

## The Electoral College Debates

From James Madison's Notes of the Federal Convention

### Overview:

The Articles of Confederation were not a true government, as it provided only for a Congress with little authority and no executive to enforce any decisions it made. In the Federal (also known as the Constitutional) Convention, the delegates agreed to an executive (which they eventually decided to call the President), but had difficulty deciding on whether it should be one person or multiple people, and especially on whether the executive should be chosen by the national legislature (Congress), the people, or some other means. The debate extended from early June to late July, occasionally being brought up, discussed, an agreement made, then dropped until it was brought up again later for reconsideration.

**Note on the notes:** The notes below are as James Madison wrote them, unusual abbreviations and all, except for the addition of notation of what state each speaker represented. Dashes represent redacted discussions not relevant to the debate over choosing the executive. Madison was not only one of the leading figures in making the convention happen, but he also took the most thorough notes of any delegate, while also being very active in the debate. His Notes of the Federal Convention are the most complete record we have of the debates that occurred as the delegates from 12 of the 13 states were drafting the Constitution in 1787.

### Saturday June 2, 1787

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The mode of appoint[ing] ye Executive was resumed.

**Mr. WILSON (PA)** made the following motion, to be substituted for the mode proposed by Mr. Randolph's resolution, "that the Executive Magistracy shall be elected in the following manner: That the States be divided into \_\_\_\_\_ districts: & that the persons qualified to vote in each district for members of the first branch of the national Legislature elect \_\_\_\_\_ members for their respective districts to be electors of the Executive magistracy, that the said Electors of the Executive magistracy meet at \_\_\_\_\_ and they or any \_\_\_\_\_ of them so met shall proceed to elect by ballot, but not out of their own body \_\_\_\_\_ person in whom the Executive authority of the national Government shall be vested."

**Mr. WILSON** repeated his arguments in favor of an election without the intervention of the States. He supposed too that this mode would produce more confidence among the people in the first magistrate, than an election by the national Legislature.

**Mr. GERRY (MA)**, opposed the election by the national legislature. There would be a constant intrigue kept up for the appointment. The Legislature & the candidates wd. bargain & play into one another's hands, votes would be given by the former under promises or expectations from the latter, of recompensing them by services to members of the Legislature or to their friends. . . . He seemed to prefer the taking the suffrages of the States instead of Electors, or letting the Legislatures nominate, and the electors appoint. He was not clear that the people ought to act directly even in the choice of electors, being too little informed of personal characters in large districts, and liable to deceptions.

**Mr. WILLIAMSON (NC)** could see no advantage in the introduction of Electors chosen by the people who would stand in the same relation to them as the State Legislatures, whilst the expedient would be attended with great trouble and expence. On the question for agreeing to Mr. Wilson's substitute, it was negatived: Massts. no. Cont. no. N. Y. no. Pa. ay. Del. no. Mard. ay. Virga. no. N. C. no. S. C. no. Geoa. no.

On the question for electing the Executive by the national Legislature for the term of seven years, it was agreed to Massts. ay. Cont. ay. N. Y. ay. Pena. no. Del. ay. Maryd. no. Va. ay. N. C. ay. S. C. ay. Geo. ay.

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### **Saturday June 9, 1787**

**Mr. GERRY (MA)**, according to previous notice given by him, moved "that the National Executive should be elected by the Executives of the States whose proportion of votes should be the same with that allowed to the States in the election of the Senate." If the appointmt. should be made by the Natl. Legislature, it would lessen that independence of the Executive which ought to prevail, would give birth to intrigue and corruption between the Executive & Legislature previous to the election, and to partiality in the Executive afterwards to the friends who promoted him. Some other mode therefore appeared to him necessary. He proposed that of appointing by the State Executives as most analogous to the principle observed in electing the other branches of the Natl. Govt.; the first branch being chosen by the people of the States, & the 2d. by the Legislatures of the States; he did not see any objection agst. letting the Executive be appointed by the Executives of the States. He supposed the Executives would be most likely to select the fittest men, and that it would be their interest to support the man of their own choice.

**Mr. RANDOLPH (VA)**, urged strongly the inexpediency of Mr. Gerry's mode of appointing the Natl. Executive. The confidence of the people would not be secured by it to the Natl. magistrate. The small States would lose all chance of an appointmt. from within themselves. Bad appointments would be made; the Executives of the States being little conversant with characters not within their own small spheres. The State Executives too notwithstanding their constitutional independence, being in fact dependent on the State Legislatures will generally be guided by the views of the latter, and prefer either favorites within the States, or such as it may be expected will be most partial to the interests of the State. . . .

On the question for referring the appointment of the Natl. Executive to the State Executives as propd. by Mr. Gerry Massts. no. Cont. no. N. Y. no. N. J. no. Pa. no. Del. divd. Md. no. Va. no. S. C. no. Geo. no.

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## Tuesday July 17, 1787

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9th Resol[ution]: "that Natl. Executive consist of a single person." Agd. to nem. con. [*nemine contradicente*: with no contradiction; unanimately.]

