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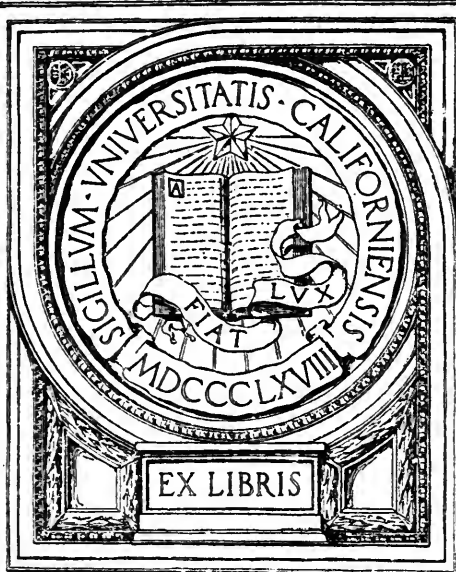


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PAPERS & REFERENCES
ON THE
FORMATION
OF THE
FEDERAL CONSTITUTION

WILLIAM CAREY JONES

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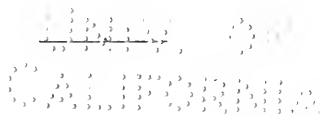
ON THE

Formation of the Federal Constitution

BY

WILLIAM CAREY JONES

UNIVERSITY OF CALIFORNIA



BERKELEY, CALIFORNIA
1889

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1889

THE
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VIRGINIA'S INVITATION.

Bancroft, Formation of the Constitution, i. 249-253, 266;
Curtis, History of the Constitution, i. 341-346;
Rives' Madison, ii. 57-69, 97-103;
Letters of the Tylers, i. 128-134;
Elliot, Debates, v. 112-114.

ANNAPOLIS CONVENTION.

H. C. Lodge says: "This convention was sparsely attended. Its only result was this address, which was much weakened to suit Edmund Randolph [Rives, ii. 128], and was not at all up to Hamilton's standard. It, however, did its work and produced the Philadelphia Convention."

HAMILTON'S WORKS, i. 319.

Bancroft, i. 267-278;
Curtis, i. 347-379;
Rives, ii. 126-130, 132-138, 208-312;
Elliot, v. 114-121.

VIRGINIA'S INVITATION TO A TRADE CONVENTION,
JANUARY 21, 1786.

Resolved, That Edmund Randolph, James Madison, Jun., Walter Jones, St. George Tucker, Meriwether Smith, David Ross, William Ronald, and George Mason, Esquires, be appointed commissioners who, or any five of whom, shall meet such commissioners as may be appointed by the other States in the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to examine the relative situation and trade of the said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object as, when unanimously ratified by them, will enable the United States in Congress assembled effectually to provide for the same; that the said commissioners shall immediately transmit to the several States copies of the preceding resolution, with a circular letter requesting their concurrence therein, and proposing a time and place for the meeting aforesaid.

ELLIOT, i. 115, v. 113.

ANNAPOLIS CONVENTION : REPORT.

To the Honorable, the Legislatures of Virginia, Delaware, Pennsylvania, New Jersey, and New York, the commissioners from the said States, respectively, assembled at Annapolis, humbly beg leave to report :—

That, pursuant to their several appointments, they met in Annapolis, in the State of Maryland, on the 11th of September instant; and having proceeded to a communication of their powers, they found that the States of New York, Pennsylvania, and Virginia had, in substance, and nearly in the same terms, authorized their respective commissioners “to meet such commissioners as were or might be appointed by the other States of the Union, at such time and place as should be agreed upon by the said commissioners, to take into consideration the trade and commerce of the United States; to consider how far a uniform system in their commercial intercourse and regulations might be necessary to their common interest and permanent harmony; and to report to the several States such an act relative to this great object as, when unanimously ratified by them, would enable the United States in Congress assembled effectually to provide for the same.”



That the State of Delaware had given similar powers to their commissioners; with this difference only, that the act to be framed in virtue of these powers is required to be reported "to the United States in Congress assembled, to be agreed to by them, and confirmed by the legislature of every State."

That the State of New Jersey had enlarged the object of their appointment, empowering their commissioners "to consider how far a uniform system in their commercial regulations, and *other important matters*, might be necessary to the common interest and permanent harmony of the several States;" and to report such an act on the subject, as, when ratified by them, "would enable the United States in Congress assembled effectually to provide for the exigencies of the Union."

That appointments of commissioners have also been made by the States of New Hampshire, Massachusetts, Rhode Island, and North Carolina, none of whom, however, have attended; but that no information has been received by your commissioners of any appointment having been made by the States of Maryland, Connecticut, South Carolina, or Georgia.

That, the express terms of the powers to your commissioners supposing a deputation from all the States, and having for their object the trade and commerce of the United States, your commissioners did not conceive it advisable to proceed on the business of their mission under the circumstance of so partial and defective a representation.

Deeply impressed, however, with the magnitude and importance of the object confided to them on this occasion, your commissioners cannot forbear to indulge an expression of their earnest and unanimous wish, that speedy measures may be taken to effect a general meeting of the States in a future convention, for the same and such other purposes as the situation of public affairs may be found to require.

If, in expressing this wish, or in intimating any other sentiment, your commissioners should seem to exceed the strict bounds of their appointment, they entertain a full confidence, that a conduct dictated by an anxiety for the welfare of the United States will not fail to receive an indulgent construction.

In this persuasion your commissioners submit an opinion, that the idea of extending the powers of their deputies to other objects than those of commerce, which had been adopted by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future convention. They



are the more naturally led to this conclusion, as, in the course of their reflections on the subject, they have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the federal government, that, to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the federal system.

That there are important defects in the system of the federal government, is acknowledged by the acts of all those States which have concurred in the present meeting ; that the defects, upon a closer examination, may be found greater and more numerous than even these acts imply, is at least so far probable, from the embarrassments which characterize the present state of our national affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion, in some mode which will unite the sentiments and councils of all the States. In the choice of the mode, your commissioners are of opinion that a convention of deputies from the different States, for the special and sole purpose of entering into this investigation, and digesting a plan for supplying such defects as may be discovered to exist, will be entitled to a preference, from considerations which will occur without being particularized.

Your commissioners decline an enumeration of those national circumstances on which their opinion respecting the propriety of a future convention, with more enlarged powers, is founded ; as it would be a useless intrusion of facts and observations, most of which have been frequently the subject of public discussion, and none of which can have escaped the penetration of those to whom they would in this instance be addressed. They are, however, of a nature so serious, as, in the view of your commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the united virtue and wisdom of all the members of the Confederacy.

Under this impression, your commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction that it may essentially tend to advance the interests of the Union, if the States, by whom they have been respectively delegated, would themselves concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners, to meet at Philadelphia, on the second Monday of May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them



necessary to render the constitution of the federal government adequate to the exigencies of the Union ; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the legislature of every State, will effectually provide for the same.

Though your commissioners could not with propriety address these observations and sentiments to any but the States they have the honor to represent, they have nevertheless concluded, from motives of respect, to transmit copies of this report to the United States in Congress assembled, and to the executives of the other States.

By order of the Commissioners.

Dated at Annapolis, September 14, 1786.

ELLIOT, i. 117, v. 115.

HAMILTON'S WORKS (Lodge's edition), i. 319-322.

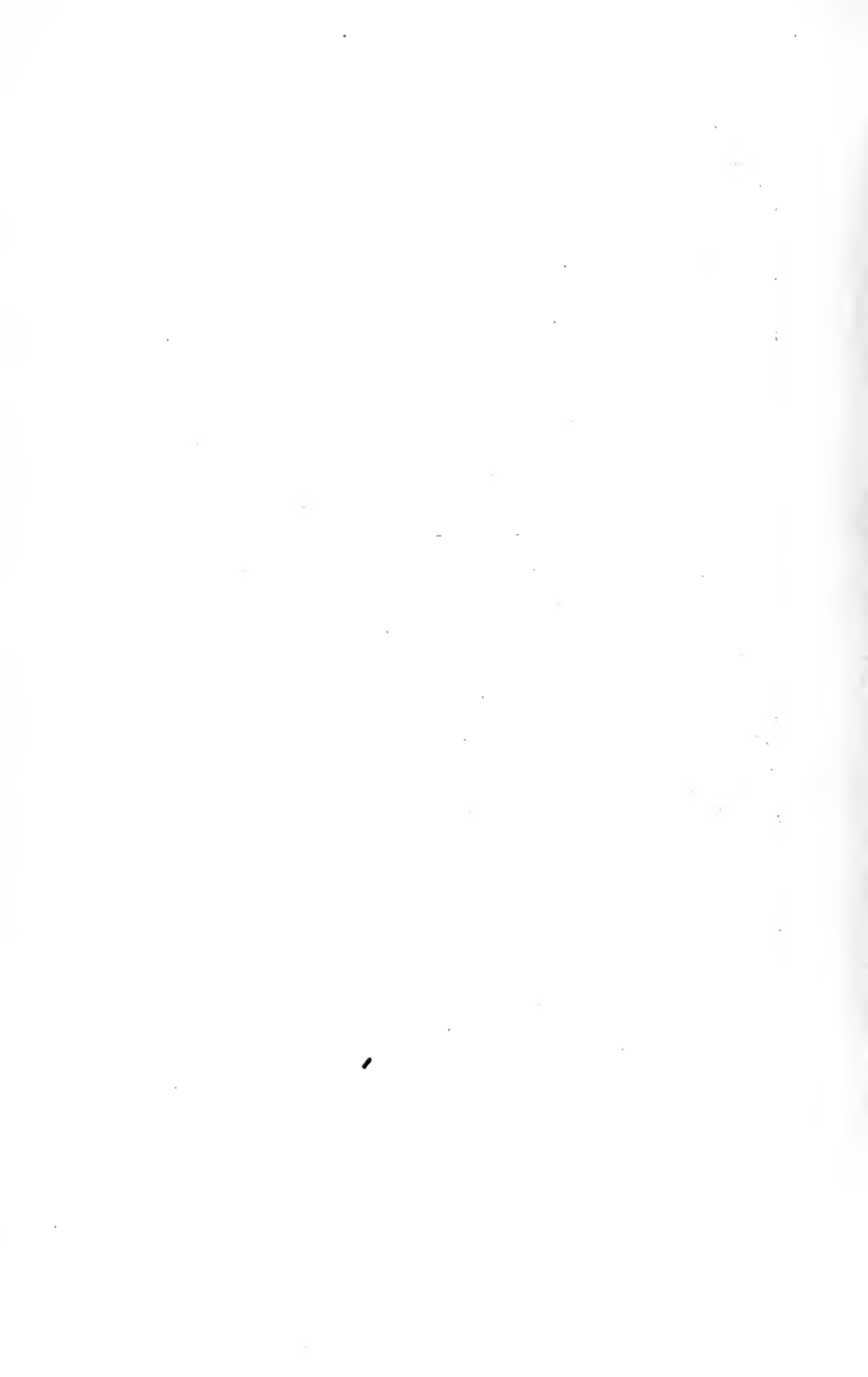
AUTHORIZATION OF A CONSTITUTIONAL CONVENTION BY CONGRESS,

FEBRUARY 21, 1787.

Whereas there is provision, in the Articles of Confederation and Perpetual Union, for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several States; and whereas experience hath evinced that there are defects in the present Confederation ; as, a means to remedy which several of the States, and particularly the State of New York, by express instructions to their delegates in Congress, have suggested a convention for the purposes expressed in the following resolution; and such convention appearing be the most probable means of establishing in these States a firm national government :

Resolved, That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a convention of delegates, who shall have been appointed by the several States, to be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the States, render the federal constitution adequate to the exigencies of government and the preservation of the Union.

ELLIOT, i. 120.



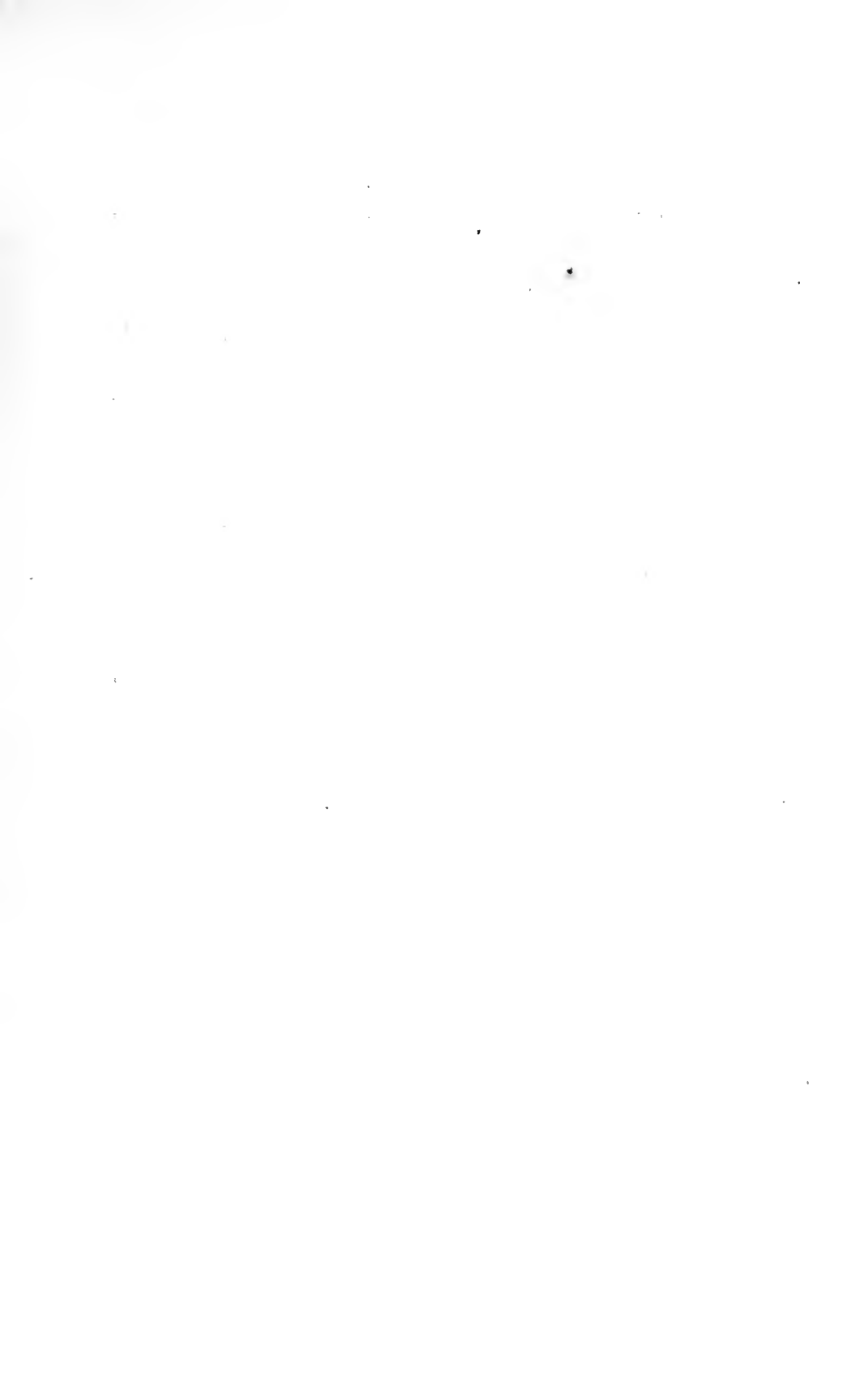
THE FEDERAL CONVENTION.

Elliot, i. 120-128;
 Bancroft, ii. 3-10;
 Curtis, i. 362-375, 380-488; ii. chap. i.
 Lalor's Cyclopædia, i. 637-638.

The States were divided into the two groups following. The figures are the estimates of population used in the Convention, only three-fifths of the slaves being included in the enumeration in the five Southern States. New Hampshire was not represented until July 23. Rhode Island was never represented. New York was not sufficiently represented after July 10 to take part in the voting.

"Large" or "National."	"Small" or "Federal."
Virginia 420,000	New York 238,000
Massachusetts..... 360,000	Maryland 218,000
Pennsylvania 360,000	Connecticut..... 202,000
North Carolina..... 200,000	New Jersey 138,000
South Carolina..... 150,000	Delaware 37,000
Georgia 90,000	(New Hampshire..... 102,000)
	[Rhode Island 58,000]





THE VIRGINIA PLAN.

The Virginia Plan, embodying the views of Madison, was presented to Convention by Randolph, on behalf of Virginia delegation, May 29.

Elliot, v. 126-128 ;

Lalor, i. 638, 547 ;

Curtis, ii. 32-86 ;

Conway's Randolph, chap. ix. ;

Bancroft, ii. 4-14, 35, 36 ; Rives, ii. 313-342.

NOTE: In references which follow, B. indicates second volume of Bancroft's History of the Formation of the Constitution, and E. indicates fifth volume of Elliot's Debates, being Madison's minutes of the Convention.

1, Virginia—(May 30) *postponed* to consider 3, Morris, which is *agreed to*, E. 132-134 ; B. 14-15.

2, Virginia—(May 30) *postponed*, E. 134-135 ; B. 15-16.

(Je 9-11) *substitute*, that right of suffrage ought not to be according to Confederation, but according to representation, *agreed to*, E. 178-181.

