

# *Notes of Debates in the Federal Convention of 1787*

James Madison

1787

[This is an abridged version of the document.]

Thursday, May 31

In Committee of the whole on Mr. Randolph's propositions...

Resolution 4, first clause, "that the members of the first branch of the National Legislature ought to be elected by the people of the several States" being taken up,

Mr. SHERMAN opposed the election by the people, insisting that it ought to be by the State Legislatures. The people he said, immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.

Mr. GERRY. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Massachusetts it had been fully confirmed by experience that they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of Government. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamour in Massachusetts for the reduction of salaries and the attack made on that of the Governor though secured by the spirit of the Constitution itself. He had he said been too republican heretofore: he was still however republican, but had been taught by experience the danger of the leveling spirit.

Mr. MASON argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Government. It was, so to speak, to be our House of Commons — It ought to know & sympathise with every part of the community; and ought therefore to be

taken not only from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances particularly in Virginia, different interests and views arising from difference of produce, of habits &c &c. He admitted that we had been too democratic but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity & policy; considering that however affluent their circumstances, or elevated their situations, might be, the course of a few years, not only might but certainly would, distribute their posterity throughout the lowest classes of Society. Every selfish motive therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest than of the highest orders of Citizens.

Mr. WILSON contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State Legislatures by making them the electors of the national Legislature. All interference between the general and local Governments should be obviated as much as possible. On examination it would be found that the opposition of States to federal measures had proceeded much more from the officers of the States, than from the people at large.

Mr. MADISON considered the popular election of one branch of the National Legislature as essential to every plan of free Government. He observed that in some of the States one branch of the Legislature was composed of men already removed from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State Legislatures, the second branch elected by the first — the Executive by the second together with the first; and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the Legislature, and in the Executive & judiciary branches of the Government. He thought too that the great fabric to be raised would be more stable and durable, if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the Legislatures. ...

On the question for an election of the first branch of the national Legislature by the people.

Massachusetts ay. Connecticut divided. New York ay. New Jersey no. Pennsylvania ay. Delaware divided. Virginia ay. North Carolina ay. South Carolina no. Georgia ay. ...

The Committee proceeded to Resolution 5. “that the second, [or senatorial] branch of the National Legislature ought to be chosen by the first branch out of persons nominated by the State Legislatures.”

Mr. SPAIGHT contended that the second branch ought to be chosen by the State Legislatures and moved an amendment to that effect.

Mr. BUTLER apprehended that the taking so many powers out of the hands of the States as was proposed, tended to destroy all that balance and security of interests among the States which it was necessary to preserve. ...

On the whole question for electing by the first branch out of nominations by the State Legislatures, Massachusetts ay. Connecticut no. New York no. New Jersey no. Pennsylvania no. Delaware no. Virginia ay. North Carolina no. South Carolina ay. Georgia no.

So the clause was disagreed to & a chasm left in this part of the plan. ...

Wednesday, June 6

#### IN COMMITTEE OF WHOLE

Mr. PINKNEY according to previous notice & rule obtained, moved “that the first branch of the national Legislature be elected by the State Legislatures, and not by the people,” contending that the people were less fit Judges in such a case, and that the Legislatures would be less likely to promote the adoption of the new Government, if they were to be excluded from all share in it.

Mr. RUTLIDGE seconded the motion.

Mr. GERRY. Much depends on the mode of election. In England, the people will probably lose their liberty from the smallness of the proportion having a right of suffrage. Our danger arises from the opposite extreme: hence in Massachusetts the worst men get into the Legislature. Several members of that Body had lately been convicted of infamous crimes. Men of indigence, ignorance & baseness, spare no pains, however dirty to carry their point against men who are superior to the artifices practised. He was not disposed to run into extremes. He was as much principled as ever against aristocracy and monarchy. It was necessary on the one hand that the people should appoint one branch of the Government in order to inspire them with the necessary confidence. But he wished the election on the other to be so modified as to secure more effectually a just preference of merit. His idea was that the people should nominate certain persons in certain districts, out of whom the State Legislatures should make the appointment.

Mr. WILSON. He wished for vigor in the Govt., but he wished that vigorous authority to flow immediately from the legitimate source of all authority. The Government ought to possess not only first, the force, but secondly, the mind or sense of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively. The opposition was to be expected he said from the Governments, not from the Citizens of the States. The latter had parted as was observed [by Mr. King] with all the necessary powers; and it was immaterial to them, by whom they were exercised, if well exercised. The State officers were to be the losers of power. The people he supposed would be rather more attached to the national Government than to the State Governments as being more important in itself, and more flattering to their pride. There is no danger of improper elections if made by large districts. Bad elections proceed from the smallness of the districts which give an opportunity to bad men to intrigue themselves into office.

Mr. SHERMAN. If it were in view to abolish the State Governments the elections ought to be by the people. If the State Governments are to be continued, it is necessary in order to preserve harmony between the National & State Governments that the elections to the former should be made by the latter. The right of participating in the National Government would be sufficiently secured to the people by their election of the State Legislatures. The objects of the Union, he thought were few. 1. defence against foreign danger. 2. against internal disputes & a resort to force. 3. Treaties with foreign nations. 4. regulating foreign commerce, & drawing revenue from it. These & perhaps a few lesser objects alone rendered a Confederation of the States necessary. All other matters civil & criminal would be much better in the hands of the States. The people are more happy in small than large States. States may indeed be too small as Rhode Island, & thereby be too subject to faction. Some others were perhaps too large, the powers of Government not being able to pervade them. He was for giving the General Government power to legislate and execute within a defined province.

