5, Section 2, in the draught reported 6th August, and agreed to 9th August, 1787; see Debates above, pages 1228 and 1273.

Note 363, Page 1548.

The clause as here given agrees with that in the Journal of the Federal Convention, 12th September, 1787, pages 355, 356. But see the Debates above, on the 15th August, 1787, page 253, where the words "two-thirds" were struck out of the clause, and the words "three-fourths" then inserted; and see also the Debates below, pages 1562, 1564, where it is stated that "three-fourths" were struck out and "two thirds" reinstated.

Note 364, Page 1549.

The printed Journal of the Federal Convention, page 356, has "three-fourths," which is correct. The draught of the Constitution so stood at that time. See note 363.

Note 365, Page 1566.

[redacted]

Address of Luther Martin to the Legislature of Maryland, 27th January, 1788, Elliot, vol. 1, page 428.

Letter of Elbridge Gerry to the Legislature of Massachusetts, Elliot, vol. 1, page 532.

Objections of George Mason to the Constitution, Elliot, vol. 1, page 532.

Amendments to the Constitution proposed by the States; Supplement to the Journal of the Federal Convention, pages 402, 403, 413, 417, 426, 439, 452, 466.

Address of the Minority of the Convention of Pennsylvania, 12th December, 1787; American Museum, vol. 2, page 540.

The Federalist, No. 3, No. 84.

Debates in Congress, (Gales and Seaton's First Series,) 8th June, 1789, vol. 1, page 448.

Note 366, Page 1568.

The Letter to Congress, transmitting the Constitution, was read by paragraphs, and agreed to. Debates above, page 1560. Journal of the Federal Convention, page 367.

Note 367, Page 1569.

See Debates above, 28th August, 1787, page 1444; 12th September, 1787, page 1552, 1556; and below, 15th September, 1787, page 1584.

Debates in the Convention of Virginia, 17th June, 1788, Elliot, vol. 3, page 442.

The Federalist, No. 44.

Note 368, Page 1570.

Referring to the Articles so numbered in the draught of the Constitution reported on 6th August, 1787. See Debates above, pages 1241, 1242.

Note 369, Page 1571.

The proceedings on these resolutions are not given by Mr. Madison, nor in the Journal of the Federal Convention. In the Journal of Congress, 28th September, 1787, vol. 4, page 781, they are stated to have been presented to that body, as having passed in the Convention on the 17th September, immediately after the signing of the Constitution.

Note 370, Page 1595.

See Correspondence above, page 661.

The letters of Mr. Randolph, Mr. Mason, and Mr. Gerry, stating their reasons for not signing the Constitution, will be found in Elliot, vol. 1, pages 518, 531, 533.

Note 371, Page 1611.

See Debates above, 6th August, 1787, page 1232; 4th September, 1787, page 1485; 12th September, 1787, page 1549.

Journal of the Federal Convention, pages 220, 323, 356, 494.

The Federalist, No. 41, page 232.

Story's Commentaries on the Constitution, vol. 2, page 371.

Note 372, Page 1624.

The following members, however, had attended during the Convention:

Massachusetts.
CALEB STRONG.
Connecticut.
OLIVER ELLSWORTH.
New York.
ROBERT YATES.
JOHN LANSING.
New Jersey.
WILLIAM C. HOUSTON.
Maryland.
JOHN FRANCIS MERCER.
LUTHER MARTIN.
Virginia.
GEORGE WYTHE.
JAMES MCCLURG.
North Carolina.
ALEXANDER MARTIN.
WILLIAM R. DAVIE.
Georgia.
WILLIAM PIERCE.
WILLIAM HOUSTOUN.