That ratio of representation should be in proportion to number of free inhabitants and three fifths of other persons, (7, June 13), *agreed to*, E. 181.

That in second branch each State have one vote, *disagreed to*, E. 181-182 ; B. 33.

That the right of suffrage should be the same in each branch, (8, June 13), *agreed to*, E. 182 ; B. 33.

3, Virginia—(May 31) *agreed to*, E. 135 ; B. 16.

Becomes 2, June 13,

4, Virginia—(May 31) first branch to be elected by the people, *agreed to*, E. 135-137 ; B. 16-17.

(Je 6) *amendment*, that first branch be elected by State legislatures, *disagreed to*, E. 160-164 ; B. 26-28.

(Je 8) *motion*, to arrange States in three classes, and allow certain number of members to each class, E. 174.

Qualifications : (May 31) *postponed*, E. 137.

(Je 12) Term of three years, *agreed to*, E. 183-184 ; B. 34.

Age of years *disagreed to*, E. 184 ; B. 35.

A fixed compensation, etc., *agreed to*, E. 184-185.

Ineligible, *agreed to*, E. 185 ; B. 34.

Incapable of reëlection, *disagreed to*, E. 185 ; B. 35.

Whole resolution becomes 3, June 13.

THE VIRGINIA PLAN.

1. That the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, common defence, security of liberty, and general welfare.

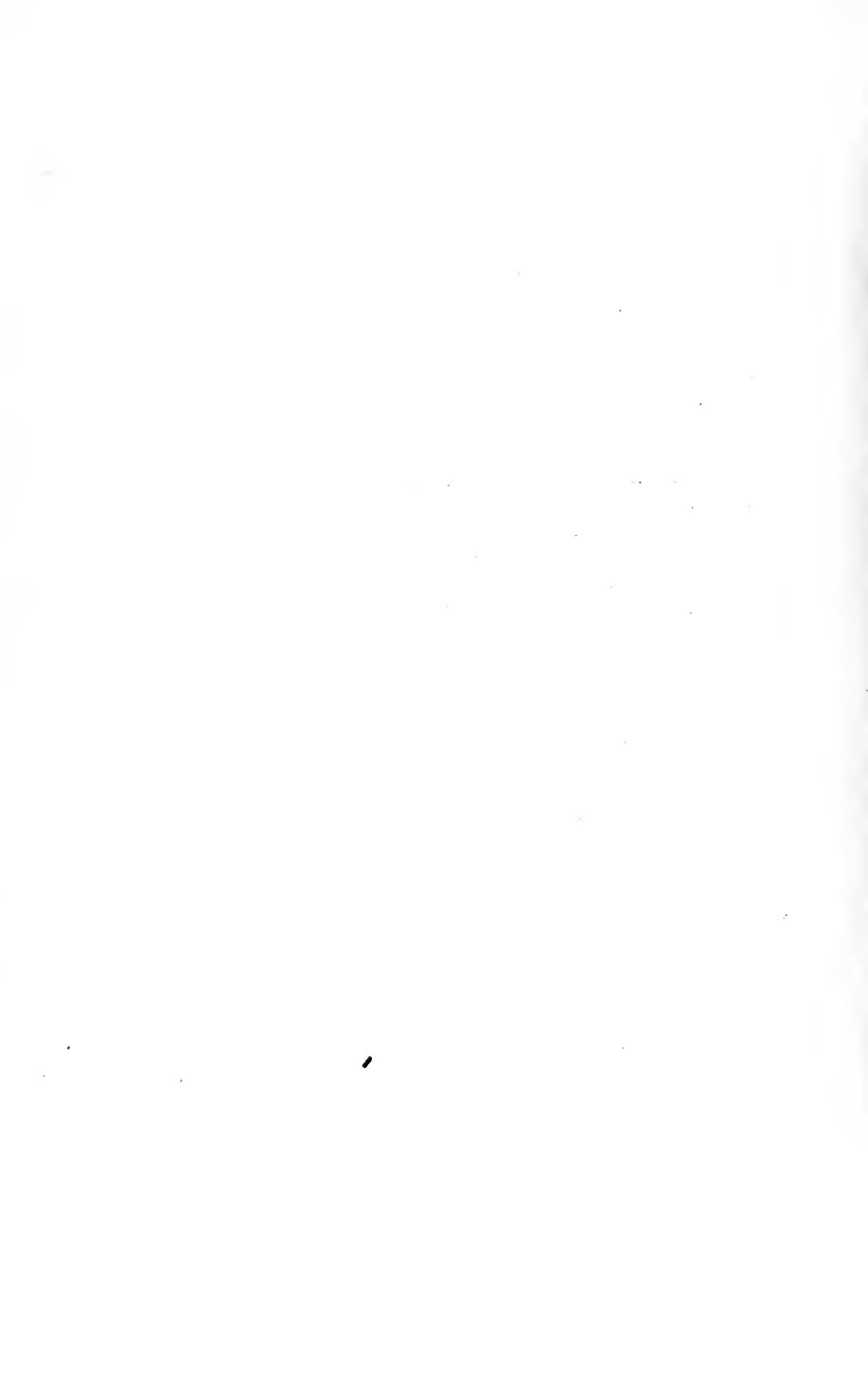
2. That the right of suffrage, in the national legislature, ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. That the national legislature ought to consist of two branches.

4. That the members of the first branch of the national legislature ought to be elected by the people of the several States, every....., for the term of.....; to be of the age ofyears, at least; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular State, or under the authority of the United States, (except those peculiarly belonging to the functions of the first branch), during the term of service and for the space of.....after its expiration; to be incapable of reëlection for the space of..... after the expiration of their term of service; and to be subject to recall.

5. That the members of the second branch of the national legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual legislatures; to be of the age of.....years, at least; to hold their offices for a term sufficient to insure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, (except those peculiarly belonging to the functions of the second branch), during the term of service and for the space of.....after the expiration thereof.

6. That each branch ought to possess the right of originating acts; that the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation; and, moreover, to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative



5, Virginia—Mode of election : (May 31) to be chosen by first branch, *disagreed to*, E. 137-139 ; B. 16.

(Je 7) to be elected by the people in large districts, *disagreed to*, E. 167-170.

To be appointed by national executive, *disagreed to*, E. 167.

To be chosen by the State legislatures, *agreed to*, E. 166-170 ; B. 29-31.

(Je 12) to be thirty years of age, *agreed to*, E. 186-187 ; B. 35.

Term of seven years, *agreed to*, B. 35.

Entitled to no compensation, *disagreed to*, E. 187.

To have same qualifications as to compensation and ineligibility as members of the first branch, *agreed to*, E. 187 ; B. 35.

Whole resolution becomes 4, June 13.

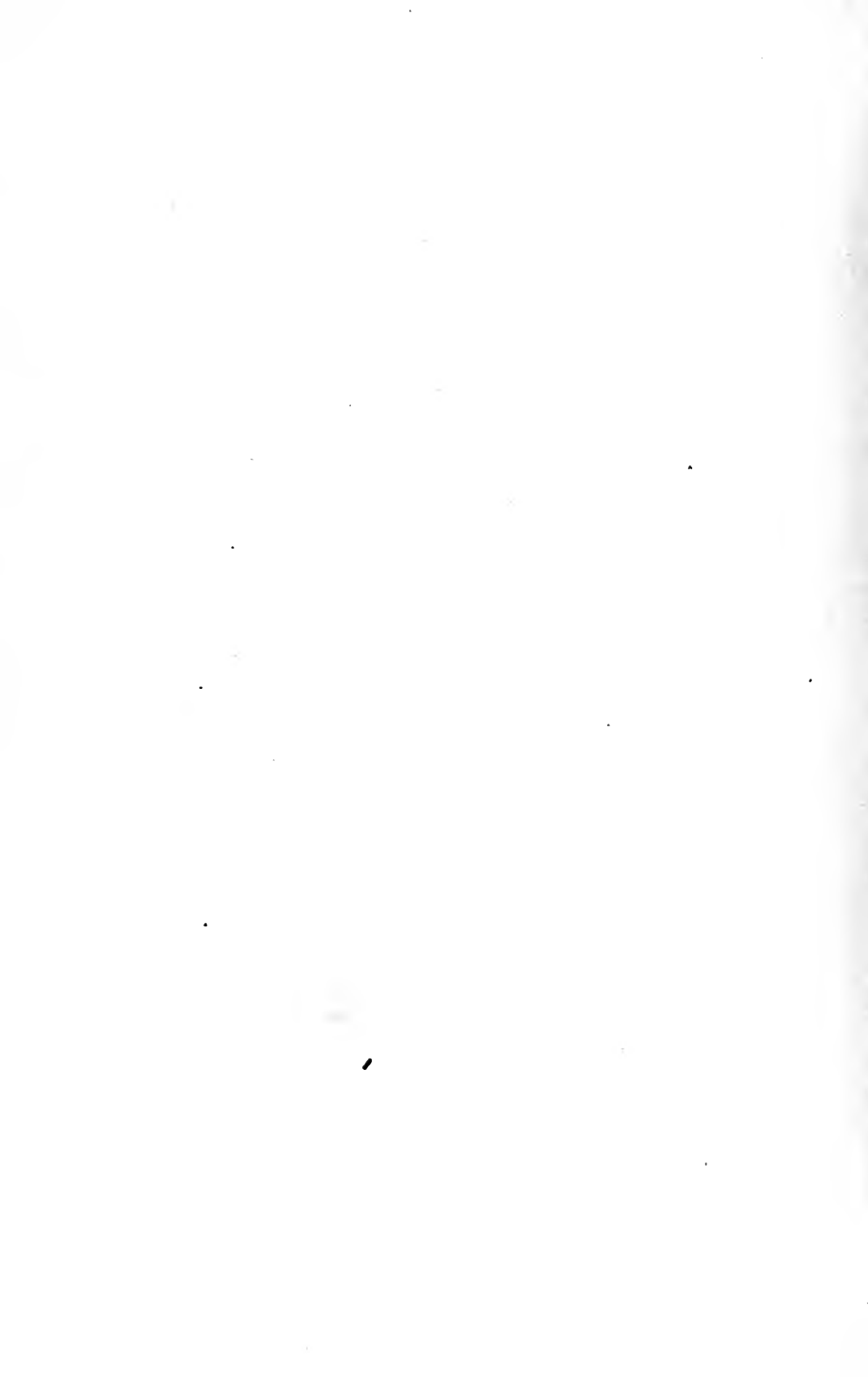
6, Virginia—(May 31) Each branch to originate laws, (5, June 13), *agreed to*, E. 139.

National legislature to have legislative powers of Congress of Confederation, etc., down to last clause, (6, June 13), *agreed to*, E. 139 ; B. 17-18.

To exert force of Union against a State, *postponed*, E. 140 ; B. 19.

(Je 8) *Reconsideration* of power to negative State laws contravening, etc., in order to extend power to general negative, *disagreed to*, E. 170-174 ; B. 18-19.

(Je 13) *amendment*, to restrain second branch from originating money bills, *disagreed to*, E. 188-189.



all laws passed by the several States, contravening, in the opinion of the national legislature, the Articles of Union, or any treaty subsisting under the authority of the Union ; and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.

7. That a national executive be instituted, to be chosen by the national legislature for the term of.....years; to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made, so as to affect the magistracy existing at the time of the increase or diminution ; to be ineligible a second time ; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

8. That the executive, and a convenient number of the national judiciary, ought to compose a council of revision, with authority to examine every act of the national legislature, before it shall operate, and every act of a particular legislature, before a negative thereon shall be final ; and that the dissent of the said council shall amount to a rejection, unless the act of the national legislature be again passed, or that of a particular legislature be again negatived by.....of the members of each branch.

9. That a national judiciary be established.....to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the *dernier ressort*, all piracies and felonies on the seas ; captures from an enemy ; cases in which foreigners, or citizens of other States, applying to such jurisdictions, may be interested, or which respect the collection of the national revenue ; impeachments of any national officer ; and questions which involve the national peace and harmony.

10. That provision ought to be made for the admission of States, lawfully arising within the limits of the United States, whether from a voluntary junction of government or territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.



7, Virginia—B. 19-20.

(Je 1) *amendment*, for last clause, to possess power to execute national laws, and to appoint to offices not otherwise provided for, *agreed to*, E. 141-142 ; B. 21.

Term of seven years, *agreed to*, E. 142-143.

To be chosen by national legislature, *postponed*, E. 142-144 (Wilson's electoral motion, E. 143); B. 21-22.

(Je 2) *agreed to*, B. 22.

(Je 9) *substitute*, to be elected by executives of the States, *disagreed to*, E. 174-175.

Compensation: *amendment* (Je 2), to receive no compensation, but expenses to be defrayed, *postponed*, E. 144-147 (Franklin's speech).

Motion, that executive be removable on request of majority of State legislatures, E. 147-149.

To be ineligible a second time, *with amendment*, to be removable on impeachment, *agreed to*, E. 149 ; B. 23-24.

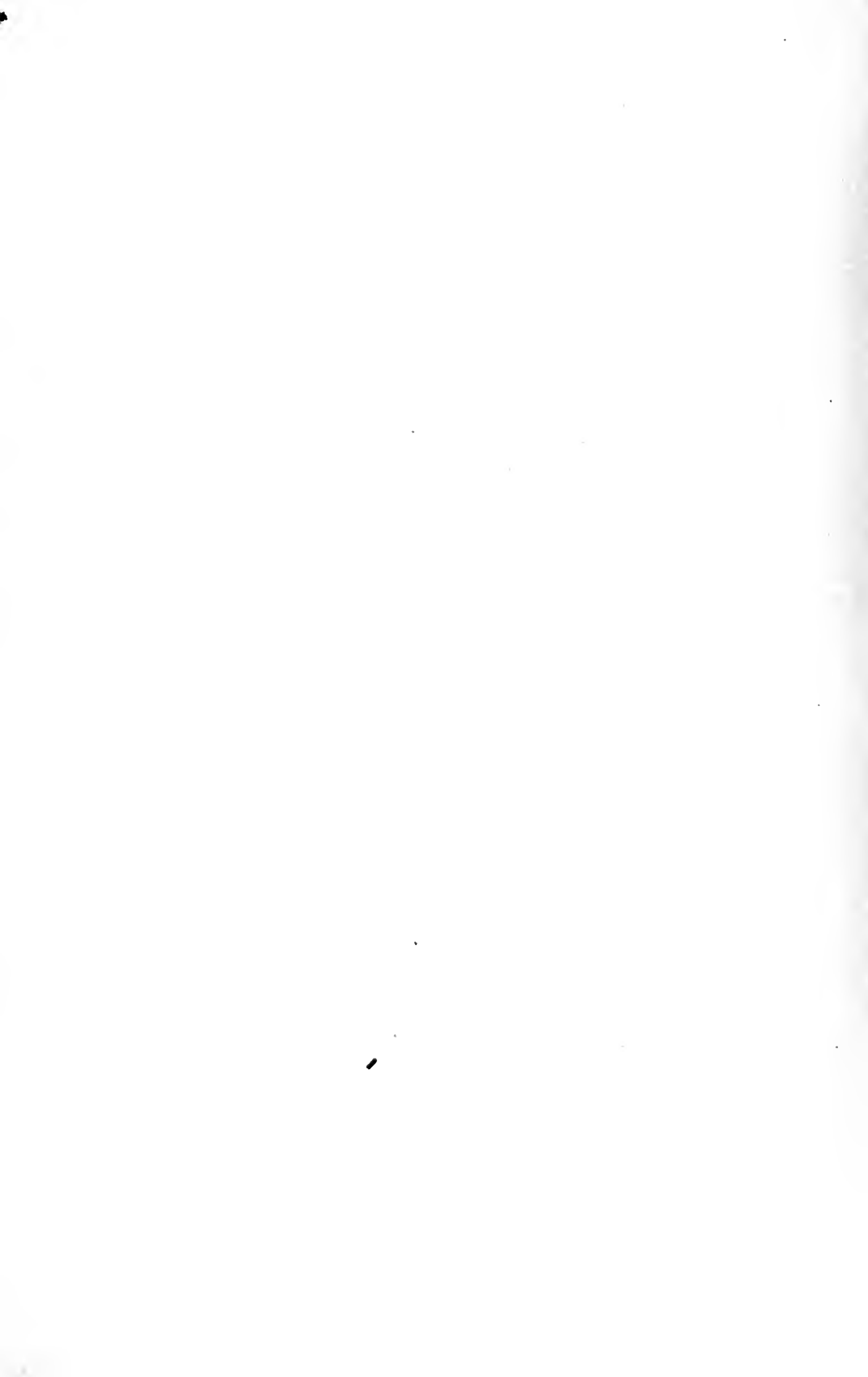
To consist of persons, *postponed*, E. 140-141, 149 ; B. 20-21, 24.

(Je 4) *amendment*, a single person, *agreed to*, E. 150-151 ; B. 25.

Whole resolution becomes **9, June 13.**

8, Virginia—(Je 4) *amendment* (10, June 13), *agreed to*, E. 151-155 ; B. 25.

(Je 6) *reconsideration*, to put in original form, *disagreed to*, E. 155, 164-166.



9, Virginia—(Je 4) national judiciary to be established, *agreed to*, E. 155; B. 25.

To consist of: *amendment*, one supreme, and inferior tribunals, *agreed to*, E. 155; B. 26.

(Je 5) *motion*, to strike out "inferior tribunals," *agreed to*, E. 158-159; B. 26.

