

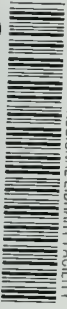
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THE POPULAR ELECTION  
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POPULAR ELECTION OF SENATORS

WITH APPENDIX

DEBATES ON THE ELECTION OF SENATORS IN  
THE FEDERAL CONVENTION OF 1787.

COMPILED UNDER THE DIRECTION OF

A. P. C. GRIFFIN

CHIEF BIBLIOGRAPHER

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## INTRODUCTION

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This is a reprint, with additions, of Senate Document 404 of the Fifty-seventh Congress, first session, which consisted of material furnished by the Library.

It contains a list of writings relating to the election of Senators, particularly the proposition to have Senators chosen by the people instead of by the State legislatures. There are included in the List, speeches in Congress, articles in periodicals, and references to general treatises containing discussions on the subject. In an appendix is the text of the debates in the Federal Constitutional Convention on the various methods proposed for the election of "the second branch of the national legislature," followed by extracts from the "Federalist."

A. P. C. GRIFFIN  
*Chief Bibliographer*

HERBERT PUTNAM  
*Librarian of Congress*  
WASHINGTON, D. C., *June 6, 1904*



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- Simpson, Jerry.** Election of Senators by the people. Remarks, May 11, 1898.  
(*In Congressional record*, vol. 31, pt. 5, pp. 4816-4817.)  
Favors popular election.
- Small, John M.** Election of Senators by the people. Speech, April 12, 1900.  
(*In Congressional record*, vol. 33, pt. 8, appendix, pp. 314-317.)  
Favors popular election.
- Spooner, John C.** Election of United States Senators. Remarks, May 9, 1902.  
(*In Congressional record*, vol. 35, pt. 5, pp. 5205, 5206, 5208.)  
Against popular election.
- Stewart, William M.** Election of Senators by direct vote. Speech, March 11, 1902.  
(*In Congressional record*, vol. 35, pt. 3, pp. 2617-2618.)  
Against popular election.



- Sulzer, William.** Election of Senators by the people. Speech, May 11, 1898.  
(*In Congressional record*, vol. 31, pt. 8, appendix pp. 451-452.)  
Favors popular election.
- Election of United States Senators. Remarks, April 12, 1900.  
(*In Congressional record*, vol. 33, pt. 5, p. 4121.)  
Favors popular election.
- Todd, Albert M.** Election of Senators by the people. Speech, May 11, 1898.  
(*In Congressional record*, vol. 31, pt. 5, pp. 4820-4824.)  
Favors popular election.
- Tongue, Thomas H.** Election of Senators by the people. Remarks, May 11, 1898.  
(*In Congressional record*, vol. 31, pt. 5, p. 4819.)  
Favors popular election.
- Tucker, Henry St. George.** Election of United States Senators by the people. Speech, July 12, 1892.  
(*In Congressional record*, vol. 23, pt. 6, pp. 6060-6066.)  
General discussion, pp. 6066-6079.
- *Same.* Speech, July 20, 1894.  
(*In Congressional record*, vol. 26, pt. 10, appendix 2, pp. 1134-1136.)  
Favors popular election.
- Turpie, David.** Election of United States Senators by the people. Speech, Dec. 17, 1891.  
(*In Congressional record*, vol. 23, pt. 1, pp. 76-80.)  
Favors popular election.
- *Same.* Speech, December 6, 1894.  
(*In Congressional record*, v. 27, pt. 1, pp. 73-76.)  
Favors popular election.
- *Same.* Speech, February 6, 1896.  
(*In Congressional record*, vol. 28, pt. 2, pp. 1382-1385.)  
Favors popular election.
- Election of Senators by direct vote. Speech, March 23, 1897.  
(*In Congressional record*, vol. 30, pt. 1, pp. 169-173.)  
Favors popular election.
- Underwood, Oscar W.** Election of Senators by the people. Remarks, May 11, 1898.  
(*In Congressional record*, vol. 31, pt. 5, p. 4811.)  
Favors popular election.
- United States.** *43d Congress, 1st session.* Senate miscellaneous document no. 66. Resolution of the legislature of California, in favor of an amendment to the Constitution of the United States, providing that Senators may be elected by a direct vote of the people. Feb. 18, 1874. 1 page. 8<sup>o</sup>.

