THE ORIGINAL READING OF THE RANDOLPH RESOLUTIONS

A Thesis Presented for the
Degree of Master of Arts

by

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Approved by:

[Signature]
"History is studied from documents. Documents are the traces which have been left by the thoughts and actions of men of former times. There is no substitute for documents: no documents, no history."

Charles V. Langlois
THE VIRGINIA DELEGATION TO THE FEDERAL CONVENTION
OF 1787

George Washington
Edmund Randolph
John Blair
James Madison, Jr.
George Mason
George Wythe
James McClurg

Patrick Henry
Richard Henry Lee Declined to serve on election
Thomas Nelson
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I. INTRODUCTION

The Virginia or Randolph resolutions, looking toward a "more perfect Union", were presented to the Federal Convention on May 29, 1787. As is well known, the original draft, presented by Edmund Randolph, the head of the Virginia delegation, has long since disappeared. On May 29, just before the resolutions were presented, the Committee on Rules made its report. Among the rules proposed was the following: "That nothing spoken in the House be printed or otherwise published, or communicated without leave." It was felt by many that the Convention's actions should not be revealed before the work was finished. Before the final adjournment, however, the Secretary was directed to deposit "the Journal and other papers of the Convention in the hands of the President," and in answer to Washington's inquiry, the Convention resolved "that he retain the Journal and other papers subject to the order of Congress, if ever formed under the Constitution." Accordingly the Secretary, William Jackson, after destroying "all the loose scraps of paper" which he evidently thought unimportant, formally delivered his records to the President. Washington, in turn, deposited them with the

1. Journal, Tuesday, May 29, in Farrand, Records of the Federal Convention of 1787, I, 15 (hereafter cited as Farrand, Records). Concerning this Action George Mason wrote to his son saying, "It is expected our doors will be shut, and communications upon the business of the Convention be forbidden during its setting." Ibid., III, app. A, 28.
Department of State in 1796, where they remained untouched until Congress, 2
by a joint resolution in 1818, ordered them to be printed. The
Secretary of State, John Quincy Adams, supervised the work on the Jackson
records. Adams, however, did not find a copy of the Randolph resolutions
among the Jackson papers. The copy contained in the Journal published
in 1819, was reconstructed by Adams from the Brearley copy which came
into his hands. Since the basis for the formulation of the new plan of
government was the Randolph resolutions, modified in the course of the
deliberations of the Convention, the absence of an unquestionable reading
thereof constitutes a gap in the history of the formation of the
Constitution. The desirability of restoring the original reading, if
one is to study critically the Convention's progress, is evident.

There are extant several copies of the Randolph resolutions made by
various members of the Convention. Madison's copy is among his notes now
in the possession of the Library of Congress and for this study a
photostat of it was used. Another copy is that of David Brearley. It
is also in the possession of the Library of Congress and for this study
a photostatic reproduction was used. The Library of Congress has another
text of the Randolph resolutions in the handwriting of George Washington,
a photostat of which was used for this study. There are two extant copies
in the handwriting of William Paterson, one in loose sheet form, the
other copied neatly in a small book. The originals of the latter remains
in private hands, but the Library of Congress has the former. Photostatic
reproductions of these were used for this study.

2. Farrand, Records, I, xii.
3. The loose sheet form, designated in this study C-1, was found among the
papers of William Samuel Johnson and is now bound with the miscellaneous
papers from the Constitutional Convention in the possession of the
Library of Congress. The note book text, designated C-2, is in the
possession of the Paterson, New Jersey, Chapter of the Daughters of the
American Revolution.
Another copy is known to have been among the papers of Dr. James C. Henry. This text cannot now be located, hence no use has been made of it.

Besides these extant copies there is a body of material which might well be called supplementary. It consists of the Jackson Journal, which contains the official minutes of the Convention, and the notes of the individual Convention delegates. These notes and the official minutes contain additional copies of parts of the Randolph resolutions and the day by day modification thereof during the Convention's deliberations on the resolutions. This supplementary material is collected in Dr. Farrand's Records. This collection not only attempts to present this supplementary material in its original form by extensive editorial notes, but also to indicate the modifications made from time to time. In the appendices moreover is much matter of value for the critical student.

Of the extant texts it appears that Dr. Jameson, who made a survey of the problem of this present study in 1902, was unaware of the existence of the loose slip form of the Paterson copies, as well as the McHenry and Washington copies. The Records were not published until 1911. Jameson's study reveals that, of the supplementary materials, he had only the notes of Madison, Yates, and the Jackson Journal.

4. According to a report of the Division of Manuscripts of the Library of Congress, recent attempts to locate the McHenry text have been unsuccessful.

The existence and availability of new material warrants a resurvey of the problem of the original reading of the Randolph resolutions. Dr. Jameson arrived at the conclusion that the Madison copy, while in itself corrupted in the instance of the ninth resolution, was the closest approach to the original reading of the Randolph resolutions. Following the Jameson study, Dr. Farrand in volume III, of the Records, presents a sketchy examination of the same problem with all of the material listed above as available for this present study and in addition, apparently, the McHenry copy of the resolutions. He arrived at the conclusion that the Madison text is the correct reading of the original Randolph resolutions. Dr. Farrand did not accept the Jameson idea that the Madison text was corrupted. My conclusion agrees with Dr. Farrand's in all essential respects, although it is impossible to prove that Madison's text is correct to the last detail.