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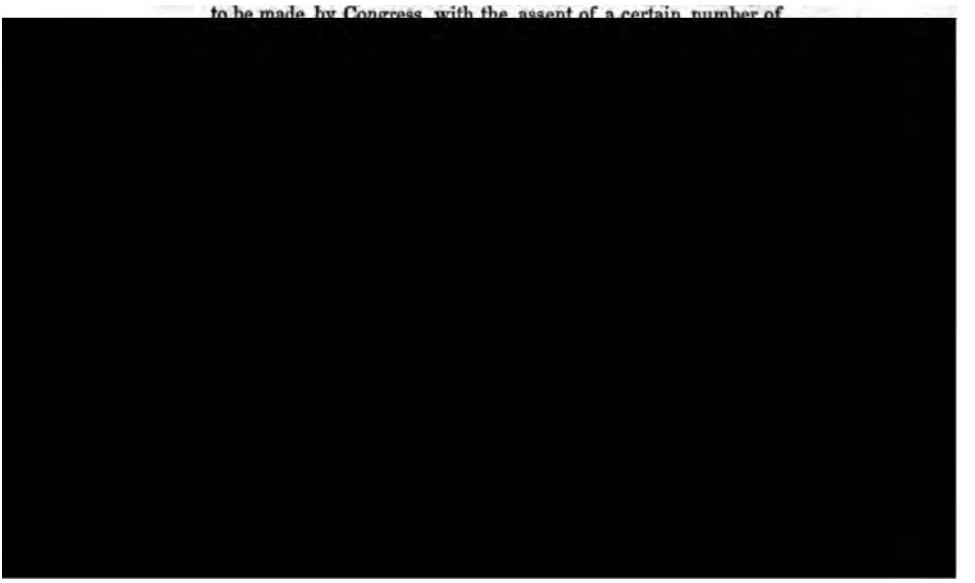

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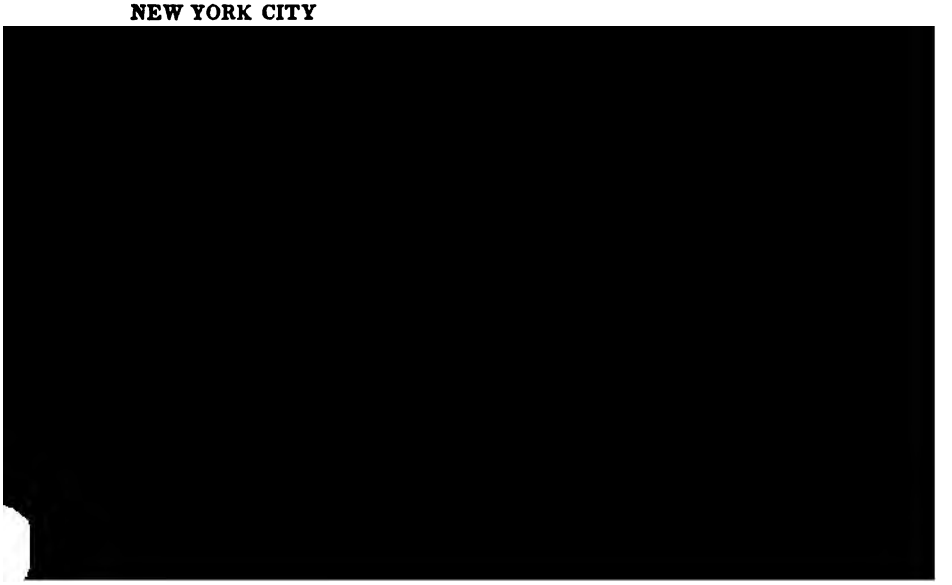

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FAC - SIMILES

OF THE

MANUSCRIPTS

OF

Mr MADISON,

carefully copied from the originals

in the

Department of State,

embracing a fair copy of the

DECLARATION of INDEPENDENCE

in the hand writing

of

Mr JEFFERSON.

Also the Signatures to the

Constitution,

now first engraved.

Engraved by W. Bullen, Washington D.C.

The following Fac-simile of the Declaration of Independence is carefully copied from the original preserved with the Madison Papers in the hand writing of Mr. Jefferson and is here given from the great interest and value it possesses as the only fair copy in existence corrected by written out by its author. — A fac-simile of the original rough draft of this Declaration is attached to Randolph's Edition of Jefferson's writings

furnished to J. M. by Mr Jefferson in his hand writing; as a copy from his original notes.