- United States.** *43d Congress, 1st session.* Senate miscellaneous document no. 69. Resolution of the legislature of Iowa, in favor of an amendment to the Constitution, providing for the election of United States Senators by a direct vote of the people. Feb. 19, 1874. 1 page. 8°.
- *52d Congress, 1st session.* Senate report no. 794. Part 1. Report by Mr. Chandler from the Committee on Privileges and Elections presenting a statement of his views adverse to the passage of the joint resolution (S. R. 8) for submitting to the States an amendment of the Constitution providing for the election of United States Senators by direct vote of the people. June 8, 1892. 3 pp. 8°.
- ——— Senate report no. 794. Part 2. Views of the minority. Report by Mr. Mitchell [of the Committee on Privileges and Elections favoring the election of United States Senators by a direct vote of the people]. July 1, 1892. 11 pp. 8°.
- ——— Senate miscellaneous document no. 89. Resolution relative to choosing United States Senators. Mar. 7, 1892. 1 page. 8°.
- ——— House report no. 368. Election of Senators. Report by Mr. Tucker, from the Select Committee on the Election of President and Vice-President and Representatives in Congress. Feb. 16, 1892. 5 pp. 8°.  
Reports favorably on the "Joint resolution proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States."
- ——— House report no. 368. Part 2. Election of United States Senators. Views of the minority. Report by Mr. Bushnell of the Select Committee on Election of President and Vice-President and Senators and Representatives in Congress. Feb. 16, 1892. 3 pp. 8°.  
The minority report proposes "a constitutional amendment that will *permit* the election of United States Senators by direct vote of the people, when the people of any State shall so desire, and not *compel* any State to do so, if they prefer to retain the present method."
- *53d Congress, 2d session.* Senate miscellaneous document no. 97. Resolution providing for amendments to the Constitution regulating the election of President and Vice-President of the United States, and the election of United States Senators by a direct vote of the people. Feb. 22, 1894. 1 page. 8°.



- United States.** *53d Congress, 2d session.* House report no. 944. Election of Senators by the people. Report by Mr. Tucker, from the Committee on Election of President and Vice-President and Representatives in Congress. May 22, 1894. 7 pp. 8°.  
Includes House report no. 368, 52d Congress, 1st session.  
Favors popular election.
- *53d Congress, 3d session.* Senate report no. 916. Views of the minority of the Committee on Privileges and Elections, favoring the election of United States Senators by direct vote of the people, presented by Mr. Turpie. Feb. 12, 1895. 3 pp. 8°.  
Proposes an amendment to the Constitution, by which Senators shall be elected by direct vote of the people.
- ———— Senate miscellaneous document no. 1. Resolution relative to election of United States Senators by direct vote of the people. Dec. 3, 1894. 1 page. 8°.
- *54th Congress, 1st session.* Senate report no. 530. Report by Mr. Mitchell, from the Committee on Privileges and Elections, to whom was referred "Joint resolution proposing an amendment to the Constitution of the United States providing for the election of Senators by the votes of the qualified electors of the States." March 20, 1896. 11 pp. 8°.  
Favors popular election.
- ———— Senate report no. 530, part 2. Views of the minority, presented by Mr. Chandler. June 5, 1896. 3 pp. 8°.  
Against popular election.
- ———— House report no. 994. Election of the United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. March 30, 1896. 6 pp. 8°.  
"The object of this resolution is to place in the hands of the people of the respective States the right, if they so elect by constitutional or legislative enactment, to afford the people the privilege of expressing by direct vote their will in the election of a United States Senator."  
Views of the minority, pp. 5-6.  
Favors popular election.
- *55th Congress, 2d session.* House report no. 125. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 12, 1898. 6 pp. 8°.  
Favors popular election.  
Views of the minority, pp. 5-6.

**United States.** *56th Congress, 1st session.* House report no. 88. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 22, 1900. 6 pp. 8°.

————— House report no. 88. Part 2. *Same.* Views of the minority, presented by Mr. Rucker. February 7, 1900. 2 pp. 8°.

The majority report favors making optional with the states "the privilege of expressing by direct vote their will in the election of a United States Senator." The minority report advocates a constitutional amendment requiring that Senators "shall be elected by a direct vote of the people thereof for a term of six years."