The problem of these three studies precisely stated is that of restoring the reading of a lost original from several extant copies purporting to be reproductions of it. The extant copies present variant readings and there are reasons for questioning whether any one is without corruptions. For convenience, in the present study the extant copies may be designated as follows: The one made by Madison will be called A; by Brearley, B; those by Paterson, C-1 and C-2; by McHenry, D; and by Washington, E. Critical comparison of these six texts reveals certain interrelationships and reduces the number of apparently independent texts to four—A, B, C-1 and E.

Pierce records in his notes an incident which is very revealing as to the way in which the several copies originated. He explains that when the "propositions", that is, evidently the Randolph resolutions, were brought forward at the opening of the Convention, "a copy... was given to each member." This would seem to imply that the Convention provided the delegates with copies of the proposals, but the remainder of the narrative clearly shows that the individual members made their own copies from the original draft handed to them. It seems that one of the delegates had dropped a copy of the proposals in the hallway, and that it was found by another delegate and given to Washington who with some severity at close of the day, before leaving his chair, threw it on the table with an admonition against such carelessness. Pierce covertly got to the table, when he found that his copy was not on his person, and was relieved to find that the copy was not in his handwriting. On reaching home he found his copy in the pocket of another coat.

As to text A, it is known that Madison, from the first, assumed the role of unofficial reporter of the Convention. It is clear then that he would be interested in preserving unchanged so important a document. Text B from the Brearley papers was obviously used in the Convention and bears on its face modifications 'interpolated' by Brearley as the discussion proceeded. A comparison of the Paterson texts, C-1 and C-2, reveals the

8. Ibid., I, xv-xvi.
9. Brearley's copy is unsatisfactorily reproduced in the Documentary History of the Constitution, I, 332-335 (hereafter cited as Doc.Hist.). This reprint was used by Jameson; hence his discussion of this document is, in many respects, incorrect.
dependence of C-2 and C-1. The handwriting of the two texts is identical. Further C-1 was obviously used in the Convention and contains all of the changes found in C-2, evidently copied from C-1 into the "little book" for permanent preservation. A comparison of the text of E with the handwriting of letters and documents known to have been written by Washington indicates that E is in his handwriting. It does not bear the marks of modification during the Convention's discussions, and therefore appears to be either his original copy or a copy of that copy in which changes, if any, have been incorporated in such a way as to be indistinguishable from the original reading. Since its reading is nearly identical with that of A, one of these copies must have been derived from the other unless both are independent copies of the lost original. In view of what has been said above as to the probability that each delegate made his own copy, there is a fairly strong presumption that the latter supposition is correct. If the independence of A and E could be completely established, the problem of the original reading would be reduced to the few points at which they vary. There is the additional possibility that both may embody changes made in the course of debate. Hence, since their independence is at best only a presumption, further examination of the evidence becomes necessary.

As to text D, Dr. Farrand states that "in all essential particulars, McHenry's copy of the Virginia Plan is identical with that of Madison."


In support of Farrand's statement is the following. "The text of the Virginia Plan here presented is that which is designated as A in Jameson 'Studies in the History of the Federal Convention of 1787' Annual Report of the American Historical Association for 1902, I, 103-111. It is not necessary to reprint it here."

It is clear from this statement that the reading of D is not absolutely identical with A and this evidence strengthens the conclusion above that each delegate made his own copy. However, as has been mentioned, copy D is not available for this study and no positive statement concerning it can be made by the present author, but literal copies of A, B, C-1, and E from photostats of the original papers will be found in the appendix at the end of this study.

Resolutions 3, 8, 10, 14 and 15 read identically in A, B, C-1 and E. The only differences are in punctuation, capitalization and the use of abbreviations. Thus if the independence of the copies may be assumed, the reading of the original text is established in these instances. Variations in the copies appear in resolutions 1, 2, 4, [5], 6, 7, 9, 11, 12, and 13. In examining each of these variations the reading of Copy A will first be quoted, then after the study of the evidence, the probable original reading will be given, in case it differs from A.

12. See appendix.
13. Resolution 5 is in this category not because the texts disagree, but because there seems to be disagreement between the texts and the supplementary material.
II. THE QUESTIONABLE RESOLUTIONS

1. Resolved that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, "common defence, security of liberty and general welfare."

B, C-1 and E vary from this reading by placing the word "the" before "Confederation" so as to read, "Resolved that the Articles of the Confederation...." It will be noted that the variation is not important for the absence or presence of the word "the" does not change the meaning of the text. The Yates notes for May 30 give a reading identical with B, C-1 and E, while the Adams Journal agrees with A. It is entirely possible that the "the" was a part of the original draft and was dropped by Madison as either unnecessary or inaccurate. Where the evidence is so evenly balanced a decision is impossible. In other respects A undoubtedly represents the original.

14. Farrand, Records, I, 38. From the critical standpoint the accuracy of the Yates notes is questionable. They were published under the supervision of Lansing in 1821, after the Adams Journal had appeared. Since the original Yates MSS. cannot be located, how much, if any, of his notes as printed was copied from the Adams Journal can not be determined. In this instance such was not the case.
2. Res. therefore that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

Copy E gives an identical reading while B and C-I vary in omitting the word "rule" so as to make the resolution read after the second comma, "as the one or the other may seem best in different cases."  