A Declaration by the representatives of the United states of America in General Congress assembled.

When in the course of human events it becomes necessary for one people to dis-solve the political bands which have con-

[redacted]

We hold these truths to be self evident.
that all men are created equal; that they
are endowed by their creator with certain
inalienable rights; that among these
are life, liberty & the pursuit of happiness
that to secure these rights, governments
are instituted among men, deriving
their just powers from the consent
of the governed; that whenever any
form of government becomes destruc
-tive of these ends, it is the right of
the people to alter or to abolish it,
& to institute new government lay-
-ing it's foundation on such principles
& organising it's powers in such form,
as to them shall seem most likely
to effect their safety & happiness.
prudence indeed will dictate that
governments long established should
not be changed for light & transient
causes; and accordingly all experi-
-ence hath shewn that mankind are
more disposed to suffer while evils

are sufferable, than to right themselves
by abolishing the forms to which they are
accustomed. but when a long train of
abuses & usurpations [begun at a distin-
-guished period and] pursuing invari-
-ably the same object, evinces a design
to reduce them under absolute despo-
-tism, it is their right, it is their duty
to throw off such government, & to provide
new guards for their future security. such
has been the patient sufferance of these
colonies, & such is now the necessity which
constrains them to [expunge] their for- ^alter
-mer systems of government. the history
of the present king of Great Britain is a
history of [unremitting] injuries & usur- ^repeated

[redacted]

he has refused his assent to laws the most wholsome & necessary for the pub-
-lic good

he has forbidden his governors to pass laws of immediate & pressing importance, unless suspended in their operation till his assent should be obtained; & when so suspended, he has utterly neglected to attend to them.

he has refused to pass other laws for the accomodation of large districts of people, unless those peo-
-ple would relinquish the right of representation in the legislature, a right inestimable to them, & for-
-midable to tyrants only.

he has called together legisla-
-tive bodies at places unusual, uncomfortable, & distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

he has dissolved representative houses repeatedly [and continuedly] for opposing with manly firmness his invasions on the rights of the people.

he has refused for a long time after such dissolutions to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the mean time exposed to all the dangers of invasion from without & convulsions within.

he has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migrations hither, & raising the conditions of new

[redacted]

for establishing judiciary powers.

he has made [our] judges dependant on his will alone for the tenure of their offices & the amount & payments of their salaries.

he has erected a multitude of new offices [by a self assumed power] and sent hither swarms of new officers to harrass our people & eat out their substance

he has kept among us in times of peace standing armies [& ships of war] without the consent of our legislatures.

he has affected to render the military independant of & superior to the civil power.

he has combined with others to subject us to a jurisdiction foreign to our constitutions & unacknowledged by our laws; giving his assent to their acts of pretended legislation for quartering large bodies of armed troops among us: for protecting them by a mock trial from punishment for any murders which they should commit on the inhabitants of these

[illegible] states; for cutting off our
[illegible] with all parts of the world;
for imposing taxes on us without our
consent; for depriving us, in many cases
of the benefits of trial by jury; for transporting
us beyond seas to be tried for pretended
offences; for abolishing the free
system of English laws in a neighbor-
ing province, establishing therein an
arbitrary government, and enlarging
it's boundaries, so as to render it at
once an example & fit instrument
for introducing the same absolute rule
into these [states]; for taking away our colonies
charters, abolishing our most valuable
laws, & altering fundamentally the
forms of our governments; for suspending
our own legislatures & declaring them-

[redacted]

[withdrawing his governors & declaring us out of his allegeance & protection]

by declaring us out of his protection waging war against us

He has plundered our seas, ravaged our coasts, burnt our towns & destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation & tyranny already begun with circumstances of cruelty & perfidy, unworthy the head of a civilized nation.

scarcely paralleled in the most barbarous ages & totally

He has constrained our fellow citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends & brethren, or to fall themselves by their hands.