To give national legislature power to institute inferior tribunals, *agreed to*, (12, June 13), E. 159-160.

(Je 5) to be chosen by national legislature, *disagreed to*, E. 155-156; B. 29.

(Je 13) to be appointed by the second branch of the legislature, *agreed to*, (11, June 13), E. 156.

(Je 5) term of good behavior, and fixed compensation, *agreed to*, (11, June 13), E. 156.

(Je 4) jurisdiction, *postponed*, E. 156.

(Je 12-13) *substitute*, (13, June 13), *agreed to*, E. 187-188; B. 26.

10, Virginia—(Je 5) *agreed to*, (14, June 13), E. 156-157.

11, Virginia—(Je 5) *postponed*, E. 157.

(Je 11) *amendment*, (16, June 13), *agreed to*, E. 182; B. 33-34.

12, Virginia—(Je 5) *agreed to*, (15, June 13), E. 157.

13, Virginia—(Je 5) *postponed*, E. 157.

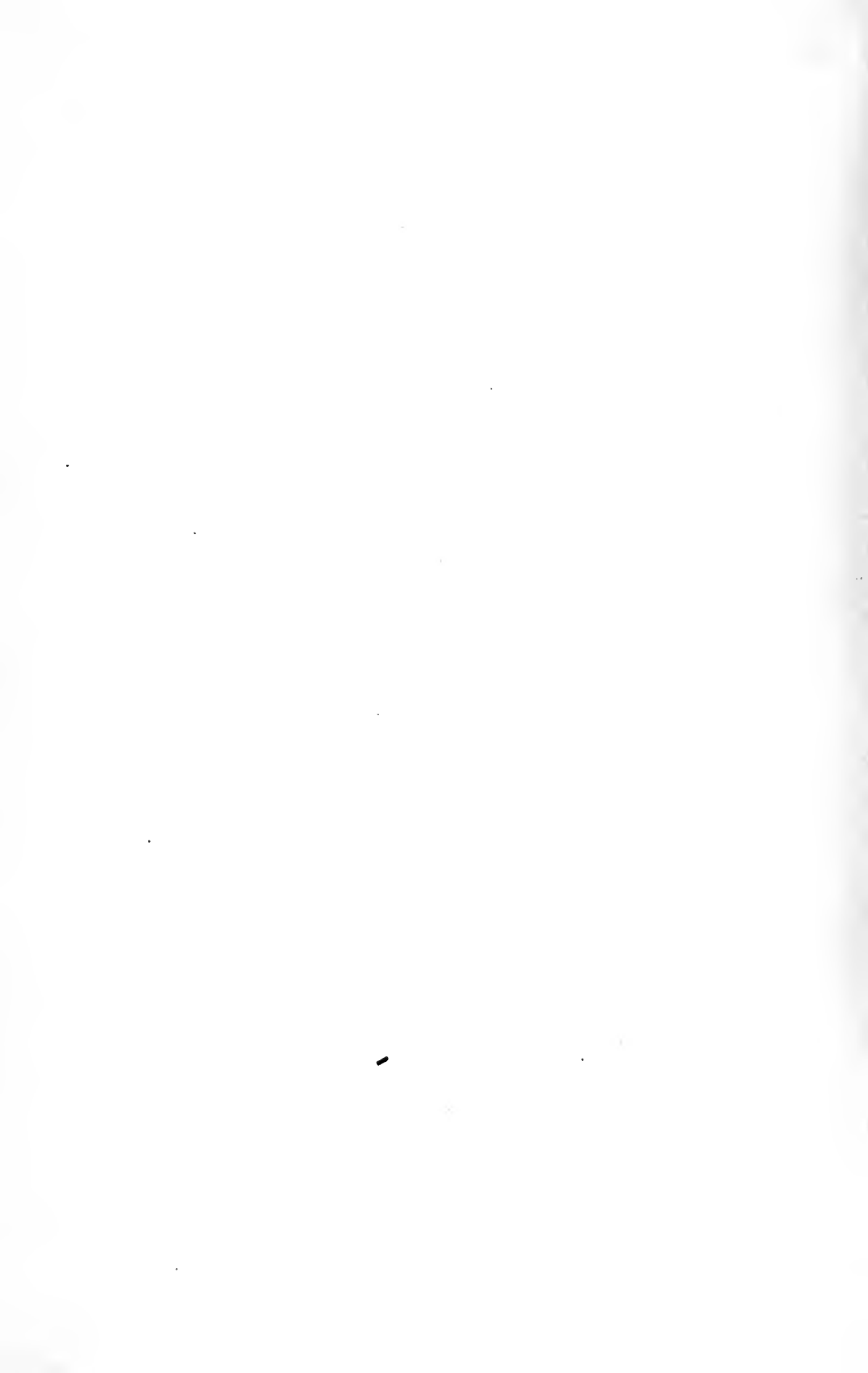
(Je 11) *amendment*, "without requiring assent of national legislature," *postponed*; rest of resolution, *agreed to*, (17, June 13), E. 182; B. 34.

14, Virginia—(Je 5) *postponed*, E. 187.

(Je 11) *agreed to*, (18, June 13), E. 182-183; B. 34.

15, Virginia—(Je 5) *postponed*, E. 157-158.

(Je 12) *agreed to*, (19, June 13), E. 183; B. 34.



11. That a republican government, and the territory of each State, (except in the instance of a voluntary junction of government and territory), ought to be guaranteed by the United States to each State.

12. That provision ought to be made for the continuance of Congress, and their authorities and privileges, until a given day, after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. That provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary; and that the assent of the national legislature ought not to be required thereto.

14. That the legislative, executive, and judiciary powers within the several States ought to be bound by oath to support the Articles of Union.

15. That the amendments, which shall be offered to the Confederation by the Convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon.

PROPOSITIONS OFFERED BY GOUV. MORRIS,

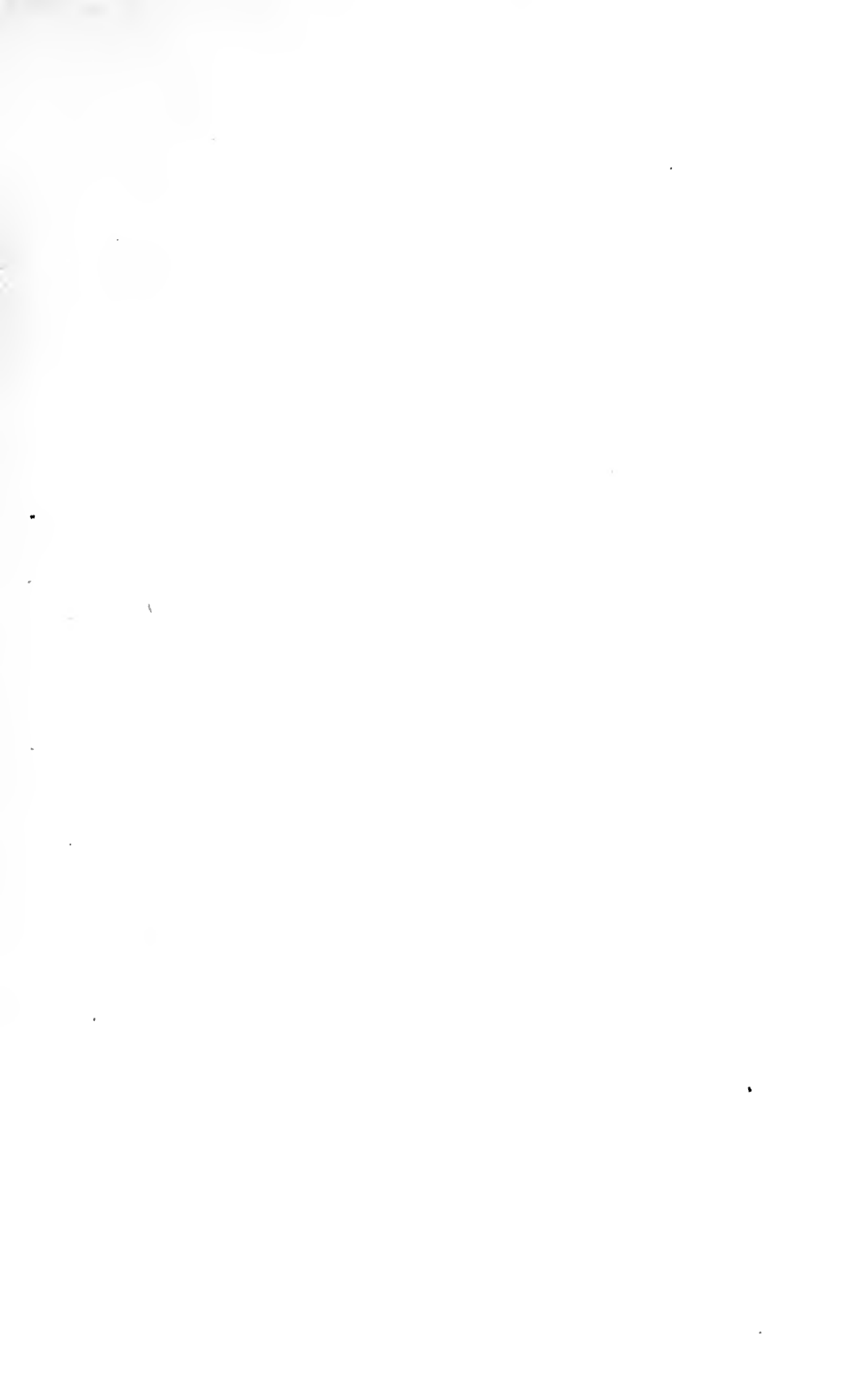
MAY 30.

1. That a union of the States merely federal will not accomplish the objects proposed by the Articles of Confederation, namely, common defence, security of liberty, and general welfare.

2. That no treaty or treaties among the whole or part of the States, as individual sovereignties, would be sufficient.

3. That a national government ought to be established, consisting of a supreme legislative, executive, and judiciary.





REPORT OF JUNE 13.

E. 212-376 ; B. 47-96 ; Curtis, ii. 116—190 ; Lalor, i. 639, 548.

1, **June 13**—(Je 19-20) *amendment*, so as to establish government of the "United States," *agreed to*, E. 212-214 ; B. 47-53.

Resolution becomes 1, **July 26**.

2, **June 13**—(Je 20-21) E. 214-223.

Amendment, to strike out "national," *agreed to*.

To declare legislation vested in Congress, *disagreed to*, E. 220 ; B. 52-53.

Resolution as amended, *agreed to*, (2, **July 26**), E. 223 ; B. 53-54.

3, **June 13**—(Je 21) *amendment*, that election of first branch be as State legislatures direct, *disagreed to*, E. 223-224.

To be elected by the people, *agreed to*, E. 224.

That term be two years, *agreed to*, E. 224-226.

(Je 22) compensation to be fixed by national legislature, *disagreed to*, E. 227.

Amendment, to strike out, "payment from the national treasury," *disagreed to*, E. 228.

That compensation be fixed, *agreed to*.

That members be twenty-five years of age, *agreed to*, E. 228-229.

To strike out ineligibility, *disagreed to*, E. 229.

(Je 23) to strike out ineligibility to State offices, *agreed to*, E. 230.

Amendment, to confine ineligibility to such national offices as had been established or had had their emoluments increased during their term, *disagreed to*, E. 230-233.

Amendment, to confine ineligibility to one year after expiration of term, *disagreed to*, E. 233.

(Jy 26) to require qualification of property and citizenship, *agreed to*, E. 370-372.

Resolution becomes 3, **July 26**.

REPORT OF THE COMMITTEE OF THE WHOLE,

JUNE 13.

1. That it is the opinion of this committee, that a national government ought to be established, consisting of a supreme legislative, executive, and judiciary.

2. Same as 3 **Virginia**.

3. That the members of the first branch of the national legislature ought to be elected by the people of the several States for the term of three years; to receive fixed stipends by which they may be compensated for the devotion of their time to the public service, to be paid out of the national treasury; to be ineligible to any office established by a particular State, or under the authority of the United States, (except those peculiarly belonging to the functions of the first branch), during the term of service, and, under the national government, for the space of one year after its expiration.

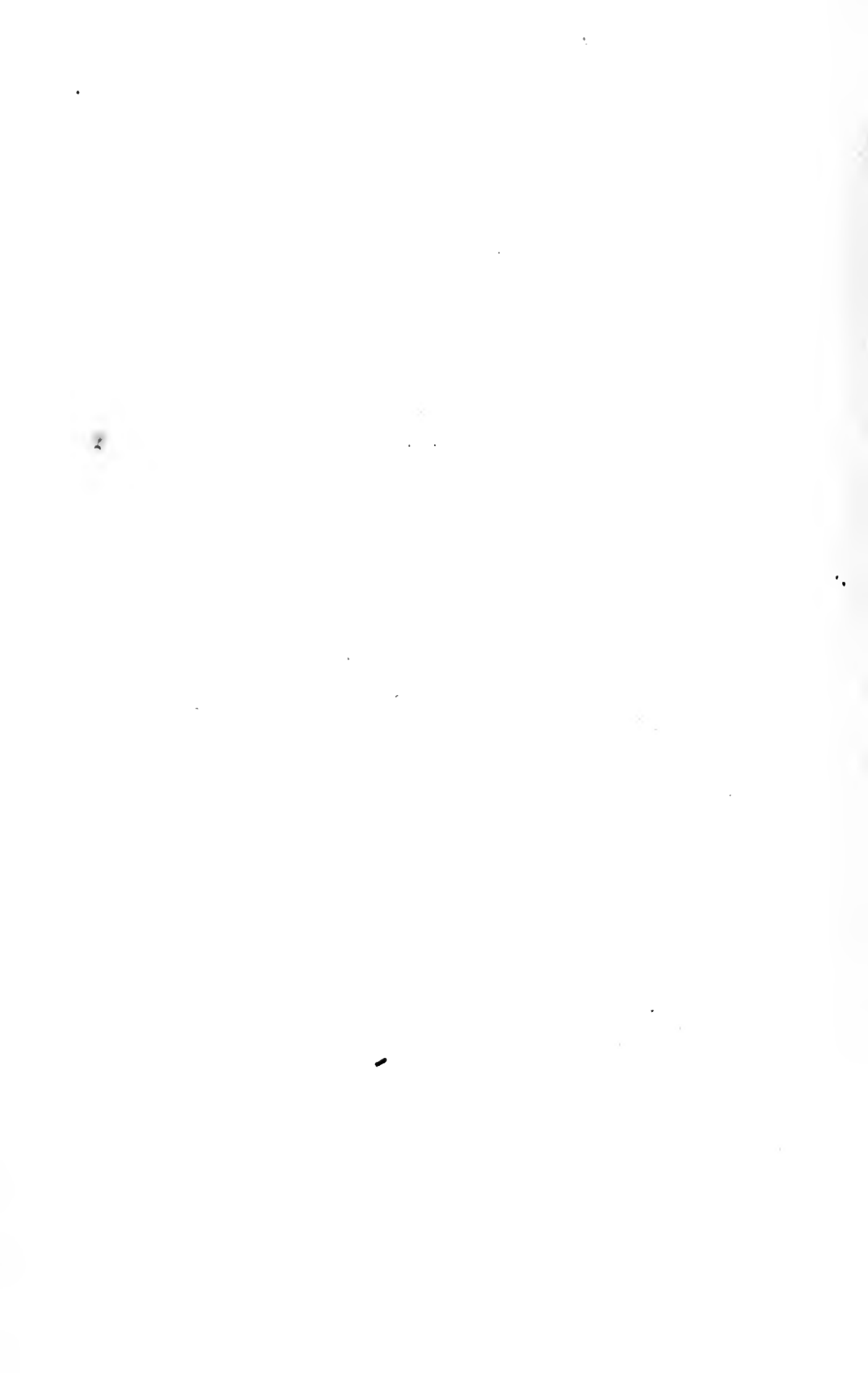
4. That the members of the second branch of the national legislature ought to be chosen by the individual legislatures; to be of the age of thirty years at least; to hold their offices for a term sufficient to insure their independence, namely, seven years; to receive fixed stipends by which they may be compensated for the devotion of their time to the public service, to be paid out of the national treasury; to be ineligible, etc., (as in 3).

5. Same as first clause of 6 **Virginia**.

6. Same as 6 **Virginia**, omitting first clause, and last clause: "and to call forth, etc."

7. That the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation; namely, in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes, in each State.

8. That the right of suffrage in the second branch of the national legislature ought to be according to the rule established for the first.



4, June 13—E. 233-248.

(Je 25) to be chosen by State legislatures, *agreed to*, E. 240; B. 54-56.

Term: Six or five years, *disagreed to*, E. 241; nine years, *disagreed to*, E. 245; B. 56; six years, *agreed to*, E. 245; B. 57.

Age: thirty years, *agreed to*, E. 241.

Compensation: to strike out, *disagreed to*, E. 246.

To be paid by the States, *disagreed to*, E. 246-247.

To be paid from national treasury, *disagreed to*, E. 247.

Ineligibility: to State offices, *disagreed to*, E. 248.

To Federal offices, *agreed to*, E. 247.

(Jy 26) to require qualification of property and citizenship, *agreed to*, E. 370-372.