15 16

The Journal and the McHenry notes for May 30 support the reading of A at this point. However, the Journal in its version omits the word "therefore" and the McHenry notes, "Resolved therefore". This seems to result from the elimination of the first resolution on May 30 from the discussion. The first two words of the second resolution seem to indicate that it comes as a natural outgrowth of the first and if the latter was eliminated the first two words of the former seem awkward. These words perhaps were eliminated only for this reason for the copies are identical in the wording of this resolution to the second comma. The Yates notes for June 9 verify the reading except that they leave out the "Free" before "inhabitants." This change may be due to Madison's motion on May 30 to strike out "Free" as it might stir sectional differences. The omission of "rule" from B and C-I might be due to the fact that Paterson made the mistake in copying the original and Brearley when making his copy perhaps copied the Paterson text. Both men were in the New Jersey delegation, and the similarity of their text, not only in this instance, seems to

16. Ibid., I, 40.
17. Ibid., I, 181.
support the conclusion that they are, on some of the individual resolution readings, interdependent. The conclusion is that the reading of A is correct.

4. Res. that the members of the first branch of the National Legislature ought to be elected by the people of the several States every[1] for the term of[2] years at least, to receive liberal stipends by which they may be compensated for the devotion of their time to public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly[Sic] belonging to the functions of the first branch, during the term of service, and for the space of[3] after its expiration; to be incapable of re-election for the space of[4] after the expiration of their term of service, and to be subject to recall.

Texts B, C-1 and E vary from this reading. B and C-1 differ only in the spelling of a word. Where A has "peculiarly" before the words "belonging to the functions of the first branch", B, C-1 and E have "peculiarly". This is evidently a mere slip of the pen on the part of Madison. E varies also in placing the word "years" after the fourth blank and before "after its expiration;" and after the fifth blank and before the words "after the expiration of their term of service."

That the word "years" had no place in the original draft is supported by the Journal record for June 12. It shows clearly that "one year" was placed in blank five before "after its expiration". In recording that

18. Farrand, Records, I, 210. The words "three years" which appear in place of the first blank, in the reproduction of B in the Doc. Hist., are set off in the original from the rest of the text by brackets showing that they were added later; the same is true concerning the "one" before the fourth blank.
the last section of this resolution was struck out the Journal reads:

it was moved and seconded to strike out the following words namely "to be incapable of re-election for the space of after the expiration of their term of service and to be subject to recall. [Sic]

On the question to strike out passed in the affirmative

The conclusion is that except for the obvious slip of the pen in the spelling of "peculiarly," text A correctly represents the original.

5. Res. that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of years at least; to hold their offices for a term sufficient to ensure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of after the expiration thereof.

B, C-1 and E give identical readings. But the supplementary material refers to a blank which it seems may have appeared following the words "sufficient to ensure their independency." The evidence follows:
Journal, Tuesday, June 12

Moved and seconded to fill up the blank after the words "sufficient to ensure their independency" with "seven 19 years"

Madison, Tuesday, June 12th

Mr. Spaight moved to fill the blank for the duration of the appointments to the 2d branch of the National (Legislature) with the words "7 years [Sic]"

Yates, Tuesday, June 12th

It was moved to fill the blank, or to the duration, with seven years

The Report of the Committee of the Whole, June 13, contains the seven year term agreed upon in that form:

4... term sufficient to ensure their independency namely, seven years,

19. Farrand, Records, I, 211.
20. Ibid., I, 218.
21. Ibid., I, 221.
22. Ibid., I, 228.
All of these notes, except the Journal, reveal that considerable debate followed this motion, and indicate that there may have been a blank here to be filled. But the context in the copies indicates only the need of a specification as to the duration of the second branch, and does not suggest an actual blank in the original. The manner in which the year stipulation is entered in the Journal, namely, seven years, can not be overlooked. In no other instance is a time limit so entered and the form suggests an added specification rather than the filling of a blank. Although the factor of doubt must enter, it is the conclusion of the present author that the reading of the extant texts is correct.

6. Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be impowered to enjoy the Legislative Rights vested in Congress by the Confederation and moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof.

Variations occur in B and E. B varies in having the word "Right" instead of "Rights" before the words "vested in Congress by the Confederation...", and in having after "contravening in the opinion of the National

23 Dr. Jameson errs in the discussion of this resolution due to the faulty reproduction of the Brearley copy in Doc.Hist. Cf. the Brearley text reproduced in the appendix.
Legislature the articles of Union" the words "or any Treaty subsisting under the authority of the Union" written into the text so as to be indistinguishable from the remainder, not as an interpolation. The Journal and the McHenry notes for May 31 reveal that this stipulation was added on a motion by Dr. Franklin on this date and Text C-1 has this modification so written on its face as to indicate that it was a later interpolation. The appearance of the photostat in text A goes counter to the original presumption that Madison carefully avoided changing his copy. The words "or any Treaty subsisting under the authority of the Union" are interpolated in text A. But Madison's interpolation is in ink that has faded or has been partially erased and bears the appearance of a reference to another page in his notes. The handwriting of the interpolations is larger than that of the rest of the document and would seem to indicate that Madison adopted a method of writing to distinguish between the Convention's modifications and the original. The document gives evidence of erasures or fading in other places, yet the pennaachment of the existing wording of the document is uniform throughout. In his letter to John Tyler, 1833 validating the "Treaty" section as part of the original, Madison obviously made a mistake. When it is remembered that he was at an advanced age, it is not difficult to understand that his judgment and memory as a younger man might have failed him.