"To be chosen by the National Legisl:"

**Mr. GOVERNOR. MORRIS (PA)** was pointedly agst. his being so chosen. He will be the mere creature of the Legisl: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country. That difficulties attend this mode, he admits. But they have been found superable in N. Y. & in Cont. and would he believed be found so, in the case of an Executive for the U. States. If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction; it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment. He moved to strike out "National Legislature" & insert "citizens of U.S."

**Mr. SHERMAN (CT)** thought that the sense of the Nation would be better expressed by the Legislature, than by the people at large. The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the Legislre. A majority of voices may be made necessary to constitute an election.

**Mr. WILSON (PA)**. two arguments have been urged agnt. an election of the Executive Magistrate by the people. [One is] the example of Poland where an Election of the supreme Magistrate is attended with the most dangerous commotions. The cases he observed were totally dissimilar. The Polish nobles have resources & dependents which enable them to appear in force, and to threaten the Republic as well as each other. In the next place the electors all assemble in one place: which would not be the case with us. The 2d. argt. is that a majority of the people would never concur. It might be answered that the concurrence of a majority of people is not a necessary principle of election, nor required as such in any of the States. But allowing the objection all its force, it may be obviated by the expedient used in Masts. where the Legislature by majority of voices, decide in case a majority of people do not concur in favor of one of the candidates. This would restrain the choice to a good

nomination at least, and prevent in a great degree intrigue & cabal. A particular objection with him agst. an absolute election by the Legislre. was that the Exec: in that case would be too dependent to stand the mediator between the intrigues & sinister views of the Representatives and the general liberties & interests of the people.

**Mr. PINKNEY (SC)** did not expect this question would again have been brought forward; An Election by the people being liable to the most obvious & striking objections. They will be led by a few active & designing men. The most populous States by combining in favor of the same individual will be able to carry their points. The Natl. Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of a fit man to carry them properly into execution.

**Mr. Govr. MORRIS (PA)**. It is said that in case of an election by the people the populous States will combine & elect whom they please. Just the reverse. The people of such States cannot combine. If their be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men. This might happen in a small district. It can never happen throughout the continent. In the election of a Govr. of N. York, it sometimes is the case in particular spots, that the activity & intrigues of little partizans are successful, but the general voice of the State is never influenced by such artifices. It is said the multitude will be uninformed. It is true they would be uninformed of what passed in the Legislative Conclave, if the election were to be made there; but they will not be uninformed of those great & illustrious characters which have merited their esteem & confidence. If the Executive be chosen by the Natl. Legislature, he will not be independent on it; and if not independent, usurpation & tyranny on the part of the Legislature will be the consequence. This was the case in England in the last Century. It has been the case in Holland, where their Senates have engrossed all power. It has been the case every where. . . . The great must be the electors in both cases, and the corruption & cabal wch. are known to characterise the one would soon find their way into the other. Appointments made by numerous bodies, are always worse than those made by single responsible individuals, or by the people at large.

**Col. MASON (VA)**. . . . [A] Government which is to last ought at least to be practicable. Would this be the case if the proposed election should be left to the people at large. He conceived it would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.

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**Mr. WILLIAMSON (NC)**, conceived that there was the same difference between an election in this case, by the people and by the legislature, as between an appt. by lot, and by choice. There are at present distinguished characters, who are known perhaps to almost every man. This will not always be the case. The people will be sure to vote for some man in their own State, and the largest State will be sure to succeed. This will not be Virga. however. Her slaves will have no suffrage. As the Salary of the Executive will be fixed, and he will not be eligible a 2d. time, there will not be such a dependence on the Legislature as has been imagined.

Question on an election by the people instead of the Legislature; which passed in the negative. [E.g., was voted down.]

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**Mr. L. MARTIN (MD)** moved that the Executive be chosen by Electors appointed by the several Legislatures of the individual States.

**Mr. BROOME (DE)** 2ds. On the Question, it passed in the negative.

On the question on the words "to be chosen by the Nationl. Legislature" it passed unanimously in the affirmative.

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### **Thursday July 19, 1787**

[In this day's somewhat confused debate, concern about ensuring that the executive be independent of the legislature, and able to be a check on it, spilled over from discussion of eligibility for more than one term as president (when elected by the legislature, as previously decided) into renewed debate about congressional vs. public election of the executive.]

On reconsideration of the vote rendering the Executive re-eligible a 2d. time, Mr. MARTIN moved to reinstate the words, "to be ineligible a 2d. time."

