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COVER ILLUSTRATION: James Wilson of Pennsylvania, influential member of the Constitutional Convention's Committee of Detail. *Society Portrait Collection*. This issue of *PMHB* prints images and transcriptions of several documents from the Committee of Detail in Wilson's hand, from the James Wilson Papers at the Historical Society of Pennsylvania.

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THE
Pennsylvania
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OF HISTORY AND BIOGRAPHY

## *Editorial*

This year marks the one hundredth anniversary of the publication of Max Farrand's three-volume *The Records of the Federal Convention of 1787*, which gathered together and made available transcripts of the documents of the Constitutional Convention, including both official papers of the convention and notes and letters from participants. Farrand's work remains the most important source for study of the drafting of the U.S. Constitution. Among the documents Farrand transcribed were several documents from the James Wilson Papers at the Historical Society of Pennsylvania.

The drafts of the U.S. Constitution within the Wilson Papers are perhaps the Historical Society's best-known historical treasures. Because of the damage that can be caused by overuse, however, they are rarely made available (other than in photocopy form) to the public or to researchers. Yet there is great curiosity about them, and about the surrounding documents of the convention and its Committee of Detail, both from a public eager to connect to and understand the foundations of our republic and from scholars still working to untangle the narrative of the development of our Constitution and to uncover the origins of the distinguishing features of our system of constitutional law.

Farrand was a careful editor, but his transcripts do contain slight errors. Images of the drafts have never been published in full. For these reasons, and for those mentioned above, in this issue of the *Pennsylvania Magazine of History and Biography* we publish new transcripts, by legal scholars William Ewald and Lorianne Updike Toler, alongside the respective facsimile images of the drafts of the U.S. Constitution and documents of the Committee of Detail. In an introductory essay, Ewald and

Toler make the case for the enduring significance of these documents, and particularly for renewed attention to the crucial work of the Committee of Detail and better appreciation for the role of Pennsylvania's James Wilson in drafting a constitution that not only birthed a nation but that continues to guide us and to serve as a model to nations across the globe.

Tamara Gaskell
Editor

# *Early Drafts of the U.S. Constitution*

THE HISTORICAL SOCIETY OF PENNSYLVANIA possesses the richest collection of documents relating to the drafting of the U.S. Constitution, the engrossed text of the Constitution and James Madison's *Notes* of the 1787 convention aside.[1] This collection is contained in volume 1 of the Historical Society's James Wilson Papers. Wilson was a member of the Pennsylvania delegation; the most important of his papers from 1787 relate to his role on the Committee of Detail, tasked by the convention to produce the first working draft of the Constitution. Indeed, almost every surviving document from that committee is found in the Wilson Papers at the Historical Society. (The chief exception is a sketch of the Constitution in the hand of Edmund Randolph, now located in the George Mason papers at the Library of Congress.)

To explain the importance of these documents and of the Committee of Detail, it will be helpful to begin by recalling the basic chronology of the Constitutional Convention. The delegates commenced their work in earnest on May 29, 1787, when Edmund Randolph presented to the convention the "Virginia Plan." There followed two weeks of somewhat tentative discussion about the Randolph proposals and about the nature of the federal government. The chief point of disagreement centered on the question of representation in the upper chamber of the legislature. The Virginia Plan had envisioned representation in proportion to population; the smaller states, in contrast, favored the system of the Articles of Confederation, in which each state was represented equally. On June 15,

[1] This introductory essay is based on a series of articles in the *University of Pennsylvania Journal of Constitutional Law*. The two most relevant are "James Wilson and the Drafting of the Constitution," 10 (2008): 901–1009, and "The Constitutional Moment of James Wilson (Part 2): The Committee of Detail" (to appear in vol. 14 (Dec. 2011)), both by William Ewald. Full references to the scholarly literature can be found there. James Madison's notes were published as *The Papers of James Madison: Purchased by Order of the Congress, Being His Correspondence and Reports of Debates during the Congress of the Confederation, and His Reports of Debates in the Federal Convention . . .* (Washington, DC, 1840).

William Paterson submitted the rival "New Jersey Plan." For the next month, the delegates argued bitterly about the question of representation, and the convention nearly dissolved itself over the issue. Finally, on July 16, it was decided in a dramatic vote that the upper house would be organized on the principle of equal state representation, but that all revenue bills would be required to originate in the lower house. This resolution (often called the "Connecticut Compromise," though Madison and Wilson and other proponents of the large-state position regarded it as a defeat) ended the argument and allowed the convention to proceed to a successful conclusion. From that point onwards, there was never again a time at which the convention appeared likely to fail.

A further nine days of discussion followed this climactic vote, treating such matters as the presidency and the federal judiciary. The exhausted delegates then decided to take a break. On Thursday, July 26 the convention adjourned for ten days. In the interim, a committee of five members—the "Committee of Detail"—was charged with working up the convention's various resolutions into a structured draft of a Constitution. Although the convention's records contain no discussions revealing why the five were chosen, from their geographical diversity it is apparent that the committee was chosen with a careful view to geographical balance. Its members were Nathaniel Gorham (Massachusetts), Oliver Ellsworth (Connecticut), James Wilson (Pennsylvania), Edmund Randolph (Virginia), and John Rutledge (South Carolina). Rutledge reported the committee's draft to the convention and appears to have served as the chairman. It should be noted that James Madison did not serve on this committee. In terms of parliamentary procedure, the committee's assignment was to revise the Virginia Plan. Since that plan had been submitted to the convention by Randolph (who was then the governor of Virginia), and since Madison's role may not have been known to the other delegates, Randolph would have seemed the appropriate choice to represent Virginia.

The committee had at its disposal, in addition to the convention resolutions, the texts of the Virginia Plan, the New Jersey Plan, and the "Pinckney Plan" (submitted by Charles Pinckney of South Carolina immediately after the Virginia Plan and promptly tabled). They also referred to the texts of the various state constitutions and of the Articles of Confederation, from which many provisions were borrowed in the final report. After the committee had finished its work, its report was printed

and distributed to the assembled delegates on Monday, August 6. It provided the structure for the convention's deliberations during the final six weeks of the summer, including the near-final draft of the Constitution as reported by the Committee of Style on September 10. The engrossed copy of the Constitution was signed on September 17, at which point the convention formally adjourned.

In the decades following the Constitutional Convention, its proceedings were treated as a closely held secret, and the delegates had little to say in private—and essentially nothing in public—about the events of 1787. Although the official *Journal* was published in 1819, it was not deeply informative and contained little more than a record of the formal votes. Not until the publication of Madison's *Notes* in 1840, fully half a century after the convention had completed its business, did the public obtain a detailed record of the debates. But in 1840 the nation was focused on the looming sectional crisis. Madison's *Notes* were dragged into the ongoing debates, invoked either to support the abolitionist claim that the Constitution represented a "Covenant with Hell," or else invoked to demonstrate the right of secession. The times were not favorable for a dispassionate examination of the historical record.

Only after the Civil War did the scholarly study of the convention properly commence. In 1882 George Bancroft published the two volumes of his *History of the Formation of the Constitution of the United States of America*. Bancroft was by a considerable distance the most influential American historian of the day. His books, the capstone to his ten-volume *History of the United States* (whose first volume had appeared nearly fifty years earlier) were rooted in deep archival research and on the examination of many documents still held in private hands. Bancroft, a passionate defender of the Union, told the story of the convention as a dramatic struggle between the states, pitting the Virginia Plan against the New Jersey Plan. The convention (and, by extension, the nation) almost tore itself apart until, in a very American gesture of reconciliation, a compromise was reached—which Bancroft was the first to call the "Connecticut Compromise." Bancroft's account swept the field; it brilliantly provided both a way of organizing the events of the convention and of fitting them into a much larger narrative of American national destiny.

Bancroft's treatment of the Committee of Detail was by comparison cursory. The entire focus of his narrative was on the dramatic struggle

leading to the Connecticut Compromise, and he showed little interest in close analysis of the technical contributions of the Committee of Detail. In part this emphasis was a matter of the available documentation. Madison's *Notes*—for Bancroft, as for all subsequent historians, the primary source of information—recorded the appointment of the committee and reproduced its final printed report. But Madison, absent from the committee, gave no account of its internal functioning. Oddly, although Bancroft had expended great effort in tracking down private papers, he appears not to have been aware of Wilson's papers (the most important of which had already been deposited at the Historical Society of Pennsylvania). And in any case their significance was still unknown.

On Wilson's death in 1798 his papers passed to his son, Bird Wilson, who used them to prepare an edition of his father's speeches and other writings. There is no sign that Bird knew that his father's papers contained early drafts of the Constitution, and in view of the delegates' pledge of secrecy, it is unlikely that his father ever discussed the convention with him. On Bird's death in 1859 the papers passed to his niece (and Wilson's granddaughter), Emily Hollingsworth. Emily—in June 1876 and January 1877—made two gifts of these papers to the Historical Society. The papers relating to the Committee of Detail were contained in these donations; but from her correspondence with the director of the Historical Society it is clear that she did not know what the manuscripts contained, and she is even less likely than Bird to have understood the importance of the Committee of Detail. (She is most concerned to point out the existence of a routine letter from George Washington, and in the end remarks, "Do not feel obliged to retain any of the Papers you deem inadmissible to the repositories of your Society.") Emily gave only a portion of her grandfather's papers to the Historical Society. Other papers were distributed after her death to the three executors of her estate. Of those residual papers, a number went to the executor, Israel W. Morris, who made a further large donation to the Historical Society in 1903. Other papers passed into the possession of the Montgomery family; some of those papers were eventually donated to the Historical Society and others to the Free Library of Philadelphia. (For a detailed discussion of the physical disposition of Wilson's papers, see Lorianne Updike Toler's "Addendum" at the end of this issue.)

The Wilson Papers at the Historical Society of Pennsylvania appear to have been ignored for more than two decades. Then, in 1899, William M.

Meigs published a facsimile of a document in the hand of Edmund Randolph, found among the papers of George Mason, which he identified as belonging to the work of the Committee of Detail. Meigs mentioned the existence of "one other draft"—in the singular—among the Wilson Papers at the Historical Society.[2] Soon thereafter, J. Franklin Jameson identified among the Historical Society papers not only Wilson's successive drafts (in the plural) of the Constitution, but also a copy in his handwriting of the convention resolutions, and, most surprisingly, a set of extracts from the New Jersey Plan and the Pinckney Plan, also in Wilson's handwriting. This last discovery was of special importance to Jameson. Pinckney in his later years had claimed to have been the principal author of the Constitution; but the original copy of his plan had disappeared, and the version he promulgated in 1818 had clearly been produced later. Shortly after Jameson, Andrew C. McLaughlin identified in the Historical Society papers a *second* and much longer set of extracts in Wilson's handwriting from the Pinckney Plan. In view of the considerable controversy that then existed, the reconstruction of the original version of Pinckney's plan—a remarkable piece of archival detective work—attracted the bulk of Jameson's attention.[3]

In the meantime, considerable scholarly effort had been expended to locate and transcribe the surviving documentary records relating to the convention. This work culminated in the 1911 publication by Max Farrand of his three-volume *The Records of the Federal Convention of 1787*. In that work, Farrand did three things that previously had been done only partially or imperfectly. First, he provided a carefully edited text of all the available documents relating to the work of the Constitutional Convention. Secondly, taking Madison's *Notes* as his base text, he assembled around it all the other contemporary journals of the convention, collating them day-by-day and thereby providing scholars with the ability to easily compare the various versions of each day's events. Thirdly, he undertook a comprehensive project of archival research, assembling and transcribing diary entries, personal correspondence, speeches, reminiscences, newspaper articles, and other documents that might shed light on

[2] William Montgomery Meigs, *The Growth of the Constitution in the Federal Convention of 1787* (Philadelphia, 1900), 317–24.

[3] Jameson's various textual studies are collected in J. Franklin Jameson, *Studies in the History of the Federal Convention of 1787*, first published in the *Annual Report for the American Historical Association for the Year 1902* (Washington, DC, 1903), 1:87–167. McLaughlin's contribution on the Pinckney Plan appeared as an unsigned note, "Sketch of Pinckney's Plan for a Constitution, 1787," *American Historical Review* 9 (1904): 735–41.

the convention. This material made up the third volume of the 1911 *Records*; by 1937 he had uncovered enough additional material to fill a fourth volume.[4] Farrand's work is a landmark and has provided the foundation for all subsequent study of the convention. In particular, he was the first to gather together all the surviving records of the Committee of Detail and to arrange them into a chronological sequence, which fills forty-six pages of the *Records*.

Curiously, although there was plenty to comment on, and although he was more thorough in transcribing the documents than any previous scholar, Farrand chose not to develop the historical narrative regarding the Committee of Detail. His accompanying monograph, *The Framing of the Constitution of the United States* (1913), devotes a short chapter to the committee, but in the main follows the lines laid down by Bancroft and concentrates its attention on the events leading to the Connecticut Compromise.

Only one aspect of the work of the Committee of Detail has attracted widespread attention from later scholars: the provisions protecting slavery and inhibiting the enactment by Congress of navigation acts. These "deep South" provisions were introduced into the committee drafts, almost certainly at the instigation of Rutledge and Randolph, without having been previously discussed by the convention; they caused considerable turmoil before they were finally rejected by the convention in August, and those slavery debates in the convention have been the focus in recent decades of much scholarly writing. But the more technical aspects of the committee's work have not received sustained attention. The standard historiography, following in the footsteps of Bancroft and Farrand, agrees in seeing the vote of July 16 as the defining moment of the convention and the work of the Committee of Detail as an episode of secondary importance.

Two considerations suggest that both these emphases—the low ranking of the committee, and the high ranking of the vote of July 16—may be misplaced. The first is a straightforward numerical observation. The Virginia Plan introduced by Randolph at the start of the convention fills three pages in Farrand's edition. The convention resolutions, as supplied to the Committee of Detail after nearly two full months of debate, fill six

[4] Max Farrand, ed., *The Records of the Federal Convention of 1787*, 3 vols. (New Haven, CT, 1911). Farrand's work was reissued in 1937 in four volumes. In 1987, James H. Hutson produced his *Supplement to Max Farrand's The Records of the Federal Convention of 1787* (New Haven, CT, 1987). Farrand's first three volumes were reissued at that time, and the material from his fourth volume was incorporated into the Hutson *Supplement*.

printed pages. That is, the convention had managed (roughly speaking) to add three pages to Madison's plan. The report of the Committee of Detail, produced in little over a week, fills twelve pages—twice as much as what the committee had been given. The final Constitution, as it emerged after a further six weeks of effort, fills fifteen pages. These facts are not, of course, conclusive. But (as lawyers are well aware) the power to shape a document lies to a considerable extent with the drafter. In this case, one knows already from the "deep South" provisions that the committee did not simply follow instructions; and the numerical facts should provoke a closer look at precisely what was contributed by the committee.

The second consideration is subtler and comes from the direction of comparative constitutional law. The compromise vote of July 16, whatever its merits, has rarely been imitated by other constitutions and is rarely treated in the scholarly literature as a major distinguishing feature of American constitutional governance. It is true that Madison and Wilson both viewed the "Connecticut Compromise" as a major flaw, and many political scientists have criticized it for its violation of the democratic principle of "one-person-one-vote." But whether one views it as a flaw or as a virtue, it is hard, two centuries after the event, to see it as a *major* flaw or a *major* virtue. It has given rise to no substantive litigation; votes in the Senate virtually never pit large states (as such) against small states (as such); and if it were replaced by a more Madisonian principle of representation, the American system of governance would still be recognizably the same. Like the Electoral College or the vice presidency, it is more of a quirk of the system than a central and defining feature.

The same is not true for other aspects of the American constitutional scheme. The system of overlapping federal and state legislative powers; the dual system of federal and state courts; the tripartite structure of the national government (with a president rather than a prime minister); the system of judicial review, grounded in the supremacy of the Constitution—these structural features, remarkable innovations at the time, remain distinctive. They have given rise to large amounts of litigation and indeed (together with the Bill of Rights and the Fourteenth Amendment) are at the very heart of American constitutional law. Unlike the compromise of July 16, they could not be removed or altered without radically altering the entire constitutional landscape.

The crucial point linking these two observations is this: of the distinguishing features central to the American system of constitutional gover-

nance, many of the most fundamental make their first appearance in the drafts of the Committee of Detail. The first attempt at delineating an explicit enumeration of congressional powers (rather than accepting the amended Virginia Plan's allowance that Congress "legislate in all cases for the general interests of the Union"); the necessary and proper clause; and much of the structure of the federal judicial power—these central elements were introduced in the committee and *not* in the convention. In other words, it is necessary to draw a distinction. The vote of July 16 is indeed fundamental to the history of the *convention*: otherwise the proceedings might have collapsed. But it is not equally important to the history of the *Constitution*. If our interest is in understanding what the convention accomplished—what it contributed within the broad sweep of Western constitutional history—then the work of the Committee of Detail is of fundamental importance.

This new point of view has three immediate consequences. First, it imposes a different chronology on the events of the convention. Instead of a tale revolving around the clashes over proportional representation and slavery, the proceedings now divide naturally into three acts, with the committee serving as the middle of a three-act drama, equal in importance to what went before and to what went after. Secondly, it entails a shift away from the colorful personalities and events delineated in Bancroft and towards a close examination of the more technically legal aspects of the convention. Those are the aspects that loom large in the work of the committee and that are central to the modern field of constitutional law; the central task then becomes to situate the convention within the broader historical tradition of Western public law. Thirdly, this new point of view makes it necessary to reconsider the tangled question of the relationship between Wilson and Madison. So long as the emphasis is on the maneuverings leading up to the vote of July 16, it makes sense to think of Wilson as chiefly an ally of Madison. But when the focus shifts to the Committee of Detail, that familiar understanding of their relationship is no longer tenable: Madison was not in the room.

These observations naturally raise the question of how the committee approached its task: and here it is important to emphasize that there is much we do not know. Virtually all our information about the internal workings of the committee comes from the documents reproduced below; and they leave many questions unanswered. We do not know how often the committee met, or where; we do not know for certain whether Wilson

wrote his drafts in response to dictation, or with other members present, or alone in his study after hours; we do not know how the committee took its votes, or how it dealt with dissents.

It follows that to reconstruct the internal workings of the Committee of Detail—to the limited extent that this can be done—requires a careful piecing together of the evidence. It is necessary first to assemble whatever can be gleaned from Madison's *Notes* about the specific positions taken by the individual committee members in their speeches to the convention; to bring into play what is known about their political views more generally; to collate this material with the various documents on which the committee drew, and then to try to piece together, clause by clause, in the succession of drafts, what was contributed at each stage, and who is likely to have been responsible for which contributions.

Who was the principal author of the committee report? Wilson, both as a lawyer and as a political thinker, was the strongest intellect on the committee, and the surviving manuscripts are almost all in his handwriting. It is tempting to infer (in the words of Irving Brant) that "On the straight drafting job, this might be called a committee of Wilson and four others."[5] But that common inference turns out to be too rapid. A careful examination shows that on many important questions—especially the provisions concerning slavery, but on others as well—Wilson was outvoted by his colleagues.

Broadly speaking, the changes the committee introduced can be divided into three categories:

(1) At one extreme are changes that were either routine or mere matters of terminology. The choice to call the chief executive a "President" rather than a "Governor," or to call the lower house of Congress the "House of Representatives" rather than the "House of Burgesses," are instances. Likewise, certain basic powers already contained in the Articles of Confederation were simply inserted by the committee into its report—e.g. the power to raise an army and navy, or the power to regulate weights and measures. These matters were uncontroversial and occasioned no debate when they were submitted to the full convention.

[5] Irving Brant, *James Madison*, vol. 3, *Father of the Constitution, 1787–1800* (Indianapolis, 1950), 111.

(2) At the opposite extreme are several insertions that had not previously been discussed in convention and that caused considerable controversy. The most obvious are the "deep South" provisions. On many of these matters, far from having been the dominant member of the committee, Wilson was certainly outvoted and may well have found himself in a minority of one.

(3) Finally, there are a large number of contributions that fall between these two extremes—important additions that were neither a matter of routine bookkeeping nor bitterly controversial. It is important to emphasize that little in the work of the committee was entirely without precedent. There are exceptions, but almost every clause of the committee report has antecedents, either in the Articles of Confederation, or in the state constitutions, or in one of the three plans—Virginia, New Jersey, and Pinckney—that the convention consigned to committee. So here it was a matter, not of creating entirely from scratch, but of selecting, of choosing what to include from the mass of available materials, of filling in details, of formulating appropriate language, and of organizing the whole into a coherent text. It is here that Wilson's role is likely to have been the greatest. His skill as a drafter of legislation; his attention to fine shades of language; the existence among his papers of his own careful transcriptions of the Pinckney and New Jersey plans, all point to the centrality of his contribution. But these are hints rather than decisive proofs; and in the end, everything that emanated from the committee had to secure the support of a majority of its members.

If this argument is correct, then the work of the Committee of Detail requires more careful scrutiny than it has customarily received. The transcription of the committee documents provided by Farrand turns out on inspection to contain numerous inaccuracies. None is of great consequence; but because so much turns on the interpretation of handwritten documents, because Farrand's transcription rendered the original jumble of handwritten marginalia, interlineations, and deleted texts in-line and difficult to decipher, because these manuscripts have never been fully reproduced, because editorial judgments for documents of this import should be transparent, and because certain markings, letters, and the placement of some punctuation remain in doubt, we provide facsimiles of the original manuscripts, along with new transcriptions.

## *Editorial Conventions*

In our editorial conventions, we were guided by two principles: (1) keeping the text as true to the original as possible, and (2) transparency. Accordingly, we did not correct spellings, nor did we mask guesswork for hard-to-decipher words and phrases, especially where words were crossed out. The only silent guesswork relates to punctuation: we were often unsure if marks were periods, commas, or merely stray marks. With the lone exception of text wrapping, we attempted to approximate the placement of text on the page. Finally, Farrand's ordering and numeration were followed in sequencing the documents. We added descriptive titles and avoided arbitrary judgments in calling a document a draft or a document.

The transcriptions contained herein should be viewed as a guide to the originals. Judgment calls were made, but the reader is encouraged to compare the text with that of the black-and-white manuscript reproductions published here and the color images made available on www.ConSource.org and through the Historical Society of Pennsylvania's digital library at digitallibrary.hsp.org (record numbers 1663, 2766, 2767, and 3785). This issue can also be accessed on line at www.jstor.org.

Our editorial conventions are as follows:

1) Wilson's and Randolph's handwriting are represented by ACaslon font and Rutledge's by Arial font. The few words in what is probably Bird Wilson's hand in Document I are represented by Courier font.

2) *Deletions* are represented by strikethroughs. If the underlying text is legible, it is reproduced thus:

~~National~~.

If the text has been struck out more than once, we render it thus:

~~National~~

If the underlying text is illegible or obliterated, we render the likely number of characters thus:

[~~xxxx~~].

When one or more letters has been written over another, the

stricken letter is represented first, and then the letter(s) to which they were changed as follows:

~~i~~I

3) *Editorial conjectures* are given in brackets. If the word or phrase is questionable, it is simply given in brackets with a question mark thus:

[National ?].

An alternative reading is given thus:

State/States.

If a word is illegible, we try to indicate its approximate length thus:

[xxxx].

In many cases it is unclear whether Wilson, Randolph, or Rutledge intended a mark to be a comma, or a semicolon, or a colon, or whether the manuscript simply contains a stray mark. In such cases we have made our best guess without indicating the possible variants.

4) *Misspellings.* As can be seen from the facsimiles, a number of words have been shortened or mutilated by a letter or two when the edge of the page was subsequently trimmed. In addition, the removal of the 1877 binding tape has, in rare instances, rendered words spelled incorrectly by removing letters. In both cases, instead of burdening the text with excessive annotation, we have left the text as is, exactly corresponding to the manuscripts in their current format. (In the case of Randolph's sketch, we cross-checked the current facsimile to that made in 1899 by Meigs.)

5) *Interlineations.* Interlineations or text added later by the same author are represented in eight-point font.

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# *Committee of Detail Documents*

## *Document I:*
## *Twenty-Four Referred Resolutions from the Committee of the Whole*

This untitled document is in James Wilson's hand. It consists of a single folio sheet, measuring 38.5 × 47.5 cm. The sheet has been folded in half to make a signature of four pages; the fourth page was left blank. As Max Farrand observes in a footnote, this document is a copy of the resolutions referred to the Committee of Detail by the Constitutional Convention's Committee of the Whole on July 24, 1787. There are eight numbered resolutions, with resolution 7 containing three subresolutions and resolution 8 containing what appear to be either thirteen subresolutions, or resolutions that simply failed to be numbered. All told, there are twenty-four provisions beginning "Resolved."

The product of the two-month debate over the Virginia Plan proposed by Gov. Edmund Randolph on May 29, 1787, these resolutions provide the overarching political structure of the Constitution—the number of branches, their broad purpose and method of selection, as well as provisions regarding amendments, oaths of office, and recognition of new states.

Before the convention adjourned on July 26, Luther Martin of Maryland had proposed that members of the convention be allowed to copy the referred resolutions and consider them during the ten-day break. This motion failed, therefore limiting the number of copies originally made.[1] William Jackson, secretary to the convention, presumably held an official copy, but it did not survive. Whether James Madison, in preparing his *Notes*, worked from this copy, or had his own independent record despite Martin's failed motion (reprinted only in Jonathan Elliot's *Debates*, not in Farrand), is uncertain.[2] (Volume 2 of Wilson's papers at the Historical Society contains a second list of resolutions adopted by the convention, but it dates from an earlier stage in the proceedings, probably before the "Great Compromise" of July 16, and was most likely made by Wilson for his own use.[3]) Whether the committee worked from an official copy or Wilson's copy reprinted here is unclear.

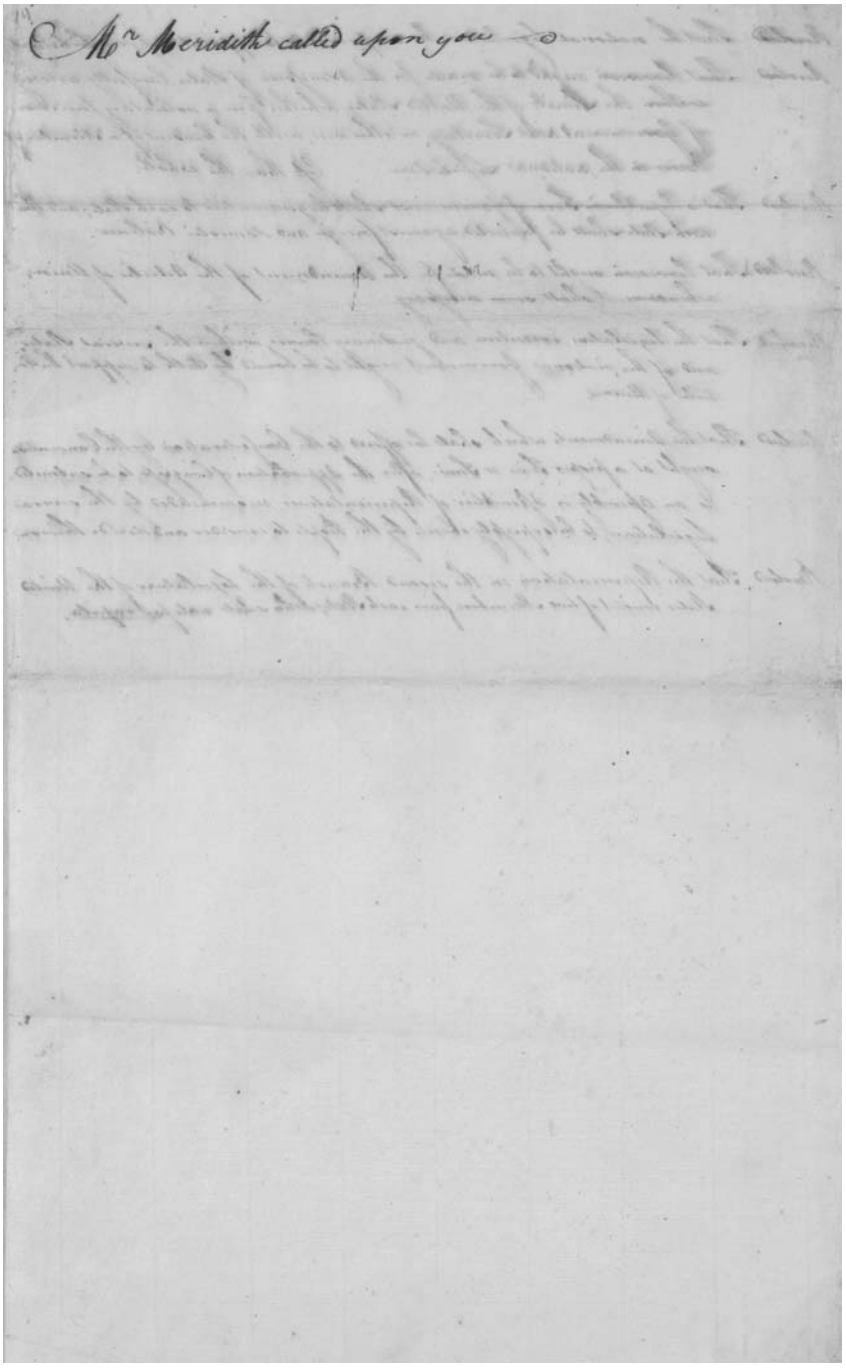
According to John Franklin Jameson, this document appeared "fourth in the order of binding" at the Historical Society.[4] By labeling it Document I, Farrand in this case departed from the order of binding for the obvious reason that the document marks the logical starting point of the committee's deliberations.

[1] Convention Journal, July 25, 1787, in *The Records of the Federal Convention of 1787*, ed. Max Farrand, 3 vols. (New Haven, CT), 2:107; Luther Martin, "Genuine Information," Speech delivered to the Maryland Legislature, Nov. 29, 1787, *Records*, 3:191.