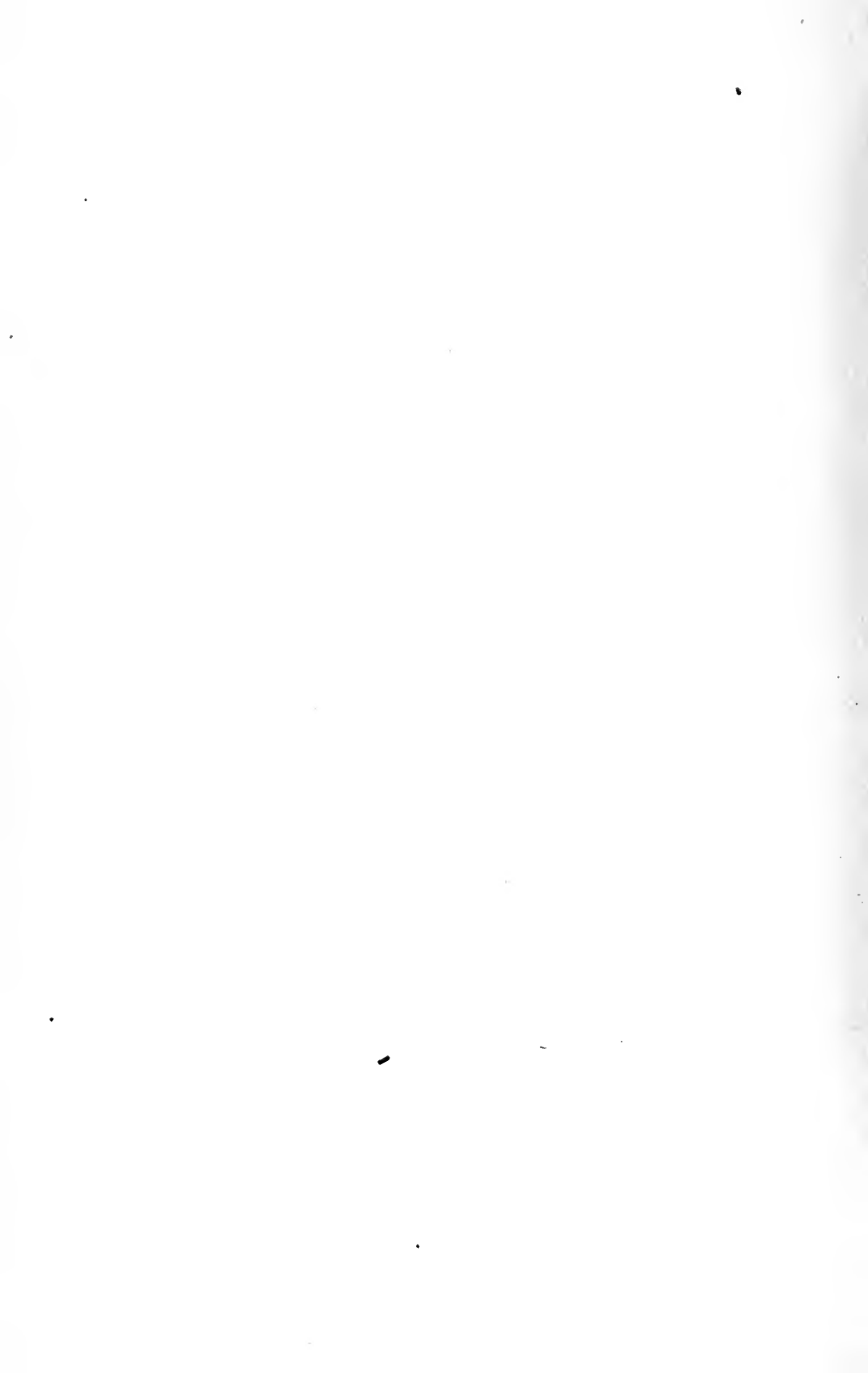
Resolution becomes 4, July 26.

5, June 13—(Je 27) *agreed to*, (5, July 26), E. 248.

6, June 13—(Je 27) defining powers of legislation, *postponed*, E. 248.

(Jy 16-17) power of negating State laws, *disagreed to*, and resolution adopted as in 6, July 26, E. 316-320, 321-322; B. 90.

7, June 13—(Je 27-29) to give equal suffrage in first branch, *disagreed to*, E. 248-259.



7 and 8, June 13—(Je 29 to Jy 16) E. 260-316.

(Je 29) to give each State equal suffrage in first branch, *disagreed to*, E. 259; B. 57-61.

(Je 29 to Jy 2) to give equal suffrage in second branch, *disagreed to*, E. 261-269; B. 62-66.

(Jy 2) to refer question of suffrage in both branches to Committee, *agreed to*, E. 270-273; B. 67.

(Jy 5) Report of Committee, E. 274; report discussed, E. 264-279; B. 68-70; Elliot, i. 479, 358.

(Jy 6) representation of one for every forty thousand, referred to Committee of Five, E. 280-281; B. 70.

Provision as to money bills, *agreed to*, E. 282-285.

(Jy 7) equal suffrage in second branch, *agreed to*, E. 285-287; B. 71.

(Jy 9) Report of Committee of Five, E. 288; B. 71.

Second paragraph, *agreed to*, E. 288. First paragraph, referred to Committee of Eleven, E. 288-290.

(Jy 10) Report of Committee of Eleven, changing number of representatives from fifty-six to sixty-five, *agreed to*, E. 290-293; B. 72-74.

(Jy 10-11) Census and representation of free inhabitants taken every fifteen years, *agreed to*, E. 293-300.

To include three-fifths of the negroes, *disagreed to*, E. 295-301; B. 74ff. Whole clause *rejected*, E. 302.

(Jy 12) representation and direct taxation to be in same proportion, *agreed to*, E. 302; B. 83.

Census: within six years and every ten years, and according to whole number of inhabitants, rating negroes at three-fifths, *agreed to*, E. 303-306; B. 80ff.

(Jy 13) until first census, proportion of representatives and moneys raised from a State to be same, *agreed to*, E. 306-307.

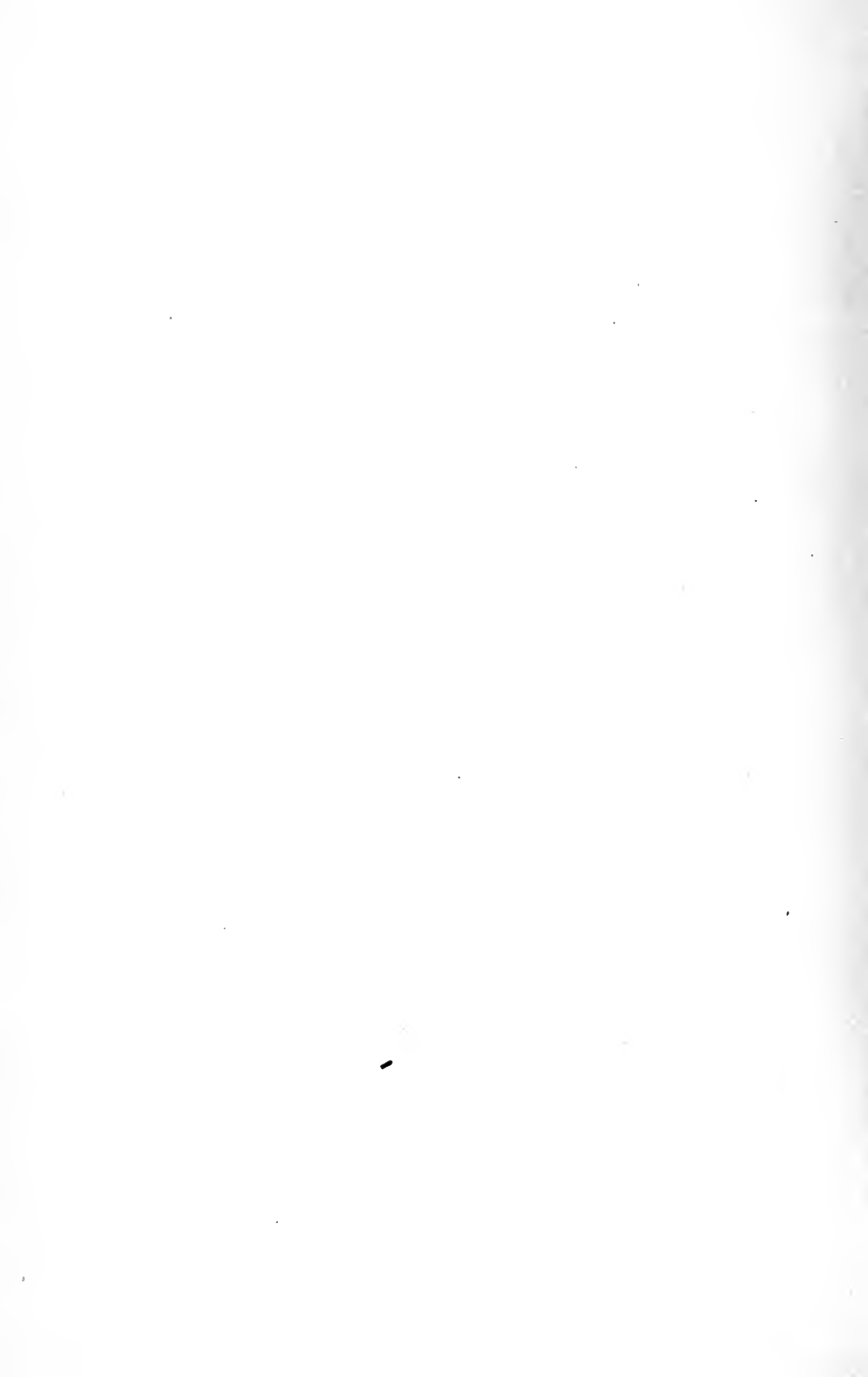
Amendment heretofore made regulating future representation on principle of wealth, *stricken out*, E. 307-309.

(Jy 14) representatives from new States never to exceed those of present States, *disagreed to*, E. 310; B. 79-81.

Second branch to consist of thirty-six members, *disagreed to*, E. 310-316.

(Jy 23) two Senators from each State to vote per capita, *agreed to*, E. 311, 356-367; B. 86-88.

Seventh and eighth resolutions, as amended, *agreed to*, (8, 9, 10, 11, 22, July 26), E. 316.



9, June 13—(Jy 17) Executive, E. 322-327, 334-344, 357, 358-370.

Mode of election : (Jy 17) by the people, *disagreed to*, E. 322-324.

By electors appointed by the State legislatures, *disagreed to*, E. 324. (Jy 19) *agreed to*, E. 338.

(Jy 20) number of electors to be regulated by number of representatives, *agreed to*, 339-340.

Electors not to be national officers nor eligible for executive, *agreed to*, E. 343.

(Jy 21) electors to be paid out of the national treasury, *agreed to*, E. 344.

(Jy 17 and 24) By national legislature, *agreed to*, E. 324, 357, 358-359.

By electors taken by lot from the national legislature, *postponed*, E. 362.

(Jy 25) By electors appointed by State legislatures where actual executive is ineligible, otherwise by national legislature, E. 363-365.

By State governors and their councils, *not passed*.

Term : during good behavior, *disagreed to*, E. 325-327.

To strike out seven years, *agreed to*, E. 327.

(Jy 19) Six years, *agreed to*, E. 338-339.

(Jy 26) Seven years and not reëligible, *agreed to*, E. 368-369.

Reëligibility: (Jy 17) to strike out "ineligible," *agreed to*, E. 325.

(Jy 19) That he be ineligible, *disagreed to*, E. 334-338.

(Jy 25) That no person be eligible to more than six years in twelve, *disagreed to*, E. 365-368.

(Jy 26) term of seven years and not reëligible, *agreed to*, E. 368-369.

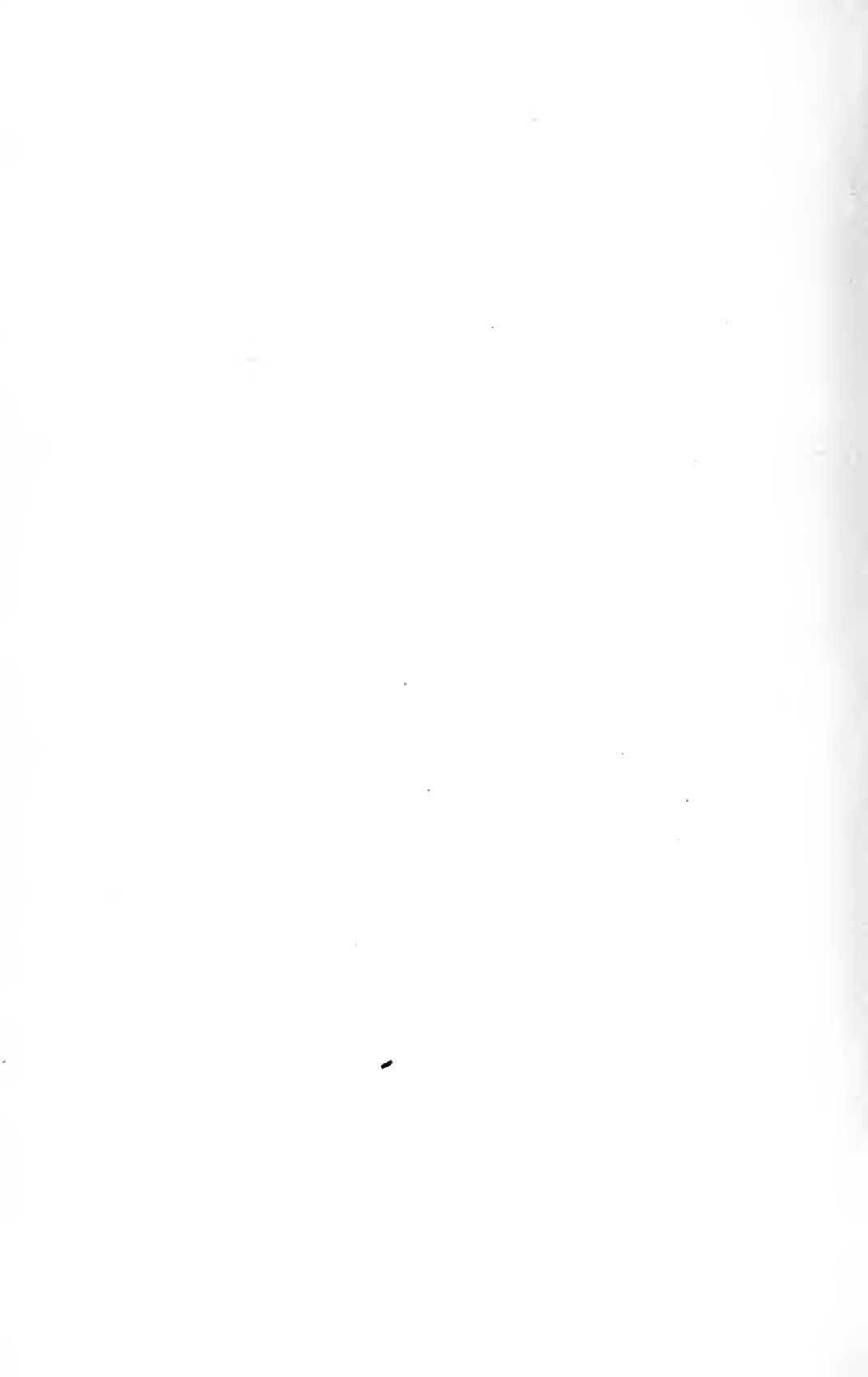
Impeachment : (Jy 20) to strike out provision, *disagreed to*, E. 340-343.

Compensation : fixed and from national treasury, *agreed to*, E. 343.

Resolution becomes 9, July 26.



- 10, June 13—(Jy 18), *agreed to*, 13, July 26, E. 328.
(Jy 21), *amendment*, that national judiciary be associated with executive in veto power, *disagreed to*, E. 344-349.
- 11, June 13—(Jy 18) Supreme judges to be appointed by executive, *disagreed to*, E. 328-330.
(Jy 18 and 21) nominated and appointed by executive with consent of two-thirds of the second branch, *disagreed to*, E. 330, 349-351 ; B. 92.
(Jy 18) *amendment*, compensation not to be diminished while in office, *agreed to*, E. 330-331.
Other clauses, *agreed to*, *nem. con.*
Resolution becomes 14, July 26.
- 12, June 13—(Jy 18) *agreed to*, 15, July 26, E. 331 ; B. 92.
- 13, June 13—(Jy 18) *amendment*, to strike out power of impeachment of national officers, *agreed to*, E. 332 ; B. 93.
Amendment, that their power extend, etc., as in 16, July 26, *agreed to*, E. 332 ; B. 93.
- 14, June 13—(Jy 18) *agreed to*, 17, July 26, E. 332.
- 15, June 13—(Jy 18) *disagreed to*, E. 332.
- 16, June 13—(Jy 18) *amended and adopted*, as in 18, July 26, E. 332-333.
- 17, June 13—(Jy 23) *agreed to*, 19, July 26, E. 351.
- 18, June 13—(Jy 23) *agreed to*, 20, July 26, E. 351, 352.
- 19, June 13—(Jy 23) *amendment*, to refer Constitution to State legislatures, *disagreed to*, E. 352-356 ; B. 93.
To refer it to a second Federal Convention, *disagreed to*, E. 356.
Resolution, *agreed to*, 21, July 26, E. 356 ; B. 93-95.