**Mr. GOVERNEUR MORRIS (PA).** . . . It has been a maxim in Political Science that Republican Government is not adapted to a large extent of Country, because the energy of the Executive Magistracy can not reach the extreme parts of it. Our Country is an extensive one. We must either then renounce the blessings of the Union, or provide an Executive with sufficient vigor to pervade every part of it. . . . One great object of the Executive is to controul the Legislature. The Legislature will continually seek to aggrandize & perpetuate themselves; and will seize those critical moments produced by war, invasion or convulsion for that purpose. It is necessary then that the Executive Magistrate should be the guardian of the people, even of the lower classes, agst. Legislative tyranny, against the Great & the wealthy who in the course of things will necessarily compose the Legislative body. Wealth tends to corrupt the mind & to nourish its love of power, and to stimulate it to oppression. History proves this to be the spirit of the opulent. . . . The Executive therefore ought to be so constituted as to be the great protector of the Mass of the people. It is the duty of the Executive to appoint the officers & to command the forces of the Republic: to appoint 1. ministerial officers for the administration of public affairs. 2. officers for the dispensation of Justice. Who will be the best Judges whether these appointments be well made? The people at large, who will know, will see, will feel the effects of them. Again who can judge so well of the discharge of military duties for the protection &

security of the people, as the people themselves who are to be protected & secured? He finds too that the Executive is not to be re-eligible. . . .

. . . He will be the tool of a faction, of some leading demagogue in the Legislature. These then are the faults of the Executive establishment as now proposed. Can no better establishmt. be devised? If he is to be the Guardian of the people let him be appointed by the people? . . . It has been said that the candidates for this office will not be known to the people. If they be known to the Legislature, they must have such a notoriety and eminence of Character, that they can not possibly be unknown to the people at large. It cannot be possibly that a man shall have sufficiently distinguished himself to merit this high trust without having his character proclaimed by fame throughout the Empire. . . . An election by the people at large throughout so great an extent of country could not be influenced, by those little combinations and those momentary lies which often decide popular elections within a narrow sphere. . . . He saw no alternative for making the Executive independent of the Legislature but either to give him his office for life, or make him eligible by the people. . . .

**Mr. RANDOLPH (VA)** urged the motion of Mr. L. Martin for restoring the words making the Executive ineligible a 2d. time. If he ought to be independent, he should not be left under a temptation to court a re-appointment. If he should be re-appointable by the Legislature, he will be no check on it. . . .

**Mr. KING (MA)**. did not like the ineligibility. He thought there was great force in the remark of Mr. Sherman, that he who has proved himself to be most fit for an Office, ought not to be excluded by the constitution from holding it. He would therefore prefer any other reasonable plan that could be substituted. He was much disposed to think that in such cases the people at large would chuse wisely. . . . On the whole he was of opinion that an appointment by electors chosen by the people for the purpose, would be liable to fewest objections.

**Mr. PATTERSON's (NJ)** ideas nearly coincided he said with those of Mr. King. He proposed that the Executive should be appointed by Electors to be chosen by the States in a ratio that would allow one elector to the smallest and three to the largest States.

**Mr. WILSON (PA)**. It seems to be the unanimous sense that the Executive should not be appointed by the Legislature, unless he be rendered in-eligible a 2d. time: he perceived with pleasure that the idea was gaining ground, of an election mediately or immediately by the people.

**Mr. MADISON (VA)**. If it be a fundamental principle of free Govt. that the Legislative, Executive & Judiciary powers should be separately exercised, it is equally so that they be independently exercised. . . . It is essential then that the appointment of the Executive should either be drawn from some source, or held by some tenure, that will give him a free agency with regard to the Legislature. This could not be if he was to be appointable from time to time by the Legislature. . . . Certain it was that the appointment would be attended with intrigues and contentions that ought not to be unnecessarily admitted. He was disposed for these reasons to refer the appointment to some other source. The people at large was in his opinion the fittest in itself. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for some Citizen whose merits had rendered him an object of general attention &

esteem. There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole to be liable to fewest objections.

**Mr. GERRY (MA)**. If the Executive is to be elected by the Legislature he certainly ought not to be re-eligible. This would make him absolutely dependent. He was agst. a popular election. The people are uninformed, and would be misled by a few designing men. He urged the expediency of an appointment of the Executive by Electors to be chosen by the State Executives. . . . The popular mode of electing the chief Magistrate would certainly be the worst of all. . . .

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**Mr. ELSEWORTH (CT)** moved to strike out the appointmt. by the Natl. Legislature, and insert "to be chosen by electors appointed, by the Legislatures of the States in the following ratio; towit-one for each State not exceeding 200,000 inhabts. two for each above [that] number & not exceeding 300,000. and three for each State exceeding 300,000.

**Mr. BROOME (DE)** 2ded. the motion

**Mr. RUTLIDGE (SC)** was opposed to all the modes except the appointmt. by the Natl. Legislature. He will be sufficiently independent, if he be not re-eligible.

**Mr. GERRY (MA)** preferred the motion of Mr. Elsworth to an appointmt. by the Natl. Legislature, or by the people; tho' not to an appt. by the State Executives. He moved that the electors proposed by Mr. E. should be 25 in number, and allotted in the following proportion. to N. H. 1. to Mas. 3. to R. I. 1. to Cont. 2. to N. Y. 2., N. J. 2. Pa. 3. Del. 1. Md. 2. Va. 3. N. C. 2. S. C. 2. Geo. 1.

The question as moved by Mr. Elsworth being divided, on the 1st. part shall ye. Natl. Executive be appointed by Electors? [Passed]

On 2d. part shall the Electors be chosen by State Legislatures? Mas. ay. Cont. ay. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. ay. [Passed]

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