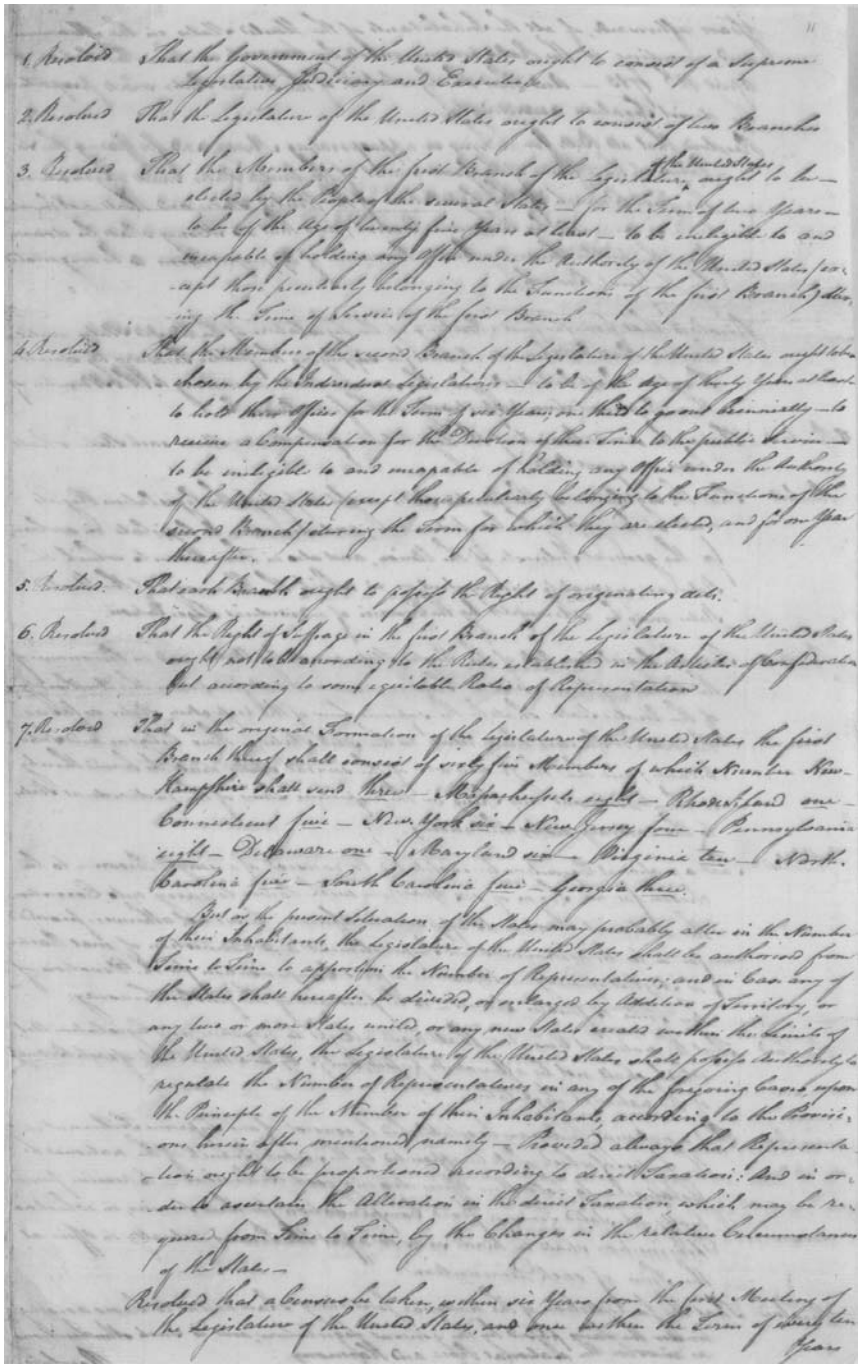
[2] Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution . . .* , 2nd ed. (Philadelphia, 1881), 5:375–77. James Madison's notes were published as *The Papers of James Madison: Purchased by Order of the Congress, Being His Correspondence and Reports of Debates during the Congress of the Confederation, and His Reports of Debates in the Federal Convention . . .* (Washington, DC, 1840).

[3] James Wilson Papers, vol. 2, folders 65–68, Historical Society of Pennsylvania.

[4] J. Franklin Jameson, *Studies in the History of the Federal Convention of 1787*, published in the *Annual Report for the American Historical Association for the Year 1902* (Washington, DC, 1903), 1:128.


Mr Meridith called upon you

M^r Meridith called upon you ☙



1. Resolved That the Government of the United States ought to consist of a Supreme Legislative, Judiciary and Executive.

2. Resolved That the Legislature of the United States ought to consist of two Branches

3. Resolved That the Members of the first Branch of the Legislature of the United States ought to be elected by the People of the several States — for the Term of three Years — to be of the Age of twenty five Years at least — 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 first Branch) during the Term of Service of the first Branch

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 the Term of six Years, one third to go out biennially — to receive a Compensation for the Performance of their Duties 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.

5. Resolved. That each Branch ought to possess the Right of originating Acts.

6. Resolved That the Right of Suffrage in the first Branch of the Legislature of the United States ought not to be according to the Rules established in the Articles of Confederation but according to some equitable Ratio of Representation

7. Resolved 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 New-Hampshire shall send three — Massachusetts eight — Rhode-Island one — Connecticut five — New York six — New Jersey four — Pennsylvania eight — Delaware one — Maryland six — Virginia ten — North Carolina five — South Carolina five — Georgia three.

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 the Number of their Inhabitants, according to the Rule, one hundred after mentioned namely — Provided always that Representation ought to be proportioned according 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 —

Resolved 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

1. Resolved That the Government of the United States ought to consist of a Supreme Legislative, ~~E~~Judiciary and Executive

2. Resolved That the Legislature of the United States ought to consist of two Branches of the United States

3. Resolved That the Members of the first Branch of the Legislature ^ ought to be — elected by the People of the several States — for the Term of two Years — to be of the Age of twenty five Years at least — 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 first Branch) during the Time of Service of the first Branch

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 the Term of 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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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 authorised 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 Authority to regulate the Number of Representatives in any of the foregoing Cases, upon the Principle of the Number of their Inhabitants, according to the Provisions herein after mentioned namely — Provided always that Representation ought to be proportioned according 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 —

Resolved 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

years afterwards, of all the Inhabitants of the United States in the Manner and according to the Rule recommended by Congress in their Resolution of April 18th 1783 — And that the Legislature of the United States shall proportion the direct Taxation accordingly.

Resolved 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.

Resolved that from the first Meeting of the Legislature of the United States until a Census shall be taken, all Money for supplying the public Treasury by direct Taxation shall be raised from the several States according to the Number of their Representatives respectively in the first Branch.

Resolved That in the second Branch of the Legislature of the United States each State shall have an equal Vote.

Resolved That the Legislature of the United States 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 Cases 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.

Resolved That the Legislative Acts of the United States made by Virtue and in Pursuance of the Articles of Union, and all Treaties made and ratified under the Authority of the United States shall be the supreme Law of the respective States so far as those Acts or Treaties shall relate to the said States, or their Citizens and Inhabitants; and that the Judiciaries of the several States shall be bound thereby in their Decisions, any Thing in the respective Laws of the individual States to the contrary notwithstanding.

Resolved That a national Executive be instituted to consist of a single Person — to be chosen for the Term of six Years — with Power to carry into Execution the national Laws — to appoint to Offices in Cases not otherwise provided for — to be removable on Impeachment and Conviction of mal Practices or Neglect of Duty — to receive a fixed Compensation for the Devotion of his Time to public Service — to be paid out of the public Treasury.

Resolved That the national Executive shall have a Right to negative any Legislative Act, which shall not be afterwards passed, unless by three thirds of each Branch of the national Legislature.

Resolved 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 Behaviour — to receive fixed Salaries — to hold their Office during good Behaviour — to receive fixed Salaries, at stated Times, a fixed Compensation for their Services, in which no Diminution shall be made so as to affect the Persons actually in Office at the Time of such Diminution.

Resolved That the Jurisdiction of the national Judiciary shall extend to Cases arising under the Laws passed by the general Legislature, and to such other Questions as involve the national Peace and Harmony.

Resolved

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 April 18th. 1783 — And that the Legislature of the United States shall proportion the direct Taxation accordingly.

Resolved 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

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Resolved That the national Executive shall have a Right to negative any legislative Act, which shall not be afterwa ds passed, unless by two third Parts of each Branch of the national Legislative/ure.

Resolved 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 Behaviour — to receive punctually at stated Times a fixed Compensation for their Services, in which no Diminution shall be made so as to affect the Persons actually in Office at the Time of such Diminution

Resolved That the Jurisdiction of the national Judiciary shall extend to Cases arising under the Laws passed by the general Legislature, and to such other Questions as involve the national Peace and Harmony.

Resolved

Resolved That the national Legislature be empowered to appoint inferior Tribunals.

Resolved 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 and Territory or otherwise, with the Consent of a Number of Voices in the national Legislature less than the whole.

Resolved That a Republican Form of Government ought to be guaranteed to each State; and that each State ought to be protected against foreign and domestic Violence.

Resolved That Provision ought to be made for the Amendment of the Articles of Union, whenever it shall seem necessary.

Resolved That the legislative, executive and judiciary Power, within the several States, and of the national Government, ought to be bound by Oath to support the Articles of Union.

Resolved 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.

Resolved That the Representation in the second Branch of the Legislature of the United States consist of two Members from each State, who shall vote *per capita*.

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## *Document II: Resolutions Taken from the Proceedings of the Convention July 24–July 26*

The next document in Farrand's sequence is his own compilation of the resolutions passed by the Committee of the Whole after the twenty-four resolutions had been referred and before the convention adjourned on July 26. Because Farrand's Document II is not a document per se, it is not included here.

## *Document III: Wilson's Copy of the Pinckney Plan*

Another untitled document in Wilson's hand follows. This document is "the plan of a constitution presented to the Federal Convention by Charles Pinckney May 29, 1787," according to Andrew McLaughlin, who provided the identification; McLaughlin viewed it as an outline rather than as a copy of the entire plan.[5] After Charles Pinckney proposed the plan, it was not discussed at all in convention, but referred to the Committee of Detail on July 26, 1787.[6] Pinckney's original draft has been lost. As with the referred resolutions, it is not known whether the Committee of Detail worked from the original or from Wilson's copy.

This document is composed of four sheets that have been folded in half and sewn to form a signature whose pages measure 19 × 22 cm. It is not clear when the stitched binding took place. Wilson wrote his extracts on the recto side only, starting on the outermost page and skipping the first interior recto page: his writing fills six pages, with the verso sides being left blank. This document is now held in a separate box bearing the label, "Pinckney Resolutions/James Wilson/Second Draft of the U.S. Constitution." The Pinckney Resolutions (as Farrand's sequencing of the documents recognizes) were one of the starting points for the committee's work, preceding even the first Wilson draft of the Constitution. The recto pages have been numbered in pencil, from thirteen to nineteen, starting with the outermost page. On the back page, also in pencil, is written, "Wilson's abstract of the Pinckney Resolutions. See American Historical Review, July, 1904, p. 735." This is a reference to McLaughlin's article. From the marginal tape still present on the document, this document appears to have been bound with other Wilson documents in 1877.

[5] Andrew C. McLaughlin, "Sketch of Pinckney's Plan for a Constitution, 1787," *American Historical Review* 9 (1904): 735.

[6] Farrand, *Records*, 2:128.

1. A Confederation between the free and independent States of N. H. &c
is hereby solemnly made uniting them together under one general superintending Government for their common Benefit and for their Defence and Security against all Designs and Leagues that may be engrossed to their Injurious and against all Force and Attacks offered to or made upon them or any of them

2. The State

3. Mutual Intercourse – Community of Priviledges – Surrender of Criminals – Faith to Proceedings &c.

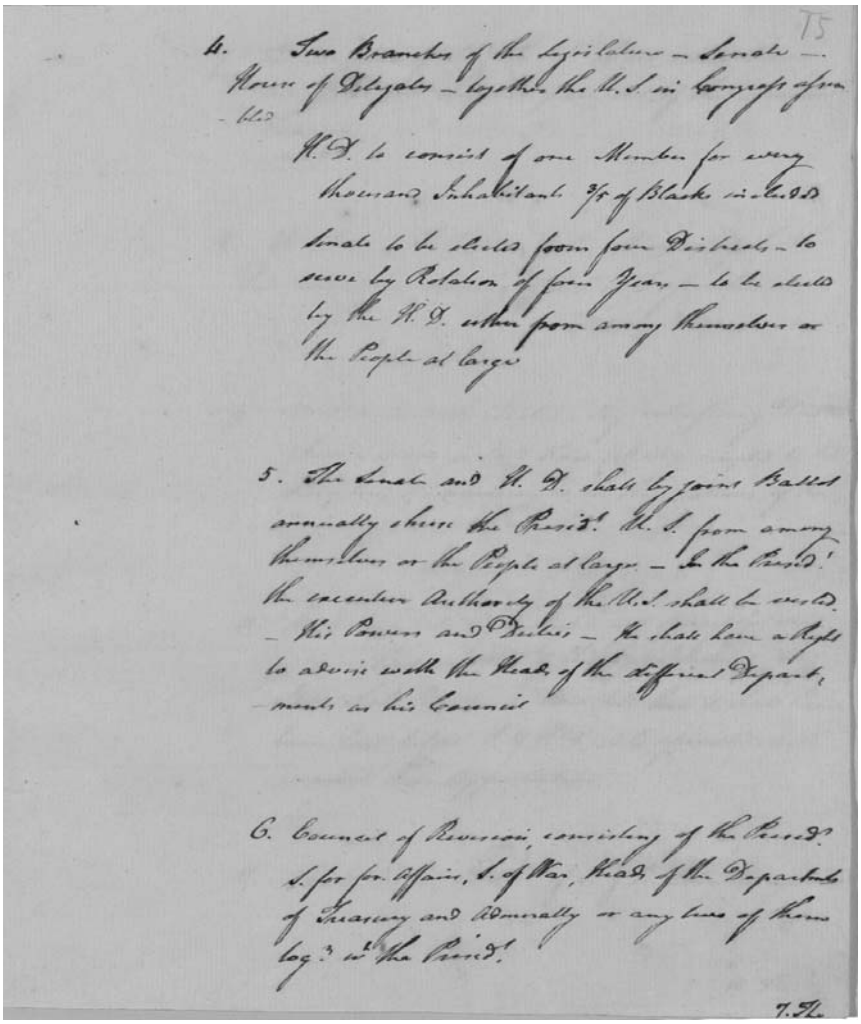
4. The

1. A Confederation between the free and independent States of N. H. &C is hereby solemnly made uniting them together under one general superintending Government for their common Benefit and for their Defence and Security against all Designs and Leagues that may be [injurious?] to their Interests and against all Force and Attacks offered to or made upon them or any of them

2. The Stile

3. Mutual Intercourse — Community of Privileges — Surrender of Criminals — Faith to Proceedings &C.

4. The



4. Two Branches of the Legislature — Senate — House of Delegates — together the U. S. in Congress assembled

H. D. to consist of one Member for every thousand Inhabitants 3/5 of Blacks included

Senate to be elected from four Districts — to serve by Rotation of four Years — to be elected by the H. D. either from among themselves or the People at large

5. The Senate and H. D. shall by joint Ballot annually choose the President U. S. from among themselves or the People at large — In the President the executive Authority of the U. S. shall be vested — His Powers and Duties — He shall have a Right to advise with the Heads of the different Departments as his Council

6. Council of Revision, consisting of the President U. S. for for. Affairs, S. of War, Heads of the Departments of Treasury and Admiralty or any two of them log.d w.th the President

J. H.

4. Two Branches of the Legislature — Senate — House of Delegates — together the U. S. in Congress assembled

H.D. to consist of one Member for every thousand Inhabitants 3/5 of Blacks included

Senate to be elected from four Districts — to serve by Rotation of four Years — to be elected by the H. D. either from among themselves or the People at large

5. The Senate and H. D. shall by joint Ballot annually chuse the Presid$^{t}$. U.S. from among themselves or the People at large. — In the Presid.$^{t}$ the executive Authority of the U.S. shall be vested. — His Powers and Duties — He shall have a Right to advise with the Heads of the different Departments as his Council

6. Council of Revision, consisting of the Presid$^{t}$. S. for for. Affairs, S. of War, Heads of the Departments of Treasury and Admiralty or any two of them tog.$^{r}$ w$^{h}$ the Presid$^{t}$.

7. The

7b

7. The Members of S. & H. R. shall each have one Vote, and shall be paid out of the common Treasury.

8. The Time of the Election of the Members of the H. R. and of the Meeting of the S. in C. assembled.

9. No State to make Treaties or Leagues interfering Duties — keep a naval or land Force (Militia excepted) to be disciplined &c according to the Regulations of the U. S.

10. Each State retains its Rights not expressly delegated — But no Bill of the Legislature of any State shall become a law till ~~law~~ it shall have been laid before S. & H. R. in C. assembled and receive their Approbation.

11. The exclusive Powers of S. & H. R. in C. assembled

12. The

7. The Members of S. & ~~C.~~H. D. shall each have one Vote, and shall be paid out of the common Treasury.

8. The Time of the Election of the Members of the H. D. and of the Meeting of U.S. in C. assembled.

9. No State to make Treaties — lay interfering Duties — keep a naval or land Force (Militia excepted to be disciplined &C according to the Regulations of the U.S.

10. Each State retains its Rights not expressly delegated — But no Bill of the Legislature of any State shall become a Law till [~~xxx~~] it shall have been laid before S. & H. D. in C. assembled and received their Approbation.

11. The exclusive Powers of S & H. D. in C. assembled

12. The

12. The S. of H. R. in C. asp. shall have the exclusive Power of regulating Trade and levying Imports — Each State may lay Embargoes in Times of Scarcity

13 ——————— of establishing Post Offices.

14. S. of H. R. in C. asp. shall be the last Resort on Appeal in Disputes between two or more States; which Authority shall be exercised in the following Manner &c.

15. S. of H. R. in C. asp. shall institute Offices and appoint Officers for the Departments of For. Affairs, War, Treasury and Marine — They shall have the exclusive Power of declaring what shall be Treason & Misp. of Treason agt. U. S. — and of instituting a federal judicial Court, to which an Appeal shall be allowed from the judicial Courts of the several States in all Causes wherein Questions shall arise on the Construction of Treaties made by U. S. or on the Law of Nations — or on the Regulations of U. S. concerning Trade & Revenue — or wherein U. S. shall be a Party — The Court shall consist of Judges to be appointed during good Beha-

-viour

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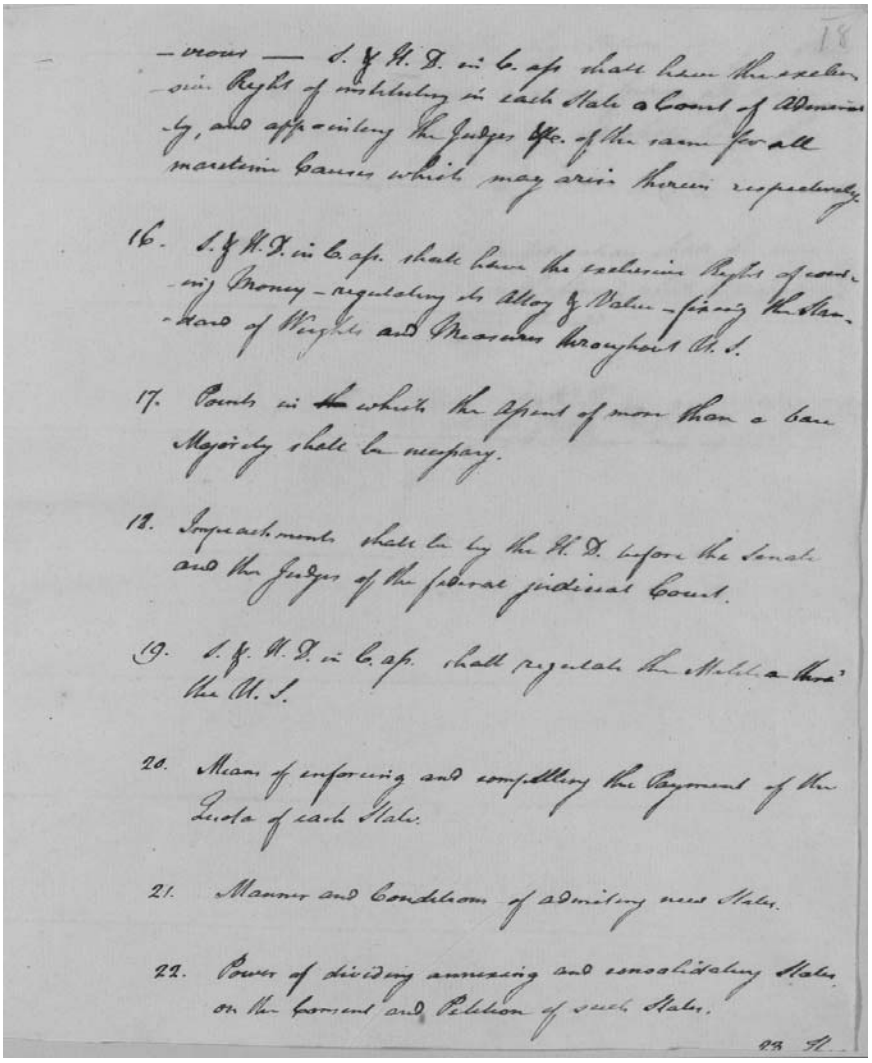
-viour



18

-verous — S. & H. R. in C. asp. shall have the exclusive Right of establishing in each State a Court of Admiralty, and appointing the Judges &c. of the same for all maritime Causes which may arise therein respectively.

16. S. & H. R. in C. asp. shall have the exclusive Right of coining Money — regulating the Alloy & Value — fixing the Standard of Weights and Measures throughout U. S.

17. Points in ~~the~~ which the Assent of more than a bare Majority shall be necessary.

18. Impeachments shall be by the H. R. before the Senate and the Judges of the federal judicial Court.

19. S. & H. R. in C. asp. shall regulate the Militia throughout the U. S.

20. Mean of enforcing and compelling the Payment of the Levies of each State.

21. Manner and Conditions of admitting new States.

22. Power of dividing annexing and consolidating States on the Consent and Petition of such States.

23 H.

-viour — S. & H. D. in C. ass shall have the exclusive Right of instituting in each State a Court of Admiralty, and appointing the Judges &C. of the same for all maritime Causes which may arise therein respectively.

16. S. & H. D. in C. ass. shall have the exclusive Rights of coining Money - regulating its Alloy & Value — fixing the Standard of Weights and Measures throughout U. S.

17. Points in ~~the~~ which the Assent of more than a bare Majority shall be necessary.

18. Impeachments shall be by the H. D. before the Senate and the Judges of the federal judicial Court.

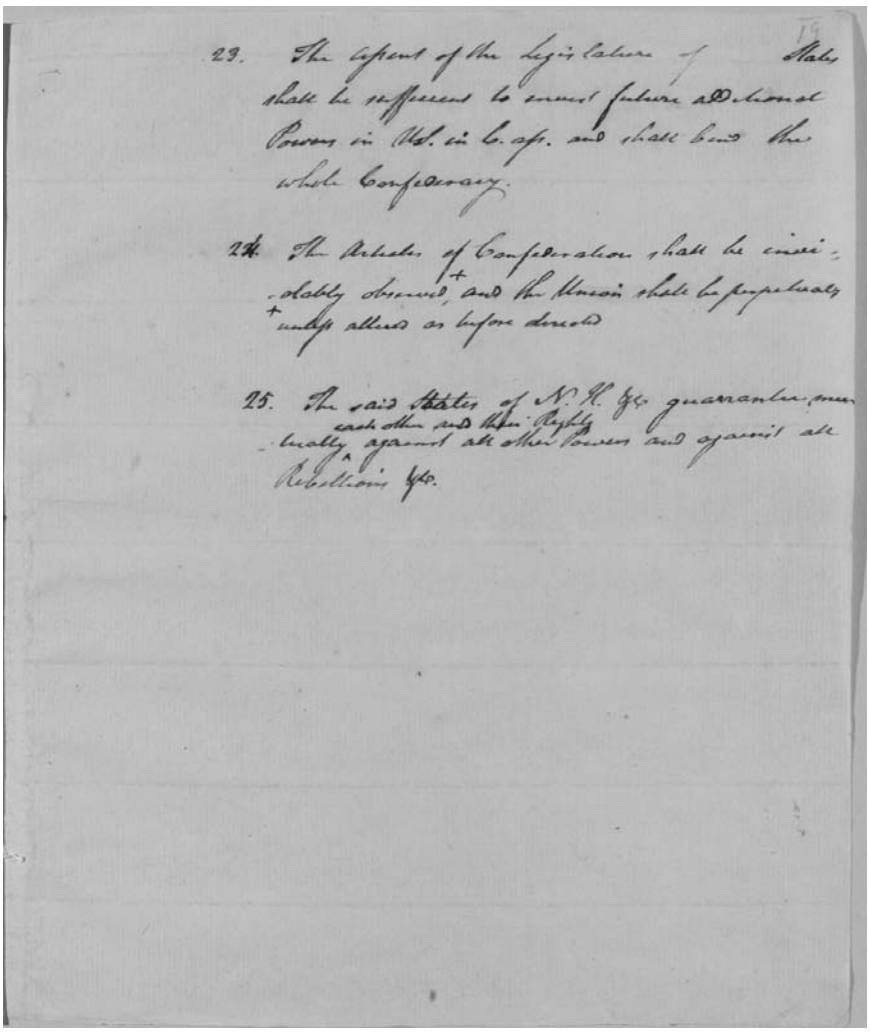
19. S. &. H. D. in C. ass. shall regulate the Militia thro' the U. S.

20. Means of enforcing and compelling the Payment of the Quota of each State.

21. Manner and Conditions of admiting new States.

22. Power of dividing annexing and consolidating States on the Consent and Petition of such States.

23 [The]



23. The Consent of the Legislature of States shall be requisite to convert future additional Powers in Ms. in C. Congs. and shall bind the whole Confederacy.

24. The Articles of Confederation shall be inviolably observed, and the Union shall be perpetually unless altered as before directed

25. The said States of N. H. &c. guarantee mutually each other and their Rights against all other Powers and against all Rebellions &c.

23. The Assent of the Legislature of States shall be sufficient to [invest?] future additional Powers in U.S. in C. ass. and shall bind the whole Confederacy.

2~~3~~4. The Articles of Confederation shall be inviolably observed,+ and the Union shall be perpetual;
+unless altered as before directed

25. The said S[~~xx~~]tates of N. H. &C guarantee mutually each other and their Rights ^ against all other Powers and against all Rebellions &C.

## *Document IV: Randolph's Sketch of the Constitution*

The publication of Madison's *Notes* in 1840 revealed only two documents relating to the Committee of Detail—the twenty-four referred resolutions and the final, printed report.[7] The entire set of Wilson's drafts and other Committee of Detail documents remained unpublished until Farrand's *Records* appeared in 1911 and therefore available only to the scholars who viewed the originals.[8] Only two scholars appear to have made use of them before Farrand's edition appeared, William Meigs and John Franklin Jameson.

William Meigs broke new ground in 1899 by tracking down and publishing images of a document in Randolph's hand referred to in Moncure D. Conway's *Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph* in 1888.[9] This document is written on both recto and verso sides of four pages, all roughly measuring 20.2 × 32.5 cm. All pages are preserved with their wrapper, on which is penciled "Paper in handwriting of Edmund Randolph." The document was found by Meigs in the possession of Mrs. St. George Tucker, a descendant of George Mason. She later donated the papers, with Randolph's sketch, to the Library of Congress where it can be found today.

It appears that John Rutledge of South Carolina, the chair of the Committee of Detail, and probably Wilson, who would later use it in preparing his drafts, both made marks to the document. Rutledge made notes and edits in his heavy and roughly legible hand. It was previously thought that the ubiquitous check marks throughout were made by Rutledge, but a close comparison of these check marks to Rutledge's erratic marks on Wilson's final draft suggests a different hand. However, a comparison to several Wilson documents reveals that the check marks are most likely his.[10] In a few places (e.g. on the first manuscript page) somebody has neatly overwritten a single letter or two; in the transcription we have attributed these changes to Rutledge, though they could also arguably be in the handwriting of Randolph.

The document parallels the twenty-four resolutions referred to the Committee of Detail, adding some substantive powers and provisions. It is plainly an early document. Whether it represents committee deliberations or was drafted by Randolph alone is somewhat unclear.

Farrand originally prepared his transcription from the photographic reproduction in Meigs's study; later, in his 1937 fourth volume, he prepared a corrected transcription made from the original document.[11] With special permission from the Library of Congress and for the sake of including all known Committee of Detail documents, we reproduce images of the original and retranscribe the sketch here.

It will be noted from the images that a few letters covered up by binding tape are indiscernible. However, the editors have cross-referenced these images with those reproduced by Meigs in 1899 before binding tape was applied to confirm Farrand's transcription.

Pages 5 and 7 are long and both images and transcripts have been broken into two pages each.

[7] Elliot, *Debates*, 5:375–81.

[8] Farrand, *Records*, 2:129–75.

[9] William Montgomery Meigs, *The Growth of the Constitution in the Federal Convention of 1787* (Philadelphia, 1900), ii–ix, 4, 317–24.

[10] Wilson Papers, vol. 2, folders 26-37, 62, 89-97, 98.

[11] Farrand's second transcription is today most easily found in James Hutson, *Supplement to Max Farrand's The Records of the Federal Convention of 1787* (New Haven, CT, 1987) 183–93.

In the draught of a fundamental constitution, two things deserve attention:

1. To insert essential principles only; lest the operations of government should be clogged by rendering those provisions permanent and unalterable, which ought to be accommodated to times and events: and

2. To use simple and precise language, and general propositions, according to the example of the ~~common~~ constitutions of the several states. ~~In the construction of a constitution of principles~~ ~~it differs from the body of laws~~

A preamble seems proper. Not for the purpose of designating the ends of government and human politics — This ~~being, indeed~~ ~~not for the [illegible] is at least sufficiently [illegible]~~ display of theory, however proper in the first formation of state governments, ~~seems~~ is unfit here; since we are not working on the natural rights of men not yet gathered into society, but upon those rights modified by society, and ~~supporting~~ intervening with what we call ~~states~~ the rights of states. Nor yet is it proper for the purpose of mutually pledging the faith of the parties for the observance of the articles. This may be done more solemnly at the close of the draught, as in the confederation. But the object of our preamble ought to be briefly to ~~represent~~ declare, that the present federal government is insufficient to the general happiness; that the conviction of this fact gave birth to this convention; and that the only effectual ~~mode~~ which they ~~call~~ devise, for curing this insufficiency, is the establishment of a supreme legislative executive and judiciary. ~~In this manner we may do:~~ ~~resolution. Strange that first resolution, we may then for and [illegible]~~ ~~[illegible]~~ Let it be next declared, that the following are the ~~d resolution~~ constitution and fundamentals of government for the United States. After this introduction, let us proceed to the first resolution. This resolution involves three particulars:

1. the style of the United states; which may continue as it now is.
2. a declaration, that the supreme legislative executive and judiciary shall be established; and
3. a declaration, that these departments shall be distinct, ~~except~~ and independent of each other, except in specified cases.