9. That a national executive ought to be instituted, to consist of a single person; to be chosen by the national legislature, for the term of seven years; with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for, to be ineligible a second time, and to be removable on impeachment and conviction of malpractices or neglect of duty; to receive a fixed stipend by which he may be compensated for the devotion of his time to the public service, to be paid out of the national treasury.

10. That the national executive shall have a right to negative any legislative act which shall not be afterwards passed by two-thirds of each branch of the national legislature.

11. That a national judiciary be established, to consist of one supreme tribunal, the judges of which shall be appointed by the second branch of the national legislature, to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution.

12. That the national legislature be empowered to appoint inferior tribunals.

13. That the jurisdiction of the national judiciary shall extend to all cases which respect the collection of the national revenue, impeachments of any national officer, and questions which involve the national peace and harmony.

14. Same as 10 Virginia.

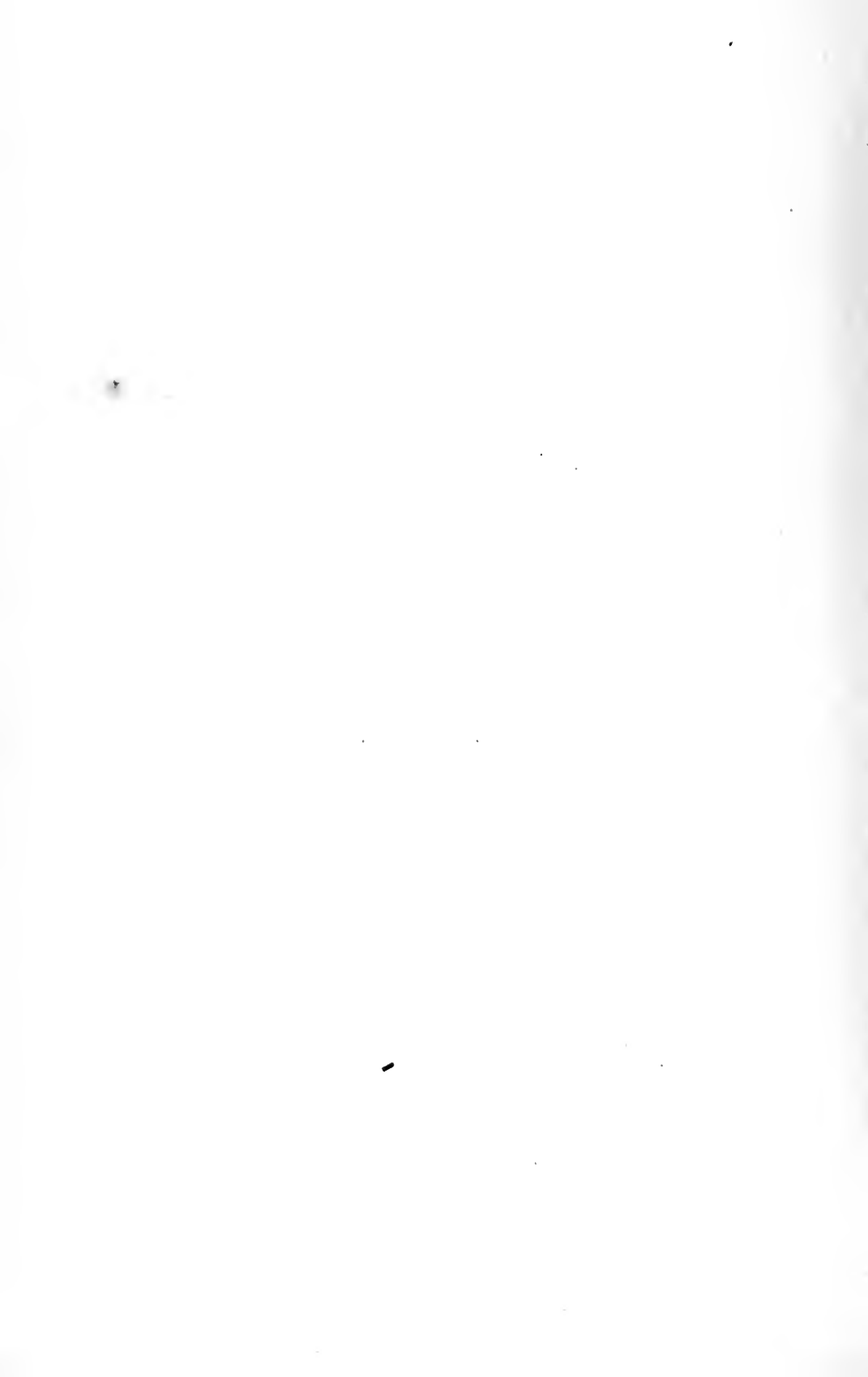
15. Same as 12 Virginia.

16. That a republican constitution, and its existing laws, ought to be guaranteed to each State by the United States.

17. That provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary.

18. Same as 14 Virginia.

19. Same as 15 Virginia.



JERSEY PLAN.

“This plan had been concerted among the deputations, or members thereof, from Connecticut, New York, New Jersey, Delaware, and perhaps Mr. Martin, from Maryland, who made with them a common cause, though on different principles. Connecticut and New York were against a departure from the principle of the Confederation, wishing rather to add a few new powers to Congress than to substitute a national government. The States of New Jersey and Delaware were opposed to a national government, because its patrons considered a proportional representation of the States as the basis of it. The eagerness displayed by the members opposed to a national government, from these different motives, now began to produce serious anxiety for the result of the Convention.” *Note by Madison, Elliot, v. 191.*

Bancroft says that New York and Connecticut are wrongly classed together here. “In conduct and intention the delegates of Connecticut were very unlike Yates and Lansing.” Bancroft, ii. 38, *note*.

Bancroft, ii. 38-43, 46 ;

Elliot, v. 193-199, 206-211 (Madison's analysis) ;

Curtis, ii. 92-93, 106-109;

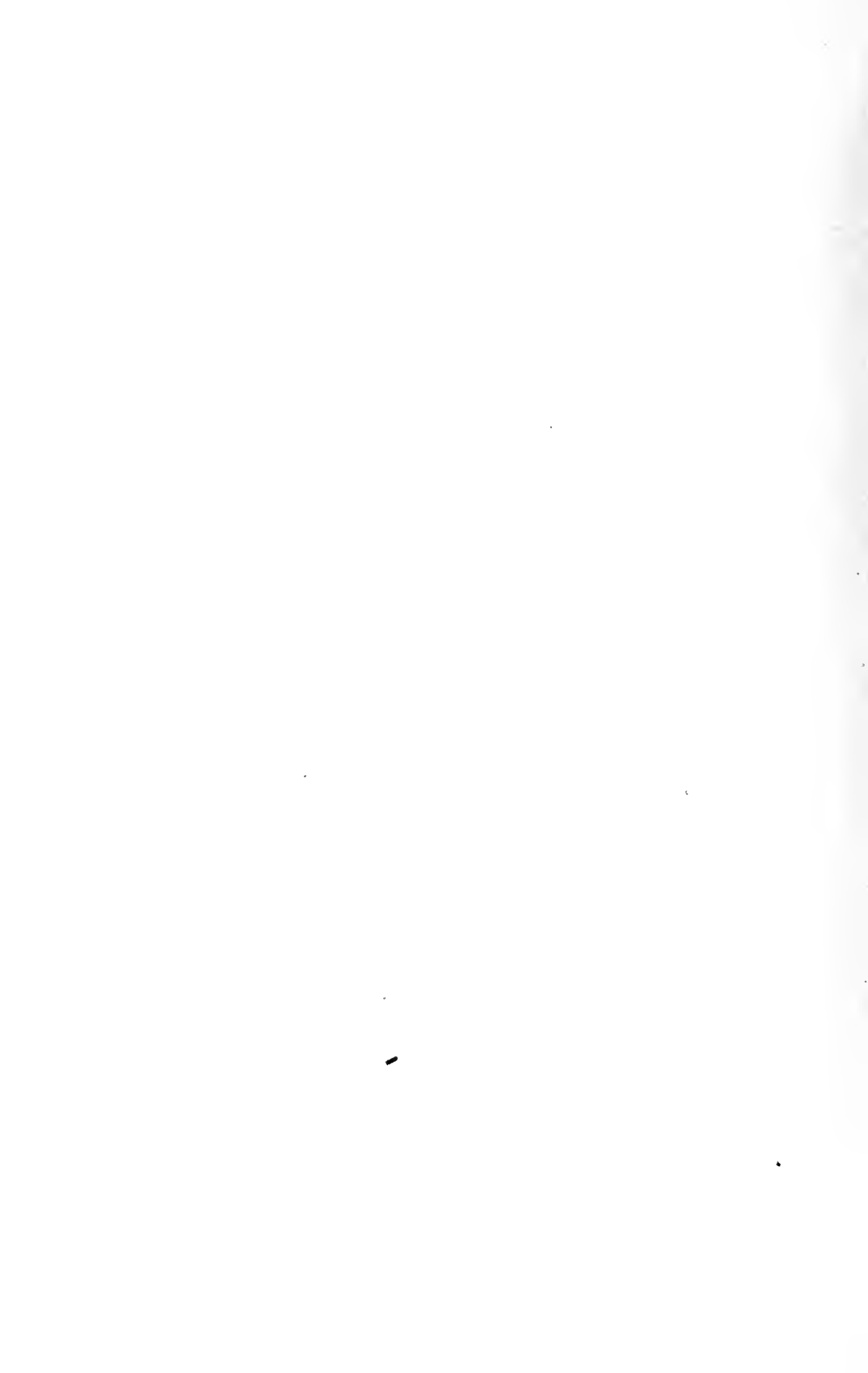
Lalor, i. 639, 547.

JERSEY PLAN, OFFERED JUNE 15.

1. That the Articles of Confederation ought to be revised, corrected, and enlarged, so as to render the Federal Constitution adequate to the exigencies of the Union.

2. That, in addition to the powers vested in the United States in Congress, by the present existing Articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods and merchandise of foreign growth or manufacture, imported into any part of the United States; by stamps on paper, vellum, or parchment; and by a postage on all letters and packages passing through the general postoffice,—to be applied to such federal purposes as they shall deem proper and expedient; to make rules and regulations for the collection thereof; and the same, from time to time, to alter and amend, in such manner as they shall think proper. To pass acts for the regulation of trade and commerce, as well with foreign nations as with each other; provided, that all punishments, fines, forfeitures, and penalties, to be incurred for contravening such rules and regulations, shall be adjudged by the common-law judiciary of the States in which any offence contrary to the true intent and meaning of such rules and regulations shall be committed or perpetrated; with liberty of commencing, in the first instance, all suits or prosecutions for that purpose in the superior common-law judiciary of such State; subject, nevertheless, to an appeal for the correction of all errors both in law and fact, in rendering judgment, to the judiciary of the United States. X

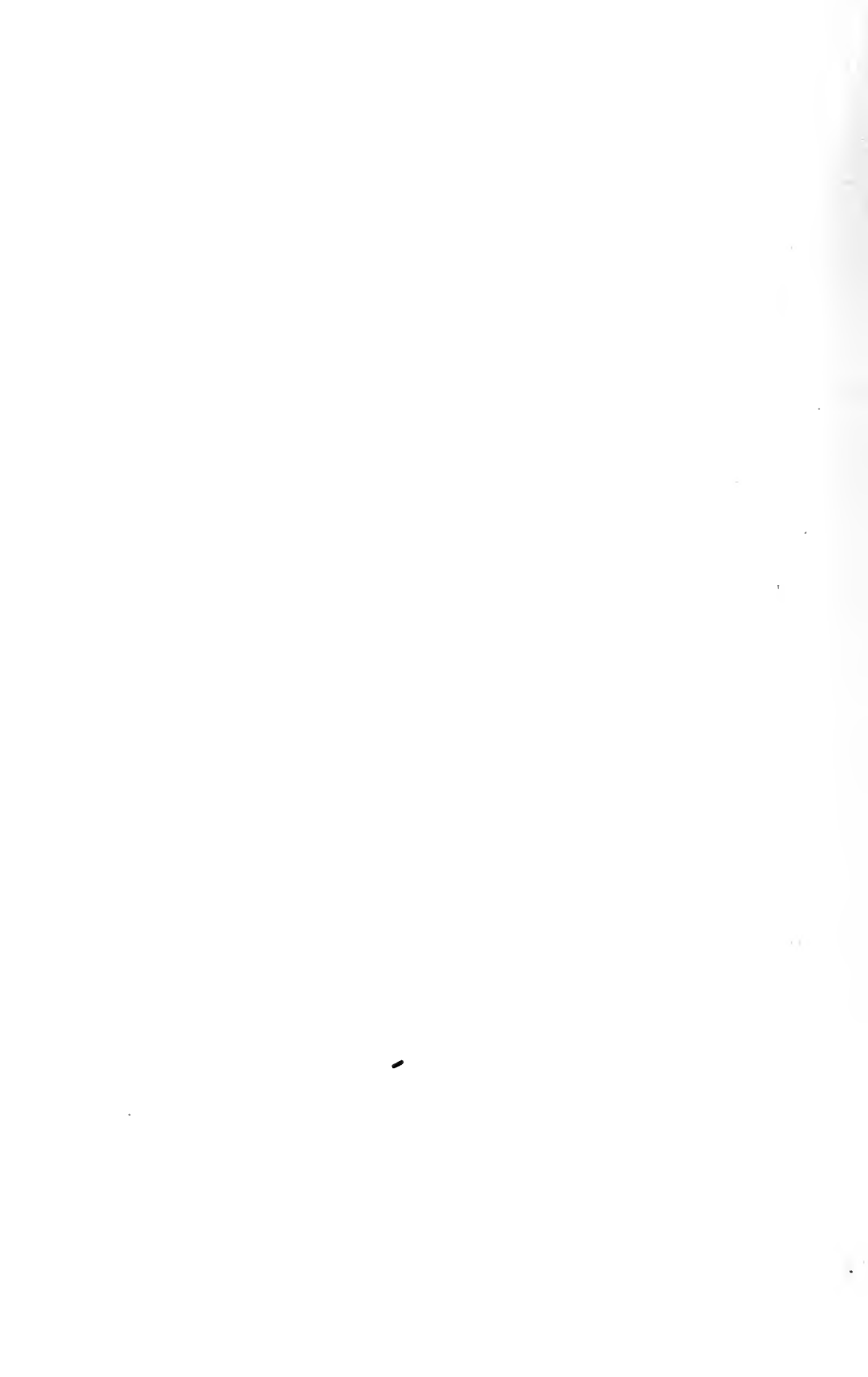
3. That, whenever requisitions shall be necessary, instead of the present rules, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that, if such requisitions be not complied with in the time to be specified therein, to direct the collection thereof in the non-complying States; and for that purpose to devise and pass acts directing and authorizing the same; provided, that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least.....States; and in that proportion, if the number of confederated States should be hereafter increased or diminished.



4. That the United States in Congress be authorized to elect a federal executive to consist of.....persons, to continue in office for a term of.....years; to receive punctually, at stated times, a fixed compensation for the services by them rendered, in which no increase or diminution shall be made, so as to affect the persons composing the executive at the time of such increase or diminution; to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service, and for.....years thereafter; to be ineligible a second time, and removable on conviction for malpractices or neglect of duty, by Congress, on application by a majority of the executives of the several States. That the executive, besides a general authority to execute the federal acts, ought to appoint all federal officers not otherwise provided for, and to direct all military operations; provided, that none of the persons composing the federal executive shall, on any occasion, take command of any troops, so as personally to conduct any military enterprise as general, or in any other capacity.

5. That a federal judiciary be established, to consist of a supreme tribunal, the judges of which to be appointed by the executive, and to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution. That the judiciary, so established, shall have authority to hear and determine, in the first instance, on all impeachments of federal officers; and by way of appeal, in the *dernier ressort*, in all cases touching the rights and privileges of ambassadors; in all cases of captures from an enemy; in all cases of piracies and felonies on the high seas; in all cases in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any act or ordinance of Congress for the regulation of trade, or the collection of the federal revenue. That none of the judiciary officers shall, during the term they remain in office, be capable of receiving or holding any other office or appointment during their term of service, or for.....thereafter.

6. That the legislative, executive, and judiciary powers, within the several States, ought to be bound, by oath, to support the Articles of Union.



7. That all acts of the United States in Congress assembled, made by virtue and in pursuance of the powers hereby vested in them and by the Articles of Confederation, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective States, as far as those acts or treaties shall relate to the said States, or their citizens ; and that the judiciaries of the several States shall be bound thereby in their decisions, anything in the respective laws of the individual States to the contrary notwithstanding.

And if any State, or any body of men in any State, shall oppose or prevent the carrying into execution such acts and treaties, the federal executive shall be authorized to call forth the powers of the Confederated States, or so much thereof as may be necessary, to enforce and compel obedience to such acts, or an observance of such treaties.

8. That provision ought to be made for the admission of new States into the Union.

9. That provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual State, respecting territory.

10. That the rule for naturalization ought to be the same in every State.

✓ 11. That a citizen of one State, committing an offence in another State, shall be deemed guilty of the same offence as if it had been committed by a citizen of the State in which the offence was committed.



HAMILTON'S PLAN.

On June 18 Hamilton made an elaborate speech before the Convention, commenting on the Virginia and Jersey Plans, and discussing the principles of government. In the course of his speech he presented this sketch of a Plan as embodying his views. He did not expect it to find acceptance on the part of the Convention.