24. There is evidence at this point that the Brearley copy extant was not his first. Yet elsewhere the extant copy bears on its face marks of use during the Convention. 25. Farrand, Records, I, 46-47. 26. Ibid., I, 61. 27. Jameson, "Studies", 107.
In any case, that the "Treaty" section was interpolated is clear.

E varies by having before "in Congress by the Confederation" the words "That the National Legislature ought to be empowered to enjoy the Legislative powers invested" instead of "Rights vested". The Journal and the McHenry note indicate clearly the reading of this section of the resolution. The evidence follows:

28
Journal, May 31
"That the national legislature ought to be empowered

to enjoy the legislative rights vested in Congress by the
conference; [sic]

29
McHenry 31 May
"That the national legislature ought to be empowered to

enjoy the legislative rights vested in Congress by the

It is the conclusion that the wording of this resolution was as in A.

7. Res. that a National Executive be instituted, to be chosen

by the National Legislature for the term of years; to

receive punctually at stated times a fixed compensation for the

service rendered, in which no increase or diminution shall be

made so as to affect the Magistracy, existing at the time of

increase or diminution, and to be ineligible a second time;

and that besides a general authority to execute the National laws

it ought to enjoy the Executive rights vested in Congress by

the Confederation.

28. Farrand, Records, I, 47.
29. Ibid., I, 61.
Variations occur in C-1 and B. C-1 varies in filling the blank for the duration of the executive's term with the word "seven". The Journal shows that this blank was not filled until June 2. In the Paterson document the word "seven" is crowded into space which had been blank, and has a brighter appearance characteristic of the ink used in all the changes on the face of the document in the negative photostat. Further C-1 has the word "the" before the words "increase or diminution" so as to read "so as to affect the Magistracy existing at the time of the increase or diminution..." But this "the" is stricken out and the word "such" is written above it. C-1 also has a dash instead of the word "and" before the words "to be ineligible a second time." B also has the "seven" written in the text in such a way as to be apparently a part of the original wording of the resolution. B further, like C-1 has the word "the" struck out and "such" written above it before the words "increase of diminution". The Journal for June 1 gives the resolution as perhaps it was read on that day for discussion, "at the time of such increase or diminution." It will be noted here that the variation is not important, and it is easy for a careless copyist to drop or insert an article or other inconsequential word. Secretary Jackson may even have read the resolution carelessly and Paterson and Rearley may have made changes to agree with his reading. It is entirely possible that either "the" or "such" was a part of the original reading, although it is difficult to think of Madison as omitting words intentionally. The critic cannot be sure which of the alternatives is correct. Otherwise the reading of text A is correct.

30. Farrand, Records, 1, 77.
31. Ibid., 1, 52-63.
9. It is provided that a National Judiciary be established to consist of
one or more Supreme tribunals, and of inferior tribunals to be
chosen by the National Legislature, to hold their offices during
good behaviour; and to receive punctually at stated times fixed
compensation for their services, in which no increase or
diminution shall be made so as to affect the persons actually in
office at the time of such increase or diminution. That the
jurisdiction of the inferior tribunals shall be to hear and
determine in the first instance, and of the supreme tribunal to
hear and determine in the dernier resort, all piracies & felonies
on the high seas, captures from an enemy; Cases in which
foreigners or citizens of other States applying to such
jurisdictions may be interested, or which respect the collection
of the National revenue; impeachments of any National officers,
and questions which may involve the National peace and harmony.

B, C-1 and D vary from the above reading in recording the last clause
thus: "and questions which involve the National peace or harmony" instead
of "and questions which may involve the National peace and harmony."

The Journal for June 13, draft [B] [sic] of the report of the Committee
of the Whole, and [as] Edison's record of the same report read "and questions
which involve the national peace and harmony". The Two "Committee"
reports are naturally expected to confirm the Convention decision of June
13, but the variations in the extant texts cannot so easily be accounted
for. The evidence is in such conflict that any decision would be, at best,
a bold presumption.

32. Farrand, Records, I, 234.
33. Ibid., I, 231.
34. Ibid., I, 237.
B varies by having after the words "impeachments of any national" the word "officer" instead of "officers". The Journal for June 13 is in accord with A. B varies also by placing a blank in the second clause so as to read, "to consist of one or more Supreme tribunals and of inferior tribunals..." The Journal shows that the words "to consist of One supreme tribunal and of one or more inferior tribunals" were added on June 4, and the same source for June 5 shows that "one or more" was struck out before "inferior". It would appear that Brearley struck out "one or more" at this time, and that upon recopying he left the blank at this point. This conclusion is strengthened both by reference to C-l, which has the change of June 4 crowded in the document behind the line reading "to consist of one or more Supreme Tribunals & of" in such a way as to reveal that a blank was originally non existent. He also struck out "or more" before "supreme tribunal" perhaps at this time, in accordance with Journal for June 4.

E varies by placing "a" before the words "fixed compensation". The Journal for June 5 also reads with "a". The absence or presence of the "a" does not alter the meaning of the passage; yet it is one of those words which might creep in or be eliminated by a copyist. To give credence to Jackson's work in such matters of detail rather than to Madison is not justifiable. Yet the evidence does not permit a positive decision.

