Madison’s Notes on the Convention

FRIDAY June 1, 1787

William Houston from Georgia took his seat.

The Committee of the whole proceeded to Resolution 7. “that a national Executive be instituted, to be chosen by the national Legislature-for the term of —— years &c to be ineligible thereafter, to possess the executive powers of Congress &c.”

Mr. PINKNEY was for a vigorous Executive but was afraid the Executive powers of the existing Congress might extend to peace and war and c., which would render the Executive a monarchy, of the worst kind, to wit an elective one.

Mr. WILSON moved that the Executive consist of a single person.

Mr. C PINKNEY seconded the motion, so as to read “that a National Ex. to consist of a single person, be instituted.

A considerable pause ensuing and the Chairman asking if he should put the question, Docr. FRANKLIN observed that it was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr. RUTLIDGE animadverted on theshyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive power in a single person, tho’ he was not for giving him the power of war and peace. A single man would feel the greatest responsibility and administer the public affairs best.

Mr. SHERMAN said he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depositary of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might not be fixed but that the legislature should be at liberty to appoint one or more as experience might dictate. Mr. WILSON preferred a single magistrate, as giving most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of Legislative nature. Among others that of war & peace &c.

The only powers he conceived strictly Executive were those of executing the laws, and appointing officers, not appertaining to and appointed by the Legislature.

Mr. GERRY favored the policy of annexing a Council to the Executive in order to give weight & inspire confidence.

Mr. RANDOLPH strenuously opposed a unity in the Executive magistracy. He regarded it as the foetus of monarchy. We had he said no motive to be governed by the British Governmt. as our prototype. He did not mean however to throw censure on that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed to it; but the fixt genius of the people of America required a different form ofGovernment. He could not see why the great requisites for the Executive department, vigor, despatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore in order to support its independence to consist of more than one.

Mr. WILSON said that unity in the Executive instead of being the fetus of monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to the situation of this Country; the extent of which was so great, and the manners so republican, that nothing but a great confederated Republic would do for it. Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it; and the first part of the clause agreed to, viz-"that a National Executive be instituted."

Mr. MADISON thought it would be proper, beforea choice shd. be made between a unity and a plurality in the Executive, to fix the extent of the Executive authority; that as certain powers were in their nature Executive, and must be given to that departmt. whether administered by one or more persons, a definition of their extent would assist the judgment in determining how far they might be safely entrusted to a single officer. He accordingly moved that so much of the clause before the Committee as related to the powers of the Executive shd. be struck out & that after the words "that a national Executive ought to be instituted" there be inserted the words following viz. "with power to carry into effect the national laws, to appoint to offices in cases not otherwise provided for, and to execute such other powers "not Legislative nor Judiciary in their nature," as may from time to time be delegated by the national Legislature." The words "not legislative nor judiciary in their nature" were added to the proposed amendment in consequence of a suggestion by Genl. Pinkney that improper powers might otherwise be delegated.

Mr. WILSON seconded this motion- Mr. PINKNEY moved to amend the amendment by striking out the last member of it; viz: "and to execute such other powers not Legislative nor Judiciary in their nature as may from time to time be delegated." He said they were unnecessary, the object of them being included in the "power to carry into effect the national laws."

Mr. RANDOLPH seconded the motion.

Mr. MADISON did not know that the words were absolutely necessary, or even the preceding words-"to appoint to offices &c. the whole being perhaps included in the first member of the proposition. He did not however see any inconveniency in retaining them, and cases might happen in which they might serve to

prevent doubts and misconstructions.

In consequence of the motion of Mr. Pinkney, the question on Mr. Madison's motion was divided; and the words objected to by Mr. Pinkney struck out; by the votes of Connecticut, N. Y. N. J. Pena. Del. N. C. & Geo. agst. Mass. Virga. & S. Carolina [FN5] the preceding part of the motion being first agreed to; Connecticut divided, all the other States in the affirmative.The next clause in Resolution 7, [FN6] relating to the mode of appointing, & the duration of, the Executive being under consideration,

Mr. WILSON said he was almost unwilling to declare the mode which he wished to take place, being apprehensive that it might appear chimerical. He would say however at least that in theory he was for an election by the people. Experience, particularly in N. York & Massts., shewed that an election of the first magistrate by the people at large, was both a convenient & successful mode. The objects of choice in such cases must be persons whose merits have general notoriety.

Mr. SHERMAN was for the appointment by the Legislature, and for making him absolutely dependent on that body, as it was the will of that which was to be executed. An independence of the Executive on the supreme Legislature, was in his opinion the very essence of tyranny if there was any such thing.

Mr. WILSON moves that the blank for the term of duration should be filled with three years, observing at the same time that he preferred this short period, on thesupposition that a reeligibility would be provided for.

Mr. PINKNEY moves for seven years.

Mr. SHERMAN was for three years, and agst. the doctrine of rotation as throwing out of office the men best qualifyed to execute its duties.

Mr. MASON was for seven years at least, and for prohibiting a re-eligibility as the best expedient both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters; and a temptation on the side of the Executive to intrigue with the Legislature for a re-appointment.

Mr. BEDFORD was strongly opposed to so long a term as seven years. He begged the committee to consider what the situation of the Country would be, in case the first magistrate should be saddled on it for such a period and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment he said would be no cure for this evil, as an impeachment wouldreach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years.

On the question for seven years, Massts. dividd. Cont. no. N. Y. ay. N. J. ay. Pena. ay. Del. ay. Virga. ay. N. C. no. S. C. no. Geor. no. There being 5ays, 4 noes, 1 divd., a question was asked whether a majority had voted in the affirmative? The President decided that it was an affirmative vote.

The mode of appointing the Executive was the next question.

Mr. WILSON renewed his declarations in favor of an appointment by the people. He wished to derive not

only both branches of the Legislature from the people, without the intervention of the State Legislatures but the Executive also; in order to make them as independent as possible of each other, as well as of the States;

Col. MASON favors the idea, but thinks it impracticable. He wishes however that Mr. Wilson might have time to digest it into his own form.-the clause"to be chosen by the National Legislature"-was accordingly postponed.-

Mr. RUTLIDGE suggests an election of the Executive by the second branch only of the national Legislature.

The Committee then rose and the House

Adjourned.

Saturday June 2, 1787

William Saml. Johnson from Connecticut, Daniel of St. Thomas Jennifer, from Maryd. & John Lansing Jr. from N. York, took their seats.

It was movd. & 2ded. to postpone ye Resol: of Mr. Randolph respecting the Executive, in order to take up the 2d. branch of the Legislature; which being negatived by Mas: Con: Del: Virg: N. C. S. C. Geo: agst. N. Y. Pena. Maryd.

The mode of appointg ye Executive was resumed.

Mr. WILSON made the following motion, to be substituted for the mode proposed by Mr. Randolph's resolution, "that the Executive Magistracy shall be elected in the following

The Jefferson MONTICELLO