He also later prepared a much more elaborate form of a Constitution, a copy of which he gave to Madison.

The sketch Plan is found in Elliot, i. 179, v. 205 ; in Lodge's edition of Hamilton's Works, i. 331.

The form of a Constitution is found in Elliot, v. 584-590 ; in Hamilton's Works, i. 334-352.

Lodge has a note on the Plans, in Works, i. 351-353 ; and the whole subject, including a collection of all minutes of Hamilton's speeches and remarks in the Convention, is treated in Works, i. 331-400.

Madison gives six pages to an abstract of Hamilton's speech of June 18, Elliot, v. 199-204.

Bancroft, ii. 42-46;

Curtis, 94-106, 110-115.

HAMILTON'S PLAN.

1. The supreme legislative power of the United States of America to be vested in two distinct bodies of men, the one to be called the Assembly, the other the Senate, who, together, shall form the legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

2. The Assembly to consist of persons elected by the people, to serve for three years.

3. The Senate to consist of persons elected to serve during good behavior ; their election to be made by electors chosen for that purpose by the people. In order to do this, the States to be divided into election districts. On the death, removal, or resignation of any senator, his place to be filled out of the district from which he came.

4. The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior. His election to be made by electors, chosen by electors, chosen by the people in the election districts aforesaid. His authorities and functions to be as follows :—

To have a negative upon all laws about to be passed, and the execution of all laws passed ; to have the entire direction of war, when authorized or begun ; to have, with the advice and approbation of the Senate, the power of making all treaties ; to have the sole appointment of the heads or chief officers of the departments of finance, war, and foreign affairs ; to have the nomination of all other officers (ambassadors of foreign nations included), subject to the approbation or rejection of the Senate ; to have the power of pardoning all offences except treason, which he shall not pardon without the approbation of the Senate.

5. On the death, resignation, or removal of the governor, his authorities to be exercised by the president of the Senate, until a successor be appointed.

6. The Senate to have the sole power of declaring war ; the power of advising and approving all treaties ; the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

7. The supreme judicial authority of the United States to be vested in . . . judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all cases of captures, and an appellate



SHERMAN'S PROPOSITIONS.

"It appears that Mr. Sherman discovered, at an early date, many radical defects in the old Confederation, although he was a member of the committee by which it had been framed. A manuscript left among his papers, and containing a series of propositions prepared by him for the amendment of the old Articles of Confederation, the greater part of which are incorporated, in substance, in the new Constitution, displays the important part which he acted in the general Convention of 1787." Sanderson's *Lives of the Signers*, iii. 270.

"The project which in importance stands next to that of Virginia is the series of propositions of Connecticut. . . . It was framed . . . before 19 June, and probably soon after the arrival of Sherman in Philadelphia It may be that Sherman drew the paper ; but one of the articles corresponds with the sixth recommendation of a committee on which Ellsworth served with Randolph in 1781 ; and is very similar to a proposition made 1786 by a sub-committee of which Johnson was a member ; and another, the sixth, does no more than adopt the report of a committee of which Ellsworth was a member with Hamilton and Madison in 1783. As to the introduction of the Connecticut articles into the Constitution, it is hard to say whether Sherman or Ellsworth was the greatest hater of paper money." Bancroft, ii. 36-37.

On the Connecticut delegates, see: Bancroft, ii. 48-51.

On the Connecticut Compromise, see:

Bancroft, ii. 47-67 ;

Curtis, ii. 145-168 ;

Lalor, i. 547-548 ;

Johnston's Connecticut, chap. xvii.

jurisdiction in all cases in which the revenues of the general government, or the citizens of foreign nations, are concerned.

8. The legislature of the United States to have power to institute courts in each State, for the determination of all matters of general concern.

9. The governors, senators, and all officers of the United States to be liable to impeachment for mal and corrupt conduct ; and, upon conviction, to be removed from office, and disqualified for holding any place of trust or profit. All impeachments to be tried by a court, to consist of the chief or senior judge of the superior court of law, in each State ; provided, that such judge shall hold his place during good behavior, and have a permanent salary.

10. All laws of the particular States, contrary to the laws or constitution of the United States, to be utterly void. And the better to prevent such laws being passed, the governor or president of each State shall be appointed by the general government, and shall have a negative upon the laws about to be passed in any State of which he is governor or president.

11. No State to have any forces, land or naval ; and the militia of all the States to be under the sole and exclusive direction of the United States ; the officers of which to be appointed and commissioned by them.

SHERMAN'S PROPOSITIONS.

That, in addition to the legislative powers vested in Congress by the Articles of Confederation, the legislature of the United States be authorized to make laws to regulate the commerce of the United States with foreign nations, and among the several States in the Union ; to impose duties on foreign goods and commodities imported into the United States, and on papers passing through the postoffice, for raising a revenue, and to regulate the collection thereof, and apply the same to the payment of the debts due from the United States, and for supporting the government, and other necessary charges of the Union.

To make laws binding on the people of the United States, and on the courts of law, and other magistrates and officers, civil and military, within the several States, in all cases which concern the common interests of the United States ; but not to interfere with



the government of the individual States, in matters of internal police which respect the government of such States only, and wherein the general welfare of the United States is not affected.

That the laws of the United States ought, as far as may be consistent with the common interests of the Union, to be carried into execution by the judiciary and executive officers of the respective States, wherein the execution thereof is required.

That the legislature of the United States be authorized to institute one supreme tribunal, and such other tribunals as they may judge necessary for the purpose aforesaid, and ascertain their respective powers and jurisdiction.

That the legislatures of the individual States ought not to possess a right to emit bills of credit for a currency, or to make any tender laws for the payment or discharge of debts or contracts, in any manner different from the agreement of the parties, unless for payment of the value of the thing contracted for, in current money agreeable to the standard that shall be allowed by the legislature of the United States, or in any manner to obstruct or impede the recovery of debts, whereby the interests of foreigners, or the citizens of any other State, may be affected.

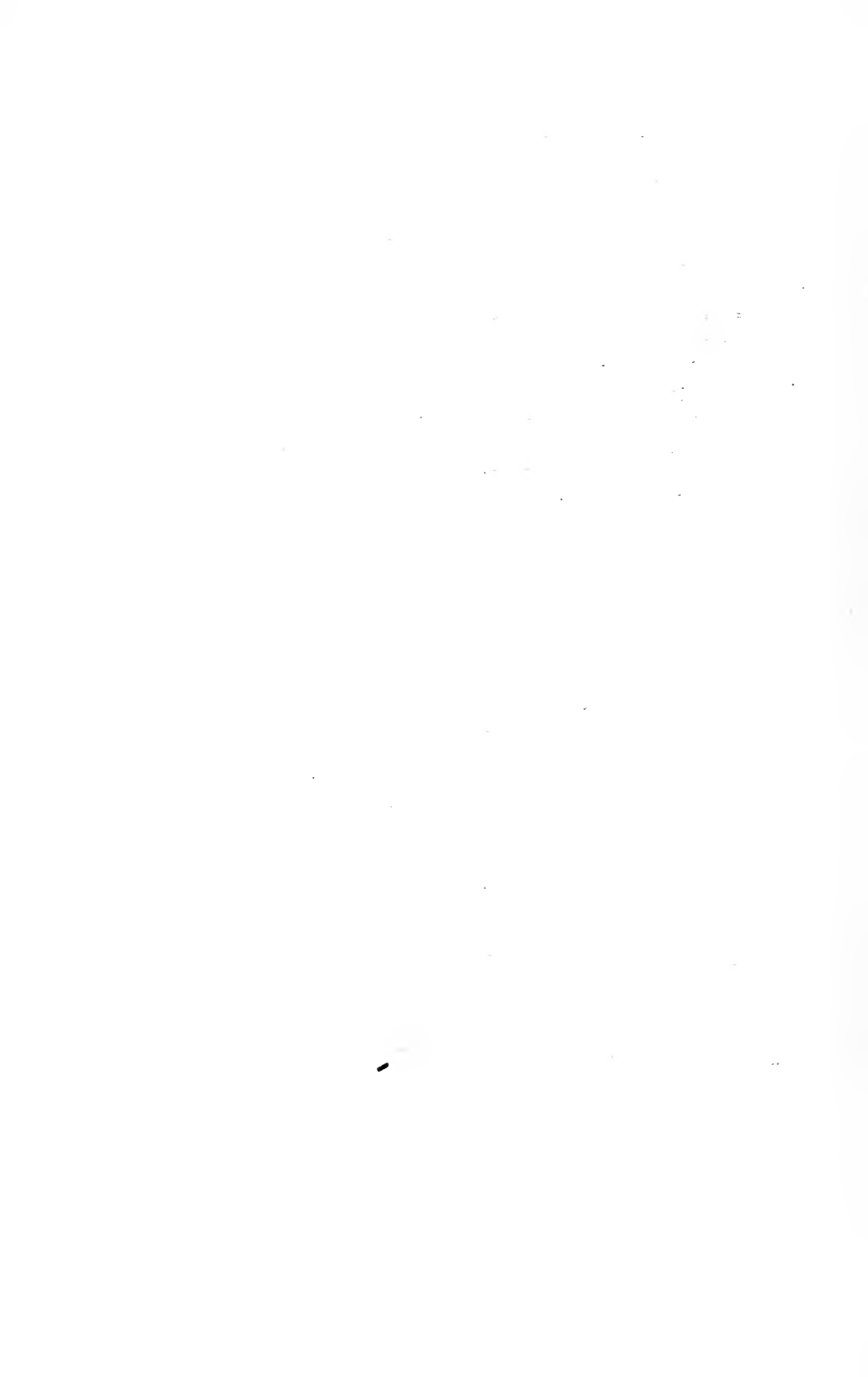
That the eighth Article of the Confederation ought to be amended, agreeably to the recommendation of Congress of the (18th) day of (April, 1783).

That, if any State shall neglect or refuse to furnish its quota of supplies, upon requisition made by the legislature of the United States, agreeably to the Articles of the Union, that the said legislature be authorized to order the same to be levied and collected of the inhabitants of such State, and to make such rules and orders as may be necessary for that purpose.

That the legislature of the United States have power to make laws for calling forth such aid from the people, from time to time, as may be necessary to assist the civil officers in the execution of the laws of the United States; and annex suitable penalties in case of disobedience.

That no person shall be liable to be tried for any penal offence, committed within any of the United States, in any other State than that wherein the offence shall be committed, nor be deprived of the privilege of trial by a jury, by virtue of any law of the United States.

SANDERSON'S LIVES OF THE SIGNERS, iii. 270-273.



REPORT OF SPECIAL COMMITTEE OF ELEVEN,
JULY 5.

The committee to whom was referred the eighth resolution of the report from the Committee of the Whole House, and so much of the seventh as had not been decided on, submit the following report :—

That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted :

1. That, in the first branch of the legislature, each of the States now in the Union shall be allowed one member for every forty thousand inhabitants, of the description reported in the seventh resolution of the Committee of the Whole House ; that each State not containing that number shall be allowed one member ; that all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch ; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

2. That, in the second branch, each State shall have an equal vote.

REPORT OF SPECIAL COMMITTEE OF FIVE,
JULY 9.

The committee to whom was referred the first clause of the first proposition reported from the grand committee, beg leave to report :

That, in the first meeting of the legislature, the first branch thereof consist of fifty-six members, of which number N. H. shall have 2, Mass. 7, R. I. 1, Ct. 4, N. Y. 5, N. J. 3, Pa. 8, Del. 1, Md. 4, Va. 9, N. C. 5, S. C. 5, Ga. 2.

But, as the present situation of the States may probably alter, as well in point of wealth as in the number of their inhabitants, that the legislature be authorized from time to time to augment the number of representatives. And in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the legislature shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principles of their wealth and number of inhabitants.



RESOLUTIONS OF THE CONVENTION,
REFERRED TO A COMMITTEE OF DETAIL, JULY 26.

1. That the government of the United States ought to consist of a supreme legislative, executive, and judiciary.
2. That the legislature consist of two branches.
3. Same as 3, **June 13**, substantially ; "two" substituted for "three," ineligibility to State offices omitted, and age put at "twenty-five years."
4. Same as 4, **June 13**, substantially ; "six" substituted for "seven" as term ; and ineligibility to State offices and "paid out of the public treasury" omitted.
5. Same as 5, **June 13**.
6. That the national legislature ought to possess the legislative rights vested in Congress by the Confederation ; and, moreover, to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.
7. Same as 6, **Jersey**, omitting last clause : "and that if any State," etc.
8. That, in the original formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number N. H. shall send 3 ; Mass., 8 ; R. I., 1 ; Ct., 5 ; N. Y., 6 ; N. J., 4 ; Pa., 8 ; Del., 1 ; Md., 6 ; Va., 10 ; N. C., 5 ; S. C., 5 ; Ga., 3.

But, as the present situation of the States may probably alter in the number of their inhabitants, the legislature of the United States shall be authorized, from time to time, to apportion the number of representatives ; and in case any of the States shall hereafter be divided, or enlarged by addition of territory, or any two or more States united, or any new States created within the limits of the United States, the legislature of the United States shall possess the authority to regulate the number of representatives, in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereinafter mentioned, namely : Provided, always, that representation ought to be proportioned to direct taxation. And, in order to ascertain the alteration in the direct taxation which may be required from time to time, by the changes in the relative circumstances of the States,—



9. That a census be taken within six years from the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner and according to the ratio recommended by Congress in their resolution of the 18th of April, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.

10. That all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury, but in pursuance of appropriations to be originated by the first branch.

11. That, in the second branch of the legislature of the United States, each State shall have an equal vote.

12. Same as 9, June 13, substantially.

13. Same as 10, June 13.

14. Same as 11, June 13, omitting, "or increase."

15. Same as 12, June 13.

16. That the jurisdiction of the national judiciary shall extend to cases arising under laws passed by the general legislature, and to such other questions as involve the national peace and harmony.

17. Same as 14, June 13.

18. That a republican form of government shall be guaranteed to each State; and that each State shall be protected against foreign and domestic violence.

19. Same as 17, June 13.

20. Same as 18, June 13.

21. Same as 19, June 13.

22. That the representation in the second branch of the legislature of the United States shall consist of two members from each State, who shall vote per capita.

23. That it be an instruction to the committee to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause, or clauses, requiring certain qualifications of property and citizenship in the United States, for the executive, the judiciary, and the members of both branches of the legislature of the United States.



THE DRAFT OF AUGUST 6 AND THE CONSTITUTION.

The Draft of August 6 was discussed in the Convention from August 7 to September 8. It was then referred to a Committee on Style, who, on September 13, reported the Constitution in a finished form. The Convention adjourned September 17.

The debates on the Draft and the alterations made in it are treated by Bancroft in the following chapters : "The Powers of Congress," "The President," "The Federal Judiciary," "The Last Days of the Convention."

Bancroft, ii. 119-222 ;

Curtis, ii. 193-487 ;

Lalor, i. 639-640, 548-549 ;

Rives, ii. 425-475 ;

Elliot, v. 382-565.

DRAFT OF A CONSTITUTION,
REPORTED BY COMMITTEE OF DETAIL, AUGUST 6.

We, the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the government of ourselves and our posterity :—

Article I.—The style of the government shall be “The United States of America.”

Art. II.—The government shall consist of supreme legislative, executive, and judicial powers.

Art. III.—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 ; each of which shall in all cases have a negative on the other. The legislature shall meet on the first Monday in December in every year.

Art. IV.—Sec. 1. The members of the House of Representatives shall be chosen, every second year, by the people of the several States comprehended within this Union. The qualifications of the electors shall be the same, from time to time, as those of the electors, in the several States, of the most numerous branch of their own legislatures.

Sec. 2. Every member of the House of Representatives shall be of the age of twenty-five years at least ; shall have been a citizen in the United States for at least three years before his election ; and shall be, at the time of his election, a resident of the State in which he shall be chosen.

Sec. 3. The House of Representatives shall, at its first formation, and until the number of citizens and inhabitants shall be taken in the manner hereinafter described, consist of sixty-five members, of whom 3 shall be chosen in N. H., 8 in Mass., 1 in R. I., 5 in Ct., 6 in N. Y., 4 in N. J., 8 in Pa., 1 in Del., 6 in Md., 10 in Va., 5 in N. C., 5 in S. C., and 3 in Ga.

Sec. 4. As the proportions of numbers in different States will alter from time to time ; as some of the States may hereafter be divided ; as others may be enlarged by addition of territory ; as two or more States may be united ; as new States will be erected within the limits of the United States,—the legislature shall, in

each of these cases, regulate the number of representatives by the number of inhabitants, according to the provisions hereinafter made, at the rate of one for every forty thousand.

Sec. 5. All bills for raising or appropriating money, and for fixing the salaries of the officers of government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public treasury but in pursuance of appropriations that shall originate in the House of Representatives.

Sec. 6. The House of Representatives shall have the sole power of impeachment. It shall choose its speaker and other officers.

Sec. 7. Vacancies in the House of Representatives shall be supplied by writs of election from the executive authority of the State in the representation from which they shall happen.

Art. V.—Sec. 1. The Senate of the United States shall be chosen by the legislatures of the several States. Each legislature shall choose two members. Vacancies may be supplied by the executive until the next meeting of the legislature. Each member shall have one vote.