In the draught of a fundamental constitution, two things deserve attention:

1. To insert essential principles only; lest the operations of government should be clogged by rendering those provisions permanent and unalterable, which ought to be accomodated to times and events: and

2. To use simple and precise language, and general propositions, according to the example of the ~~several~~ constitutions of the several states. ~~For the construction of a constitution of necessarrily differs from that of law~~

1. A preamble seems proper. Not for the purpose of designating ends of government and human polities — This ~~business, if not fitter for the schools, is at least sufficiently exonerated~~ display of theory, howsoever proper in the first formation of state governments, ~~seems~~ is unfit here; since we are not working on the natural rights of men ^ not yet gathered into society, but upon those rights, modified by society, and ~~supporting~~ interwoven with what we call ~~states~~ the rights of states — Nor yet is it proper for the purpose of mutually pledging the faith of the parties for the observance of the articles — This may be done more solemnly at the close of the draught, as in the confederation — But the object of our preamble ought to be briefly to ~~represent~~ declare, that the present federal government is insufficient to the general happiness; that the conviction of this fact gave birth to this convention; and that the only effectual m~~eans,~~ode which they c~~ould~~an devise, for curing this insufficiency, is the establishment of a supreme legislative executive and judiciary — ~~In this manner we may discharge the first resolution. We may then proceed to establish~~ Let it be next declared, that the following are the constitution and fundamentals of government for the United States — After this introduction, let us proceed to the

~~1st resolution~~

~~2d resolution~~

2. First Resolution This resolution involves three particulars:

1. the st~~i~~yle of the United States; which may continue as it now is.
2. a declaration that ~~an~~a supreme ~~execu~~legislative executive and judiciary shall be established; and
3. a declaration, that these departments shall be distinct, ~~except~~ and independent of each other, except in specified cases.

In the next place, treat of the legislative, judiciary and executive in their order, and afterwards, of the miscellaneous subjects, as they occur, bringing together all the resolutions belonging to the same point howsoever they may be scattered about — ~~Such~~ The following plan is therefore submitted and leaving to the last the steps necessary to introduce the government.

# I The Legislative

1. shall consist of two branches: viz:
   (a) a house of delegates; and
   (b) a senate;

2. which together shall be called "the legislature of the United States of America".

## ~~Be~~ The house of delegates.

1. ~~shall~~ never be greater in number than. To effect this, pursue a rule, similar to that provided in the 16th article of the New York constitution.

2. each state shall send delegates, according to the ratio, ~~recommended~~ by congress.

3. to ascertain this point, let a census be taken in due time as the national legislature shall direct, ~~within~~ six years from the first meeting of the legislature; and once in every term of ten years thereafter.

4. the census being taken and returned, the legislature shall apportion the representation:

5. The qualifications of a delegate shall be the age of twenty five years at least; and citizenship; ~~and they should be born inhabitants to be elected except~~

Qu: if a certain term of residence and a certain quantity of landed property ought not to be made by the convention further qualifications.

6. Their duration in office shall be for two years.

7. The elections shall be begun and held on the same day throughout the state, except in case of accident and where an adjournment to the succeeding day may be necessary.

8. The place shall be fixed by the ~~national~~ legislatures from time to time; or on their default by the national legislature.

9. So shall the presiding officer.

10. Votes shall be given by ballot, unless ⅔ of the national legislature shall have to vary the mode.

In the next place, treat of the legislative, judiciary and executive in their order, and afterwards, of the miscellaneous subjects, as they occur; bringing together all the resolutions, belonging to the same
and leaving to the last the steps necessary to introduce the government.
point, howsoever they may be scattered about ^ — ~~Talk~~ The following plan is therefore submitted

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3 (a) The house of delegates

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✓ 4. the census being taken and returned, the legislature shall apportion the representation:

~~qu: if a certain term of residence, and a certain quantity of landed property ought not to be made by the convention~~

✓ 5. The qualifications of ~~a~~ delegates shall be the age of twenty five years at least: and citizenship: ~~and any person possessing these qualifications may be elected except:~~

✓ 6. Their duration in office shall be for two years.

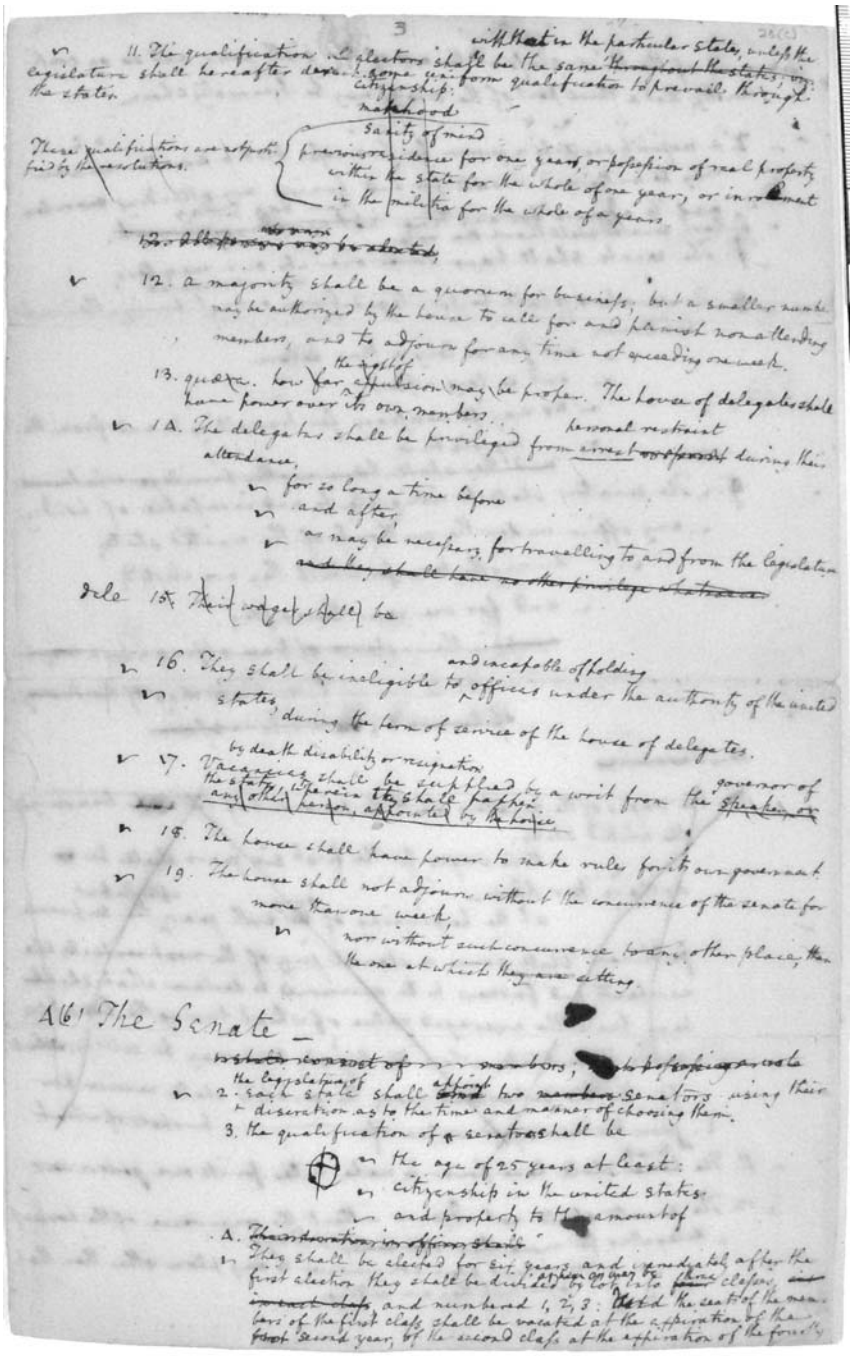
✓ 7. The elections shall be biennially ^ held on the same day through the same ^ states: except in case of accidents, and where an adjournment to the succeeding day may be necessary.

✓ 8. The place shall be fixed by the ~~national~~ legislatures from from time to time; or on their default by the national legislature:

✓ 9. So shall the presiding officer.

~~a further qualification~~

✓ 10. ~~Votes shall be given by ballot, unless 2/3 of the national legislature shall choose to vary the mode.~~



3

11. The qualification of electors shall be the same with that in the particular state, until the legislature shall hereafter devise some uniform qualification to prevail throughout the states, in citizenship, manhood, sanity of mind, previous residence for one year, or possession of real property within the state for the whole of one year, or in the militia for the whole of a year.

These qualifications are adopted by the resolutions.

12. a majority shall be a quorum for business; but a smaller number may be authorized by the house to call for and punish non-attending members, and to adjourn for any time not exceeding one week.

13. quære. how far the right of expulsion may be proper. The house of delegates shall have power over its own members.

14. The delegates shall be privileged from personal restraint during their attendance,

for so long a time before

and after,

as may be necessary for travelling to and from the legislature

~~and they shall have no other privilege whatever~~

Dele 15. Their wages shall be

16. They shall be ineligible and incapable of holding offices under the authority of the united states, during the term of service of the house of delegates.

17. Vacancies by death disability or resignation shall be supplied by a writ from the governor of the state, upon the state paper, any other person appointed by the house.

18. The house shall have power to make rules for its own government.

19. The house shall not adjourn without the consent of the senate for more than one week,

nor without such consent to any other place, than the one at which they are sitting.

A6 The Senate –

~~which consist of~~ members; ~~[illegible]~~

1. the legislature of each state shall ~~elect~~ appoint two ~~members~~ senators using their discretion as to the time and manner of choosing them.

3. the qualification of a senator shall be

the age of 25 years at least:

citizenship in the united states

and property to the amount of

A. ~~Their duration in office shall~~

They shall be elected for six years and immediately after the first election they shall be divided by lot into three classes, ~~and in each class~~ and numbered 1, 2, 3: ~~the~~ 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 ~~first~~ second year, of the second class at the expiration of the ~~first~~

with th~~ose~~at in the particular states, unless the

✓ 11. The qualification of electors shall be the same ^ ~~throughout the states; viz~~: legislature shall hereafter d[~~ir~~]irect some uniform qualification to prevail through the states.

~~citizenship:~~
~~manhood~~
~~sanity of mind~~

~~These qualifications not justified by the resolutions.~~

~~previous residence for one years, or possession of real property within the state for the whole of one year, or inroll~~ment in the militia for ~~the whole of a year.~~

~~who are~~

~~12. All persons may be elected~~

✓ 12. A majority shall be a quorum for business; but a smaller numbe[r?] may be authorized by the house to call for and punish nonattending members, and to adjourn for any time not exceeding one week.

~~the right of~~

13. ~~quore. how far ^ expulsion may be proper.~~ The house of delegates shall have power over its own members.

personal restraint

✓ 14. The delegates shall be privileged from arrest [~~restraint?~~] during their attendance,

✓ for so long a time before

✓ and after,

✓ as may be necessary, for travelling to and from the legislature

~~and they shall have no other privilege whatsoever~~

rule ~~15. Their wages shall be~~

and incapable of holding

✓ 16. They shall be ineligible to ^ offices under the authority of the united

✓ states, during the term of service of the house of delegates.

by death disability or resignation governor of the state, wherein they shall happen.

✓ 17. Vacancies ^ shall be supplied by a writ from the ~~speaker or any other person, appointed by the house~~.

✓ 18. The house shall have power to make rules for its own government.

✓ 19. The house shall not adjourn without the concurrence of the senate for more than one week,

✓ nor without such concurrence to any other place, than the one at which they are sitting.

4 (b) The Senate —

~~1. shall consist of _____ members; [eac?]h possessing a vote~~

the legislature of appoint

✓2. ^ Each state shall ~~send~~ two ~~members~~ senators using their discretion as to the time and manner of choosing them.

3. the qualification of ~~a~~ senato[~~r~~]rs shall be

~~⊕~~ ✓ the age of 25 years at least:

✓ citizenship in the united states:

✓ and property to the amount of

4. ~~Their duration in office shall~~

✓ They shall be elected for six years and immediately after the first election they shall

as near as may be three

be divided by lot ^ into ~~four~~ classes, ~~six in each class~~, and numbered 1, 2, 3: ~~Let~~And the seats of the members of the first class shall be vacated at the expiration of the ~~first~~ second year, of the second class at the expiration of the fourth,

and of the third class at the end of the sixth year, and so on continually, that a third part of the senate may be biennially chosen

5. a majority shall be a quorum for business: but a smaller number may be authorized to call for and punish nonattending members, and to adjourn ~~for any time not exceeding one week~~ from day to day.

6. Each senator shall have one vote

7. The senate shall have power over its own members.

8. The senators shall be privileged from ~~arrest~~ personal restraint during their attendance,
and for so long a time before
and so long after,
as may be necessary for travelling to and from the legislature
~~and they shall have no other privilege whatever~~

9. The senators shall be ineligible to and incapable of holding any office under the authority of the united states,
during the term for which they are elected,
and for one year thereafter,
~~except the instance of these offices, which may be improved for the better conducting of the business of the senate, do while in office~~

~~10. Vacancies~~

~~10. The wages of the senators shall be paid out of the treasury of the united states.
those wages for the first six years shall be ~~xx~~ dollars per diem —
at the beginning of ~~the~~ every eighth year, after the first, the supreme judiciary shall cause a special jury of the most respectable merchants and farmers to be summoned to declare what shall have been the averaged value of wheat during the last six years, in the state, where the legislature may be sitting: and for the six subsequent years, the senators shall receive for each bushel of wheat, from the averaged value of ~~bushels of wheat~~.~~

11. The ~~house~~ Senate shall have power to make rules for its own government

12. The senate shall not adjourn without the concurrence of the house of delegates for more than ~~one week~~ 3 days.
nor without such concurrence to any place other than that at which they are sitting.

✓ and of the third class at the end of the sixth year, and so on continually, that a third part of the senate may be biennially chosen.

✓ 5. A majority shall be a quorum for business: but a smaller number may be authorized to call for and punish nonattending members and to adjourn ~~for~~ from day to day
✓ ~~any time not exceeding~~ ^ ~~one week~~.
✓ 6. Each senator shall have one vote
✓ ~~6~~7. The senate shall have power over its own members.

personal restraint
✓ ~~7~~8.The senators shall be privileged from arrest during their attendance,
✓ and for so long a time before
✓ and so long after,
✓ as may be necessary for travelling to and from the
✓ legislature
~~and they shall have no other privileges whatsoever.~~

~~8~~9. ✓ The senators shall be ineligible to and incapable of holding
✓ any office under the authority of the united states,
✓ during the term for which they are elected,
✓ and for one year thereafter,
~~except in the instance of those offices, which may be instituted for the better conducting of the business of the senate, [du] while in session.~~

~~10. Vacancies~~

~~10. The wages of the senators shall be paid out of the nat. treasury of the united states.: those wages for the first six years shall be in dollars per diem at the beginning of the esixth year ^, the supreme judiciary shall cause a special jury of the most respectable merchants and farmers to be summoned to declare what shouldall have been the averaged value of wheat during the sixlast six years, in the state, where the legislature may be sitting: [xxx]And for the six subsequent years, the senators shall receive per diem the averaged value of bushels of wheat.~~

Senate
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✓ delegates for more than ~~one week,~~ 3 days.
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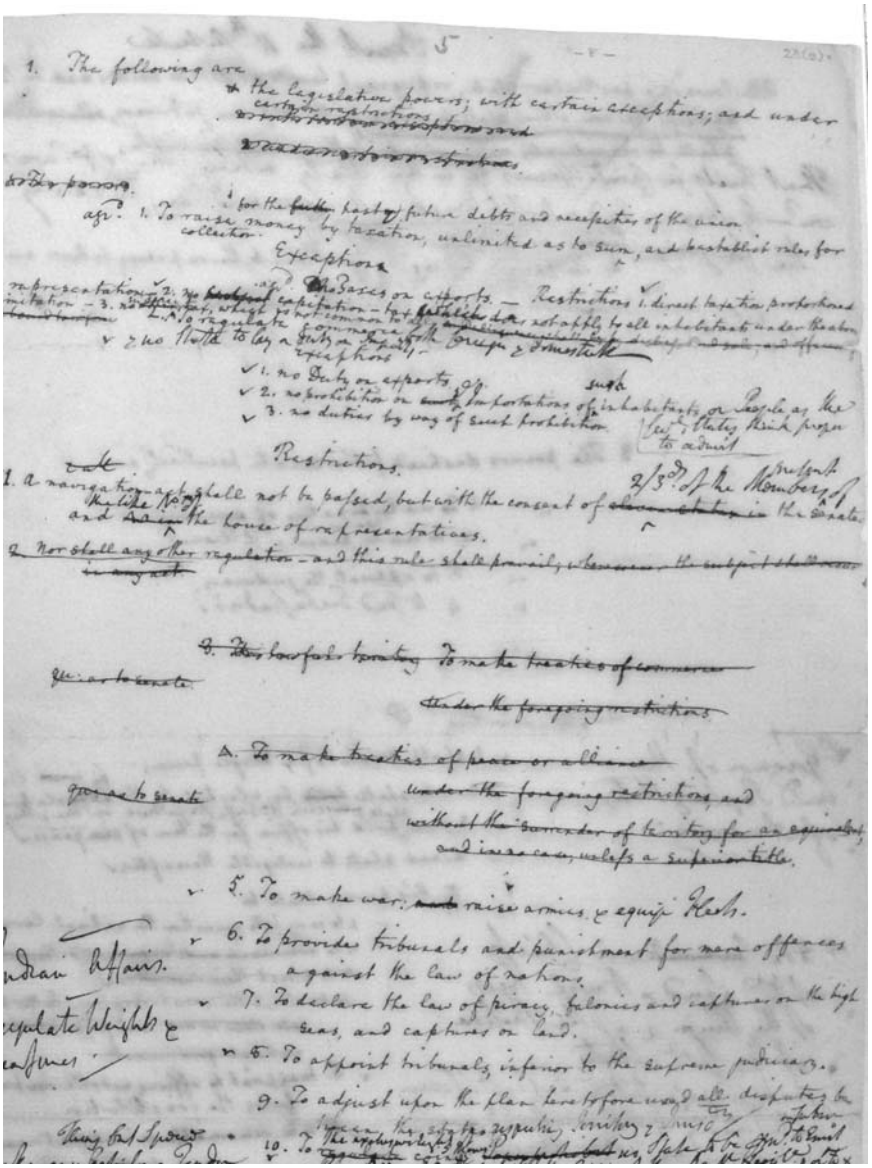


5 — 2 — 22(a).

1. The following are
the legislative powers; with certain exceptions; and under certain restrictions

agr. 1. To raise money by taxation, unlimited as to sum, and establish rules for collection.

Exceptions

2. No capitation — 3. No tax, which is not common to all — Restrictions 1. direct taxation proportioned to the census — 2. No duties on exports — 3. No preference to ports of one state over those of another — 4. No regulation of commerce with foreign nations, and among the states, except those which may be necessary for execution of inspection laws, and the mere execution of laws for disbursement of money.

2. No power to lay a tax or duty on the people of Massachusetts

Exceptions

1. No duty on exports of such
2. No prohibition on importations of inhabitants or people as the states think proper to admit
3. No duties by way of such prohibition

Restrictions.

1. a navigation act shall not be passed, but with the consent of 2/3rds of the members of the senate and the house of representatives.

2. Nor shall any other regulation — and this rule shall prevail, whenever the subject shall arise in any act

3. To make treaties of commerce under the foregoing restrictions

4. To make treaties of peace or alliance under the foregoing restrictions, and without the surrender of territory for an equivalent, and in no case, unless a superior title.

5. To make war, raise armies, & equip fleets.

6. To provide tribunals and punishment for mere offences against the law of nations.

7. To declare the law of piracy, felonies and captures on the high seas, and captures on land.

8. To appoint tribunals, inferior to the supreme judiciary.

9. To adjust upon the plan heretofore used all disputes between the states, respecting jurisdiction, territory, & [illegible]

10. To [illegible]

Indian Affairs.

Regulate Weights & measures.

1. The following are
   ~~1~~ the legislative powers; with certain exceptions; and under certain restrictions
   ~~2 [with certain] exceptions and~~
   [~~3 under certain restrictions~~]

~~2. other powers.~~ [i] for the ~~future~~ past ~~or~~& future debts and necessities of the union

agr[d]. 1. To raise money by taxation, unlimited as to sum, ^ and to establish rules for collection.

Exceptions

.agr[d]. [~~X~~]No Taxes on exports. — Restrictions ✓ 1. direct taxation proportioned to representation ✓ 2. No ~~headpost~~ capitation — tax [~~xxxx~~]which does not apply to all inhabitants under the above limitation — 3. no ~~other~~ indirect tax, which is not common to all. ~~4. Delinquencies shall be by distress and sale; and off[ending?] states bound to inform~~ —

2. 4. To regulate commerce both foreign & domestic & no State to lay a duty on
✓ imports —

Exceptions

✓ 1. no Duty on exports.

✓ 2. no prohibition on ~~such~~ ye ^ Importations of such ^ inhabitants or People

✓ 3. no duties by way of such prohibition. as the sev[l]. States think proper to admit

Restrictions.

✓✓ 1. A navigation act shall not be passed, but with the consent of ^ ~~eleven states~~ ~~call~~ ~~in~~ the senate. and [~~xx~~] in ^ the house of representatives. the like N[o]. of 2/3[ds]. of the Members ^ of present

~~2. Nor shall any other regulation — and this rule shall prevail, wheresoever the subject shall occur in any act.~~

~~3. The lawful territory To make treaties of commerce —~~
~~qu: as to senate:~~ ~~Under the foregoing restrictions.~~

~~4. To make treaties of peace or alliance~~
~~qu: as to senate~~ ~~under the foregoing restrictions, and~~
~~without the surrender of territory for an equivalent,~~
~~and in no case, unless a superior title.~~

✓ 5. To make war: ~~and~~ raise armies. & equip Fleets.

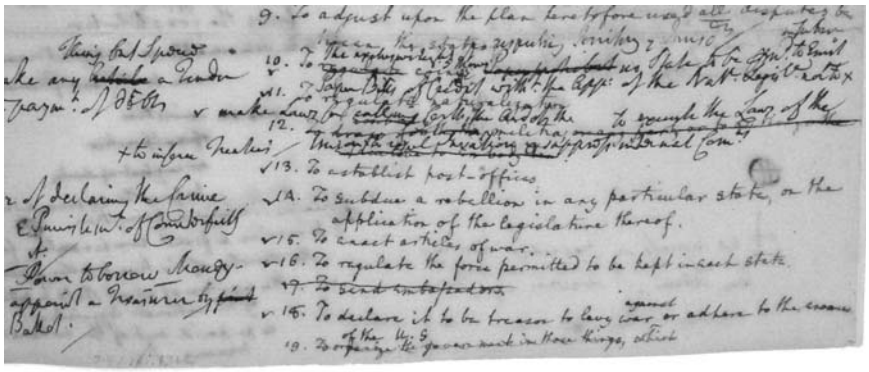
✓ 6. To provide tribunals and punishment for mere offences against the law of nations.

✓ 7. To declare the law of piracy, felonies and captures on the high seas, and captures on land.

✓ 8. To appoint tribunals, inferior to the supreme judiciary.

9. To adjust upon the plan heretofore used all disputes between the States respecting Territory & Jursd[n]

Indian Affairs to regulate Weights & Measures



9. To adjust upon the plan heretofore used all disputes between the states respecting territory & jurisdiction

10. To ~~[illegible]~~ coin ~~[illegible]~~ weights & measures, fix the standard of weights & measures throughout the United States

11. To fix the Rate of Exchange with the approbation of the Natl. Legislature

12. To regulate the general post-office

13. To establish post-offices

14. To subdue a rebellion in any particular state, on the application of the legislature thereof.

15. To enact articles of war.

16. To regulate the force permitted to be kept in each state.

~~17. To send ambassadors.~~

18. To declare it to be treason to levy war against or adhere to the enemies of the U. S.

19. To organize the government in three branches, which

they had power to make any treaties a Treaty [illegible] of peace

+ to inform Treaties

[illegible] of declaring the same

[illegible] Power to borrow Money

appoint a Treasurer by Ballot.

[*Page 5 continued*]

Thing but Specie X make any ~~Article~~ a Tender in paym$^{t}$. of debts

The exclusive rights of Money

10. To ~~regulate~~ coining ~~Paper prohibit~~ no State to in future be per$^{d}$. to Emit Paper Bills of Credit ✓ with$^{t}$. the App: of the Nat$^{l}$. Legis$^{le}$ nor to x

✓ 11. To regulate naturalization

calling

make Laws for [~~raising?~~] forth the Aid of the to execute

+ to inforce Treaties

✓ 12. ~~To draw forth the~~ ^ militia, ~~or any part, or to authorize the Executive to embody them~~ the Laws of the Union + to repel Invation and [suppress?] internal Com$^{ns}$.

X2 of declaring the Crime & Punishm$^{t}$ of Counterfeitg it.

✓ 13. To establish post-offices.

✓ 14. To subdue a rebellion in any particular state, on the application of the legislature thereof.

✓ 15. To enact articles of war.

✓ 16. To regulate the force permitted to be kept in each state.

Power to borrow Money-

~~17. To send embassadors.~~

against

To appoint a Treasurer by ~~joint~~ Ballot.

✓ 18. To declare it to be treason to levy war ^ or adhere to the enemies of the U. S.

19. ~~To organize the government in those things, which~~

Insert the 11th Article

All laws of a particular state, repugnant hereto, shall be void: and in the decision thereon, which shall be vested in the supreme judiciary, all cases which shall be so adjudged, as [illegible] the general principle.

That Trials for Crimes & Offences be in the State where the Offence was com'd by Jury — And a right to make all Laws necessary to carry the foregoing Powers into Effect —

2. The powers belonging peculiarly to the representatives are

Those concerning money-bills

3. The powers destined for the senate peculiarly, are

1. to make treaties of commerce
2. to make peace & declare war.
3. to appoint the judiciary.
4. to send Ambassadors.

A. The executive

The Governor of the united People & States of America.

1. shall consist of a single person;
2. who shall be chosen by a majority of the Legislature of each State, by a Majority on the other
3. and shall hold his office for the term of seven years.
4. and shall be ineligible thereafter.
5. His powers shall be
1. to carry into execution the national laws.
2. to ~~command and superintend the military & to direct their disposition~~
~~3. to direct the operations of the state, to wit their or any part of the militia of the national government~~
5. to appoint to offices not otherwise provided for by the constitution
6. to be removable on impeachment made by the house of representatives and on conviction
~~of malfeasance~~
~~or neglect of duty~~
before the supreme judiciary
of treason Bribery or Corruption.
7. to receive a fixed compensation for the duration of his time to wit the quantum of which shall be called by the national legislature to be paid out of the national treasury.

A to be Commander in Chief of the Land & Naval Forces of the Union & of the Militia of the several States.

He shall propose to the Legislature from time to time by speech or Message such Measures as common Weal requires

A no increase or decrease during the term of power of the Executive

Insert the IIth. Article

~~All laws of a particular state, repugnant hereto, shall be void: and in the decision therein, which shall be vested in the supreme judiciary, all incidents without which the general principles cannot be satisfied, shall be considered, as involved in the general principle.~~

That ^ Trials for Crimi. Offences be in the State where the Offe was comd — by Jury — And a right to make all Laws necessary to carry the foregoing Powers into Execu —

2. The powers belonging peculiarly to the representatives are
✓ those concerning money-bills

✓ 3. The powers destined for the senate peculiarly, are
✓ 1. To make treaties of commerce
Treaties of
✓ 2. to make ^ peace & Alliance.
✓ 3. to appoint the judiciary.
✓ 4 to send Embassadors ✓

4. The executive ⊕

✓✓8. ~~and~~ to have a qualified negative on legislative acts so as to require repassing by 2/3

✓ØGovernor of the united People & States of Americas./

✓ 1. shall consist of a single person; ✓

by ~~joint~~ Ballot
✓ 2. who shall ~~hold~~ be elected by the [~~xxxx~~]Legislature
shall [~~of wh?~~] each Ho. have a Negative on the other
✓ 3. and ^ hold his office for the term of ~~six~~seven years.✓
✓ 4. and shall be ineligible thereafter.✓

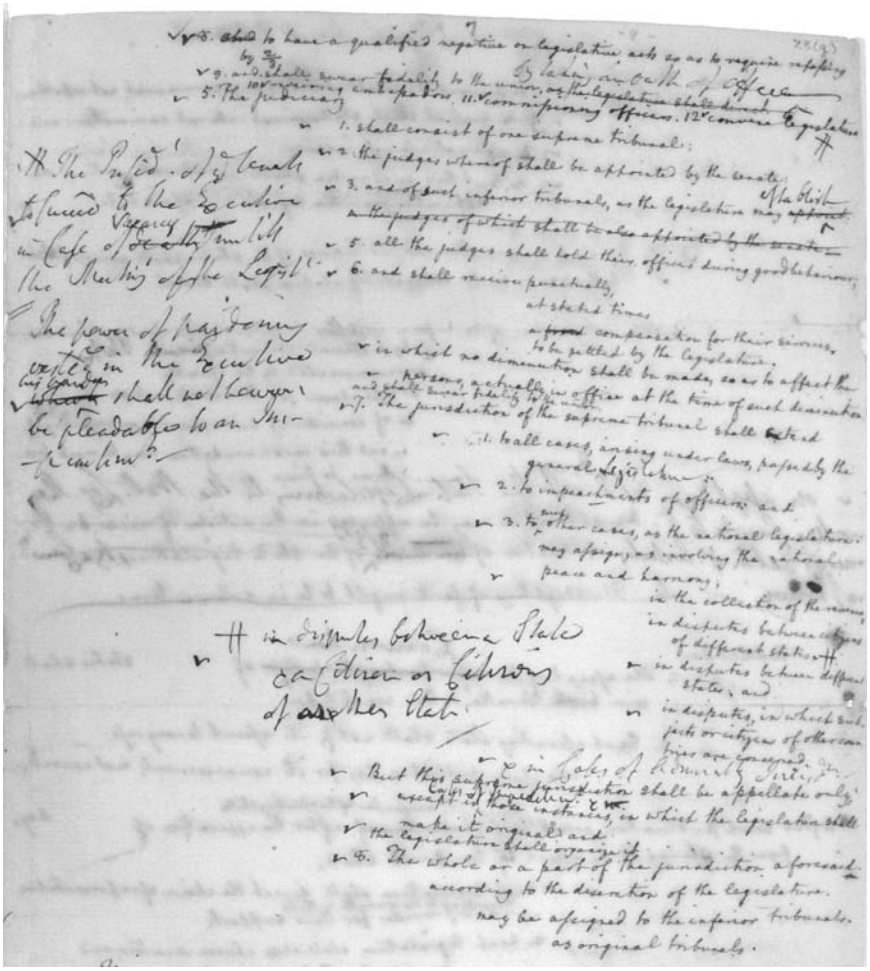
5. His powers shall be
✓ 1. to carry into execution the national laws, ✓
2. ~~to~~ + ~~command and superintend the militia,~~
~~3. to direct their discipline~~ ✓
~~4. to direct the executives of the states to call them or any part for ^ support of national government.~~
the
✓ 5. to appoint to offices, not otherwise provided for. by the constitution
✓ 6. to be removeable on impeachment, made be the house of representatives and ~~on~~ conviction ~~of malpractice or neglect of duty~~;
before the supreme judiciary
✓ of Treason Bribery or Corruption. ⊕
7. to receive a fixed compensation for the devotion of his time to public service the quantum of which shall be
✓ settled by the national legislature: to be paid out of the national treasury. A

+ to be Commander in Chief of the Land & ✓ Naval Forces of the Union & of the Militia of the Sevl. States.