Dr. Jameson believed that the reading of A was corrupt in the second clause of the resolution and in the clause introducing the specifications as to jurisdiction. Oddly enough, Jameson's final reconstruction of the original reading of the ninth resolution eliminates all reference to both superior and inferior tribunals.

35. Farrand, Records, I, 95.
36. Ibid., I, 116.
38. Ibid., 106.
He reached his conclusion on the evidence presented by the Jackson Journal for June 4 and 12 respectively. The motion of June 4, to "add" the words "to consist of One supreme tribunal and of one or more inferior tribunals", he takes as proof that the words "to consist of one or more Supreme tribunals and of inferior tribunals" could not possibly have been in the original. Dr. Jameson did not believe that the original contained any stipulation as to "Tribunals". He claims that the section on jurisdiction beginning with the words "That the jurisdiction of the supreme Tribunal shall be to hear and determine in the dernier resort....", is also an addition made on June 12 in conformity with the establishment of the supreme tribunal on June 4. Dr. Farrand, attacking the first part of Jameson's argument, said that the words "to add" might mean "to accept" or "to agree to". Farrand meets the entire Jameson argument with the sweeping statement that the texts that in other respects prove to be most accurate—Madison's, Washington's, and LaHenry's—all agree in the wording of this resolution. It would have been better to say that the texts agree as to the wording of the parts Dr. Jameson found objectionable.

The Journal for June 12 shows that a motion was made to "alter" the jurisdiction clauses but does not make clear the previous reading. But Madison records a statement on June 5 by Mr. Rutledge which throws considerable light on the question of the context of the clauses in question. Mr. Rutledge"was against establishing any national tribunal

41. Farrand, Records, I, 211.
42. Ibid., I, 119, and particularly 184-186.
except a single supreme one. The State Tribunals (are most proper) to decide in all cases in the first instance." Evidently some words concerning inferior tribunals and their jurisdiction were in the original draft or they could not have been attacked by Rutledge. If this is the case it seems unlikely that they would not be mentioned in the first sentence of the resolution. A further concession was made to such "states rights" men as Rutledge on June 12 which was foreshadowed by Madison's and Wilson's motion on June 5 permitting the National Legislature to establish inferior tribunals at its discretion. This concession accounts for the striking out of "all piracies and felonies on the high seas", "all captures from an enemy", the "other states" clause, and the postponement of the consideration of the ninth resolution. One thing is clear - a clause concerning inferior tribunals and their jurisdiction was a part of the ninth resolution. Following the elimination of a written imperative to establish inferior tribunals the opponents of the new national courts proceeded to pare down the federal jurisdiction; hence by action of June 12 and 13 the jurisdiction proposed by the ninth resolution was reduced to cases respecting the collecting of the national revenue, impeachments of any national officers and questions which involve the national peace and harmony. These were confirmed to the court together with a positive written imperative for one Supreme tribunal.

The jurisdiction clauses of the copies down to "and questions which involve...." are supported by the notes of Paterson for May 29. The Journal for June 13 reveals that the last clause was adopted along with the two preceding it, the original character of which is supported by the Paterson notes. If the meaning of "adopt" here is

44. Ibid., I, 28.
to "accept," it indicates that the reading is correct as it appears in the copies. Due to the absence of positive evidence this author is forced to suspend judgment in the matter.

As to the "One or more supreme tribunals" given in the reading of the copies, there is some question. The Journal, June 4 shows that the words "one supreme tribunal and one or more inferior tribunals" were added. If this clause was new on that day it would seem that it is the correct reading. If "to add" merely means to add to what had already been adopted, to wit "that a national judiciary be established," then there is a presumption that this is the original reading - a strong presumption because "one or more supreme tribunals" seems contradictory when read with the clause further along concerning the jurisdiction of the national courts. An incident related by Pierce cited earlier in this study would not support a conclusion that the copies are corrupted. If the independence of the copies could be proved, the only logical conclusion would be that C-1 and E as well as A follow the original itself, which through the inadvertence of the writer, had the words "one or more" misplaced. This seems to be the conclusion best supported by the evidence. It is the conclusion of the present author that the reading of Text A, except in those instances where judgment is suspended, represents the original.

11. Res. that a Republican Government & the territory of each State, except in the instance of a voluntary junction of Government & territory, ought to be guaranteed by the United States to each State.
The reading in B varies by omitting the words "Government &"
from the clause "except in the instance of a voluntary junction of
Government & territory," The Journal for Monday, June 11 reveals that
the resolution was amended, but not in such a way as to warrant the
reading of B. The error is perhaps one of oversight. It seems most
probably that the reading of A is correct.

12. Res. that provision ought to be made for the [amendment of the
articles of Union whencesoever it shall seem necessary, and that
the assent of the National Legislature ought not to be required
thereto.] continuance of Congress and their authorities and
privileges until a given day after the reform of the articles
of Union shall be adopted, and for the completion of all their
engagements.