Col. MASON. Under the existing Confederacy, Congress represent the States not the people of the States: their acts operate on the States, not on the individuals. The case will be changed in the new plan of Government. The people will be represented; they ought therefore to choose the Representatives. The requisites in actual representation are that the Representatives should sympathize with their constituents; should think as they think, & feel as they feel; and that for these purposes should even be residents among them. Much he said had been alleged against democratic elections. He admitted that much might be said; but it was to be considered that no Government was free from imperfections & evils; and that improper elections in many instances, were inseparable from Republican Governments. But compare these with the advantage of this Form in favor of the rights of the people, in favor of human nature. He was persuaded there was a better chance for proper elections by the people, if divided into large districts, than by the State Legislatures. Paper money had been issued by the latter when the former were against it. Was it to be supposed that the State Legislatures then would not send to the National legislature patrons of such projects, if the choice depended on them?

Mr. MADISON considered an election of one branch at least of the Legislature by the people immediately, as a clear principle of free Government, and that this mode under proper regulations had the additional advantage of securing better representatives, as well as of avoiding too great an agency of the State Governments in the General one. He differed from the member from Connecticut [Mr. Sharman] in thinking the objects mentioned to be all the principal ones that required a National government. Those

were certainly important and necessary objects; but he combined with them the necessity of providing more effectually for the security of private rights, and the steady dispensation of Justice. Interferences with these were evils which had more perhaps than any thing else, produced this convention. Was it to be supposed that republican liberty could long exist under the abuses of it practised in some of the States? The gentleman [Mr. Sharman] had admitted that in a very small State, faction & oppression would prevail. It was to be inferred then that wherever these prevailed the State was too small. Had they not prevailed in the largest as well as the smallest, tho' less than in the smallest; and were we not thence admonished to enlarge the sphere as far as the nature of the Government would admit? This was the only defence against the inconveniencies of democracy consistent with the democratic form of Government. All civilized Societies would be divided into different Sects, Factions, & interests, as they happened to consist of rich & poor, debtors & creditors, the landed, the manufacturing, the commercial interests, the inhabitants of this district or that district, the followers of this political leader or that political leader, the disciples of this religious Sect or that religious Sect. In all cases where a majority are united by a common interest or passion, the rights of the minority are in danger. What motives are to restrain them? A prudent regard to the maxim that honesty is the best policy is found by experience to be as little regarded by bodies of men as by individuals. Respect for character is always diminished in proportion to the number among whom the blame or praise is to be divided. Conscience, the only remaining tie, is known to be inadequate in individuals: In large numbers, little is to be expected from it. Besides, Religion itself may become a motive to persecution & oppression. — These observations are verified by the Histories of every Country antient & modern. In Greece & Rome the rich & poor, the creditors & debtors, as well as the patricians & plebians alternately oppressed each other with equal unmercifulness. What a source of oppression was the relation between the parent cities of Rome, Athens & Carthage, & their respective provinces: the former possessing the power, & the latter being sufficiently distinguished to be separate objects of it? Why was America so justly apprehensive of Parliamentary injustice? Because Great Britain had a separate interest real or supposed, & if her authority had been admitted, could have pursued that interest at our expence. We have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man. What has been the source of those unjust laws complained of among ourselves? Has it not been the real or supposed interest of the major number? Debtors have defrauded their creditors. The landed interest has borne hard on the mercantile interest. The Holders of one species of property have thrown a disproportion of taxes on the holders of another species. The lesson we are to draw from the whole is that where a majority are united by a common sentiment, and have an opportunity, the rights of the minor party become insecure. In a Republican Government, the Majority if united have always an opportunity. The only remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests & parties, that in the first place a majority will not be likely at the same moment to have a common interest separate from that of the whole or of the minority; and in the second place, that in case they should have such an interest, they may not be apt to unite in the pursuit of it. It was incumbent on us then to try this remedy, and with that view to frame a republican system on such a scale & in such a form as will controul all the evils which have been experienced.

Mr. DICKENSON considered it as essential that one branch of the Legislature should be drawn immediately from the people; and as expedient that the other should be chosen by the Legislatures of the States. This combination of the State Governments with the national Government was as politic as it was unavoidable. ...

General PINKNEY wished to have a good National Government & at the same time to leave a considerable share of power in the States. An election of either branch by the people scattered as they are in many States, particularly in South Carolina was totally impracticable. He differed from gentlemen who thought that a choice by the people would be a better guard against bad measures, than by the Legislatures. A majority of the people in South Carolina were notoriously for paper money as a legal tender; the Legislature had refused to make it a legal tender. The reason was that the latter had some sense of character and were restrained by that consideration. The State Legislatures also he said would be more jealous, & more ready to thwart the National Government, if excluded from a participation in it. The Idea of abolishing these Legislatures would never go down. ...

On the question for electing the first branch by the State Legislatures as moved by Mr. Pinckney it was negatived.

Massachusetts no. Connecticut ay. New York no. New Jersey ay. Pennsylvania no. Delaware no. Maryland no. Virginia no. North Carolina no. South Carolina ay. Georgia no.

Source: Notes of Debates in the Federal Convention of 1787 Reported by James Madison (W.W. Norton & Company: New York, 1987)