⊕ shall propose to the Legisle. from Time to ✓ Time by Speech or Messg such Meas as concern this Union

⊕

A no Increase or decrease during the Time of Service of the Executive



8. ~~shall~~ to have a qualified negative on legislative acts so as to require ratifying by 3/4
9. and shall swear fidelity to the union, by taking an oath of office
10. receiving embassadors. 11. commissioning officers. 12. convene the legislature
5. The judiciary
1. shall consist of one supreme tribunal;
2. the judges whereof shall be appointed by the senate;
3. and of such inferior tribunals, as the legislature may ~~appoint~~ establish
4. the judges of which shall to also appointed by the senate
5. all the judges shall hold their offices during good behaviour;
6. and shall receive punctually, at stated times ~~a fixed~~ compensation for their services, to be settled by the legislature.
in which no diminution shall be made, so as to affect the persons actually in office at the time of such diminution
and shall swear fidelity to the union.
7. The jurisdiction of the supreme tribunal shall extend
1. to all cases, arising under laws, passed by the general legislature;
2. to impeachments of officers; and
3. to ~~cases~~ other cases, as the national legislature may assign, as involving the national peace and harmony;
in the collection of the revenue;
in disputes between citizens of different states;
in disputes between different states; and
in disputes, in which such citizens or citizens of other countries are concerned.
in cases of admiralty & maritime jurisdiction
But this supreme jurisdiction shall be appellate only, except in those instances, in which the legislature shall ~~not~~ make it original; and
the legislature shall organize it
6. The whole or a part of the jurisdiction aforesaid according to the discretion of the legislature, may be assigned to the inferior tribunals, as original tribunals.

11. The Pres[ident] of the Senate to succeed to the Executive Vacancy ~~[illegible]~~ in case of death, until the Meeting of the Legisl[ature]

The power of pardoning exists in the Executive ~~[illegible]~~ shall not however be pleadable to an impeachment?

11 in disputes between a State or Citizen or Citizens of another State

✓✓8. and to have a qualified negative on legislative acts so as to require repassing by 2/3

by taking an oath of office

✓9. and shall swear fidelity to the union, ~~as the legislature shall direct~~.

10 ✓receiving embassadors 11. ✓commissioning officers. 12 ✓convene legislature ǂ

✓5. The Judiciary

ǂ The Presid$^{t}$. of y$^{e}$ Senate ✓to succeed to the Executive in Case of ~~death~~ Vacancy [~~xx~~] untill the Meeting of the Legisl$^{e}$.

The power of pardoning vested in the Executive ✓~~which~~ his pardon ^ shall not howevr, be pleadable to an Impeachm$^{t}$.

✓1. shall consist of one supreme tribunal:

✓2. the judges whereof shall be appointed by the senate:

✓3. and of such inferior tribunals, as the legislature may ~~appoint~~ establish ^:

~~4. the judges of which shall be also appointed by the senate~~

✓5. all the judges shall hold their offices during good behaviour;

✓6. and shall receive punctually,

at stated times

a ~~fixed~~ compensation for their services, to be settled by the legislature.

✓in which no diminution hall be made, so as to affect the

✓persons, actually in office at the time of such diminution

and shall swear fidelity to the union.

✓7. The jurisdiction of the supreme tribunal shall extend

✓1. to all cases, arising under laws, passed by the general; Legislature:

✓2. to impeachments of officers: and

ǂ in disputes between a ✓State & a Citizen or Citizens of [~~xx~~]another State.___

such

✓3. to ^ other cases, as the national legislature may

✓assign, as involving the national peace and harmony

in the collection of the revenue,

in disputes between citizens of different states; ǁ

✓ in disputes between different states; and

✓ in disputes, in which subjects or citizens of other countries are concerned.

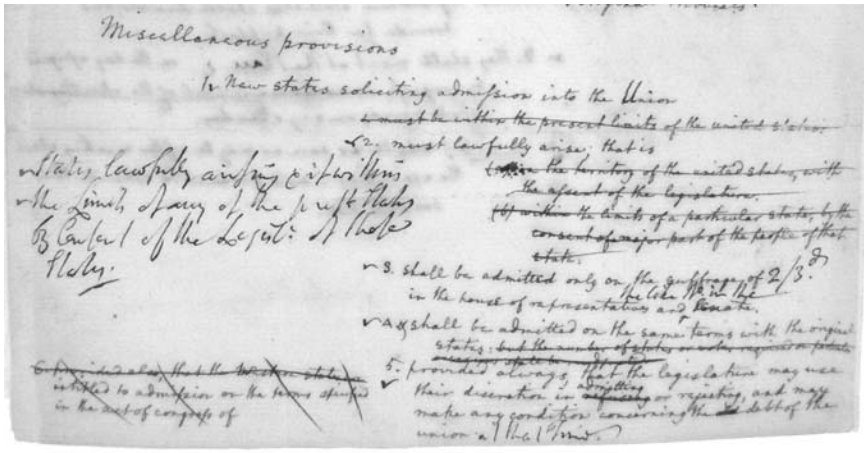
✓& in Cases of Admiralty Jurisd$^{n}$

✓ But this supreme jurisdiction shall be appellate only, Cases of Impeachmt & ~~in~~.

✓except in ^ those instances, in which the legislature. shall make it original: and

✓the legislature shall organize it.

✓8. The whole or a part of the jurisdiction aforesaid. according to the discretion of the legislature. may be assigned to the inferior tribunals, as original tribunals.



Miscellaneous provisions

1. New states soliciting admission into the Union

~~1. must be within the present limits of the united states~~

2. must lawfully arise. that is

~~(1) within the territory of the united states, with the assent of the legislature.~~

~~(2) within the limits of a particular state, by the consent of a major part of the people of that state.~~

States lawfully arising within the limits of any of the present states By Consent of the Legislature of those states.

3. shall be admitted only on the suffrage of 2/3 in the house of representatives and senate.

4. shall be admitted on the same terms with the original states. ~~but the number of states or votes required or present assenting shall be the same~~

~~5. provided always that the western states entitled to admission on the terms stipulated in the act of congress of~~

5. provided always, that the legislature may use their discretion in ~~admitting~~ or rejecting, and may make any condition concerning the ~~the~~ debt of the union a Ind. Pr. Mint.

[*Page 7 continued*]

Miscellaneous provisions

1✓ New states soliciting admission into the ~~u~~Union

~~1. must be within the present limits of the united states:~~

✓2. must lawfully arise; that is

✓States lawfully arising & if within ✓the Limits of any of the prest. States by Consent of the Legisl[e]. of those States.

~~(a) in the territory of the united states, with the assent of the legislature.~~

~~(b) within the limits of a particular state, by the consent of a major part of the people of that state:~~

✓3. shall be admitted only on the suffrage of 2/3.[d] in the house of representatives and the like N[o]. in the ^ [~~xx~~]Senate.

✓4. & shall be admitted on the same terms with the original states: ~~but the number of states or votes required on particular measures shall be readjusted~~

~~6. provided also, that the w~~Western ~~states are intitled to admission on the terms specified in the act of congress of~~

5. provided always, that the legislature ✓may use their discretion in ~~refusing~~ admitting or rejecting, and may make any condition concerning the ~~old~~ debt of the union at that Time.

23(h)

8

2. The guarantee is
1. to prevent the establishment of any government, not republican
3. to protect each state against internal commotion; and
2 against external invasion
A. But this guarantee shall not operate in the last case, unless on an application from the legislature of a state.

3. The legislative executive and judiciaries of the states shall be bound by oath to the union, as the national legislature shall direct.

A. The ratification of the new form is to be by the application of nine states
by a special convention, in each State
recommended by the assembly
to be chosen for the express purpose
of considering and approving or rejecting it
and this recommendation may be used from time to time

or appl.n of 2/3.d of the State Legislatures to the Nat. Leg. they call a Conv.n to 5. ~~An alteration may be effected in the articles of union, on the~~ ~~application of 2/3 of the state legislatures to a Conv.n~~ ~~application of two thirds~~ ~~of union~~ ~~6. The plighting of faith ought to be in solemn terms~~

Addenda

Conventions

1. The assent of the ~~major part of the people~~ of states shall ~~give birth~~ operation to this constitution.

2. Each assenting state shall notify its assent to congress:
who shall publish a day for its commencement, not exceeding days
After such publication, or ~~on~~ the ~~[illegible]~~ start of the major part of the assenting states, after the assertion of
from the giving of the assent ~~of~~ the ninth state,

1. each legislature shall direct the choice of representatives according to the seventh article and provide for their support.
2. Each legislature shall also choose senators; and provide for their support.
3. they shall meet at the Place on the day assigned by congress, ~~or as the major part of the assenting states shall agree, on any other day~~.
A. They shall as soon as may be after meeting elect the executive: and proceed to execute this constitution.

✓2. The guarantee is
✓1. to prevent the establishment of any government, not republican:
✓~~2~~3. to protect e~~t~~ach stateagainst internal commotion: and
✓~~3~~2. against external invasion.
in the last Case
✓4. But this guarantee shall not operate ^ without an application from the legislature of a state.
~~5.~~
✓3. The legislative executive and judiciaries of the states shall swear fidelity
✓to the union, as the national legislature shall direct.
4. ✓The ratification of the reform is (After the approbation of congress) to be made
✓ by a special convention, in each State
✓ recommended by the assembly
✓ to be chosen for the express purpose
in toto
✓ of considering and approving and rejecting it ^:
✓ and this recommendation may be used from
✓ time to time
✓on appln. of 2/3ds of the State Legislatures to the Natl. Leg. they
✓call a Convn.
✓to revise [&?]
alter ye. Articles of Union

5. ~~An alteration may be effected in the articles of union, on the~~
~~nine 7/3ds~~
~~application of two thirds ^ of the state legislatures. by a Convn.~~
~~6. The plighting of faith ought to be in solemn terms.~~

Addenda

Conventions

✓ 1. The assent of ~~the major part of the people~~ ^ of states shall give ~~birth~~ operation to this constitution.
✓ 2. Each assenting state shall notify its assent to congress: who shall publish a day for its commencement, not exceeding assent of the major part of the assenting states
✓After such publication, or ~~with~~ the ~~failure thereof~~, after the expiration of days from the [x]giving of the assent [x]of the [~~x~~]ninth state,
✓1. each legislature shall direct the choice of representatives,
according to the seventh article
and provide for their support:
✓2. Each legislature shall also choose senators; and provide for their support.
✓3. they shall meet at the Place & on the day assigned by congress, ~~or as the major part of the assenting states shall agree, on any other day.~~
✓4. They shall as soon as may be after meeting elect the executive: and proceed to execute this constitution.

-10-

The object of an address is to satisfy the people of the propriety of the proposed reform.

To this end the following plan seems worthy of adoption

1. To state the general objects of a confederation.
2. To shew by general, but pointed observations, in what ~~for trouble~~ respects, our confederation has fallen short of those objects.
3. The powers, necessary to be given, will then follow as a consequence of the defects.

4. A question next arises, whether these powers can with propriety be vested in congress. The answer is, that they cannot.

5. But as some states may possibly meditate partial confederations, it would be fit now to refute this opinion briefly.

6. It follows then, that a government of the whole on national principles, with respect to taxation &c is most eligible.

7. This would lead to a short exposition of the leading particulars in the constitution.

8. This done, conclude in a suitable manner.

This is the shortest scheme, which can be adopted. For it would be strange to ask ~~for~~ new powers, without assigning some reason (it matters not how general soever) which may apply to all of them. Besides we ought to furnish the advocates of the plan in the country with some general topics. Now I conceive, that these heads do not more, than comprehend the ~~of~~ necessary points.

The object of an address is to satisfy the people of the propriety of the proposed reform.

To this end the following plan seems worthy of adoption

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2 To shew by general, but pointed observations, in what ~~particulars~~ respects, our confederation has fallen short of those objects.
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## *Document V: "Beginning of a Draft with an Outline of the Continuation"*

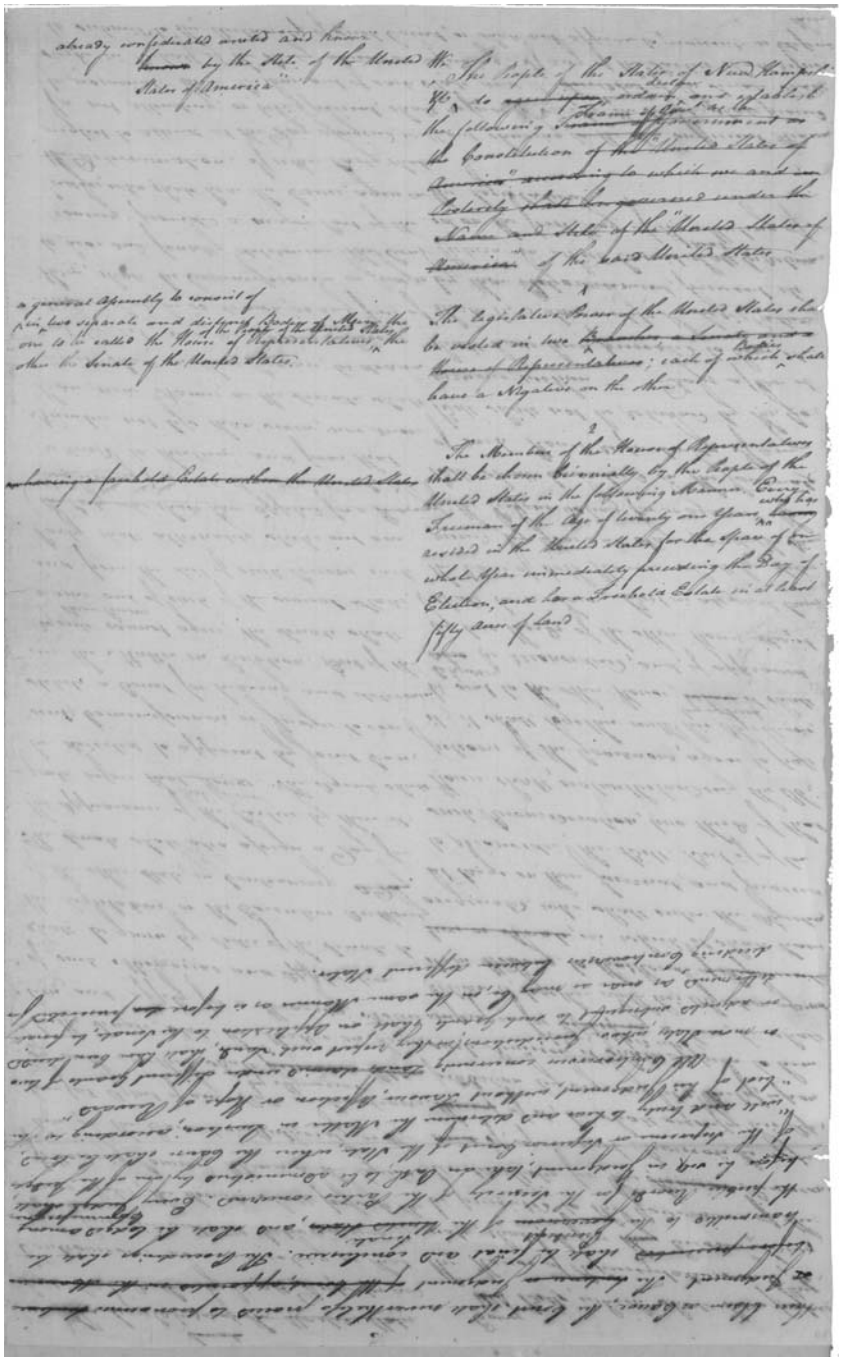
From the point of view of editorial method, this "document" is the most curious in Farrand's sequence. In a footnote, Farrand describes it as: "Document V in Wilson's handwriting as found among the Wilson Papers. It appears to be the beginning of a draft with an outline of the continuation." The first part of "Document V" includes a rough draft of the preamble (including, for the first time, the words "We the People") and two provisions on representation. This beginning is then followed by a terse outline of the Constitution's substantive remainder, which is broken up into three short sections subtitled "The Continuation of the Scheme," "Miscellaneous Resolutions," and "to be added."

Farrand does not remark that the two parts of Document V are found on two very different sheets of paper. The first is written in the corner of a folio sheet, measuring 23.75 × 38.5 cm; that sheet has been folded in half to make a signature of four pages. Wilson appears to have begun by writing the first part of Document V on what was then the "front page" of this four-page signature—then, later, he turned the signature upside down in order to continue writing a more complete rough draft ("Document VIII" in Farrand's numeration). So if one is looking at Document VIII, below, the first portion of Document V appears upside down on the final page. The second part of Document V, however—the outline beginning "The Continuation of the Scheme"—is written on both recto and verso sides of a smaller, 31 × 20 cm sheet of paper of a different make. Curiously, this paper was roughly the same size as Randolph's sketch, likely in Wilson's possession at the writing of Document V.

Not only do the two parts of Document V appear on two separate sheets of paper of different size, but the two sheets are found in different parts of the Wilson archive. The first part is today included within the boxes labeled "Wilson's First Draft of the Constitution," and at the time Farrand prepared his *Records*, it was bound as part of volume 1 of Wilson's papers. Today, as in Farrand's day, the second, or outlined portion, is document 63 of volume 2.[12]

What is of interest here is Farrand's editorial procedure. He evidently worked his way carefully through the two volumes, noticed that the "Continuation" fragment fit naturally with the first part of Document V, and, without remarking the fact, combined the two pages to make a single, continuous document. And indeed, because of the vagaries of the binding process, it is entirely possible that the two sheets, originally contiguous when they arrived at the Historical Society, were later separated when the other Committee of Detail documents were bound into volume 1, document 63 remaining with documents nearer its size in volume 2. Farrand was undoubtedly correct not to be governed by the ordering of the bound volumes; correct also that the "Continuation" fragment belongs to the work of the Committee of Detail; and correct that it fits more naturally with the first part of Document V than with any other surviving text among Wilson's papers. In the end, Document V is little more than an abruptly halted rough start followed by a terse structural outline, or a list of topics to be treated. However, a modern editor would be expected to note that the document's two pages were different enough to result in their physical separation into distinct volumes within Wilson's papers.

[12] The second portion of Document V was, until recently, housed in the box for volume 2, but has been removed, along with companion documents from the same folder, and placed within the "draft" boxes for safekeeping in a special, more-secured vault within the Historical Society.



already confederated united and known by the Stile of the United States of America

We the People of the States of New Hampshire Massachusetts Connecticut New York New Jersey Pennsylvania Delaware Maryland Virginia North Carolina South Carolina and Georgia do ordain and establish the following Frame of Government as the Constitution of the United States of America to which we and our Posterity shall be governed under the Name and Stile of the United States of America of the said United States

a general Assembly to consist of two separate and distinct Bodies of the United States the one to be called the House of Representatives the other the Senate of the United States

The Legislative Power of the United States shall be vested in two Houses Chambers or Houses of Representatives; each of which shall have a Negative on the other

being a freehold Estate within the United States

The Members of the House of Representatives shall be chosen biennially by the People of the United States in the following Manner Every Freeman who has the Age of twenty one Years and has resided in the United States for the Space of one whole Year immediately preceding the Day of Election, and has a freehold Estate in at least fifty acres of land

already confederated united and known ~~known~~ by the Stile of the United States of America"

We
^The People of the States of New Hampshire &C ^ do ~~agree upon~~,
declare
ordain ^ and establish the following
Frame of Gov.t as the
~~Frame of Government as the~~
Constitution ~~of the "United States of America" according to which we and our Posterity shall be governed under the Name and Stile of the "United States of America"~~ of the said United States

1

a general Assembly to consist of
^ in ^ two separate and distinct Bodies of Men, the one to be called
of the People of the United States
the House of Representatives, ^ the other the Senate of the United States.

The legislative Power of the United States shal be vested in two ~~Branches, a Senate and a House of~~ ^
Bodies
~~Representatives~~; each of which ^ shall have a Negative on the other

2

~~^^having a freehold Estate within the United States~~

The Members of the House of Representatives shall be chosen Biennially by the People of the United States in the following Manner. Every Freeman of the Age of twenty one
who has
Years, ^^ ~~having~~ resided in the United States for the Space of one whole Year immediately preceding the Day of Election, and has a Freehold Estate in at least fifty acres of Land

[*The bottom of this page is transcribed as the last portion of Document VIII.*]

The Continuation of the Scheme

1. To limit of the Powers of the Legislature

2. To exempt from their Powers certain specified Cases

3 To provide in certain Cases a greater Number than a Majority necessary

4. To assign to the Repr. any Powers precisely, only belonging to it

5 To assign, in same Manner, Powers which may, with Propriety be vested in it.

6 To limit of the Executive

7 —— of the Judiciary

Miscellaneous Resolutions

1. Admission of new States

2. The Guaranty to each State

3. The Obligation to support the Act of Union

4. The Manner of Ratification

5. The Manner of Alteration

6. The Rights of mutual Faith

To be added

The Continuation of the Scheme

1. To treat of the Powers of the legisla[ture/tive?]
[*]2. To except from those Powers certain specified Cases
3 To render in certain Cases a greater Number than a Majority necessary
4. To assign to H. Repr — any Powers peculiarly belonging to it
5 To assign, in same Manner, Powers which may, with Propriety be vested in it.
6 To treat of the Executive
7 _____ of the Judiciary

Miscellaneous Resolutions

1. Admission of new States
2. The Guaranty to each State
3. The Obligation to support the Art. of Union
4. The Manner of Ratification
5. The Manner of Alteration.
6. The Plighting of mutual Faith

To be added

To be added

1. How many States will be necessary to assent to this Plan

2. What Day shall be appointed for the States to give an Answer

3. Qu. whether any Thing should be said as to the Amendment by the State

4. As to the Introduction of the Government

To be added

1. How many States will be necessary to assent to this Plan

2. What Day shall be appointed for the States to give an Answer

3. Qu. whether any Thing should be said as to the Amendment by the States

4. As to the Introduction of the Government

## *Document VI: Wilson's Rough Draft, Part I*

The next document, like the last, is fragmented, and begins "We the People." It is composed of two folio sheets 38.5 × 47.5 cm, each folded in half to create a signature of four pages. However, the original document (as Jameson already observed) probably was composed of three such sheets. We know this because a large section of the Constitution's outline articulated in "Continuation of the Scheme" is missing, including any information about the executive and judiciary. Additionally, the second folio sheet starts in the middle of a sentence, in the middle of a word; and the first sheet is labeled (in Wilson's hand) "1" while the second is labeled "3."

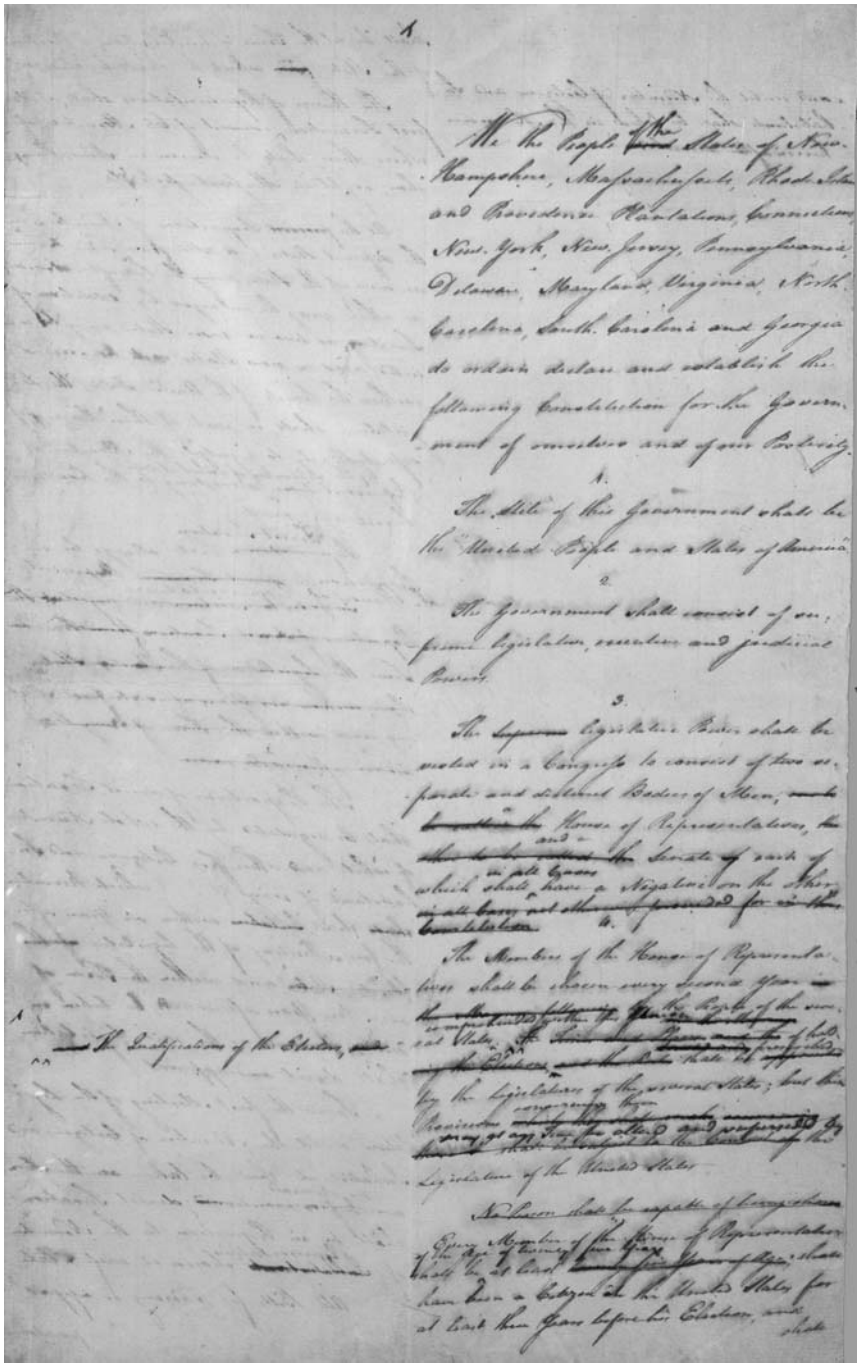
Farrand tells us that a smaller single sheet was "placed" between the two extant folio sheets. On this sheet are found extracts from the Pinckney and New Jersey plans. Jameson surmises that they perhaps were included here because they contained provisions that the missing sheet would have included, i.e. powers and jurisdictions of the executive and judicial branches.[13]

In other words, Wilson's first substantial draft consists of three Farrand documents: Document VI (the first four-page folio sheet); Document VII (the New Jersey and Pinckney extracts); and Document VIII (the final folio sheet).

The initial sheet of this, Wilson's first substantive draft, was bound first in volume 1.[14] It appears first in the facsimile copies of volume 1 made by the Historical Society in 1972 and currently is boxed and matted as part of the documents labeled "James Wilson's First Draft of the Constitution." It contains provisions detailing the manner of electing representatives, taxation powers, a first rough draft of the infamous three-fifths clause, the taking of censuses, and many other provisions that approximately parallel sections 1–7 and a few powers contained in section 8, Article I of the Constitution.

[13] See *Early Drafts of the U.S. Constitution*, supra note 3; Jameson, *Studies*, 128.

[14] Ibid.



1.

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.

1.

The Stile of this Government shall be the United States of America.

2.

The Government shall consist of one supreme Legislative, executive and judicial Power.

3.

The ~~Supreme~~ Legislative Power shall be vested in a Congress to consist of two separate and distinct Bodies of Men, ~~each to be called the~~ House of Representatives, ~~the other to be called the~~ and Senate ~~of~~ each of which shall have a Negative on the other ~~in all Cases not otherwise provided for in this Constitution~~ in all Cases.

4.

The Members of the House of Representatives shall be chosen every second Year ~~by the people of the several States~~ in such Manner as shall be prescribed by the Legislatures of the several States; but the Qualifications ~~of the Electors shall be prescribed by the Legislature of the United States~~ requisite for Electors in each State shall be prescribed by the Legislature of the United States.

~~No person shall be capable of being chosen~~ Every Member of the House of Representatives ~~of the Age of Thirty five Years, and shall be at least seven Years a Citizen of the United States for at least three Years before his Election, and shall~~

The Qualifications of the Electors, ~~and~~

1

We the People ~~and~~ 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 of our Posterity.

1.

The Stile of this Government shall be the "United People and States of America."

2.

The Government shall consist of supreme legislative, executive and judicial Powers.

3.

The ~~Supreme~~ legislative Power shall be vested in a Congress to consist of two separate and distinct Bodies of Men, ~~one to be called the~~ a House of Representatives, ~~the other to be called the~~ and a Senate ~~of~~ in all Cases each of which shall^ have a Negative on the other ~~in all Cases not otherwise provided for in this Constitution~~

4.