Sec. 2. The Senators shall be chosen for six years, but immediately after the first election they shall be divided, by lot, into three classes, as nearly as may be, numbered one, two, and three. The seats of the members 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; of the third class at the expiration of the sixth year; so that a third part of the members may be chosen every second year.

Sec. 3. Every member of the Senate shall be of the age of thirty years at least; shall have been a citizen in the United States for at least four years before his election; and shall be, at the time of his election, a resident of the State for which he shall have been chosen.

Sec. 4. The Senate shall choose its own president and other officers.

Art. VI.—Sec. 1. The times, places, and manner of holding the elections of the members of each house, shall be prescribed by the legislature of each State; but their provisions concerning them may, at any time, be altered by the legislature of the United States.

Sec. 2. The legislature of the United States shall have authority to establish such uniform qualifications of the members of each house, with regard to property, as to the said legislature shall seem expedient.

Sec. 3. In each house a majority of the members shall constitute a quorum to do business ; but a smaller number may adjourn from day to day.

Sec. 4. Each house shall be the judge of the elections, returns, and qualifications of its own members.

Sec. 5. Freedom of speech and debate in the legislature shall not be impeached or questioned in any court or place out of the legislature ; and the members of each house shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at Congress, and in going to and returning from it.

Sec. 6. Each house may determine the rules of its proceedings ; may punish its members for disorderly behavior ; and may expel a member.

Sec. 7. The House of Representatives, and the Senate, when it shall be acting in a legislative capacity, shall keep a journal of their proceedings ; and shall from time to time publish them ; and the yeas and nays of the members of each house, on any question, shall, at the desire of one-fifth part of the members present, be entered on the journal.

Sec. 8. Neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that at which the two houses are sitting. But this regulation shall not extend to the Senate when it shall exercise the power mentioned in the Article.

Sec. 9. The members of each house shall be ineligible to, and incapable of holding, any office under the authority of the United States, during the terms during which they shall respectively be elected ; and the members of the Senate shall be ineligible to, and incapable of holding, any such office for one year afterwards.

Sec. 10. The members of each house shall receive a compensation for their services, to be ascertained and paid by the State in which they shall be chosen.

Sec. 11. The enacting style of the laws of the United States



shall be, "Be it enacted, and it is hereby enacted, by the House of Representatives and by the Senate of the United States, in Congress assembled."

Sec. 12. Each house shall possess the right of originating bills, except in the cases before mentioned.

Sec. 13. Every bill which shall have passed the House of Representatives and the Senate shall, etc., *to the same effect as Art. 1, Sec. 7, Par. 2, of the Constitution.*

Art. VII.—Sec. 1. The legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises ;

To regulate commerce with foreign nations, and among the several States ;

To establish an uniform rule of naturalization throughout the United States ;

To coin money ;

To regulate the value of foreign coin ;

To fix the standard of weights and measures ;

To establish post-offices ;

To borrow money, and emit bills, on the credit of the United States ;

To appoint a treasurer by ballot ;

To constitute tribunals inferior to the supreme court ;

To make rules concerning captures on land and water ;

To declare the law and punishment of piracies and felonies committed on the high seas, and the punishment of counterfeiting the coin of the United States, and of offences against the law of nations ;

To subdue a rebellion in any State, on the application of its legislature ;

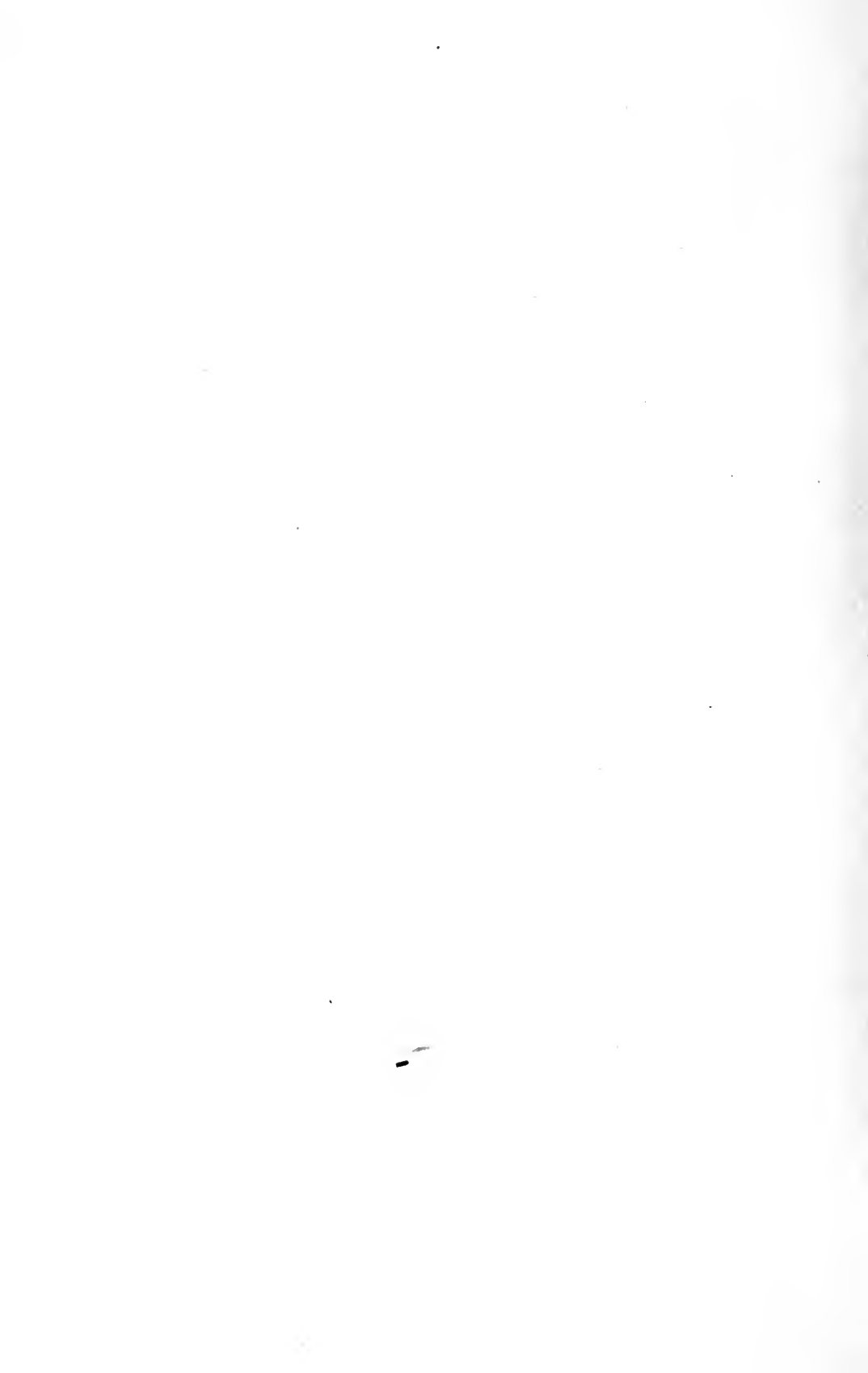
To make war ;

To raise armies ;

To build and equip fleets ;

To call forth the aid of the militia, in order to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions ;

And to make all laws that 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 office thereof.



Sec. 2. Treason against the United States shall consist only in levying war against the United States, or any of them; and in adhering to the enemies of the United States, or any of them. The legislature of the United States shall have power to declare the punishment of treason. No person shall be convicted of treason unless on the testimony of two witnesses. No attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted.

Sec. 3. The proportions of direct taxation shall be regulated by the whole number of white and other free citizens and inhabitants of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, (except Indians not paying taxes;) which number shall, within six years after the first meeting of the legislature, and within the term of every ten years afterwards, be taken in such manner as the said legislature shall direct.

Sec. 4. No tax or duty shall be laid by the legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.

Sec. 5. No capitation tax shall be laid, unless in proportion to the census hereinafter directed to be taken.

Sec. 6. No navigation act shall be passed without the assent of two-thirds of the members present in each house.

Sec. 7. The United States shall not grant any title of nobility.

Art. VIII.—The acts of the legislature of the United States made in pursuance of this Constitution, and all treaties made under authority of the United States, shall be the supreme law of the several States, and of their citizens and inhabitants; and the judges in the several States shall be bound thereby in their decisions, anything in the constitutions or laws of the several States to the contrary notwithstanding.

Art. IX.—Sec. 1. The Senate of the United States shall have power to make treaties, and to appoint ambassadors, and judges of the supreme court.

Sec. 2. (Provides for the settlement of disputes between two or more States concerning jurisdiction or territory, in a manner



similar to the provision in Art. IX, Sec. 2, of the Articles of Confederation, except that the powers there conferred upon "The United States in Congress assembled" are here conferred upon the Senate.)

Sec. 3. (Similar to Art. IX, Sec. 3, of the Articles of Confederation.)

Art. X.—Sec. 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.

Sec. 2. He shall, from time to time, give information to the legislature of the state of the Union. He may recommend to their consideration such measures as he shall judge necessary and expedient. He may convene them on extraordinary occasions. In case of disagreement between the two houses, with regard to the time of adjournment, he may adjourn them to such time as he thinks proper. He shall take care that the laws of the United States shall be duly and faithfully executed. He shall commission all the officers of the United States ; and shall appoint officers in all cases not otherwise provided for by this Constitution. He shall receive ambassadors, and may correspond with the supreme executives of the several States. He shall have power to grant reprieves and pardons, but his pardon shall not be pleadable in bar of an impeachment. He shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States. He shall, at certain times, receive for his services a compensation, which shall neither be increased nor diminished during his continuance in office. Before he shall enter on the duties of his department, he shall take the following oath or affirmation, "I, , solemnly swear (or affirm) that I will faithfully execute the office of President of the United States of America." He shall be removed from his office on impeachment by the House of Representatives, and conviction, in the supreme court, of treason, bribery, or corruption. In case of his removal, as aforesaid, death, resignation, or disability to discharge the powers and duties of his office, the President of the Senate shall exercise those powers and duties until another President of the United States be chosen, or until the disability of the President be removed.



Art. XI.—Sec. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as shall, when necessary, from time to time, be constituted by the legislature of the United States.

Sec. 2. The judges of the supreme court, and of the inferior courts, shall hold their offices during good behavior. They shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. 3. The jurisdiction of the supreme court shall extend to all cases arising under the laws passed by the legislature of the United States; to all cases affecting ambassadors, other public ministers and consuls; to the trial of impeachments of officers of the United States; to all cases of admiralty and maritime jurisdiction; to controversies between two or more States, (except as shall regard territory or jurisdiction); between a State and a citizen of another State; between citizens of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects. In cases of impeachment, cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, this jurisdiction shall be original. In all other cases before mentioned, it shall be appellate, with such exceptions, and under such regulations as the legislature shall make. The legislature may assign any part of the jurisdiction above mentioned, (except the trial of the President of the United States), in the manner and under the limitations which it shall think proper, to such inferior courts as it shall constitute from time to time.

Sec. 4. The trial of all criminal offences (except in cases of impeachment) shall be in the State where they shall be committed, and shall be by jury.

Sec. 5. 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.

Art. XII.—No State shall coin money; nor grant letters of marque and reprisal; nor enter into any treaty, alliance, or confederation; nor grant any title of nobility.



Art. XIII.—No State, without the consent of the legislature of the United States, shall emit bills of credit, or make anything but specie a tender in payment of debts ; nor lay imposts or duties on imports ; nor keep troops or ships of war in time of peace ; nor enter into any agreement or compact with another State, or 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 a delay until the legislature of the United States can be consulted.

Art. XIV.—The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

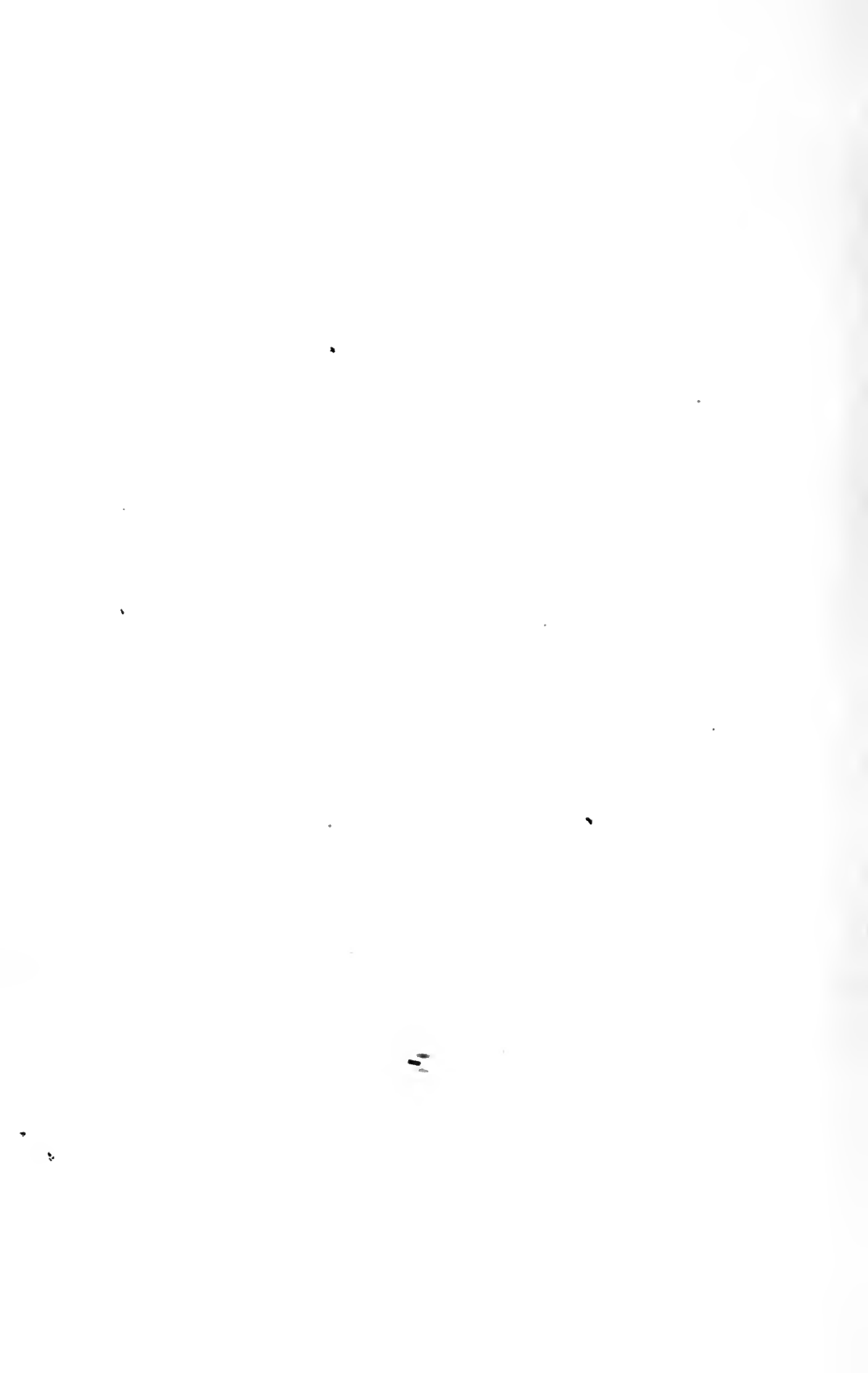
Art. XV.—Any person charged with treason, felony, or high misdemeanor in any State, who shall flee from justice, and shall be found in any other State, shall, on demand of the executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of the offence.

Art. XVI.—Full faith shall be given in each State to the acts of the legislature, and to the records and judicial proceedings of the courts and magistrates of every other State.

Art. XVII.—New States lawfully constituted or established within the limits of the United States may be admitted, by the legislature, into this government ; but to such admission the consent of two-thirds of the members present in each house shall be necessary. If a new State shall arise within the limits of any of the present States, the consent of the legislatures of such States shall be also necessary to its admission. If the admission be consented to, the new State shall be admitted on the same terms with the original States. But the legislature may make conditions with the new States concerning the public debt which shall then be subsisting.

Art. XVIII.—The United States shall guarantee to each State a republican form of government ; and shall protect each State against foreign invasions, and, on application of its legislature, against domestic violence.

Art. XIX.—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.