————— *57th Congress, 1st session.* Senate document no. 399. Election of United States Senators by the people. List of principal speeches and reports made in Congress in recent years upon the proposed change. June 9, 1902. 2 pp. 8°.

————— Senate document no. 406. Election of United States Senators by the people. List of principal speeches and reports made in Congress in recent years upon the proposed change in the method of electing Senators. Also, a reprint of principal documents relating to the subject of the election of United States Senators. Prepared in the Senate Library, by Clifford Warden.

*Washington: Government printing office, 1902. 36 pp. 8°.*  
Cover-title.

Contains reprints of the following documents:

52d Congress, 1st session. Senate mis. doc. no. 89; 53d Congress, special session. Senate mis. doc. no. 31; 53d Congress, 2d session. Senate mis. doc. no. 97; 53d Congress, 2d session. Senate mis. doc. no. 104; 53d Congress, 3d session. Senate mis. doc. no. 1; 54th Congress, 2d session. Senate doc. no. 26; 57th Congress, 1st session. Senate doc. no. 404.

————— House report no. 125. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 21, 1902. 6 pp. 8°.

Favors popular election.

**Vest, George G.** Election of United States Senators. Remarks, June 11, 1902.

(*In Congressional record*, vol. 45, pt. 7, pp. 6595, 6596.)  
Against popular election.

**Wilson, James.** Speech on choosing the members of the Senate by electors; delivered, on 31st December, 1789, in the convention of Pennsylvania, assembled for the purpose of reviewing, altering, and amending the constitution of the state.

(*In his Works*, vol. 3, pp. 313-336. Philadelphia, 1804. 8°.)

**Winchester, Boyd.** The House and the election of Senators.

(*In The Arena*, vol. 24, July, 1900, pp. 14-20.)

Unfavorable.

**Ziegler, Edward D.** Election of United States Senators. Remarks, April 12, 1900.

(*In Congressional record*, vol. 33, pt. 5, pp. 4114-4117.)

Favors popular election.



## APPENDIX

### DEBATES ON THE ELECTION OF SENATORS IN THE FEDERAL CONVENTION OF 1787

TUESDAY, MAY 29TH.

*In Convention,*—\* \* \*

Mr. RANDOLPH then opened the main business:— \* \* \*

He proposed, as conformable to his ideas, the following resolutions,  
which he explained one by one:

\* \* \* \* \*

5. "Resolved, 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 ensure 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." \* \* \*

Mr. CHARLES PINCKNEY laid before the House the draft of a federal government which he had prepared, to be agreed upon between the free and independent States of America:

\* \* \* \* \*

#### ARTICLE IV.

"The Senate shall be elected and chosen by the House of Delegates; which House, immediately after their meeting, shall choose by ballot — Senators from among the citizens and residents of New Hampshire; — from among those of Massachusetts; — from among those of Rhode Island; — from among those of Connecticut; — from among those of New York; — from among those of New Jersey; — from among those of Pennsylvania; — from among those of Delaware; — from among those of Maryland; — from among those of Virginia; — from among those of North Carolina; — from among those of South Carolina; and — from among those of Georgia. The Senators chosen from New Hampshire, Massachusetts, Rhode Island, and Connecticut, shall form one class; those from New York, New Jersey, Pennsylvania, and Delaware, one class; and those from Maryland, Virginia, North Carolina, South Carolina, and Georgia, one class. The House of

Delegates shall number these classes one, two, and three; and fix the times of their service by lot. The first class shall serve for — years; the second for — years; and the third for — years. As their times of service expire, the House of Delegates shall fill them up by elections for — years; and they shall fill all vacancies that arise from death or resignation, for the time of service remaining of the members so dying or resigning. Each Senator shall be — years of age at least; and shall have been a citizen of the United States for four years before his election; and shall be a resident of the State he is chosen from. The Senate shall choose its own officers.

\* \* \* \* \*

ARTICLE X.

“Immediately after the first census of the people of the United States, the House of Delegates shall apportion the Senate by electing for each State, out of the citizens resident therein, one Senator for every — members each State shall have in the House of Delegates. Each State shall be entitled to have at least one member in the Senate.” \* \* \*

THURSDAY, MAY 31ST.

WILLIAM PIERCE, from Georgia, took his seat.