The Members of the House of Representatives shall be chosen every second Year ~~in the Manner following~~ by the People of the several States^. ^^ ~~The~~ ^^ ~~and~~ The Qualifications of the Electors, ~~and~~ ~~Time and Place~~ ~~and the~~ ~~and the Manner~~ of hold~~ing the Elections,~~ ^ ~~and the Rules~~ ~~[xxxxx] and~~ prescribed shall be ~~appointed~~ by the Legislatures of the several States; but thise Provisions ~~which they shall make concerning them and shall be subject to~~ concerning them may, at any Time be altered and superseded by ~~the Control of~~ the Legislature of the United States

~~No Person shall be capable of being chosen~~

Every Member of the House of Representatives shall be ^ at least ~~twenty five Years of Age~~ of the Age of twenty five Years; shall have been a Citizen in the United States for at least three Years before his Election, and

shall

shall be, at the time of his Election, a Resident of the State, ~~for~~ which he shall be chosen.

and until the Number of Citizens and Inhabitants shall be taken in the Manner hereinafter directed

The House of Representatives shall, at its first Formation, consist of 65 Members, of whom there shall be chosen in New Hampshire, eight in Massachusetts &c.

As the ~~present~~ Proportions of Numbers in the different States will alter from Time to Time, as some of the States may be hereafter divided, or others may be enlarged by Addition of Territory, or two or more States may be united, and as new States will be created within the limits of the United States, the Legislature shall, in each of these Cases, pass an Authority to regulate the Number of Representatives, according to the Rule herein after made.

☐ Insert that

David Trustees ~~Representation~~ shall always be in Proportion to ~~their Inhabitants~~ Representatives in the House of Representatives ~~and regulate the Proportions of direct Taxation from Time to Time, the Legislature of the United States shall within six Years after the first Meeting and within the Term of every ten Years afterwards, cause~~

The Proportions of direct Taxation shall be regulated by the whole Number of white and other free Citizens and Inhabitants of every Age, which Number ~~shall~~ shall, ~~be taken~~ within six Years after the first Meeting of the Legislature ~~of the United States~~, and within the Term of every ten Years afterwards, be taken in such Manner as the said Legislature shall direct ~~and appoint~~

From the first Meeting of the Legislature until the Number of Citizens and Inhabitants shall be taken ~~as the same are before mentioned~~ as aforesaid direct Taxation shall be in Proportion to the Number of ~~Inhabitants~~ Representatives chosen in each State

All Bills for raising or appropriating

^ and until the Number of Citizens and Inhabitants shall be taken in the Manner hereinafter described

shall be, at the Time of his Election, a Resident of the State, ~~from~~ in which he shall be chosen.

The House of Representatives shall, at its first Formation ^ consist of 65 Members, of whom three shall be chosen in New-Hampshire, eight in Massachusetts &C.

As the ~~present~~ Proportions of Numbers in the different States will alter from Time to Time; as some of the States may be hereafter divided; as others may be enlarged by Addition of Territory, or two or more States may be united; and as new States will be erected within the Limits of the United States; the Legislature shall, in each of these Cases, possess Authority to regulate the Number of Representatives^ according to the Provisions herein after made.

□ See next Sheet

Representation in the House of Representatives.

~~Representation~~ Direct Taxation shall always be in Proportion to ~~direct Taxation.~~

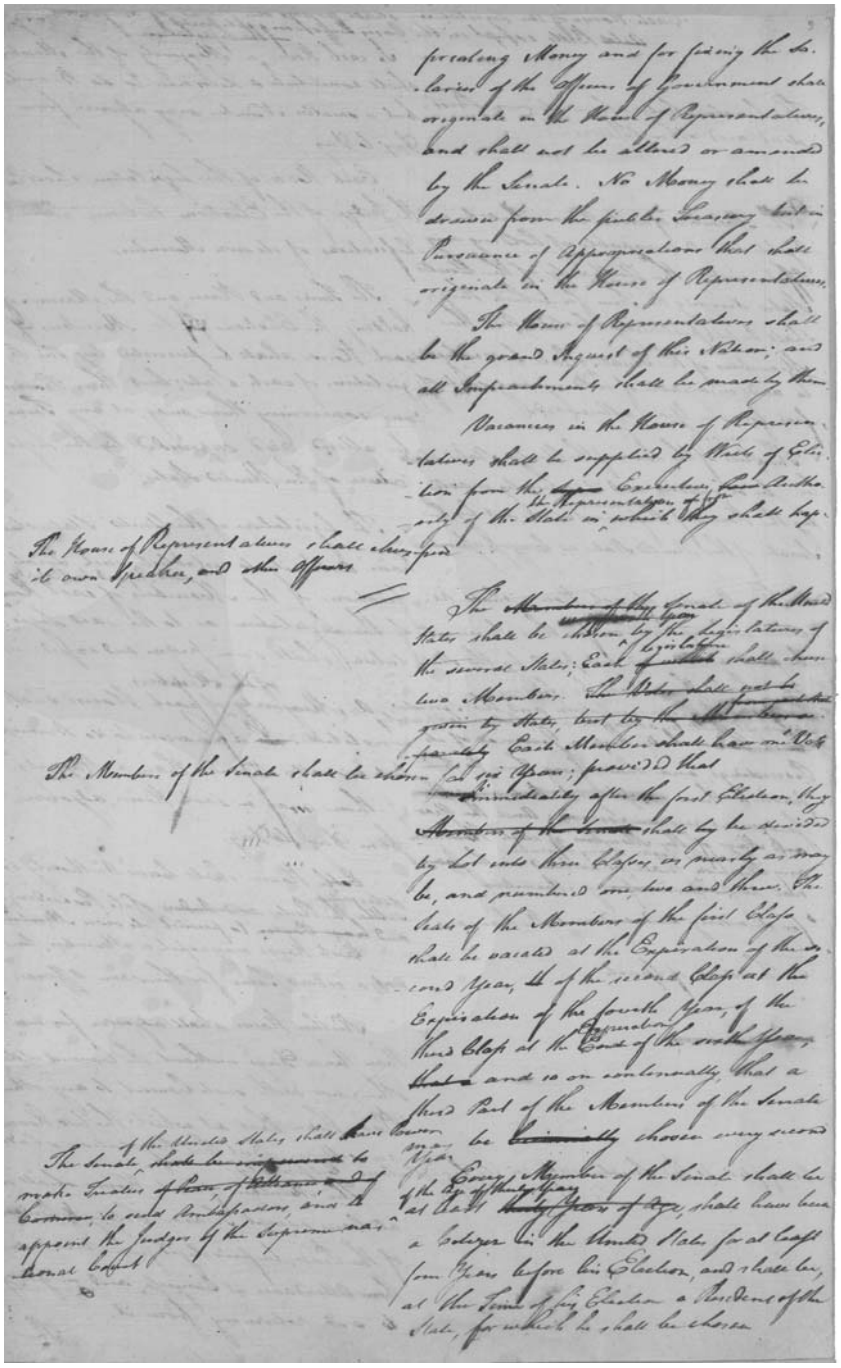
~~In order to ascertain and regulate the Proportions of direct Taxation from Time to Time, the Legislature of the United States shall, within six Years after its first Meeting and within the Term of every ten Years afterwards, cause~~

The Proportions of direct Taxation shall be regulated by the whole Number of white and other Free Citizens and Inhabitants of every &C. which Number ~~shall~~ shall, ~~be taken~~ within six Years after the first Meeting of the legislature ~~of the United States~~, and within the Term of every ten Years afterwards, be taken in such Manner as the said Legislature shall direct ~~and appoint~~

From the first Meeting of the Legislature until the Number of Citizens and Inhabitants shall be taken ~~in the Manner before mentioned~~ as aforesaid, direct Taxation shall be in Proportion to the Number of ~~Inhabitants~~ Representatives chosen in each State

All Bills for raising or appro

-priating



raising Money and for paying the Debts 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.

The House of Representatives shall be the grand Inquest of this Nation; and all Impeachments shall be made by them.

Vacancies in the House of Representatives shall be supplied by Writs of Election from the ~~Seve~~ Executives ~~from~~ Authorities of the States in which they shall happen.

The House of Representatives shall chuse their own Speaker, and other Officers.

The ~~Members of the Senate of the United States~~ shall be chosen by the Legislatures of the several States; Each ~~of which~~ Legislature shall chuse two Members. ~~The Votes shall not be given by States, but by the Members severally~~ Each Member shall have one Vote.

The Members of the Senate shall be chosen by lot into three Classes; provided that ~~immediately~~ after the first Election, they ~~Members of the Senate~~ shall be divided by lot into three Classes, as nearly as may be, and 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, ~~that~~ and so on continually, that a third Part of the Members of the Senate may be ~~biennially~~ chosen every second Year.

Every Member of the Senate shall be of the Age of thirty Years at least ~~thirty Years of Age~~, 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 be chosen.

The Senate of the United States shall have Power to make Treaties ~~of Peace, of Alliance, and of Commerce~~, to raise Ambassadors, and to appoint the Judges of the Supreme National Court.

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Vacancies in the House of Representatives shall be supplied by Writs of Election from the ~~Supr~~ the Representation ~~of~~ from Executive ~~Powr~~ Authority of the State in ^ which they shall happen.

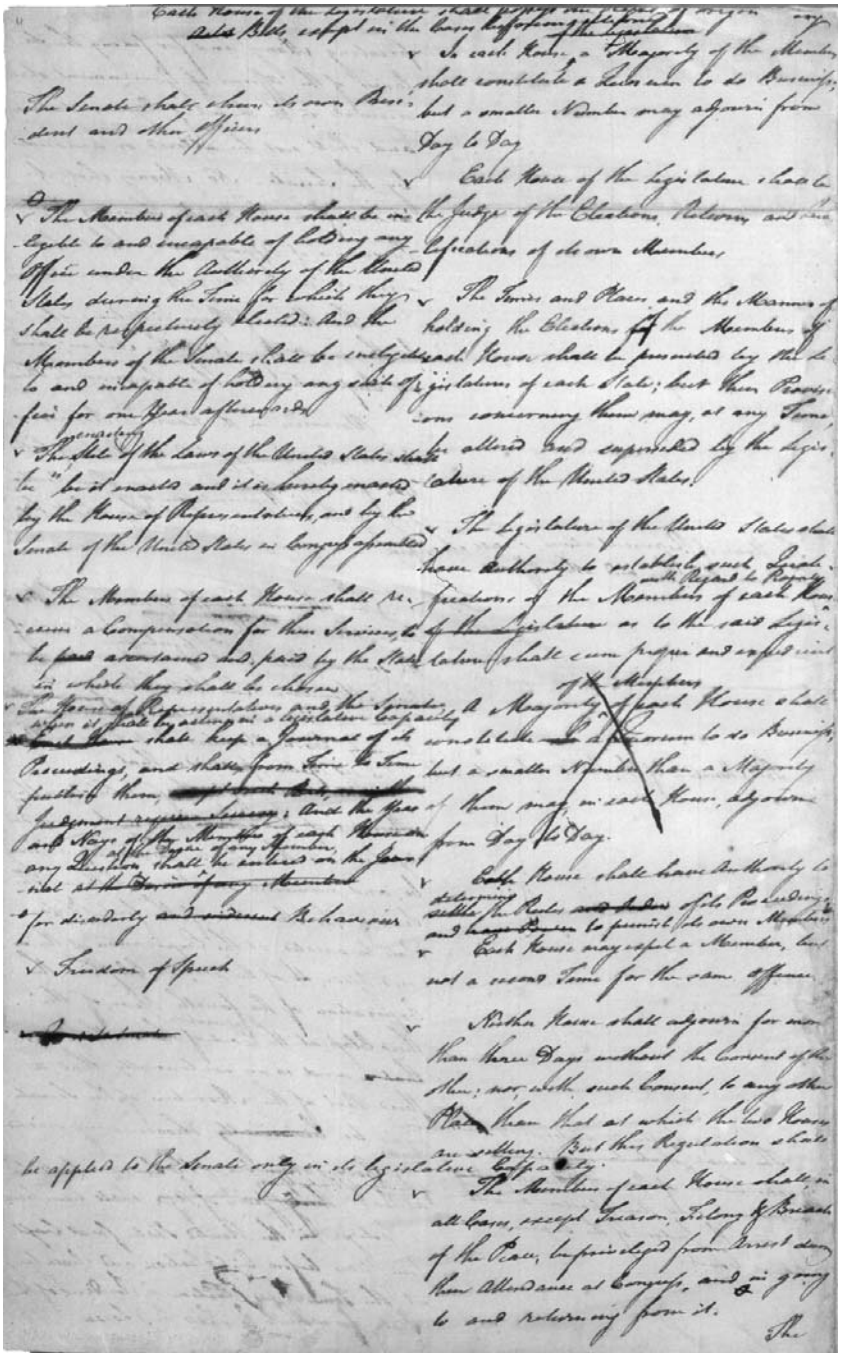
The Members of the Senate shall be chosen

The ~~Members of the~~ Senate of the United States shall be chosen ^ ~~every sixth Year~~ by the Legislatures of the several States; ~~e~~Each Legislature ~~of which~~ shall chuse two Members. ~~The votes shall not be given by States, but by the Members separately~~ from each State Each Member shall have one Vote for six Years; provided that

~~I~~immediately after the first Election, they ~~Members of the Senate~~ shall ~~by~~ be divided by Lot into three Classes as nearly as may be, and numbered one, two and three. The Seats of the Members of the first Class shall be vacated at the Expiration of the second Year, ~~th~~ of the second Class at the Expiration of the fourth Year, of the third Class at the ~~End~~ Expiration of the sixth Year, ~~that a~~ and so on continually, that a third Part of the Members of the Senate may be ~~biennially~~ chosen every second Year

The Senate ^ ~~shall be [empowered?]~~ to make Treaties ~~of Peace, of Alliance, and of Commerce~~, to send Ambassadors, and to appoint the Judges of the Supreme, national Court of the United States shall have Power

Every Member of the Senate shall be ^ at least ~~thirty Years of Age~~ of the Age of thirty Years, 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 be chosen



Each House of the Legislature shall [illegible] on the Bills, except on the Bills before mentioned

The Senate shall choose its own President and other Officers

So each House, a Majority of the Members shall constitute a Quorum to do Business; but a smaller Number may adjourn from Day to Day

Each House of the Legislature shall be the Judge of the Elections, Returns and Qualifications of its own Members,

The Times and Places and the 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 and supplied by the Legislature of the United States.

The Members of each House shall be ineligible to and incapable of holding any Office under the Authority of the United States during the Time for which they shall be respectively elected: And the Members of the Senate shall be ineligible to and incapable of holding any other Office for one Year afterwards.

The Legislature of the United States shall have Authority to establish such Laws, with Regard to Property, as the Members of each House shall be entitled to as the said Legislature shall come prepared and supplied with

The Stile 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"

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

A Majority of each House shall constitute a Quorum to do Business; but a smaller Number than a Majority of them may in each House, adjourn from Day to Day.

The House of Representatives and the Senate, when it shall be acting as a Legislative Body, shall keep a Journal of its Proceedings, and shall, from Time to Time, publish the same, excepting such Parts as may require Secrecy; and the Yeas and Nays of the Members of each House on any question, shall be entered on the Journal at the Desire of any Member

Each House shall have Authority to determine the Rules of its Proceedings, settle the Rules and Orders of its Proceedings and to punish its own Members for disorderly and indecent Behaviour

Each House may expel a Member, but not a second Time for the same Offence

Freedom of Speech

Neither House shall adjourn for more than three Days without the Consent of the other; nor, with such Consent, to any other Place than that at which the two Houses are sitting. But this Regulation shall be applied to the Senate only in its Legislative Capacity.

The Members of each House shall, in all Cases, except Treason, Felony & Breach of the Peace, be privileged from Arrest during their Attendance at Congress, and in going to and returning from it.

The

Each House of the Legislature shall possess the right of origin ing ~~Acts~~ Bills, except in the Cases beforementioned

The Senate shall chuse its own President and other Officers

✓⊖ The Members of each House shall be ineligible to and incapable of holding any Office under the Authority of the United States during the Time for which they shall be respectively elected: And the Members of the Senate shall be ineligible to and incapabe of holding any such office for one Year afterwards

enacting

✓ The ^ Stile 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

✓ The Members of each House shall receive a Compensation for their Services, to be ~~paid~~ ascertained and paid by the State in which they shall be chosen

✓ The House of Representatives and the Senate when it shall be acting in a legislative Capacity ~~*Each House~~ shall keep a Journal of its Proceedings, and shall, from Time to Time publish them, ~~except such Parts, as in their Judgment require Secrecy~~; And the Yeas and Nays of the Members of each

at the Desire of any Member,

House on any Questions shall ^ be entered on the Journal ~~at the Desire of any Member~~

⊖ for disorderly and indecent Behaviour

✓ Freedom of Speech

~~[Xxxxxxxxxxx]~~

of the Legislature

✓ 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

✓ Each House of the Legislature shall be the Judge of the Elections, Returns and Qualifications of its own Members

✓ The Times and Places and the Manner of

of

holding the Elections ~~for~~ the Members of each House shall be prescribed by the Legislatures of each State; but their Provisions concerning them may, at any Time, be altered and superseded by the Legislature of the United States.

✓ The Legislature of the United States shall have Authority to establish such Qualifications

with Regard to Property

of the Members of each House ^ ~~of the Legislature~~ as to the said Legislature shall seem proper and expedient

~~of the Members~~

~~A Majority ^ of each House shall constitute als a Quorum to do Business, but a smaller Number than a Majority of them may, in each House, adjourn from Day to Day.~~

determine

✓ Each House shall have Authority to ~~settle~~ the Rules ~~and Orders~~ of its Proceedings,

and ~~have Power~~ to punish its own Members ⊖

✓ Each House may expel a Member, but not a second Time for the same Offence.

✓ Neither House shall adjourn for more than three Days without the Consent of the other; nor, with such Consent, to any other Place than that at which the two Houses are sitting. But this Regulation shall

be applied to the Senate only in its legislative Capacity

✓ The Members of each House shall, in all Cases, except Treason, Felony & Breach of the Peace, be privileged from Arrest during their Attendance at Congress, and in going to and returning from it. ⊖

The

## *Document VII: Excerpts from the New Jersey and Pinckney Plans*

The next document published by Farrand is what Jameson determined to be excerpts of the New Jersey and Pinckney plans.[15] It is one half-folio page, 23.75 × 38.5 cm, with writing on both sides. It was originally placed second in the order of binding, third in the 1972 facsimile (likely the result of researcher shuffling), and is currently boxed and matted at the Historical Society of Pennsylvania with those documents labeled "James Wilson's First Draft of the Constitution."[16]

The significance of this document was established by Jameson. It shows that while these plans, particularly the Pinckney Plan, were not discussed in convention, they were used extensively by Wilson and the Committee of Detail in creating the drafts of the Constitution. As Jameson says, "The discovery of these documents shows that referring the New Jersey and Pinckney plans to the Committee of Detail was not, as has generally been assumed, a mere smothering of them. They were used."[17] Jameson later recounts that up to twenty provisions of the Pinckney plan were used in the Committee of Detail's report and ultimately incorporated into the Constitution.[18]

In the text below, the New Jersey extracts come first; the Pinckney extracts commence with the paragraph, "The Legislature shall consist of . . ."

[15] Jameson, *Studies*, 128–32.
[16] Ibid., 128; Wilson Papers, vol.1, folders 9–10.
[17] Jameson, *Studies*, 131.
[18] Ibid., 132, 151–56.

an Appeal for the Correction of all Errors both in Law and Fact

That the United States in Congress be authorised — to pass Acts for raising a Revenue by levying Duties on all Goods and Merchandise of foreign Growth or Manufacture imported into any Port of the United States — by Stamps on Paper Vellum or Parchment — and by a Postage on all Letters and Packages passing through the general Post Office, to be applied to such federal Purposes as they shall deem proper and expedient — to make Rules and Regulations for the Collection thereof — to pass Acts for the Regulation of Trade and Commerce as well with foreign Nations as with each other

To lay and collect Taxes

That the Executive direct all military Operations

That the Judiciary have Authority to hear and determine all Impeachments of federal Officers; and, by Way of Appeal, in all Cases touching the Rights of Ambassadors — in all Cases of Capture from an Enemy — in all Cases of Piracies and Felonies on the high Sea — in all Cases in which Foreigners may be interested in the Construction of any Treaty, or which may arise on the Law of Nations, or on any Act for regulating Trade or collecting Revenue

in all Cases of Revenue

and commercial or maritime Laws

If any State or any Body of Men in any State shall oppose or prevent the carrying into Execution the Acts or Treaties of the United States, the Executive shall be authorised to enforce and compel Obedience by calling forth the Powers of the United States.

That the Rule for Naturalization ought to be same in every State

The Legislature shall consist of two distinct Branches — a Senate and a House of Delegates, each of which shall have a Negative on the other, and shall be stiled the U.S. in Congress assembled.

Each House shall appoint its own Speaker and other Officers, and settle its own Rules of Proceeding; but neither the Senate nor H.D. shall have the Power to adjourn for more than Days, without the ~~other~~ Consent of both.

There shall be a President, in whom the Ex. Authority of the U.S. shall be vested. It shall be his Duty to inform the Legislature

An Appeal for the Correction of all Errors both in Law and Fact

That the United States in Congress be authorised — to pass Acts for raising a Revenues, by levying 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 Post-Office, to be applied to such fœderal Purposes as they shall deem proper and expedient — to make Rulesand Regulations for the Collection thereof —to pass Acts for the Regulation of Trade and Commerce as well with foreign Nations as with each other

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in all cases of Revenue

or on the Law of Nations, or general commercial or marine Laws

If any State, or any Body of Men in any State shall oppose or prevent the carrying into Execution the Acts or Treaties of the United States; the Executive shall be authorised to enforce and compel Obedience by calling forth the Powers of the United States.

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There shall be a President, in whom the Ex. Authority of the U. S. shall be vested. It shall be his Duty to inform the Legislature

of

of the Condition of U.S. so far as may respect his Department — to recommend Measures to their Consideration — to correspond with the Executives of the several States — to attend to the Execution of the Laws of the U.S. — to transact Affairs with the Officers of Government, civil and military — to expedite all such Measures as may be resolved on by the Legislature — to inspect the Departments of foreign Affairs — War — Treasury — Admiralty — to report when the Legislature shall ask — to commission all Officers, and keep the Great Seal of U.S. — He shall, by Virtue of his Office, be Commander in Chief of the Land Forces of U.S. and Admiral of their Navy — He shall have Power to convene the Legislature on extraordinary Occasions — to prorogue them provided such Prorogation shall not exceed Days in the Space of any — He may suspend Officers civil and military

The Legislature of U.S. shall have the exclusive Power — of raising a military Land Force — of equipping a Navy — of raising and levying public Taxes to be levied — of regulating the Trade of the several States as well with foreign Nations as with each other — of laying Duties upon Imports and Exports — of establishing Post-Offices and raising a Revenue from them — of regulating Indian Affairs — of coining Money — fixing the Standard of Weights and Measures — of determining in what Species of Money the public Revenue shall be supplied

The federal judicial Court shall try Offences of the U.S. for all Crimes committed in their Office — ~~and to hear and determine Appeals shall be allowed from the Courts of~~

The Legislature of U.S. shall have the exclusive Right of establishing in each State a Court of Admiralty for hearing and determining maritime Causes.

The Power of impeaching shall be vested in the H.R. — The Senators and Judges of the federal Court, be a Court for trying Impeachments

The Legislature of U.S. shall possess the exclusive Right of establishing the Government and Discipline of the Militia of — and of ordering the Militia of any State to any Place within U.S.

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The Legislature of U. S. shall have the exclusive Power — of raising a military Land. Force — of equiping a Navy — of rating and causing public Taxes to be levied — of regulating the Trade of the several States as well with foreign Nations as with each other — of levying Duties upon Imports and Exports — of establishing Post-Offices, and raising a Revenue from them — of regulating Indian Affairs — of coining Money — fixing the Standard of Weights and Measures — of determining in what Species of Money the public Treasury shall be supplied

The fœderal judicial Court shall try Officers of the U. S. for all Crimes &C. in their Offices — ~~and to this Court an Appeal shall be allowed from the Courts of~~

The Legislature of U. S. shall have the exclusive Right of instituting in each State a Court of Admiralty for hearing and determining maritime Causes.

The Power of impeaching shall be vested in the H. D. — The Senators and Judges of the foederal Court, be a Court for trying Impeachments

The Legislature of U. S. shall possess the exclusive Right of establishing the Government and Discipline of the Militia of — and of ordering the Militia of any State to any Place within U. S.

## *Document VIII: Wilson's Rough Draft, Part II*

This document is on the same large, folio sheet as the first portion of Document V. It begins "mitted on the same Terms with the original States," catching the author mid-way through a provision regulating the admission of new states. It is labeled "3" by Wilson. It treats the topics mentioned in the "Miscellaneous Resolutions" and "to be added" sections of the second part of Document V, roughly paralleling Articles IV–VII of the Constitution. It also includes a provision on convening Congress, rough drafts of the presentment veto, veto-override clauses, and provisions (derived from the Articles of Confederation) stipulating a complex procedure for arbitrating disputes between states and another shorter provision providing the Senate with power to decide land disputes.

As explained above, the first portion of Document V, including the initial appearance of "We the People," appears upside down on the last page of Document VIII.

Document VIII appeared third in the bound version of volume 1, second in the 1972 facsimile version (with pages 2 and 3 in inverse order), and is currently contained in the matted and boxed collection of documents labeled "James Wilson's First Draft of the Constitution."

[19] Jameson, *Studies*, 128; Wilson Papers, vol. 1, folders 5–8.

3

admitted on the same Terms with the original States: But the Legislature may make Conditions with the new States concerning their public Debt which shall be then subsisting

The United States shall guarantee to each State a Republican Form of Government; and shall protect each State against foreign Invasion, and on the Application of its Legislature against domestic Violence.

This Constitution ought to be amended whenever such Amendment shall have necessary; and, on the Application of the Legislatures of two thirds of the States in the Union, the Legislature of the United States shall call a Convention for that Purpose

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.

Resolved That the Constitution proposed by this Convention, to the People of the United States for their Approbation, and before the United States in Congress assembled for their Assent and Recommendation, and afterwards to be submitted to a Convention chosen in each State under the Recommendation of its Legislature, in order to receive the Ratification of such Convention.

Resolved

3

mitted on the same Terms with the original States: But the Legislature may make Conditions with the new States concerning ~~with Respect to~~ the public ~~then subsisting~~ Debt ~~of the United States~~ which shall be then subsisting

The United States shall guaranty to each Stat a ~~A~~ Republican Form of Government shall ~~be guarantied to each State by the United States~~; and the shall protect each State ~~from~~ against foreign Invasions ~~domestic Violene~~ and, on the Application of its Legislature ~~from foreign Invasions~~. against domestic Violence

This Constitution ought to be amended whenever such Amendment shall becom necessary; and, on the Application of the Legislatures of two thirds of the States in the Union, the Legislature of the United States shall call a Convention for that Purpose

The Members of the Legislature, and the executive and judicial Officers of the United States and of the several States shall be bound by Oath to support this Constitution.