The words in the brackets appear in copy A with lines striking
them out. Since the opening words of resolutions 12 and 13 are identical
it is clear that Madison must have copied the 13th entire before he saw
his error. He then struck the words out and continued with the
reading of the 12th. B, C-1 and E vary from A in the placing of "a" before
the word "Congress" so as to read, "Resolved that provision ought to be
made for the continuance of a Congress...." Madison's draft of the
resolutions, his record of the Report of the Committee of the Whole,
June 13, and draft [E] [sic] of the Committee report found among the
papers turned over by Washington to the Department of State, omit the
"a". Besides B, C-1 and E, the reading of the resolution in the Journal

46. Farrand, Records, I, 237. Citing the resolution numbered in Madison's
report 15.
47. Ibid., I, 231, resolution numbered 15 in the document which the editor
of the Records has entitled [B].
for June 5 and the draft of the report of the Committee of the Whole
entitled [A] [Sic] contain the "a". The fact that Document [B]
[sic], which appears to be the final formal draft of the report of the
Committee of the Whole, agrees with Madison's reading seems to support
the view that text A is correct. But the evidence is not conclusive.

13. Res. that provision ought to be made for the amendment of the
articles of Union whenever it shall seem necessary, and that
the assent of the National Legislature ought not to be required
thereto.

E varies by repeating the words "and that the assent of the
National Legislature," before "ought not to be required thereto." This
is obviously a mistake in copying for there is certainly no point in the
repetition. The conclusion is that the reading of A is correct.

49. Ibid., I, 227, paragraph twelve.
50. Ibid., I, 234, foot note 4. See also I, 235, note 17, and III, 176,
citing the resolution numbered 15.
51. Dr. Jameson's discussion of this resolution rests upon the reproduction
of the Brearley text in the Doc. Hist., which gives the reading of the
last clause of the 13th resolution as "and that the assent of the
National Legislature ought to be required thereto." Dr. Jameson
nevertheless arrives at the correct conclusion that the word "not"
should appear before "to ba"—Jameson, "Studies", 109. The Original
Brearley text contains the "not" which the version in the Doc. Hist.
fails to include. That the "not" was in the original is revealed by
the Journal June 11.—Farrand, Records, I, 194.
CONCLUSION

The conclusion of this study is that, save in such matters as capitalization, punctuation, and possible errors in the use of such words as "a" and "the", and one or two obvious slips of the pen, the reading of copy A is a correct reproduction of the original resolutions presented by Edmund Randolph to the Convention May 29, 1787. Whatever has been said here is not to be construed as a dogmatic attempt to give an absolute answer to the problem of the Randolph resolutions. It is entirely possible that new evidence may alter the conclusions here reached.
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APPENDIX
APPENDIX*

Document A.

Resolutions proposed by Mr. Randolph in Convention

May 29, 1787

1. Resolved that the articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, "common defence, security of liberty and general welfare."

2. Resd. therefore that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. Resd. that the National Legislature ought to consist of two branches.

4. Resd. that the members of the first branch of the National Legislature ought to be elected by the people of the several States every ; to be of the age of years at least, to receive liberal stipends by which they may be compensated for the devotion of their time to public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of after its expiration; to be incapable of re-election for the space of after the expiration of their term of service, and to be subject to recall.

5. Resd. that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislature, to be of the age of years at least; to hold their offices for a term sufficient to ensure their independency, to receive liberal stipends, by which they may be compensated for the deviation of their time to public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of after the expiration thereof.

*Draft of Randolph Resolution found in Madison's notes now in possession of the Library of Congress. This is a literal reproduction of a photostat of the document.
6. Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the Legislative Rights vested in Congress by the Confederation & moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles [or any Treaty subsisting under the authority of the Union(see page of Union; and to call forth the force of the Union agst. any member of the Union failing to fulfill its duty under the articles thereof.

7. Resolved that a National Executive be instituted; to be chosen by the National Legislature for the term of years, to receive punctually at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Registry, existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the National laws, it ought to enjoy the Executive rights vested in Congress by the Confederation.

8. Resolved that the Executive and a convenient number of the National Judiciary, ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate, & every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a refraction, unless the Act of the National Legislature be again passed, or that of a particular Legislature be again negatived by the members of each branch.

9. Resolved that a National Judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature, to hold their offices during good behaviour; and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution; that the jurisdiction of the inferior tribunals shall be to hear & determine in the first instance, and of the supreme tribunals to hear and determine in the dernier resort, all piracies & felonies on the high seas, captures from an enemy; cases in which foreigners or citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the National revenue; impeachments of any National officers, and questions which may involve the national peace and harmony.

* Words in brackets faded or erased.
10. Resolvd, 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 & Territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole.

11. Read, that a Republican Government & the territory of each State, except in the instance of a voluntary junction of Government & territory, ought to be guaranteed by the United States to each State.

12. Read, that provision ought to be made for the continuance of Congress and their authorities and privileges, until a given day after the reform of the articles of Union shall be adopted, and for the completion of all their engagements.

13. Read, that provision ought to be made for the amendment of the Articles of Union whenever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

14. Read, that the Legislative Executive & Judiciary powers within the several States ought to be bound by oath to support the articles of Union.

15. Read, 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 & decide thereon.

James Madison
1. Resolved, that the Articles of the Confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution, namely, common Defence, security of Liberty, and general Welfare.

2. Resolved, therefore that the rights of suffrage in the National Legislature ought to be proportioned to the quota’s of contribution, or to the number of free inhabitants, as the one or the other may seem best, in different cases.