excited domestic insurrections among us & has

He has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes & conditions [of existence]

[he has incited treasonable insurrections of our fellow-citizens with the allurements of forfeiture & confiscation of our property.

he has waged cruel war against human nature itself, violating it's

most sacred rights of life & libe
persons of a distant people who
sended them, captivating & carr
into slavery in another hemi
to incur miserable death in
portation thither. This piratic
the opprobrium of infidel power
warfare of the Christian king of
-tain. determined to keep open
where Men should be bought &
has prostituted his negative so
-ing every legislative attempt
or to restrain this execrable c
and that this assemblage of h
vant no fact of distinguished
exciting those very people to ri
among us, and to purchase that
which he has deprived them b
the people on whom he also obtr
thus paying off former crimes co
against the Liberties of one pe
crimes which he urges them
against the Lives of another

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injuries a prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a people [who mean to be free] free future ages will scarcely believe that the hardiness of one man adventured within the short compass of twelve years only, to lay a foundation so broad & so undisguised for tyranny over a people fostered & fixed in principles of freedom]

Nor have we been wanting in allen-tions to our British brethren. we have warn-ed them from time to time of attempts by their legislature to extend [a] jurisdiction over us [these our states] we have reminded them of the circumstances of our emigration & settlement here [no one of which could war-rant so strange a pretension that these were effected at the expence of our own blood & treasure, unassisted by the wealth or the strength of Great Britain: that in constituting indeed our several forms of

government, we had adopted one com-
-mon king thereby laying a foundation for
perpetual league & amity with them: but
that submission to their parliament
was no part of our constitution nor ever
in idea, if history may be credited: and
we appealed to their native justice and
magnanimity, as well as to the ties of
our common kindred to disavow these
usurpations which were likely to inter-
-rupt our connection and correspondence.
They too have been deaf to the voice of
justice & consanguinity, and when occa-
-sions have been given them by the re-
-gular course of their laws of removing
from their councils the disturbers of our
harmony they have by their free election,
re-established them in power at this
very time too they are permitting their
chief magistrate to send over not only
soldiers of our common blood, but
Scotch & foreign mercenaries to invade
& destroy us these facts have given
the last stab to agonizing affection
and manly spirit bids us to renounce

have
and we have confirmed them by
would inevitably

for ever these unfeeling brethren we must endeavor to forget our former love for them, and to hold them as we hold the rest of mankind enemies in war, in peace friends, we might have been a free & a great people together; but a communication of grandeur & of freedom it seems is below their dignity. be it so, since they will have it the road to happiness & to glory is open to us too. we will tread it apart from them, and acquiesce in the necessity which denounces our eternal separation!

we must therefore

hold them as we hold the rest of mankind, enemies in war in peace friends

We therefore the representatives of the United States of America in General Congress assembled

appealing to the supreme judge of the world for the rectitude of our intentions, do in the name & by the authority of the good people of these colonies solemnly publish & declare that these United colonies are & of right ought to be free & independent states; that they are absolved from all allegiance

do in the name & by authority of the good people of these states reject & renounce all allegiance & subjection to the kings of great Britain & all others who may hereafter claim by through or under them: we utterly dissolve all political connection which may heretofore have subsisted between us & the people or parliament of

to the British crown & that all political connection between them & the state of Great Britain is & ought to be totally dissolved: and that as free & independant states they have full power to levy war conclude peace, contract alliances, establish commerce, & to do all other acts & things which independant states may of right do. and for the support of this declaration, we mutually pledge to each other our lives our fortunes & our sacred honor

Great Britain: & finally we do assert & declare these colonies to be free & independant states

with a firm reliance on the protection of divine providence

I have compared these transcripts with the originals in the Department of State and find them to be accurate fac similes

H. D. Gilpin

Fac simile of a page of Mr Madison's notes of Debates in the Congress of the Confederation — The notes were taken in small books made of foolscap numbered like this specimen

N° V (143)

Tuesday Janʸ. 15th 1783.