In the Committee of the Whole on Mr. RANDOLPH's propositions,— The third Resolution, “that the National Legislature ought to consist of two branches,” was agreed to without debate, or dissent, except that of Pennsylvania, given probably from complaisance to Dr. FRANKLIN, who was understood to be partial to a single house of legislation.

The fourth Resolution, 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 clamor 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 levelling 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 and sympathize 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 and 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, order 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 the 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 and 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.

Mr. GERRY did not like the election by the people. The maxims taken from the British constitution were often fallacious when applied to our situation, which was extremely different. Experience, he said, had shown that the State Legislatures, drawn immediately from the people, did not always possess their confidence. He had no objection, however, to an election by the people, if it were so qualified that men of honor and character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number, out of which the State Legislatures should be bound to choose.

Mr. BUTLER thought an election by the people an impracticable mode.

On the question for an election of the first branch of the National Legislature, by the people, Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia—aye, 6; New Jersey, South Carolina—no, 2; Connecticut, Delaware, divided.

The remaining clauses of the fourth Resolution, relating to *the qualifications of members of the National Legislature*, being postponed, *nem. con.*, as entering too much into detail for general propositions,—

The Committee proceeded to the fifth Resolution, *that the second [or senatorial] branch of the National Legislature ought to be chosen by the first branch, out of the 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 of 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; and called on Mr. RANDOLPH, the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign to this second branch.

Mr. RANDOLPH observed that he had, at the time of offering his propositions, stated his ideas as far as the nature of general propositions required; that details made no part of the plan, and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which numerous assemblies are liable. He observed, that the general object was to provide a cure for the evils under which the United States labored; that in tracing these evils to their origin, every man had found it in the turbulence and follies of democracy; that some check therefore was to be sought for, against this tendency of our governments; and that a good Senate seemed most likely to answer the purpose.

Mr. KING reminded the Committee that the choice of the second branch as proposed (by Mr. SPAIGHT) viz., by the State Legislatures, would be impracticable, unless it was to be very numerous, or *the idea of proportion* among the States was to be disregarded. According to this *idea*, there must be eighty or a hundred members to entitle Delaware to the choice of one of them.

Mr. SPAIGHT withdrew his motion.

Mr. WILSON opposed both a nomination by the State Legislatures, and an election by the first branch of the National Legislature, because the second branch of the latter ought to be independent of both. He thought both branches of the National Legislature ought to be chosen by the people, but was not prepared with a specific proposition. He suggested the mode of choosing the Senate of New York, to wit, of uniting several election districts for one branch, in choosing members for the other branch, as a good model.

Mr. MADISON observed, that such a mode would destroy the influence of the smaller States associated with larger ones in the same

district; as the latter would choose from within themselves, although better men might be found in the former. The election of Senators in Virginia, where large and small counties were often formed into one district for the purpose, had illustrated this consequence. Local partiality would often prefer a resident within the county or State, to a candidate of superior merit residing out of it. Less merit also in a resident would be more known throughout his own State.

Mr. SHERMAN favored an election of one member by each of the State Legislatures.

Mr. PINCKNEY moved to strike out the "nomination by the State Legislatures;" on this question—<sup>a</sup>Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no—9; Delaware, divided.

On the whole question for electing by the first branch out of nominations by the State Legislatures—Massachusetts, Virginia, South Carolina, aye—3; Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, no—7.

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

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THURSDAY, JUNE 7TH.

*In Committee of the Whole.*—Mr. PINCKNEY, according to notice, moved to reconsider the clause respecting the negative on State laws, which was agreed to, and to-morrow fixed for the purpose.

The clause providing for the appointment of the second branch of the National Legislature, having lain blank since the last vote on the mode of electing it, to wit, by the first branch, Mr. DICKINSON now moved "that the members of the second branch ought to be chosen by the individual Legislatures."

Mr. SHERMAN seconded the motion; observing, that the particular States would thus become interested in supporting the National Government, and that a due harmony between the two governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

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<sup>a</sup>This question is omitted in the printed Journal, and the votes applied to the succeeding one, instead of the votes as here stated.

Mr. PINCKNEY. If the small States should be allowed one Senator only, the number will be too great; there will be eighty, at least.

Mr. DICKINSON had two reasons for his motion—first, because the sense of the States would be better collected through their Governments, than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State Legislatures, than in any other mode. The greatness of the number was no objection with him. He hoped there would be eighty, and twice eighty, of them. If their number should be small, the popular branch could not be balanced by them. The Legislature of a numerous people ought to be a numerous body.