3. Resolved, that the National Legislature ought to consist of two branches.

4. Resolved, that the members of the first branch of the Nati. Leg. ought to be elected by the people of the several States, every for the term of [three years] - to be of the Age of years at least. To receive liberal stipends, by which they may be compensated for the devotion of their time to public service - to be in-eligible to any office established by a particular State, or under the Authority of the U. S. (except those peculiarly belonging to the function of the first branch) during the term of service and for the space of [one] after its expiration; to be incapable of re-election for the space of after the expiration of their term service; and to be subject to recall.

5. Resolved that the members of the 2 branch of the National Legislature ought to be elected [by those of the first, out of a proper number of person nominated] by the individual Legislatures; to be of the age of years at least; to hold their offices for a term sufficient to ensure their

Draft of the Randolph Resolutions among the Brearley papers now in the possession of the Library of Congress. This is a reproduction of the photostat of that copy. Brackets contain words struck out.
independency; to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; and to be in-eligible to any office established by a particular State or under the authority of the U.S. (except those peculiarly belonging to the functions of the second branch) during the term of service and for the space of after the expiration thereof.

6. Resolved, that each branch ought to possess the right of originating acts; that the Nat'Leg ought to be empowered to enjoy the Legislature right vested in Congress by the confederation, and moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U.S. may be interrupted by the exercise of individual legislation - to negative all laws passed by the several States, contravening, in the opinion of the Nat'Leg the Articles of Union, or any Treaty subsisting under the Authority of the Union; - and to call forth the force of the Union against any member of the Union, failing to fulfil its duty under the Articles thereof.

7. *To consist of a single person with powers to carry into the Nat. Laws, and to appoint to offices, in cases not otherwise provided for

8. Resolved, that the executive and a convenient number of the national judiciary ought to compose a Council of revision, with authority to examine every Act of the National legislature, before it shall operate, and every act of a particular legislature before a negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the act of the National Legislature be again passed, or that of a particular legislature be again negativ'd by of the members of each branch.
9. Resolved, that a National Judiciary be established to consist of one [or more] superior Tribunals, [and of] inferior tribunals; to be chosen by the Nat. Legislative; To hold their offices during good behavior, and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. - That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear & determine in the dernier resort,

all piracies and felonies on the high seas; captures from an Enemy; cases in which foreigners, or Citizens of other States, applying to such jurisdiction, may be interested, or which respect the collection of the National Revenue, impeachments of any national officer, and questions which involve the national peace or harmony.

10. Resolved, that provision ought to be made for the admission of States, lawfully arising within the limits of the U.S. 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.

11. Resolved, that a Republican government [and the territory] of each State (except in the instance of a voluntary junction of government and territory) ought to be garantied by the U.S. to each State.

12. Resolved, that provision ought to be made for the continuance of a Congress and their authorities and privileges until a given day, after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. That provision ought to be made for the amendment of the Articles of union, whenever it shall seem necessary, (and that the assent of the National Legislature ought not to be required thereto.)
Document B (continued)

14. Resolved, that the Legislature, Executive, and Judiciary powers within the several States ought to be bound by oath to support the Articles of Union.

[postponed] agreed

15. 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

Convention of the States - 1787
Resolutions -
Preparatory to
formation of the
Constitution -
recommended
Sept. 17, 1787
1. Resolved, that the articles of the Confed. ought to be corrected and enlarged, as to accomplish the objects proposed by their institution, namely, "common Defence, Security of Liberty, and general Welfare."

2. Resolved, therefore, that the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other may seem best, in different cases.

3. Resolved, that the national legislature ought to consist of two branches.

4. Resolved, that the members of the first branch of the national leg. ought to be elected by the people of the several States (every for the term of to be of the age of years at least. To receive liberal stipends, by which they may be compensated for the devotion of their time to public service. To be ineligible to any office established by a particular State, or under the authority of the U.S. (except those peculiarly belonging to the functions of the first branch) during the term of service and for the space of after its expiration; to be incapable of re-election for the space of after the expiration of their term of Service and to be subjected to recall.

5. Resolved, that the members of the Second branch of the national leg. ought to be elected by those of the first, out of a proper number of persons nominated by the individual legislatures; to be of the age of years at least; to hold their offices for a term sufficient to ensure their independency; to receive Liberal Stipends by which they may be compensated for the devotion of their time to the public Service; and to be ineligible to any office established by a particular State or under the

*Bound with the miscellaneous papers from the Constitutional Convention in the possession of the Division of Manuscripts of the Library of Congress. The original was found among the papers of William Samuel Johnson. This is a reproduction of the photostat of that document.*
authority of the U.S. (except those peculiarly belonging to the functions of the Second branch) during the term of Service and for the space of after the expiration thereof-

6. Resolved, that each branch ought to possess the right of originating acts; that the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confederation, and moreover to legislate in all cases to which the Separate States are incompetent; or in which the harmony of the U.S. may be interrupted by the exercise of individual Legislation— to negative all laws passed by the Several States, contravening in the opinion of the national legislature the articles of or any treaty subsisting under the authority of the Union—Union; and to call forth the force of the Union (postponed) as. any member of the Union, failing to fulfil its duty under the articles thereof.