Congress adjourned for the meeting of the
The Grand Committee to whom was referred the
the report concerning the valuation of the lands
and who accordingly met.

The Committee were in general strongly impressed with the extreme difficulty & unequality if not impracticability of fulfilling the article of confederation in relation to this point. Mr. Rutledge alone however excepted, who altho he did not think the rule so good a one as a census of inhabitants, thought it less impracticable and if the valuation of lands had not been prescribed by the federal articles. the Committee would certainly have preferred some other rule of apportionment, particularly that of numbers under certain qualifications as to slaves as the federal Constitution however left no option. A few only were disposed to recommend to the States an alteration of it if it were necessary to.

from the Hon. Mr Madison's

Mr Hamilton was most strenuous on the point Mr Wilson also for the idea Mr Madison rebuked in some measure both declared a sense of Virg.ª: Mr Gorham several others also, but without any formal opinion.

he has refused his assent to laws the most wholsome & necessary for the public good

he has forbidden his governors to pass laws of immediate & pressing importance, unless suspended in their operation till his assent should be obtained; & when so suspended, he has utterly neglected to attend to them.

he has refused to pass other laws for the accomodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, & formidable to tyrants only.

he has called together legislative bodies at places unusual, uncomfortable, & distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

for establishing judiciary powers.

he has made [our] judges dependant on his will alone for the tenure of their offices & the amount & payment of their salaries.

he has erected a multitude of new offices [by a self assumed power] and sent hither swarms of new officers to harrass our people & eat out their substance

he has kept among us in times of peace standing armies [& ships of war] without the consent of our legislatures.

he has affected to render the military independant of & superior to the civil power.

he has combined with others to subject us to a jurisdiction foreign to our constitutions & unacknowleged by our laws; giving his assent to their acts of pretended legislation for quartering large bodies of armed troops among us. for protecting them by a mock trial from punishment for any murders which they should commit on the inhabitants of these

New Hampshire { John Langdon
Nicholas Gilman }

Massachusett { Nathaniel Gorham
Rufus King

government, we had adopted one com-
-mon king thereby laying a foundation for
perpetual league & amity with them: but
that submission to their parliament
was no part of our constitution nor are
in idea, of history may be credited: and
we appealed to their native justice and
magnanimity, as well as to the ties of
our common kindred to disavow these
usurpations which were likely to inter-
-rupt our connection and correspondence.
they too have been deaf to the voice of
justice & consanguinity and when occa-
-sions have been given them by the re-
-gular course of their laws of removing
from their councils the disturbers of our
harmony they have by their free election,
re-established them in power at this
very time too they are permitting their
chief magistrate to send over not only
soldiers of our common blood, but
Scotch & foreign mercenaries to invade
& destroy us these facts have given
the last stab to agonizing affection
and manly spirit bids us to renounce

have
and we have confused them by
would inevitably

for ever These unfeeling brethren we must endeavor to forget our former love for them, and to hold them as we hold the rest of mankind enemies in war, in peace friends, we might have been a free & a great people together; but a communication of grandeur & of freedom it seems is below their dignity. be it so, since they will have it the road to happiness & to glory is open to us too. we will tread it apart from them, and acquiesce in the necessity which denounces our [eternal] separation!

we must therefore for

hold them as we hold the rest of mankind, enemies in war in peace friends

We therefore the representatives of the United States of America in General Congress assembled

appealing to the supreme judge of the world for the rectitude of our intentions, do in the name & by the authority of the good people of these colonies solemnly publish & declare that these United colonies are & of right ought to be free & independant states; that they are absolved from all allegiance

do in the name & by authority of the good people of these [states] reject & renounce all allegiance & subjection to the kings of Great Britain & all others who may hereafter claim by through or under them: we utterly dissolve all political connection which may heretofore have subsisted between us, & the people or parliament of

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-mon king thereby laying a foundation for
perpetual league & amity with them: but
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was no part of our constitution nor ever
in idea, if history may be credited: and
we appealed to their native justice and
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Fac simile of a page of Mr Madison's notes of Debates in the Congress of the Confederation — The notes were taken in small books made of Foolscap numbered like this specimen.