Mr. WILLIAMSON preferred a small number of Senators, but wished that each State should have at least one. He suggested twenty-five as a convenient number. The different modes of representation in the different branches will serve as a mutual check.

Mr. BUTLER was anxious to know the ratio of representation before he gave any opinion.

Mr. WILSON. If we are to establish a National Government, that government ought to flow from the people at large. If one branch of it should be chosen by the Legislatures and the other by the people, the two branches will rest on different foundations, and dissensions will naturally arise between them. He wished the Senate to be elected by the people, as well as the other branch; the people might be divided into proper districts for the purpose; and he moved to postpone the motion of Mr. DICKINSON, in order to take up one of that import.

Mr. MORRIS seconded him.

Mr. READ proposed "that the Senate should be appointed, by the Executive magistrate, out of a proper number of persons to be nominated by the individual Legislatures." He said he thought it his duty to speak his mind frankly. Gentlemen he hoped would not be alarmed at the idea. Nothing short of this approach towards a proper model of government would answer the purpose, and he thought it best to come directly to the point at once. His proposition was not seconded nor supported.

Mr. MADISON. If the motion (of Mr. DICKINSON) should be agreed

to, we must either depart from the doctrine of proportional representation, or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch. Enlarge their number, and you communicate to them the vices which they are meant to correct. He differed from Mr. Dickinson, who thought that the additional number would give additional weight to the body. On the contrary, it appeared to him that their weight would be in an inverse ratio to their numbers. The example of the Roman tribunes was applicable. They lost their influence and power, in proportion as their number was augmented. The reason seemed to be obvious: they were appointed to take care of the popular interests and pretensions at Rome; because the people by reason of their numbers could not act in concert, and were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries. The more the representatives of the people, therefore, were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to be divided among themselves, either from their own indiscretions or the artifices of the opposite faction, and of course the less capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters, the greater the number, the greater the weight. When it depends on the degree of political authority lodged in them, the smaller the number, the greater the weight. These considerations might perhaps be combined in the intended Senate; but the latter was the material one.

Mr. GERRY. Four modes of appointing the Senate have been mentioned. First, by the first branch of the National Legislature.—this would create a dependence contrary to the end proposed. Secondly, by the National Executive,—this is a stride towards monarchy that few will think of. Thirdly, by the people: the people have two great interests, the landed interest, and the commercial, including the stockholders. To draw both branches from the people will leave no security to the latter interest: the people being chiefly composed of the landed interest, and erroneously supposing that the other interests are adverse to it. Fourthly, by the individual Legislatures,—the elections being carried through this refine-

ment, will be most like to provide some check in favor of the commercial interest against the landed; without which, oppression will take place; and no free government can last long where that is the case. He was therefore in favor of this last.

Mr. DICKINSON.<sup>a</sup> The preservation of the States in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the councils of our country, would be impracticable, would be ruinous. He compared the proposed national system to the solar system, in which the States were the planets, and ought to be left to move freely in their proper orbits. The gentleman from Pennsylvania (Mr. WILSON) wished, he said, to extinguish these planets. If the State Governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be that the National Government would move in the same direction as the State governments now do, and would run into all the same mischiefs. The reform would only unite the thirteen small streams into one great current, pursuing the same course without any opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number; and that their influence, from family weight and other causes, would be increased thereby. He did not admit that the Tribunes lost their weight in proportion as their number was augmented, and gave an historical sketch of this institution. If the reasoning (of Mr. MADISON) was good, it would prove that the number of the Senate ought to be reduced below ten, the highest number of the Tribunitial corps.

Mr. WILSON. The subject, it must be owned, is surrounded with doubts and difficulties. But we must surmount them. The British Government cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the

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<sup>a</sup>It will throw light on this discussion to remark that an election by the State Legislatures involved a surrender of the principle insisted on by the large States, and dreaded by the small ones, namely, that of a proportional representation in the Senate. Such a rule would make the body too numerous, as the smallest State must elect one member at least.