to consist of a single person

7. Resolved, that a national executive be instituted/ with * to be chosen by the national legislature for the term of seven years— to receive punctually at Stated times a fixed compensation for the Services into execu. rendered, in which no Increase or Diminution Shall the Nation-be made so as to affect the magistracy existing al Laws & to such appoint to at the time of the / increase or diminution - to offices in be ineligable a second time[and that besides a cases not authority to execute the national laws, otherwise it ought to enjoy the Executive rights vested in provided Congress by the Confederation] — for
Resolved, that the executive and a convenient number of the national judiciary ought to compose a council of revision, with authority to examine every act of the National Legislature, before it shall operate, and every act of a particular legislature before a negative thereon shall be final and that the dissent of the said council shall amount to a rejection, unless the act of the national legislature be again passed, or that of a particular legislature be again negatived by two thirds of each branch of the members of each branch -

Resolved, that a national judiciary be established to consist of one [or more] Supreme [tribunals] and appointed by inferior tribunals; to be [chosen by] the national legislature; to hold their offices during good behaviour, and to receive punctually at Stated times fixed compensation for their services, in which no increase of diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution - That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the Supreme tribunal to hear and determine in the dernier resort,

all piracies and felonies on the high seas; captures from an enemy; cases in which foreigners, or citizens of other States, applying to such jurisdiction, may be interested, or which respect the collection of the national revenue; impeachments of any national officers, and questions which involve the national peace or harmony.

Resolved that provision ought to be made for the admission of States, lawfully arising within the limits of the U.S., whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the national legislatures, less than the whole.
11. Resolved, that a republican government and the territory of each State (except in the instance of a voluntary junction of government and Territory) ought to be guaranteed by the U. S. to each State —

12. Resolved, that provision ought to be made for the continuance of a congress and their authorities and privileges until a given day, after the reform of the articles of union Shall be adopted, and for the completion of all their engagements.

13. That Provision ought to be made for the amendment of the articles of union, whenssoever it shall seem necessary, and that the assent of the national legislature ought to not be required thereto —

14. Resolved, that the legislative, executive, and judiciary powers within the Several States ought to be bound by oath to Support the articles of union.

15. 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 —

Words in brackets, stricken out in original document.
Copy of the original plan for a New Government as given at the Convention by the State of Virginia

1. Resolved, that the articles of the Confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution; namely "common defence, security of liberty & general welfare"

2. Resolved therefore, that the rights of suffrage in the National legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. Resolved that the National legislature ought to consist of two branches

4. Resolved that the members of the first branch of the national legislature ought
   To be elected by the people of the several states every for the term of
   To be of the age of years at least
   To receive a liberal stipend, by which they may be compensated for the devotion of their time to public service.
   To be ineligible to any office established by a particular state, or under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of service and for the space of years after its expiration.
   To be incapable of reelection for the space of years after the expiration of their term of service. -and
   To be subject to recall.

*This paper preserved by Washington among his own papers and with them acquired by the National Government in 1834-1849 remaining in the custody of the Department of State until transferred to the Library of Congress in 1903. This is a reproduction of a photostat of that copy.*
5. Resolved that the members of the Second branch of the National legislature ought to be elected by those of the first;
   Out of a proper number of persons, nominated by the individual legislatures
   To be of the age of years at least
   To hold their offices for a term sufficient to insure their independency
   To receive a liberal stipend, by which they may be compensated for the devotion of their time to public service — and
   To be ineligible to any office established by a particular state, or under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term of service and for the span of after the expiration thereof.

6. Resolved that each branch ought to possess the right of originating acts — that
   The National legislature ought to be empowered to enjoy the legislative powers vested in Congress by the Confederation; and moreover
   To legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation;
   To negative all laws passed by the several States contravening in the opinion of the National legislature the articles of Union — and
   To call forth the force of the Union against any member of the Union, failing to fulfil its duty under the Articles thereof.

7. Resolved that a National executive be instituted; to be chosen by the National legislature for the term of years,
   To receive punctually, at stated times, a fixed compensation for the Services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of increase or diminution — and
   To be ineligible a second time; and that besides a general authority to execute the National laws, it ought to enjoy the executive rights vested in Congress by the Confederation.
Resolved that the Executive and a convenient number of the National Judiciary ought to compose a council of revision; with authority to examine every Act of the National legislature, before it shall operate, and every act of a particular legislature, before a negative thereon shall be final and that the dissent of the said Council shall amount to a rejection, unless the act of the National legislature be again passed, or that of a particular legislature be again negatived by of the members of each branch.

9. Resolved that a National Judiciary be established; To consist of one or more Supreme tribunals, and of inferior tribunals. To be chosen by the National legislature; To hold their offices during good behavior To receive punctually at stated times a fixed compensation for their Services; in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the Supreme tribunal to hear and determine in the dernier resort; All piracies and felonies on the high seas. Captures from an enemy. Cases in which foreigners, or Citizens of other states, applying to such jurisdiction may be interested - or which respect the Collection of the National Revenue Impeachment of any National Officer - and Questions, which involve the National Peace and harmony.

10. 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 & Territory otherwise with the consent of a number of Voices in the National legislature less than the whole.

11. Resolved that a Republican Government, and the territory of each State (except in the instance of a voluntary junction of territory) ought to be guaranteed by the United States to each other.
12. Resolved, that provision ought to be made for the continuance of a Congress and their authorities & privileges until a given day, after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. Resolved, that provision ought to be made for the amendment of the Articles of Union, whenever it shall seem necessary, and that the assent of the National legislature and that the assent to the National legislature ought not be required thereto.

14. Resolved, that the Legislative, Executive, and Judiciary powers within the several States ought to be bound by oath to support the articles of Union.

15. 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.

George Washington