No V (14)

Tuesday Jan.y 15.th 1783.

Congress adjourned for the meeting of the Grand Committee to whom was referred the the report concerning the valuation of the lands and who accordingly met.

The Committee were in general strongly impressed with the extreme difficulty & unequality if not impracticability of fulfilling the article of Confederation in relation to this point. Mr. Rutledge alone however excepted, who altho he did not think the rule so good a one as a census of inhabitants, thought it less impracticable and if the valuation of lands had not been prescribed by the federal articles. the Committee would certainly have preferred some other rule of apportionment, particularly that of numbers under certain qualifications as to slaves as the federal Constitution however left no option. & a few* only were disposed to recommend to the States an alteration of it it was necessary to

* Mr Hamilton was most strenuous on this point Mr Wilson also for the idea Mr Madison but restrained in some measure by the declared sense of Virg.a: Mr Gorham several others also, but without any serious opposition.

to the British crown & that all political connection between them & the state of Great Britain is & ought to be totally dissolved:

Great Britain: & that we do assert & declare these colonies to be free & independant states

and that as free & independant states they have full power to levy war conclude peace, contract alliances, establish commerce, & to do all other acts & things which independant states may of right do. and for the support of this declaration, we mutually pledge to each other our lives our fortunes & our sacred honor

I have compared the foregoing transcripts with the originals in the Department of State and find them to be accurately similes

H. D. Gilpin

FAC-SIMILE *of the last page of* **Mr MADISON'S**

Manuscript Debates of the Convention.

Whilst the last members were ~~signing the~~ Doct. Franklin looking toward the President's Chair at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting. But now at length I have the happiness to know that it is a rising and not a setting Sun.

☞ The few alterations and corrections made in these debates which are not in my hand writing, were dictated by me and made in my presence by John C. Payne.