Resolved That the Constitution proposed by this Convention, to the People ~~and States~~ of the United States for their Approbation s~~hould, as [soon?] as may be, laid~~ be [~~xx~~] laid, before the United State[s?] in Congress assembled for their Agreem[ent?] and Recommendation, and ~~s[hould?]~~ be afterwards ~~be~~ submitted to a Convention chosen in each State under the Recommendation of its Legislature, in order to receive the Ratification of such Convention

Resolved

Resolved That the Ratification of the Convention of States shall be sufficient for organizing this Constitution: That each assenting Convention State shall notify its Assent and Ratification to the United States in Congress assembled: That the United States in Congress assembled, after receiving the Assent and Ratification of the Convention of States shall appoint and publish a Day, as early as may be, and appoint a Place for ~~organizing and~~ commencing ~~Ope~~ Proceedings under this Constitution: That after such Publication, or (in Case it shall not be made) after the Expiration of Days after from the Time when the Ratification of the Convention of the State shall have been notified to Congress the Legislatures of the several States shall elect Members of the Senate, and direct the Election of Members of the House of Representatives, and shall provide for their Support: That the Members of the Legislature shall meet at the Time and Place assigned by Congress or (if Congress shall have assigned no Time and Place) at such Time and Place as shall be agreed on by the Majority of the Members elected for each House, and shall as soon as may be after their Meeting choose the Executive of the United States, and proceed to ~~carry~~ execute this Constitution

Resolved

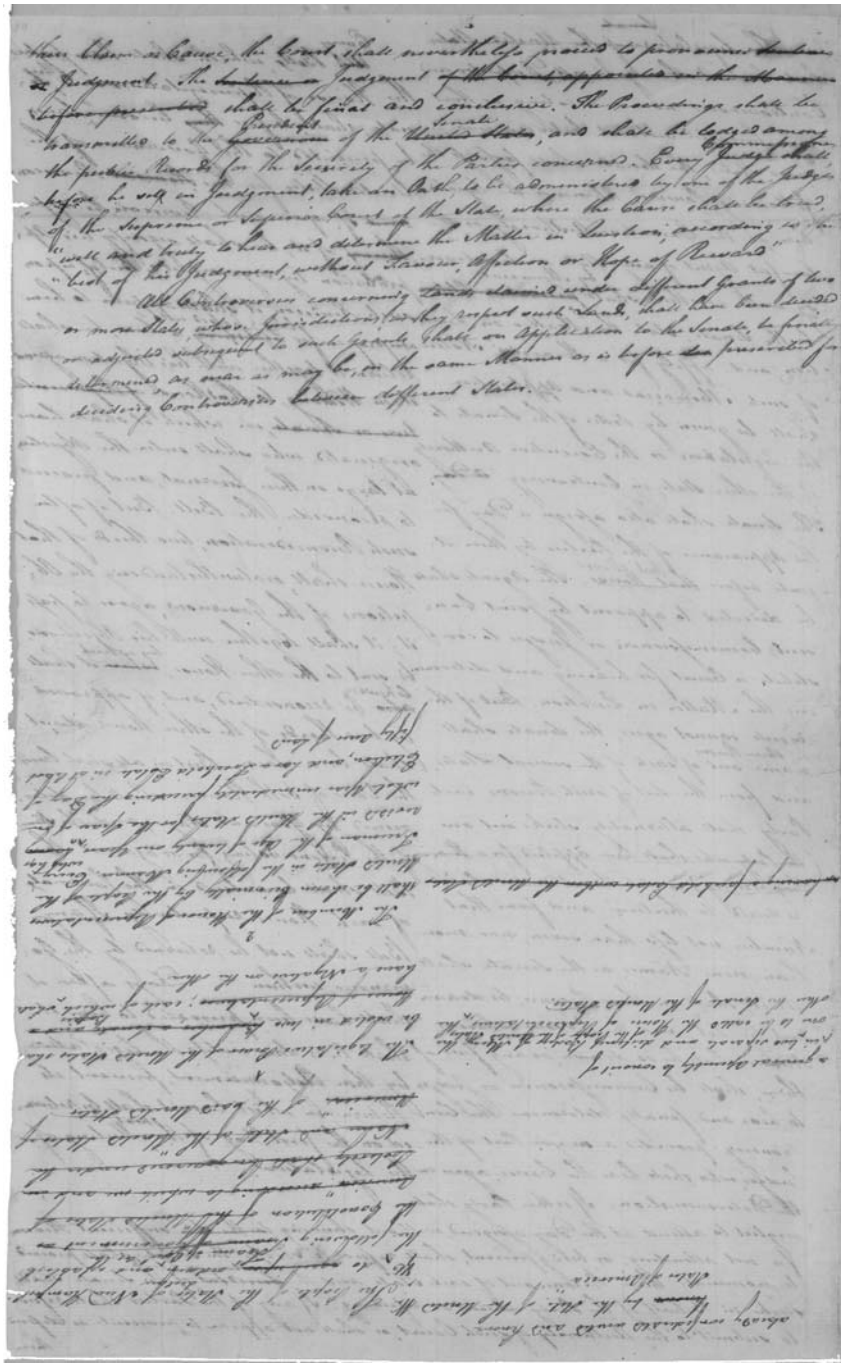
That the Ratification of the Conventions of States shall be sufficient for organizing this Constitution: That each assenting ~~State~~ Convention shall notify its Assent and Ratification ^ to the United States in Congress assembled: That the United States in Congress assembled, after receiving the Assent and Ratification of the Conventions of States shall appoint and publish a Day, as early as may be, and appoint a Place ^ for ~~organizing and~~ commencing [~~Oper~~?] Proceedings under this Constitution: That after such Publication, or (in Case it shall not be made) [~~on?~~] after ~~after~~ the Expiration of Days ~~after~~ from the Time when the Ratification of the Convention of the State shall have been notified to Congress the Legislatures of the several States shall ~~chuse~~ elect Members of the Senate, and direct the Election of Members of the House of Representatives, and shall provide for their Support: That the Members of the Legislature shall meet at the Time and Place assigned by Congress or (if Congress shall have assigned no Time and Place) at such Time and Place as shall have been agreed on by the Majority of the Members elected for each House, and shall as soon as may be after their Meeting chuse the ~~Governour~~ President of the United States, and proceed to ~~carry~~ execute this Constitution

~~The Legislature of the United States shall have Authority~~ to all Disputes and Controversies now subsisting, or that may hereafter subsist between two or more States, the Senate shall possess the following Powers. Whenever the Legislature, or the Executive Authority, or the Council of any State or Colony, by Memorial to the Senate, state the Matter in Dispute, and apply for a Hearing of such Memorial and Application shall be given by Order of the Senate to the Legislature or the Executive Authority of the other State in Controversy. The Senate shall also assign a Day for the Appearance of the Parties by their Agents before that House. The Agents shall be directed to appoint by joint Consent Commissioners or Judges to constitute a Court for hearing and determining the Matter in Dispute. But if the Agents cannot agree, the Senate shall name out of each of the several States, and from the List of such Persons each Party shall alternately strike out one (~~the Party who shall have applied for a Hearing~~ ~~beginning~~) until the Number shall be reduced to thirteen, and from that Number not less than seven, nor more than nine Names, as the Senate shall direct, shall, in their Presence, be drawn out by Lot; and the Persons whose Names shall be so drawn, or any five of them, shall be Commissioners or Judges to hear and finally determine the Controversy; provided a majority of the Judges who shall hear the Cause, agree in the Determination. If either Party shall neglect to attend at the Day assigned, without showing sufficient Reason for not attending, or be not present, shall refuse to strike, the Judges shall proceed to nominate three Persons out of each State, and the Secretary or Clerk of the Senate shall strike in Behalf of the Party absent or refusing. If any of the Parties shall refuse to submit to the Authority of such Court, or shall not appear to prosecute or defend their

Every Bill, which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the Governor of the United States for his Revision; and if, upon such Revision, he approve of it, he shall signify his Approbation by signing it. But if upon such Revision it shall appear to him improper for the Bill to become a Law, he shall return it, together with his Objections in Writing, to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider the Bill. But if after such Reconsideration, two thirds of that House shall notwithstanding the Objections of the Governor agree to pass it, it shall, together with his Objections, be sent to the other House, by which it shall be reconsidered, and, if approved by two thirds of the other House, it shall be a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for or against the Bill shall be entered on the Journals of each House respectively. If any Bill shall not be returned by the Governor within Days after it shall have been presented to him, it shall be a Law, unless the Legislature by their Adjournment prevent its Return, in which Case it shall be returned on the first Day of the next Meeting of the Legislature.

~~Senate~~
~~The Legislature of the United States shall have Authority~~ In all Disputes and Controversies now subsisting, or that may hereafter subsist between two or more States, the Senate shall possess the following Powers. Whenever the Legislature, or the Executive Authority, or the lawful Agent of any State in Controversy with another shall by Memorial ^ ~~present a Petition~~ to the Senate, state the Matter in Question, and apply for a Hearing, Notice of such Memorial and Application shall be given by Order of the Senate to the Legislature or the Executive Authority of the other State in Controversy. ~~A Day~~ The Senate shall also assign a Day for the Appearance of the Parties by their Agents before that House ~~that House~~. The Agents shall be directed to appoint by joint Consent Commissioners or Judges to constitute a Court for hearing and determining the Matter in Question. But if the Agents cannot agree, the Senate shall name three Persons out of each of the several States, and from the List of such Persons each Party shall alternately strike out one (~~the Party who shall have applied for a Hearing beginning~~) until the Number shall be reduced to thirteen; and from that Number not less than seven, nor more than nine Names, as the Senate shall direct, shall, in their Presence, be drawn out by lot; and the Persons, whose Names shall be so drawn, or any five of them, shall be Commissioners or Judges to hear and finally determine the Controversy; provided a major Part of the Judges, who shall hear the Cause, agree in the Determination. If either Party shall neglect to attend at the Day assigned, without shewing ~~to the Sen~~ sufficient Reasons for not attending, or, being present, shall refuse to strike, the Senate shall proceed to nominate three Persons out of each State, and the Secretary or Clerk ~~President~~ of the Senate shall strike in Behalf of the Party absent or refusing. If any of the Parties shall refuse to submit to the Authority of such Court, or shall not appear to prosecute or defend their

Every
~~All~~ Bill~~s~~, which shall have passed the House of Representatives and the ^ Senate, shall, before it ~~they~~ become a ^ Law~~s~~, be presented to the Governour of the United States for his ~~Revisal~~ Revision; ~~and~~ If, upon such Revision, he approv[x] ~~thereof~~ of it, he shall signify his Approbation by signing it~~:~~. ~~b~~But, if, upon such Revision, it shall appear to him improper for being passed into a ~~becoming~~ a Law, he shall return it, together with his Objection against it in Writing, to the at House ~~of Representatives or Senate~~, in which it shall have originated, who shall enter the Objection at large on their Journal, and proceed to reconsider the Bill. But if after such Reconsideration, two thirds of that House shall, notwithstanding the Objections of the Governour, agree to pass it; it shall, together with his Objections, be sent to the other House, by which ~~where~~ it shall likewise ~~also~~ be reconsidered; and, if approved by two thirds of the other House also, it shall be a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays; and the Names of the Persons voting for or against the Bill shall be entered in the Journal~~s~~ of each House respectively — If any Bill shall not be returned by the Governour within Days after it shall have been presented to him, it shall be a Law, unless the Legislature, by their [~~X~~]Adjournmint, prevent its Return; in which Case it shall be returned on the first Day of the next ^ Meeting of the Legislature.



their Claim or Cause; the Court shall nevertheless proceed to pronounce ~~Sentence or~~ Judgment. The ~~Sentence or~~ Judgment ~~of the Court, appointed in the Manner before presented~~, shall be final and conclusive. The Proceedings shall be transmitted to the ~~Governour~~ President of the ~~United States~~ Senate, and shall be lodged among the public Records for the Security of the Parties concerned. Every ~~Judge~~ Commissioner shall, before he sits in Judgment, take an Oath, to be administered by one of the Judges of the Supreme or Superior Court of the State, where the Cause shall be tried, "well and truly to hear and determine the Matter in Question, according [to the?] best of his Judgment, without Favour, Affection or Hope of Reward"

All Controversies concerning Lands claimed under different Grants of two or more States, whose Jurisdictions, as they respect such Lands, shall have been decided or adjusted subsequent to such Grants, shall, on Application to the Senate, be finally determined, as near as may be, in the same Manner as is before [~~des~~?] prescribed for deciding Controversies between different States.

[*The bottom of this page is transcribed as the first portion of Document V.*]

## *Document IX: Wilson's Final Draft*

This document, the last of Farrand's collection of Committee of Detail documents, is the longest and most complete of all Wilson's notes and drafts. It, too, is composed on large, 38.5 × 47.5 cm sheets, folded in half to create a signature of four pages. There are six such signatures, comprising twenty-two written pages. As is Wilson's common custom (and a method employed in almost all of the previous documents reprinted herein), he has created two columns. The bulk of the writing is on the right column, the left kept open for later notes. At points in this document, this column is heavily filled with notes and annotations. This is the first document in Wilson's hand that contains the handwriting of another delegate, committee chair John Rutledge. The hand and ink are heavier and less legible. Rutledge makes a few check marks throughout the document, but, unlike those found in Randolph's sketch, these are erratic and irregular. He also makes fifty-nine edits throughout, mostly small and often technical in nature.

Document IX begins with a third "We the People" preamble, which is little-changed from that contained in Document V (all are missing the great substance later added by Gouveneur Morris in the Committee of Style). The sequence of the document's remainder roughly parallels the entirety of the Constitution and again contains the lengthy insertions regarding senatorial arbitration of state and land claims from the Articles of Confederation.

Wilson's final draft in the original binding is not discussed in detail by Jameson, since it is almost identical to the printed version of the Committee's report, distributed to the convention when it reconvened on August 6. This draft appears fifth in the 1972 facsimiles labeled (together with the Pinckney Plan outline) as "James Wilson Papers, Second Draft of the Constitution."[20] It is currently filed with the Pinckney Plan in matted and boxed folios under that heading.[21]

[20] Wilson Papers Facsimiles, vol. 1.

[21] Wilson Papers, vol. 1.

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 of our Posterity

1.

The Style of this Government shall be "the United States of America."

2.

The Government shall consist of supreme legislative, executive and judicial Powers.

3.

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.

4.

The Members of the House of Representatives shall be chosen every second

To meet on the 1st Monday in every December —

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 of our Posterity

1.

The Stile of this Government shall be "the United State['?]s of America."

2.

The Government shall consist of supreme legislative, executive and judicial Powers.

3.

To meet on the 1st Monday in every December —

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

4.

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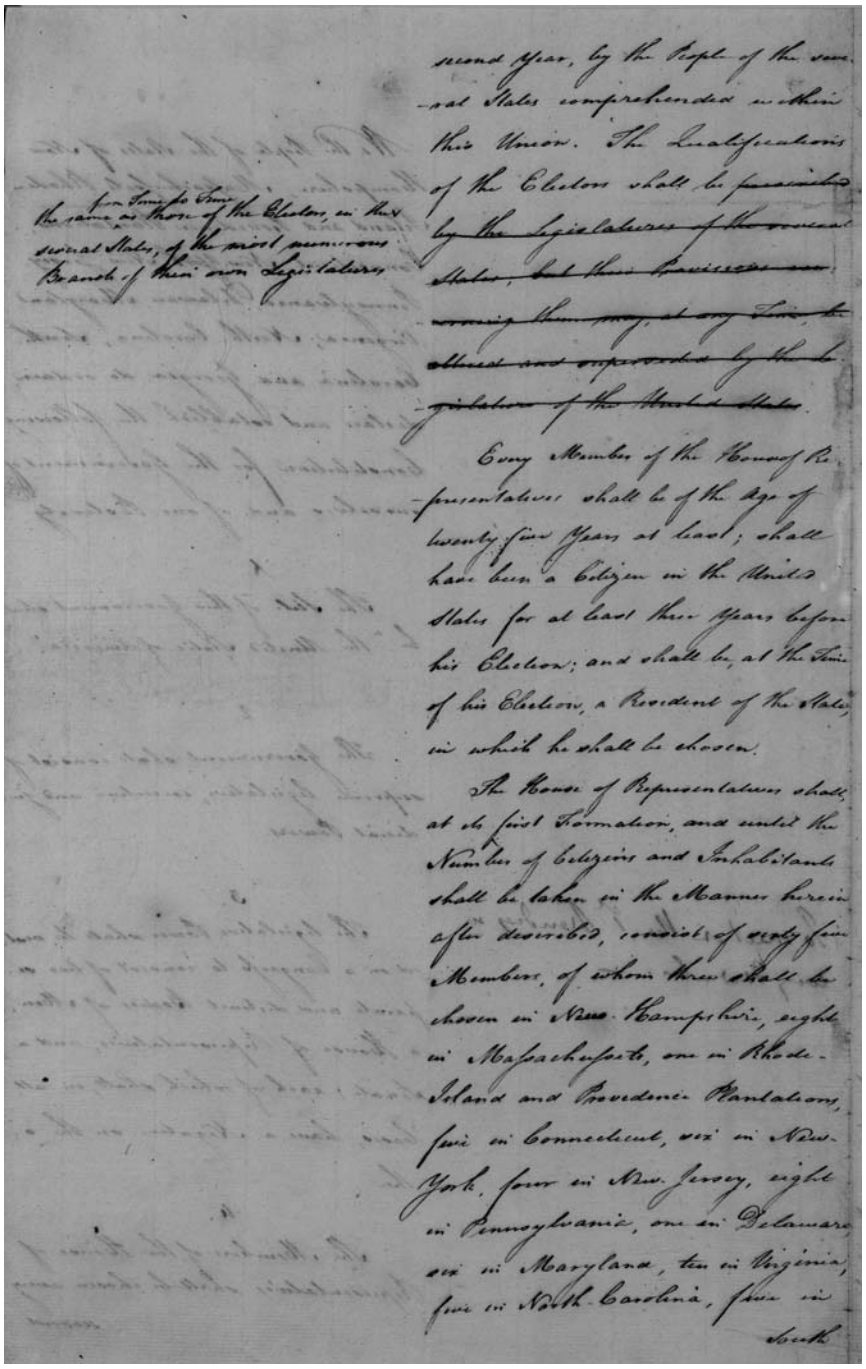
second



Are to be from the same as those of the Electors in the several States, of the most numerous Branch of their own Legislatures.

second year, by the People of the several States comprehended within this Union. The Qualifications of the Electors shall be prescribed ~~by the Legislatures of the several States, but their Privileges and Power shall not, at any Time, be altered and superseded by the Legislature of the United States.~~

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.

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 which three shall be chosen in New-Hampshire, eight in Massachusetts, one in Rhode-Island and Providence Plantations, five in Connecticut, six in New-York, four in New-Jersey, eight in Pennsylvania, one in Delaware, six in Maryland, ten in Virginia, five in North-Carolina, five in

South

from Time to Time

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South

South-Carolina and three in Georgia.

As the Proportions of Numbers in the different States will alter from Time to Time; as some of the States may be hereafter divided; as others may be enlarged by Addition of Territory; as two or more States may be united; and as new States will be erected within the Limits of the United States; the Legislature shall, in each of these Cases, ~~[illegible] Authority to~~ regulate the Number of Representatives by the Number of Inhabitants, according to the Provisions hereinafter made.

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.

The House of Representatives shall ~~be the sole Council of the Nation~~; have the sole Power of ~~and all~~ Impeachments shall be ~~made by them~~

Vacancies

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The House of Representatives shall ~~be the grand Inquest of the Nation;~~ have the Sole Power of ~~and all~~ ^ Impeachment~~s shall be made by them.~~

Vacancies

Vacancies in the House of Representatives shall be supplied by Writs of Election from the Executive Authority of the State, in the Representation which they shall happen.

The House of Representatives shall chuse its ~~Mem~~ Speaker and other Officers.

5.

The Senate of the United States shall be chosen by the Legislatures of the several States. Each Legislature shall chuse two Members. Each Member shall have one Vote.

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, ~~and so continually~~, "that a third Part of the Members ~~of the Senate~~ may be chosen every second Year.

Every Member of the Senate shall be of the Age of thirty Years at least, shall have been a Citizen in the United

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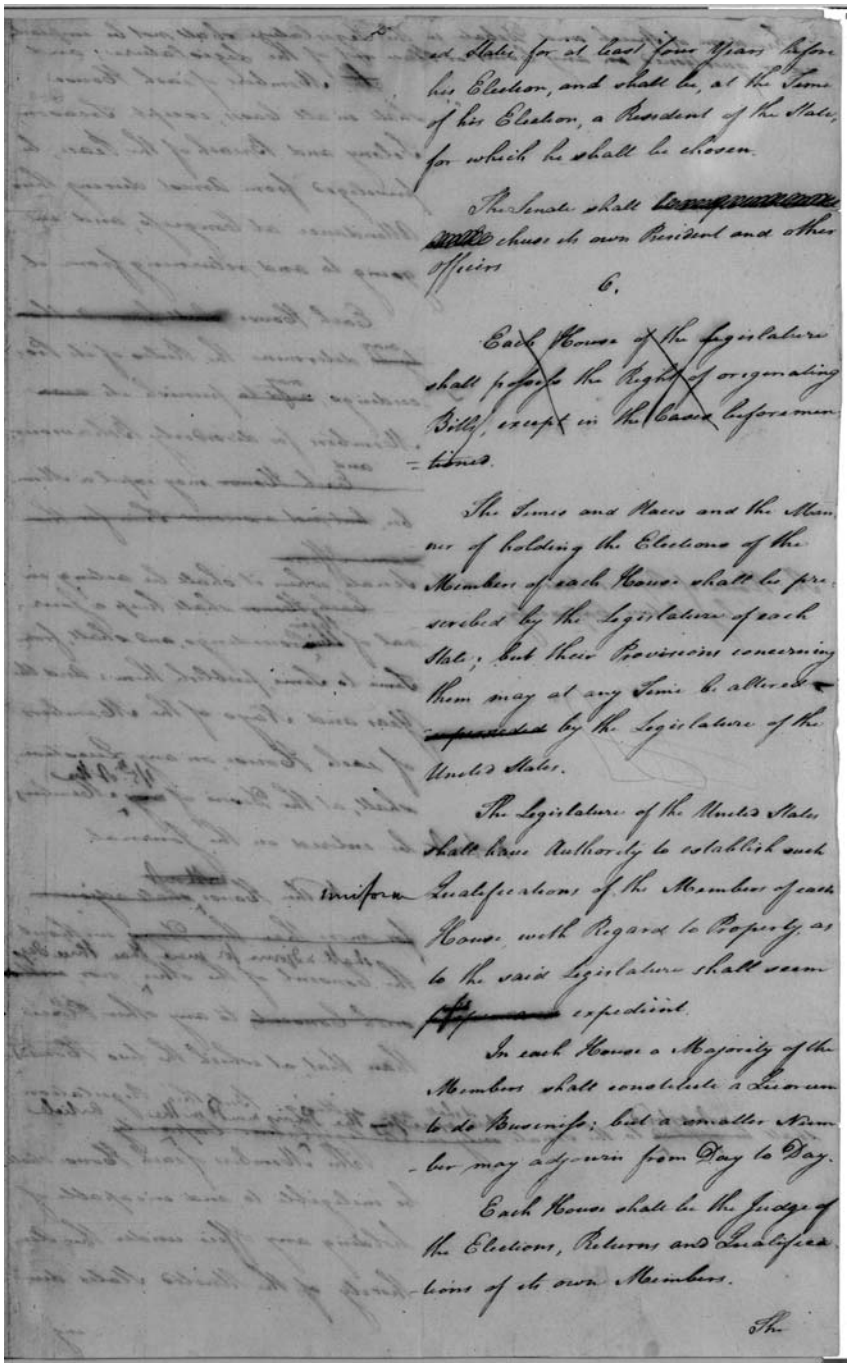

ed State for at least four Years before his Election, and shall be, at the Time of his Election, a Resident of the State, for which he shall be chosen.

The Senate shall ~~[illegible]~~ ~~[illegible]~~ chuse its own President and other Officers.

6.

Each House of the Legislature shall possess the Right of originating Bills, except in the Cases before mentioned.

The Times and Places and the 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 ~~[illegible]~~ ~~[illegible]~~ by the Legislature of the United States.

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 ~~[illegible]~~ expedient.

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.

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members.

The

2

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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.

Each House ~~shall be authorized to~~ may determine the Rules of its Proceedings, ~~and to~~ may punish its ~~own~~ Members for disorderly Behaviour.

and ~~Each House~~ may expel a Member, ~~but not a second time for the same Offence~~

The House of Representatives, and the Senate, when it shall be acting in a legislative capacity, ~~each House~~ shall keep a Journal of ~~their~~ 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 ~~any~~ 1/5th of the Members present be entered on the Journal.

Neither House, ~~without~~ ~~shall adjourn for more than three days~~ without the Consent of the other, ~~shall adjourn for more than three days~~ nor, ~~without such Consent~~, to any other Place than that, at which the two Houses shall be sitting.

~~This Regulation shall not extend to the Senate when exercising the Power mentioned in the Article, and shall cease with the Legislative Capacity.~~

The Members of each House shall be ineligible to, and incapable of holding any Office under the Authority of the United States during

-ing

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Shall ~~be applied~~ ^ to the Senate ~~only in its legislative ^ Capacity.~~

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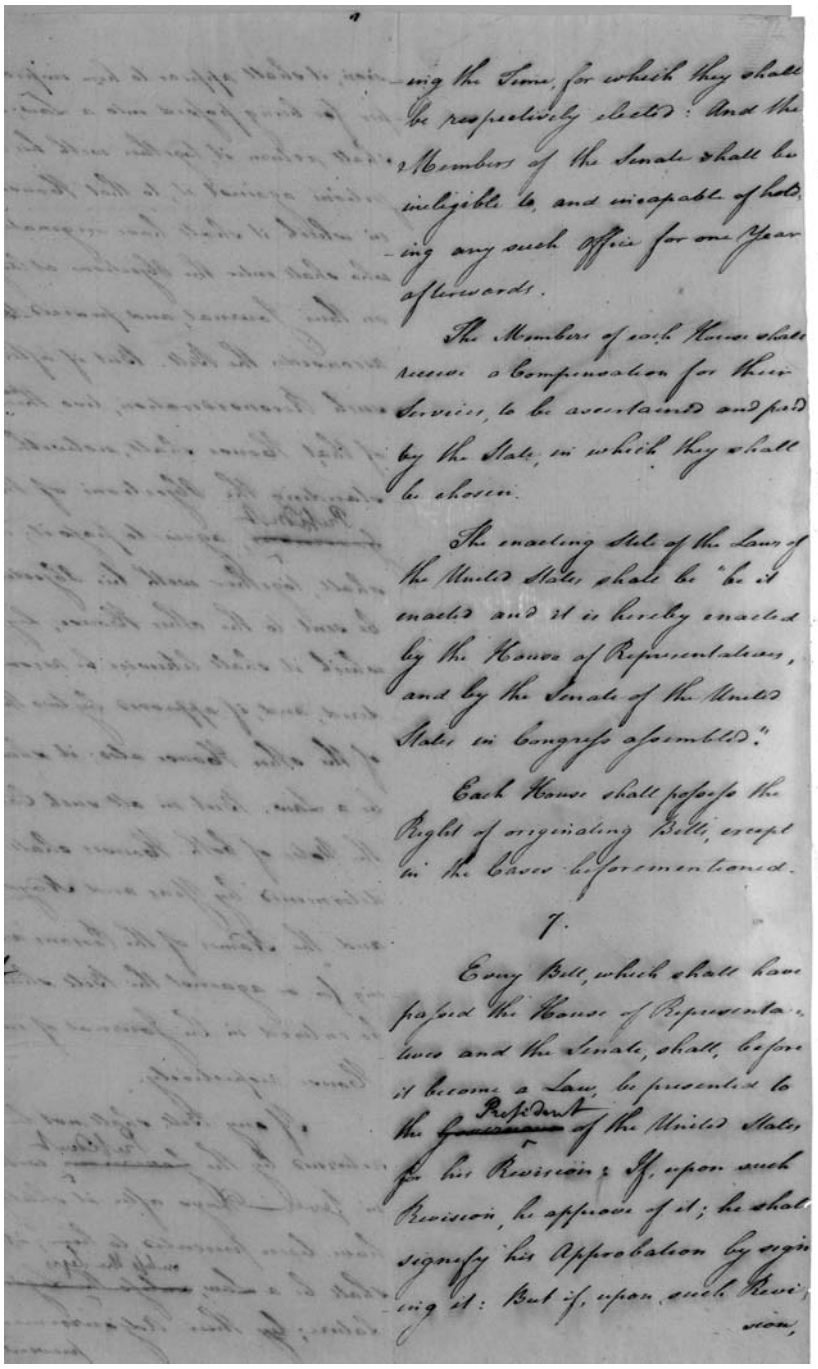

ing the Same, for which they shall be respectively elected: And the Members of the Senate shall be ineligible to, and incapable of holding any such Office for one Year afterwards.

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.

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."

Each House shall possess the Right of originating Bills, except in the Cases beforementioned.

7.

Every Bill, which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the ~~President~~ President of the United States for his Revision; If, upon such Revision, he approves of it; he shall signify his Approbation by signing it: But if, upon such Revision,

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-sion, it shall appear to him improper for being passed into a Law; he shall return it, together with his Objections against it, to that House, in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider the Bill. But if after such Reconsideration, two thirds of that House shall, notwithstanding the Objections of the ~~President~~ President, agree to pass it; it shall, together with his Objections be sent to the other House, by which it shall likewise be reconsidered, and, if approved by two thirds of the other House also; it shall be a Law. But in all such Cases, the Votes of both Houses shall be determined by Yeas and Nays; and the Names of the Persons voting for or against the Bill shall be entered in the Journal of each House respectively.

If any Bill shall not be returned by the ~~President~~ President within seven Days after it shall have been presented to him; it shall be a Law, ~~unless he shall~~ unless the Legislature; by their Adjournment, prevent

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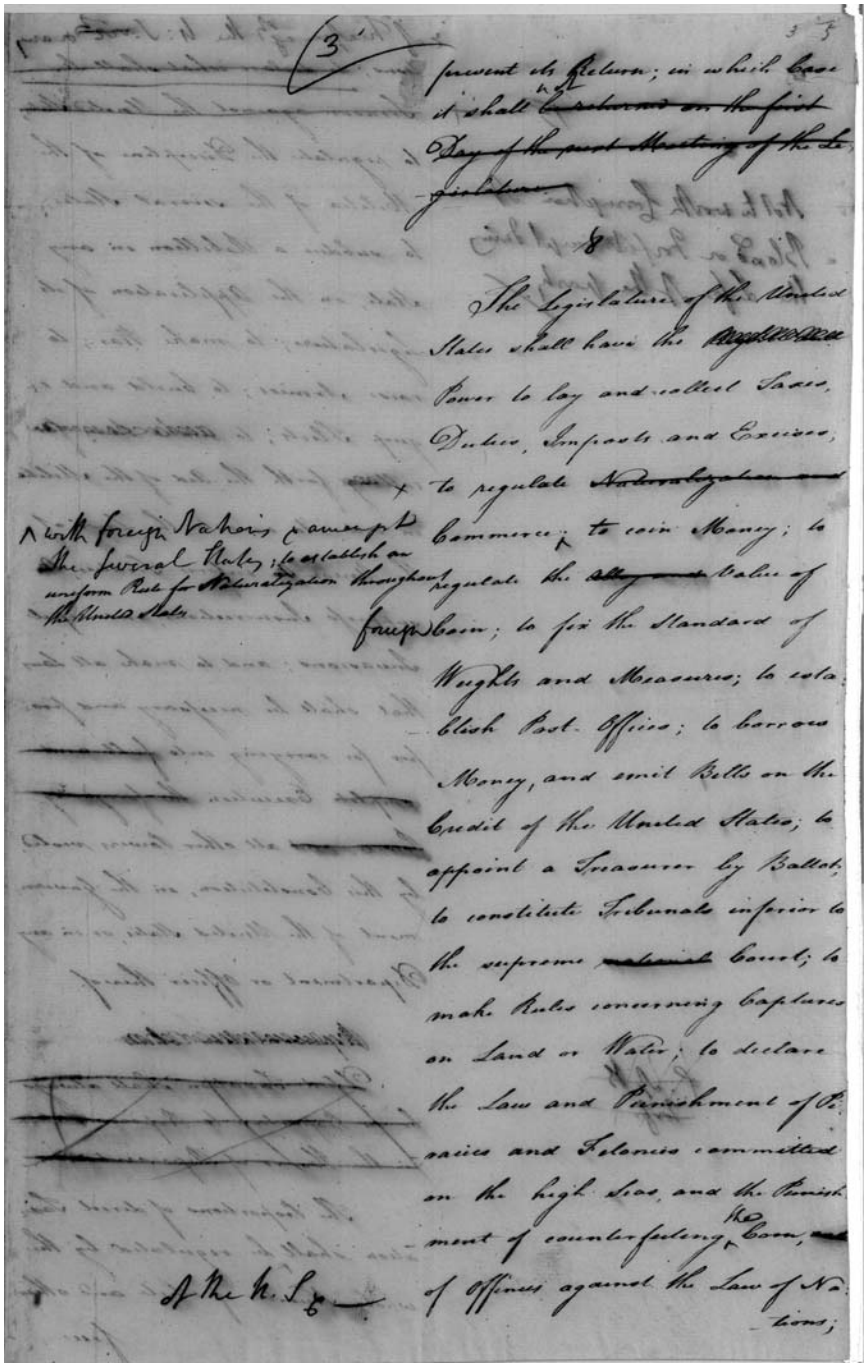

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prevent its Return; in which Case it shall be ~~returned on the first Day of the next Meeting of the Legislature~~

8

The Legislature of the United States shall have the ~~[illegible]~~ Power to lay and collect Taxes, Duties, Imposts and Excises; to regulate ~~Naturalization and~~ Commerce with foreign Nations, except the several States; to establish an uniform Rule for Naturalization throughout the United States; to regulate the ~~[illegible]~~ 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 ~~[illegible]~~ Court; to make Rules concerning Captures on Land or Water; to declare the Law and Punishment of Piracies and Felonies committed on the high Seas, and the Punishment of counterfeiting the Coin, ~~and~~ of Offences against the Law of Nations;

At the N. S.