National Government. On the contrary, he wished to keep them from devouring the National Government. He was not, however, for extinguishing these planets, as was supposed by Mr. DICKINSON; neither did he, on the other hand, believe that they would warm or enlighten the sun. Within their proper orbits they must still be suffered to act for subordinate purposes, for which their existence is made essential by the great extent of our country. He could not comprehend in what manner the landed interest would be rendered less predominant in the Senate by an election through the medium of the Legislatures, than by the people themselves. If the Legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views? He was for an election by the people, in large districts, which would be most likely to obtain men of intelligence and uprightness; subdividing the districts only for the accommodation of voters.

Mr. MADISON could as little comprehend in what manner family weight, as desired by Mr. DICKINSON, would be more certainly conveyed into the Senate through elections by the State Legislatures, than in some other modes. The true question was, in what mode the best choice would be made? If an election by the people, or through any other channel than the State Legislatures, promised as uncorrupt and impartial a preference of merit, there could surely be no necessity for an appointment by those Legislatures. Nor was it apparent that a more useful check would be derived through that channel, than from the people through some other. The great evils complained of were, that the State Legislatures ran into schemes of paper-money, &c., whenever solicited by the people, and sometimes without even the sanction of the people. Their influence, then, instead of checking a like propensity in the National Legislature, may be expected to promote it. Nothing can be more contradictory than to say that the National Legislature, without a proper check, will follow the example of the State Legislatures; and, in the same breath, that the State Legislatures are the only proper check.

Mr. SHERMAN opposed elections by the people in districts, as not likely to produce such fit men as elections by the State Legislatures.

Mr. GERRY insisted, that the commercial and monied interest would be more secure in the hands of the State Legislatures, than of the peo-

ple at large. The former have more sense of character, and will be restrained by that from injustice. The people are for paper-money, when the Legislatures are against it. In Massachusetts the county conventions had declared a wish for a *depreciating* paper that would sink itself. Besides, in some States there are two branches in the Legislature, one of which is somewhat aristocratic. There would, therefore, be so far a better chance of refinement in the choice. There seemed, he thought, to be three powerful objections against elections by districts. First, it is impracticable; the people cannot be brought to one place for the purpose; and, whether brought to the same place or not, numberless frauds would be unavoidable. Secondly, small States, forming part of the same district with a large one, or a large part of a large one, would have no chance of gaining an appointment for its citizens of merit. Thirdly, a new source of discord would be opened between different parts of the same district.

Mr. PINCKNEY thought the second branch ought to be permanent and independent; and that the members of it would be rendered more so by receiving their appointments from the State Legislatures. This mode would avoid the rivalships and discontents incident to the election by districts. He was for dividing the States in three classes, according to their respective sizes, and for allowing to the first class three members; to the second, two, and to the third, one.

On the question for postponing Mr. DICKINSON'S motion, referring the appointment of the Senate to the State Legislatures, in order to consider Mr. WILSON'S for referring it to the people, Pennsylvania, aye—1; Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—10.

Colonel MASON. Whatever power may be necessary for the National Government, a certain portion must necessarily be left with the States. It is impossible for one power to pervade the extreme parts of the United States, so as to carry equal justice to them. The State Legislatures also ought to have some means of defending themselves against encroachments of the National Government. In every other department we have studiously endeavored to provide for its self-defence. Shall we leave the States alone unprovided with the means for this purpose? And what better means can we provide, than the giving them some share in, or rather to make them a constituent part of,

the national establishment! There is danger on both sides, no doubt; but we have only seen the evils arising on the side of the State Governments. Those on the other side remain to be displayed. The example of Congress does not apply. Congress had no power to carry their acts into execution, as the National Government will have.

On Mr. DICKINSON's motion for an appointment of the Senate by the State Legislatures.—Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye—10.

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WEDNESDAY, June 13th.

*In Committee of the Whole.*— \* \* \*

The Committee rose, and Mr. GORHAM made report, which was postponed till to-morrow, to give an opportunity for other plans to be proposed—the Report was in the words following:

\* \* \* \* \*

4. Resolved, 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 ensure 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 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 under the National Government for the space of one year after its expiration. \* \* \*

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MONDAY, June 18th.

*In Committee of the Whole,* on the propositions of Mr. PATTERSON and Mr. RANDOLPH.—On motion of Mr. DICKINSON, to postpone the first Resolution in Mr. PATTERSON's plan, in order to take up the following, viz: "that the Articles of Confederation ought to be revised and amended, so as to render the Government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union,"—the postponement was agreed to by ten States; Pennsylvania divided.