James Madison

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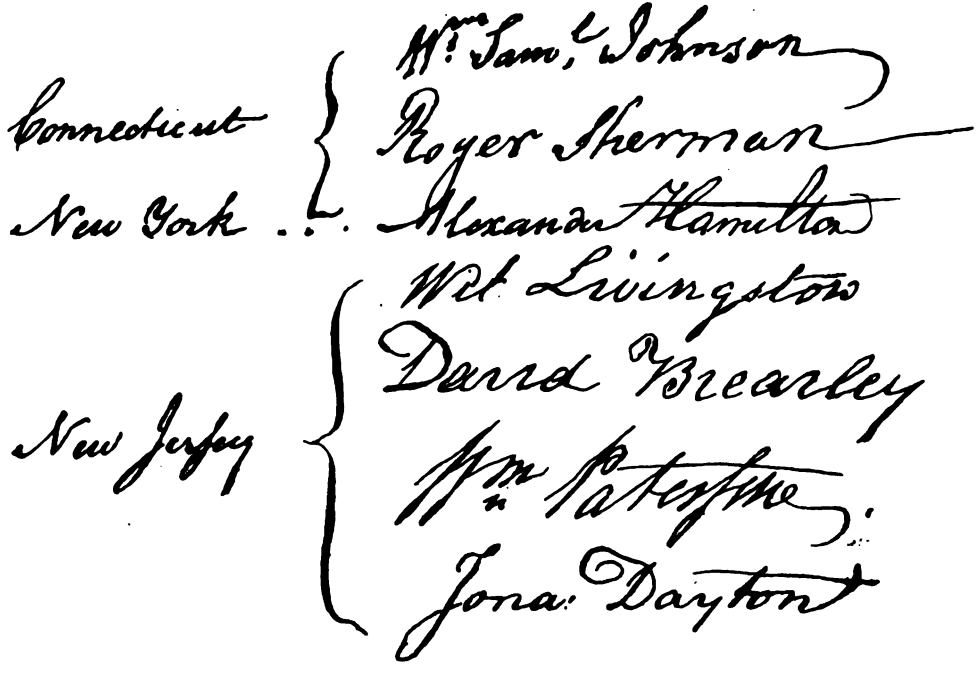
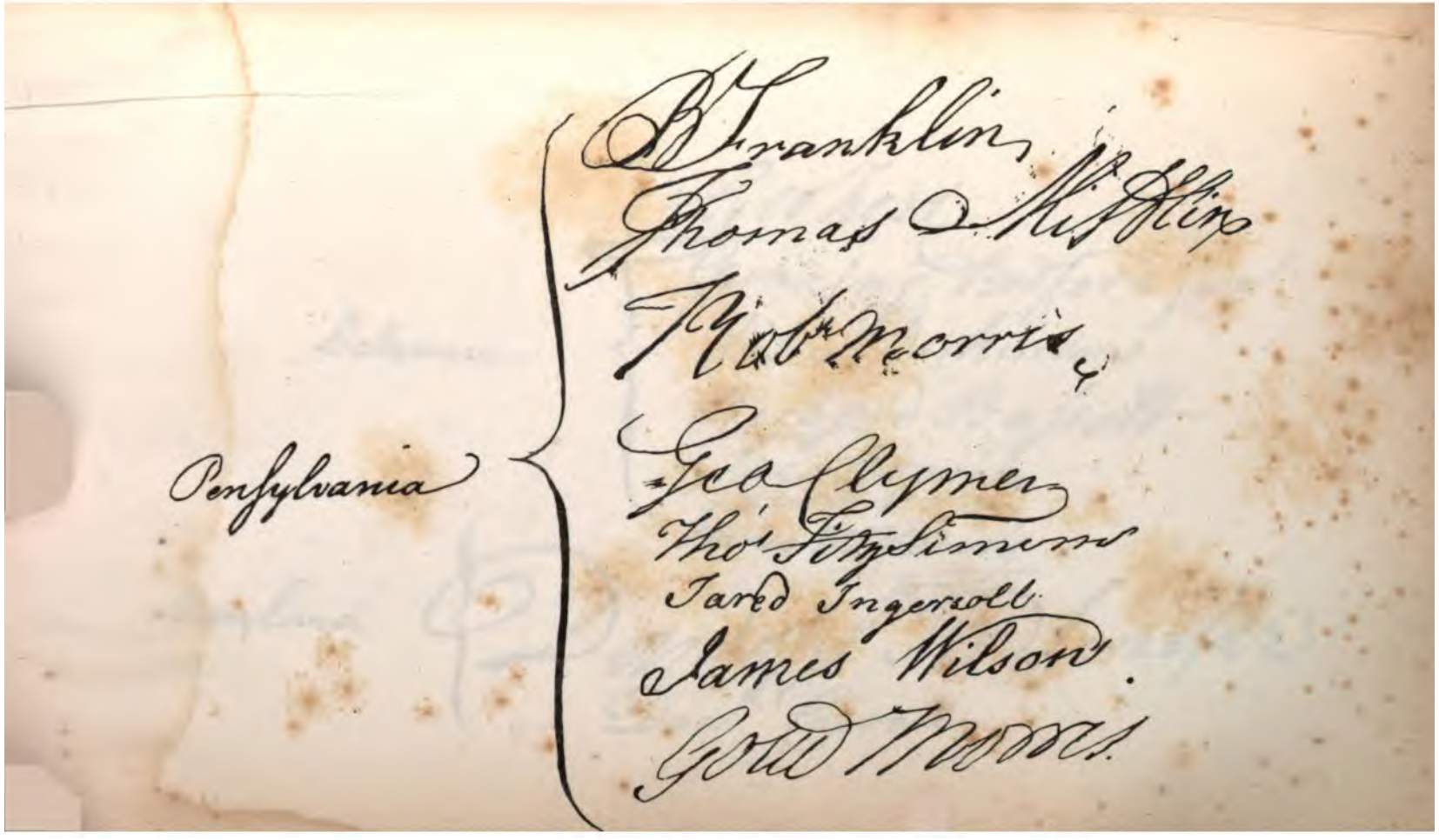
James Madison