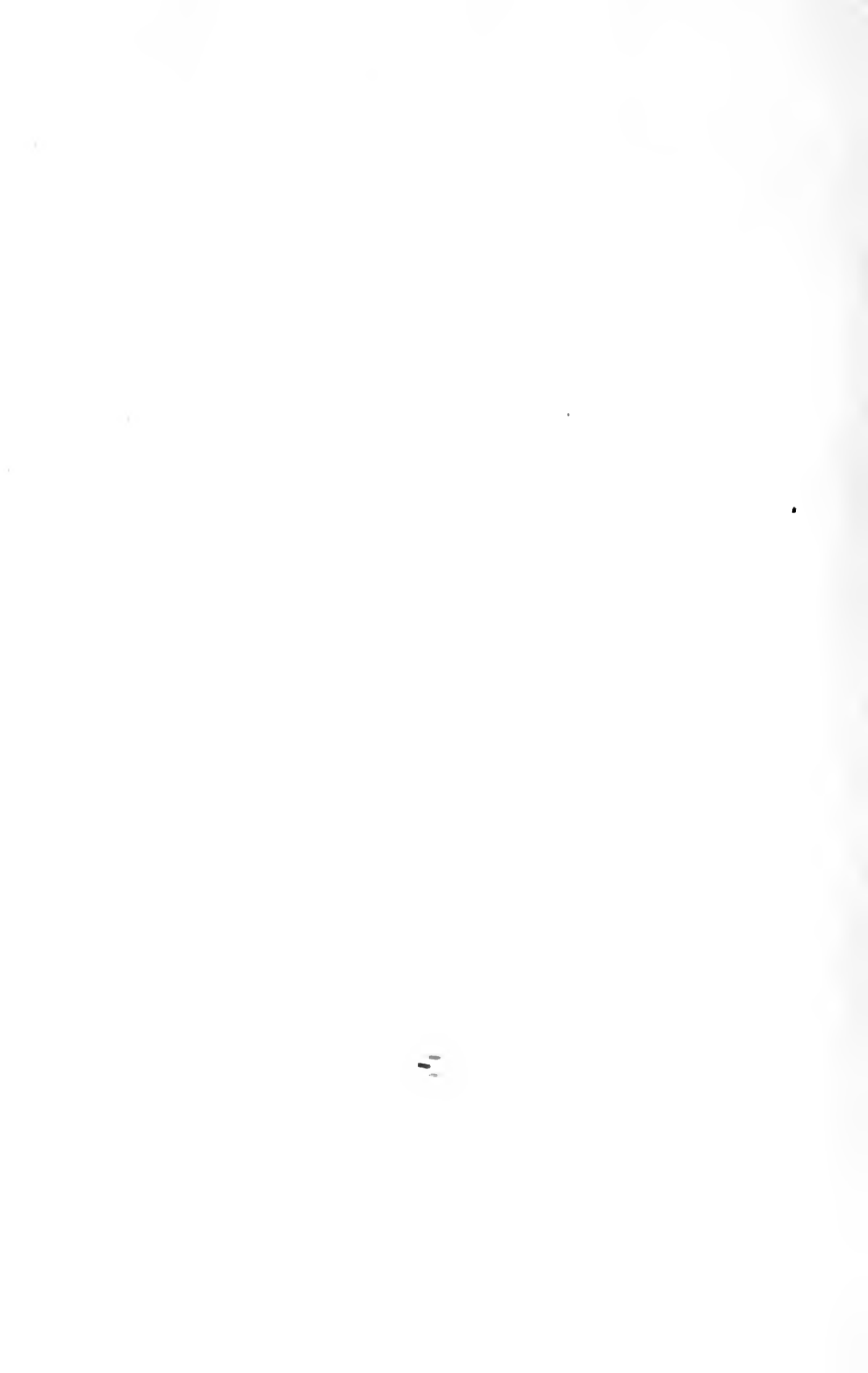
Art. XX.—The members of the legislatures and the executive and judicial officers of the United States, and of the several States, shall be bound by oath to support this Constitution.

Art. XXI.—The ratification of the conventions of States shall be sufficient for organizing this Constitution.

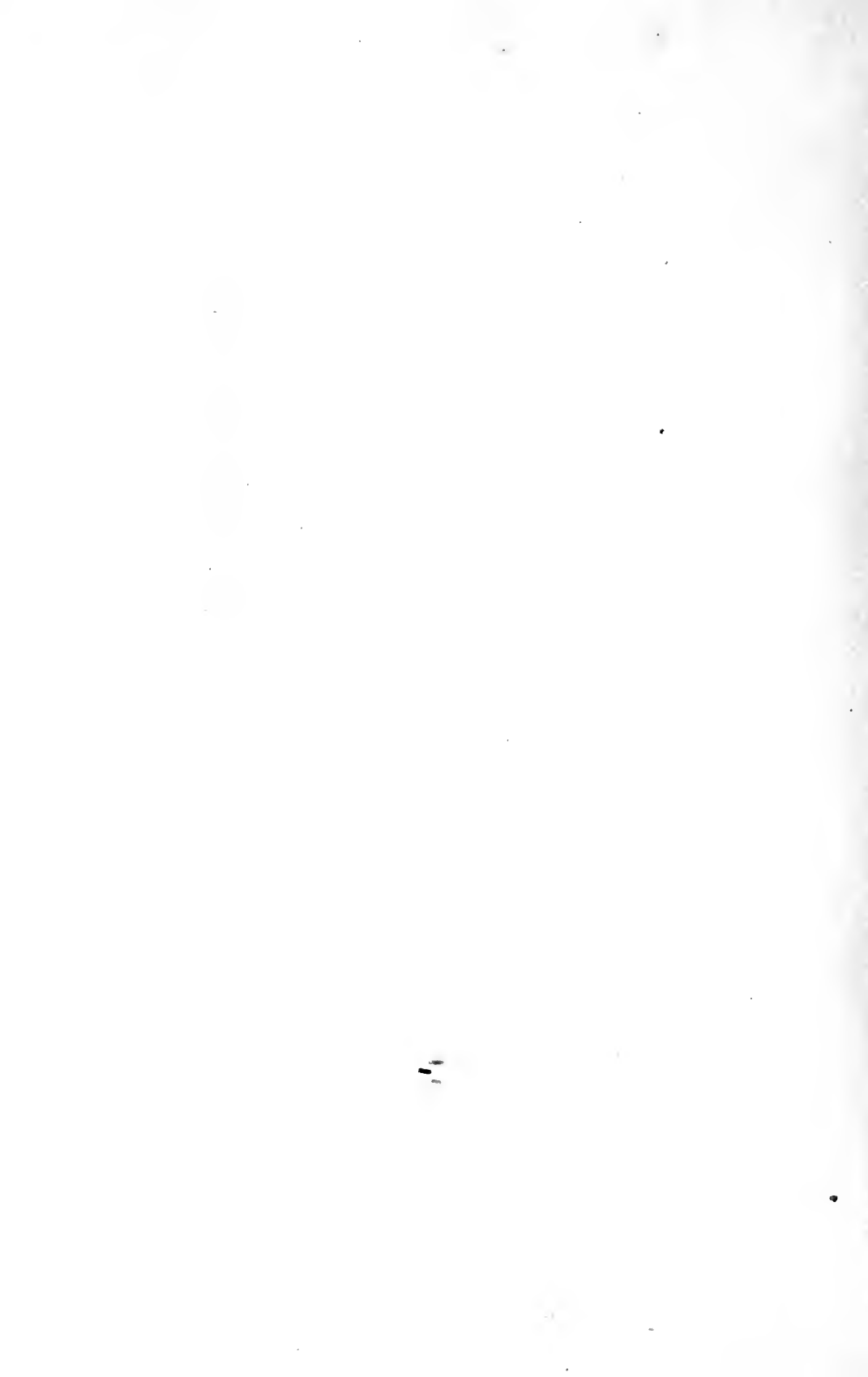
Art. XXII.—This Constitution shall be laid before the United States in Congress assembled, for their approbation ; and it is the opinion of this Convention, that it should be afterwards submitted to a convention chosen in each State, under the recommendation of its legislature, in order to receive the ratification of such convention.

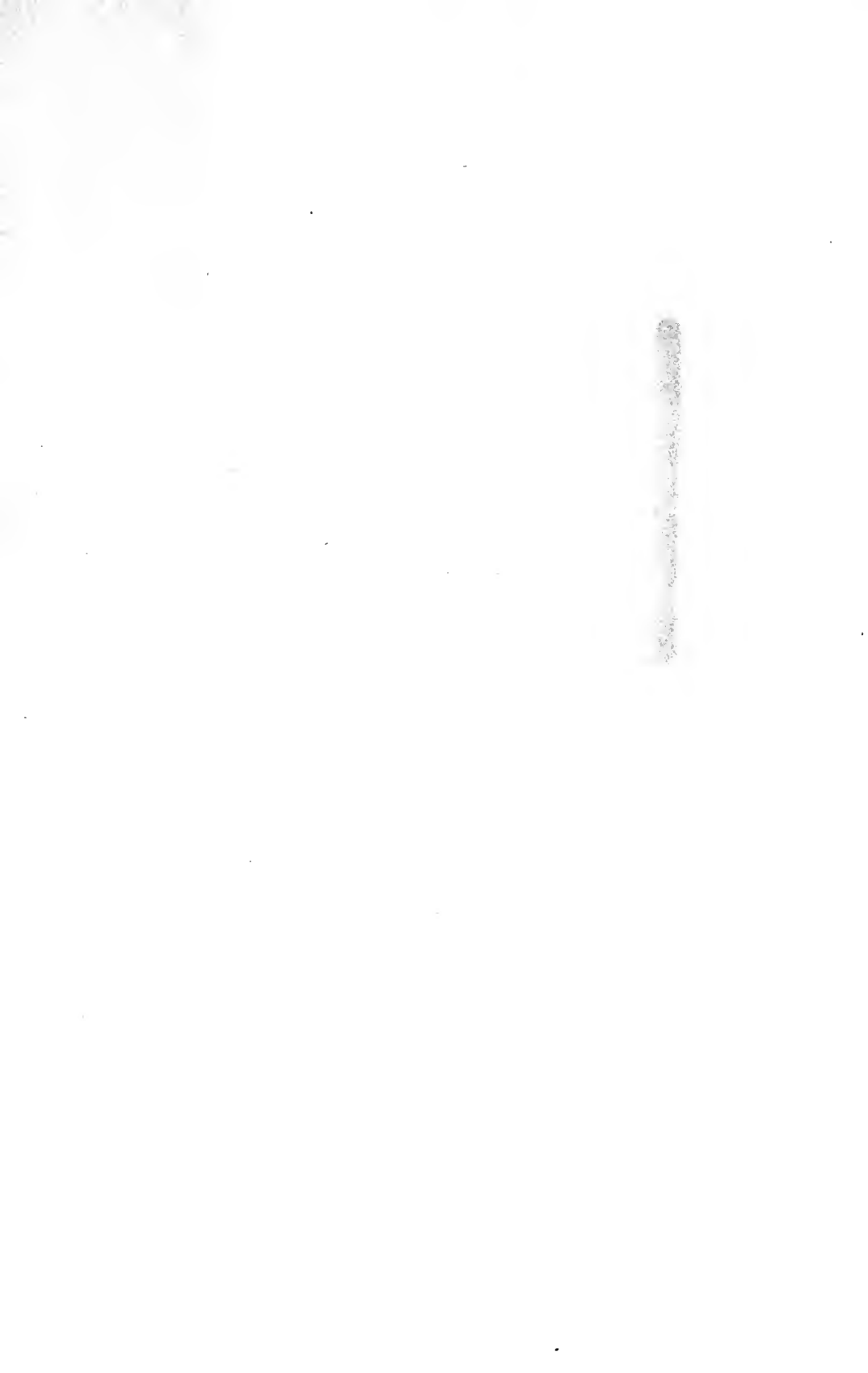
Art. XXIII.—To introduce this government, it is the opinion of this Convention, that each assenting convention should notify its assent and ratification to the United States in Congress assembled ; that Congress, after receiving the assent and ratification of the conventions of States, should appoint and publish a day, as early as may be, and appoint a place, for commencing proceedings under this Constitution ; that, after such publication, the legislatures of the several States should elect members of the Senate, and direct the election of members of the House of Representatives ; and that the members of the legislature should meet at the time and place assigned by Congress, and should, as soon as may be after their meeting, choose the President of the United States, and proceed to execute this Constitution.

Preamble and I..	}	Preamble	E. 382, Aug. 7.
II.....		E. 382, Aug. 7.
III.....	I. i., iv. 2.....	E. 382-385, Aug. 7.	
IV. 1.....	I. ii. 1.....	E. 385-389, Aug. 7, 8.	
IV. 2.	I. ii. 2.....	E. 389-391, Aug. 8; 411-414, Aug. 13;	
		555-556, Sept. 17.	
IV. 3.....	}	I. ii. 3.....	{ E. 391, Aug. 8.
IV. 4.....			{ E. 391-394, Aug. 8.
IV. 5.....	I. vii. 1; ix. 7...	E. 394-395, Aug. 8; 410-411, Aug. 11;	
		414-420, Aug. 13.	
IV. 6.....	I. ii. 5.....	E. 395, Aug. 9.	
IV. 7.....	I. ii. 4.....	E. 395, Aug. 9.	
V. 1.....	I. iii. 1 and 2...	E. 395-397, Aug. 9.	
V. 2.....	I. iii. 1 and 2...	E. 397-398, Aug. 9; 414, Aug. 13.	
V. 3.....	I. iii. 3.....	E. 398-401, Aug. 9.	
V. 4.....	I. iii. 4 and 5....	E. 401, Aug. 9.	
VI. 1.....	I. iv. 1.....	E. 401-402, Aug. 9.	
VI. 2.....	E. 402-405, Aug. 10.	
VI. 3.....	I. v. 1.....	E. 405-406, Aug. 10.	
VI. 4.....	I. v. 1.....	} E. 406, Aug. 10.	
VI. 5.....	I. vi. 1.....		
VI. 6.....	I. v. 2.....	E. 407, Aug. 10.	
VI. 7.....	I. v. 3.....	E. 407-409, Aug. 11.	
VI. 8.....	I. v. 4.....	E. 408-410, Aug. 11.	
VI. 9.....	I. vi. 2.....	E. 420-425, Aug. 14; 503, Sep. 1;	
		505-506, Sep. 3.	
VI. 10.....	I. vi. 1.....	E. 425-427, Aug. 14.	
VI. 11.....	E. 427, Aug. 15.	
VI. 12.....	E. 427-428, Aug. 15; 452-453, Aug.	
		21; 510, Sept. 5; 529, Sep. 8.	
VI. 13.....	I. vii. 2 and 3..	E. 428-431, Aug. 15; 536-538, Sep. 12.	
.....	I. vii. 3.....	E. 431-432, Aug. 16.	
VII. 1.....	I. viii.....	E. 432-447, Aug. 16-20; 451, Aug.	
		21; 462, Aug. 22; 463-467, Aug.	
		22-23; 467-469, 475-477, Aug.	
		25; 503, Sep. 1; 504, Sep. 3;	
		506-507, Sep. 4; 510-512, Sep. 5.	
VII. 2.....	III. iii. 1 and 2..	E. 447-451, Aug. 20; 462-463, Aug.	
		22.	



- VII. 3.....I. ii. 3.....E. 452-453, Aug. 21.
- VII. 4.....I. ix. 1 and 5...E. 454-461, Aug. 21-22 ; 471, Aug. 24 ; 477-478, 479, Aug. 25 ; 483-488, Aug. 28 ; 502-503, Aug. 31 ; 538-539, Sep. 12 ; 540, Sep. 13.
- VII. 5.....I. ix. 4.....E. 461, Aug. 22 ; 471, Aug. 24 ; 478, Aug. 25.
- VII. 6.....—————E. 461, Aug. 22 ; 471, Aug. 24 ; 478, Aug. 25 ; 489-492, Aug. 29.
- VII. 7.....I. ix. 8.....E. 467, Aug. 23.
- VIII.....VI. 2.....E. 467, Aug. 23 ; 478-479, Aug. 25.
- IX. 1.....II. ii. 2.....E. 467, 469-470, Aug. 23 ; 507, Sep. 4.
- IX. 2.....—————E. 471, Aug. 24.
- IX. 3.....—————E. 471, Aug. 24.
- X. 1..... { II. i. 1, 2, 3, } E. 462, Aug. 22 ; 471-474, Aug. 24 ;
 { 4 ; Amend. } 507, 508-510, Sep. 4 ; 512-529,
 { XII. } Sep. 5-8.
- X. 2..... { II. i. 6, 7, 8 ; } E. 462, Aug. 22 ; 474-475, Aug. 24 ;
 { ii. 1 ; iii. ; } 479-481, Aug. 25-27 ; 507, Sep. 4 ;
 { iv..... } 530, Sep. 8.
- XI. 1.....III. i.....E. 481, Aug. 27.
- XI. 2.....III. i.....E. 462, Aug. 22 ; 481-482, Aug. 27.
- XI. 3..... { III. ii. 1 and } E. 462, Aug. 22 ; 482-483, Aug. 27 ;
 { 2 ; I. iii. 6.... } 484, Aug. 28.
- XI. 4.....III. ii. 3.....E. 484, Aug. 28.
- XI. 5.....I. iii. 7.....E. 484, Aug. 28.
- XII.....I. x. 1.....E. 484-486, Aug. 28.
- XIII.....I. x. 2 and 3....E. 486-487, Aug. 28.
- XIV.....IV. ii. 1.....E. 487, Aug. 28.
- XV.....IV. ii. 2.....E. 487, Aug. 28 ; 492, Aug. 28.
- XVI.....IV. i.....E. 487-488, Aug. 29 ; 504, Sep. 3.
- XVII.....IV. iii. 1.....E. 492-497, Aug. 29-30.
- XVIII.....IV. iv.....E. 497-498, Aug. 30.
- XIX.....V.....E. 498, Aug. 30 ; 530-532, Sep. 10.
- XX.....VI. 3.....E. 498, Aug. 30.
- XXI.....VII.....E. 498-501, Aug. 30-31 ; 532-535, Sep. 10 ; 541, Sep. 13.
- XXII.....—————E. 501-502, Aug. 31 ; 532-535, Sep. 10 ; 541, Sep. 13.
- XXIII.....—————E. 502, Aug. 31 ; 541, Sep. 13.





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