Mr. HAMILTON \* \* \* reads his sketch in the words following: to wit.

\* \* \* \* \*

III. The Senate to consist of persons elected to serve during good behaviour; their election to be made by electors chosen for that purpose by the people. In order to



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. \* \* \*

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THURSDAY, July 26th.

*In Convention,* \* \* \*

The proceedings since Monday last were unanimously referred to the Committee of Detail; and the Convention then unanimously adjourned till Monday, August 6th, that the Committee of Detail might have time to prepare and report the Constitution. The whole Resolutions, as referred, are as follows:

\* \* \* \* \*

4. *Resolved*, That the members of the second branch of the Legislature of the United States ought to be chosen by the individual Legislatures; to be of the age of thirty years at least; to hold their offices for six years, one-third to go out biennially; to receive a compensation for the devotion of their time to the public service; to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter. \* \* \*

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MONDAY, August 6th.

*In Convention*,—Mr. JOHN FRANCIS MERCER, from Maryland, took his seat.

Mr. RUTLEDGE delivered in the Report of the Committee of Detail, as follows—a printed copy being at the same time furnished to each member:

\* \* \* \* \*

ARTICLE V.

SECT. 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. \* \* \*



# EXTRACTS FROM THE FEDERALIST ON THE ELECTION OF SENATORS

THE FEDERALIST. NO. XXVII.

[Hamilton.]

*To the People of the State of New York:*

Various reasons have been suggested, in the course of these papers, to induce a probability that the general government will be better administered than the particular governments: the principal of which reasons are that the extension of the spheres of election will present a greater option, or latitude of choice, to the people; that through the medium of the State legislatures—which are select bodies of men, and which are to appoint the members of the national Senate—there is reason to expect that this branch will generally be composed with peculiar care and judgment; that these circumstances promise greater knowledge and more extensive information in the national councils, and that they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill-humors, or temporary prejudices and propensities, which, in smaller societies, frequently contaminate the public councils, beget injustice and oppression of a part of the community, and engender schemes which, though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction, and disgust. Several additional reasons of considerable force, to fortify that probability, will occur when we come to survey, with a more critical eye, the interior structure of the edifice which we are invited to erect. \* \* \*

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THE FEDERALIST. NO. LXII.

[Hamilton or Madison.]

*To the People of the State of New York:*

Having examined the constitution of the House of Representatives, and answered such of the objections against it as seemed to merit notice, I enter next on the examination of the Senate.

\* \* \* \* \*

II. It is equally unnecessary to dilate on the appointment of senators by the State legislatures. Among the various modes which might have been devised for constituting this branch of the Government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.

III. The equality of representation in the Senate is another point, which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion. If indeed it be right, that among a people thoroughly incorporated into one nation, every district ought to have a *proportional* share in the government, and that among independent and sovereign States, bound together by a simple league, the parties, however unequal in size, ought to have an *equal* share in the common councils, it does not appear to be without some reason that in a compound republic, partaking both of the national and federal character, the government ought to be founded on a mixture of the principles of proportional and equal representation. But it is superfluous to try, by the standard of theory, a part of the Constitution which is allowed on all hands to be the result, not of theory, but "of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable." A common government, with powers equal to its objects, is called for by the voice, and still more loudly by the political situation, of America. A government founded on principles more consonant to the wishes of the larger States, is not likely to be obtained from the smaller States. The only option, then, for the former, lies between the proposed government and a government still more objectionable. Under this alternative, the advice of prudence must be to embrace the lesser evil; and, instead of indulging a fruitless anticipation of the possible mischiefs which may ensue to contemplate rather the advantageous consequences which may qualify the sacrifice.

In this spirit it may be remarked, that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for pre-

serving that residuary sovereignty. So far the equality ought to be no less acceptable to the large than to the small States; since they are not solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic.

Another advantage accruing from this ingredient in the constitution of the Senate is, the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the States. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial; and that the peculiar defence which it involves in favor of the smaller States, would be more rational, if any interests common to them, and distinct from those of other States, would otherwise be exposed to peculiar danger. But as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States, and as the facility and excess of law-making seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice than it appears to many in contemplation.











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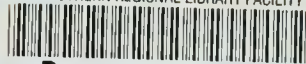
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