3

prevent its Return; in which Case it shall not ~~be returned on the first Day of the next Meeting of the Legislature.~~

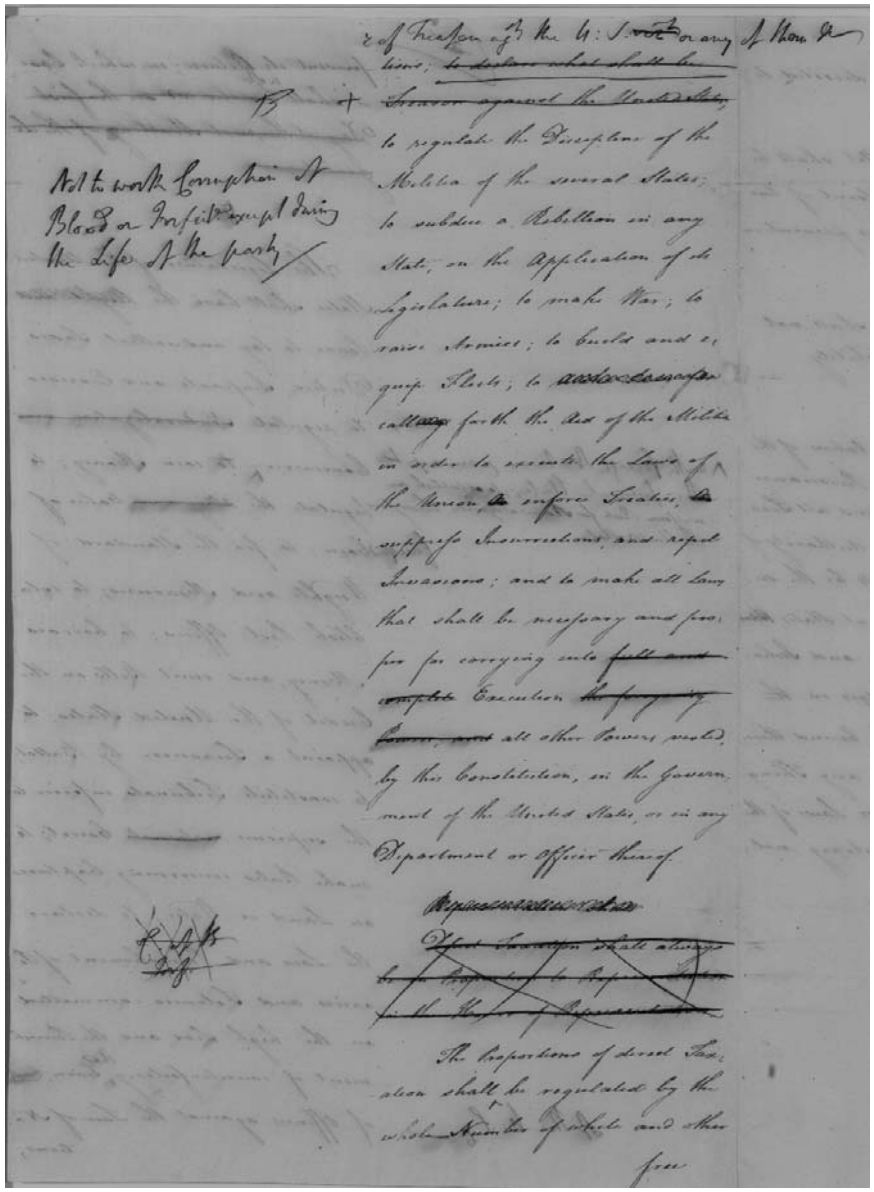
8

The Legislature of the United States shall have the ~~Right and~~ Power to lay and collect Taxes, Duties, Imposts and Excises; to regulate ~~Naturalization and~~ Commerce; ^ to coin Money; to regulate the ~~Alloy and~~ Value of 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 ~~national~~ Court; to make Rules concerning Captures on Land or Water; to declare the Law and Punishment of Piracies and Felonies committed on the high Seas, and the Punishment of counterfeiting the ^ Coin, and of Offences against the Law of Na-tions;

^with foreign Nations & amongst the Several States; to establish an uniform Rule for Naturalization throughout the United States

foreign

of the U.S & —



of Treason of the U. S. or any of them. ~~to declare what shall be Treason against the United States~~; to regulate the Discipline of the Militia of the several States; 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 ~~[illegible]~~ call forth the Aid of the Militia in order to execute the Laws of the Union, ~~to~~ enforce Treaties, ~~to~~ suppress Insurrections and repel Invasions; and to make all Laws that shall be necessary and proper for carrying into ~~full and complete~~ Execution ~~the foregoing Powers, and~~ all other Powers vested by this Constitution, in the Government of the United States, or in any Department or Officer thereof.

Act to work Corruption of Blood or Forfeiture except during the Life of the party

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

The Proportions of direct Taxation shall be regulated by the whole Number of white and other free

B +

Not to work Corruption of Blood or Forfeit[r]. except during the Life of the party/

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[~~Representation shall~~?]

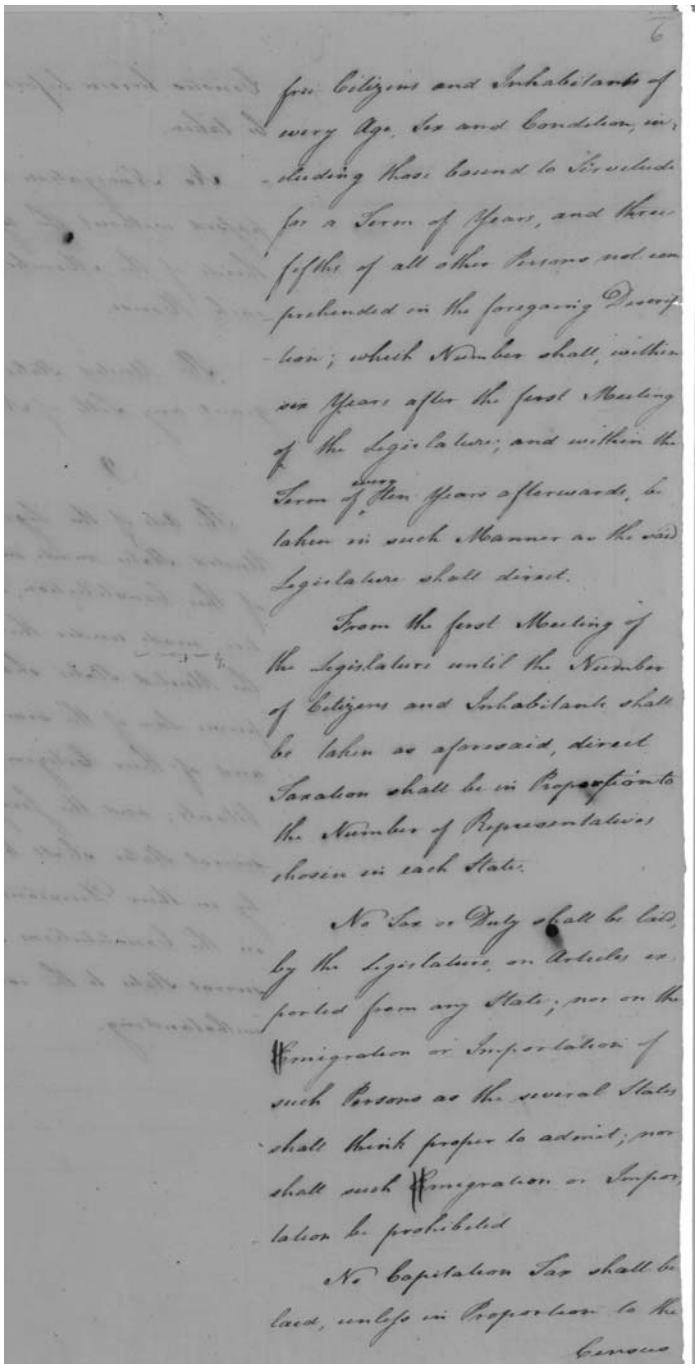
[~~xxx~~]

[~~xxxx~~]

~~Direct Taxation shall always be in Proportion to Representation in the House of Representatives.~~

The Proportions of direct Taxation shall ^ be regulated by the whole Number of white and other

free



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free Citizens and Inhabitants of every Age, Sex and Condition, including those bound to Service for a Term of Years, and three fifths of all other Persons not comprehended in the foregoing Description; 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.

From the first Meeting of the Legislature until the Number of Citizens and Inhabitants shall be taken as aforesaid, direct Taxation shall be in Proportion to the Number of Representatives chosen in each State.

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

No Capitation Tax shall be laid, unless in Proportion to the Census

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Census herein before directed to be taken.

No Navigation Act shall be passed without the Assent of two thirds of the Members present in each House.

The United States shall not grant any Title of Nobility.

9

The Acts of the Legislature of the United States made in Pursuance of this Constitution, and all Treaties made under the 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, any Thing in the Constitutions or Laws of the several States to the contrary notwithstanding.

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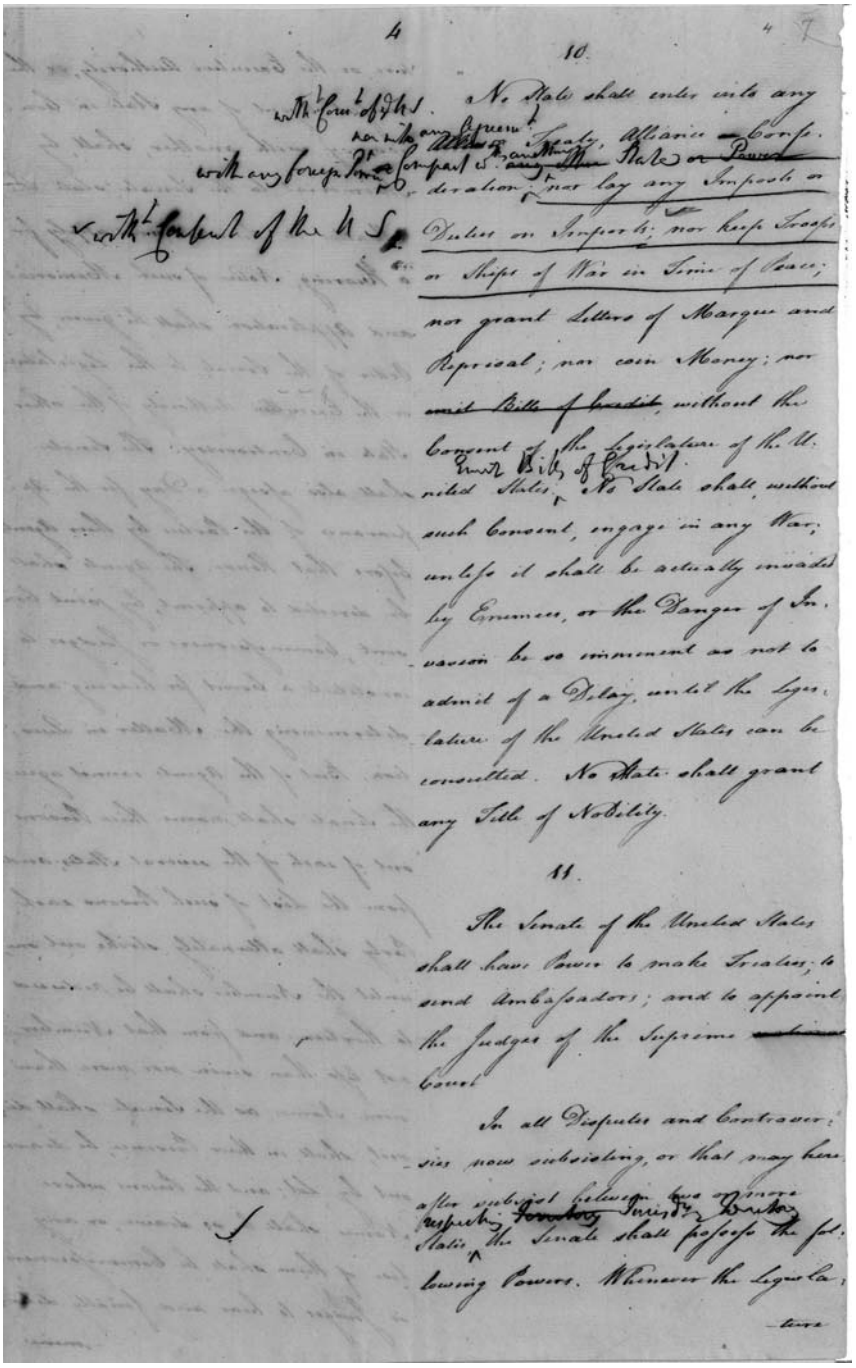

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with the Consent of the U S. No State shall enter into any Treaty, Alliance or Confederation; nor lay any Imposts or Duties on Imports; nor keep Troops or Ships of War in Time of Peace; nor grant Letters of Marque and Reprisal; nor coin Money; nor ~~emit Bills of Credit~~ without the Consent of the Legislature of the United States, nor Bills of Credit. No State shall, without such Consent, 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. No State shall grant any Title of Nobility.

with any foreign Power or Prince

with the Consent of the U S.

11.

The Senate of the United States shall have Power to make Treaties, to send Ambassadors; and to appoint the Judges of the Supreme ~~Court~~ Court.

In all Disputes and Controversies now subsisting, or that may hereafter subsist between two or more States, the Senate shall possess the following Powers. Whenever the Legisla-

tures

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10.

with$^{t}$ Cons$^{t}$ of y$^{e}$ US.

No State shall enter into any Agreem$^{t}$.

~~or~~ ^

[~~Aliance~~] Treaty, Alliance [~~or?~~] Confederation ^;

with any foreign Power ^ nor into any

another

Compact w$^{th}$ ~~any ^ other~~ State ~~or Power~~

✓with$^{t}$ Consent of the US

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Emit Bills of Credit

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-ture

ture, or the Executive Authority, or the
lawful Agent of any State in Con-
troversy with another, shall, by
Memorial to the Senate, state the
Matter in Dispute, and apply for
a Hearing. Notice of such Memorial
and Application shall be given, by
Order of the Senate, to the Legislature,
or the Executive Authority of the other
State in Controversy. The Senate
shall also assign a Day for the Ap-
pearance of the Parties by their Agents
before that House. The Agents shall
be directed to appoint, by joint Con-
sent, Commissioners or Judges to
constitute a Court for hearing and
determining the Matter in Dispute.
But if the Agents cannot agree,
the Senate shall name three Persons
out of each of the several States; and
from the List of such Persons each
Party shall alternately strike out one,
until the Number shall be reduced
to thirteen; and from that Number
not less than seven, nor more than
nine Names, as the Senate shall di-
rect, shall, in their Presence, be drawn
out by Lot; and the Persons whose
Names shall be so drawn, or any
five of them shall be Commissioners
or Judges to hear and finally deter-
mine

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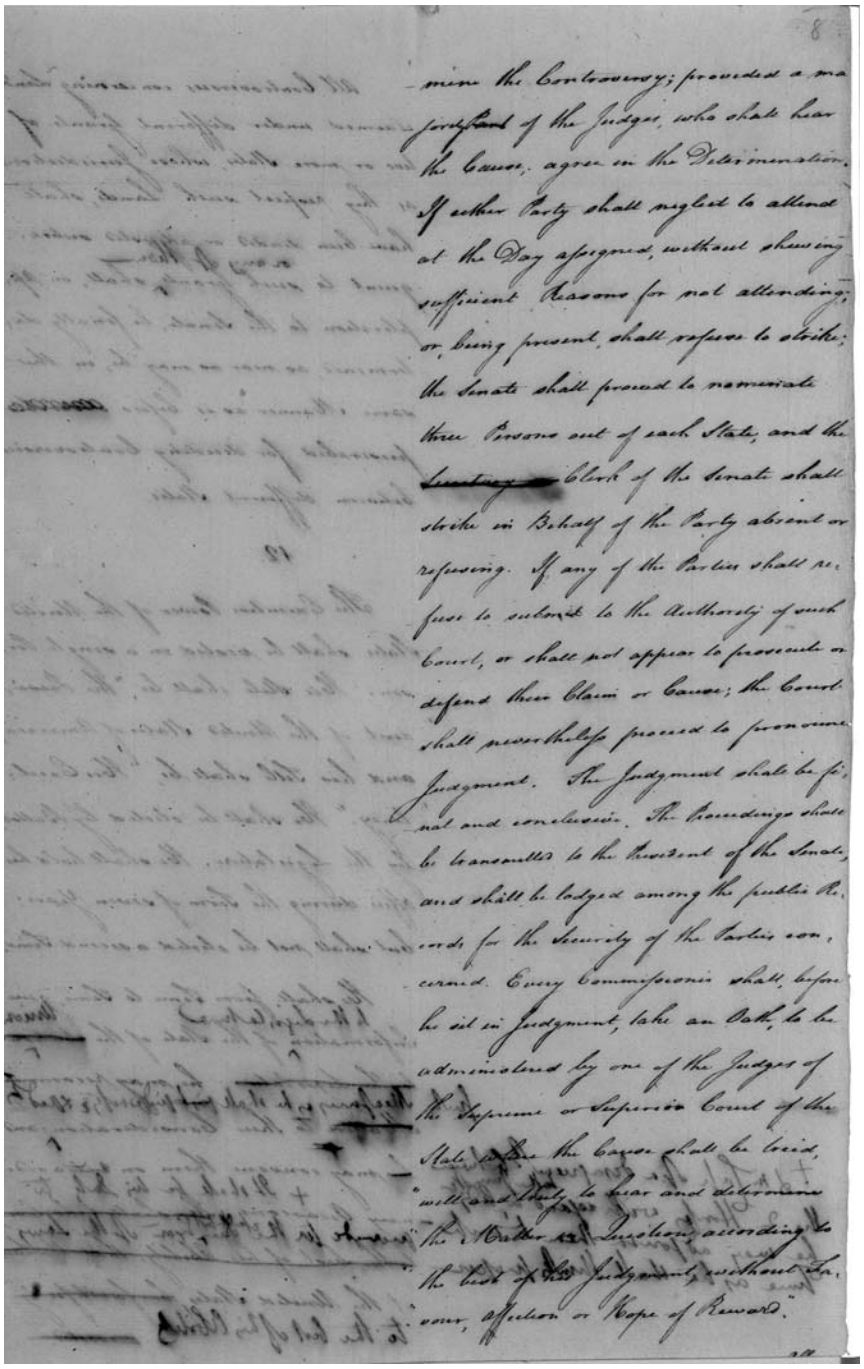

8

mine the Controversy; provided a ma-
jority of the Judges, who shall hear
the Cause, agree in the Determination.
If either Party shall neglect to attend
at the Day assigned, without showing
sufficient Reasons for not attending;
or, being present, shall refuse to strike;
the Senate shall proceed to nominate
three Persons out of each State, and the
~~Secretary~~ Clerk of the Senate shall
strike in Behalf of the Party absent or
refusing. If any of the Parties shall re-
fuse to submit to the Authority of such
Court, or shall not appear to prosecute or
defend their Claim or Cause; the Court
shall nevertheless proceed to pronounce
Judgment. The Judgment shall be fi-
nal and conclusive. The Proceedings shall
be transmitted to the President of the Senate,
and shall be lodged among the public Re-
cords for the Security of the Parties con-
cerned. Every Commissioner shall, before
he sit in Judgment, take an Oath, to be
administered by one of the Judges of
the Supreme or Superior Court of the
State where the Cause shall be tried,
"well and truly to hear and determine
the Matter in Question according to
the best of his Judgment, without Fa-
vour, Affection or Hope of Reward."

-mine the Controversy; provided a majority Part of the Judges, who shall hear the Cause, agree in the Determination. If either Party shall neglect to attend at the Day assigned, without shewing sufficient Reasons for not attending; or, being present, shall refuse to strike; the Senate shall proceed to nominate three Persons out of each State; and the ~~Secretary [or~~?] Clerk of the Senate shall strike in Behalf of the Party absent or refusing. If any of the Parties shall refuse to submit to the Authority of such Court, or shall not appear to prosecute or defend their Claim or Cause; the Court shall nevertheless proceed to pronounce Judgment. The Judgment shall be final and conclusive. The Proceedings shall be transmitted to the President of the Senate, and shall be lodged among the public Records for the Security of the Parties concerned. Every Commissioner shall, before he sit in Judgment, take an Oath, to be administered by one of the Judges of the Supreme or Superior Court of the State where the Cause shall be tried, "well and truly to hear and determine the Matter in Question, according to the best of his Judgment, without Favour, Affection or Hope of Reward."

[xxx]

All Controversies concerning Lands, claimed under different Grants of two or more States, whose Jurisdictions as they respect such Lands, shall have been decided or adjusted subsequent to such Grants, or any of them, shall, on application to the Senate, be finally determined, as near as may be, in the same Manner as is before ~~mentio~~ prescribed for deciding Controversies between different States.

12.

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.

He shall, from Time to Time, give to the Legislature Information of the State of the Union; ~~the Legislature~~; he may recommend to their Consideration, such Measures as he shall ~~think~~ judge necessary ~~& expedient~~; ~~shall~~ and may convene them on ~~extraordinary~~ occasions. + It shall be his Duty to ~~provide for the execution of the Laws, with the best of his Ability, that shall~~ of the United States, ~~faithfully~~ to the best of his Ability ~~commission~~.

+ & in Case of a disagreement between the 2 Houses, with regard to the time, he may adjourn them to such Time as he shall think proper

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~~of his Ability, that the Laws~~ of the United States ~~be faithfully~~
to the best of his Ability
~~executed~~

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5.

~~executed~~. He shall commission all the Officers of the United States, and ~~such of them as shall appoint~~ ~~all~~ appoint ~~Officers in all Cases~~ them in all Cases not otherwise provided for by this Constitution. He shall receive Ambassadors, and shall correspond with the ~~Governors and other~~ supreme Executive ~~Officers~~ of the several States. He shall have Power to grant Reprieves and Pardons; but his Pardon shall not be pleaded 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 stated Times, receive for his Services, a fixed Compensation, which shall neither be encreased 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 ~~disengaged~~ removed from his Office on Impeachment by the House of Representatives, and Conviction in the Supreme

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13

All Commissions, Patents and Writs shall be in the Name of "the United ~~Empire and~~ States of America."

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The Judicial Power of the United States shall be vested in one Supreme ~~National~~ Court, and in such Inferior Courts as shall, from Time to Time, be constituted by the Legislature of the United States.

The Judges of the Supreme ~~National~~ Court shall ~~be chosen by the Senate by Ballot. They shall~~ hold their Offices during good Behaviour. They shall, at stated Times, receive, for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

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Supreme ~~National~~ Court of Treason or Bribery or Corruption. In Case of his Removal Impeachment, ~~Dismission~~, Death, Resignation or Disability to discharge the Powers and Duties of his Office ~~Department~~; the President of the Senate shall exercise those Powers and Duties, until another President of the United States be chosen, or until the President impeached or disabled be acquitted, or his Disability be removed.

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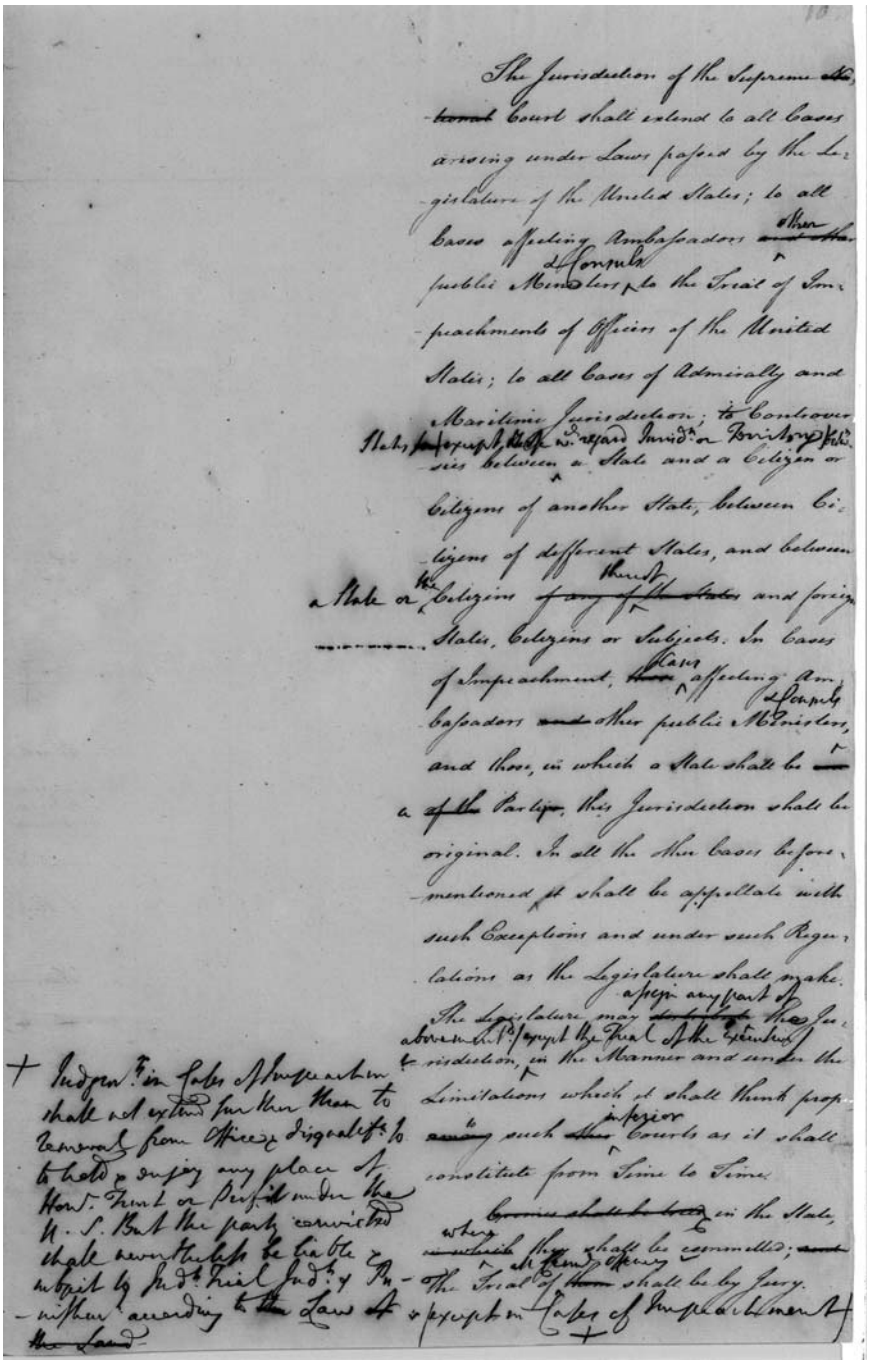

The Jurisdiction of the Supreme ~~shall~~ ~~tribunal~~ Court shall extend to all Cases arising under Laws passed by the Legislature of the United States; to all Cases affecting Ambassadors ~~and the~~ other public Ministers & Consuls; to the Trial of Impeachments of Officers of the United States; to all Cases of Admiralty and Maritime Jurisdiction; to Controversies ~~to which the United States shall be a Party~~ to regard Immd. or Territory; to Controversies between a State and a Citizen or Citizens of another State; between Citizens of different States, and between a State or the Citizens ~~of any of the States~~ thereof and foreign States, Citizens or Subjects. In Cases of Impeachment, ~~then~~ Cases affecting Ambassadors ~~and~~ other public Ministers & Consuls, and those, in which a State shall be ~~a~~ a ~~of the~~ Party, this Jurisdiction shall be original. In all the other Cases before mentioned it shall be appellate with such Exceptions and under such Regulations as the Legislature shall make. The Legislature may ~~except~~ except any part of the Jurisdiction, in the Manner and under the Limitations which it shall think proper ~~among~~ to such ~~other~~ inferior Courts as it shall constitute from Time to Time.

~~Crimes shall be tried~~ in the State, where ~~in which~~ they shall be committed; ~~and~~ except in Cases of Impeachment. The Trial of ~~them~~ shall be by Jury.

+ Judgment in Cases of Impeachment shall not extend further than to Removal from Office & Disqualification to hold & enjoy any place of Honor, Trust or Profit under the U. S. But the party convicted shall nevertheless be liable & subject to Indictment, Trial, Judgment & Punishment according to the Law of the Land.