New Hampshire { John Langdon, Nicholas Gilman }

Massachusett { Nathaniel Gorham, Rufus King }


Connecticut
Wm. Sam.l Johnson
Roger Sherman
New York
Alexander Hamilton
New Jersey
Wil. Livingston
David Brearley
Wm. Paterson
Jona. Dayton

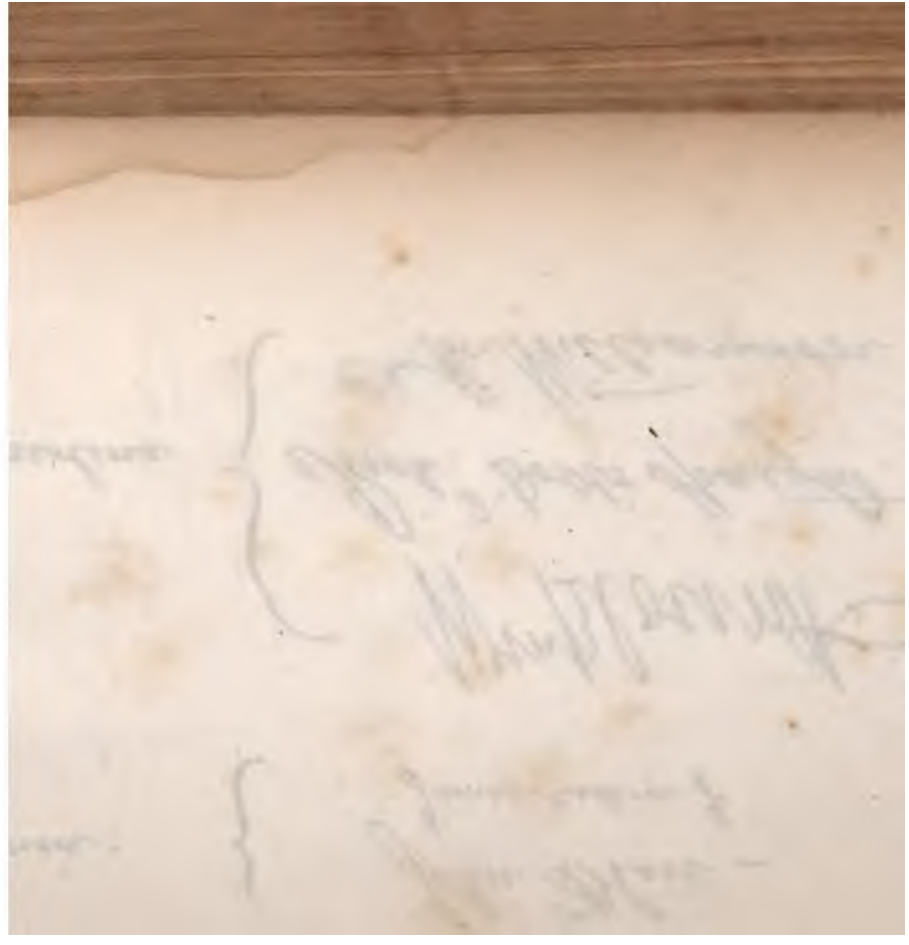

B Franklin
Thomas M:Kean
Rob.t Morris
Geo Clymer
Tho.s FitzSimons
Jared Ingersoll
James Wilson.
Gouv Morris
Pensylvania

Delaware
Geo: Read
Gunning Bedford jun'
John Dickinson
Richard Basset
Jaco: Broom
James Wilson

Maryland
Dan'l of St Thos Jenifer
Dan'l Carroll

Virginia { John Blair —
James Madison Jr

North Carolina { Wm Blount
Richd. Dobbs Spaight.
Hu Williamson



South Carolina { J. Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler.

Georgia { William Few
Abr Baldwin