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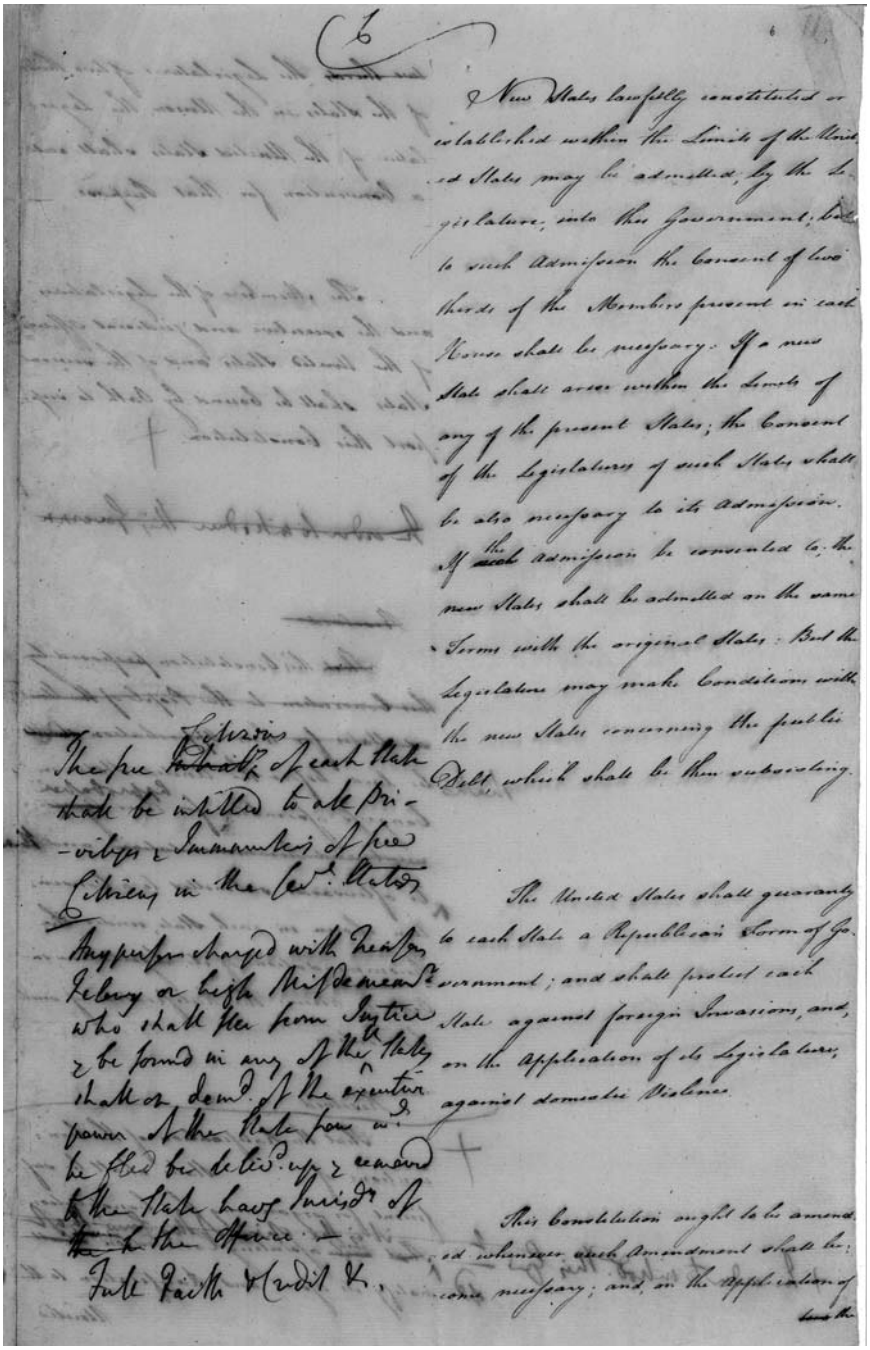

6

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 States 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 be then subsisting.

The Citizens of each State shall be entitled to all Privileges & Immunities of free Citizens in the several States

Any person charged with Treason, Felony or high Misdemeanor who shall flee from Justice & be found in any of the United States shall on Demand of the executive power of the State from which he fled be delivered up & removed to the State having Jurisdiction of the Offence.

Full Faith & Credit &c.

The United States shall guaranty to each State a Republican Form of Government; and shall protect each State against foreign Invasion, and, on the Application of its Legislature, against domestic Violence.

This Constitution ought to be amended whenever such Amendment shall become necessary; and, on the Application of two thirds

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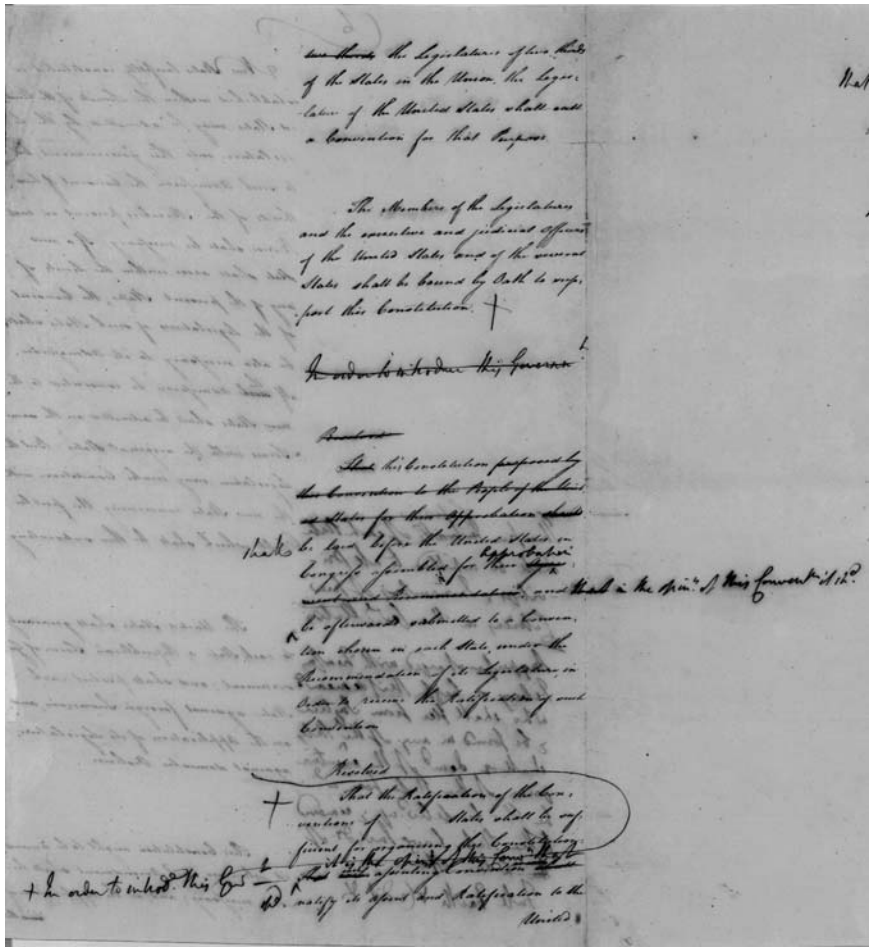


~~two thirds~~ the Legislatures of two thirds of the States in the Union, the Legislature of the United States shall call a Convention for that Purpose.

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. +

~~In order to introduce this Government~~

~~Resolved~~

~~That this Constitution proposed by the Convention to the People of the United States for their Approbation should be laid before the United States in Congress assembled for their Approbation~~ that it be forwarded and shall in the Mann. of this Government if it be

be afterwards submitted to a Convention chosen in each State, under the Recommendation of its Legislature, in Order to receive the Ratification of such Conventions.

Resolved

That the Ratifications of the Conventions of [illegible] States shall be sufficient for organizing this Government, ~~that the first operations of this Government shall be~~ ~~that the operations Constitution shall~~ ~~be~~ satisfy its Assent and Ratification to the United

+ In order to introd. this Gov.

Rat.

~~two thirds~~ the Legislatures of two thirds of the States in the Union, the Legislature of the United States shall call a Convention for that Purpose.

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. +

~~In order to introduce this Governnt~~

~~Resolved~~

~~That~~ this Constitution ~~proposed by this Convention to the People of the United States for their Approbation should~~ shall be laid before the United States in Congress assembled for their Approbation; ~~Agreement ^ and Recommendation;~~ and that in the opinn. of this Conventn it shd. ^ 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

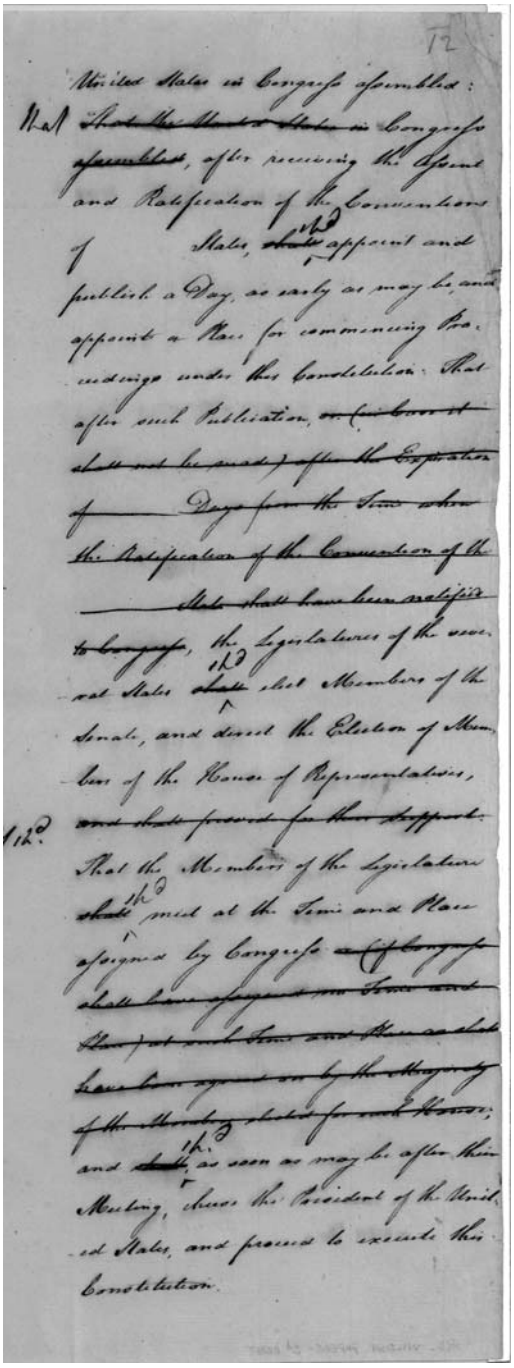
Resolved

+ That the Ratification of the Conventions of States shall be sufficient for organizing this Constitution:

+ In order to introde. this Govt it is the Opinn of this Convn that

each ~~in each~~

^ ~~That each~~ assenting Convention ~~shall~~ shd notify its Assent and Ratification to the United



12

United States in Congress assembled:

Nd ~~That the United States in Congress assembled~~, after receiving the Assent and Ratification of the Conventions of States, ~~shall~~ Nd appoint and publish a Day, as early as may be, and appoint a Place for commencing Proceedings under this Constitution: That after such Publication, ~~on (which event shall not be sooner) after the Expiration of Days from the Time when the Ratification of the Convention of the States shall have been notified to Congress~~, the Legislatures of the several States ~~shall~~ Nd elect Members of the Senate, and direct the Election of Members of the House of Representatives, ~~and shall provide for their Support.~~

12d. That the Members of the Legislature ~~shall~~ Nd meet at the Time and Place assigned by Congress ~~(if Congress shall have assigned no Time and Place) at such Time and Place as shall have been agreed on by the Majority of the Members elected for such House~~; and ~~shall~~ Nd, as soon as may be after their Meeting, choose the President of the United States, and proceed to execute this Constitution.

United States in Congress assembled: that ~~That the United States in~~ Congress ~~assembled~~, after receiving the Assent and Ratification of the Conventions of States, ~~shall~~ shd appoint and publish a Day, as early as may be, and appoint a Place for commencing Proceedings under this Constitution: That after such Publication, ~~or (in Case it shall not be made) after the Expiration of Days from the Time when the Ratification of the Convention of the State shall have been notified to Congress~~, the Legislatures of the several States ~~shall~~ shd elect Members of the Senate, and direct the Election of Members of the House of Representatives, ~~and shall provide for their support.~~ That the Members of the Legislature ~~shall~~ shd ^ meet at the Time and Place assigned by Congress ~~or (if Congress shall have assigned no Time and Place) at such Time and Place as shall have been agreed on by the Majority of the Members elected for each House~~; and ~~shall~~, shd ^ as soon as may be after their Meeting, chuse the President of the United States, and proceed to execute this Constitution.

# ADDENDUM

THIS ADDENDUM addresses several questions regarding the physical disposition of the documents in the James Wilson archive at the Historical Society of Pennsylvania and elsewhere: What is the provenance of the Wilson manuscripts? How did they come to the Historical Society and other Philadelphia archives? How did the current ordering of the Committee of Detail documents come about? Because these questions have not been addressed in printed literature and because they provide helpful and relevant insight for scholars interested in Wilson, I attempt briefly to say what is known about these matters.

1) *What is the provenance of the Wilson manuscripts?*

James Wilson died in 1798. He was survived by his second wife, Hannah, and their child, Henry, who later died in infancy. He was also survived by at least two adult children from his first marriage: Bird Wilson and Mary Wilson Hollingsworth, commonly referred to as "Polly." Polly and Paschall Hollingsworth had one child, Emily Hollingsworth, who was thus Wilson's granddaughter.[1]

Upon Wilson's death, his papers passed to Bird. Bird used them to publish an edition of his father's writings; that work appeared in 1804 as *The Works of the Honourable James Wilson, L.L.D.* Bird was himself to become a distinguished figure, first as a judge, then as a clergyman; he was the subject of a biography by William White Bronson in 1864. This work included a short review of James Wilson's life in its introductory chapter. That chapter required some familiarity with manuscript sources, presumably in the possession of Bird or (upon Bird's death) Emily Hollingsworth.[2] Bronson describes and quotes from several of Wilson's papers, including his appointment letter and commission to the Supreme Court (currently at the University of Pennsylvania Law School), his certificate of membership to the Philosophical Society of Philadelphia (also currently at the law school), and his commission from Louis XVI, "still preserved among his papers, as Advocate General for the French government, in the United States" (currently lost). Bronson also describes Wilson's correspondence in some detail:

[1] There is some evidence that Wilson was also survived by his first son, William ("Billy"), whom he had sent west to Ohio; but because this branch of the family was not involved in the disposition of Wilson's papers, it shall not be discussed here. The basic facts of Wilson's life are recounted in the standard biography, Charles Page Smith, *James Wilson, Founding Father, 1742–1798* (Chapel Hill, NC, 1956); the information about his descendants appears on pp. 380–89.

[2] See Bird Wilson, *The Works of the Honourable James Wilson, L.L.D. . . . ,* 3 vols. (Philadelphia, 1804), and W. White Bronson, *A Memorial of the Rev. Bird Wilson . . .* (Philadelphia, 1864). Bronson refers to his interviews with Emily throughout the biography.

> [F]rom the fragments of correspondence still preserved[,] [t]here are letters from such men as Gen. Washington, John Adams, Alexander Hamilton, Patrick Henry, Paul Jones, Gen. St. Clair, who wrote him a very interesting description of the capitulation at Yorktown; from Bishop White, and others. This list embraces persons only whose names, very naturally, made an impression while hurriedly glancing over his papers,—a list which might be very materially extended, were it necessary (pp. 31–32).

These references to Wilson's papers indicate that, at least while Bronson was doing the research for his 1864 biography, a sizeable collection of Wilson manuscripts remained in the possession of his immediate descendants.

2) *When and how did the Committee of Detail and other Wilson manuscripts come to the Historical Society of Pennsylvania and elsewhere?*

When Bird Wilson died (April 14, 1859) as an unmarried—and presumably childless—pastor in New York City, these papers passed to his niece, Emily Hollingsworth. Hollingsworth made two gifts of these papers to the Historical Society. The first gift, comprising a few papers "relating to" Wilson and Bird, was made on June 9, 1876. It was accompanied by a letter to "John W. Wallace, Esq.," then president of the Historical Society. Seven months later, Wallace wrote Hollingsworth to tell her:

> The papers which you kindly gave to our Historical Society, relating to your grandfather Wilson, and to your uncle, have been arranged, pressed & put in a condition to bind. But they will make a volume somewhat thin. Mr. Jordan asks me if it is probable that you have any of your grandfather Wilson's that we could add to them. I tell that probably you have not, I should suppose; but that I will enquire. Anything which would fill out the book some what with Judge Wilson's papers would be acceptable.

Hollingsworth complied with this request the very next day. With the help of Dr. Caspar Morris, Hollingsworth selected "a number of Manuscripts of my Grand father, James Wilson, respecting various subjects." Hollingsworth described these manuscripts as containing a document authored by Alexander Hamilton, a copy of a letter addressed to the Supreme Court by George Washington, and a small engraving of Wilson. She did not mention the drafts of the Constitution and wrote, "Do not feel obliged to retain any of the Papers you deem inadmissible to the repositories of your Society."[3]

There was a third and final acquisition of Wilson's papers by the Historical

[3] The Hollingworth correspondence discussed here and below can be found in the James Wilson Papers, vol. 2, folders 2–3, Historical Society of Pennsylvania.

Society in 1903, from Israel W. Morris, Caspar's son.[4] This Morris was one of Hollingsworth's three named executors, along with Thomas H. Montgomery and Eppingham B. Morris.[5] As a result, Israel Morris inherited a third part of all her possessions not otherwise listed in her will. Part of the family collection most likely came into his possession in this way. His donation was extensive enough to fill another eight volumes in the Historical Society collection. It is important to note that several valuable items described by Bronson are missing; instead, many of those items are to be found in scattered collections in Philadelphia, New York, and possibly elsewhere.[6] How the collection came to be scattered in this way is unknown, but provenance records for another collection at the Historical Society and the Wilson Papers at the Free Library in Philadelphia provide some clues. The James A. Montgomery Papers at the Historical Society contain several letters described by Bronson. These were donated by a James Alan Montgomery, the nephew of Emily Hollingsworth Montgomery, the youngest daughter of Thomas H. Montgomery, one of the three executors for Emily Hollingsworth's will. At the Free Library, there are letters indicating that James Alan Montgomery's father gave a book with James Wilson's signature in it to the Historical Society on May 16, 1941. It seems that Wilson's papers (those not given to the Historical Society in 1876 and '77) were split among Emily's executors as part of her estate's "residue." Each executor preserved the papers in his own way, Israel Morris donating his to the Historical Society and Montgomery keeping his in the family. It is unknown whether Eppingham Morris acquired and disposed of any papers.

The gifts from Hollingsworth constitute volumes 1 and 2 of the Wilson Papers at the Historical Society. Volume 1 contains the drafts of the Constitution and other Committee of Detail documents. These are found on ten large folio sheets, each of which was folded in half to make a signature of four pages. The individual folio sheets of volume 1 are at present held each in its own transparent Mylar folder. The folders have been matted so that the drafts could be placed on display at the National Constitution Center after its opening in 2003. Four of the mats are labeled "James Wilson. First Draft U.S. Constitution" (corresponding to Farrand's Documents I, V–VIII); six are labeled "James Wilson. Second Draft U.S. Constitution" (corresponding to Farrand's Documents III and IX).[7]

[4] Robert C. Moon, *The Morris Family of Philadelphia: Descendants of Anthony Morris. . .* (Philadelphia, 1898), 2:702. Caspar Morris was a great-grandson of Zebulon Hollingsworth, which made him Emily's second cousin (ibid., 701).

[5] Will of Emily Hollingsworth (Philadelphia Town Hall, 1895), Register of Wills, W1342, p. 1, City of Philadelphia.

[6] See Wilson papers in the collections of the Free Library of Philadelpia, National Independence Park, American Philosophical Society, and the New-York Historical Society.

[7] See Max Farrand, ed., *The Records of the Federal Convention of 1787*, 3 vols. (New Haven, CT, 1911).

Volume 2 contains Wilson's political papers, including the manuscripts and engraving described by Hollingsworth at the time of her second donation, a fragment of Farrand's Document V, and letters between Bird and several of Wilson's friends.

Although Hollingsworth makes no reference to the drafts of the Constitution, it is clear that they came to the Historical Society in one of her two gifts. Both John Franklin Jameson and William M. Meigs discuss drafts of the Constitution that they studied in the Wilson Papers at the Historical Society in 1898 and 1899 respectively, well before the 1903 gift by Israel Morris. Although the drafts would have been in the possession of the archive by 1877, they appear not to have been studied until the work of Jameson and Meigs two decades later.[8]

3) *How did the current ordering of the Committee of Detail documents come about?*

Answering this question requires a discussion of (a) the order of the documents upon arrival to the Historical Society, (b) the order of the documents once bound, and (c) the current, disbound ordering.

(a) *The order of the Committee of Detail documents upon arrival to Historical Society of Pennsylvania*

The Committee of Detail documents most certainly came to the Historical Society as part of Hollingsworth's two gifts, and most likely in the second. Wallace describes the papers in the first gift as "relating to your grandfather Wilson, and to your uncle." Accordingly, Hollingsworth's card with a handwritten note to Wallace appears near the end of volume 2 just prior to the series of letters between Bird and many of Wilson's friends, clearing Wilson of a contemporary conspiracy charge launched against him in a Nathanael Greene biography.[9] These papers could fit the description of "relating to" (but not necessarily written by) Wilson and Bird. Too, had the first gift contained the drafts and other documents—voluminous enough to produce a stand-alone volume—not only would

[8] See J. Franklin Jameson, *Studies in the History of the Federal Convention of 1787*, first published in the *Annual Report for the American Historical Association for the Year 1902* (Washington, DC, 1903), and Andrew C. McLaughlin, "Sketch of Pinckney's Plan for a Constitution, 1787," *American Historical Review* 9 (1904): 735–47.

[9] Wilson Papers, vol. 2, folders 123–31. The Nathanael Greene biography was by Judge William Johnson of Charleston, South Carolina, published in 1822, and accused Wilson of participating in a coup d'état against Washington. After Bird confronted Judge Johnson armed with letters absolving Wilson's character, Johnson backed down and printed an insert in the biography correcting the error. See Johnson, *Sketches of the Life and Correspondence of Nathanael Greene . . .* (Charleston, SC, 1822). Volume 2 of the Wilson Papers concludes with document 132, a plan in Wilson's hand for "the Settlement and Management of the rich and extensive Country to the Northwest of the Ohio and Eastward of the Mississippi."

Wallace *not* have been able to complain that they "will make a volume somewhat thin," he likely would have mentioned them specifically. If all this is true, the current volume 1, comprising almost all the Committee of Detail documents in Wilson's hand, was thus contained in Hollingsworth's second gift.

Another clue indicates that the Committee of Detail documents came in the second gift: Farrand's second portion of Document V is currently found as document 63 of volume 2. The latter half of Document V's location there, among other documents relating to the Constitutional Convention, may suggest that an archivist at the Historical Society, much more familiar with constitutional history than Hollingsworth, recognized the value of the drafts and other documents and separated them into their own volume, volume 1.

Other original placement clues can be found in Jameson's and Farrand's treatments. In his 1903 *Studies in the History of the Federal Convention of 1787*, Jameson was the first to closely examine Wilson's Committee of Detail documents. Jameson's primary concern was to trace the influence on the U.S. Constitution of the various plans submitted for the consideration of the convention (i.e. the Virginia, Hamilton, Paterson, and Pinckney plans); he devoted particular attention to the influence of the Pinckney Plan. Although not discussed in convention, the plan did have an impact on the Constitution; it was copied by Wilson and (according to Jameson) some nineteen or twenty of its provisions are preserved in the Committee of Detail's report.

Wilson's sheet containing brief extracts from both the Pinckney and Paterson plans received Jameson's close attention. In describing the extracts, Jameson writes that it was placed "fourth in the order of binding," between the first and third folio sheets of Wilson's rough draft where the missing middle folio would have been. Jameson surmises that at least the three documents discussed had been ordered with forethought and by someone familiar with Wilson's working methods—this because the extracts related to the powers of Congress, the executive, and the judiciary, or what would have been addressed in the missing middle portion of the draft.[10]

Farrand uses similar language when describing the order of the documents. He presents each of Wilson's sheets as a separate document, or documents "VI," "VII," and "VIII." He describes these in a footnote: "Documents VI and VIII are on two sheets of four pages each. Between them is *placed* Document VII, consisting of a smaller single sheet of two pages."[11]

Farrand's evident concern to respect the discrete sequencing of these documents indicates that he believed, like Jameson, that a careful hand had ordered at least some of the documents before their arrival to the Historical Society. Who was this careful hand? Of all those in the chain of custody—Wilson, Bird, Emily, Caspar Morris, and Wallace—it is likely that Wilson alone knew enough about

[10] Jameson, *Studies*, 128–29.

[11] Farrand, *Records*, 2:157n15 (emphasis added).

the internal proceedings of the Constitutional Convention to have placed the Pinckney and Paterson excerpts between the sheets of another draft. The convention's proceedings were still a tightly held secret when Wilson died in 1798—Madison's *Notes* did not appear until 1840—so Bird is unlikely to have had access to the relevant information. Emily Hollingsworth seemed to be unaware of the drafts' significance, absenting them from mentions of documents she thought of particular import in her letter to John Wallace in January 1877. If the drafts came in the 1876 gift, Wallace did not mention the fact in his letter to Emily.

Jameson's view thus seems the most plausible: namely, that Wilson himself assembled the drafts in their original order and that his descendants preserved at least some of that order until the documents were donated to the Historical Society. Once the gifts arrived at the Historical Society, the Committee of Detail documents were possibly separated out to be bound as volume 1, leaving Document V behind to be bound with volume 2.

(b) *The order of the documents after receipt by the Historical Society of Pennsylvania*

Once in the possession of Historical Society, all Wilson documents were bound into ten book volumes, thus preserving their order for the duration of their binding. We know volumes 1 and 2 were bound because Wallace tells Hollingsworth that the papers from the first donation "relating to your grandfather Wilson, and to your uncle, have been arranged, pressed & put in a condition to bind." The label of volume 2 also provides a date for its being disbound, in 1987. Similar evidence shows that volumes 3, 4, 5, 6, and 8 were each bound as well. In the case of volumes 3 and 4, the date of their binding, December 17, 1904, is provided on the facsimile copy of the book volume cover; and, like volume 2, the boxes for volumes 3, 5, 6, and 8 are labeled with their disbinding dates.[12]

A physical examination of the documents themselves confirms the external, recorded evidence of binding. On the drafts of the Constitution and Committee of Detail documents, any binding markings are almost imperceptible, a credit to the curator. But upon closer inspection, one can see faint traces of binding, often a dim but even line where the binding would have ended, or else a slight irregularity in the surface of the paper and a missing letter or two where it was treated to remove the binding tape or glue. Many documents in other volumes are still bound together in small segments by a half-inch thick, yellowing tape. (The tape

[12] The box volume labels vary. For volumes 3, 5, 6, 8, and 10, printed labels roughly 2 × 2 inches detail contents and disbinding dates. Volumes 4, 7, and 9 have no label and instead are simply identified by their volume number handwritten in pencil on the outside of the box: e.g., "v. 7." Volume 2's handwritten label has more information: "James Wilson Papers, 1775–92, Vol 2, Disbound March 14 1986."

has caused many of the manuscripts to rip at that half-inch juncture, frequently making portions of Wilson's handwriting illegible.) Other documents are separated from their fellows but still retain an encrusted, taped edge. Still other documents have *both* the marks of binding *and* the remnants of stitching between pages, as if the signatures were bound with tape and then sewn together. It is unlikely that the documents were bound prior to their arrival at the Historical Society, as Wilson documents in other collections show no sign of the ubiquitous tape remnants found throughout the Historical Society collection of Wilson papers.

Volumes 2–10 of the Wilson Papers were disbound in 1986. The labels on the document boxes indicate that volume 2 was disbound on March 14, 1986; volume 3 on March 31, 1986; volumes 5 and 6 on April 8, 1986; volume 8 simply in April of 1986; and volume 10 on April 9, 1986. Labels are missing for volumes 1, 4, 7, and 9. If the dates provided here indicate any kind of disbinding pattern, they suggest that the volumes were disbound two at a time with the exception of volume 2 and of the last four volumes; those appear to have been disbound together, perhaps because the process had become systematized and therefore quicker. If this conjecture is correct, volume 2 would have been disbound on March 14, 1986, volumes 3 and 4 on March 31 (the date indicated for volume 3), volumes 5 and 6 on April 8 (known from the labels), and volumes 7, 8, 9, and 10 on April 9.

The binding order is preserved to a certain extent by facsimiles made in 1972 while the volumnes were still bound.[13] Facsimiles were made of all volumes, including volume 1, evidencing that the documents were bound not in contiguous sequence, but as a scrapbook, with multipage documents being bound to each other and then to a scrapbook page. As the 1972 facsimiles were not bound themselves, and because researchers were and continue to be permitted access almost exclusively to the facsimiles rather than the originals, in certain instances the order of the documents has been shuffled by these researchers, including in volume 1. We know this because Farrand's Document VII, containing Wilson's excerpts from both the Pinckney and Paterson plans, appears after the two large folio pages of the rough draft marked "1" and "3," rather than in between as so carefully described by both Jameson and Farrand. Despite this exception, the overall order of the 1972 facsimiles seems to be somewhat consistent with their bound order.

(c) *What is the current, disbound ordering?*

Once disbound, the individual documents were placed in folders, and the folders in document boxes, each bound volume being given its own box. The

[13] The date of the facsimile imaging is taken from a beginning page of volume 7's facsimile, which reads: "The Papers of James Wilson / Vol. VIII, "Deeds and Wills" / Historical Society of Pennsylvania / Filmed July, 1972."

ordering of the folders has roughly preserved the ordering of the bound pages. For instance, Farrand's Document V is found as document 63 in volume 2 in both the current document order and the bound 1972 facsimile. Yet within certain folders a comparison with the 1972 facsimile reveals that pages have been shuffled, likely by researchers. One such example includes Wilson's outline of his law lectures, jotted onto blank pages of the printed Pennsylvania ratification debates.[14]

Other than Document V, the bound placement of which has been preserved, the "order" of Committee of Detail documents, as such, is made somewhat irrelevant by their being placed into individual Mylar envelopes, matted, and put into individual, numbered archival boxes. Whatever "order" exists is found in the documents being split under two labels: "Wilson's First Draft of the Constitution" and "Wilson's Second Draft of the Constitution." As noted above, "Wilson's First Draft of the Constitution" includes the amended Virginia Plan, the first portion of Document V, the two folio sheets of Wilson's fragmented rough draft, and the excerpts of the Paterson and Pinckney plans. "Wilson's Second Draft of the Constitution" includes Wilson's final draft and the Pinckney Plan.

As indicated above, the ten volumes, taken as a whole, probably reflect the order in which the documents were received by the Historical Society; but within and sometimes between volumes there is considerable variation. Perhaps recognizing these facts (which are evident even from a casual examination of the Wilson manuscripts), Farrand created his own sequence of the drafts of the Constitution. Working with the bound volumes, he presumably discerned that some documents' ordering reflected the careful hand of Wilson, while others were placed somewhat at random by those who selected or bound the documents. Farrand's logic is reflected in his ordering of the documents so as to yield a coherent sequence of texts showing the organic growth of the Constitution. We concur with Farrand's logic and therefore have ordered the transcriptions above in similar fashion.

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[14] Wilson Papers, vol. 2, folder 20–25.